2021 HOUSE HUMAN SERVICES

HB 1420

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1420
2/3/2021

Relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty

Chairman Weisz opened the hearing at 9:02 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Compassion center & dispensary
- Edible marijuana products
- Marijuana personal use
- Restrictions and limitations

Rep. Jason Dockter, District 7 (9:04) introduced the bill.

Jonah Lantto, The Good Talk Network Minot (9:38) testified in favor and submitted testimony #5175.

ShaunAnne Tangney, Retired College Professor Minot (9:51) testified in favor and submitted testimony #5178.

Veronica Michael, CEO Prairie Products LLC (9:56) testified in favor and submitted testimony #5081.

Tom Tracy, Jamestown (10:10) testified in opposition.

Arik Spencer, President & CEO Greater North Dakota Chamber (10:27) testified in opposition and submitted testimony #5071 & #5078.

Carel Two Eagle (10:29) testified in opposition.

Stephanie Dassinger, North Dakota Chiefs of Police Association (10:35) testified neutral if provisions are met.

Jody Vetter, Chair North Dakota Freedom of Cannabis Act (10:38) testified neutral and submitted testimony #5208.

Additional written testimony: #4763, #4868, #4869, #4952, #4969, #4971, #4973, #5024, #5032, #5055, #5060, #5062, #5097, #5102, #5115

Chairman Weisz adjourned at 10:43 a.m.

Tamara Krause, Committee Clerk

Mr. Chairman, Members of the Committee:

I'm Jonah Lantto, and I'm the owner of The Good Talk Network in Minot, where I produce podcasts, talk shows, and other influential media. Thank you for the opportunity to speak to you today.

I'm here today to urge a do pass vote on HB 1420.

The results of prohibition are a failure. Our current position regarding marijuana is a detriment to North Dakota prosperity, opportunity, and gainful citizenship.

There is no evidence that prohibition has benefited the people of North Dakota. There is, however, plenty of evidence to show that prohibition has stood in the way of success for the citizens of our state.

Prohibition has created criminals out of otherwise good people.

I ask this chamber: would you call the cops on your kids or grandchildren if you discovered them with marijuana? I don't imagine you would; the idea is incredulous. Of course you wouldn't turn in someone you love because they use or possess marijuana—so why support the status quo against them or anyone else?

Ending prohibition in North Dakota would release a great burden on our judicial system while simultaneously preventing our citizens from being penalized for the use of a plant.

When we arrest our own people we unnecessarily complicate their lives, ruining their potential to obtain good jobs, loans, and make general advancement in their lives.

This isn't about being pro marijuana. This is about being anti-prohibition. This is about being pro-business. It's about being a pro-North Dakota citizen.

Additionally, the economic opportunities associated with regulating marijuana are vast.

All around us recreational cannabis is happening: Montana and South Dakota voters have approved it; Minnesota legislators are anticipated to pass legislation as well. If we don't act now, as an elected body of leadership, to enable our citizens,

our investors, our business leaders, to sensibly prosper from cannabis, then we risk losing those investments to our neighboring states.

We can create jobs in a developing industry full of opportunity and upward mobility. Right now, we're upset at the idea of lazy stoners, occupying basements, eating munchies, and not contributing to society, but that's not the reality of the cannabis industry. The fact is: massive revenue is generated by people who don't have criminal records for pot possession. While we may not raise the billions of dollars that states like Colorado do, at least we can keep what's ours. At least we can keep this money in our state, with our investors, small and large.

Right now, in the United States, there are more than 240,000 full time jobs in the marijuana industry. There's no reason we shouldn't be adding a few thousand more in North Dakota.

Prohibition is a roadblock to freedom and opportunity. Let's stand together against ruining people's lives and join forces in creating laws for the future prosperity of North Dakota and our citizens...that would really BE LEGENDARY.

Thank you, and I'll be happy to answer any questions you may have of me.

Mr. Chairman, Members of the Committee—my name is ShaunAnne Tangney; I am a retired college professor and I live in Minot. Thank you for the opportunity to speak to you today. I am here to recommend a do pass vote on HB 1420.

Currently, 68% of Americans support the legalization of marijuana for recreational adult use.

To date, fifteen states and three territories have legalized marijuana for recreational adult use.

Marijuana is safe for responsible adult use, it is widely available and commonly used, and it's not going anywhere anytime soon. As such, its production and distribution should be regulated and controlled, not left to the illegal market.

There are three clear opportunities for the state of North Dakota in legalizing marijuana for adult use.

I. Unburden Law Enforcement

Legalization has not corresponded with increased crime rates.
Virtually all crime associated with marijuana is a direct result of its prohibition, not it's legalization. Multiple studies, the FBI's Uniform Crime Report, and the anecdotal evidence of countless law enforcement personnel and agencies, show that legalizing marijuana reduces crime by displacing black markets and illicit distributors.

II. Generate Tax Revenue

The sale of marijuana for adult recreational use has generated significant tax revenue in states where it has been legalized.
Tax revenue data from 2019:
Massachusetts: $6.7 million
Alaska: $22.1 million
Nevada: $99.2 million
Oregon: $102.1 million
Colorado: $302.4 million
Washington: $395.5 million
California: $629.3 million

- Alaska sends half of its revenue to its general fund and half to programs aimed at reducing repeat criminal offences.

- California's revenue pays for administrative costs associated with marijuana legalization, and then uses excess funds for programs related to drug use, including economic development, academic studies, and youth programs.

- Colorado's revenue is dedicated to education programs.

- Massachusetts distributes its revenue to various public safety programs.

- Nevada's revenue is sent to education programs and its rainy-day fund.

- Oregon dedicates its revenue to education programs, drug prevention and treatment programs, and transfers to local governments.

- Washington dedicates its revenues to health care programs.

III. Promote Consumer Safety and Allow for State Regulation

This is a new industry, and we have the opportunity and the responsibility to create sensible and reasonable regulations. State and local governments can and should create broad rules covering advertising, labeling, testing, serving sizes, additives, permissible financial interests, production caps, licensing classes, etc.

Marijuana businesses are overall good partners with government and law enforcement and advocate for strong and sensible regulations because they are needed in order to establish and maintain a legitimate marijuana industry.

Furthermore, it is, I think, an opportune moment for the state of North Dakota to legalize the recreational adult use of marijuana by legislative process rather than voter referendum. I support the initiative of the deliberative body that is the North Dakota State Legislature to craft clear, concise, efficient, and sensible regulations of an industry that can bring our state economic, law enforcement, and consumer safety benefit.

In short, I urge a do pass on HB 1420 because legalization of marijuana for adult recreational use:

- Unburdens law enforcement
- Generates tax revenue
- Promotes consumer safety, and allows for safe and sane state regulation of a burgeoning and profitable industry

I'm happy to answer any questions you might have for me.

Hearing none, I thank you again for your time.

HB1420 Testimony

Veronica Michael,

CEO of Prairie Products LLC, we use cold ethanol to extract agricultural hemp in Fargo, ND.

Mr. Chairman, Members of the Committee. I am writing this testimony on behalf of myself and as a member of the Dakota Resource Council. DRC is an organization that supports sustainable agriculture and new industries; DRC has supported the hemp industry since the late 1990s. I would like to make it clear to the committee that hemp and recreational cannabis are not the same thing and this law does have implications for both industries. Thank you for taking time to consider how HB1420 can benefit North Dakota farmers and ranchers.

In North Dakota, we have approximately 70 licensed hemp farmers growing approximately 4,000 acres. Hemp farming regulation was standardized by the federal government through the 2018 US Farm Bill allowing for the growth of agricultural hemp with a THC level of .3%. North Dakota has historically always been a national leader in agricultural innovation and now participates in the federal agricultural hemp production program for the growth and research of hemp for seed, fiber, and cannabinoids.

Because THC is considered a Schedule 1 Drug that is present in industrial hemp, the crop is monitored by the North Dakota Department of Agriculture and various other federal agencies. The rules are simple; a licensed grower of hemp needs to undergo an extensive criminal background check to apply for a license. When the process is approved, hemp farmers have to monitor and test their crop for THC potency to ensure compliance. Fifteen days before harvest the farmer is required to notify the state and a state employee randomly samples the hemp, testing by a third party to confirm that the farmer has not to exceed .3%THC concentration.

***If the hemp crop fails to meet compliance even by .1%, growers must destroy their crops.**

Several North Dakota farmers have been impacted by these slight percentage changes that in some cases are beyond their control. It is important to note agricultural hemp is not just grown for extraction of its compounds. Hemp can be grown for fiber and grain production. Some research suggests North Dakota is an ideal location for this type of hemp production. Does hemp grown for fiber or grain warrant the same regulations? Putting this burden of regulation on the producer and not before the product reaches the consumer is not reasonable.

If HB1420 is passed, the federal government has made it a policy not to intervene in regulating THC levels in states that have legalized recreational use. This bill, if passed alongside HB1045, would give our Ag commissioner the ability to set the THC levels in hemp to whatever levels he deems necessary and we could effectively start industrial hemp facilities in the state without need for over-regulation. We would then be free to create classes of licenses that could properly regulate our industry without this

cumbersome one size fits all policy. When we describe industrial hemp, we are talking about making fiber for clothing, composite materials, and high strength fiber materials similar to fiberglass, paper, and building materials. I'd also like to remind the committee once again that you are required to have a criminal background check to grow hemp in the state of North Dakota. These people are not aspiring criminals but just farmers and ranchers that want to diversify their agricultural portfolio and bring economic growth to North Dakota. And not only are they screened before they are even allowed to plant a single seed, they are watched by the state from planting to harvest. No other crop is regulated at this level. How does this serve our North Dakota farm economy?

I would urge you to support HB1420 not just for the people of North Dakota, but the farmers and ranchers. I stand for questions.

NDMCA
NORTH DAKOTA MOTOR CARRIERS ASSOCIATION

February 3rd, 2021

House Human Services Committee
House Bill 1420 - Opposition

Chairman Weisz and House Human Services Committee members, the North Dakota Motor Carriers Association (NDMCA), are writing to you in opposition to HB 1420. NDMCA represents the trucking and transportation industry in NorthDakota and has been in existence since 1937.

The federal government regulates interstate commerce. Because most freight moved by truckers and trucking companies crosses state lines at some point, the vast majority of North Dakota's trucking industry is subject to the regulatory authority of the U.S. Department of Transportation.

The U.S. Department of Transportation's Drug and Alcohol Testing Regulation (49 CFR Part 40) requires commercial drivers license holders (CDL) to take a pre-employment drug test, post-accident drug tests (for most accidents), and random drug tests throughout their employment. Further, these federal regulations don't recognize marijuana use deemed legal under state law to be a valid explanation for an employee's positive drug test because marijuana remains an illegal drug listed in Schedule I of the Controlled Substances Act. A positive drug test will prevent a driver from gaining or maintaining employment regardless of their reason for use.

In states that have legalized recreational marijuana, the trucking industry has seen a marked increase in drivers that fail a pre-employment or random drug test. This compounds the existing shortage of truck drivers that the American Trucking Association estimates to be as large as 80,000 drivers nationwide.

Further, as an organization whose mission is to promote highway safety, NDMCA has concerns about the potential for a rise in the number of impaired drivers on the road, which increases the likelihood of passenger vehicle – large truck accidents. These impacts are contrary to North Dakota's Vision Zero initiative and North Dakota voters' wishes who rejected a 2018 recreational marijuana initiated measure by nearly 60%.

NDMCA thanks the House Human Services Committee for your consideration and urges a **do not pass** recommendation.

Greater North Dakota Chamber
HB 1420
House Human Services Committee
February 3, 2021

Mr. Chairman and members of the House Human Services Committee, my name is Arik Spencer, President and CEO of the Greater North Dakota Chamber(GNDC). GNDC is North Dakota's largest statewide business advocacy organization. We are also affiliated with the US Chamber of Commerce and the National Association of Manufacturers and are opposed to House Bill 1420.

North Dakota business leaders consistently cited as workforce a top concern and need. And it's because of these concerns about our workforce that GNDC has taken a position against the legalization of recreational marijuana.

Industries ranging from health care to transportation to energy, which have strict drug and alcohol policies for both employee and public safety, have had increasing challenges finding employees in states that have legalized recreational marijuana, such as Colorado and Oregon.

Failed employer drug tests have nearly doubled in both Colorado and Oregon since legalization. North Dakota's employers can not afford this same fate, with unemployment among the nation's lowest.

Again, marijuana is still illegal under federal law. Businesses regulated by the US Department of Transportation or subject to the federal Drug-Free Workplace Act still must maintain a drug-free workplace for marijuana and other drug use. Recreational marijuana will make compliance with federal law that much harder.

While GNDC recommends a DO NOT PASS recommendation, before HB 1420 is brought to the full House for consideration, we recommend HB 1420 be amended to strengthen employer rights and protections as attached.

Thank you for the opportunity to provide comment on HB 1420.

Public Act 101-0027 was enacted in Illinois in June 2019, legalizing recreational marijuana and contains some of the strongest recreational marijuana employer protections in the country and contains the following provisions:

- *Nothing in this Act shall prohibit an employer from adopting reasonable zero tolerance or drug-free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call provided that the policy is applied in a nondiscriminatory manner.*
- *Nothing in this Act shall require an employer to permit an employee to be under the influence of or use cannabis in the employer's workplace or while performing the employee's job duties or while on call.*
- *Nothing in this Act shall limit or prevent an employer from disciplining an employee or terminating employment of an employee for violating an employer's employment policies or workplace drug policy.*
- *An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If an employer elects to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the employer must afford the employee a reasonable opportunity to contest the basis of the determination.*
- *Nothing in this Act shall be construed to create or imply a cause of action for any person against an employer for: (1) actions, including but not limited to subjecting an employee or applicant to reasonable drug and alcohol testing under the employer's workplace drug policy, including an employee's refusal to be tested or to cooperate in testing procedures or disciplining termination of employment, based on the employer's good faith belief that an employee used or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies; (2) actions, including discipline or termination of employment, based on the employer's good faith belief that an employee was impaired as a result of the use of cannabis, or under the influence of cannabis, while at the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policy; or (3) injury, loss or liability to a third party if the employer neither knew nor had reason to know that the employee was impaired.*
- *Nothing in this Act shall be construed to interfere with any federal, state or local restrictions on employment including, but not limited to, the United States Department of Transportation regulation 49 CFR 40.151(e) or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.*

Hello
I am Jody Vetter the chair for the ND for Freedom of Cannabis Act. Our measure has been approved for circulation and we have 600 petitions spread across the state. We are a North Dakotan grassroots patient driven movement. We have no out of state interests or money. I am neutral on bill 1420 as written.
I am of course for legalization but there are areas of concern with this bill.
We really need to move passed the thought that somehow possessing cannabis is a criminal act based on amounts of possession.
Why are there still criminal charges for possession? How is possessing one ounce of cannabis not a crime but possessing 2 ounces of cannabis is a class B misdemeanor? The federal government is talking seriously of finally moving forward with not just decriminalizing cannabis but ending federal prohibition of the plant.
I urge you to amend the criminal charges for possession of cannabis to civil penalties.
I believe criminal charges for cannabis possession is morally wrong. I have provided an essay from the Indiana law journal at Indiana University titled Liberty Lost: The Moral Case for Marijuana Law Reform.
This essay addresses whether cannabis criminal laws diminish fundamental individual rights, and whether there are grounds that justify doing so.
The authors present two arguments corresponding to two distinct liberty concerns implicated by laws that both ban cannabis use and punish its users.
The first argument opposes criminalization and demonstrates that cannabis use does not establish the kind of wrongful conduct that is a requirement for just punishment. The second argument demonstrates that even without criminal penalties, prohibition of cannabis violates a moral right to exercise autonomy in personal matters.
This is where home cultivation rights come up. I was told there is very little appetite for home cultivation from legislators, but I can tell you, having traveled across the state and spoke with several thousand people there is a large appetite for home cultivation from North Dakotans.
North Dakotans love freedom, personal growing of cannabis included.
I find it very hypocritical that there is no problem with me running around with a concealed gun but it's dangerous to grow a medicinal plant with no possibility of death by over consumption.
I urge you add an amendment for some type of home cultivation. One plant per private residence at the very least. Home grow helps with keeping commercial prices reasonable and shown it does not lead to more crime.
Eighteen states allow home cultivation, not one state has ever introduced legislation to repeal or scale back on home growing.
There is concern for pricing. We know medical cannabis is very expensive at $440.00 an ounce plus tax. I can't see how people are going to pay prices like that. That pricing is four times higher than other states. We know high prices lead to more black market sales. That is the very thing we want to avoid.
Lastly, I leave you with an excerpt from the essay Liberty Lost: A Moral Case for Marijuana Reform. "Whatever the political dynamics, we should remember that moral rights are also at stake-the rights to a sphere of liberty in personal matters, to prosecutions based on the principles of just punishment, and most fundamentally, to a state that respects the individuality and autonomy of its people. These civil libertarian concerns, well recognized in other contexts, should also inform legislators and policy makers as marijuana law reform efforts move forward."

Thank you
Questions?

PETITION TITLE

This initiated measure would add a new section to article I of the North Dakota constitution, which would provide that it is not unlawful for a person to possess, grow, process, or transport not more than 12 cannabis plants for personal use. It would provide that it is lawful to consume cannabis, as long as the cannabis is not consumed openly in public other than as provided by law, and would provide that it is lawful to transfer cannabis to another person without receiving payment in return. It would authorize the legislature to enact laws to license and regulate the commercial sale of cannabis and would provide that it is unlawful to cultivate, harvest, process, package, transport, possess, or sell cannabis for commercial purposes without such a license. It would provide that it is unlawful to sell or transfer cannabis to any person under the age of 21 unless for medical purposes as prescribed by law.

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. An amendment to the North Dakota Constitution is proposed to the people. If the amendment is adopted, a section shall be added to Article I of the North Dakota Constitution to read as follows:

Section 26. (a) It is hereby declared that it is not unlawful, and it shall not be an offense under law or be a basis for seizure or forfeiture of assets under law for a person who is 21 years of age or older to:

(1) possess, use, purchase, or transport cannabis, cannabis accessories, or cannabis infused products, as described in this section;

(2) possess, grow, process, or transport for personal use no more than 12 cannabis plants, with six or fewer being mature, flowering cannabis plants, provided that the cannabis produced from the plant is not made for sale;

(3) consume cannabis, provided that the cannabis is not consumed openly in public except in a manner provided by law; and

(4) transfer an amount of cannabis as prescribed by law without remuneration to a person who is 21 years of age or older.

(b) The legislature may prescribe by law a manner to license and regulate cultivation, manufacturing, harvesting, processing, packaging, transporting, displaying, possessing, and selling of cannabis and cannabis infused products for commercial purposes.

(c) It is unlawful to cultivate, manufacture, harvest, process, package, transport, display, possess or sell cannabis or cannabis infused products for commercial purposes without having first obtained a valid license as prescribed by law.

(d) It is unlawful to sell or transfer cannabis, a cannabis infused product, or a cannabis accessory to any person who is under the age of 21 years, except that medical cannabis may be sold or transferred to a person under 21 years, as prescribed by law.

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Liberty Lost: The Moral Case for Marijuana Law Reform

Eric Blumenson
Suffolk University, eblumens@suffolk.edu

Eva Nilsen
Boston University

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Liberty Lost: The Moral Case for Marijuana Law Reform†

ERIC BLUMENSON & EVA NILSEN*

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Marijuana policy analyses typically focus on the relative costs and benefits of present policy and its feasible alternatives. This Essay addresses a prior, threshold issue: whether marijuana criminal laws abridge fundamental individual rights, and if so, whether there are grounds that justify doing so. Over 700,000 people are arrested annually for simple marijuana possession, a small but significant proportion of the 100 million Americans who have committed the same crime. In this Essay, we present a civil libertarian case for repealing marijuana possession laws. We put forward two arguments corresponding to the two distinct liberty concerns implicated by laws that both ban marijuana use and punish its users. The first argument opposes criminalization and demonstrates that marijuana use does not constitute the kind of wrongful conduct that is a prerequisite for just punishment. The second argument demonstrates that even in the absence of criminal penalties, prohibition of marijuana use violates a moral right to exercise autonomy in personal matters—a corollary to John Stuart Mill's harm principle in the utilitarian tradition, or, in the nonconsequentialist tradition, to the respect for personhood that was well described by the Supreme Court in its Lawrence v. Texas *opinion. Both arguments are based on principles of justice that are uncontroversial in other contexts.*

INTRODUCTION

The federal government and thirty-seven states make possession of marijuana a criminal offense punishable by imprisonment.[1] Federal law categorizes marijuana with

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* Eric Blumenson, Professor of Law, Suffolk University. J.D., Harvard Law School. Eva S. Nilsen, Associate Clinical Professor of Law, Boston University. J.D., University of Virginia; LL.M., Georgetown Law Center. We thank Patrick Shin for comments on the manuscript, as well as Andrew Capone, Grace Guisewhite, Michael S. Hammer, and Kristina Mastropasqua for expert research assistance, and the students in Professor Nilsen's War on Drugs seminar for their insights.

1. 21 U.S.C. § 844(a) (2006) (stating that possession of a controlled substance is unlawful); *see also id.* § 812(c) sched. I(c)(10) (2006) (listing marijuana as a Schedule I controlled substance). Under federal law, marijuana possession is punishable by one year in prison and a minimum fine of $1000. *Id.* § 844(a). For a compilation of state marijuana laws and their penalties, see Nat'l Org. for the Reform of Marijuana Laws, State by State Laws, http://www.natlnorml.org/index.cfm?Group_ID=4516.

the most dangerous of illicit drugs,[2] and the White House Office of National Drug Control Policy (ONDCP) has generally treated marijuana control as a top priority.[3] In recent years, federal and state laws have resulted in the arrest of more than 700,000 Americans annually for marijuana possession,[4] a crime that almost 100 million Americans have committed.[5]

There are good reasons to believe that these laws have been counterproductive, as many critics have charged. Arguably, marijuana prohibition diverts resources from more pressing drug- or crime-control agendas; encourages discriminatory enforcement; stymies ameliorative regulation; and consigns users to deal with criminal drug traffickers, if not lawyers, courts, and jails.[6] There are many who dispute these claims;

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2. Under the federal drug laws, marijuana is designated a Schedule I controlled substance, a status reserved for drugs with the most serious potential for abuse, no medical benefit, and no safe method of use. 21 U.S.C. § 812(b)(1) (2006). For a detailed description of why marijuana does not satisfy the three tenets of § 812(b)(1), see *infra* note 78. This status places marijuana on a par with heroin, and in a graver category than cocaine and OxyContin, which are both included in Schedule II. 21 U.S.C. § 812(c) sched. II(a).

3. *See* Sally Satel, Commentary, *A Whiff of "Reefer Madness" in U.S. Drug Policy*, N.Y. TIMES, Aug. 16, 2005, at F6 (commenting that ONDCP places more emphasis on controlling marijuana than methamphetamine, heroin, or cocaine because marijuana is a gateway to more dangerous drugs); *see also* Ryan S. King & Marc Mauer, *The War on Marijuana: The Transformation of the War on Drugs in the 1990s*, HARM REDUCTION J., Feb. 9, 2006, http://www.harmreductionjournal.com/contents/3/1/6 (stating that "since 1990, the primary focus of the war on drugs has shifted to low-level marijuana offenses"). Barry McCaffrey, drug czar under Bill Clinton, and John Walters, drug czar under George W. Bush, both invested heavily in advertising against marijuana, which they saw as the key to winning the War on Drugs. Ben Wallace-Wells & Eric Magnuson, *How America Lost the War on Drugs*, ROLLING STONE, Dec. 13, 2007, at 107, 110. Whether this policy continues under the Obama administration remains to be seen.

4. In 2006, there were approximately 742,900 arrests for possession of marijuana, constituting 39.1% of the roughly 1.9 million drug arrests. CRIMINAL JUSTICE INFO. SERVS. DIV., FED. BUREAU OF INVESTIGATION, PERSONS ARRESTED: CRIME IN THE UNITED STATES 2006 (2007), http://www.fbi.gov/ucr/cius2006//arrests/index.html [hereinafter CRIME IN THE UNITED STATES 2006]. In 2005, there were almost 767,000 marijuana arrests, and nearly 680,000 of them were for marijuana possession. CRIMINAL JUSTICE INFO. SERVS. DIV., FED. BUREAU OF INVESTIGATION, PERSONS ARRESTED: CRIME IN THE UNITED STATES 2005 (2006), http://www.fbi.gov/ucr/05cius/arrests/index.html; *see also* JIM LEITZEL, REGULATING VICE: MISGUIDED PROHIBITIONS AND REALISTIC CONTROLS 274 tbl.A.2 (2008) (finding that 81% of all 2005 drug arrests and 88% of all marijuana arrests were for possession rather than sale or manufacture).

5. Citing the *2007 National Survey on Drug Use and Health*, the ONDCP reports that "an estimated 100 million Americans aged 12 or older have tried marijuana at least once in their lifetimes, representing 40.6% of the U.S. population in that age group." Office of Nat'l Drug Control Policy, Marijuana Facts & Figures, http://www.whitehousedrugpolicy.gov/drugfact/marijuana/marijuana_ff.html#extentofuse. In 2002, a poll conducted by Time and CNN found that as many as 47% of Americans had tried the drug. Joel Stein, *The New Politics of Pot: Can It Go Legit?: How the People Who Brought You Medical Marijuana Have Set Their Sights on Lifting the Ban for Everyone*, TIME, Oct. 27, 2002, at 56.

6. *See* Eric Blumenson & Eva Nilsen, *No Rational Basis: The Pragmatic Case for Marijuana Law Reform*, 17 VA. J. SOC. POL'Y & L. 43 (2009). For other criticism of marijuana criminalization, see generally CANADIAN SENATE SPECIAL COMM. ON ILLEGAL DRUGS, CANNABIS:

but, both proponents and opponents of marijuana prohibition generally argue in pragmatic terms: their focus is on what will work best to achieve either "a drug-free America" (in the government's rendition) or a reduction of harm to users (in the reformer's rendition).[7]

Such debates are crucial elements in any examination of marijuana law and policy, but they ignore the deeper level of justification that may be required for restraints on individual liberty, of which marijuana criminalization is arguably an instance. Restraints on religious practice, for example, cannot properly be evaluated by merely calculating the utilitarian costs and benefits; something of greater moral weight is required to override the fundamental right to free exercise of religion. A key threshold issue regarding the prohibition and criminalization of marijuana use is whether such laws implicate fundamental individual rights, and, if so, what grounds are required to justify doing so.

In this Essay, we argue that these laws do unjustifiably infringe upon fundamental moral rights. We present a nonconsequentialist, civil libertarian case against marijuana prohibition and criminalization based on the requirements of liberty and just punishment. Our focus is on an individual's *moral* rights—the kind of human rights that *should* be reflected in law, whether they are or not. We recognize that courts are unlikely to revisit precedents generally upholding marijuana crimes against constitutional challenges, at least in the near term.[8] Our concern here, however, is *what*

OUR POSITION FOR A CANADIAN PUBLIC POLICY (2002), *available at* http://www.parl.gc.ca/common/Committee_SenRep.asp?Language=E&Parl=37&Ses=1&comm_id=85 (concluding that criminalization of cannabis is not supported by scientific data and criminalization policies have been ineffective); ROBERT J. MACCOUN & PETER REUTER, DRUG WAR HERESIES: LEARNING FROM OTHER VICES, TIMES & PLACES (2001) (analyzing the legitimacy and effectiveness of American drug policy); NAT'L COMM'N ON MARIHUANA AND DRUG ABUSE, MARIHUANA: A SIGNAL OF MISUNDERSTANDING (1972), *available at* http://www.druglibrary.org/Schaffer/Library/studies/nc/ncmenu.htm (arguing that discouraging the use of cannabis may be desirable but that criminalization of possession for personal use is a socially self-defeating means to that objective); Duncan Campbell, *Ex-Drugs Policy Director Calls for Legalisation*, GUARDIAN (London), Aug. 13, 2008, at 6, *available at* http://www.guardian.co.uk/politics/2008/aug/13/drugs.legislation.

7. For two prominent exceptions that assess exclusively the moral rights at stake in the drug war generally, see DOUGLAS N. HUSAK, DRUGS AND RIGHTS (1992); Michael Moore, *Liberty and Drugs*, *in* DRUGS AND THE LIMITS OF LIBERALISM 61 (Pablo De Greiff ed., 1999).

8. Many courts have rejected constitutional challenges to marijuana possession laws. *See, e.g.*, John C. Williams, Annotation, *Constitutionality of State Legislation Imposing Criminal Penalties for Personal Possession or Use of Marijuana*, 96 A.L.R.3d. 225 (1979) (providing a long list of state court decisions upholding marijuana-possession convictions). Specifically, courts have rejected claims that marijuana use is protected by the Free Exercise Clause and state analogs. *E.g.*, United States v. Rush, 738 F.2d 497, 511–13 (1st Cir. 1984); United States v. Middleton, 690 F.2d 820, 824–26 (11th Cir. 1982); State v. Hardesty, 204 P.3d 407, 413, 418 (Ariz. Ct. App. 2008), *vacated*, 214 P.3d 1004 (Ariz. 2009); State v. Balzer, 954 P.2d 931, 942 (Wash. Ct. App. 1998). Most courts have also rejected claims that personal marijuana use is a fundamental right protected by the Due Process Clauses of the Fifth and Fourteenth Amendments. *See, e.g.*, United States v. Fogarty, 692 F.2d 542, 547 (8th Cir. 1982) (upholding the classification of marijuana as a Schedule I substance on a rational-basis test, and rejecting strict-scrutiny analysis because "there is no constitutional right to import, sell, or possess marijuana"); Nat'l Org. for Reform of Marijuana Laws v. Bell, 488 F. Supp. 123, 130–34 (D.D.C. 1980) (holding that personal use of marijuana is not a fundamental right). *But see* Ravin

the law should be, not whether existing law satisfies the constitutional minimum, and in making that determination, legislators, no less than judges, should attend to the claims of liberty and human rights that may be at stake.

Prevailing marijuana-possession laws contain two components: the ban on marijuana use ("prohibition"), and the criminal punishment imposed on its users. Prohibition need not include criminal penalties for possession; alcohol prohibition did not,[9] and the decriminalization movement seeks the same for marijuana.

These two measures—prohibiting use and punishing users—each implicate individual liberty, but they do so in different ways that raise very different concerns. Prohibition only targets access to the drug (and the freedoms that are lost by its unavailability), and it raises the question of whether individuals have a moral right to use marijuana. By contrast, criminally punishing a user may confiscate her freedom altogether and always inflicts moral censure. Such punishment is justifiable only if the defendant deserves it. It is not enough that the citizenry will benefit from punishing marijuana users, for example, by deterring the drug trade; the offender must have engaged in some blameworthy, wrongful conduct that can justify moral and legal guilt.[10] As C.S. Lewis wrote, "Desert is the only connecting link between punishment

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v. State, 537 P.2d 494 (Alaska 1975) (holding marijuana use and possession in one's home are protected under a state constitutional privacy right). We can, however, envision a different result in the future if attitudes toward marijuana change, or if the Supreme Court's recent libertarian interpretation of the right to privacy takes root. *See infra* Part II.

9. U.S. CONST. amend. XVIII, *repealed by* U.S. CONST. amend. XXI. The Eighteenth Amendment prohibited the manufacture, sale, and transportation of alcohol, but the possession and consumption of alcohol remained legal during prohibition. Lloyd C. Anderson, *Direct Shipment of Wine, the Commerce Clause and the Twenty-First Amendment: A Call for Legislative Reform*, 37 AKRON L. REV. 1, 12 (2004).

10. Under the retributive principle, punishment may not be inflicted on the innocent or on the guilty beyond their desert, even if doing so would achieve a greater good for others. Desert is usually taken to be a function of the gravity of the crime and the blameworthiness of the criminal. Accordingly, it is not acceptable to punish the mother of a suicide bomber, even if it is the *only* way to deter future bombings. Nor can desert be based on the mere fact that the defendant freely chose to violate a duly passed law. Otherwise, any criminal law regime would be self-justifying, so that criminalizing singing would justify punishing a yodeler. What is missing from both of these examples is blameworthy conduct that underwrites moral guilt.

The retributive principle most centrally embodies respect for the right of autonomous individuals to determine their futures. For extended treatment of the principle as applied to criminal law, see JOEL FEINBERG, DOING AND DESERVING: ESSAYS IN THE THEORY OF RESPONSIBILITY (1970); IMMANUEL KANT, THE METAPHYSICAL ELEMENTS OF JUSTICE (John Ladd trans., Bobbs-Merrill Co. 1965) (1797) (propounding the "formula of humanity"); JOHN KLEINIG, PUNISHMENT AND DESERT (1973); HERBERT L. PACKER, THE LIMITS OF THE CRIMINAL SANCTION (1968); Sanford H. Kadish, *Why Substantive Criminal Law—A Dialogue*, 29 CLEV. ST. L. REV. 1, 10 (1980) ("It is deeply rooted in our moral sense of fitness that punishment entails blame and that, therefore, punishment may not justly be imposed where the person is not blameworthy."); Herbert Morris, *Persons and Punishment*, 52 MONIST 475 (1968).

There are a few theorists, however, who defend punishing the innocent if sufficient benefits would result. *See, e.g.*, Mirko Bagaric & Kumar Amarasekara, *The Errors of Retributivism*, 24 MELB. U. L. REV. 124 (2000); J.J.C. Smart, *An Outline of a System of Utilitarian Ethics*, *in* UTILITARIANISM 3, 69–72 (John Jamieson Carswell ed., 1973). That theory underlies strict-liability laws in some states that arguably punish blameless conduct for utilitarian reasons. But even utilitarians who are willing to trade fairness for utility would still have great difficulty

and justice."[11]

Are these necessary conditions satisfied in the case of American marijuana laws? We first consider whether criminal sanctions can be justified and then turn to prohibition laws that simply put marijuana beyond reach.

I. PUNISHING USERS

A. Grounds Purported to Justify Criminalization

Is marijuana possession—or the marijuana use for which possession is a proxy—the kind of wrongful conduct that is a prerequisite for criminal punishment of its users? At its most expansive, the indictment against marijuana use puts forth four types of putative moral wrongs inflicted by marijuana use to justify criminally punishing its users. Marijuana use is alleged to inflict harm on others; inflict harm on users; make users unproductive members of society; and be immoral in itself.

But two questions must be asked of each claim: Does marijuana use actually perpetrate the wrong alleged? And is this type of wrong sufficient to justify criminal penalties? We consider each claim in turn.

1. Harm to Others

Undeniably, acts that seriously and wrongfully injure others, or seriously risk injury to others, can be criminalized. Such an act, coupled with mens rea, is the paradigmatic case warranting criminal penalties. Thus, the question here is not one of principle but one of fact: does marijuana use wrongfully injure others?

No one can reasonably claim that the private use of marijuana at home inflicts direct harm on others the way a battery does. The claim must be that marijuana use has further effects that do inflict harm. One way this might be so is if marijuana regularly lead users to engage in subsequent criminal activity. If marijuana stimulated aggression or was addictive and expensive enough to lead users to engage in crime to finance their habits, the state might treat marijuana possession as an inchoate crime akin to reckless driving, possession of burglarious implements, or other acts that threaten imminent and

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defending marijuana criminalization on that basis. Because each person's happiness (or alternative utility measure) counts equally, the harms inflicted on the defendant by his loss of liberty must count in the balance along with the costs involved in fostering criminal enterprises dependent upon a black market; devoting large amounts of police, court, and prison resources to marijuana law enforcement; and/or the harms that result from diverting resources away from more destructive crimes. *See* JEREMY BENTHAM, THE THEORY OF LEGISLATION (C.K. Ogden ed., Richard Hildreth trans., Morrison & Gibb, Ltd. 1931) (1802); 1 JOEL FEINBERG, THE MORAL LIMITS OF THE CRIMINAL LAW: HARM TO OTHERS 10 (1984) [hereinafter 1 FEINBERG, HARM TO OTHERS] (listing practical costs resulting from any penal statute and concluding that "merely to show that there is a morally relevant reason for a particular penal statute is not yet to show that it is sufficient or conclusive reason in the case at hand").

11. C.S. Lewis, *The Humanitarian Theory of Punishment*, *in* PHILOSOPHY AND CONTEMPORARY ISSUES 71, 72 (John R. Burr & Milton Goldinger eds., 1972). Lewis adds that when the focus of criminal punishment becomes deterrence or rehabilitation rather than desert, "instead of a person, a subject of rights, we now have a mere object, a patient, a 'case.'" *Id.*

serious harm. But no one can reasonably argue that marijuana generally causes its users to engage in crime, and ample research shows that it does not.[12]

The alternative that drug-war proponents invoke is downstream, noncriminal harm allegedly caused by marijuana use. James Q. Wilson justifies criminalization of some drugs because they result in "more accidents, higher insurance premiums, bigger welfare costs, and less effective classrooms."[13] We accept that marijuana use cannot be described as wholly self-regarding because, like almost everything else we do, it has an impact on others. But such downstream effects, even bad ones, cannot alone justify criminal punishment, or we would be punishing people for eating fatty foods and drinking alcohol.

There are at least two reasons why such indirect harms are neither wrongful nor blameworthy in the way just punishment requires. First, the chain of causation from an individual's marijuana use to Wilson's litany of harms is so distended, and so dependent on volitional acts by others, that no concept of proximate causation used in criminal law could connect the two. And second, causing damage to another—even with intent to do so—is not enough to justify the criminal sanction; the harm must

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12. *See, e.g.*, BRITISH ADVISORY COUNCIL ON THE MISUSE OF DRUGS, THE CLASSIFICATION OF CANNABIS UNDER THE MISUSE OF DRUGS ACT 1971 (2002), *available at* http://drugs.homeoffice.gov.uk/publication-search/acmd/cannabis-class-misuse-drugs-ct?view=Binary; NAT'L COMM'N ON MARIHUANA AND DRUG ABUSE, *supra* note 6, at 68–76; Peter N.S. Hoaken & Sherry H. Stewart, *Drugs of Abuse and the Elicitation of Human Aggressive Behavior*, 28 ADDICTIVE BEHAVS. 1533 (2003).

Faced with a similarly tenuous assertion, the Supreme Court stated, "[g]iven the present state of knowledge, the State may no more prohibit mere possession of obscene matter on the ground that it may lead to antisocial conduct than it may prohibit possession of chemistry books on the ground that they may lead to the manufacture of homemade spirits." Stanley v. Georgia, 394 U.S. 557, 567 (1969). The inchoate-crime argument comes closer to the mark when applied to heroin or crack cocaine, but even use of these drugs would be difficult to fit into existing doctrine. Cases holding that commission of an inchoate act is sufficient to constitute a criminal attempt do so on the basis that it is a "substantial step" toward the commission of a crime (or in some states, has sufficient proximity to it) and was done with specific intent to commit it. *See* WAYNE R. LAFAVE, CRIMINAL LAW § 6.2(c), (d) (4th ed. 2003). But even in the case of heroin or cocaine, use will not constitute a substantial step or proximate act most of the time, so it would be hard to justify punishing all who use the drug rather than only those who commit subsequent criminal acts. In an earlier era, John Stuart Mill took this position regarding laws against drunkenness: if an intoxicated person assaults another, punish him for assault, not for intoxication, he argued. JOHN STUART MILL, ON LIBERTY 159 (David Bromwich & George Kateb eds., Yale Univ. Press 2003) (1859).

13. James Q. Wilson, *Drugs and Crime*, *in* DRUGS AND CRIME 521, 524 (Michael Tonry & James Q. Wilson eds., 1990). The ONDCP, under drug czar William Bennett, shared Wilson's view, stating that "[d]rug users make inattentive parents, bad neighbors, poor students, and unreliable employees—quite apart from their common involvement in criminal activity." OFFICE OF NAT'L DRUG CONTROL POLICY, NATIONAL DRUG CONTROL STRATEGY 7 (1989). Nancy Reagan conveyed the same idea in more hyperbolic form when she described all casual drug users as "accomplice[s] to murder." Stephen Chapman, *Nancy Reagan and the Real Villains in the Drug War*, *in* THE CRISIS IN DRUG PROHIBITION 119, 119 (David Boaz ed., 1991). Of course, the prohibition law that leaves drug production to organized crime would make the government an "accomplice to murder" by the same theory.

result from a wrongful act that invades some moral right of another.[14] John F. Kennedy may have destroyed the haberdashery industry by refusing to wear a hat throughout his presidency, but he did not do so by invading any right. Similarly, the student who Wilson thinks will perform poorly in school invades no one's rights by doing so.

If marijuana criminalization cannot be justified on grounds of harm to others, the case for criminalization is severely weakened. The consensus that supports criminal penalties for acts that inflict harm on others breaks down in the absence of such victimization. A great number of Americans probably would subscribe to Mill's "harm principle," which holds that "the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is . . . to prevent harm to others . . . . Over himself, over his own body and mind, the individual is sovereign."[15] Nevertheless, the ONDCP and other criminalization proponents believe criminal punishment is warranted on one or more other grounds that we explore next.

2. Sins of Omission

Someone who fails a friend in need or contributes nothing to the community might be said to damage others by her absence. On this view, if marijuana users are constantly in a haze, or fall prey to the so-called "amotivational syndrome," they may damage society by inaction—by failing to contribute to it.

Some people may describe such contributions as morally virtuous but not morally required.[16] Others might deem them moral duties and the failure to perform them morally wrong.[17] But few would argue that failing to contribute to society is a sufficient ground for criminal punishment. As every law student is taught, criminalizing omissions is alien to the American criminal law tradition absent a legal duty between the actor and the person in need. A parent may be convicted of criminal homicide for failing to rescue his child if he can, but even Heimlich would bear no criminal liability for failing to save a stranger choking at the next table.[18] And there are good reasons for

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14. *See* 1 FEINBERG, HARM TO OTHERS, *supra* note 10; MILL, *supra* note 12. Mill argued, on social contract grounds, that we each must "observe a certain line of conduct towards the rest." MILL, *supra* note 12, at 139. On one side of the line, subject to state compulsion, are (1) the burdens required for mutual protection and (2) not injuring certain interests of others, "which, either by express legal provision or tacit understanding, ought to be considered as rights." *Id.* On the other side of the line, and exempt from state compulsion, are "[t]he acts of an individual [that] may be hurtful to others, or wanting in due consideration for their welfare, without going the length of violating any of their constituted rights." *Id.*

15. MILL, *supra* note 12, at 80. For modern elaborations of the harm principle, see 1 FEINBERG, HARM TO OTHERS, *supra* note 10; H.L.A. HART, LAW, LIBERTY, AND MORALITY (1963); Dennis J. Baker, *Constitutionalizing the Harm Principle*, 27 CRIM. JUST. ETHICS 3 (2008) (arguing that wrongful harm to others provides the only moral justification for sending people to jail).

16. *See* JAN NARVESON, THE LIBERTARIAN IDEA 39–40 (Broadview Press 2001) (1988).

17. *See, e.g.*, Peter Singer, *Famine, Affluence, and Morality*, 1 PHIL. & PUB. AFFAIRS 229 (1972) (arguing that the failure of people in affluent nations to help others in need is morally unjustifiable).

18. Criminal law casebooks continue to use the famous case of *Jones v. United States*, 308 F.2d 307 (D.C. Cir. 1962) (reversing involuntary manslaughter conviction based on failure to

generally limiting an individual's responsibility to acts of commission, and excluding sins of omission, having to do with respect for a rational, self-directing person's right to control the essential shape of her own life.[19]

If one's failure to rescue a stranger in dire straits is properly beyond the reach of criminal sanctions, one's failure to contribute to society must be as well, a fortiorari; and if these failures are not crimes, how can it be a crime to use a drug, which, by hypothesis, merely makes such a failure somewhat more likely?

The other, alternative ground for rejecting this claim is that its application to marijuana use is not empirically well supported. Recent research casts doubt on the amotivational-syndrome claim,[20] and numerous other activities, including video gaming and television watching, may well have a greater immobilizing influence than marijuana use. There are too many counterexamples of cultural icons who used marijuana regularly during highly fertile periods—for example, Robert Altman, Charles Baudelaire, the Beatles, Francis Crick, Ken Kesey, Richard Feynman, Steven Jay Gould, Allen Ginsberg, Aldous Huxley, Jack Kerouac, Robert Parish, Diego Rivera, Carl Sagan, and Rick Steves[21]—and too many political candidates for high office who have admitted using marijuana[22] for anyone to be confident that the typical marijuana user is destined to lead an unproductive existence.

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feed baby because no instruction requiring finding of legal duty), and/or *Pace v. State*, 224 N.E.2d 312 (Ind. 1967) (reversing a robbery conviction because defendant was merely present in the car in which a robbery took place), to illustrate this principle. *See, e.g.*, JOSHUA DRESSLER, CASES AND MATIERIALS ON CRIMINAL LAW 137, 883 (4th ed. 2007).

19. If duties extended beyond that point, there would be no end to one's obligations regarding strangers and no space for the special responsibilities one should feel toward family, friends, community, and one's own life. The deontological distinctions that limit the scope of our obligations—between acts and omissions and between intended and unintended consequences—place us in control of our own lives, and, most of the time, correspond to our everyday intuitions about moral requirements.

20. *See* Peter L. Nelson, *Cannabis Amotivational Syndrome and Personality Trait Absorption: A Review and Reconceptualization*, 14 IMAGINATION COGNITION & PERSONALITY 43 (1994).

21. *See, e.g.*, MARTIN BOOTH, CANNABIS: A HISTORY 267–68 (2003) (Huxley); LESTER GRINSPOON & JAMES B. BAKALAR, MARIHUANA, THE FORBIDDEN MEDICINE 141 (1993) (Gould); MARTIN H. LEVINSON, THE DRUG PROBLEM: A NEW VIEW USING THE GENERAL SEMANTICS APPROACH 85 (2002) (Baudelaire); PATRICK MCGILLIGAN, ROBERT ALTMAN: JUMPING OFF THE CLIFF 245–47 (1989) (Altman); BARRY MILES, JACK KEROUAC: KING OF THE BEATS 141 (1998) (Kerouac); BARRY MILES, PAUL MCCARTNEY: MANY YEARS FROM NOW 184–93 (1997) (Beatles); PAUL PERRY, ON THE BUS: THE COMPLETE GUIDE TO THE LEGENDARY TRIP OF KEN KESEY AND THE MERRY PRANKSTERS AND THE BIRTH OF THE COUNTERCULTURE 113 (1990) (Kesey); MATT RIDLEY, FRANCIS CRICK: DISCOVERER OF THE GENETIC CODE 156 (2006) (Crick); ANDREW WEIL & WINIFRED ROSEN, FROM CHOCOLATE TO MORPHINE: EVERYTHING YOU NEED TO KNOW ABOUT MIND-ALTERING DRUGS 19 (1998) (Rivera); Nicole Brodeur, *Rick Steves Is Just a NORML Guy*, SEATTLE TIMES, Mar. 14, 2006, at B1 (Steves); Allen Ginsberg, *The Great Marijuana Hoax: First Manifesto to End the Bringdown*, ATLANTIC MONTHLY, Nov. 1966, at 104, 107–11 (Ginsberg); *Parish Admits Validity of Marijuana Charge*, N.Y. TIMES, Feb. 26, 1993, at B8 (Parish); Lester Grinspoon, *To Smoke or Not to Smoke: A Cannabis Odyssey*, MARIJUANA USES, Apr. 20, 2009, http://marijuana-uses.com/essays/001.html [hereinafter Grinspoon, *To Smoke*] (Feynman); Carl Sagan, *Mr. X*, MARIJUANA USES, http://www.marijuana-uses.com/essays/002.html (Sagan).

22. Katherine Q. Seelye, *Obama Offers More Variations from the Norm*, N.Y. TIMES, Oct.

3. Morality Alone

How one lives one's life raises fundamental questions of value; what constitutes a life worth living has been a central ethical question for millennia. But answering that question for oneself is one thing; jailing those whose answers differ from the government's, as Bush administration drug czar John Walters suggested, is a far different one. Walters argued that marijuana "destroys the soul" and that the extreme "moral poverty" of its users requires "stiff and certain punishment."[23]

Can incarceration of marijuana users be justified on this basis? Or on the perceived immorality of living a self-indulgent life, or substituting an artificial paradise for one's natural, God-given lot? The criminal law has sometimes been used to enforce morality for morality's sake, as with the criminalization of homosexual acts, but rarely anymore. There are two problems. First, too many people now doubt that conduct can be immoral if it neither risks nor produces harmful effects; the views of earlier natural law theorists that entirely private conduct such as masturbation is immoral mystifies them. Second, multicultural societies now see too clearly the illegitimacy of enforcing the moral code of some upon others who disagree with it in the absence of harm to others.[24] They know that one era's condemnation of certain victimless behavior as

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24, 2006, at A21 (reporting on Barack Obama's marijuana-use admission and contrasting it with former President Bill Clinton's admission); *see also* JOSEPH R. BLANEY & WILLIAM L. BENOIT, THE CLINTON SCANDALS AND THE POLITICS OF IMAGE RESTORATION 59–62 (2001) (discussing how political figures such as Bill Clinton and Clarence Thomas restored their images after admissions of marijuana use).

23. RUDOLPH J. GERBER, LEGALIZING MARIJUANA: DRUG POLICY REFORM AND PROHIBITION POLITICS 57 (2004) (quoting WILLIAM J. BENNETT, JOHN J. DIIULIO & JOHN P. WALTERS, BODY COUNT: MORAL POVERTY AND HOW TO WIN AMERICA'S WAR AGAINST CRIME AND DRUGS (1996)).

24. Joel Feinberg takes this position in his seminal work. 4 JOEL FEINBERG, THE MORAL LIMITS OF THE CRIMINAL LAW: HARMLESS WRONGDOING (1988). He subscribes to a modified version of Mill's harm principle, in which "harm" refers to "those states of set-back interest that are the consequence of wrongful acts or omissions by others." 1 FEINBERG, HARM TO OTHERS, *supra* note 10, at 215.

Two who famously disagree, and argue that private consensual conduct not affecting others that is deemed immoral may be criminalized, are Justice Antonin Scalia and Lord Devlin. Justice Scalia dissented in the *Lawrence v. Texas* antisodomy case, arguing that the majority's ruling "effectively decrees the end of all morals legislation," explicitly including laws against masturbation. Lawrence v. Texas, 539 U.S. 558, 590, 599 (2003) (Scalia, J., dissenting). For Scalia, immorality is a sufficient and constitutional ground for criminalization.

Lord Devlin's argument is quite different. In response to Britain's *Wolfenden Report*, which recommended eliminating criminalization of homosexuality, Lord Devlin wrote a celebrated essay justifying the continued criminalization of conduct deemed immoral, not for morality's sake, but because if the criminal system looks the other way in the face of popular outrage, a social breakdown will ensue. PATRICK DEVLIN, THE ENFORCEMENT OF MORALS 1–26 (1965). As such, his argument was a peculiar species of the harm-to-others argument, and perhaps was a precursor to theories propounded in recent years by "broken windows" social scientists and others who view law as a way for felicitous norms that control populations to be created or maintained. *See also* James Q. Wilson, *Against the Legalization of Drugs*, COMMENTARY, Feb. 1990, at 21, 26. Wilson argues against decriminalization of *cocaine* on the grounds that "dependency on certain mind-altering drugs is a moral issue and that their illegality rests in part on their immorality." We treat cocaine differently than nicotine, he writes, because "nicotine

immoral often looks like sheer prejudice in a later one. Perhaps that is why the Supreme Court overruled its decision upholding the criminalization of homosexual sex a mere sixteen years after handing it down. Finding homosexual sex constitutionally protected in *Lawrence v. Texas*, the Supreme Court wrote, "the fact that a State's governing majority has traditionally viewed a particular practice as immoral is not a sufficient reason for upholding a law prohibiting the practice."[25]

4. Harming One's Own Welfare

Is the case for criminalization any stronger if the supposed immorality has the effect of harming one's own welfare? (Whether marijuana in fact does harm its users is disputed.)[26] Harms to oneself may warrant state intervention and sometimes even civil laws prohibiting use—we take up that question momentarily—but even in those cases,

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does not destroy the user's essential humanity. Tobacco shortens one's life; cocaine debases it. Nicotine alters one's habits, cocaine alters one's soul . . . ." *Id.* But he notes that marijuana presents a different problem from cocaine or heroin and takes no position on its decriminalization. *Id.* at 23.

25. 539 U.S. at 577 (quoting Bowers v. Hardwick, 478 U.S. 186, 216 (1986) (Stevens, J., dissenting)). Invalidating a law criminalizing homosexual sodomy, the Court observed that "'[o]ur obligation is to define the liberty of all, not to mandate our own moral code.'" *Id.* at 571 (quoting Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 850 (1992)). In his dissent, Justice Scalia proclaimed that *Lawrence* "effectively decrees the end of all morals legislation." *Id.* at 599.

26. Most research studies have concluded that the casual use of marijuana is not harmful to most users, or at least not as harmful as cigarettes, alcohol, and most other recreational drugs. *See, e.g.*, ADVISORY COMM. ON DRUG DEPENDENCE, CANNABIS (1968), *available at* http://www.ukcia.org/research/wootton/index.htm; BRITISH ADVISORY COUNCIL ON THE MISUSE OF DRUGS, *supra* note 12, at 11 (finding that even heavy use of marijuana "is not associated with major health problems for the individual or society"); COMM. ON SUBSTANCE ABUSE AND HABITUAL BEHAVIOR, NAT'L RESEARCH COUNCIL, AN ANALYSIS OF MARIJUANA POLICY (1982), *available at* http://www.nap.edu/openbook.php?record_id=662; INT'L INFO. & COMMC'N DIV., NETH. MINISTRY OF FOREIGN AFFAIRS, Q & A: DRUGS: A GUIDE TO DUTCH POLICY (2002); DAVID MCDONALD, RHONDA MOORE, JENIFER NORBERRY, GRANT WARDFLAW & NICILA BALLENDEN, NAT'L TASK FORCE ON CANNABIS, LEGISLATIVE OPTIONS FOR CANNABIS IN AUSTRALIA (1994); NAT'L COMM'N ON MARIHUANA AND DRUG ABUSE, *supra* note 6 at 130–31 (recommending decriminalization, finding that "experimental" or "intermittent use" resulted in little danger of physical and psychological harm); Editorial, *Dangerous Habits*, 352 THE LANCET 1565 (1998) (summarizing study finding cannabis less of a threat than alcohol or tobacco and also that moderate indulgence in cannabis has little ill effect on health); *cf.* ROBIN ROOM, BENEDIKT FISCHER, WAYNE HALL, SIMON LENTON & PETER REUTER, THE BECKLEY FOUND., CANNABIS POLICY: MOVING BEYOND THE STALEMATE (2008), http://www.beckleyfoundation.org/pdf/Conclusions_and_Recommendations.pdf (concluding that the "probability and scale of harm among heavy cannabis users is modest compared with that caused by many other psychoactive substances, both legal and illegal, in common use, namely, alcohol, tobacco, amphetamines, cocaine and heroin"). Other studies have found marijuana detrimental to physical and mental health. *See, e.g.*, George C. Patton, Carolyn Coffey, John B. Carlin, Louisa Degenhardt, Micheal Lynskey & Wayne Hall, *Cannabis Use and Mental Health in Young People: Cohort Study*, 325 BRIT. MED. J. 1195, 1195–98 (2002) (finding a possible link between marijuana use and increased risk for depression and anxiety); *see also* NAT'L INST. ON DRUG ABUSE, INFOFACTS: MARIJUANA (2009), http://www.drugabuse.gov/PDF/InfoFacts/Marijuana09.pdf (citing studies).

harm to oneself cannot be seen as the type of moral wrong that should be criminally punished. An act harmful to self-interest may reflect a weak will rather than a bad one, or poor judgment rather than criminal intent. It is difficult to fit self-inflicted harms into the idea of desert, which ethicist James Rachels defines as the principle that "[p]eople deserve to be treated in the same way that they have (voluntarily) treated others."[27]

The other problem concerns the equal respect the government owes to all its citizens. Few people believe that marijuana is more harmful to users than presently legal (but regulated) substances such as nicotine or alcohol.[28] If marijuana is not more harmful, then throwing only some people into the maw of the criminal justice system while leaving others free to indulge their no-more-important pleasures cannot be justified on grounds of danger to the user alone.

None of the four putative grounds for punishing marijuana users successfully establishes that they committed the kind of wrongful, blameworthy conduct that deserves criminal punishment. To quote C.S. Lewis once more: "take away desert and the whole morality of the punishment disappears."[29]

B. Disproportionate Punishments

Defenders of the present marijuana laws must argue not only that criminalization is justifiable but also that the punishment fits the crime. That too, is a difficult case to make. It is true that only a small minority of first offenders receive sentences of incarceration.[30] But those who are not imprisoned are still likely to experience disproportionate suffering if arrested for marijuana use.[31] These other unlucky users, annually numbering between 700,000 and 800,000,[32] will still lose their liberty through arrest and/or pretrial detention for some period of time and have their lives centered around lawyers, trial courts, legal fees, and probation officers for the following year or more. Those who are convicted will be handicapped by legally imposed civil disabilities, including ineligibility for government grants and contracts,[33] public

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27. James Rachels, *Punishment and Desert*, *in* ETHICS IN PRACTICE: AN ANTHOLOGY 470, 473 (Hugh LaFollette ed., 1997).

28. *See, e.g.*, *Dangerous Habits*, *supra* note 26, at 1565.

29. Lewis, *supra* note 11, at 74.

30. *See* MACCOUN & REUTER, *supra* note 6, at 344 (reporting that annually between 1990 and 1995, about 4000 people received federal prison sentences for marijuana offenses and approximately 11,000 people received state sentences; the proportion of offenders convicted of offenses involving sale is not reported).

31. We describe this suffering, and the inhumane outlook that has produced it, in more detail in our companion article, *No Rational Basis*, from which these two paragraphs are adapted. Blumenson & Nilsen, *supra* note 6, at 59–62.

32. In 2006, 43.9% of the 1,889,810 total arrests for drug-abuse violations were for marijuana—a total of 829,627. *See* CRIME IN THE UNITED STATES 2006, *supra* note 4.

33. Grants, licenses, contracts, and some other federal benefits are restricted as to drug offenders. 21 U.S.C. § 862 (2006). At the court's discretion, first offenders convicted of a federal or state drug *possession* offense may be rendered ineligible for all federal benefits for up to one year, and second offenders may remain ineligible for up to five years. *Id.* § 862(b). The sanctions may be waived if offenders declare themselves to be addicts and undergo treatment or are declared rehabilitated. *Id.* § 862(b)(2).

housing,[34] and, depending on the state, driver's licenses,[35] occupational licenses,[36] and voting.[37] Offenders may even forfeit their land, house, or bank account under laws that transfer most of the drug "instrumentalities" or "proceeds" to the budget of the law-enforcement agency that seized them.[38] Another law strips college students of their federal student loans for a single marijuana-possession offense.[39] A high school student

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34. The Supreme Court has even upheld the eviction of a drug user's *parents* on the basis of their child's drug use, even if the drug use took place outside of the home and the parents knew nothing about it. Dep't of Hous. & Urban Dev. v. Rucker, 535 U.S. 125 (2002) (interpreting 42 U.S.C. § 1437d(*l*)(6) (2000)); *see also* 42 U.S.C. § 13661(a) (2006) (providing that a person previously evicted from federally assisted housing by reason of drug-related criminal activity is ineligible for admission to any federally assisted housing for three years).

35. Offenders may forfeit their licenses even when the marijuana arrest had nothing to do with driving or being in a car. *E.g.*, FLA. STAT. ANN. § 322.055 (West 2005); GA. CODE ANN. § 40-5-75 (2007); VA. CODE ANN. § 18.2-259.1 (2004); *see also* 23 U.S.C. § 159 (2006) (denying portion of highway funds to states that do not suspend the driver's license of drug felons).

36. 18 U.S.C. §§ 3563(b)(5), 3583(d) (2006); 21 U.S.C. § 862(a)–(d) (2006); U.S. SENTENCING GUIDELINES MANUAL §§ 5F1.5(a), 5F1.6 (2008) (authorizing sentencing court to place occupational restrictions as conditions of probation and setting limitations on federal benefits, including professional licenses, commercial licenses, grants, contracts, and loans); *see also* 29 U.S.C. § 1111 (2006) (setting forth rules of ineligibility for listed positions involving employee-benefit plans); Kathleen M. Olivares, Velmer S. Burton & Francis T. Cullen, *The Collateral Consequences of a Felony Conviction: A National Study of State Legal Codes 10 Years Later*, FED. PROBATION, Sept. 1996, at 10 (noting six states permanently restrict felons from public office, ten states leave the discretion to hire with the employer, twelve states apply a test to determine if the conviction bears on the offender's ability to handle the job, and only seventeen states allow public employment after the completion of the prison sentence).

37. As of 2003, thirty-six states and the District of Columbia permitted all felons to vote after prison release or sentence completion; another seven states permitted some felons to vote after sentence completion; in the other seven states, the right to vote can be restored only after executive or legislative clemency. ABA STANDARDS FOR CRIMINAL JUSTICE: COLLATERAL SANCTIONS AND DISCRETIONARY DISQUALIFICATION OF CONVICTED PERSONS STANDARD 37 n.47 (3d ed. 2004).

38. 21 U.S.C. § 881(a) (2006). Seizures accomplished exclusively by state or local agencies may be "adopted" by the federal government whenever the conduct giving rise to the seizure is in violation of federal law. OFFICE OF THE ATT'Y GEN., U.S. DEP'T OF JUSTICE, THE ATTORNEY GENERAL'S GUIDELINES ON SEIZED AND FORFEITED PROPERTY (1990), *available at* http://www.usdoj.gov/ag/readingroom/seized.htm#federal. When the federal government has "adopted" a state forfeiture case, 80% of judicially or administratively forfeited assets are allocated to the state or local agency for law-enforcement purposes, and the remaining 20% goes to the federal government. ASSET FORFEITURE AND MONEY LAUNDERING SECTION, U.S. DEP'T OF JUSTICE, GUIDE TO EQUITABLE SHARING FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES 12 (2009), *available at* http://www.usdoj.gov/criminal/afmls/pubs/ pdf/guidetoeq09.pdf. In joint seizures, the share is allocated on a case-by-case determination based on the amount of work each agency performed. § 881(e)(3); *see also* Eric Blumenson & Eva Nilsen, *Policing for Profit: The Drug War's Hidden Economic Agenda*, 65 U. CHI. L. REV. 35, 44–55 (1998).

39. 20 U.S.C. § 1091(r) (2006). This 1998 law suspends or forever terminates a drug offender's eligibility for federal college loans and grants. Initially, the law applied to anyone with a conviction at any time, but a recent amendment excludes convictions prior to college. *See* Deficit Reduction Act of 2005, Pub. L. No. 109-171, § 8021(c), 120 Stat. 4, 178 (2006). The periods of ineligibility vary depending upon the number of convictions and whether they

risks mandatory expulsion under zero-tolerance drug policies in an estimated eighty-eight percent of public schools;[40] an immigrant may face deportation;[41] a parent risks losing child custody to protection agencies or the other parent; the unemployed confront job application forms eliciting their criminal records; and all offenders remain at serious risk of incarceration for a probation violation or a second arrest. And apart from such consequences there is the criminal conviction, a public mark of societal condemnation that in itself is no small thing.[42]

One must juxtapose lives turned upside down in these ways with the nature of the offense, no different than the activities of millions of other Americans who use other intoxicating substances for similar reasons. Such grossly disproportional punishments can hardly be said to fit the offender's crime.

II. PREVENTING USE

As we noted, even in the absence of criminal penalties, outlawing the use of marijuana raises separate liberty concerns. How that putative liberty should be described is a significant and consequential question; recall that the Supreme Court found no "right to engage in homosexual sodomy" in *Bowers v. Hardwick*[43] but later overruled that case because the Constitution guarantees a "right to autonomy in intimate relations."[44] Similarly, some people may dismiss the issue here as merely a

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resulted from possession or distribution of drugs—from a year of ineligibility for a single possession conviction to permanent ineligibility for a second distribution or third possession conviction. § 1091(r)(1). For a discussion of the constitutional and legal infirmities of this law, see Eric Blumenson & Eva Nilsen, *How to Construct an Underclass, or How the War on Drugs Became a War on Education*, 6 J. GENDER RACE & JUST. 61, 68–71 (2002).

Tom Angell, a spokesman for Students for Sensible Drug Policy, reports that "more than 200,000 college students have lost financial aid in the past 10 years because of drug convictions." Matthew Huisman & Jason Millman, *As Frank Prepares Marijuana Bill, States Make Own Efforts*, S. COAST TODAY.COM, Apr. 6, 2008, http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20080406/NEWS/804060373.

40. PHILLIP KAUFMAN, XIANGLLEI CHEN, SUSAN P. CHOY, SALLY A. RUDDY, AMANDA K. MILLER, KATHRYN A. CHANDLER, CHRISTOPHER D. CHAPMAN, MICHAEL R. RAND & PATSY KLAUS, U.S. DEP'T OF EDUC. & U.S. DEP'T OF JUST., INDICATORS OF SCHOOL CRIME AND SAFETY, 1999, at 119 tbl.A1 (1999), *available at* http://nces.ed.gov/pubs99/1999057.pdf; *see also* Anne Davis, *Zero Tolerance Is Too Severe, Father Says Policy Is Subject of Meeting*, MILWAUKEE J. SENTINEL, Nov. 17, 1999, at 1 (reporting on a two-year expulsion applied to a first offender caught with marijuana in a Milwaukee school). *See generally* Eric Blumenson & Eva Nilsen, *One Strike and You're Out? Constitutional Constraints on Zero Tolerance in Public Education*, 81 WASH. U. L. REV. 65 (2003) (providing an overview of zero-tolerance expulsions).

41. 8 U.S.C. § 1227(a)(2)(B)(i) (2006). Because this provision also authorizes deportation of anyone who is a "drug abuser or addict" even absent a conviction, *id.* § 1227(a)(2)(B)(ii), state decriminalization does not necessarily provide protection from deportation. Only deletion of marijuana from the federal Controlled Substances Act, 21 U.S.C. § 812 (2006), would do so. 42 C.F.R. § 34.2(g), (h) (2008).

42. *Cf.* Lawrence v. Texas, 539 U.S. 558, 575 (2003) ("The stigma this criminal statute imposes . . . is not trivial. . . . [I]t remains a criminal offense with all that imports for the dignity of the persons charged.").

43. 478 U.S. 186, 191 (1986), *overruled by Lawrence*, 539 U.S. 558.

44. *Lawrence*, 539 U.S. at 578. The Court noted in *Lawrence* that it had previously misapprehended the issue as "simply the right to engage in certain sexual conduct," which

question of whether there exists a fundamental "right to smoke marijuana," while others might describe the right at issue, with Justice Brandeis, as the right to be let alone absent good reason,[45] or with Kant, as the right to self-rule.[46] Other moral rights are arguably at stake, including the rights to control one's body, to freedom of thought, to privacy in one's home, and to the pursuit of happiness. If any such individual rights are involved, preventing marijuana use needs more justification than a collective cost-benefit analysis alone.

The idea common to all these descriptions is that each person has certain fundamental interests that must be under the individual's exclusive control and immune from state interference. The Supreme Court has expressed this idea using the rubric of a constitutional right to privacy[47] (and the Alaska Supreme Court has found private marijuana use in one's home protected under its state version of the right).[48] In *Lawrence v. Texas*, the case that overturned *Bowers*, the Court described that right in the following terms:

> Liberty protects the person from unwarranted government intrusions into a dwelling or other private places. . . . And there are other spheres of our lives and existence, outside the home, where the State should not be a dominant presence. . . . Liberty presumes an autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct.
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demeaned "the claim the individual put forward, just as it would demean a married couple were it to be said marriage is simply about the right to have sexual intercourse." *Id.* at 567.

45. Olmstead v. United States, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting) ("[The Founders] sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.").

46. In Kant's philosophy, we are rational and moral agents who can each discern right and wrong for ourselves; if the state does that for us, it denies us the respect due our autonomy, and it also destroys our capacity to act morally, which can only come from the autonomous exercise of one's own reason. *See* IMMANUEL KANT, GROUNDWORK FOR THE METAPHYSICS OF MORALS, 199–201 (Arnulf Zweig trans. & ed., Thomas E. Hill, Jr. ed., Oxford Univ. Press 2002) (1785).

47. The constitutional right to privacy stems from the Supreme Court's recognition that the Due Process Clause encompasses not only procedural due process but substantive due process as well; a state infringement on fundamental rights is unconstitutional, however fair the procedure. Collins v. Harker Heights, 503 U.S. 115, 125 (1992). The Court has rejected the idea that the Due Process Clause protects any generalized autonomy right, however. Washington v. Glucksberg, 521 U.S. 702, 727 (1997). Instead, the Court will recognize as constitutionally protected only those rights that are (1) "'deeply rooted in this Nation's history and tradition,' and 'implicit in the concept of ordered liberty,' such that 'neither liberty nor justice would exist if they were sacrificed,'" *id.* at 721 (quoting Moore v. City of E. Cleveland, 431 U.S. 494, 503 (1977) (plurality opinion); Palko v. Connecticut, 302 U.S. 319, 325, 326 (1937)), and (2) "carefully" defined and described, *id.* at 722. Given the Court's distinction between liberty, broadly understood, and the individual liberties recognized as constitutional guarantees—assuming *Lawrence* does not portend a doctrinal shift—the moral rights argument we put forward here should not be read as a prediction that the Supreme Court would find such a moral right contained in the Constitution as a legal guarantee.

48. Ravin v. State, 537 P.2d 494 (Alaska 1975).

> . . . "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State. . . .The petitioners are entitled to respect for their private lives."[49]

Obviously, one's right to privacy, or what we might more affirmatively describe as a right to self-ownership or self-rule, is limited. According to Mill, the right is limited only by the harm principle: we must be free to choose for ourselves up to the point we would harm or risk harm to others.[50] Justice Kennedy's opinion in *Lawrence* can be read as adding a second limitation on the right of self-rule, one that would permit paternalism in some areas that are removed from the reasons for respecting individual autonomy. In Kennedy's opinion for the Court, the right to self-rule apparently protects only the realm most closely related to the essential attributes of personhood.[51] Requiring drivers to use seatbelts may not interfere with these attributes, but denying individuals freedom of thought and expression, or the freedom to choose their intimate relations, clearly does.

In assessing where marijuana use falls on this spectrum, one must attend to the reasons individuals offer for using it. These reasons are almost completely absent from drug policy analyses.[52] Here is naturalist Michael Pollan's description:

> All those who write about cannabis's effect on consciousness speak of the changes in perception they experience . . . . [T]hese people invariably report seeing, and hearing, and tasting things with a new keenness, as if with fresh eyes and ears and taste buds.
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> . . . .
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> It is by temporarily mislaying much of what we already know (or think we know) that cannabis restores a kind of innocence to our perceptions of the world
> . . . .
>
> There is another word for this extremist noticing—this sense of first sight unencumbered by knowingness, by the already-been-theres and seen-thats of the adult mind—and that word, of course, is *wonder*.[53]

Pollan finds using marijuana edifying because it opens the door to thoughts, insights, and experiences he finds valuable. Rick Steves, the Public Broadcasting Service travel guru, says that his outlook and writing have been sharpened by using

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49. *Lawrence*, 539 U.S. at 562, 574 (quoting Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 851 (1992)).

50. MILL, *supra* note 12, at 9.

51. *Lawrence*, 539 U.S. at 574.

52. *See* MACCOUN & REUTER, *supra* note 6, at 70 (citing R.S. Gable, *Opportunity Costs of Drug Prohibition*, 92 ADDICTION 1179 (1997)).

53. MICHAEL POLLAN, THE BOTANY OF DESIRE: A PLANT'S-EYE VIEW OF THE WORLD 166–68 (2001) (emphasis in original).

marijuana.[54] Some other users say that temporarily changing the way they perceive and experience the world increases their self-awareness, or frees up some creative potential within them, or opens them up to more spiritual feelings.[55] In the past year, the Italian Court of Cassation reversed a marijuana conviction on such grounds, accepting the Rastafarian defendant's contention that marijuana helped him achieve a "psychophysical state connected to contemplative prayer."[56] On the other hand, many former users and other critics would find these self-assessments to be delusional. Law professor Michael Moore considers most such claims to be "grandiose descriptions of what in fact is a pretty pathetic condition" and writes that "[o]ne has to be high on [drugs] already in order to be able to judge the states induced as any kind of path to profundity or 'authenticity.'"[57]

One need not resolve this dispute concerning marijuana's value to recognize that at least for its users, banning marijuana *does* implicate their freedom of thought and sometimes even the "right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life."[58] That is one reason why a ban on marijuana cuts so close to core aspects of personhood—to the freedom of thought and religion that are necessary to respect an autonomous being's ability to choose what to think and what kind of person to be. That such thoughts, and such an identity, are not esteemed by a majority of Americans and their government is really beside the point: the very idea of this liberty is to protect each individual's sovereignty in this realm (as the Supreme Court long ago recognized).[59] Yet according to President Nixon's

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54. Kevin Berger, *The Other Side of Rick Steves*, SALON.COM, Mar. 20, 2009, http://www.salon.com/mwt/feature/2009/03/20/rick_steves/print.html.

55. *See, e.g.*, ANDREW WEIL, THE NATURAL MIND: AN INVESTIGATION OF DRUGS AND THE HIGHER CONSCIOUSNESS 149–87 (rev. ed. 1986) (describing the expanded thinking that results from marijuana use); Lester Grinspoon, *Learn*, MARIJUANA USES, http://www.marijuana-uses.com/learn.html (describing "marijuana's capacity to catalyze ideas and insights, heighten the appreciation of music and art, or deepen emotional and sexual intimacy"); Grinspoon, *To Smoke*, *supra* note 21 (describing "such disparate uses as the magnification of pleasure in a host of activities ranging from dining to sex, the increased ability to hear music and see works of art, and the ways in which it appears to catalyze new ideas, insights and creativity").

56. Peter Popham, *Rastas Can Use Cannabis, Italian Court Rules*, INDEPENDENT (United Kingdom), July 12, 2008, at 32. In a second possession case, the court reversed the conviction of a shepherd, finding the defendant justified in using it to help him endure a "long and solitary period . . . in the countryside and the mountains." Peter Popham, *Silence of Lambs Justifies a Joint for Lonely Shepherd*, INDEPENDENT (United Kingdom), Mar. 21, 2009, at 32.

57. Moore, *supra* note 7, at 101.

58. Lawrence v. Texas, 539 U.S. 558, 574 (2003) (quoting Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 851 (1992)).

59. *See, e.g.*, Abood v. Detroit Bd. of Educ., 431 U.S. 209, 235 (1977) ("[I]n a free society one's beliefs should be shaped by his mind and his conscience rather than coerced by the State."); Stanley v. Georgia, 394 U.S. 557, 565–66 (1969) ("Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds. . . . [The idea that] the State has the right to control the moral content of a person's thoughts. . . . is wholly inconsistent with the philosophy of the First Amendment. . . . [Government] cannot constitutionally premise legislation on the desirability of controlling a person's private thoughts."); Palko v. Connecticut, 302 U.S. 319, 327 (1937) ("[Freedom of thought] is the matrix, the indispensable condition, of nearly every other form of freedom. . . . [T]he domain of

National Commission on Marijuana, the war against marijuana, then beginning in earnest, was fueled by fear that the drug caused users to reject the "established value system."[60]

A more quotidian moral right, perhaps less exalted but no less important, is recognized in the Declaration of Independence as an inalienable right to the pursuit of happiness.[61] This right should protect those who seek affective rather than cognitive benefits from marijuana—users for whom it serves as a relaxant, a social lubricant, an antidepressant, or a palliative.[62] The right to pursue happiness in one's own way is worthy of respect, and many Americans disdain the Iranian government because it affords none. There, the government bans certain dress and music that it deems decadent.[63] Here, the default position is that people should be free to pursue their individual and idiosyncratic tastes in recreation, including even such risky ones as boxing and mountain climbing.[64] Only in a few cases does the majority presume to control the personal pleasures of a minority; marijuana use, even privately at home, is one of them.[65]

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liberty . . . include[s] liberty of the mind as well as liberty of action."); Whitney v. California, 274 U.S. 357, 375 (1927) (Brandeis, J., concurring) ("Those who won our independence believed that the final end of the State was to make men free to develop their faculties. . . . They believed that freedom to think as you will and speak as you think are means indispensible to the discovery and spread of political truth . . . .").

60. NAT'L COMM'N ON MARIHUANA AND DRUG ABUSE, *supra* note 6, at 8–9.

61. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776). Although the pursuit of happiness appears in the Declaration of Independence rather than the Constitution, members of the Supreme Court have found that the "right to life, liberty, and the pursuit of happiness, is inalienable." *Ex parte* Garland, 71 U.S. (4 Wall.) 333, 384 (1866) (Miller, J. dissenting). These rights are fundamental and can only be removed by due process of law. *See* Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 89 (1872). The Court has cited the pursuit of happiness when assessing the voting rights of African-Americans, *see* United States v. Reese, 92 U.S. 214, 248 (1875) (Hunt, J. dissenting), the right to contraception, *see* Griswold v. Connecticut, 381 U.S. 479, 494 (1965) (Goldberg J., concurring) (citing Olmstead v. United States, 277 U.S. 438, 478 (1927) (Brandeis, J. dissenting)), and the freedom to marry, *see* Loving v. Virginia, 388 U.S. 1, 12 (1967). More recently, the Supreme Court has neglected to find that the pursuit of happiness permits a prisoner to refuse antipsychotic drugs, *see* Washington v. Harper, 494 U.S. 210, 238 (1990) (Stevens J., concurring in part, dissenting in part) (citing Olmstead v. United States, 277 U.S. 438, 478 (1927) (Brandeis, J. dissenting)), or grants prisoners the right to DNA testing, *see* Dist. Attorney's Office for Third Judicial Dist. v. Osborne, 129 S. Ct. 2308, 2333 (2009) (Stevens, J., dissenting).

62. *See, e.g.*, WEIL & ROSEN, *supra* note 21, at 116 ("Regular users may find that pot makes them relaxed or more sociable without greatly affecting their perceptions or moods.").

63. Ali Akbar Dareini, *Crackdown Issued on Dress Code*, VIRGINIAN PILOT, Apr. 24, 2007, at A10; Nasser Karimi, *Iran Revives Broadcast Ban on Western Music*, WASH. POST, Dec. 20, 2005, at A25.

64. Justice Brandeis's "right to be let alone," Olmstead v. United States, 277 U.S. 438, 478 (1928) (Branseis J., dissenting), formulation eventually was adopted by the Court in *Stanley v. Georgia*. 394 U.S. at 564 ("[The] makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. . . . They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations.").

65. That marijuana use often takes place in the privacy of one's home greatly compounds the violation. As the Alaska Supreme Court stated in finding that the state constitutional right to privacy should be extended to the marijuana use in one's home, "[i]f there is any area of human

This is not to say that the state should be unconcerned with marijuana use, because it does present risks to health and safety, and both state and federal governments have important roles to play in eliminating or reducing those risks. In liberal societies such as ours, where the presumption is that individuals have the right to decide how to live their lives for themselves, the government safeguards us not by making the decisions for us but by helping us to make wise decisions with full knowledge. Thus the government does not legislate your weight or dictate your diet, but it labels food and advises on its health effects. Political philosopher William Talbott argues that the *fundamental idea* underlying human rights is that people "should be guaranteed what is necessary to be able to make their own judgments about what is good for them [and] to be able to give effect to those judgments in living their lives."[66]

Certainly, there are exceptions to this principle where the government properly places something beyond the reach of its citizens for good reason. Many would include among them instances where: (1) the dangers of a trivial activity are very great; (2) a safer alternative can equally satisfy the consumer; (3) the individual is a child or lacks rationality; (4) collective action is able to accomplish things impossible by individual choice; or (5) the activity would result in an addiction so powerfully destructive of autonomy as to amount to a form of slavery, which may be true of certain drugs.[67] Liberty rights can be overcome by sufficiently compelling grounds.[68] But marijuana does not present any such reason. As Pollan writes, "The war on drugs is in [reality] a war on *some* drugs, their enemy status the result of historical accident, cultural prejudice, and institutional imperative."[69]

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activity to which a right to privacy pertains more than any other, it is the home." Ravin v. State, 537 P.2d 494, 503 (Alaska 1975). The court also noted the special rights afforded to conduct at home in the United States Supreme Court's privacy jurisprudence. *Id.* at 502–03; *see also Stanley*, 534 U.S. at 565 (stating that the defendant was merely "asserting the right to read or observe what he pleases—the right to satisfy his intellectual and emotional needs in the privacy of his own home").

66. WILLIAM J. TALBOTT, WHICH RIGHTS SHOULD BE UNIVERSAL? 11 (2005).

67. Mill's view is that "[t]he principle of freedom cannot require that [a person] should be free not to be free." MILL, *supra* note 12, at 164. Even if the activity had the effect of reducing autonomy in a minority of people, it is a further question whether we should sacrifice the freedom of many because of the abuse of a few—as we recognize in the case of alcohol.

68. The case we make for marijuana legalization neither precludes nor supports similar arguments about other drugs. We may indeed have reason to reform laws governing other substances, but any such reform must be predicated on careful study of the real harms, costs, and benefits of the particular drug at issue and whether they constitute the kind of exception listed above.

69. Michael Pollan, *Opium, Made Easy: One Gardener's Encounter with the War on Drugs*, HARPER'S MAG., Apr. 1997, at 35. Bakalar and Grinspoon agree that drug prohibition has been generated by history, not reason. JAMES BAKALAR & LESTER GRINSPOON, DRUG CONTROL IN A FREE SOCIETY 68 (1984). They argue that Prohibition was repealed not because of "scandals, inefficiencies and nasty side effects (these were never considered good reasons to repeal other drug laws)," but because the middle class became less puritanical and wanted to drink alcohol. *Id.* at 86.

> [U]nlike opium and cocaine, alcohol was not an exotic substance with powers that were frightening because mysterious. It was too familiar to be branded with the narcotic stigma and too closely associated with innocent fun in too many respectable people's minds to be purely a drug menace. Penalties for purchase and possession of alcohol were never imposed, much less enforced. Alcohol use was

CONCLUSION

The case for revisiting marijuana laws has special salience today because, for the first time in decades, serious marijuana law reform appears to be achievable. Reform bills or ballot initiatives have recently been approved in a number of jurisdictions,[70] President Obama and his new drug czar have suggested treating rather than jailing nonviolent drug offenders,[71] and Attorney General Holder has ordered a stop to federal

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never reduced to the categories of medicine and vice.

Id. at 87–88.

70. Marijuana Policy Project, 2008 Ballot Initiatives (2009), http://www.mpp.org/library/2008-ballot-initiatives.html. The Marijuana Policy Project reports that in Massachusetts, voters decriminalized possession of less than one ounce of marijuana, substituting a $100 civil fine, by a margin of 65% to 35%, MASS. ANN. LAWS ch. 94C, § 32L (LexisNexis Supp. 2009); that in Michigan, voters changed the law to allow for medicinal use of marijuana on a doctor's recommendation by a margin of 63% to 37%, MICH. COMP. LAWS ANN. § 333.26424 (West Supp. 2009); and that in Hawaii County, Hawaii; Fayetteville, Arkansas; and several Massachusetts towns, voters approved local ballot initiatives making enforcement of adult marijuana-possession laws the lowest law-enforcement priority, by substantial majorities in each case. Marijuana Policy Project, *supra*. However, California's Proposition 5, which would have substituted treatment for incarceration for many nonviolent offenders and made marijuana possession a civil infraction, was defeated 60% to 40%. *Id.* More than a dozen legislatures have taken up measures to either reduce penalties for marijuana use or allow its use for treatment purposes. Jesse McKinley, *For Marijuana Advocates, Not-So-Secret Holiday Hints at Change*, N.Y. TIMES, Apr. 20, 2009, at A13.

Recent polls also show substantial public support for marijuana law reform. For instance, a 2008 poll showed an extraordinary 72% of Massachusetts voters supported decriminalization over current criminal penalties. Voters Say Yes to Decriminalizing Marijuana (Aug. 13, 2008), http://www.suffolk.edu/30284.html. A 2009 California poll showed 56% of voters in favor of legalizing and taxing marijuana. Rebecca Cathcart, *Schwarzenegger Urges a Study on Legalizing Marijuana Use*, N.Y. TIMES, May 7, 2009, at A21. Point-blank questions in nationwide polls show a sentiment that may be surprising given the ONDCP's massive antimarijuana advertising budget. For example, a 2002 CNN-Time poll found 72% of people supported eliminating incarceration as a penalty for recreational marijuana use and 80% supported legalized medical marijuana. Stein, *supra* note 5, at 57. A 2005 Gallup poll showed 36% of people favored outright legalization (and in the Western states, 47% for, versus 49% against). Joseph Carroll, *Who Supports Marijuana Legalization?*, GALLUP, Nov. 1, 2005, http://www.gallup.com/poll/19561/Who-Supports-Marijuana-Legalization.aspx?. A November 2004 American Association of Retired Persons (AARP) poll showed 72% of people middle aged or older approved legalizing marijuana when a physician recommends it. *AARP Poll Shows Most Support Legalizing Medicinal Marijuana*, N.Y. TIMES, Dec. 19, 2004, at A36. Regarding drug policy generally, a September 2008 Zogby poll reported 76% of likely voters deemed the drug war a failure. *Public Views Clash with U.S. Policy on Cuba, Immigration, and Drugs*, INTER-AMERICAN DIALOGUE (2008), http://www.thedialogue.org/page.cfm?pageID=403.

71. Gary Fields, *White House Drug Czar Calls for End to "War on Drugs,"* WALL ST. J., May 14, 2009, at A3 (reporting that Obama's new drug czar, Gil Kerlikowske, says the administration "is likely to deal with drugs as a matter of public health rather than criminal justice alone, with treatment's role growing relative to incarceration"); Carrie Johnson & Amy Goldstein, *Choice of Drug Czar Indicates Focus on Treatment, Not Jail*, WASH. POST, Mar. 12, 2009, at A04 (discussing White House announcement about policy favoring treatment rather than jail for drug offenders); Kurt Schmoke, *Obama Not Completely Silent on the Drug War*, HUFFINGTON POST.COM, May 22, 2008, http://www.huffingtonpost.com/kurt-schmoke/obama-

prosecutions of medical-marijuana use in states that permit it.[72] Governor Schwarzenegger has proposed consideration of the legalization and taxation of marijuana,[73] and Rep. Barney Frank has introduced a decriminalization bill for the first time in Congress because, he said, the public is now ready to support it.[74] Elsewhere in the world, marijuana use is increasingly seen as a personal matter, with decriminalization gaining ground in many countries[75] and the Argentine high court finding marijuana prohibition unconstitutional as a violation of personal autonomy.[76]

Given the destructive and inhumane consequences of marijuana laws and policies (which we have catalogued elsewhere),[77] any ameliorative reform effort should be embraced. Worthy reform proposals include the removal of marijuana from federal Schedule I into an appropriate lesser category, which would foster both scientific study

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not-completely-sile_b_103122.html (detailing then-Senator Obama's remarks about drug treatment on the campaign trail). In another sign that the Obama administration is rethinking drug policy, the Justice Department has urged Congress to lower sentences for sale and possession of crack cocaine so that they no longer exceed (by a factor of 100 to 1) those for powdered cocaine. *See* Solomon Moore, *Justice Dept. Seeks Equity in Sentencing for Cocaine*, N.Y. TIMES, Apr. 30, 2009, at A17. President Obama's first budget, however, did not match his rhetoric, proposing an increase in interdiction and law-enforcement funding (and a decrease for drug education) compared with the last Bush levels; and, drug czar Kerlikowske says legalization of marijuana is "not in the president's agenda under any circumstances." Tim Dickinson, *A Drug War Truce?*, ROLLING STONE, June 25, 2009, at 45, 47.

72. David Johnston & Neil A. Lewis, *Ending Raids of Dispensers of Marijuana for Patients*, N.Y. TIMES, Mar. 19, 2009, at A20; McKinley, *supra* note 70 (citing remarks by Attorney General Holder suggesting "federal law enforcement resources would not be used to pursue legitimate medical marijuana users").

73. Cathcart, *supra* note 70 (also reporting that 56% of California voters support legalizing and taxing marijuana for recreational use). Governor David Patterson of New York says that he too would be open to a conversation about the legalization of marijuana. Dickinson, *supra* note 71, at 48.

74. Act to Remove Federal Penalties for the Personal Use of Marijuana by Responsible Adults, H.R. 5843, 110th Cong. (2008). Rep. Frank's bill would decriminalize possession of up to 100 grams (or 3.5 ounces) of marijuana and also remove criminal penalties from users who share marijuana with others so long as they do not sell it. *Id.* § 2. Frank announced his intention to file the bill on Bill Maher's television program, stating that caution had prevented his doing so for decades but that it was now time for politicians to "catch up to the public." Posting of CitizenSugar to TrèsSugar, http://www.tressugar.com/1138194 (Mar. 22, 2008, 10:00 EST).

75. The decriminalization movement has gained significant traction abroad in countries that still criminalize possession. For example, the former presidents of Mexico, Colombia, and Brazil recently summarized their report for The Latin-American Commission on Drugs and Democracy in an Op-Ed in *The Wall Street Journal*. Fernando Henrique Cardoso, César Gaviria & Ernesto Zedillo, Op-Ed, *The War on Drugs Is a Failure*, WALL ST. J., Feb. 23, 2009, at A15. That report concludes that prohibition and criminalization have not yielded expected results and that Latin America is "farther than ever from the announced goal of eradicating drugs." *Id.* As a possible correction for the drug problem, the report proposes "the careful evaluation, from a public-health standpoint, of the possibility of decriminalizing the possession of cannabis for personal use." *Id.*

76. Alexei Barrionuevo, *Latin America Weighs Less Punitive Path to Curb Drug Use*, N.Y. TIMES, Aug. 27, 2009, at A8.

77. Blumenson & Nilsen, *supra* note 6, at 59–62.

of the drug and its medicinal use where appropriate;[78] state and federal laws permitting the medical use of marijuana;[79] decriminalization of use and possession (as currently exists in thirteen states),[80] which would put an end to some of the worst excesses afflicting users; and legalization, which would most fully respect individual liberty while also allowing the government to control and regulate the marijuana market in harm-reducing ways. If there is to be progress, reformers should welcome whatever incremental steps may be possible, notwithstanding the stronger deontological requirements associated with liberty claims. But whatever the political dynamics, we should remember that moral rights are also at stake—the rights to a sphere of liberty in personal matters, to prosecutions based on the principles of just punishment, and most fundamentally, to a state that respects the individuality and autonomy of its people. These civil libertarian concerns, well recognized in other contexts, should also inform legislators and policy makers as marijuana law reform efforts move forward.

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78. According to current knowledge, marijuana satisfies none of the three Schedule I requirements: (1) it has a low potential for harm and abuse, *see supra* note 26; (2) it appears to have therapeutic benefits, as the government itself claimed in its successful patent application, *see infra* note 79; and (3) the American College of Physicians (ACP) suggests it may be used safely under appropriate conditions, AM. COLL. OF PHYSICIANS, POSITION PAPER: SUPPORTING RESEARCH INTO THE THERAPEUTIC ROLE OF MARIJUANA 4 (2008), *available at* http://www.acponline.org/advocacy/ where_we_stand/other_issues/medmarijuana.pdf. In its position paper, the ACP "urges review of marijuana['s] status as a Schedule I controlled substance and reclassification into a more appropriate schedule, given the scientific evidence regarding marijuana's safety and efficacy in some clinical conditions." *Id.* at 15.

79. As of December 2008, the United States government continued to oppose medical marijuana as useless, despite having patented the medicinal benefits of marijuana in an application asserting cannabinoids' usefulness in preventing or treating diseases, including stroke, trauma, autoimmune disorders, Parkinson's Disease, Alzheimer's Disease, and HIV dementia. U.S. Patent No. 6,630,507 (filed Apr. 21, 1999).

80. States that have decriminalized at least some kinds of marijuana-possession offenses are Alaska, *see* ALASKA STAT. §§ 11.71.010, .71.160 (2008); California, *see* CAL. HEALTH & SAFETY CODE § 11357 (West 2007 & Supp. 2009); Colorado, *see* COLO. REV. STAT. ANN. § 18-18-406 (West 2004 & Supp. 2008); Maine, *see* ME. REV. STAT. ANN. tit. 17-A, §§ 1102, 1107-A (2006 & Supp. 2008); Massachusetts, *see* MASS. ANN. LAWS ch. 94C, § 32L (LexisNexis Supp. 2009); Minnesota, *see* MINN. STAT. ANN. §§ 152.02, 152.027 (West 2005 & Supp. 2009); Mississippi, *see* MISS. CODE ANN. §§ 41-29-113, -139 (West 2007 & Supp. 2008); Nebraska, *see* NEB. REV. STAT. ANN. §§ 28-405, -416 (LexisNexis 2003 & Supp. 2008); Nevada, *see* NEV. REV. STAT. ANN. § 453.336 (2005); New York, *see* N.Y. PENAL LAW § 221.05 (McKinney 2008); *see also* N.Y. PUB. HEALTH LAW § 3306 (McKinney 2000 & Supp. 2009); North Carolina, *see* N.C. GEN. STAT. ANN. §§ 90-94, -95 (West 2008); Ohio, *see* OHIO REV. CODE ANN. §§ 3719.41 (LexisNexis 2005 & Supp. 2009); and Oregon, *see* OR. REV. STAT. § 475.864 (2007).

Brian Glaeske
403 11th AVE S
Fargo, ND 58103

Dear Members of the House Human Services committee,

I would like to express my support for HB 1420, which legalizes the personal use of marijuana, and urge the members of this committee to provide a DO PASS recommendation.

Throughout most of my adult life, I have been anti-drug. It is only recently that I have seen that the effects of alcohol are much worse than those posed by marijuana. Marijuana has almost none of the long-term health consequences that alcohol pose such as weight gain, addiction, aggressiveness, liver and heart damage, and many more. Further, marijuana has a decreased risk of death due to overdose.

There is also the fact that as an unregulated substance, marijuana is more likely to consumed by minors and of course the illegal market promotes crime and criminal activity. With a regulated industry, that has a competitive pricing structure, the illegal market for marijuana evaporates and it is less likely that minors will be able to purchase and consume.

The one concern I have with this bill is that it leaves much to the state health department to figure out. When this last happened with medical marijuana we were left with rules that nearly nobody could implement in a cost effective manner. I could never figure out why dispensaries needed higher security than a typical pharmacy. I'm also concerned that the tax rate on marijuana may be too high. It should be tied to the sales tax rate and by no more than double the sales tax rate.

Sincerely,

Brian Glaeske

#4868

The Legalization of Marijuana in Colorado: *The Impact*

Volume 6

September 2019

Rocky Mountain High Intensity Drug Trafficking Area

REPORT AVAILABLE AT:
www.RMHIDTA.org

PREPARED BY THE ROCKY MOUNTAIN HIDTA
STRATEGIC INTELLIGENCE UNIT
SEPTEMBER 2019

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Executive Summary

The Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) program has published annual reports every year since 2013 tracking the impact of legalizing recreational marijuana in Colorado. The purpose is to provide data and information so that policy makers and citizens can make informed decisions on the issue of marijuana legalization.

Section I: Traffic Fatalities & Impaired Driving

- Since recreational marijuana was legalized, traffic deaths in which drivers tested positive for marijuana **increased 109 percent** while all Colorado traffic deaths **increased 31 percent.**
- Since recreational marijuana was legalized, traffic deaths involving drivers who tested positive for marijuana **more than doubled** from 55 in 2013 to 115 people killed in 2018.
    - This equates to one person killed every 3 days in 2018 compared to one person killed every 6 ½ days in 2013.
- Since recreational marijuana was legalized, the percentage of <u>all</u> Colorado traffic deaths that were marijuana related **increased from 15 percent** in 2013 **to 23 percent** in 2018.

Section II: Marijuana Use

Since recreational marijuana was legalized:

- Past month marijuana use for ages 12 and older **increased 58 percent** and is **78 percent** higher than the national average, currently ranked **4th** in the nation.
- Adult marijuana use **increased 94 percent** and is **96 percent higher** than the national average, currently ranked **4th** in the nation.
- College age marijuana use **increased 18 percent** and is **48 percent higher** than the national average, currently ranked **6th** in the nation.
- Youth marijuana use **decreased 14 percent** and is **40 percent higher** than the national average, currently ranked **6th** in the nation.

Section III: Public Health

- The yearly number of emergency department visits related to marijuana **increased 54 percent** after the legalization of recreational marijuana (2013 compared to 2017).
- The yearly number of marijuana-related hospitalizations **increased 101 percent** after the legalization of recreational marijuana (2013 compared to 2017).
- Marijuana *only* exposures more than **quadrupled** in the six-year average (2013-2018) since recreational marijuana was legalized compared to the six-year average (2007-2012) prior to legalization.
- The percent of suicide incidents in which toxicology results were positive for marijuana has **increased** from **14 percent** in 2013 to **23 percent** in 2017.

Section IV: Black Market

- RMHIDTA Colorado Drug Task Forces (10) conducted **257 investigations** of black market marijuana in Colorado resulting in:
    - **192** felony arrests
    - **6.08 tons** of marijuana seized
    - **60,091** marijuana plants seized
    - **25** different states the marijuana was destined
- Seizures of Colorado marijuana in the U.S. mail system has **increased 1,042 percent** from an average of 52 parcels (2009-2012) to an average of 594 parcels (2013-2017) during the time recreational marijuana has been legal.

Section V: Societal Impact

- Marijuana tax revenue represent approximately **nine tenths of one percent** of Colorado's FY 2018 budget.

  64 percent of local jurisdictions in Colorado have banned medical and recreational marijuana businesses.

Introduction

Purpose

The purpose of this annual report is to document the impact of the legalization of marijuana for medical and recreational use in Colorado. Colorado serves as an experimental lab for the nation to determine the impact of legalizing marijuana. This is an important opportunity to gather and examine meaningful data and identify trends. Citizens and policymakers nationwide may want to delay any decisions on this important issue until there is sufficient and accurate data to make informed decisions. Readers are encouraged to review previous volumes of this report for a comprehensive understanding of the topic. These reports were prepared to identify data and trends related to the legalization of marijuana so that informed decisions can be made regarding this issue.

Background

It is important to note that, for purposes of the debate on legalizing marijuana in Colorado, there are three distinct timeframes to consider: the early medical marijuana era (2000-2008), the medical marijuana commercialization era (2009 – current) and the recreational marijuana era (2013 – current).

- **2000 – 2008, Early Medical Marijuana Era:** In November 2000, Colorado voters passed Amendment 20 which permitted a qualifying patient, and/or caregiver of a patient, to possess up to 2 ounces of marijuana and grow 6 marijuana plants for medical purposes. During that time there were between 1,000 and 4,800 medical marijuana cardholders and no known dispensaries operating in the state.
- **2009 – Current, Medical Marijuana Commercialization Era:** Beginning in 2009 due to a number of events, marijuana became de facto legalized through the commercialization of the medical marijuana industry. By the end of 2012, there were over 100,000 medical marijuana cardholders and 500 licensed dispensaries operating in Colorado. There were also licensed cultivation operations and edible manufacturers.

- **2013 – Current, Recreational Marijuana Legalization Era:** In November 2012, Colorado voters passed Constitutional Amendment 64 which legalized marijuana for recreational purposes for anyone over the age of 21. The amendment also allowed for licensed marijuana retail stores, cultivation operations and edible manufacturers. Retail marijuana businesses became operational January 1, 2014.

NOTE:

DATA, IF AVAILABLE, WILL COMPARE PRE- AND POST-2009 WHEN MEDICAL MARIJUANA BECAME COMMERCIALIZED AND AFTER 2013 WHEN RECREATIONAL MARIJUANA BECAME LEGALIZED.

MULTI-YEAR COMPARISONS ARE GENERALLY BETTER INDICATORS OF TRENDS. ONE-YEAR FLUCTUATIONS DO NOT NECESSARILY REFLECT A NEW TREND.

PERCENTAGE COMPARISONS MAY BE ROUNDED TO THE NEAREST WHOLE NUMBER.

PERCENT CHANGES FOUND WITHIN GRAPHS WERE CALCULATED AND ADDED BY RMHIDTA.

THIS REPORT WILL CITE DATASETS WITH TERMS SUCH AS "MARIJUANA-RELATED" OR "TESTED POSITIVE FOR MARIJUANA." THAT DOES NOT NECESSARILY PROVE THAT MARIJUANA WAS THE CAUSE OF THE INCIDENT.

Section I: Traffic Fatalities & Impaired Driving

Some Findings

- Since recreational marijuana was legalized, traffic deaths in which drivers tested positive for marijuana **increased 109 percent** while all Colorado traffic deaths **increased 31 percent.**
- Since recreational marijuana was legalized, traffic deaths involving drivers who tested positive for marijuana **more than doubled** from 55 in 2013 to 115 people killed in 2018.
    - This equates to one person killed every 3 days in 2018 compared to one person killed every 6 ½ days in 2013.
- Since recreational marijuana was legalized, the percentage of <u>all</u> Colorado traffic deaths that were marijuana related **increased from 15 percent** in 2013 **to 23 percent** in 2018.

Definitions by Rocky Mountain HIDTA

Driving Under the Influence of Drugs (DUID): DUID could include alcohol in combination with drugs. This is an important measurement since the driver's ability to operate a vehicle was sufficiently impaired that it brought his or her driving to the attention of law enforcement. The erratic driving and the subsequent evidence that the subject was under the influence of marijuana helps confirm the causation factor.

Marijuana-Related: Also called "marijuana mentions," is any time marijuana shows up in the toxicology report. It could be marijuana only or marijuana with other drugs and/or alcohol.

Marijuana Only: When toxicology results show marijuana and no other drugs or alcohol.

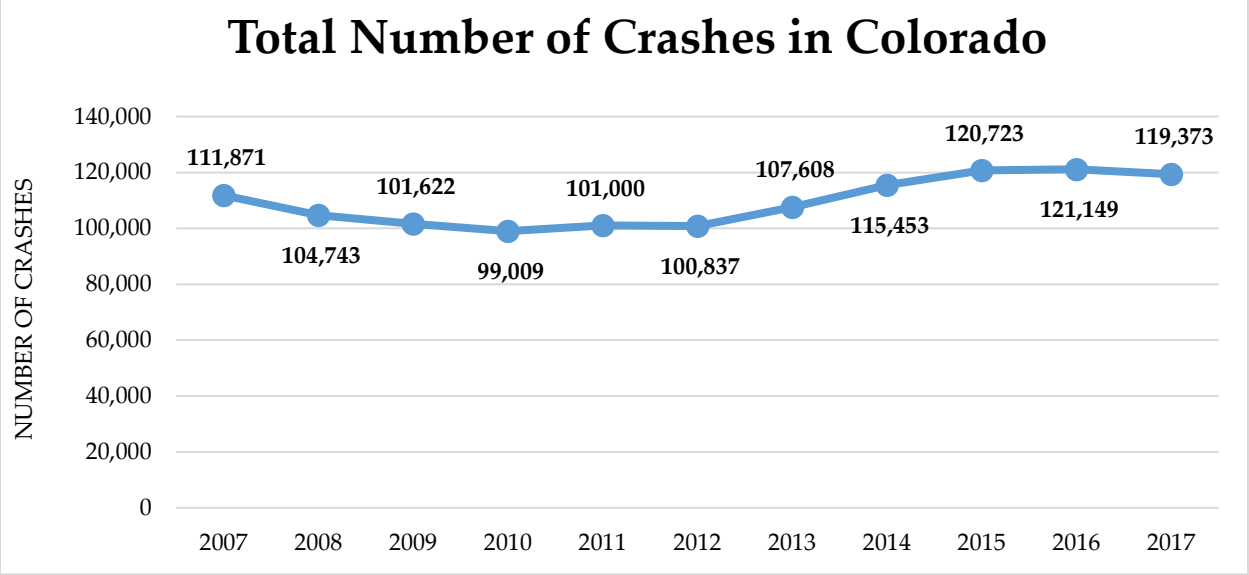
Fatalities: Any death resulting from a traffic crash involving a motor vehicle.

Operators: Anyone in control of their own movements such as a driver, pedestrian or bicyclist.

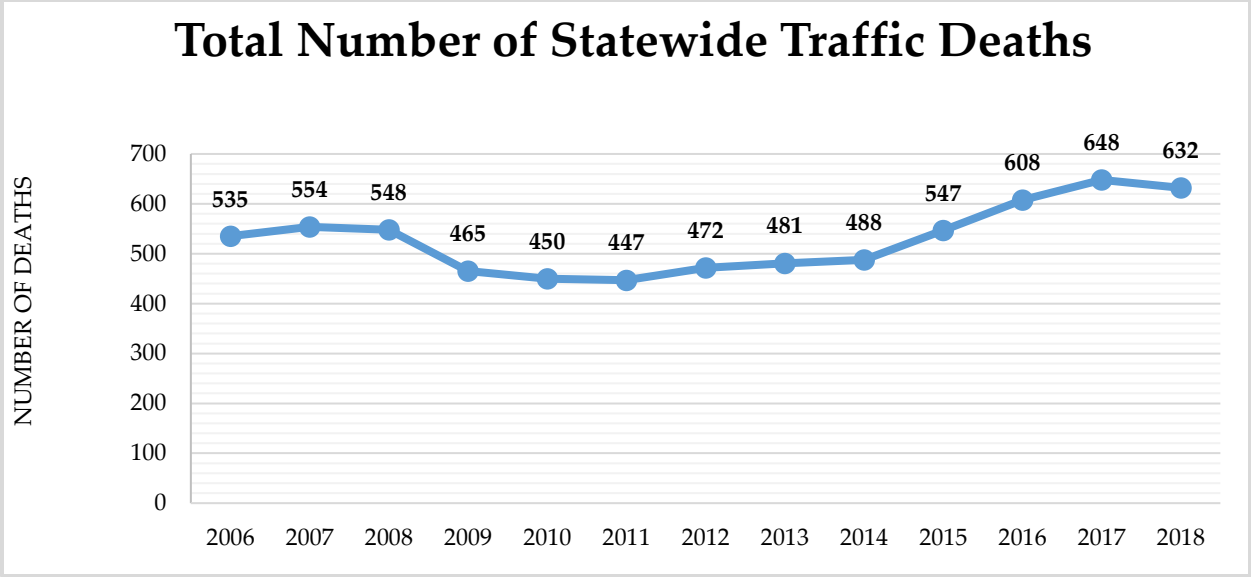
Drivers: An occupant who is in physical control of a transport vehicle. For an out-of-control vehicle, an occupant who was in control until control was lost.

Personal Conveyance: Non-motorized transport devices such as skateboards, wheelchairs (including motorized wheelchairs), tricycles, foot scooters, and Segways. These are more or less non-street legal transport devices.

Traffic Fatalities



SOURCE: Colorado Department of Transportation



- In 2018 there were a total of 632 traffic deaths. Of which:
  - 396 were drivers
  - 124 were passengers
  - 89 were pedestrians
  - 22 were bicyclists
  - 1 was a personal conveyance

SOURCE: **National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2018**

Traffic Deaths Related to Marijuana When a DRIVER Tested Positive for Marijuana			
Crash Year	**Total Statewide Fatalities**	**Fatalities with Drivers Testing Positive for Marijuana**	**Percentage Total Fatalities**
2006	535	33	6.17%
2007	554	32	5.78%
2008	548	36	6.57%
2009	465	41	8.82%
2010	450	46	10.22%
2011	447	58	12.98%
2012	472	65	13.77%
2013	481	55	11.43%
2014	488	75	15.37%
2015	547	98	17.92%
2016	608	125	20.56%
2017	648	138	21.30%
2018	632	115	18.20%

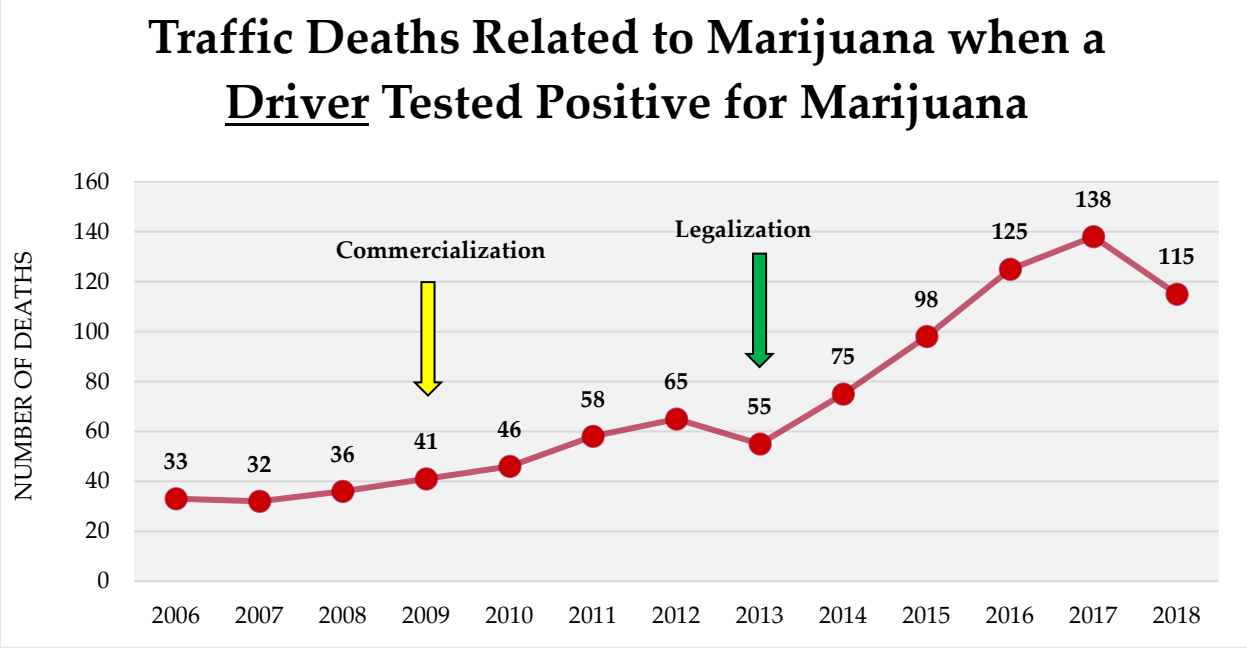
- In 2018 there were a total of 115 marijuana-related traffic deaths when a driver tested positive for marijuana. Of which:
  - 92 were drivers
  - 17 were passengers
  - 5 were pedestrians
  - 1 was a personal conveyance

SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2018

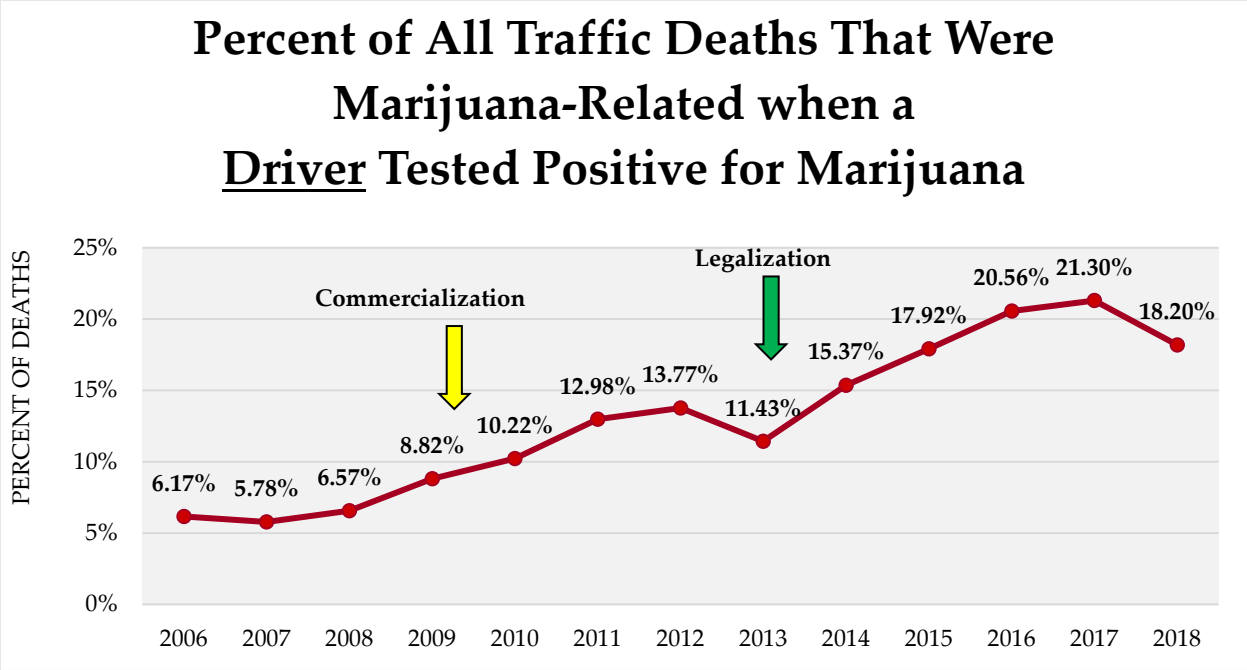
NOTE: In 2018, 87% of drivers' blood was tested after being involved in a fatal crash.

❖ **In 2018, of the 109 drivers in fatal wrecks who tested positive for marijuana use, 83 were found to have Delta 9 tetrahydrocannabinol, or THC, the psychoactive ingredient in marijuana, in their blood, <u>indicating use within hours</u>, according to state data. Of those, 43 percent were over 5 nanograms per milliliter, the state *per se* limit for driving.**

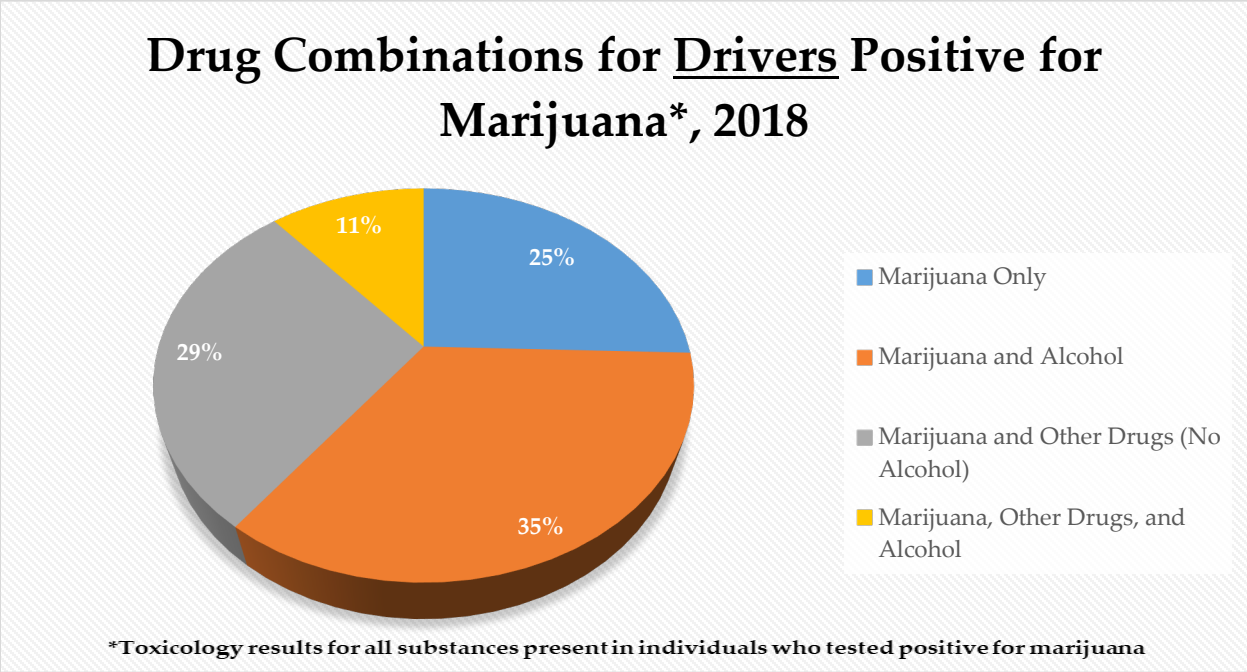
-- Similar to findings from the August 2017 article by David Migoya, "Exclusive: Traffic fatalities linked to marijuana are up sharply in Colorado. Is legalization to blame?" *The Denver Post*.



SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2018



SOURCE: **National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2018**



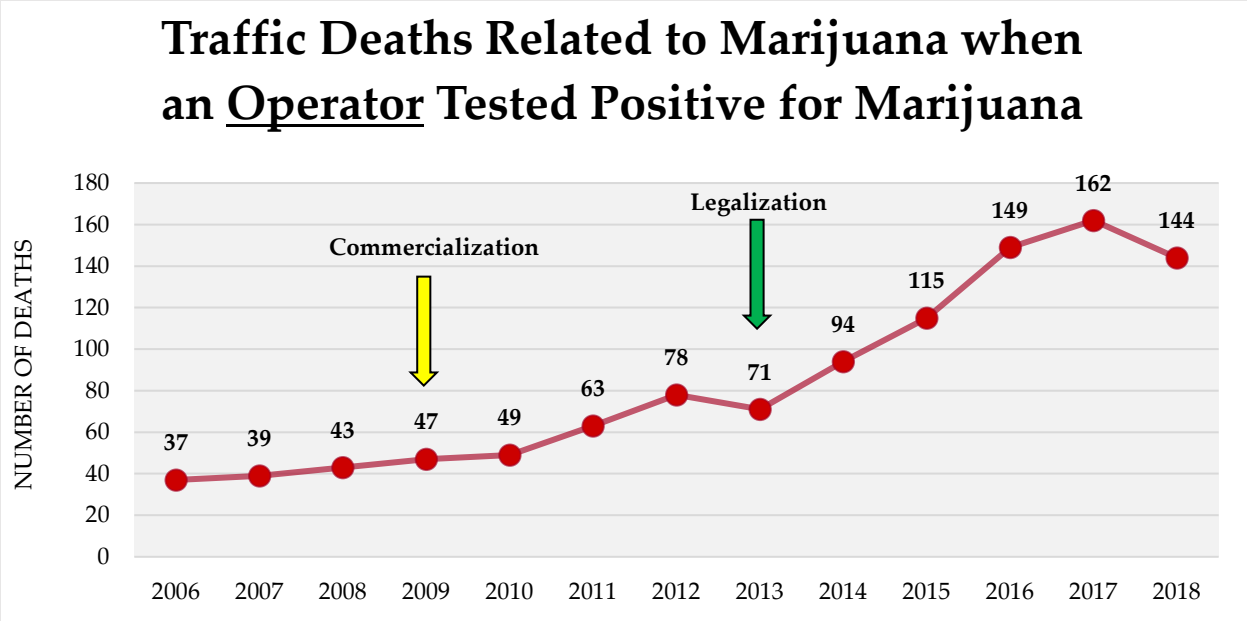
SOURCE: **National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2018**

Traffic Deaths Related to Marijuana When an OPERATOR Tested Positive for Marijuana			
Crash Year	**Total Statewide Fatalities**	**Fatalities with Operators Testing Positive for Marijuana**	**Percentage Total Fatalities**
2006	535	37	6.92%
2007	554	39	7.04%
2008	548	43	7.85%
2009	465	47	10.10%
2010	450	49	10.89%
2011	447	63	14.09%
2012	472	78	16.53%
2013	481	71	14.76%
2014	488	94	19.26%
2015	547	115	21.02%
2016	608	149	24.51%
2017	648	162	25.00%
2018	632	144	23.00%

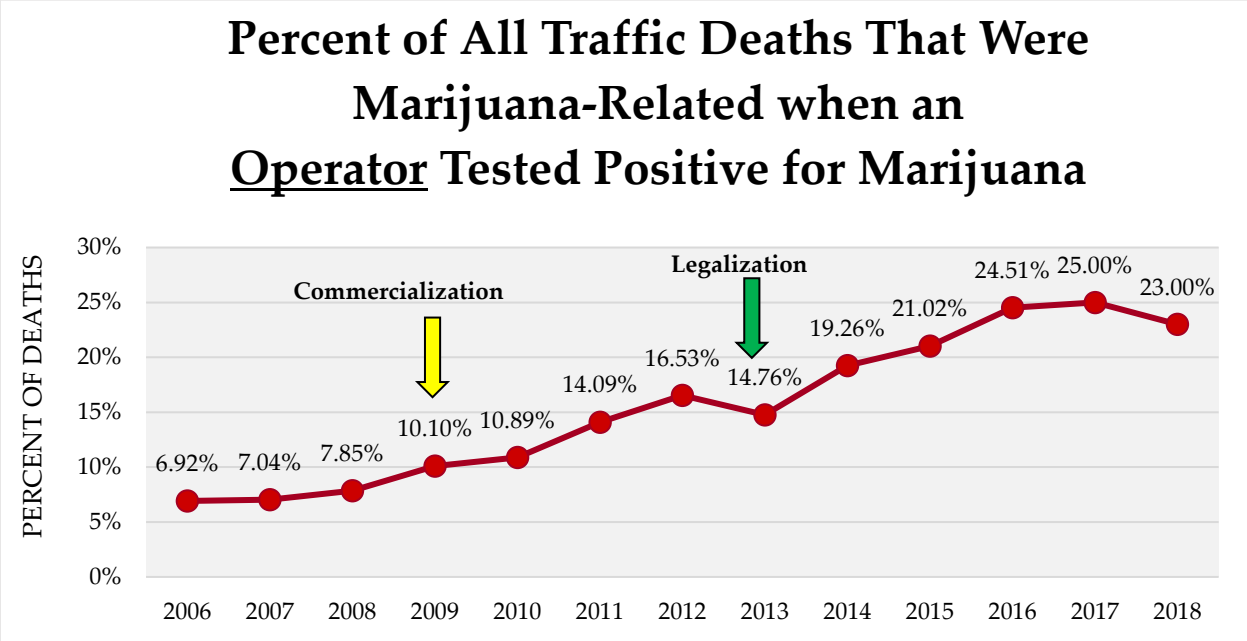
- In 2018 there were a total of 144 marijuana-related traffic deaths when an operator tested positive for marijuana. Of which:
  - 92 were drivers
  - 28 were pedestrians
  - 17 were passengers
  - 6 were bicyclists
  - 1 was a personal conveyance

SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2018

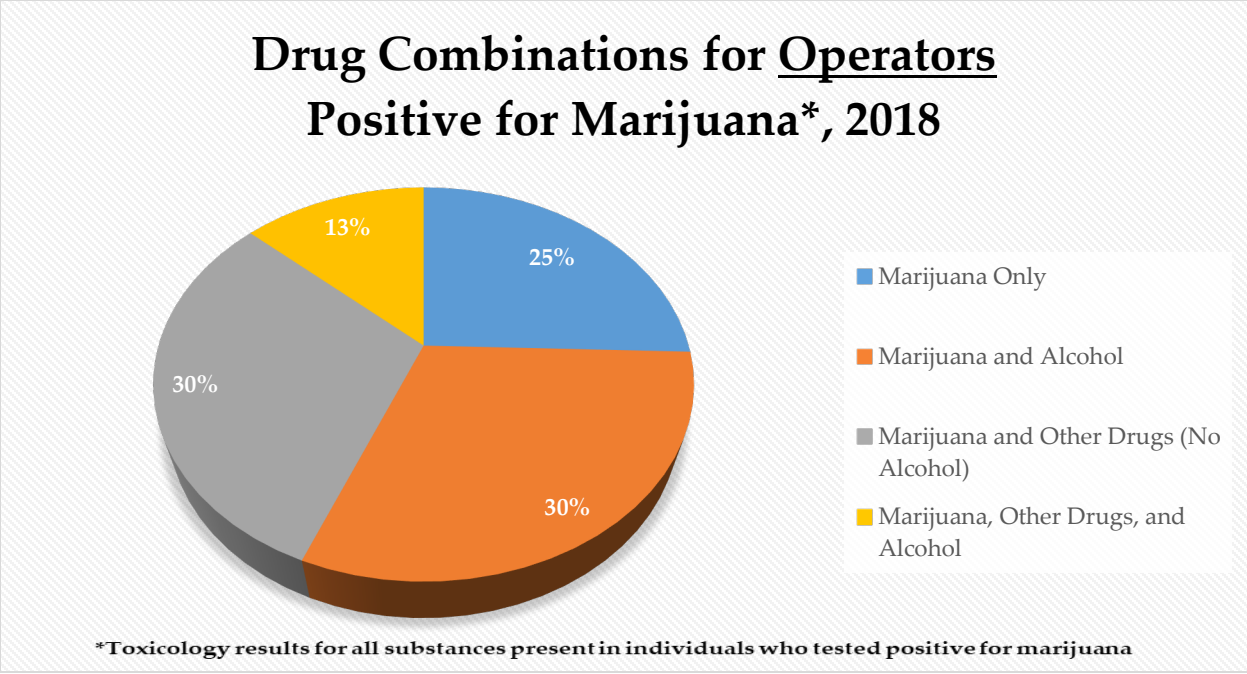
NOTE: In 2018, 86% of operator's blood was tested after being involved in a fatal crash.



SOURCE: **National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2018**



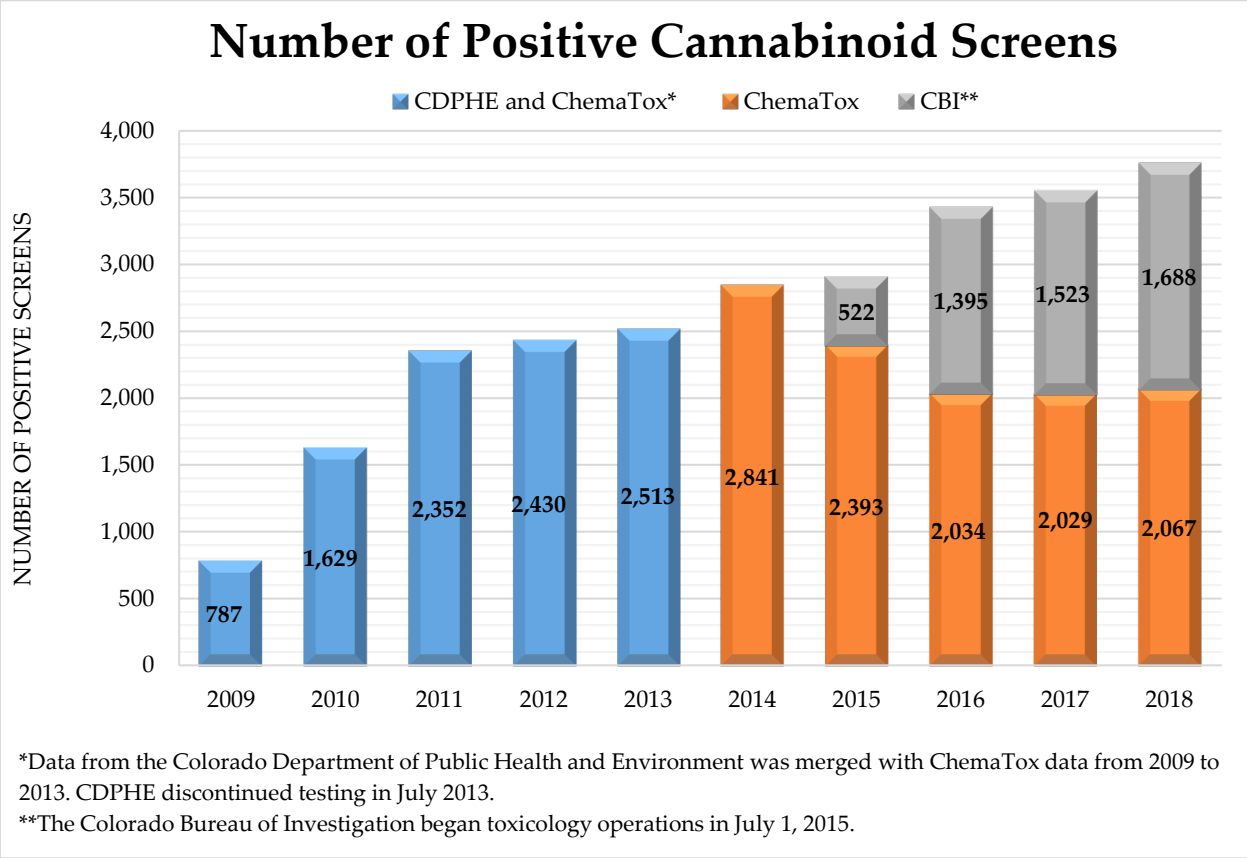
SOURCE: **National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2018**



SOURCE: **National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2018**

Impaired Driving

NOTE: When a driver is arrested for impaired driving related to alcohol (usually 0.08 or higher blood alcohol content), typically tests for other drugs (including marijuana) are not requested since there is no additional punishment if the test comes back positive.



*Data from the Colorado Department of Public Health and Environment was merged with ChemaTox data from 2009 to 2013. CDPHE discontinued testing in July 2013.
**The Colorado Bureau of Investigation began toxicology operations in July 1, 2015.

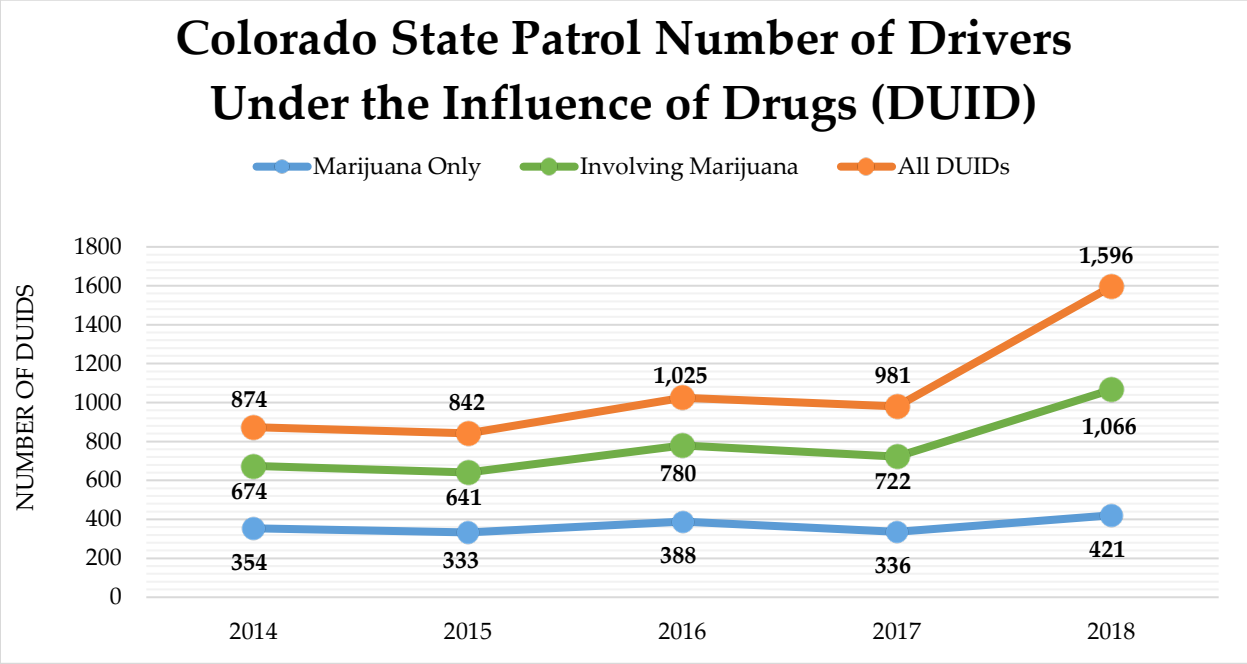
SOURCE: Colorado Bureau of Investigation, ChemaTox, and Rocky Mountain HIDTA

- The above graph is Rocky Mountain HIDTA's conversion of ChemaTox data as well as data from the Colorado Bureau of Investigation's state laboratory.

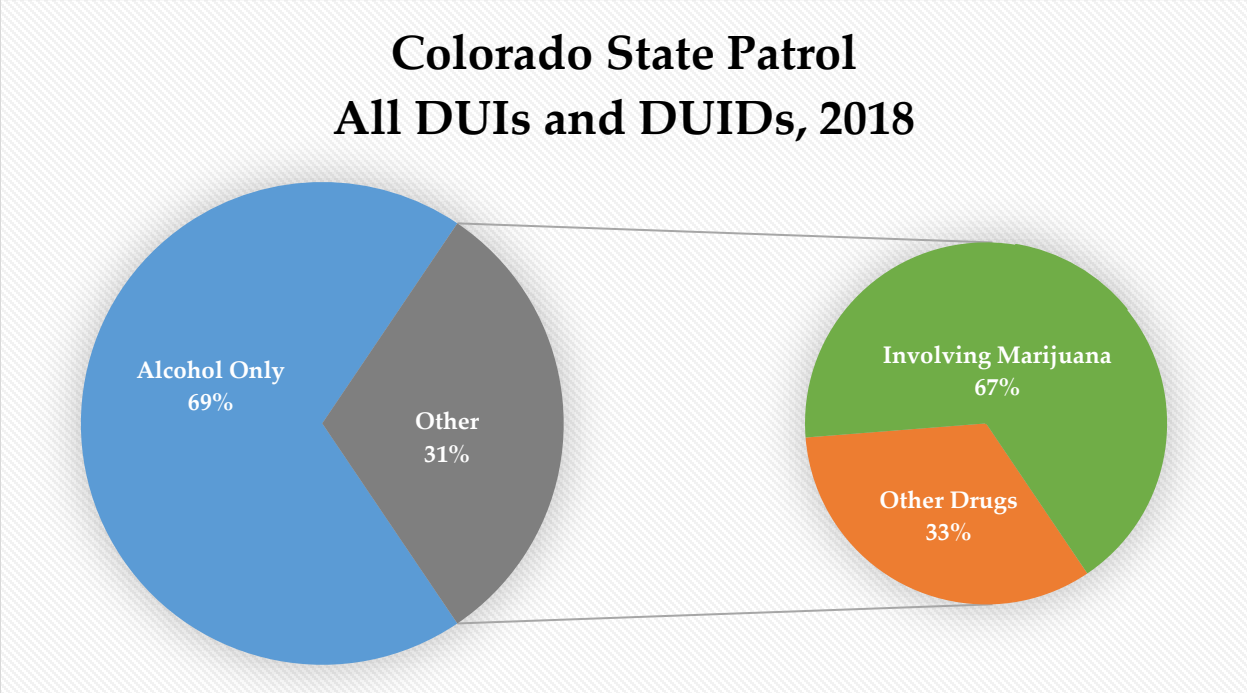
NOTE: The above graphs include data from ChemaTox laboratory which was merged with data supplied by the Colorado Department of Public Health and Environment – Toxicology Laboratory. The vast majority of the screens are DUID submissions from Colorado law enforcement.

NOTE: "Marijuana Citations are defined as any citation where the contact was cited for DUI or DWAI and marijuana information was filled out on the traffic stop form indicating marijuana & alcohol, marijuana & other controlled substances, or marijuana only present based on officer opinion only (no toxicological confirmation)."

-Colorado State Patrol



SOURCE: Colorado State Patrol



SOURCE: Colorado State Patrol, CSP Citations for Drug Impairment by Drug Type

Impaired Driving Information

Colorado Department of Public Health & Environment (Health Statements)

The following statements have been summarized for the purpose of brevity:

- Driving soon after using marijuana increases the risk of a motor vehicle crash.
- For less-than-weekly marijuana users, smoking, eating, or drinking marijuana containing 10mg or more of THC is likely to cause impairment that affects your ability to drive, bike, or perform other safety-sensitive activities.
- Use caution when driving, biking, or performing other safety-sensitive activities after using any form of marijuana or marijuana product.
- Using alcohol and marijuana together increases impairment and the risk of a motor vehicle crash more than using either substance alone.

SOURCE: Colorado Department of Public Health and Environment. (2019). *Public health statements* (summarized). Retrieved from https://www.colorado.gov/pacific/marijuanahealthinfo/public-health-statements

Colorado Division of Criminal Justice, Department of Public Safety, Driving under the Influence of Drugs and Alcohol (June 2019)

- "Drug impaired driving has tangible impacts on public safety. Nationally, drug detection in fatally-injured drivers with toxicology results has been steadily increasing…"
- "For cases in which law enforcement officers detect alcohol at or above the *per se* limit, they may not request additional drug testing, particularly since the cost associated with testing blood for drugs can be ten times the cost of testing for alcohol."
- "Most of the [2017 DUI] case filings that had an alcohol toxicology test had a Blood Alcohol Concentration (BAC) that was at or above the legal 0.08 per se limit…. Fewer cases… were screened for the presence of cannabinoids, and 66.2% of these… were confirmed for cannabis metabolites, including the psychoactive component of cannabis, Delta-9 THC. Of the 3,170 THC confirmation screens, approximately half (50.7% …) were at or above the legal 5 ng/mL permissible inference of impairment level. This was a 17.4% increase… from the number of defendants at or above the permissible inference of impairment level observed in the 2016… study."

SOURCE: Colorado Division of Criminal Justice, Department of Public Safety (2019). *Driving under the influence of drugs and alcohol*. http://cdpsdocs.state.co.us/ors/docs/reports/2019-DUI_HB17-1315.pdf

Recreational Marijuana and Traumatic Injury

Research published in February of 2019 examined cases in which patients were admitted to major trauma centers in Colorado (2012-2015), and the presence of marijuana among those patients. Researchers found that there was an overall increased rate of marijuana detection in Colorado hospitals, but not at non-Colorado hospitals. This data suggests that there is an increased use of marijuana and other drugs or an increased risk of injury in patients using marijuana and other drugs, after the commercialization of recreational marijuana in Colorado.

SOURCE: **Chung, C., Salottolo, K., Tanner, A.,II, Carrick, M. M., Madayag, R., Berg, G., . . . Bar-Or, D. (2019).** ***The impact of recreational marijuana commercialization on traumatic injury.*** **Injury Epidemiology, 6(1), 1-8. doi:10.1186/s40621-019-0180-4**

Legalization of Marijuana Associated with 6% Increase in Insurance Collision Claims

A 2018 report put out by the Insurance Institute for Highway Safety indicated that data regarding insurance collision claims show a 6% increase in claims in states allowing retail sales of recreational marijuana. Colorado, Washington, and Oregon legalization of retail marijuana sales were associated with a 5.2% higher rate of police-reported crashes as compared with their neighboring states without any legalization.

SOURCE: **Monfort, Samuel. (2018).** ***Effects of recreational marijuana sales on police-reported crashes in Colorado, Oregon, and Washington.*** **Insurance Institute for Highway Safety.**

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Section II: Marijuana Use

Some Findings

Since recreational marijuana was legalized:

- Past month marijuana use for ages 12 and older **increased 58 percent** and is **78 percent** higher than the national average, currently ranked **4th** in the nation.
- Adult marijuana use **increased 94 percent** and is **96 percent higher** than the national average, currently ranked **4th** in the nation.
- College age marijuana use **increased 18 percent** and is **48 percent higher** than the national average, currently ranked **6th** in the nation.
- Youth marijuana use **decreased 14 percent** and is **40 percent higher** than the national average, currently ranked **6th** in the nation.

National Survey on Drug Use and Health (NSDUH) Data

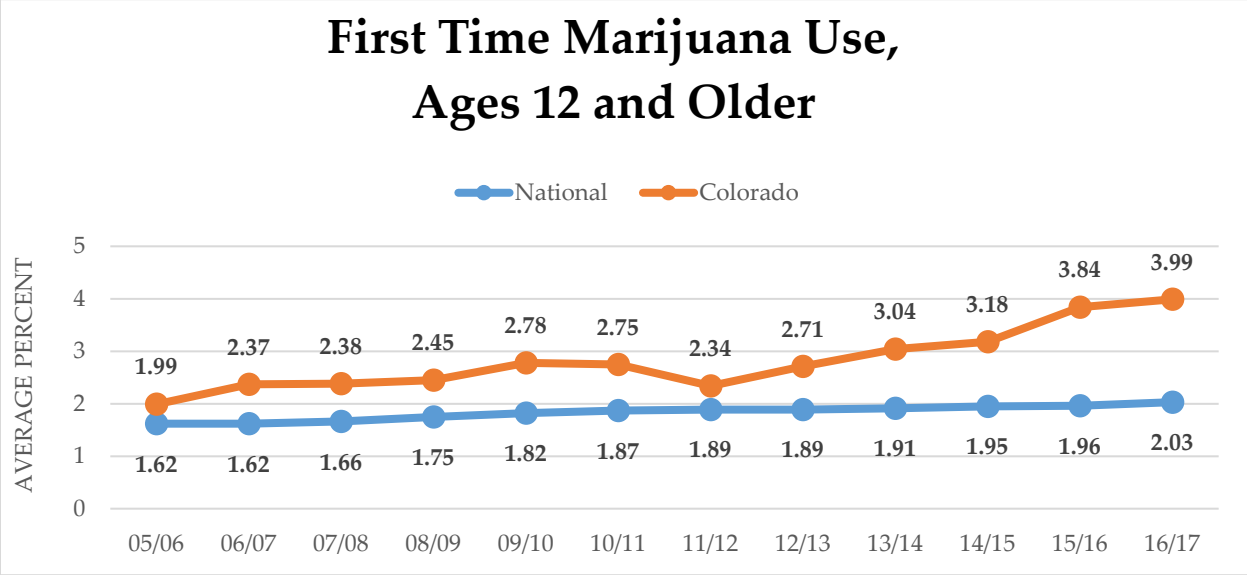
Colorado Averages Compared to National Averages, Ages 12 and Older (NSDUH 2016/2017)		
	Higher	**Lower**
Marijuana Past Month Use	78%	
Perceptions of Risk for Smoking Marijuana		39%
Age of First Use of Marijuana	97%	
Alcohol Past Month Use	16%	
Cigarette Past Month Use		14%
Perceptions of Risk for Smoking Cigarettes	2%	

SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2016 and 2017

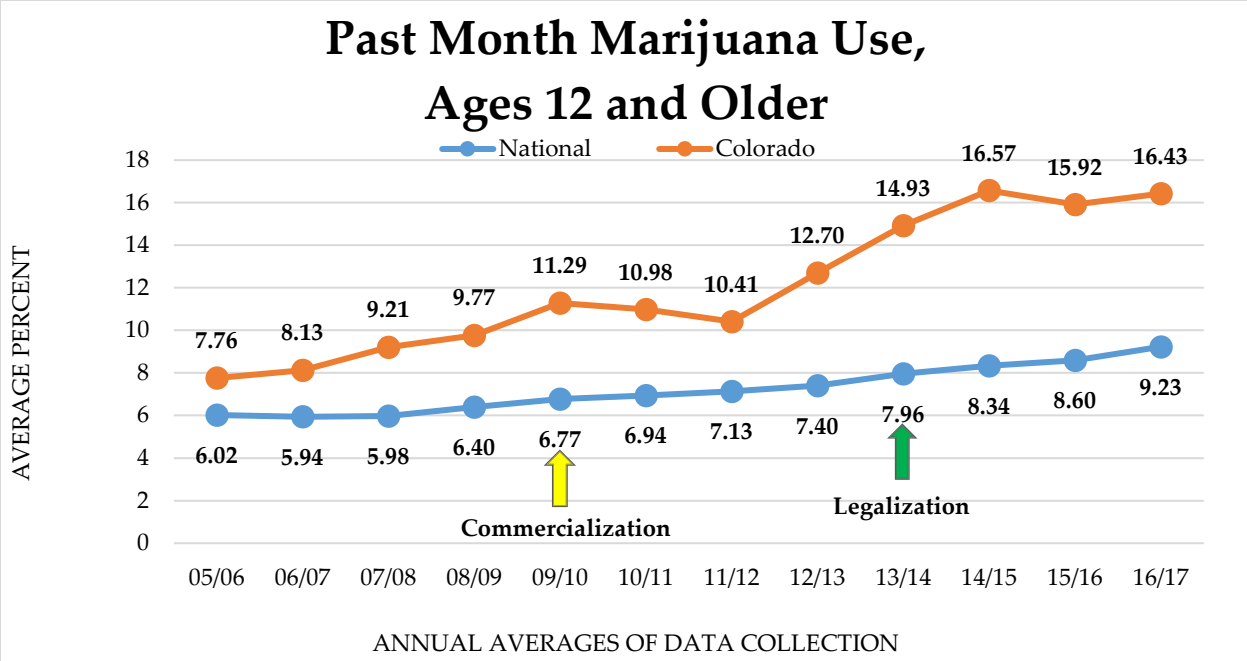
Marijuana First Time Use			
Age	**Colorado %**	**Rank**	**National %**
12 years +	**3.99%**	**1st (tied)**	**2.03%**
12 – 17	**7.89%**	**1st**	**5.22%**
18 – 25	**15.56%**	**1st**	**7.98%**
26+	**1.09%**	**2nd**	**0.45%**

SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2016 and 2017

- Colorado first time use ranks first in the nation for all age groups except for 26 and older in which it ranks second.

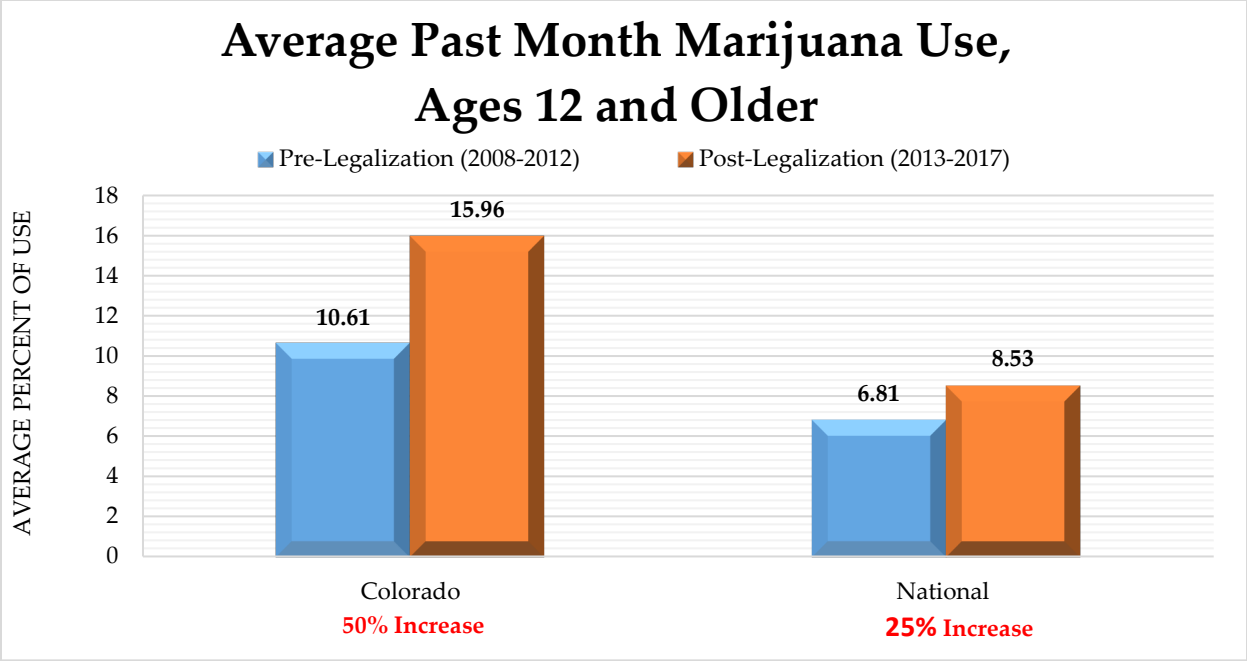


SOURCE: SAMHSA.gov, National Survey on Drug Use and Health



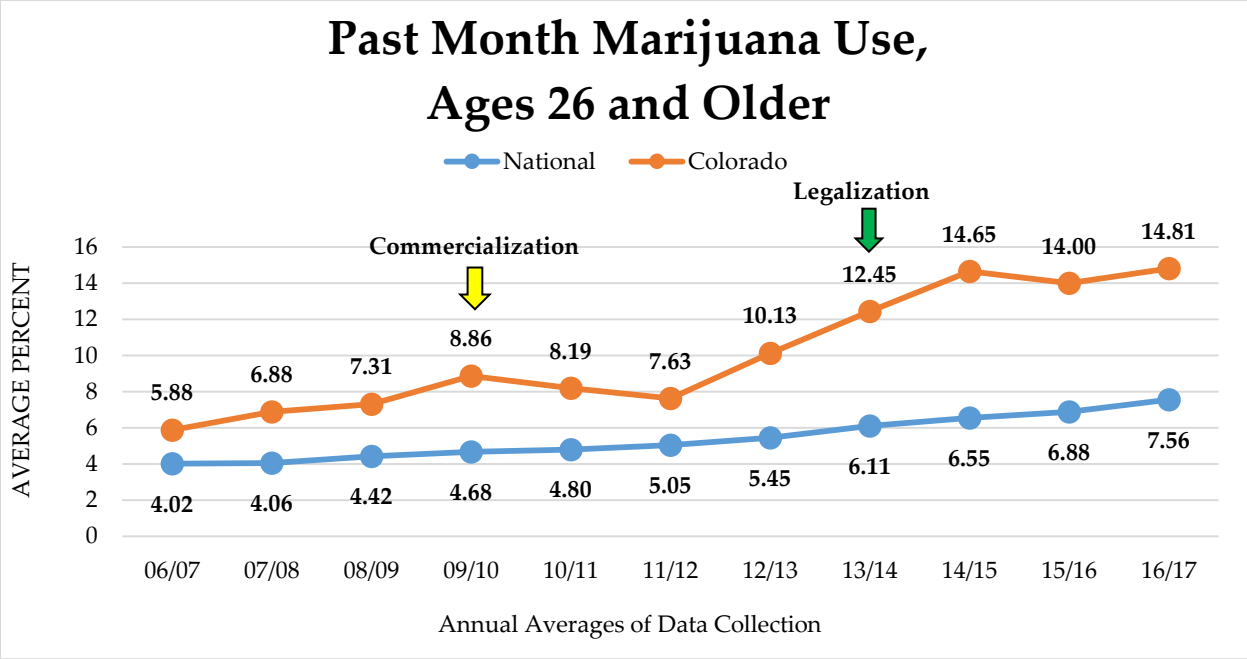
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health

- Colorado was <u>**78% higher**</u> than the National average in 2016/2017



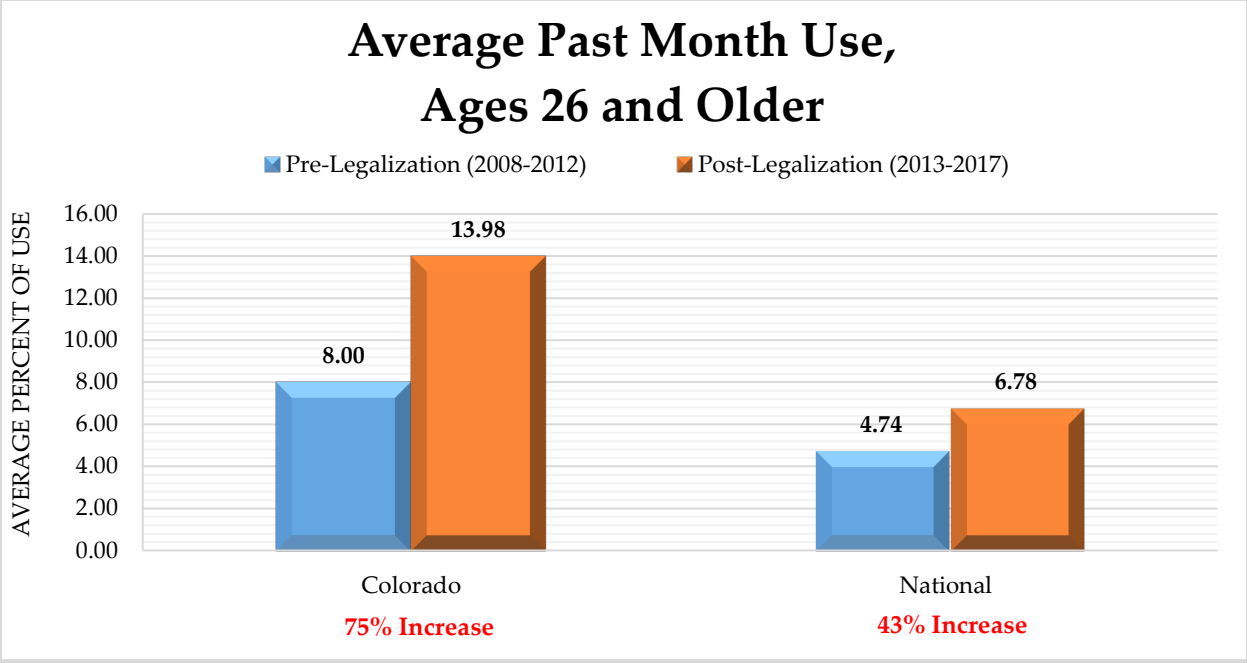
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health

NOTE: When comparing the three year averages, the years for pre-legalization include: 2009/2010; 2010/2011; and 2011/2012. Post-legalization years include: 2013/2014; 2014/2015; 2015/2016; and 2016/2017. The data for 2012/2013 was not include since it represents a year with and a year without legalization.



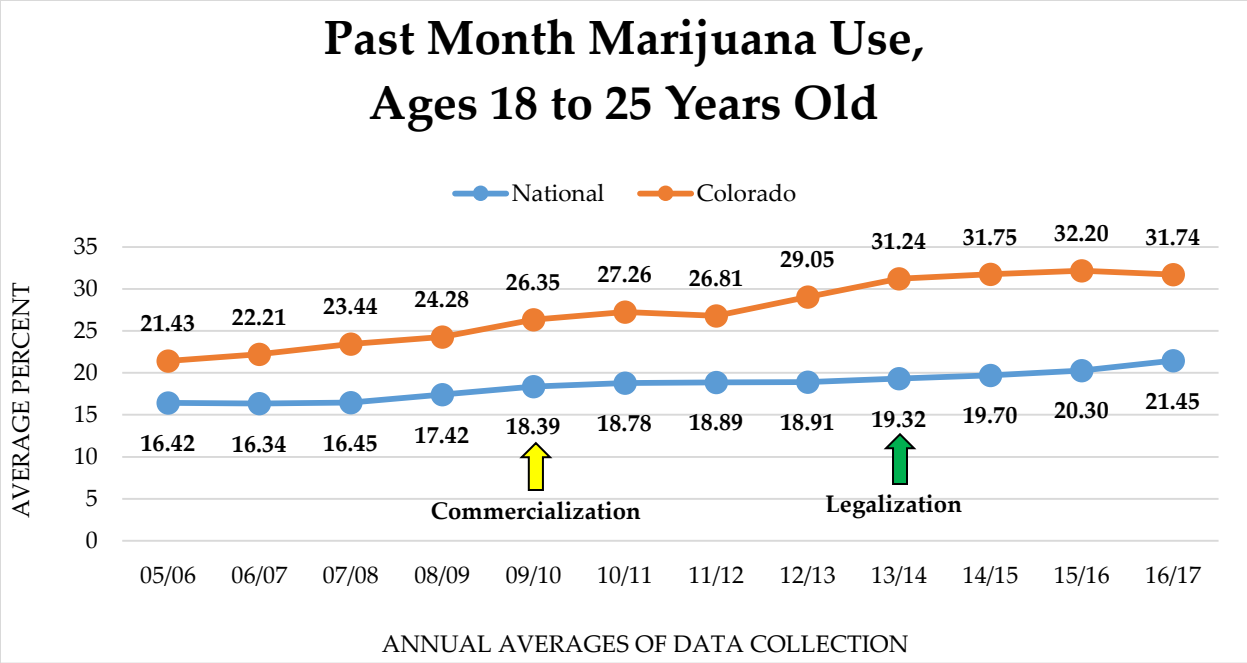
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health

- Colorado was **96% higher** than the National average in 2016/2017



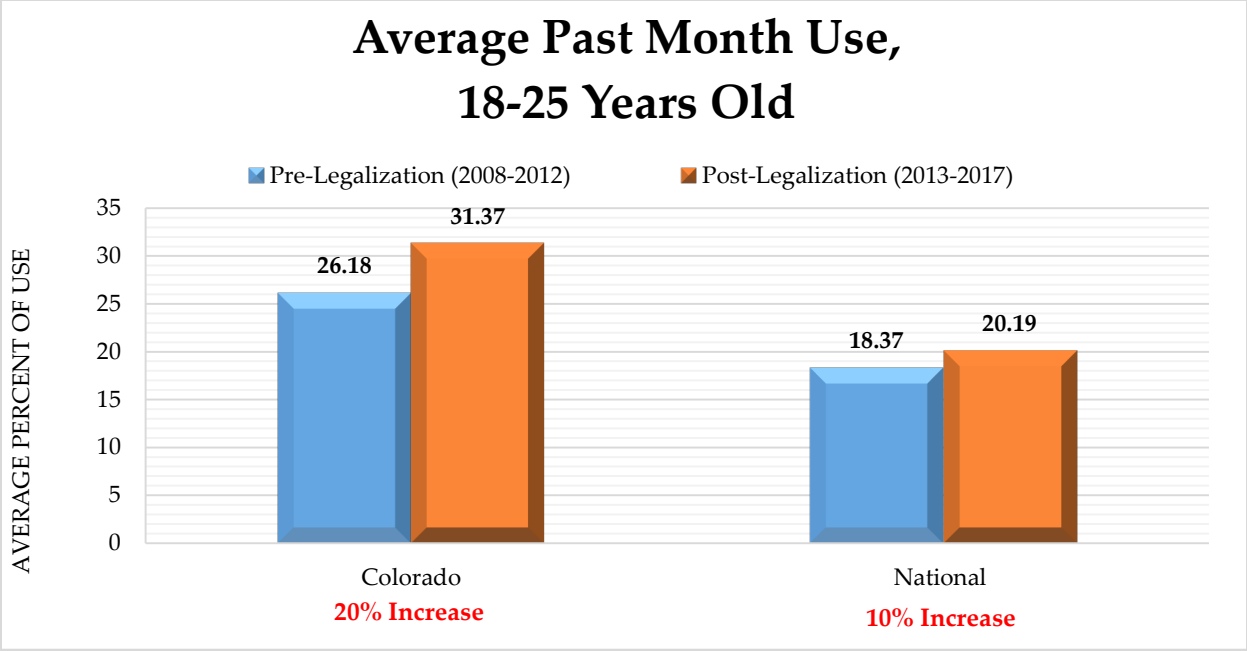
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health

NOTE: When comparing the three year averages, the years for pre-legalization include: 2009/2010; 2010/2011; and 2011/2012. Post-legalization years include: 2013/2014; 2014/2015; 2015/2016; and 2016/2017. The data for 2012/2013 was not include since it represents a year with and a year without legalization.



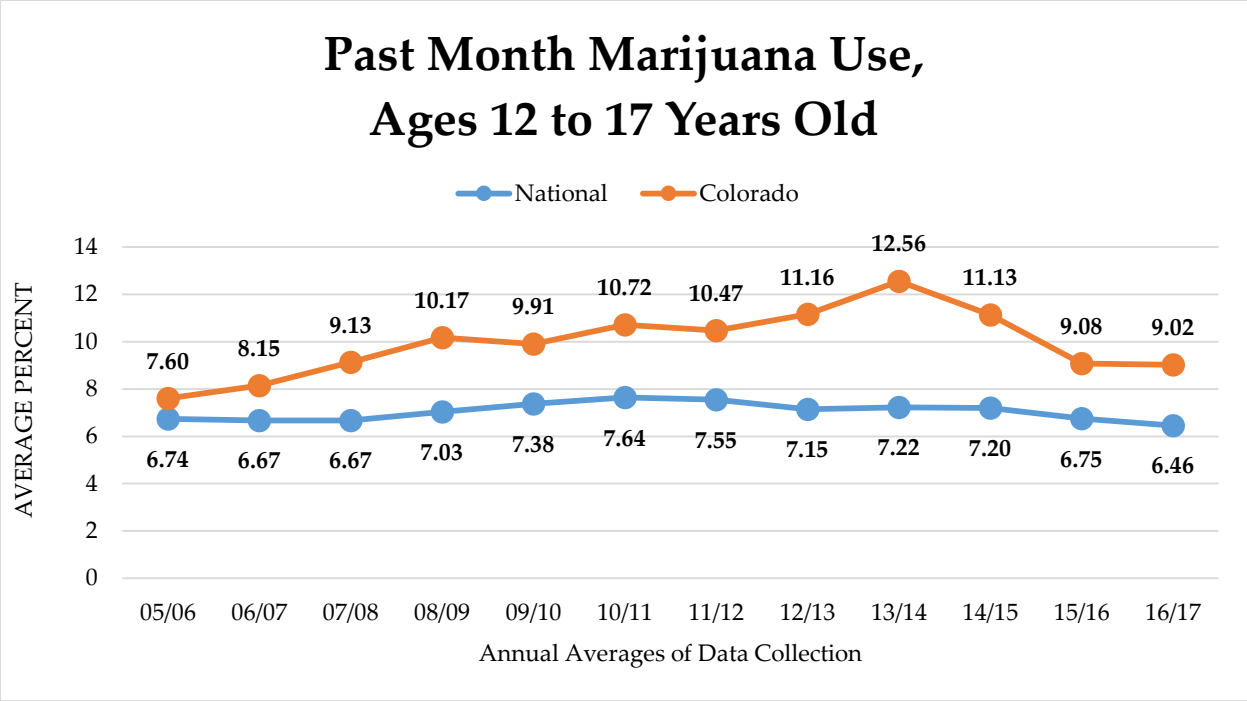
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health

- Colorado was **48% higher** than the National average in 2016/2017



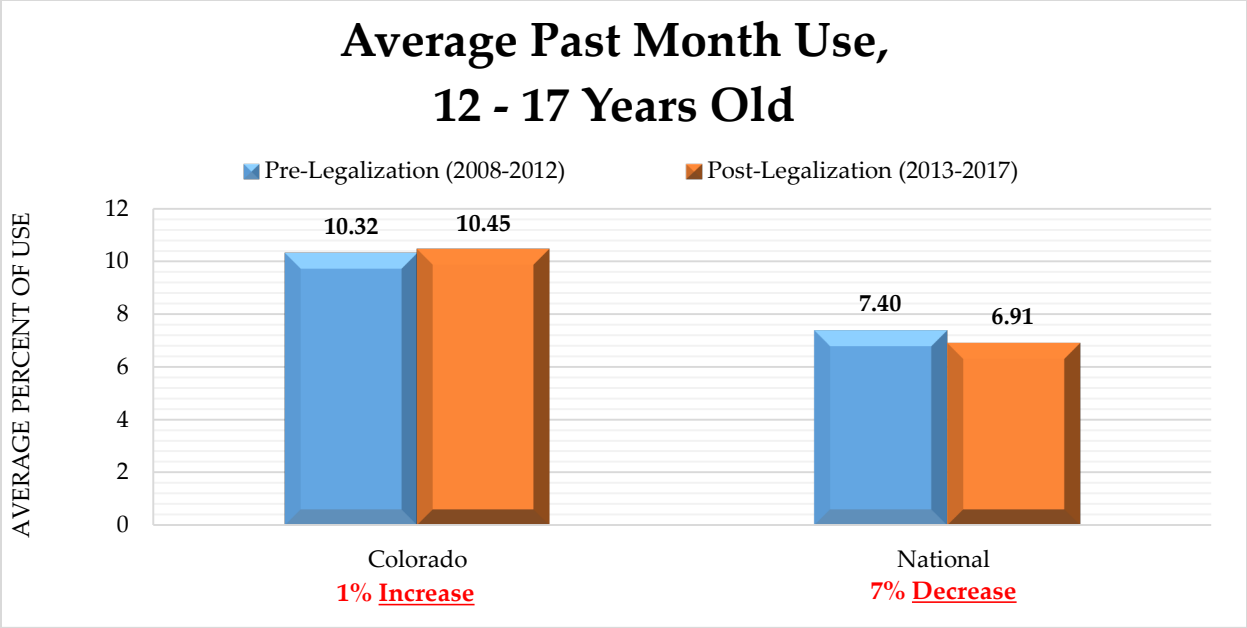
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health

NOTE: When comparing the three year averages, the years for pre-legalization include: 2009/2010; 2010/2011; and 2011/2012. Post-legalization years include: 2013/2014; 2014/2015; 2015/2016; and 2016/2017. The data for 2012/2013 was not include since it represents a year with and a year without legalization.



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health

- Colorado was **40% higher** than the National average in 2016/2017

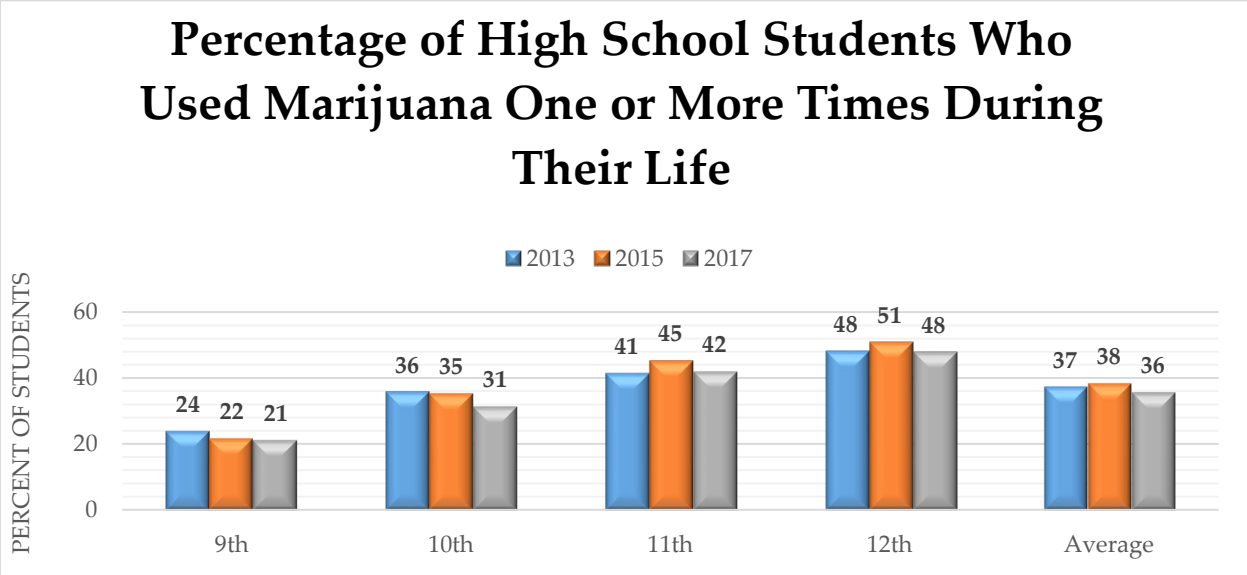


SOURCE: SAMHSA.gov, National Survey on Drug Use and Health

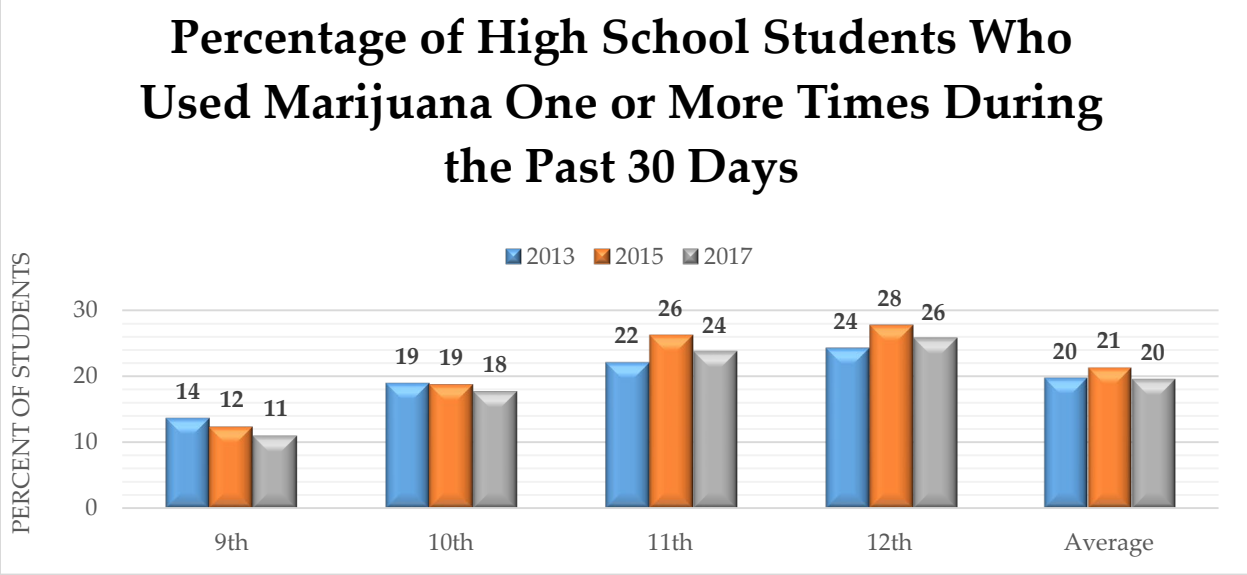
NOTE: When comparing the three year averages, the years for pre-legalization include: 2009/2010; 2010/2011; and 2011/2012. Post-legalization years include: 2013/2014; 2014/2015; 2015/2016; and 2016/2017. The data for 2012/2013 was not include since it represents a year with and a year without legalization.

Healthy Kids Colorado Survey (HKCS) Data

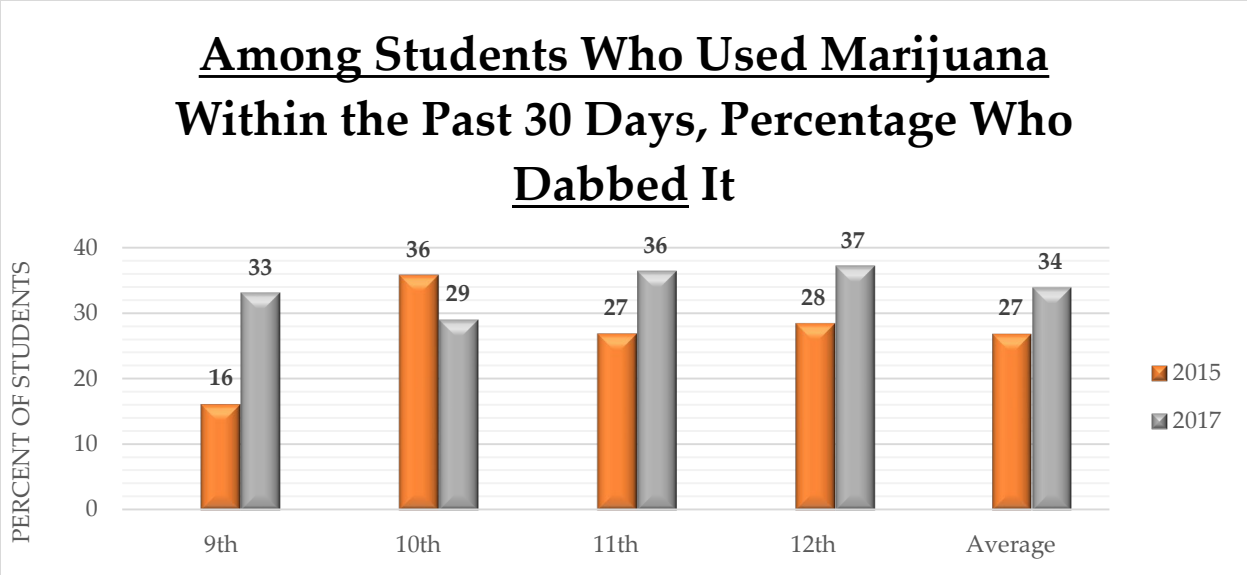
- Data is collected in the odd years and released in even years and, therefore, no new data will be available until 2020.



SOURCE: Colorado Department of Public Health and Environment, Healthy Kids Colorado Survey

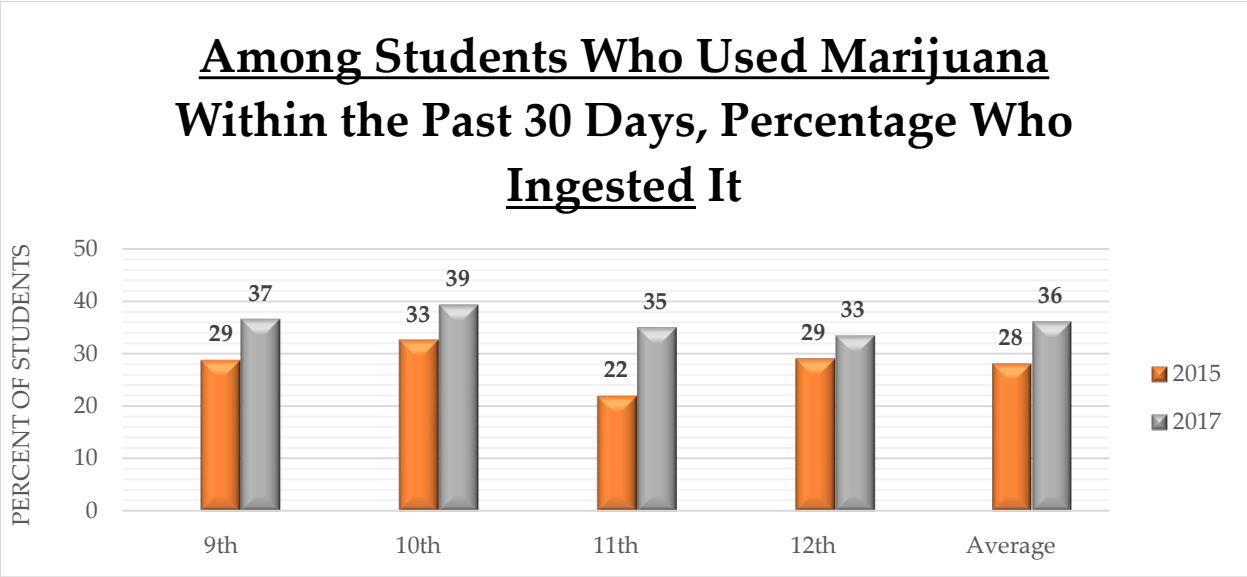


SOURCE: Colorado Department of Public Health and Environment, Healthy Kids Colorado Survey



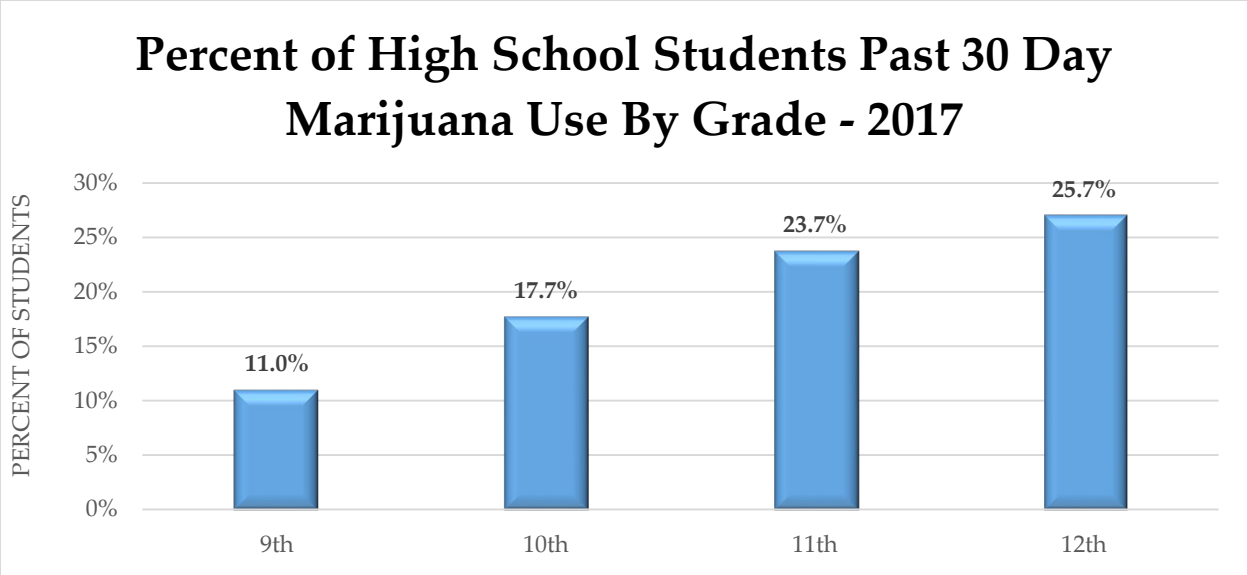
SOURCE: Colorado Department of Public Health and Environment, Healthy Kids Colorado Survey

NOTE: Dabbing is the process of vaporizing concentrated marijuana, usually in the form of wax or resin, by placing it on a heated piece of metal and inhaling the vapors. Concentrated marijuana is known to often contain 70 percent or higher levels of THC, the psychoactive component of marijuana.



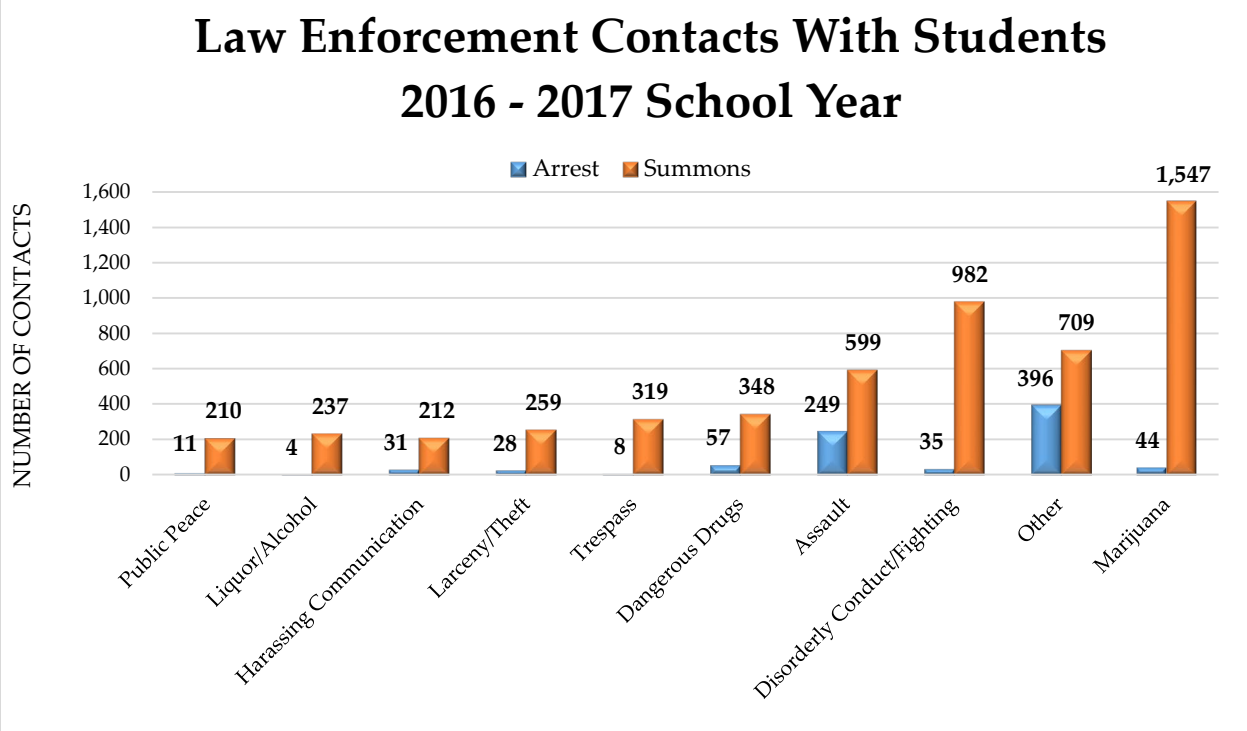
SOURCE: Colorado Department of Public Health and Environment, Healthy Kids Colorado Survey

NOTE: Eating marijuana most commonly refers to edible products. Edible products contain marijuana concentrates and extracts that have been made for the use of being mixed with food or other products.

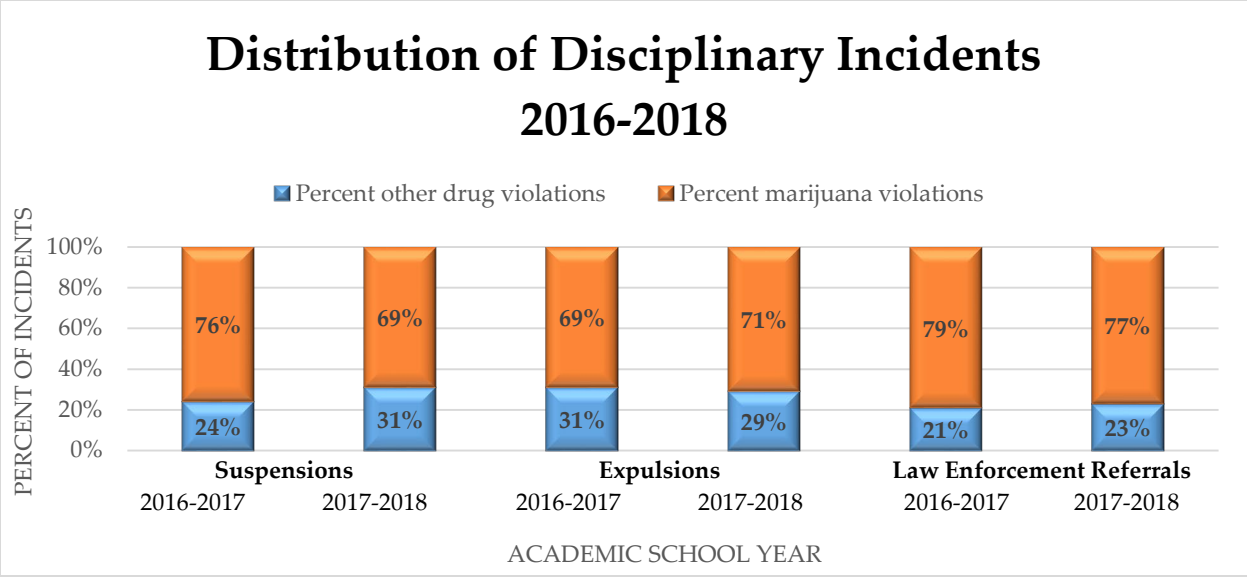


SOURCE: Colorado Department of Public Health and Environment, Healthy Kids Colorado Survey

Marijuana in Schools



SOURCE: Colorado Division of Criminal Justice



SOURCE: Colorado Department of Education

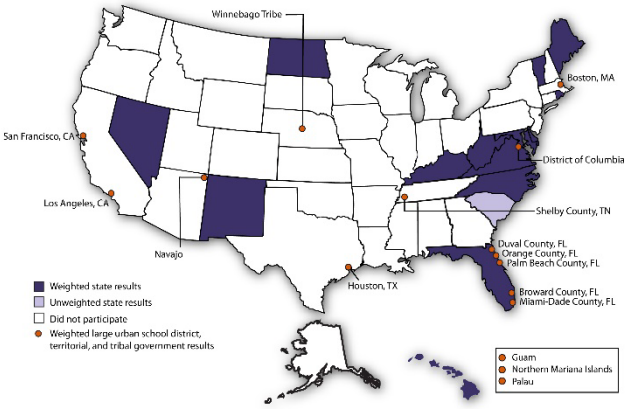
- For additional information regarding schools and incidents with marijuana, see "The Legalization of Marijuana in Colorado: *The Impact* Volume 5", at www.rmhidta.org for statements made by Colorado school resource officers.

Youth Risk Behavior Surveillance System (YRBSS) Data

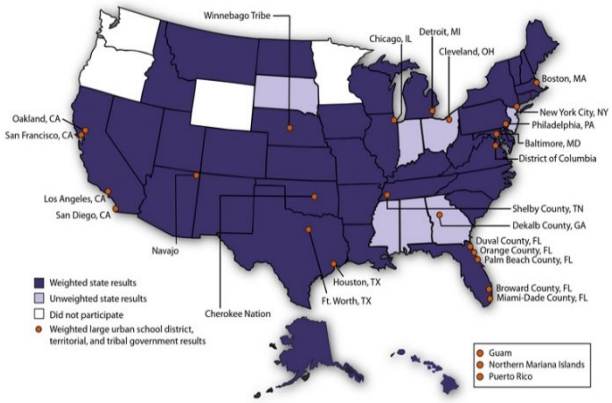
Although 2017 Colorado high school data was represented in YRBSS, in 2015, Colorado fell short of the required 60 percent participation rate and was, therefore, not included with weighted data (states included with weighted data are represented in dark purple below). This has been a common occurrence for Colorado data over the past decade. Additionally, states that meet the minimum participation requirements for inclusion with weighted data varies from year to year, making national comparisons inconsistent. States that participated in the 2017 Middle School and High School YRBSS surveys are represented in dark purple in the below maps. – Data is collected in the odd years and released in even years and, therefore, no new data will be available until 2020.

2017 YRBSS Participation Map

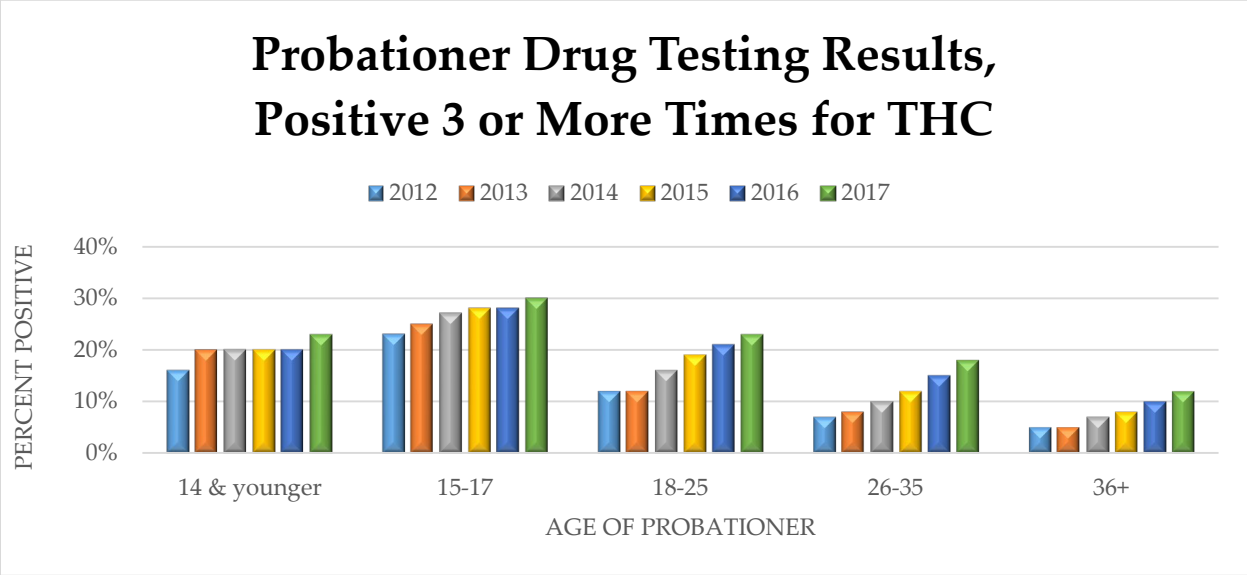
Middle Schools



High Schools



Probationer Marijuana Use



SOURCE: Colorado State Judicial Branch, Division of Probation Services

NOTE: Data reflects drug test results for probationers required to undergo drug testing. This does not reflect all probationers in Colorado. Probationers who have a medical marijuana card are not prohibited from using marijuana while on probation. It is possible that some positive results may come from probationers using marijuana for medical reasons.

Marijuana Use Information

Colorado Department of Public Health & Environment (Health Statements)

The following statements have been summarized for the purpose of brevity:

- Adolescents and young adults who quit marijuana use have a lower risk of developing cognitive impairment or mental health disorders than those who continue to use.
- Daily or near-daily marijuana use by adolescents and young adults is associated with developing a psychotic disorder such as schizophrenia in adulthood.
- Marijuana use by adolescents and young adults is strongly associated with developing psychotic symptoms in adulthood, such as hallucinations, paranoia and delusional beliefs.
- Weekly or more frequent marijuana use by adolescents and young adults is associated with impaired learning, memory, math and reading achievement, even 28 days after last use.

SOURCE: Colorado Department of Public Health and Environment. (2019). *Public health statements* (summarized). Retrieved from https://www.colorado.gov/pacific/marijuanahealthinfo/public-health-statements

Marijuana, a Report by the National Institute on Drug Abuse (NIDA)

The following excerpts are from a recent report published by NIDA in July of 2019:

- Marijuana significantly impairs judgment, motor coordination, and reaction time, and studies have found a direct relationship between blood THC concentration and impaired driving ability.
- The risk of being involved in a motor-vehicle crash significantly increases after marijuana abuse.
- 30% of those who use marijuana may have some degree of marijuana use disorder.
- People who begin using marijuana before the age of 18 are four to seven times more likely to develop a marijuana use disorder.
- Marijuana exposure during development can cause long-term or possibly permanent adverse changes in the brain.
- Considerable evidence suggests that students who smoke marijuana have poorer educational outcomes than their nonsmoking peers.
- *Cannabinoid Hyperemesis Syndrome*, marked by recurrent bouts of nausea, vomiting and dehydration can result from chronic marijuana use. This syndrome may resolve when a person stops using marijuana.
- Opioid overdose mortality rates between 1999 and 2010 in states allowing medical marijuana use were 21% lower than expected. When the analysis was extended through 2017, however, they found that the trend reversed, such that states with medical cannabis laws experienced an overdose death rate 22.7% higher than expected. More research is needed on this topic.

SOURCE: National Institute on Drug Abuse. (2019). *Marijuana*. Retrieved from https://www.drugabuse.gov/node/pdf/1380/marijuana

Just One or Two Instances of Youth Marijuana Use

With the increasing use of marijuana among adolescents alongside the changing legal status and shifting societal attitudes in favor of legalized recreational marijuana, it is critically important that long-term health consequences of youth marijuana use be understood. Research published March 6th (2019) in the Journal of Neuroscience indicates that structural brain and cognitive effects can be observed in association with just one or two instances of adolescent marijuana use.

SOURCE: Orr, C., Spechler, P., Cao, Z., Albaugh, M., Chaarani, B., Mackey, S., . . . Garavan, H. (2019). *Grey matter volume differences associated with extremely low levels of cannabis use in adolescence.* Journal of Neuroscience, 39(10). doi: 10.1523/JNEUROSCI.3375-17.2018

More Women Using Marijuana During Pregnancy

Between 2002 and 2016 the amount of pregnant women using marijuana increased from 3% to 5%. By comparison both alcohol and cigarette use by pregnant women fell during the same time period by 2% and 7.5% respectively. While more research is needed to know the effects of a pregnant mother's marijuana use, the CDC and other health organizations have warned against using the drug while pregnant.

SOURCE: **Ducharme, Jamie. (2018).** ***More women are using marijuana during pregnancy, report says.*** **Time Magazine.**

One Month of Abstinence from Marijuana Improves Memory in Adolescents

The Massachusetts General Hospital conduced a research study in which they found that adolescents using marijuana see an improvement in their memories with one month of abstinence. "Our findings provide two pieces of convincing evidence, the first is that adolescents learn better when they are not using cannabis. The second – which is the good news part of the story – is that at least some of the deficits associated with cannabis use are not permanent and actually improve pretty quickly after cannabis use stops."

SOURCE: **Schuster, Randi. (2018).** ***One month of abstinence from cannabis improves memory in adolescents, young adults.*** **Massachusetts General Hospital.**

More High Schoolers Consuming Edibles than Before

A study looking into the different methods that high school students use to consume marijuana found that while the rate of students smoking marijuana has decreased, the rate at which they are consuming edibles or dabbing has increased from 2015 to 2017. In 2017, the number of students that usually consumed marijuana as edibles was 10% which was up from 2% in 2015. Further, the students that reported dabbing marijuana increased from 4% in 2015 to 7.5% in 2017.

SOURCE: **Tormohlen, Kayla; Schneider, Kristin; Johnson, Renee. (2019).** ***Changes in prevalence of marijuana consumption modes among Colorado high school students from 2015 to 2017.*** **JAMA Pediatric.**

College Student Marijuana Use Highest in 35 Years

According to a University of Michigan survey, about 43% of college students indicated they used marijuana at least once in the past year, the highest amount since 1983. Approximately 6% indicated that they used marijuana 20 or more times in the past month. According to the survey use in college students has been on the rise for over a decade.

SOURCE: **Stobbe, Mike. (2019).** ***Marijuana Use by US College Students Up, Highest in 35 Years.*** **Associated Press.**

Section III: Public Health

Some Findings

- The yearly number of emergency department visits related to marijuana **increased 54 percent** after the legalization of recreational marijuana (2013 compared to 2017).
- The yearly number of marijuana-related hospitalizations **increased 101 percent** after the legalization of recreational marijuana (2013 compared to 2017).
- Marijuana *only* exposures more than **quadrupled** in the six-year average (2013-2018) since recreational marijuana was legalized compared to the six-year average (2007-2012) prior to legalization.
- The percent of suicide incidents in which toxicology results were positive for marijuana has **increased** from **14 percent** in 2013 to **23 percent** in 2017.

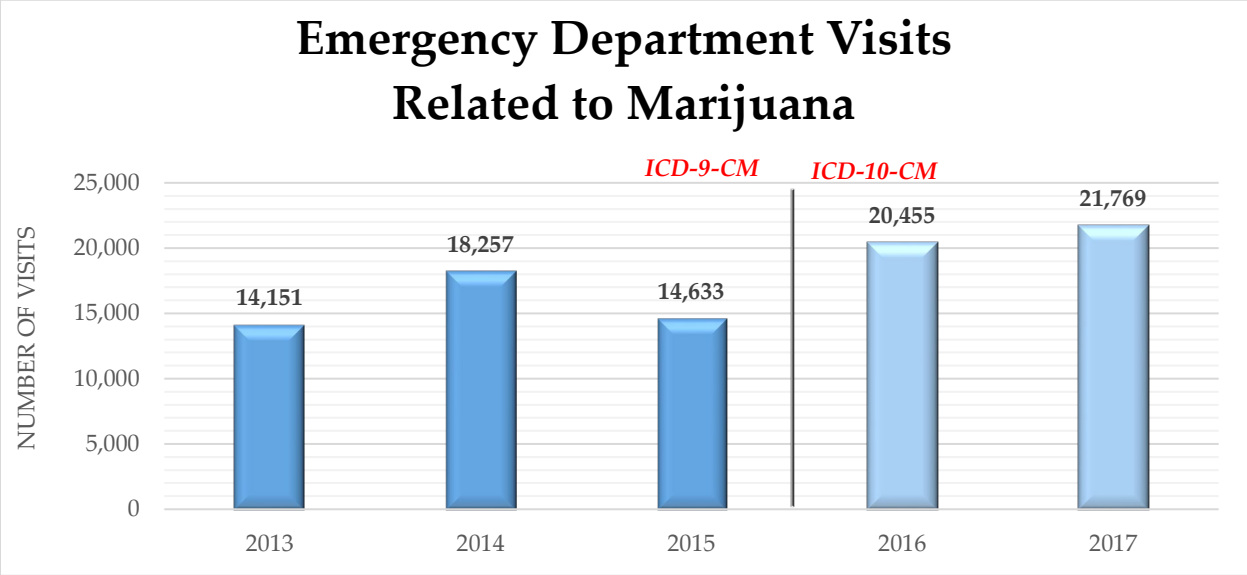
Definitions by Rocky Mountain HIDTA

Marijuana-Related: Also referred to as "marijuana mentions." Data could be obtained from lab tests, patient self-admission or some other form of validation obtained by the provider. Being marijuana-related does not necessarily prove marijuana was the cause of the emergency department admission or hospitalization.

International Classification of Disease (ICD): A medical coding system used to classify diseases and related health problems.

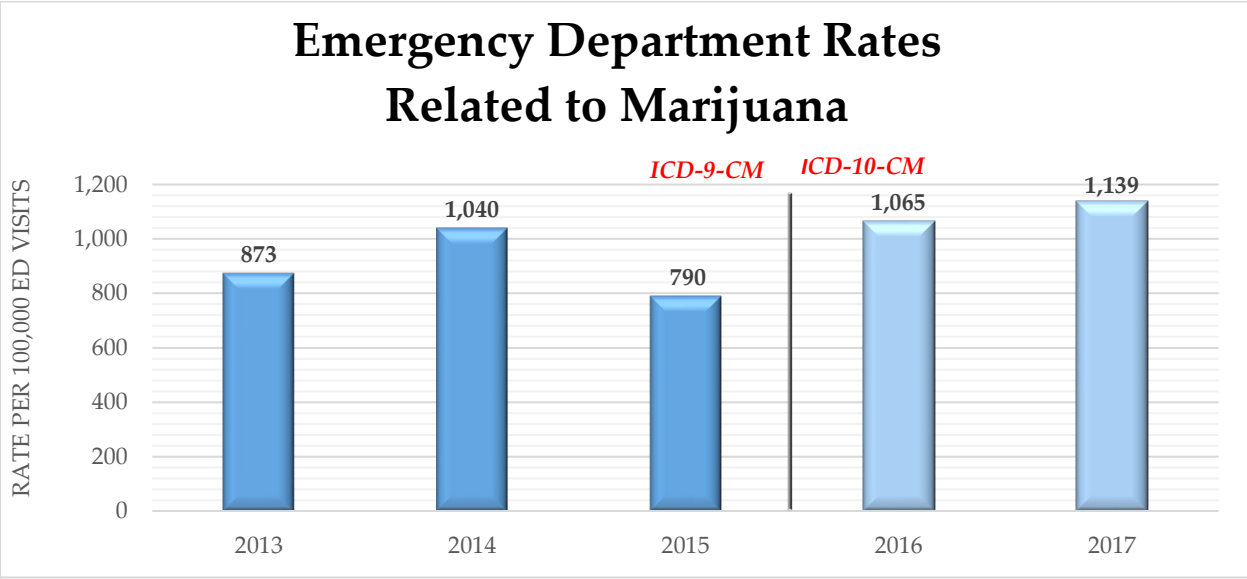
- **In 2015, ICD-10 (the tenth modification) was implemented in place of ICD-9. Although ICD-10 will allow for better analysis of disease patterns and treatment outcomes for the advancement of medical care, comparison of trends before and after the conversion can be made difficult and/or impossible. The number of codes increased from approximately 13,600 codes to approximately 69,000 codes. For the above reasons, hospitalization and emergency department data was only provided pre-conversion to ICD-10 for the 2017, Volume 5 report. However, some preliminary data for rates per 100,000 individuals was provided by the Colorado Department of Public Health and Environment (CDPHE) for this update.

Emergency Department Data



SOURCE: **Emergency Department Discharge Dataset, as analyzed by the Colorado Department of Public Health and Environment; 2013-2017**

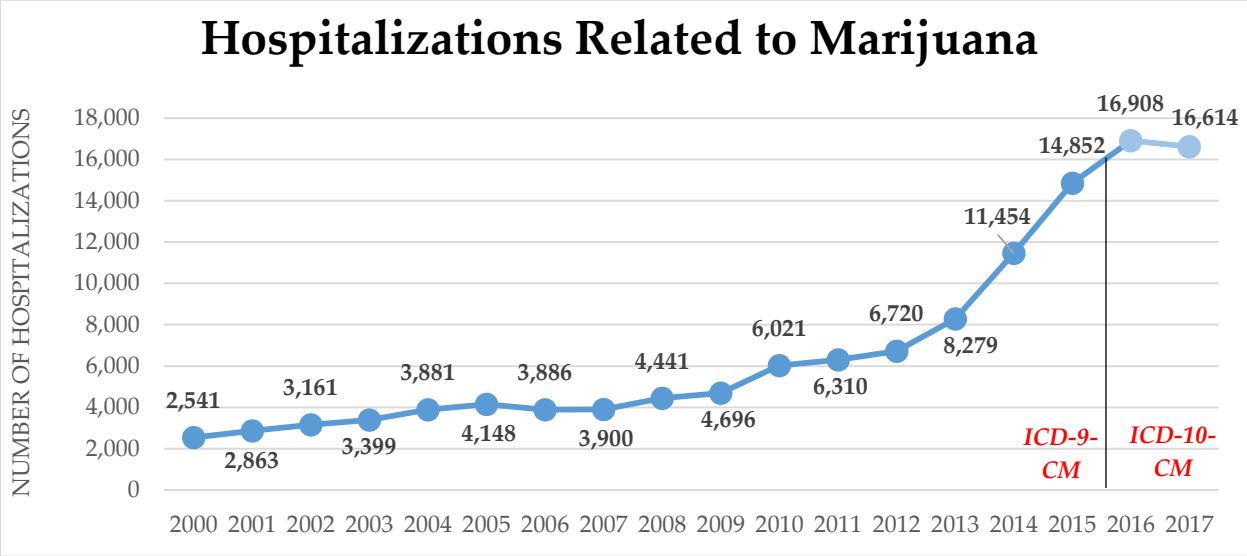
NOTE: 2015 data refers to data collected between October of 2014 & September of 2015 due to the ICD-10 CM transition; all other years are in the calendar year. The ICD-10 CM coding scheme is fundamentally different than the ICD-9 CM coding scheme; CDPHE does not recommend comparing trends between the two time periods.



SOURCE: **Emergency Department Discharge Dataset, as analyzed by the Colorado Department of Public Health and Environment; 2013-2017**

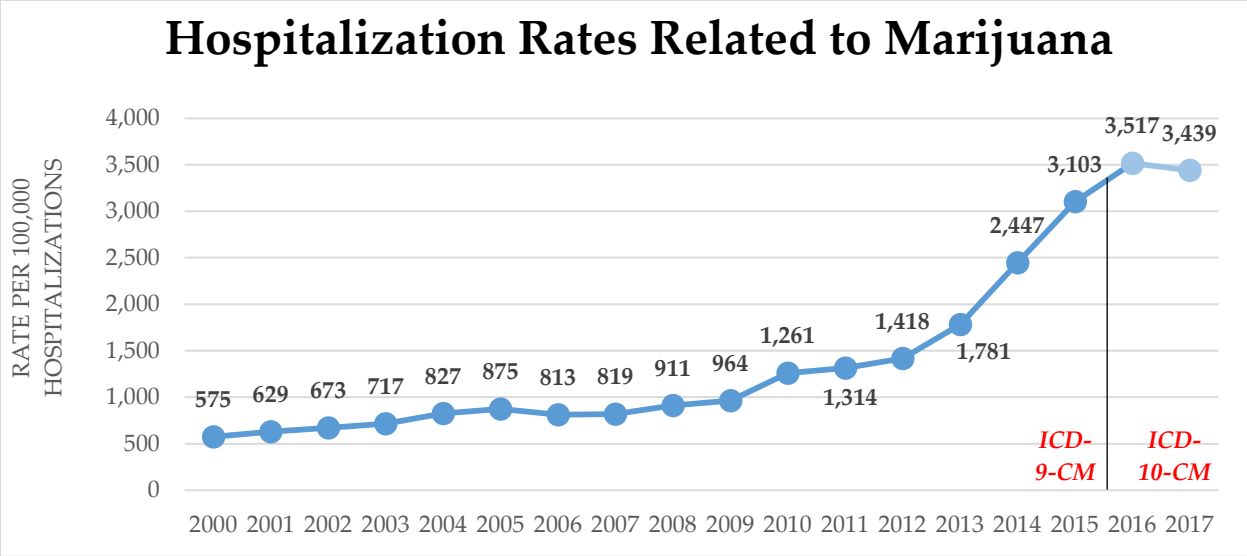
NOTE: 2015 data refers to data collected between October of 2014 & September of 2015 due to the ICD-10 CM transition; all other years are in the calendar year. The ICD-10 CM coding scheme is fundamentally different than the ICD-9 CM coding scheme; CDPHE does not recommend comparing trends between the two time periods.

Hospitalization Data



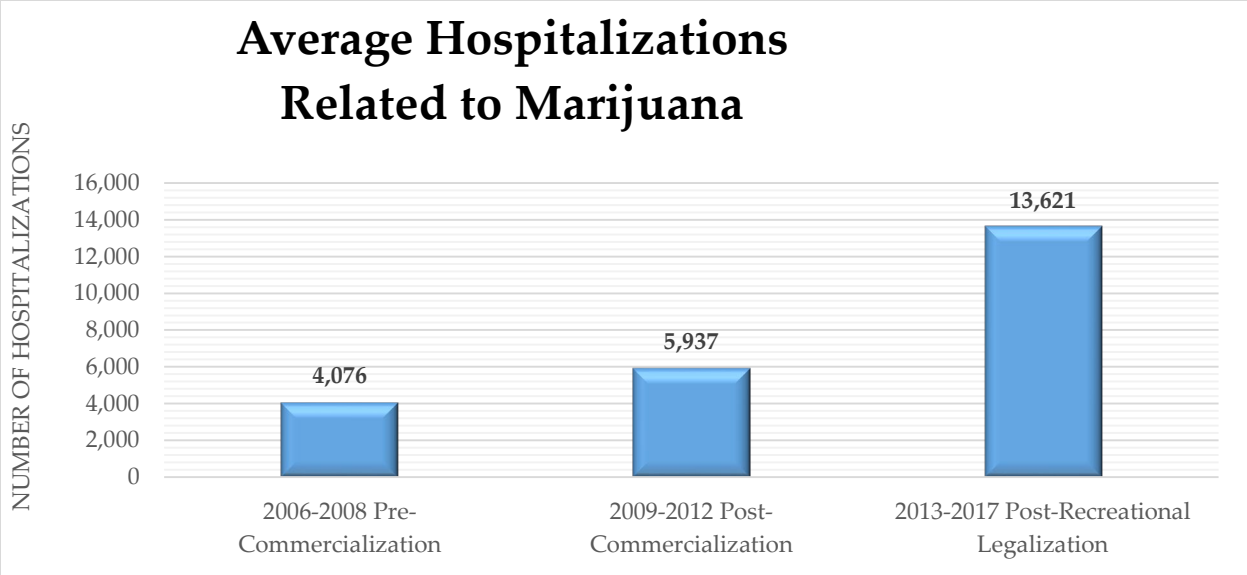
SOURCE: **Emergency Department Discharge Dataset, as analyzed by the Colorado Department of Public Health and Environment; 2013-2017**

NOTE: 2015 data refers to data collected between October of 2014 & September of 2015 due to the ICD-10 CM transition; all other years are in the calendar year. The ICD-10 CM coding scheme is fundamentally different than the ICD-9 CM coding scheme; CDPHE does not recommend comparing trends between the two time periods.



SOURCE: **Emergency Department Discharge Dataset, as analyzed by the Colorado Department of Public Health and Environment; 2013-2017**

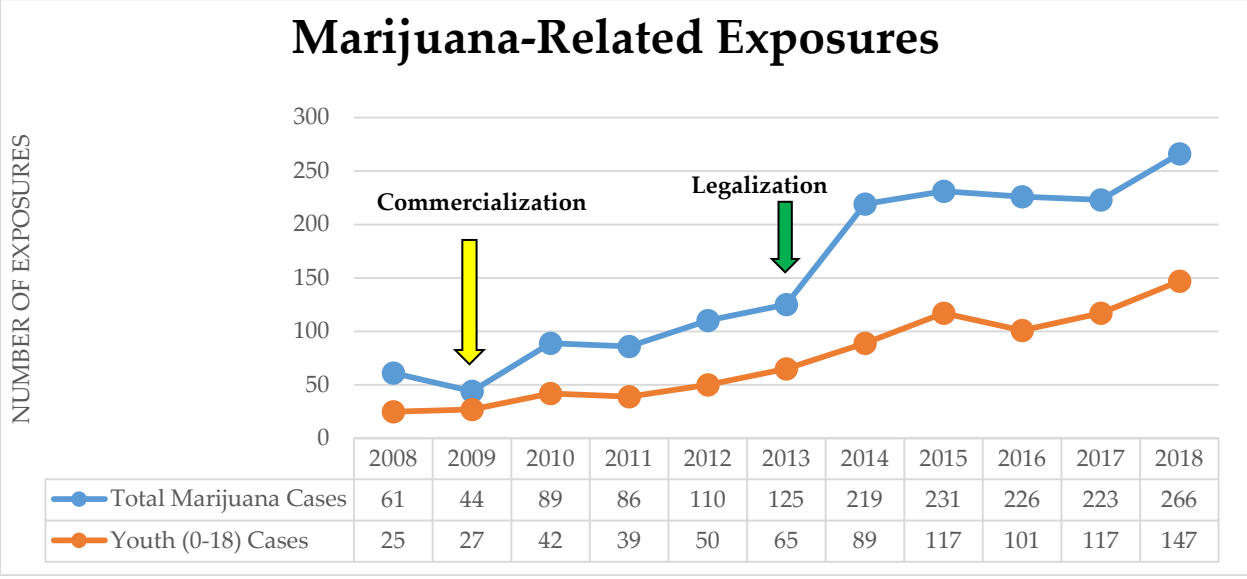
NOTE: 2015 data refers to data collected between October of 2014 & September of 2015 due to the ICD-10 CM transition; all other years are in the calendar year. The ICD-10 CM coding scheme is fundamentally different than the ICD-9 CM coding scheme; CDPHE does not recommend comparing trends between the two time periods.



SOURCE: Emergency Department Discharge Dataset, as analyzed by the Colorado Department of Public Health and Environment; 2013-2017

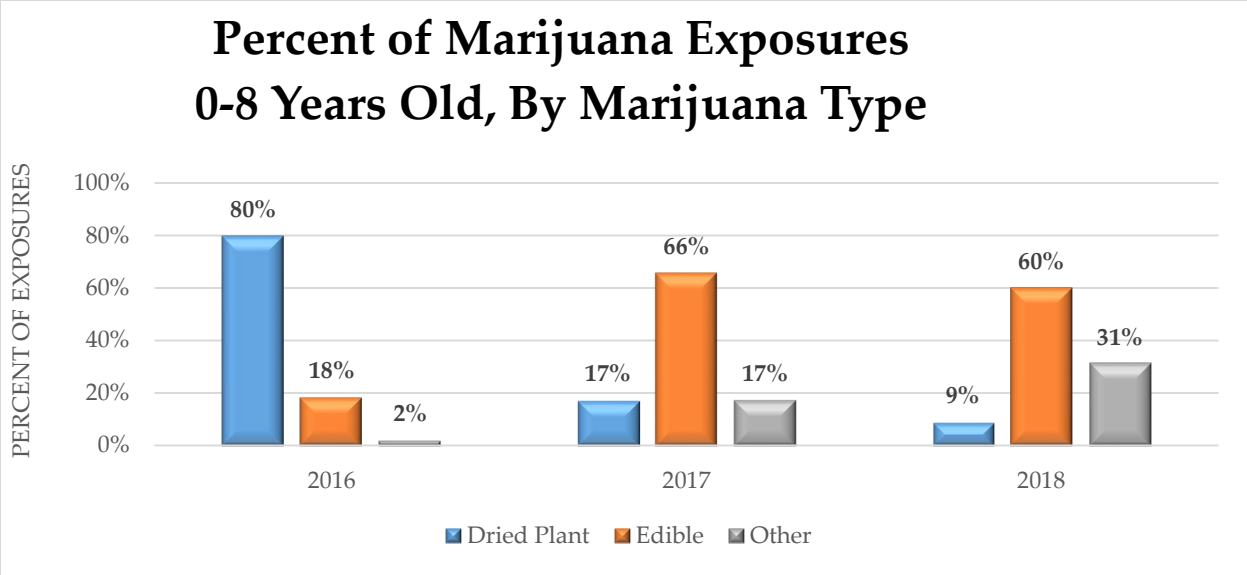
NOTE: 2015 data refers to data collected between October of 2014 & September of 2015 due to the ICD-10 CM transition; all other years are in the calendar year. The ICD-10 CM coding scheme is fundamentally different than the ICD-9 CM coding scheme; CDPHE does not recommend comparing trends between the two time periods.

Poison Control/Marijuana Exposure Data



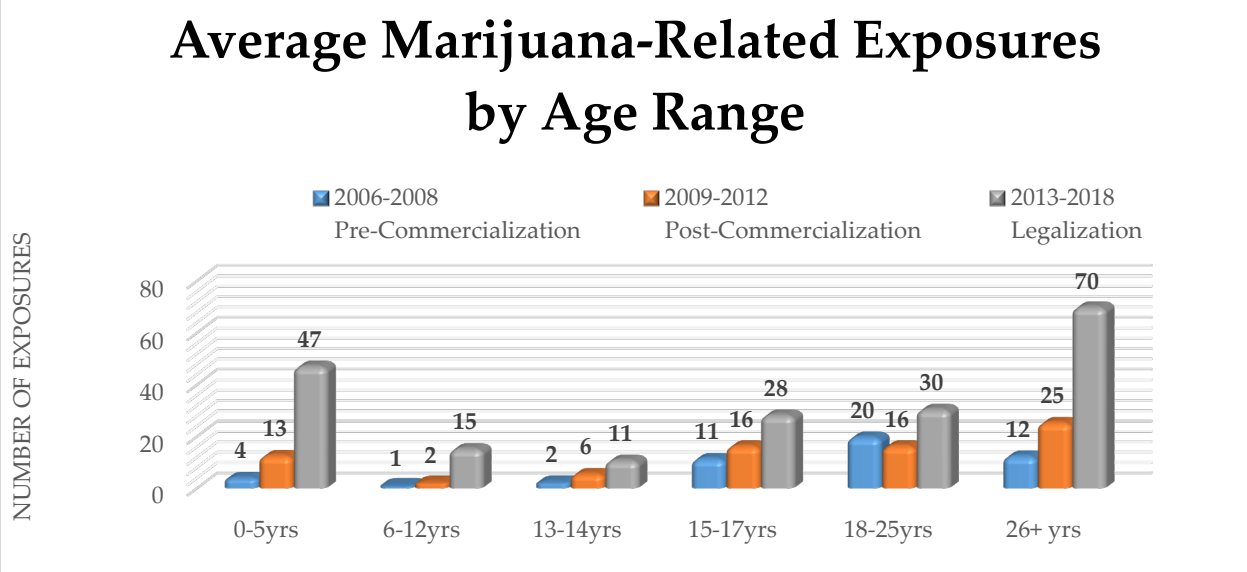
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total Marijuana Cases	61	44	89	86	110	125	219	231	226	223	266
Youth (0-18) Cases	25	27	42	39	50	65	89	117	101	117	147

SOURCE: Rocky Mountain Poison and Drug Center

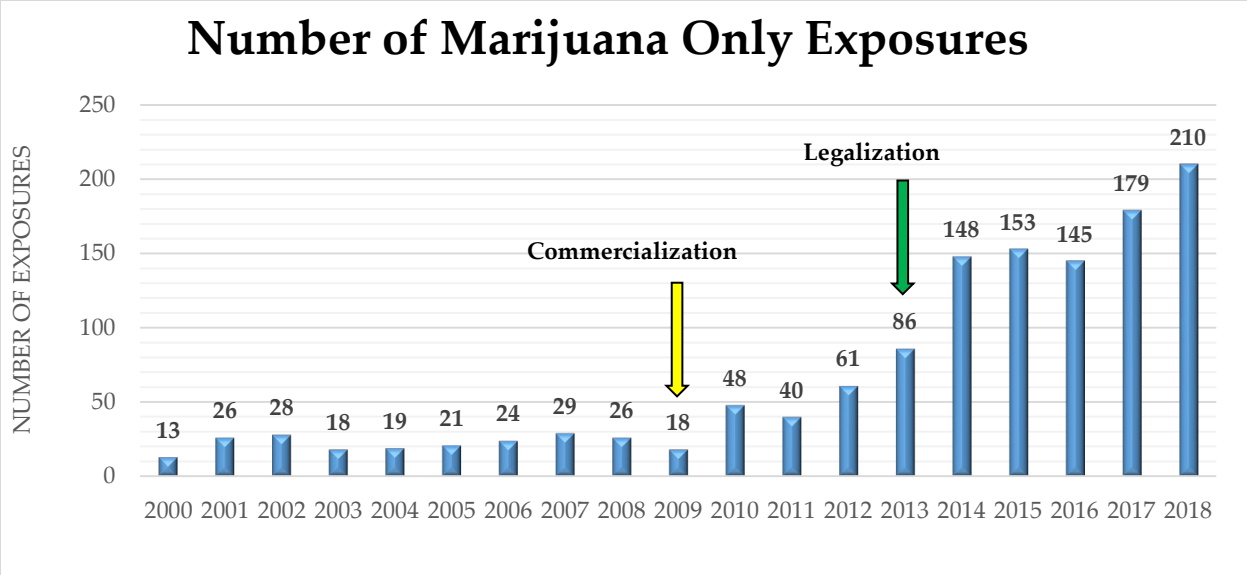


SOURCE: Rocky Mountain Poison and Drug Center

NOTE: The code for marijuana edibles did not go into effect until 2016. Therefore, any cases of edible marijuana exposure which occurred prior to 2016 were coded under "dry plant." Other marijuana includes oral pills/capsules, concentrated extracts (to include oils and tinctures), topical preparations, marijuana devices, and unknown/other forms of marijuana.



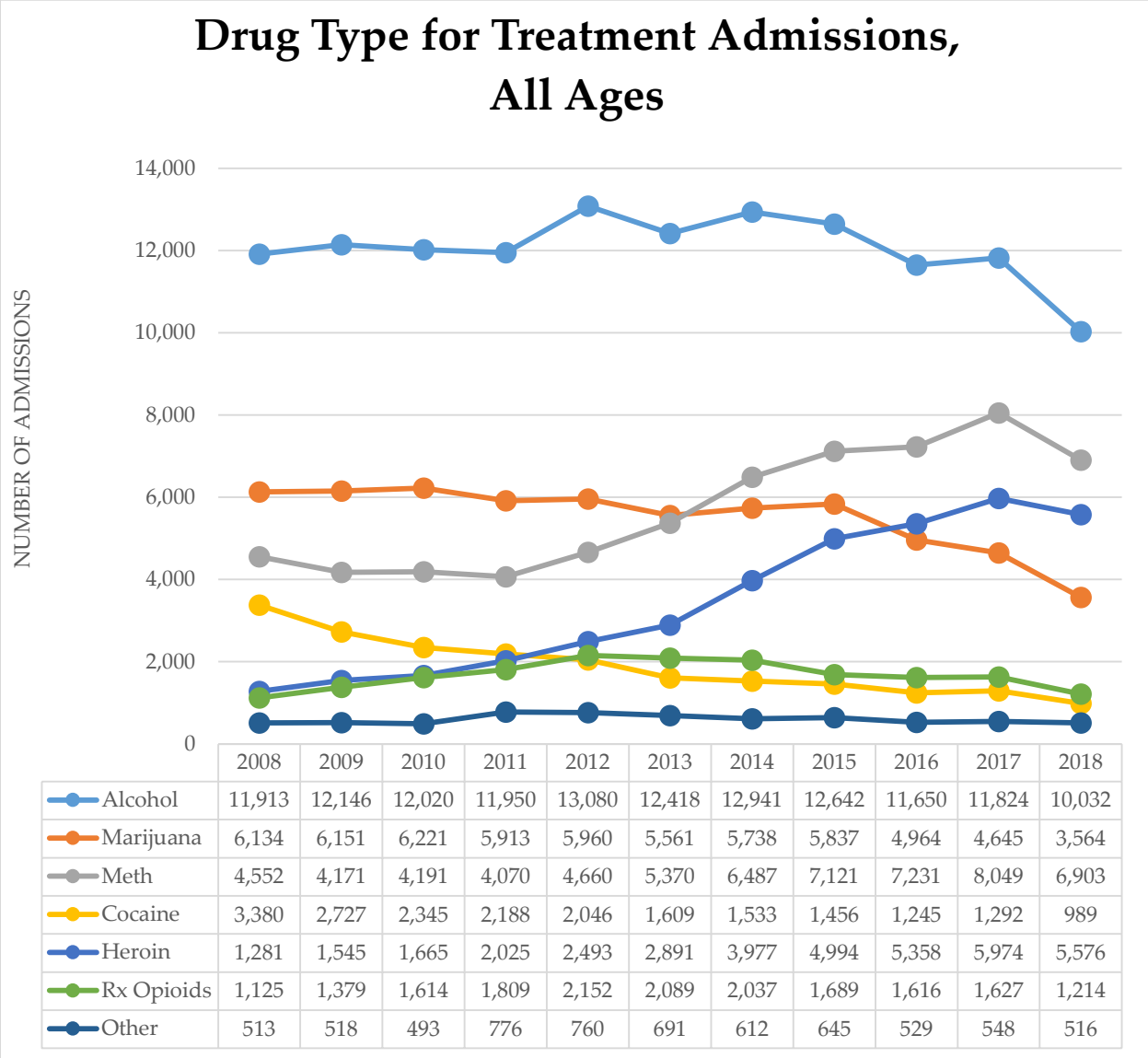
SOURCE: Rocky Mountain Poison and Drug Center



SOURCE: **Rocky Mountain Poison and Drug Center**

NOTE: **Marijuana was the only substance referenced in the call to the poison and drug center.**

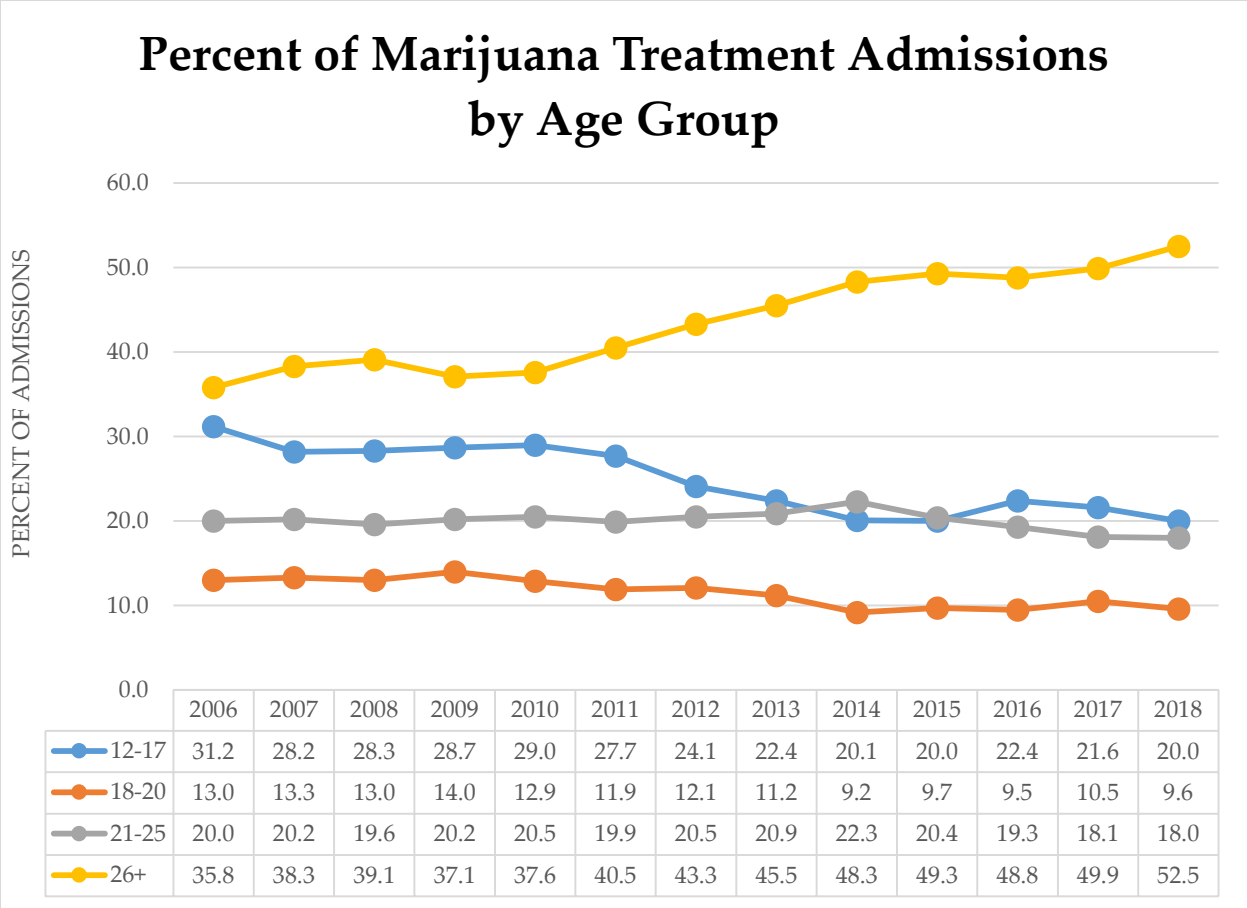
Treatment Data



	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Alcohol	11,913	12,146	12,020	11,950	13,080	12,418	12,941	12,642	11,650	11,824	10,032
Marijuana	6,134	6,151	6,221	5,913	5,960	5,561	5,738	5,837	4,964	4,645	3,564
Meth	4,552	4,171	4,191	4,070	4,660	5,370	6,487	7,121	7,231	8,049	6,903
Cocaine	3,380	2,727	2,345	2,188	2,046	1,609	1,533	1,456	1,245	1,292	989
Heroin	1,281	1,545	1,665	2,025	2,493	2,891	3,977	4,994	5,358	5,974	5,576
Rx Opioids	1,125	1,379	1,614	1,809	2,152	2,089	2,037	1,689	1,616	1,627	1,214
Other	513	518	493	776	760	691	612	645	529	548	516

SOURCE: Colorado Department of Health Services, Office of Behavioral Health

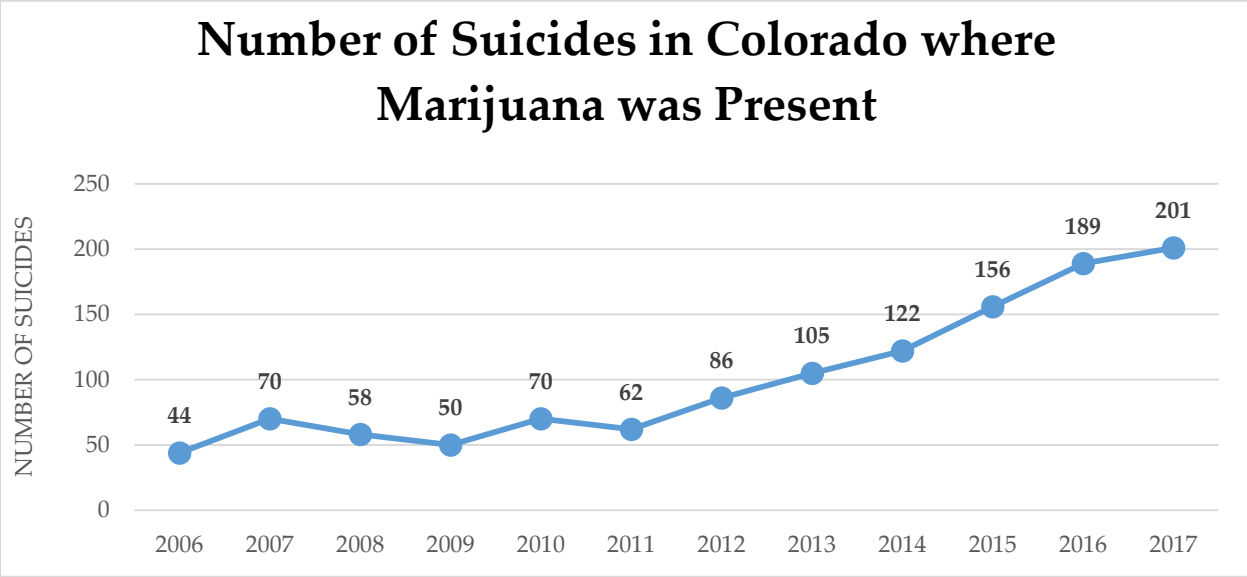
NOTE: Electronic reporting was initiated in 2008, therefore trend analysis on treatment admissions is not recommended prior to 2008.



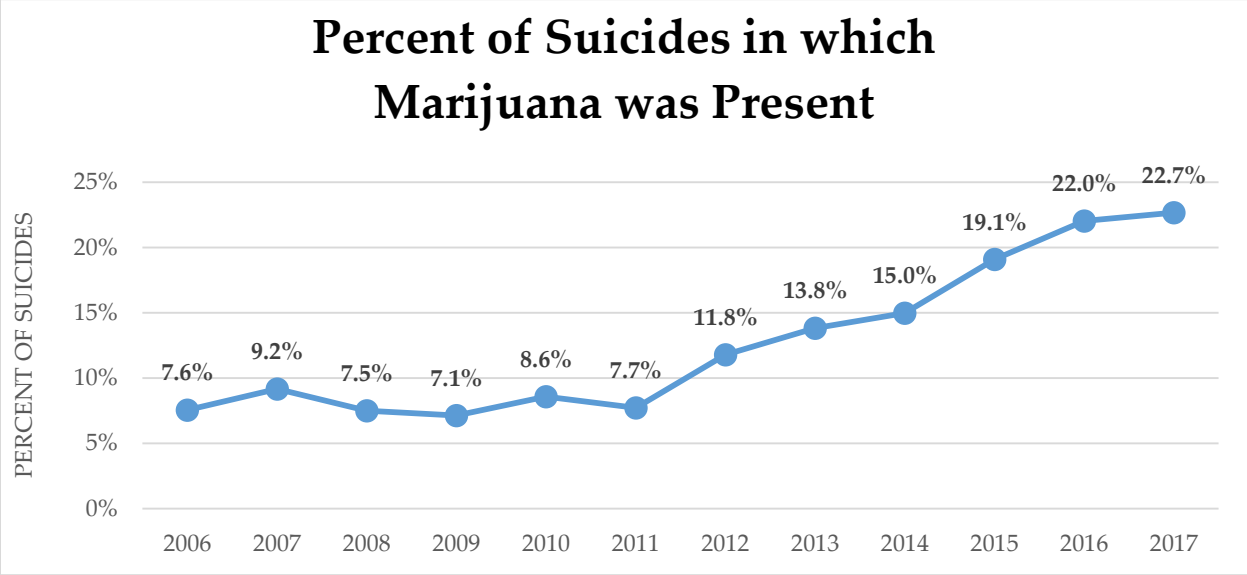
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
12-17	31.2	28.2	28.3	28.7	29.0	27.7	24.1	22.4	20.1	20.0	22.4	21.6	20.0
18-20	13.0	13.3	13.0	14.0	12.9	11.9	12.1	11.2	9.2	9.7	9.5	10.5	9.6
21-25	20.0	20.2	19.6	20.2	20.5	19.9	20.5	20.9	22.3	20.4	19.3	18.1	18.0
26+	35.8	38.3	39.1	37.1	37.6	40.5	43.3	45.5	48.3	49.3	48.8	49.9	52.5

SOURCE: **Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration, Treatment Episode Data Set (TEDS). Based on administrative data reported by states to TEDS through April 1, 2019.**

Suicide Data

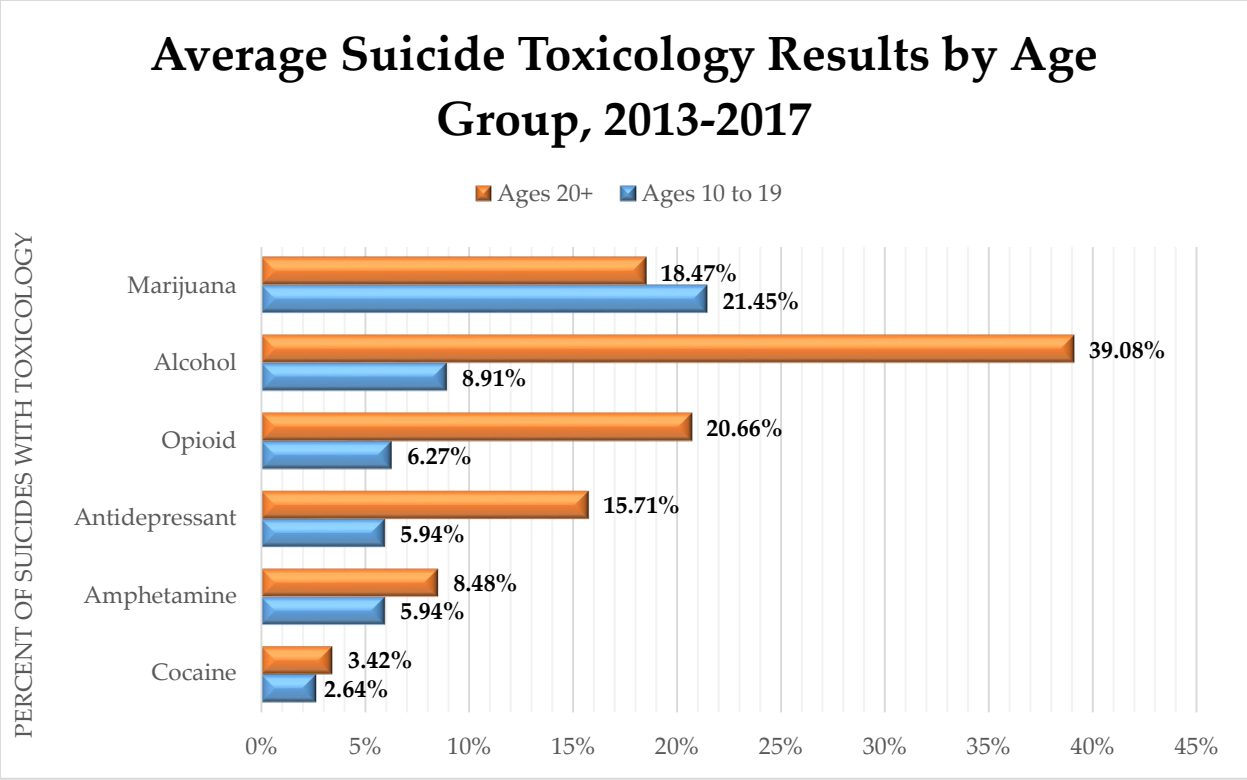


SOURCE: **Colorado Department of Public Health and Environment (CDPHE), Colorado Violent Death Reporting System**



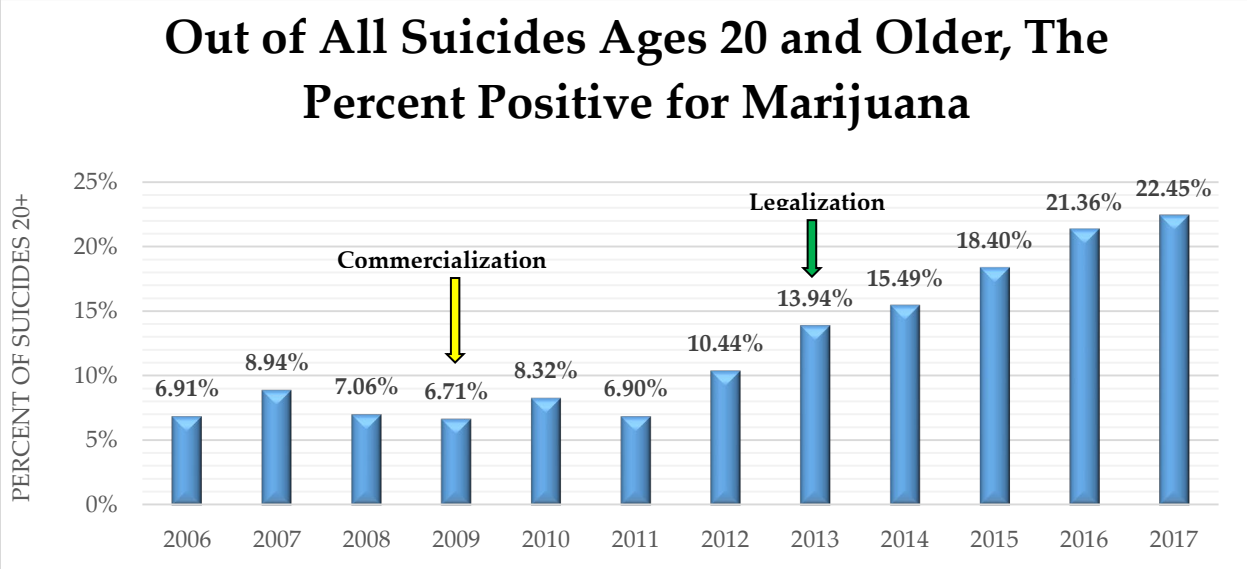
SOURCE: **Colorado Department of Public Health and Environment (CDPHE), Colorado Violent Death Reporting System**

NOTE: Toxicology is not available for every suicide. Only those suicides with toxicology available are represented above.



SOURCE: Colorado Department of Public Health and Environment (CDPHE), Colorado Violent Death Reporting System

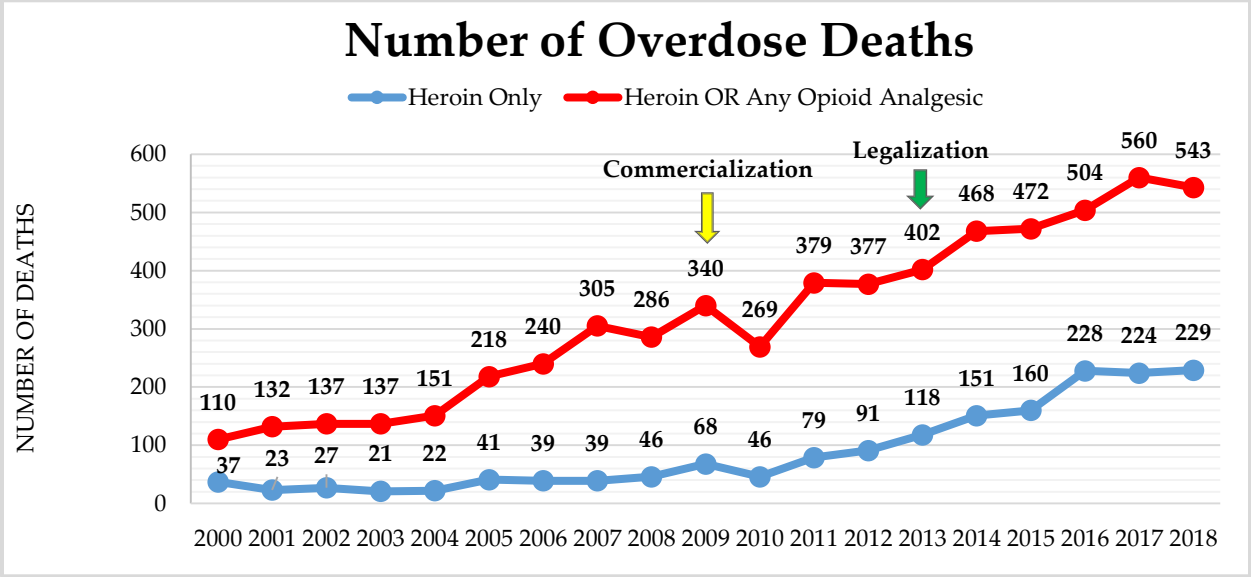
NOTE: The average percent was taken out of all suicides with toxicology results. The average covers a five year time span from 2013 – 2017.



SOURCE: Colorado Department of Public Health and Environment (CDPHE), Colorado Violent Death Reporting System

Colorado Opioid Overdose Deaths

- This data is included in response to reports of declining opioid overdose deaths post marijuana legalization.



Source: **Colorado Department of Public Health & Environment, Vital Statistics Program**

NOTE: Heroin cause of death codes include T40.1. Any Opioid Analgesic OR Heroin cause of death codes include T40.1-T40.4

Public Health Information

Colorado Department of Public Health & Environment (Health Statements)

The following statements have been summarized for the purpose of brevity:

- An association appears unlikely between marijuana smoking and lung cancer when used less than a joint per day for 10 years.
- Marijuana smoke from water pipes or bongs may contain more cancer-causing chemicals than smoke from a joint.
- Daily or near-daily marijuana smoking is strongly associated with pre-malignant lesions that may lead to cancer in the airways of your lungs.
- Acute marijuana use may be associated with increased risk of heart attack among adults.
- Marijuana use may be associated with increased risk of stroke in individuals younger than 55 years of age.
- Long-time, daily or near-daily marijuana use is associated with cyclic vomiting, which some medical experts have called cannabinoid hyperemesis syndrome.
- Marijuana users who experience cyclic vomiting may find relief by stopping marijuana use.

- Daily or near-daily use of marijuana is strongly associated with development of psychotic disorders such as schizophrenia.
- THC, a component of marijuana, can cause acute psychotic symptoms such as hallucinations, paranoia, delusional beliefs, and feeling emotionally unresponsive during intoxication. These symptoms are worse with higher doses.
- Maternal use of marijuana during pregnancy is associated with negative effects on exposed offspring, including decreased cognitive function and attention. These effects may not appear until adolescence.
- THC can be passed from the mother's breast milk, potentially affecting the baby.
- There are negative effects of marijuana use during pregnancy regardless of when it is used during pregnancy.
- There is no known safe amount of marijuana use during pregnancy.
- Marijuana smoke may deposit more particulate matter in the lungs per puff compared to tobacco smoke.
- Legal marijuana access is strongly associated with increased numbers of unintentional exposures in children which can lead to hospitalizations.

SOURCE: Colorado Department of Public Health and Environment. (2019). *Public health statements* (summarized). Retrieved from https://www.colorado.gov/pacific/marijuanahealthinfo/public-health-statements

Should Physicians Recommend Replacing Opioids with Cannabis?

An opinion piece published online by *JAMA* (February 1st, 2019), briefly explores the efficacy of marijuana use in the treatment of chronic pain and opioid use disorder:

"Cannabis and cannabis-derived medications merit further research, and such scientific work will likely yield useful results. This does not mean that medical cannabis recommendations should be made without the evidence base demanded for other treatments. Evidence-based therapies are available. For chronic pain, there are numerous alternatives to opioids aside from cannabis. Non-opioid medications appear to have similar efficacy, and behavioral, voluntary, slow-tapering interventions can improve function and well-being while reducing pain.

For the opioid addiction crisis, clearly efficacious medications such as methadone and buprenorphine are under-prescribed. Without convincing evidence of efficacy of cannabis for this indication, it would be irresponsible for medicine to exacerbate the problem by encouraging patients with opioid addiction to stop taking these medications and to rely instead on unproven cannabis treatment.

SOURCE: Humphreys, K., & Saitz, R. (2019). *Should physicians recommend replacing opioids with cannabis?* JAMA. doi:10.1001/jama.2019.0077

Marijuana Use and Acute Pain Management

Conflicting reports of marijuana effectiveness in the management of chronic pain have surfaced in recent years, alongside widespread efforts to legalize recreational marijuana. Until recently, the effects of marijuana use on pain tolerance and analgesic pain management in the acute care setting have not been reported. Researchers recently found that "marijuana use, especially chronic use, may affect pain response to injury by requiring greater frequency and dosing of opioid analgesia." This may indicate that rather than being a potential solution to acute pain management and/or the opioid use disorder epidemic, marijuana use might complicate both situations.

SOURCE: **Salottolo, K., Peck, L., Tanner, A.,II, Carrick, M. M., Madayag, R., McGuire, E., & Bar-Or, D. (2018).** ***The grass is not always greener: A multi-institutional pilot study of marijuana use and acute pain management following traumatic injury.*** **Patient Safety in Surgery, 12(16). doi:10.1186/s13037-018-0163-3**

Association between Medical Marijuana Laws and Opioid Overdose Deaths

Proponents of marijuana legalization have claimed that medical marijuana may help reduce opioid overdose deaths. This idea was based off a 2014 study examining this association using data from 1999 to 2010 which showed a 21% reduction in deaths per 100,000 when medical marijuana laws were introduced. A new study published in 2019 extending the data set through 2017, indicates that given the extended time frame the association between medical marijuana laws and opioid overdose deaths shows a 23% increase in overdose deaths from 1999 to 2017.

SOURCE: **Shover, Chelsea; Davis, Corey; Gordon, Sanford; Humphreys, Keith. (2019).** ***Association between medical cannabis laws and opioid overdose mortality has reversed over time.*** **Proceedings of the National Academy of Sciences of the United States of America, 116(26).**

Medical Marijuana Users More Likely to Use Prescription Drugs Medically and Non-Medically

A study reported in the Journal of Addiction Medicine found that medical marijuana users were "significantly more likely to report medical use of prescription drugs in the past 12 months." In addition to medical use, medical marijuana users were "also significantly more likely to report nonmedical use in the past 12 months of any prescription drug…, with elevated risks for pain relievers…, stimulants…, and tranquilizers."

SOURCE: **Caputi, Theodore L.; Humphreys, Keith. (2018).** ***Medical marijuana users are more likely to use prescription drugs medically and nonmedically.*** **Journal of Addiction Medicine, 12(4).**

Know the Risks of Marijuana

The following excerpts were obtained from the SAMHSA website which was last updated 5/17/2019:

- "Approximately 1 in 10 people who use marijuana will become addicted. When they start before age 18, the rate of addiction rises to 1 in 6."
- "Marijuana can cause permanent IQ loss of as much as 8 points when people start using it at a young age. These IQ points do not come back, even after quitting marijuana."
- "Studies link marijuana use to depression, anxiety, suicide planning, and psychotic episodes. It is not known, however, if marijuana use is the cause of these conditions."
- "People who drive under the influence of marijuana can experience dangerous effects: slower reactions, lane weaving, decreased coordination, and difficulty reacting to signals and sounds on the road."
- "Marijuana use during pregnancy may cause fetal growth restriction, premature birth, stillbirth, and problems with brain development, resulting in hyperactivity and poor cognitive function."
- "Research shows that people who use marijuana are more likely to have relationship problems, worse educational outcomes, lower career achievement, and reduced life satisfaction."

SOURCE: **Substance Abuse and Mental Health Services Administration. (2019).** ***Know the risks of marijuana.*** **Retrieved from https://www.samhsa.gov/marijuana**

Emergency Visits and Marijuana Use

According to recent research supported by Colorado Department of Public Health and Environment grant funds and published in the Annals of Internal Medicine, emergency room visits are more common for instances of inhaled marijuana use as opposed to edible marijuana ingestion. However, there are more severe psychiatric symptoms along with more emergency room visits than expected when emergency department patients self-report recent ingestion of edible marijuana products.

SOURCE: **Monte AA, Shelton SK, Mills E, Saben J, Hopkinson A, Sonn B, et al. (2019).** ***Acute illness associated with cannabis use, by route of exposure: an observational study.*** **Ann Intern Med. doi: 10.7326/M18-2809**

Children Ingesting Marijuana Increase after Legalization of Marijuana

From January 2000 through June 2017 there were nearly 3,000 ingestions of marijuana by children younger than six. Over 70% of those ingestions were by children under the age of 3 and more than half received some form of hospital-based care. Symptoms in the children ranged from drowsiness and confusion to seizures and coma. Before 2009 there was no significant change in either the number or rate of marijuana ingestions, however from 2009 to 2017 the mean annual increase was 27% per year rising to 742 ingestions per year. Over 70% of those ingestions occurred in states with legalized marijuana.

SOURCE: Wang, Sam. (2019). *Study shows increase in ingestions of marijuana by children in U.S.* Nationwide Children's Hospital.

U.S. Surgeon General's Advisory: Marijuana and the Developing Brain

On August 29th, 2019 the United States Surgeon General Jerome M. Adams issued an advisory on marijuana:

"I, Surgeon General VADM Jerome Adams, am emphasizing the importance of protecting our Nation from the health risks of marijuana use in adolescence and during pregnancy. Recent increases in access to marijuana and in its potency, along with misperceptions of safety of marijuana endanger our most precious resource, our nation's youth."

The advisory, which is available on the United States Department of Health & Human Services website, provides background information on marijuana, marijuana use during pregnancy, and marijuana use during adolescence.

"No amount of marijuana use during pregnancy or adolescence is known to be safe. Until and unless more is known about the long-term impact, the safest choice for pregnant women and adolescents is not to use marijuana."

SOURCE: Office of the Surgeon General. (2019). *U.S. General's advisory: marijuana use and the developing brain.* Retrieved from https://www.hhs.gov/surgeongeneral/reports-and-publications/addiction-and-substance-misuse/advisory-on-marijuana-use-and-developing-brain/index.html

Colorado Doctor Sounds Alarm on Marijuana Legalization

Dr. Karen Randall, an emergency room physician who specializes in cannabis science and medicine, recently said that "the legalization of marijuana has damaged, rather than helped, her home state." She goes on to say that "I think the public needs to know that we are not okay… The grand experiment is not going so well. I don't think the public is hearing about this as they should be."

"State government has not only ignored scientific findings about marijuana's effects to push sales, but failed in the regulatory responsibility it promised would accompany legalization," said Randall. In support of her statements, the Pueblo based emergency room physician discussed high potency marijuana products, a marked increase in medical problems, misguided impressions of marijuana benefits, increasing numbers of homelessness, and a growing population of chronic, marijuana dependent users.

SOURCE: Lehman, Charles. (2019). ***Colorado Doctor Sounds Alarm on Marijuana Legalization*****. The Washington Free Beacon.**

Section IV: Black Market

Some Findings

- RMHIDTA Colorado Drug Task Forces (10) conducted **257 investigations** of black market marijuana in Colorado resulting in:
    - **192** felony arrests
    - **6.08 tons** of marijuana seized
    - **60,091** marijuana plants seized
    - **25** different states the marijuana was destined
- Seizures of Colorado marijuana in the U.S. mail system has **increased 1,042 percent** from an average of 52 parcels (2009-2012) to an average of 594 parcels (2013-2017) during the time recreational marijuana has been legal.

Definitions by Rocky Mountain HIDTA

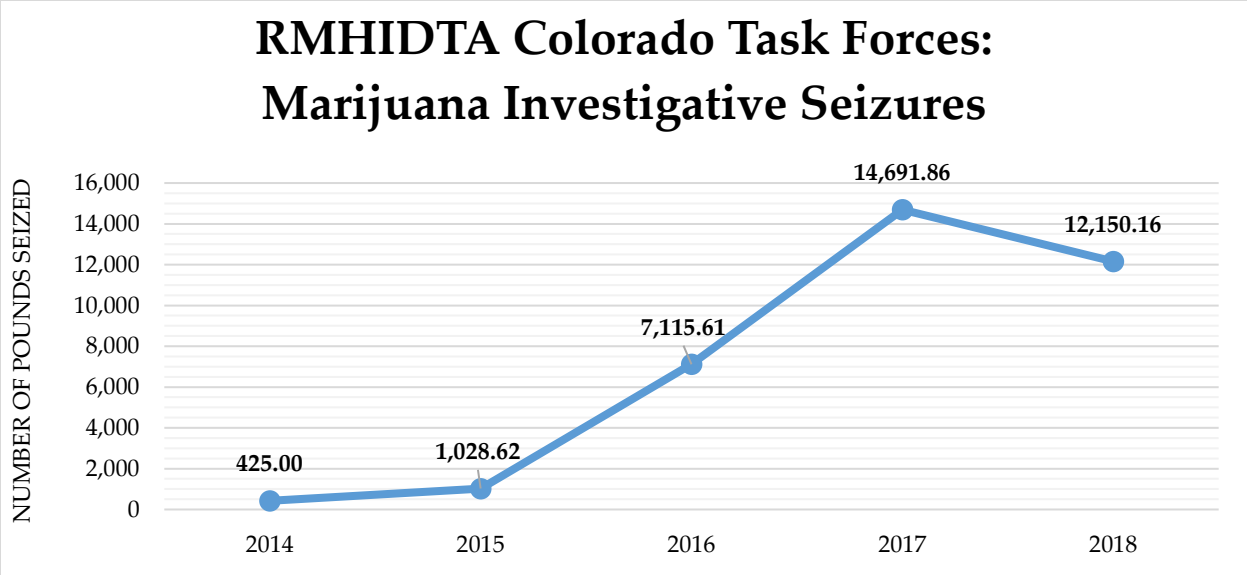
Colorado Marijuana Investigations: RMHIDTA Colorado drug task forces investigating individuals or organizations involved in illegally selling Colorado marijuana, both within and outside of the state. These investigations only include those reported by the ten RMHIDTA drug task forces.

Colorado Marijuana Interdictions: Interdictions include incidents where drugs are being transported, generally by vehicle or parcel, and the shipment is randomly seized by law enforcement.

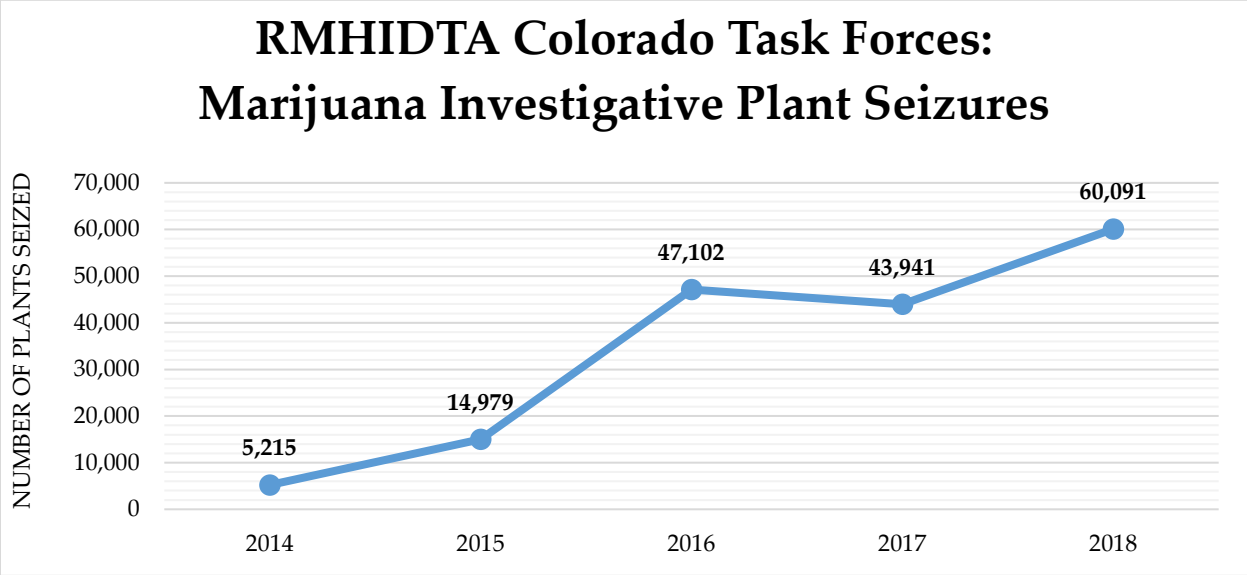
Task Force Investigations

Rocky Mountain HIDTA Colorado Task Forces			
	2016	**2017**	**2018**
Number of Completed Investigations	163	144	257
Number of Felony Arrests	241	239	192
Pounds of Bulk Marijuana Seized	7,116 (3.5 tons)	14,692 (7.3 tons)	12,150 (6.1 tons)
Number of Plants Seized	43,786	43,949	60,091
Number of Edibles Seized	2,111	6,462	2,894
Pounds of Concentrate Seized	232	102	319
Different States to Which Marijuana was Destined	29	24	25

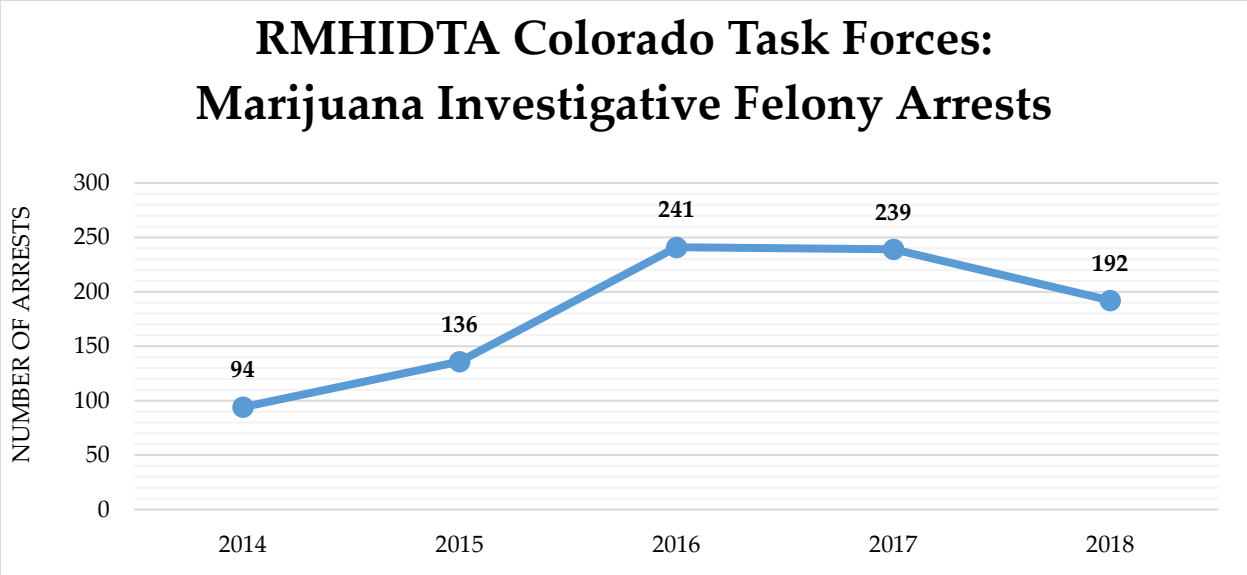
NOTE: Task force data only includes completed investigations reported by the RMHIDTA drug task forces (10). It is unknown how many of these types of investigations were completed by non-RMHIDTA drug units or task forces.



SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data

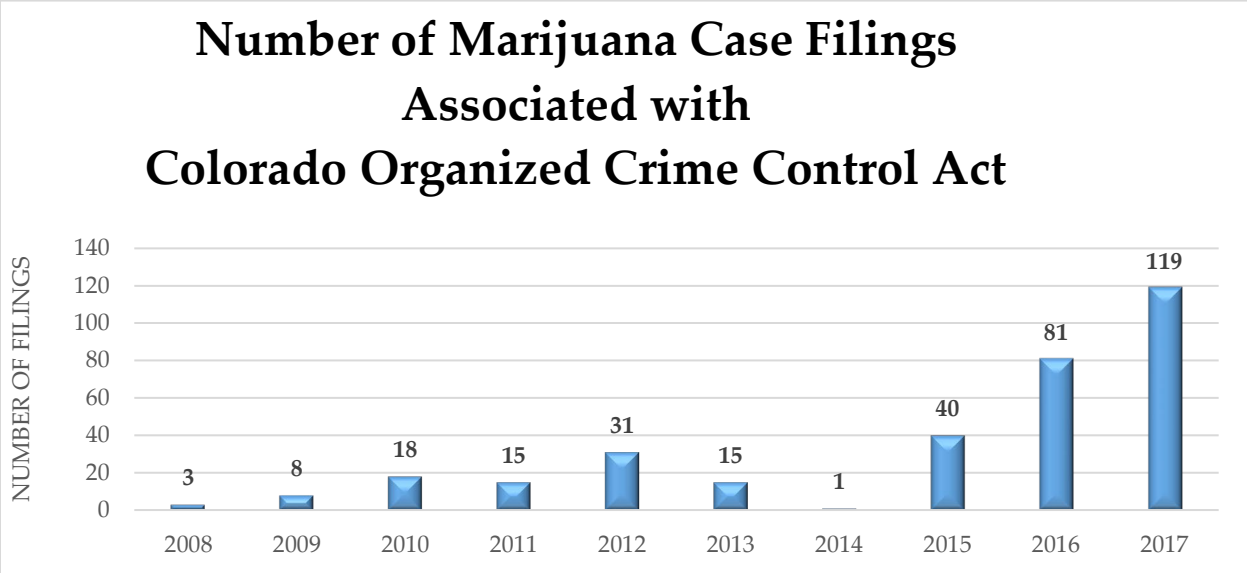


SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data



SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data

Colorado Organized Crime Control Act Filings

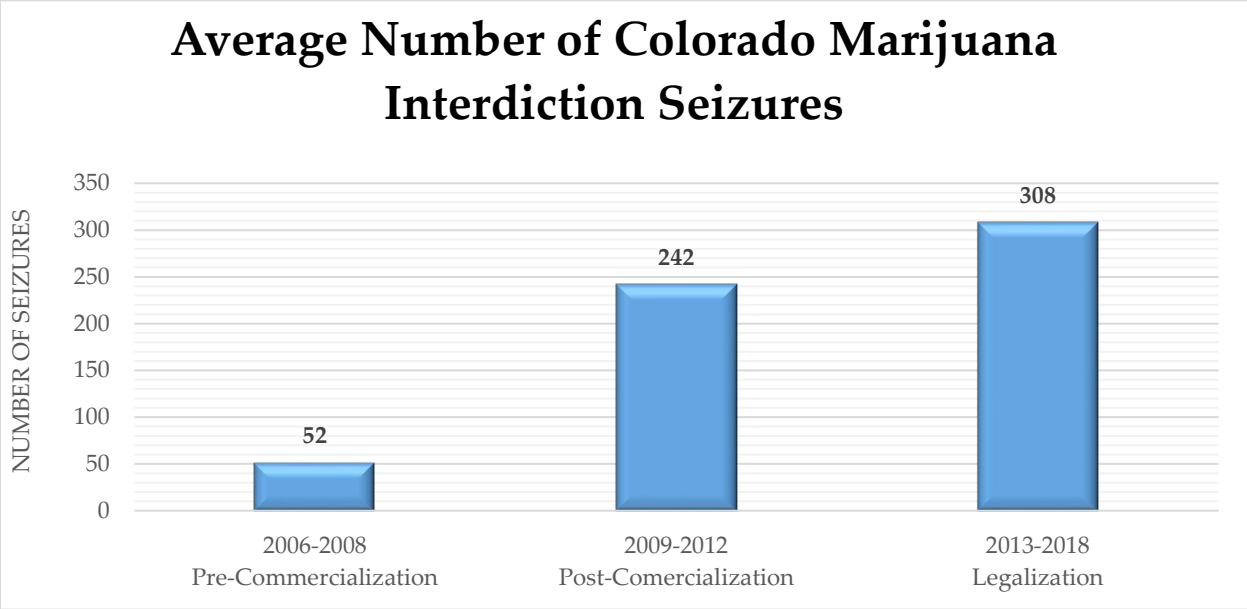


SOURCE: Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics

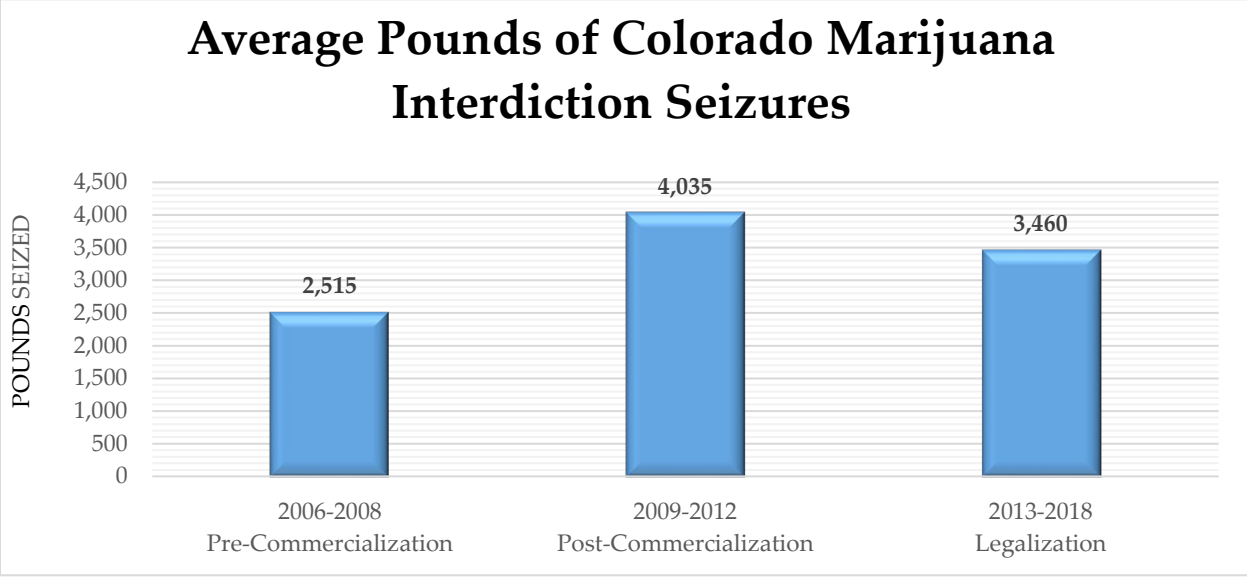
- Colorado Organized Crime Control Act (COCCA) filings are conspiracy cases in which there is potential for a larger sentence than other types of drug filings.

Highway Interdiction Data

NOTE: The charts below only include cases where Colorado marijuana was actually seized and reported. It is unknown how many Colorado marijuana loads were not detected or, if seized, were not reported. These are roadside interdictions voluntarily reported by state highway patrol.



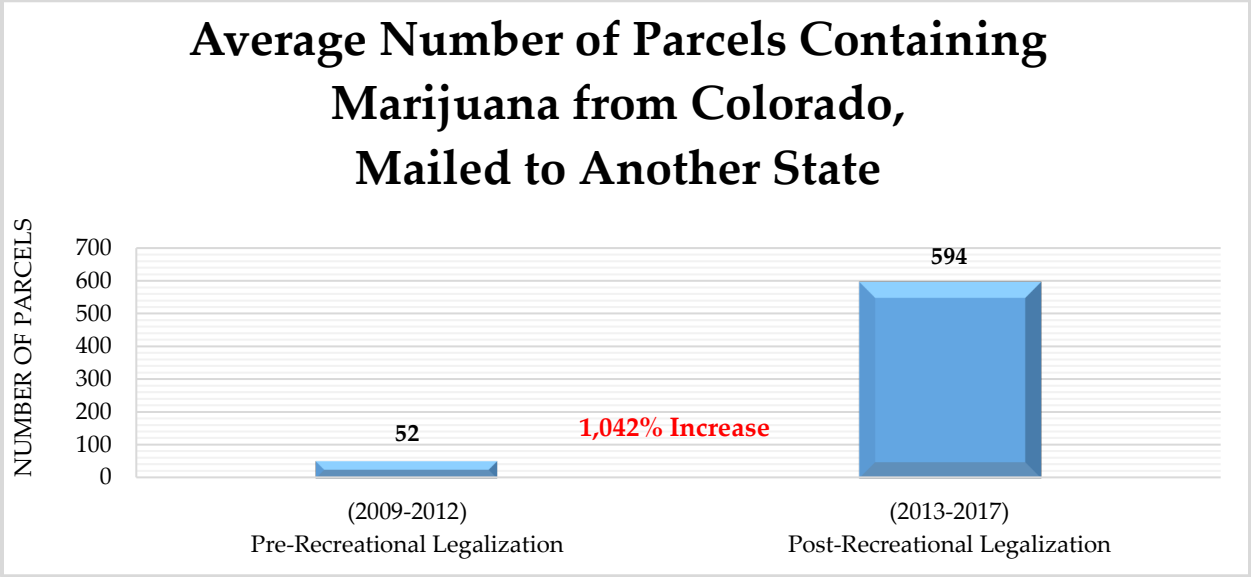
SOURCE: El Paso Intelligence Center, National Seizure System, as of July 2019



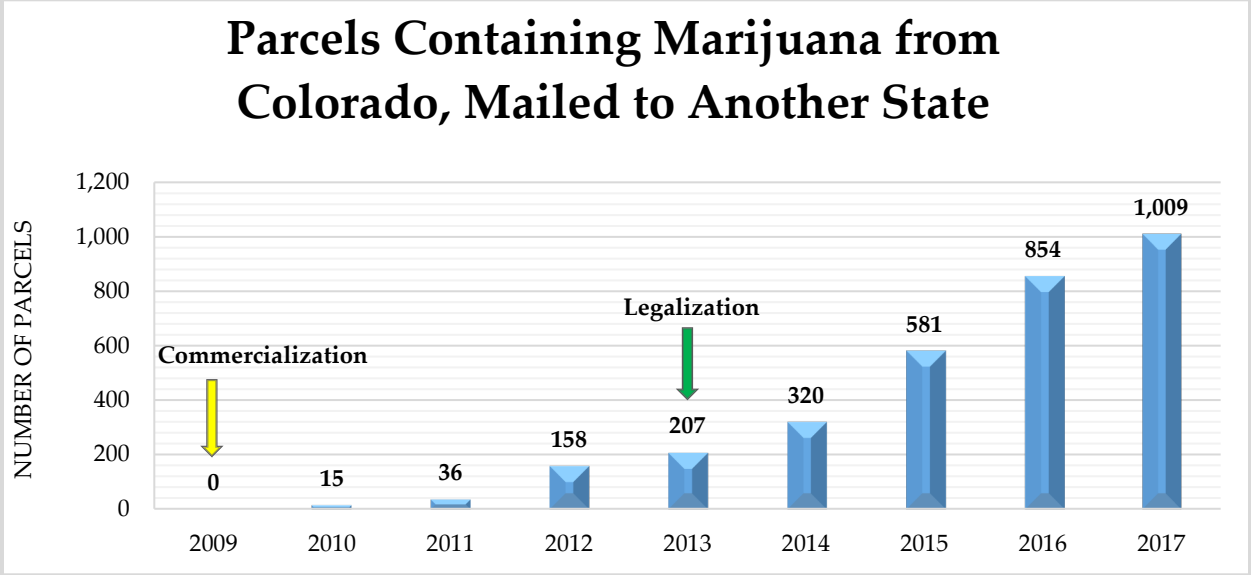
SOURCE: El Paso Intelligence Center, National Seizure System, as of July 2019

Parcel Interdiction Data

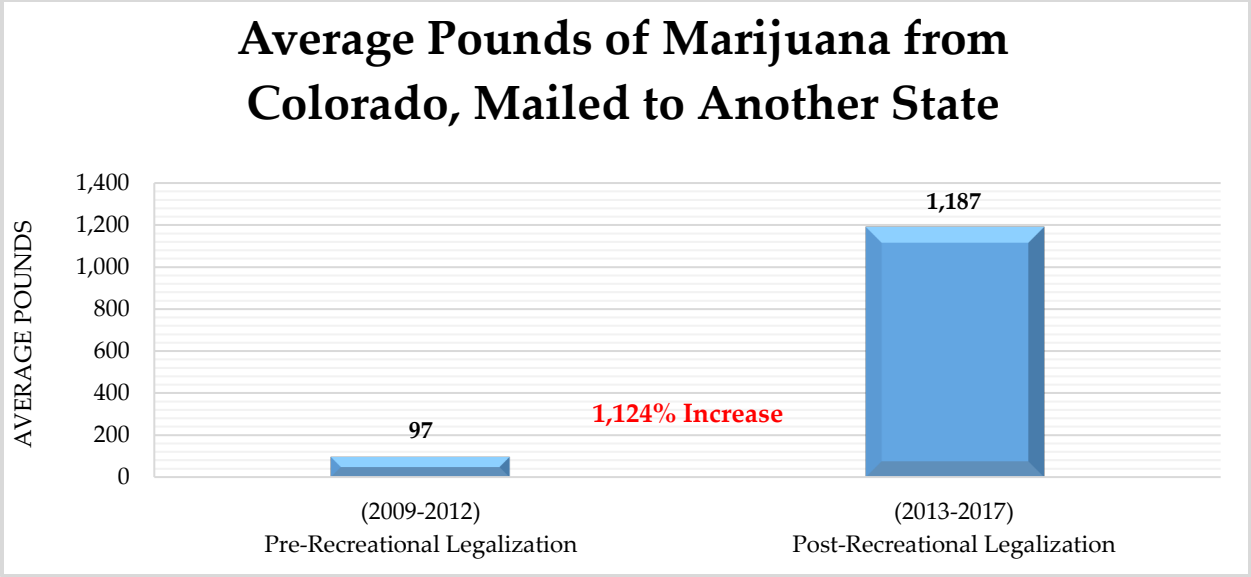
NOTE: These figures only reflect packages seized; they do not include packages of Colorado marijuana that were mailed and reached the intended destination. Interdiction experts believe the packages seized were just the "tip of the iceberg."



Source: **United States Postal Inspection Service, Prohibited Mailing of Narcotics**



Source: **United States Postal Inspection Service, Prohibited Mailing of Narcotics**



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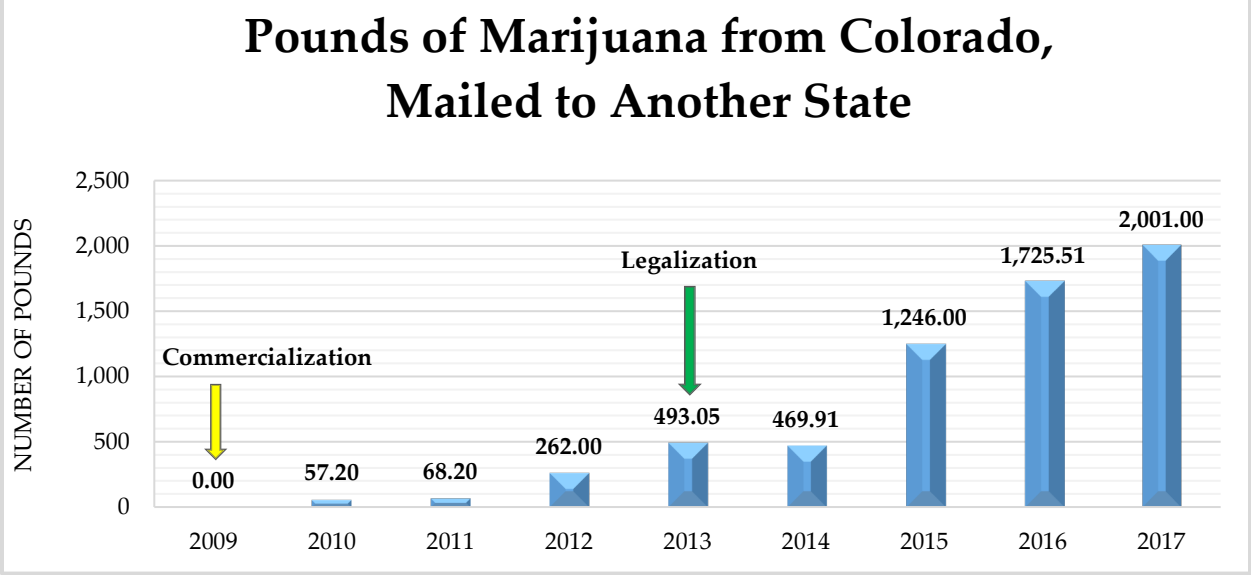

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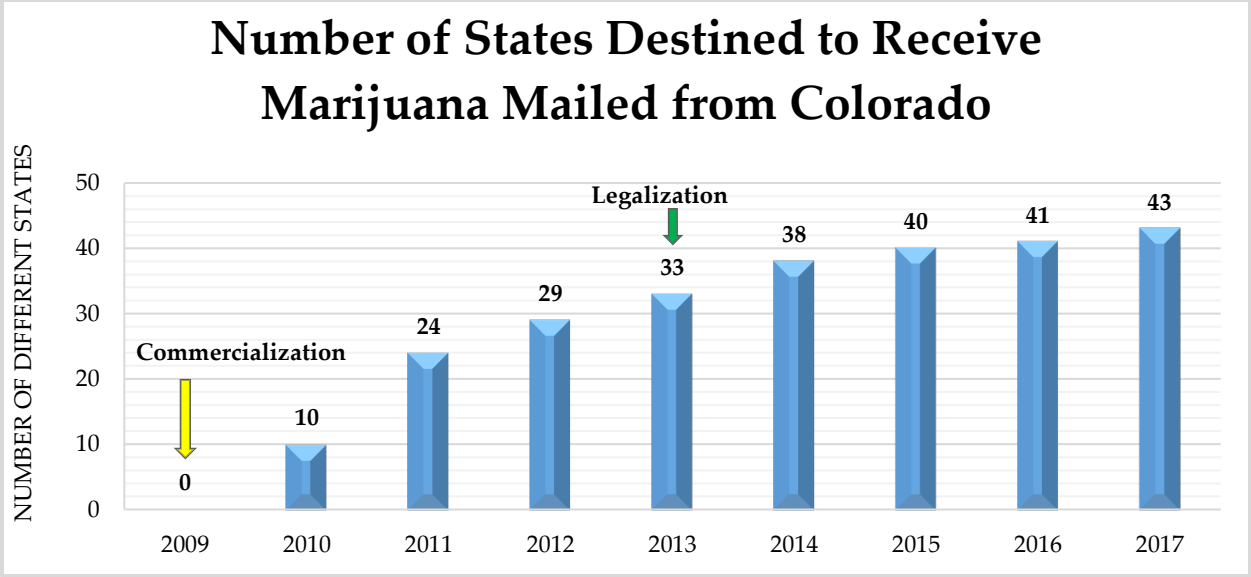

SOURCE: **United States Postal Inspection Service, Prohibited Mailing of Narcotics**

Black Market Information

Sweet Leaf Marijuana Dispensary Chain Illegally Distributing Marijuana

Owners of a Colorado licensed marijuana retailer dispensary chain, Sweet Leaf, were sentenced to a year in prison for selling large quantities of pot to customers on the same day. Sweet Leaf was reported to have sold the maximum amount allowed to a customer 30 to 40 times a day which led to nearly 2.5 tons of marijuana from a licensed retailer going into the black market.

SOURCE: **Tabachnik, Sam. (2019)** ***Owners of Sweet Leaf dispensary chain sentenced to a year in prison for illegal marijuana distribution.*** **The Denver Post.**

Two Year Investigation Results in Largest Post Bust in Colorado History

In May 2019, local, state, and federal law enforcement partners served search warrants on 247 homes and eight restaurants in the Denver metro area. This was the result of a two-year investigation of a single black market marijuana ring. The operation resulted in 42 arrests, and the seizure of 80,000 marijuana plants, 4,500 lbs. of finished product (estimated value of $13.5 million), $2.2 million, and 25 vehicles.

SOURCE: **Mitchell, Kirk. (2019).** ***Feds arrest dozens of people, seize millions in property and cash as part of black market marijuana investigation.*** **Denver Post. https://www.denverpost.com/2019/05/24/illegal-marijuana-operation-denver-colorado/**

Colorado's Green Rush Lures Polydrug, Polycriminal Groups from South Florida

In July 2014, a tractor trailer transporting a shipment containing 8.9 million dosage units of hydrocodone was stolen from a truck stop in Cartersville, Georgia. The tractor trailer and its shipment were ultimately recovered by law enforcement officers in Georgia; however, the three individuals involved in the heist escaped. By late 2014, at least one of the three, Felipe Hurtado, had relocated to El Paso County, Colorado, and became involved in a largescale marijuana production network operated by a Florida-based Cuban drug trafficking organization (DTO).

During its investigation of this DTO, investigators identified dozens of residential marijuana grows operated by Cuban nationals who had relocated from Florida to Colorado for the purpose of producing large quantities of marijuana to sell in out-of-state markets throughout the Midwest and East Coast. The investigation revealed a widespread and sophisticated marijuana production and trafficking network orchestrated by DTO leadership in south Florida. Marijuana shipments from the DTO's indoor grow operations in Colorado were interdicted in various other states. Drug proceeds were laundered through front businesses operated by DTO leaders.

In August 2016, agents and officers of the DEA, the El Paso County Sheriff's Office, the Colorado Springs Police Department, and the Georgia Bureau of Investigations executed multiple search warrants on indoor grow operations associated with the DTO. Over 500 plants, five pounds of processed marijuana, and multiple firearms were seized from three different locations. Felipe Hurtado was arrested at one of the sites on six outstanding felony arrest warrants in Georgia in connection to the cargo theft.

In total throughout the multi-year investigation, eleven individuals were arrested and over 3,200 plants and 230 pounds of processed marijuana were seized, along with almost $4 million in cash and assets.

SOURCE: Drug Enforcement Administration, Denver Field Office.

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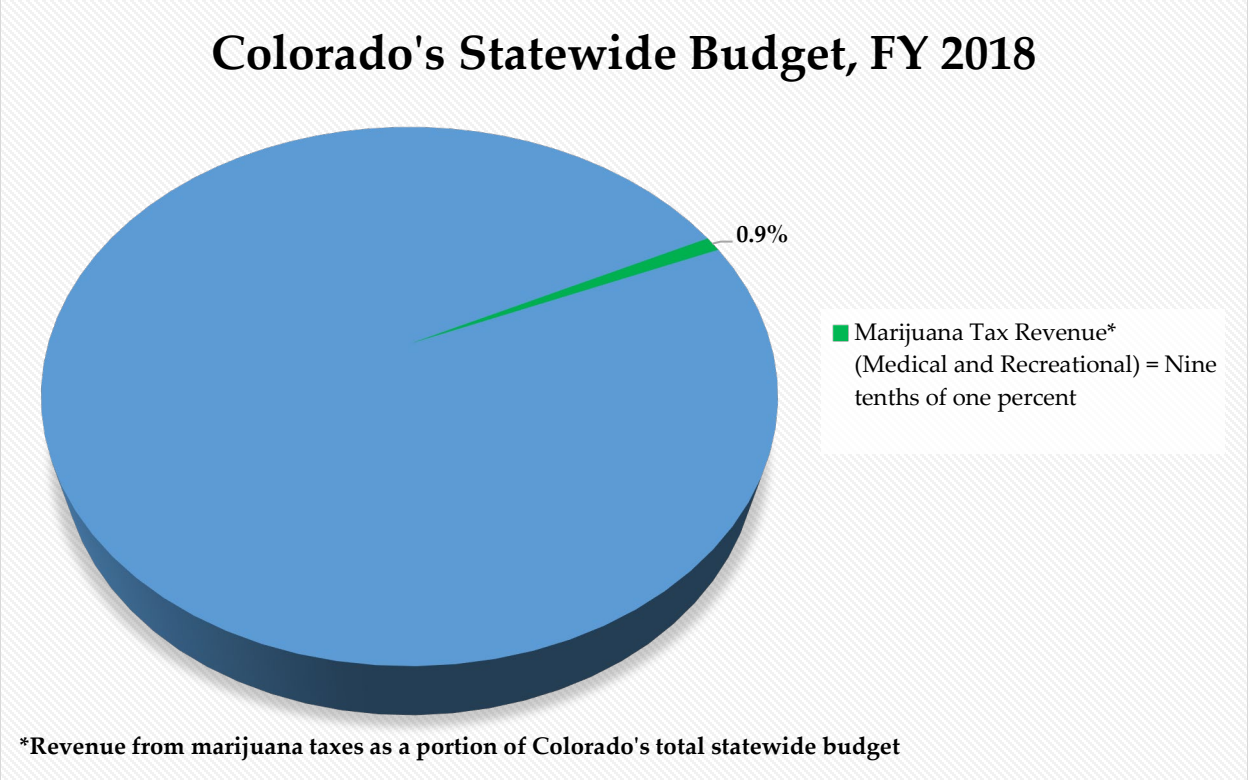
Section V: Societal Impact

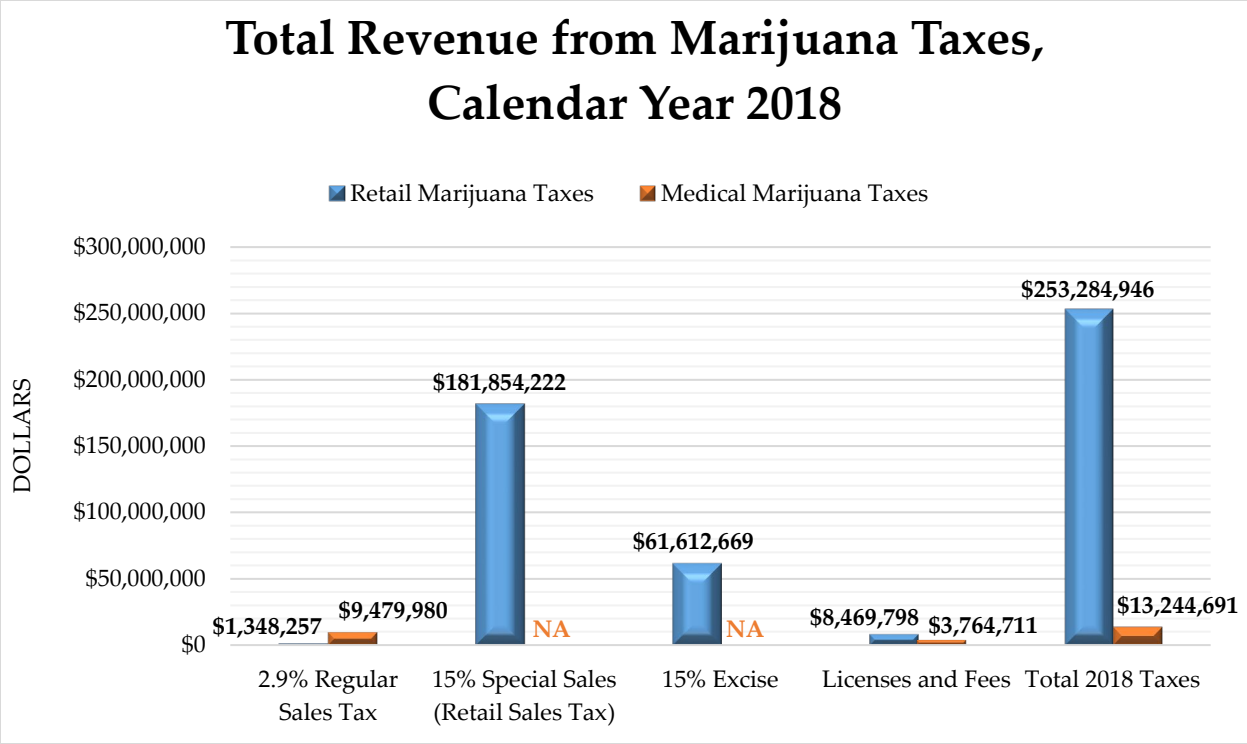
Some Findings

- Marijuana tax revenue represent approximately **nine tenths of one percent** of Colorado's FY 2018 budget.
- 64 percent of local jurisdictions in Colorado have banned medical and recreational marijuana businesses.

Tax Revenue



SOURCE: Governor's Office of State Planning and Budgeting



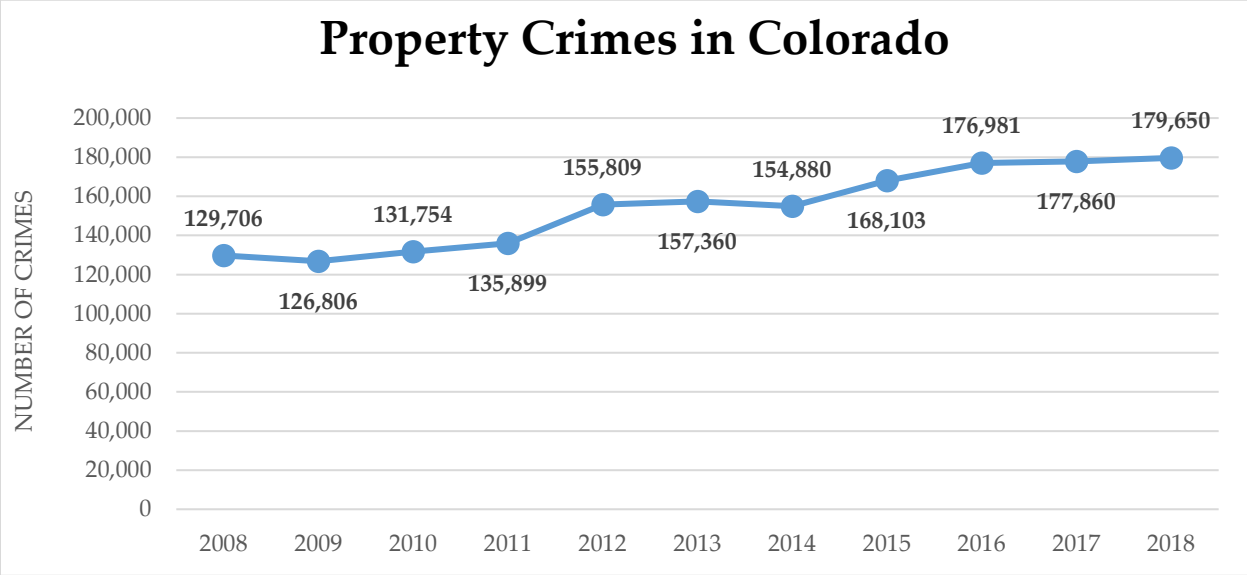
SOURCE: Colorado Department of Revenue

NOTE: Figures do not include any city taxes; the state does not assess or collect those taxes.

Per §39-26-729, C.R.S., retail marijuana, retail marijuana products, and retail marijuana concentrates are exempt from the 2.9% regular sales tax; however, products that do not contain marijuana (i.e., accessories) are still subject to the 2.9% regular sales tax.

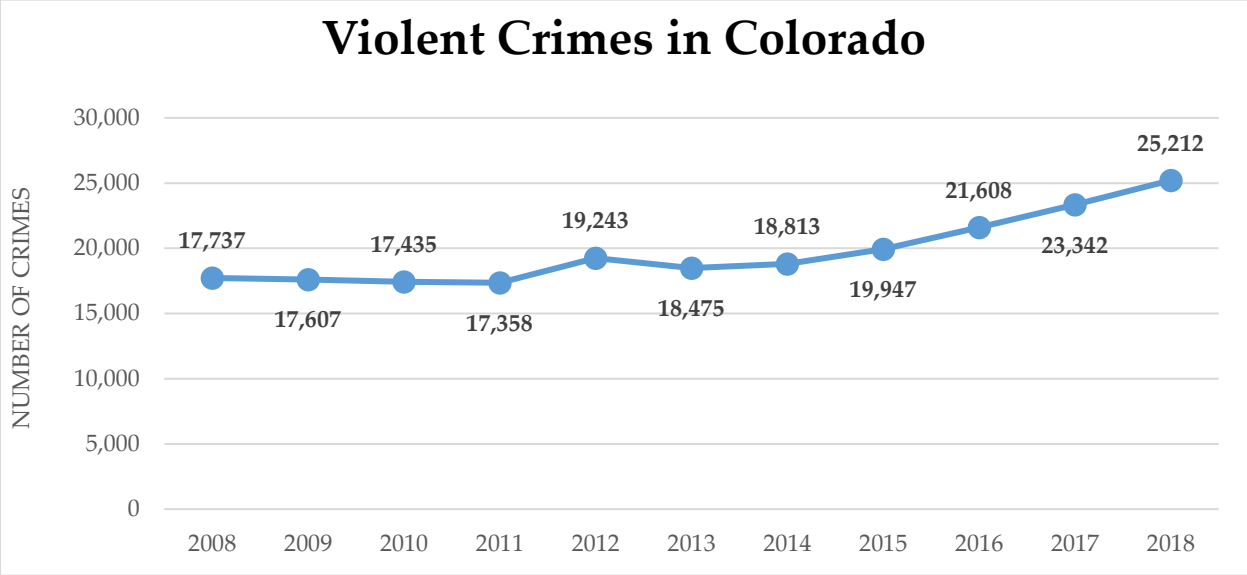
Licenses and fees includes the following categories: retail marijuana, individual, others, and collections not yet allocated.

Crime



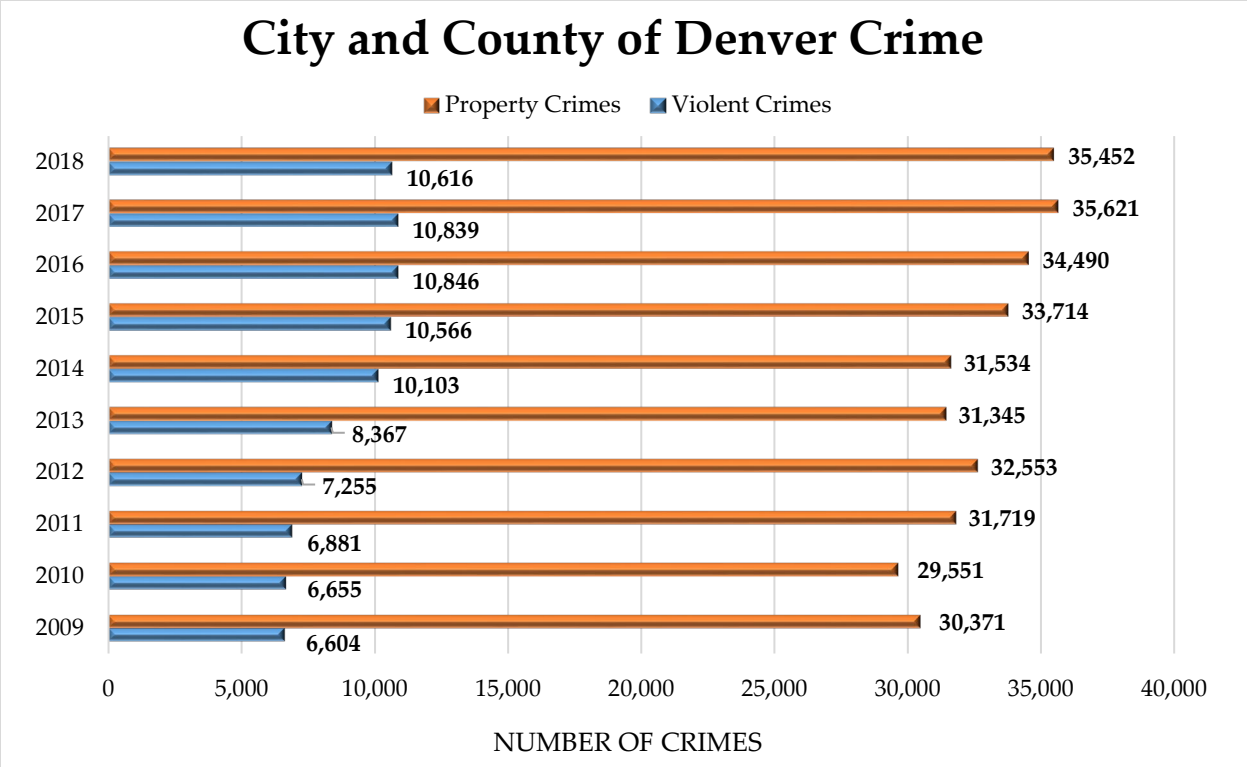
SOURCE: Colorado Bureau of Investigation

NOTE: Data collection methods for reporting crimes changed in 2018 and therefore numbers reported in this volume may vary from those reported in previous volumes.



SOURCE: Colorado Bureau of Investigation

NOTE: Data collection methods for reporting crimes changed in 2018 and therefore numbers reported in this volume may vary from those reported in previous volumes.



SOURCE: City and County of Denver, Denver Police Department

NOTE: In May 2013 the Denver Police Department implemented the Unified Summons and Complaint (US&C) process. This process unifies multiple types of paper citations, excluding traffic tickets, into an electronic process. That information is transmitted to the Denver Sheriff, County Court, City Attorney and District Attorney through a data exchange platform as needed. As a result of this process a reported offense is generated which was previously not captured in National Incident Based Reporting System (NIBRS).

Crime in Denver (City and County)					
	2014	2015	2016	2017	2018
All Reported Crimes (To include all categories listed below)	61,276	64,317	65,368	66,354	66,023

Denver Crime	From 2014 to 2018
Crimes Against Persons	5% Increase
Crimes Against Property	12% Increase
Crimes Against Society	44% Increase
All Other Offenses	12% Decrease
All Denver Crimes	8% Increase

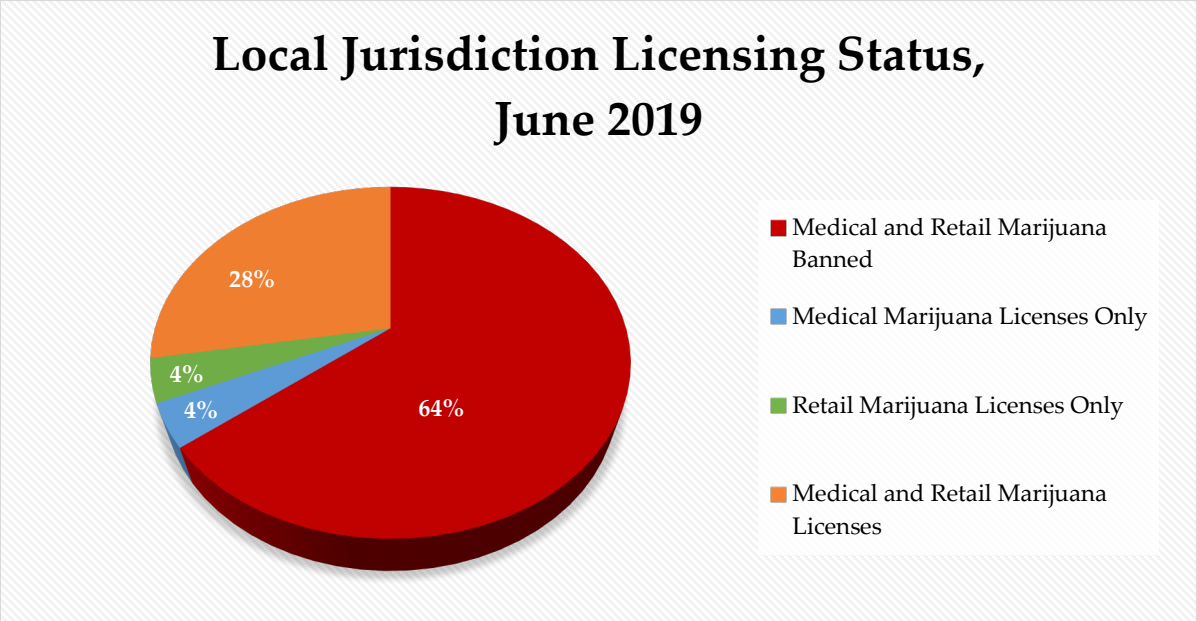
SOURCE: City and County of Denver, Denver Police Department

NOTE: New process began May 2013, therefore data prior to 2014 is not comparable and was not included here.

Local Response

Status of Local Jurisdictions Reporting Marijuana Licensing as of June 30, 2019	
	Number of Jurisdictions
Medical and Retail Marijuana Banned	209
Medical Marijuana Licenses Only	12
Retail Marijuana Licenses Only	12
Medical and Retail Marijuana Licenses	89
Total	322

SOURCE: Colorado Marijuana Enforcement Division



SOURCE: Colorado Marijuana Enforcement Division

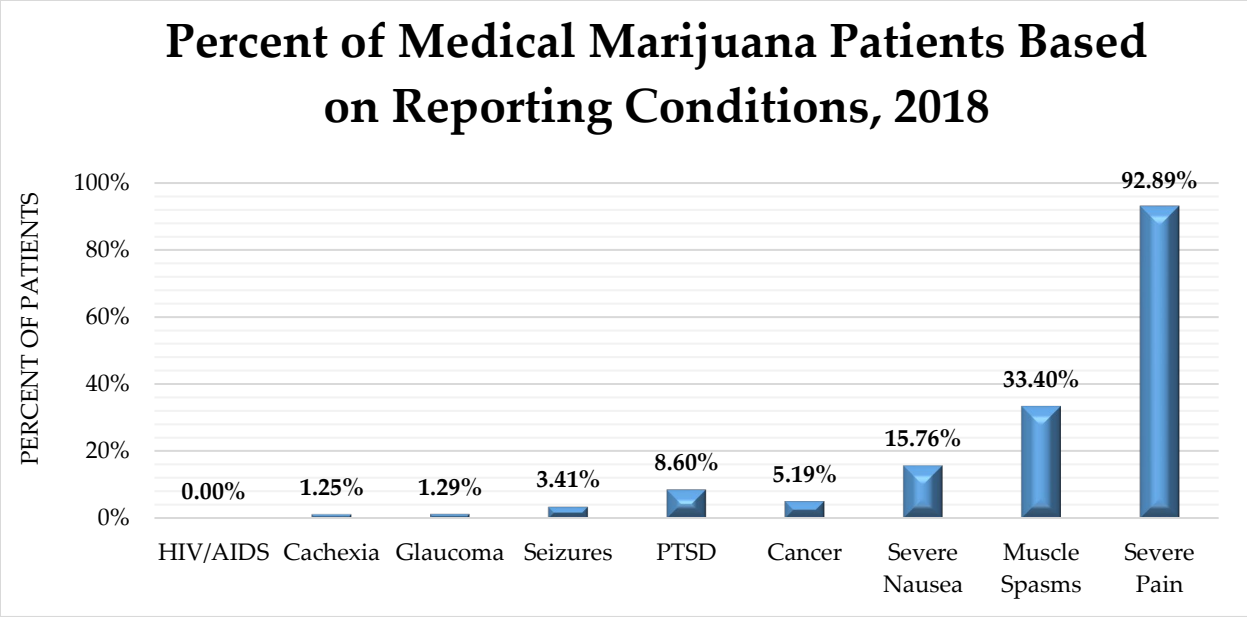
Medical Marijuana Statistics

Medical Marijuana Registry Identification Cards

- December 31, 2009 – 41,039
- December 31, 2010 – 116,198
- December 31, 2011 – 82,089
- December 31, 2012 – 108,526
- December 31, 2013 – 110,979
- December 31, 2014 – 115,467
- December 31, 2015 – 107,534
- December 31, 2016 – 94,577
- December 31, 2017 – 93,372
- December 31, 2018 – 86,641

Profile of Colorado Medical Marijuana Cardholders:

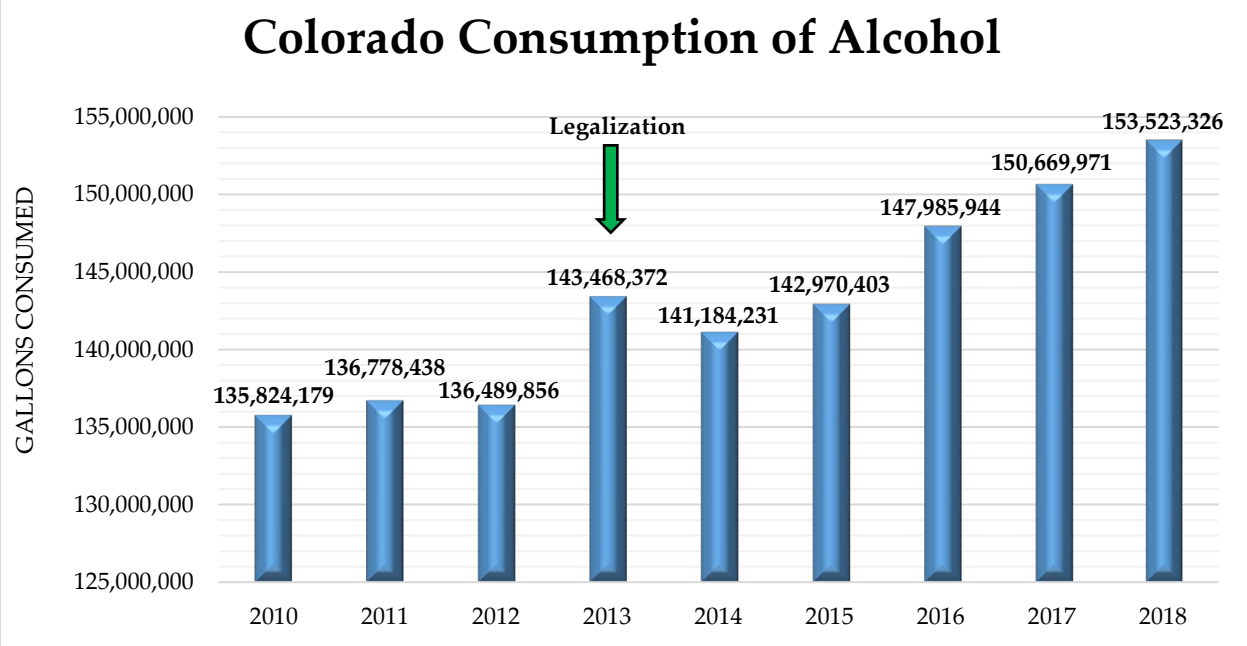
- Age of cardholder
  - 62 percent male, with an average age of 43 years
  - 0.4 percent between the ages of 0 and 17
  - 47 percent between the ages of 18 and 40
    - 21 percent between the ages of 21 and 30 (1 out of 5 patients)
- Reporting medical condition of cardholder
  - 93 percent report severe pain as the medical condition
  - 6 percent collectively report cancer, glaucoma and HIV/AIDS
  - 3 percent report seizures



SOURCE: Colorado Department of Public Health and Environment (CDPHE)

Alcohol Consumption

- **It has been suggested that legalizing marijuana would reduce alcohol consumption. Thus far that theory is not supported by the data.**



SOURCE: Colorado Department of Revenue, Colorado Liquor Excise Tax

Societal Impact Information

Colorado Violent Crime Increased 8% in Past Year

In 2018, violent crime in Colorado rose by 7.95% compared with 2017. Over half of the violent crime reported in 2018 was categorized as aggravated assault. In total, there were 211 murders (218 in 2017), 14,403 aggravated assaults (up 12.66% from 2017), and 6,834 sexual offenses (up 5.01% from 2017).

SOURCE: Hindi, Saja. (2019). ***Violent crime rose 8% in state last year.*** **The Denver Post.**

Compared to Other Large Cities, Denver Saw Largest Rise in Violent Crime

"The per-capita violent crime rate in Denver grew 9 percent between 2017 and 2018, while the bulk of large cities in the U.S. saw a decline… On average, violent crime rates in 25 of the nation's most populous cities dropped 4 percent in that time period. According to researchers with the Brennan Center for Justice, "Denver's rise in violent crime rate shows a true trend and not just a one-year blip on a chart..."

According to one researcher, "tracing the causes of changes in crime rates locally and nationally is difficult because data is often lacking or takes years to develop." Based on the first five months of 2019 data it appears the upward trend in violent crime may be shifting, but it's difficult to project what the violent crime statistics will look like in the future.

SOURCE: Schmelzer, Elise. (2019). ***Denver saw largest rise in violent crime rate last year of the nation's most compared to other large citeis; early 2019 data show improvement.*** **The Denver Post.**

Legalized Marijuana Does Not Impact Alcohol Sales

With the widespread recreational legalization of marijuana, there is a lot of misinformation being spread regarding the impact of recreational marijuana legalization on the alcohol market. More specifically, some proponents of recreational marijuana legalization have stated that legalized marijuana will lead to a decrease in the purchasing and consumption of alcohol. In January of 2019, the Distilled Spirits Council released new research that shows the sale of legalized marijuana does not impact alcohol sales in Colorado, Washington and Oregon – the earliest adopting states of recreational marijuana. According to the January report, an in-depth analysis of state-level alcohol tax receipt and actual alcohol shipment data shows that "…there has been no impact on spirits sales from recreational marijuana legalization."

SOURCE: Distilled Spirits Council of the United States. (2019). ***New Distilled Spirits Council study shows no impact on spirits sales from legalized recreational marijuana.*** **Retrieved from https://www.distilledspirits.org**

Economic and Social Costs of Legalized Marijuana

In November of 2018, the Centennial Institute at the Colorado Christian University commissioned a study to understand the impacts of marijuana legalization in Colorado. More specifically, the study aimed to understand the price that is being paid by Coloradans in order to mitigate the consequences of commercial marijuana. Some of the researcher's findings include:

- "For every dollar gained in tax revenue, Coloradans spent approximately $4.50 to mitigate the effects of legalization."
- "Costs related to the healthcare system and from high school drop-outs are the largest cost contributors."
- "Yearly cost-estimates for marijuana users: $2,200 for heavy users, $1,250 for moderate users, $650 for light users."
- "The estimated costs of DUIs for people who tested positive for marijuana only in 2016 approaches $25 million."
- "In 2016, the marijuana industry was responsible for approximately 393,053 pounds of CO2 emissions."

SOURCE: **Centennial Institute, Colorado Christian University. (2018).** ***Economic and social costs of legalized marijuana*****. Retrieved from http://cdn-centennial.pressidium.com/centennial/wp-content/uploads/2019/03/Economic-and-Social-Costs-of-Legalized-Marijuana-v1.3.pdf**

Bismarck Police Department

#4869

February 2,2021

From: Dave Draovitch
Chief of Police

To: Representative Robin Weisz, Chair, and Members of the Human Services Committee

Subj: HB 1420

I come before you today to seek your opposition of HB 1420. I and many other ND Chiefs have discussed this bill at length. After the discussion, I cannot support the edible marijuana portion of the bill. I have learned from other states that have legalized marijuana edibles there have been serious consequences particularly with child ingestions.

Since Colorado has had medical marijuana and recreational marijuana for so long their statistics are looked to in an effort to determine what may happen to other states if marijuana is legalized. I have been studying the most current volume of "The Legalization of Marijuana in Colorado: The Impact" which is produced by the Rocky Mountain High Intensity Drug Trafficking Area (RM HIDTA) which was published September 2019. The report contains much information regarding the use of all marijuana by youth. Interestingly the report cites research published March 6,2019 in the Journal of Neuroscience which indicates structural brain and cognitive effects can be observed with just one or two instances of adolescent marijuana use.

Colorado reports more high schoolers are consuming edibles than before. In 2017 the number of students consuming edibles was 10% which was up from 2% in 2015.

According to the Rocky Mountain Poison and Drug Center the percent of marijuana exposures of children zero to eight years were exposed to edibles 18% in 2016, 66% in 2017 and 60% in 2018.

I realize there is language in HB 1420 which attempts to keep edibles from being ingested by children and I commend the efforts. The problem is adults need to keep the edibles secure. From January 2000 through June 2017 there were nearly 3,000 ingestions of marijuana by children under the age of six nationwide. This is all marijuana exposures not just edibles. "Over 70% of those ingestions were by children under the age of three and more than half received some form of hospitalization." This information comes from a study conducted by Sam Wang of Nationwide Children's Hospital. To me that is too much risk to our most important resource, our children.

Thank you for considering this information as this bill moves through the committee.

Dave Draovitch, Chief of Police
Phone: 701-223-1212 ★ FAX: 701-355-1861 ★ Tdd: 701-221-6820 ★ 700 S. Ninth Street ★ Bismarck, ND 58504-5899

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LAW ENFORCEMENT ACCREDITATION

If you have any questions feel free to contact me at your convenience. I may be reached at ddraovitch@bismarcknd.gov or 701-223-1212.

Respectfully,

DAVE DRAOVITCH
Chief of Police

I am writing today to show support for the legalization of marijuana in the State of North Dakota.

Marijuana, a drug with a vast amount of positive medicinal and psychological properties has, for far too long, been demonized by media, initially due to systemic racism throughout the country's history, and now a result of competition to big pharmaceutical corporations and Prison Industrial Complex. This demonization was, of course, also largely a result of law enforcement and media demagogues such as Harry Anslinger and William Randolph Hearst respectively.

This particular drug has virtually none of the harmful effects originally espoused against it. While it can be and is abused, the benefits far outweigh the costs for recreational users and even for abusers as well.

Scientific research regarding the drug has been historically stifled as a result, leading to further misconceptions and false beliefs.

The penalties for possession and use of the drug were originally abhorrent as many citizens were “made examples of,” during the beginnings of the War On Drugs; receiving long and unnecessary prison sentences. Although decriminalization has allowed for this trend to slow, the Prison Industrial Complex, as well as localized governments and law enforcement departments have enjoyed the revenue these petty arrests and convictions have supplied over subsequent generations.

There exists an economy on both sides of the marijuana issue. Black markets thrive (Drug Dealers) and legitimate markets thrive (Prisons, Government, and Law Enforcement). The only loser in this system is the citizen that chooses to use a nearly harmless drug for a multitude of reasons. It is to their detriment that marijuana remain illegal whereby they are continually persecuted by governments and law enforcement while continuing to fuel a black market.

By legalizing marijuana, law enforcement agencies would be able to allocate their time and resources to more pressing matters of crime prevention. Local businesses would blossom, creating jobs and market revenue. Private citizens would be more “free,” to use a virtually harmless substance at their behest which is far less harmful and addictive than the cigarettes and alcohol which are already legally allowed in our society.

It is then, in the best interest of the free market, law enforcement, and the marijuana using citizen, and would allow for a large percentage of the black market to dry up as well as decrease the burden of prison overpopulation.

Please legalize marijuana, for all of us.

Signed:

Publius,

Just Kidding,

Jeff Swenson, a North Dakota resident.

As a citizen of North Dakota, I am writing today in support of North Dakota HB 1420.

I am very much in favor of allowing North Dakota citizens to engage in a legal marketplace to purchase and consume marijuana products as they see fit.

Each individual citizen can make their own decisions about potential gain or harm of consuming marijuana based on their life experience and situation.

It is not government's role to limit its citizens' rights but to expand and protect them.

Today North Dakotans are using a black market to procure the marijuana products they want. This system empowers criminals and threatens consumers.

A legal marketplace offers many advantages including: secure money transactions, tax revenue for states and cities, freeing up scarce law enforcement resources, enhanced packaging requirements, reduced violence and crime, safety and efficacy regulations, and consumer protections.

Legalization in North Dakota would empower the legal marketplace, to the benefit of all North Dakotans.

#4971

February 2, 2021

From: Derek Jundt

3227 Sleepy Hollow Loop

Bismarck, ND 58501

701-250-1243

To: Representative Robin Weisz, Chair, and Members of the House Human Services Committee

I am in support of HB1420.

I would appreciate your consideration of the idea that it would be more effective to create legislation to classify potential offenses for possession of marijuana based on the quantity of THC, which is the actual active chemical found in marijuana, instead of the weight of what is mostly inert plant material or carrier ingredients (in the case of products designed to include THC like edibles, vape liquids and extracts).

For example, if someone is in possession of 1 oz. of marijuana with 20% THC content, (which is common in recreational marijuana), they would have about 5.6g of actual THC (28.3g x 20% = 5.6g). Per HB1420, as currently drafted, the individual would not be charged with a crime for this amount of marijuana.

If an individual is in possession of 1 lb of cannabis plant material with a THC content of 1%, (technically still marijuana under federal and state law), they could be charged with a class A misdemeanor for possessing only 4.5g of actual THC (452.8 g (1lb) x 1% = 4.53 g). This is significantly less THC than found in 1 oz. of typical recreational marijuana, and much less likely to be used for its intoxicating effects. This could easily happen if someone were to purchase or grow CBC hemp that ends up above the current legal THC limit for hemp.

There are strains of marijuana that many people find therapeutic which contain equal amounts of THC and CBD naturally in the plant material. Often these will be in the range of 5-8% of each substance. A person in possession of this type of marijuana could possess significantly less THC than 1 oz of high THC recreational marijuana, but still be charged for a crime based upon the current writing of this bill.

Because CBD 'hemp' is legal, it can be carried and smoked already in North Dakota. It is visually indistinguishable from high THC marijuana (even trained drug dogs cannot tell the difference). Therefore, all cannabis plant material and products containing THC seized by police should be tested for actual THC content before a person is charged with a crime. This testing is relatively cheap and quick for commercial hemp producers, often costing around $40 for a full chemical analysis of hemp material. Testing would make it relatively easy to determine the actual total amount of THC in products seized by police. Offenders could then be charged based upon weight of the actual THC instead of what is mostly plant material or other carrier ingredients.

I spoke with a Sergeant with the Bismarck Police Department's drug enforcement unit and they already send cannabis products to the lab for testing to determine if they are illegal, so this wouldnt significantly impact how they process these crimes other than having to do a little more math to calculate the actual THC weight.

If we are able to set limits based upon the amount of THC a person has in their possession, it could also carry over to vape liquids, extracts, and edible products quite easily. All commercial products should be labeled with the % of THC contained in the product and the overall THC content. For products seized that arent labeled, simply test the substance, calculate the amount of THC in the total product, and file appropriate charges based on the weight of the THC contained.

Limits could be set as legislature sees fit, but I would suggest something that looks like this:

<= 6g THC (roughly equivalent to 1oz of 20% THC marijuana) = Legal

6.1g to 90g THC (roughly equivalent to 1lb of 20% THC marijuana) = Class B misdemeanor

90.1g or more THC = Class A misdemeanor

I appreciate your consideration of my feedback on this bill.

Sincerely,

Derek Jundt

February 2, 2021

Brian Glaeske
403 11th AVE S
Fargo, ND 58103

Dear Members of the House Human Services committee,

I would like to respond to Police Chief Dave Draovitch's testimony. Ingestion of edibles by children is an issue, but I don't think that banning edibles is the correct response as smoking is more troublesome to ones health than oral consumption.

I would suggest that the bill be amended to provide fines for people who allow children to consume edibles either willfully or through negligence. Reporting would be through doctors and hospitals as mandatory reporters. However, statistics show that 60,000 children under the age of 5 accidentally swallow dangerous drugs every year according to the CDC. This is a larger problem and while I'm not trying to minimize the effects of marijuana on children, it isn't as bad as some opioid pain killers that children have access to.

I would also suggest that a percentage of the tax collected from marijuana sales should be used for education campaigns.

Sincerely,

Brian Glaeske

I work at a medical facility dispensing cannabis. I see daily the results of this plant helping patients to reduce or eliminate their use of opioids and steroids, to reduce their anxiety and tension from PTSD, and to provide significant relief for their arthritis.

Why are we still denying adult citizens access to something that is less harmful, yet more effective than Tylenol or Ibuprofen? Why are we denying an agricultural state the opportunity to plant and harvest this cash crop? Why are we not utilizing the tax revenue created to fund other opportunities for our citizens and businesses? Because of the stigma and taboos that have been built around this plant for decades. My hope is that our state legislatures take into consideration facts about cannabis and ignore these taboos and stigmas when considering adult use.

It is time to stop this prohibition and make this plant accessible to all the freedom loving North Dakota residents who would like to utilize it. Thanks.

NORML®
Working to Reform Marijuana Laws

I wish to thank the Chair and members of the Committee for holding a hearing on this important matter and for considering my testimony.

My name is Carly Wolf, State Policies Coordinator with The National Organization for the Reform of Marijuana Laws (NORML) – a Washington, DC based advocacy organization that opines in favor of evidence-based marijuana policy reforms.

I am providing testimony in favor of House Bill 1420, which seeks to disrupt the illicit marijuana market by regulating and licensing retail sales to adults.

Now more than ever, there exists tremendous public support for ending our nation's nearly century-long experiment with marijuana prohibition and replacing it with a taxed and regulated adult use marketplace. Almost seven in ten US adults, including majorities of all age groups, believe that the use of "marijuana should be made legal" according to nationwide polling data provided by Gallup.

Licensing the commercial marijuana marketplace will bring long overdue controls to this market. Voters do not desire replacing nearly a century of criminalization with a marijuana free-for- all. They are aware of the reality that marijuana possesses some potential level of risk and that there exists the potential for abuse, particularly among young people. In fact, it is precisely because of this reality that NORML believes that society ought to regulate its use, production, and dispensing accordingly. By contrast, we believe that advocating for the plant's continued criminalization and for the proliferation of the black market does nothing to offset these risks; it compounds them.

This is because marijuana prohibition drives markets underground and abdicates control of these markets to those who typically operate outside the boundaries of law. Regulation, by contrast, allows for lawmakers to establish legal parameters regarding where, when, and how an adult cannabis market may operate. Legalization also provides oversight regarding who may legally operate in said markets and provides guidelines so that those who do can engage in best practices.

Such regulations already exist for alcohol and tobacco – two substances that are far more dangerous and costly to society than is the adult use of cannabis. The imposition and enforcement of tobacco and alcohol regulations, coupled with public awareness campaigns highlighting these products' risks and acknowledging the distinctions between their use versus abuse, has proven effective at reducing the public's overall consumption of these substances, especially among teens.

Unfortunately, a legal environment in which marijuana is criminalized is not conducive to imposing such common sense, evidence-based practices. A pragmatic regulatory framework that allows for the legal, licensed production and retail sale of cannabis to adults, but restricts and discourages its use among young people best reduces the risks associated with the plant's use or abuse, and provides an environment whereby consumers can best learn the skills and knowledge to readily delineate between the two behaviors. That is why the majority of North Dakota voters welcome the opportunity to bring

necessary and long-overdue regulatory controls to the marijuana market, and why they support lawmakers' efforts to move in this direction.

Legalizing marijuana is also a matter of justice, and racial justice in particular. The American Civil Liberties Union research report, *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform* (2020) concludes: "On average, a Black person is 3.64 times more likely to be arrested for marijuana possession than a white person, even though Black and white people use marijuana at similar rates. Just as before, such racial disparities in marijuana possession arrests exist across the country, in every state, in counties large and small, urban and rural, wealthy and poor, and with large and small Black populations."

Findings in this same report show that in North Dakota in 2018, almost 2,700 individuals were arrested for marijuana law violations. Of those arrested, 94 percent of defendants were charged with possession only. Arrests for the possession of marijuana in the state made up almost half of all drug arrests in 2018.

Black people in North Dakota are more than five times as likely to be arrested for marijuana-related violations as are white people. In places like Morton, Blacks are almost ten times as likely to be arrested for marijuana possession than whites. North Dakota ranks 7th in the nation for largest racial disparities in marijuana arrests.

It is time for North Dakota to become a leader in sensible cannabis policy. Public sentiment and common sense demand that lawmakers move forward to enact necessary and long overdue changes in state-level marijuana policies to achieve the repeal of marijuana prohibition so that the responsible, adult use of cannabis is no longer subject to arrest and criminal penalty.

I urge members of the Committee to support the passage of House Bill 1420, to end the criminalization of cannabis consumers.

Informational Testimony by Rep. Mike Derby

South Dakota State Representative from District 34

this is a healing medical plant, that has so m,any benefits, in healing disease and addictions. This plant has been around in Jesus days, he gave us this plant and you all took it away. its time to give iconyagause@t back

The enactment of adult use cannabis regulation is not associated with significant upticks in marijuana use by adolescents

"Youth Risk Behavior Survey data from 47 states from 1999 to 2017 assessed marijuana, alcohol, cigarette, and e-cigarette use among adolescents (14-18+ years; N = 1,077,938). Associations between RML (recreational marijuana legalization) and adolescent past-month substance use were analyzed using quasi-experimental difference-in-differences zero-inflated negative binomial models. … Controlling for other state substance policies, year and state fixed effects, and adolescent demographic characteristics, models found that RML was not associated with a significant shift in the likelihood of marijuana use. … Results suggest minimal short-term effects of RML on adolescent substance use, with small declines in marijuana use."

Recreational marijuana legalization and adolescent use of marijuana, tobacco, alcohol. Journal of Adolescent Health, 2020

"This report provides key insights into substance use behaviors of U.S. high school students during 2009–2019. Encouraging findings include decreasing prevalence of current alcohol use and decreases in the prevalence of lifetime use of marijuana. … Lifetime marijuana use increased during 2009–2013 and then decreased during 2013–2019. … The findings in this report indicate that youth substance use has declined in recent years."

Centers for Disease Control and Prevention, Prescription Opioid Misuse and Use of Alcohol and Other Substances Among High School Students — Youth Risk Behavior Survey, United States, 2019, 2020

"Taken as a whole, these studies suggest that marijuana legalization has not had much overall effect on marijuana use by children and adolescents, at least during the past two decades. From 2000 to 2019, marijuana legalization changed substantially, and now medical marijuana is legal in 33 states and recreational marijuana use in 11. Despite these changes, adolescent marijuana prevalence has varied little, with the national percentage of US 12th graders who have ever used marijuana hovering within a narrow window of 42% to 49% during this time period.1 In 2019, it was at 44%, toward the lower end of this range. … In summary, prevalence of marijuana use among adolescents has remained remarkably steady over the past 20 years despite substantial changes in its legality across the United States during this period."

Marijuana legalization and prevalence among adolescents, American Journal of Public Health, 2020

Medical cannabis access laws are not associated with adverse effects on traffic safety

"While attention has been given to how legalization of recreational cannabis affects traffic crash rates, there was been limited research on how cannabis affects pedestrians involved in traffic crashes. This study examined the association between cannabis legalization (medical, recreational use, and recreational sales) and fatal motor vehicle crash rates (both pedestrian-involved and total fatal crashes). … We found no significant differences in pedestrian-involved fatal motor vehicle crashes between legalized cannabis states and control states following medical or recreational cannabis legalization. Washington and Oregon saw immediate decreases in all fatal crashes (-4.15 and -6.60) following medical

cannabis legalization. … Overall findings do not suggest an elevated risk of total or pedestrian-involved fatal motor vehicle crashes."

An examination of relationships between cannabis legalization and fatal motor vehicle and pedestrian-involved crashes, Traffic Injury Prevention, 2020

"This paper reports a quasi-experimental evaluation of California's 1996 medical marijuana law (MML), known as Proposition 215, on statewide motor vehicle fatalities between 1996 and 2015. … We found that legalizing medical marijuana in California led to a sustained reduction in statewide motor vehicle fatalities. … California's 1996 MML appears to have produced a large, sustained decrease in statewide motor vehicle fatalities amounting to an annual reduction between 588 and 900 vehicle fatalities."

Marijuana medicalization and motor vehicle fatalities: A synthetic control group approach, Journal of Experimental

Please help get this harmless "drug" to be treated like alcohol.

Sincerely,

Jamie Brenneise

Carl Young
Family Services Network Inc.
Executive Director
Lobbyist Badge Number 136
Bismarck, ND 58504
7012143152
carl@ndctn.org

February 2, 2021

Representative Weisz,

Members of the Committee.

My name is Carl Young, I am a patient of the medical marijuana program. I am neutral on this piece of legislation.

What I can say is, we need competition. We need competition in grow operations as well as in dispensary operations. This will help make the price manageable.

As a medical patient, I can tell you that it is more expensive for me to use medical marijuana than it is to use hydrocodone or gabapentin, or any of the other medications I am taking for PTSD or Severe Anxiety.

Did you know that in North Dakota, you can brew up to 200 gallons of beer and wine a year for personal use?

But, I can't legally grow a plant called cannabis in my own home.

I'd like to see more growers in the state, as well as an increase in dispensaries.

I'd like to see the state be able to take legislators thru a dispensary so you can get a firsthand look at the menu, and not need to depend on someone from the Department of Health to give you the facts.

The system we are currently operating under is basically a cartel system. Prices are controlled. Product quality is controlled. What we get is not the best in quality. Some of it is dyed. Some of it appears moldy, some of it smells moldy. We have seen spider webs. All of this is in sealed packages that we cannot inspect before we leave the store. By law the dispensary is supposed to accept the product if it is returned, and they are not.

I'd like to be able to inspect the product that I purchase before I leave the store. There are flaws in the current system. They need to be addressed.

I'd like to be able to say the Department is being honest and forthright with you.

Hello,
I
support
the
passing
of
HB1420
Thank
You,
Susan
Corr

Ronnie Johnson, West Fargo District 16

#5115

Autism, Age 11

Family worked to get autism on debilitating conditions list in 2019
Original-strength pediatric THC tincture provided therapeutic relief of Ronnie's autistic anxiety/ self-injury/insomnia
Received original debilitating condition certification (card criteria) from physician employed by a health-care organization that publicly granted provider freedom to do so;Physician quit taking new pediatric cannabis patients after administration discovered her involvement
Family discovered that original pediatric tincture would soon be sold out; Other pediatric THC tincture contained 56% as much medicine, for same price ($200/30 gram bottle)
Family alerted ND Division of Medical Marijuana of impending pediatric tincture shortage in Sept. 2019
Division recommended contacting growers
Desperate correspondence begging for more original-strength pediatric tincture sent to Pure Dakota (Bismarck) manufacturing facility
No response from Pure Dakota
Desperate correspondence begging for pediatric tincture sent to Grassroots Cannabis (Fargo manu-facturing facility)
Grassroots representative reached by phone, listened to mother's plea

When asked for management contact information, Grassroots representative told mother to "Google it!" and hung up
January 2020 meeting with Grassroots Cannabis resulted in promise of a pediatric tincture by July 2020
Original tincture went out of stock
Price tag for a month's supply of available, low THC pediatric tincture for Ronnie rose to $1,000
Family could no longer afford medical cannabis as Ronnie's primary medication
Ronnie forced to go on risperidone, an antipsychotic with serious side effect risks
Ronnie hospitalized after grand mal seizure in May 2020
Essentia Health confiscated Ronnie's cannabis tincture after initially agreeing to his regular bedtime dose
Unmedicated insomnia sent Ronnie running and screaming through hospital halls
Essentia refused to return cannabis tincture unless Ronnie exited hospital
Cannabis tincture returned to Ronnie's designated caregiver after Ronnie (who had suffered first grand mal seizure just hours before) discharged into rainy parking lot at 3 am
-Grassroots failed to produce promised pediatric tincture by July 2020
Alexa Johnson, mother 701.793.7450

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1420
2/9/2021
Subcommittee

Relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty

Subcommittee Chairman Matthew Ruby opened the committee meeting at 3:59 p.m.

Roll Call: Subcommittee Chairman Matthew Ruby, Rep. Mike Beltz, Rep. Gretchen Dobervich, Rep. Greg Westlind – All Present

Discussion Topics:

- Meshing edible language
- Specific color
- Flavoring
- Possession amount limit
- Zero tolerance polices

Subcommittee Chairman Matthew Ruby (4:06) discussed adding in employer protection in amendment form, p.6 line 6-17.

Rep. Jason Dockter, District 7 (4:11) answered committee questions.

Jason Wahl, Department of Health Division Medical Marijuana (4:12) answered committee questions.

Tara Brandner, Attorney General's Office General Council Department of Health (4:41) answered committee questions.

Subcommittee Chairman Matthew Ruby adjourned at 4:51 p.m.

Tamara Krause, Committee Clerk

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1420
2/15/2021
Subcommittee

Relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty

Subcommittee Chairman M. Ruby opened the subcommittee meeting at 3:53 p.m.

Roll Call: Subcommittee Chairman Matthew Ruby, Rep. Mike Beltz, Rep. Gretchen Dobervich, Rep. Greg Westlind – All Present

Discussion Topics:

- Adult use cannabis program
- Registration cards
- Confidentiality
- Implementation date

Tara Brandner, Attorney General's Office General Council Department of Health (3:53) presented amendment proposals and went over them #6674, #6675, #6676, #6677.

Jason Wahl, Department of Health Division of Medical Marijuana (4:12) presented information and went over #6683 & #6684.

Rep. Gretchen Dobervich (5:01) proposed **Amendment #21.0683.03001** - #6685.

Charlene Rittenbach, North Dakota State Crime Lab Forensic Scientist (5:16) presented information.

Lisa Feldner, Lobbyist (5:17) presented information.

Subcommittee Chairman M. Ruby adjourned at 5:18

Tamara Krause, Committee Clerk

CHAPTER 19-24.2
ADULT-USE
CANNABIS

19-24.2-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use cannabinoid concentrate intended for consumption. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid capsule is ten milligrams.
2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or extract obtained by separating cannabinoids from cannabis by a mechanical, chemical, or other process.
3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric square shape into which an adult-use cannabinoid concentrate or the dried leaves or flowers of the plant of the genus cannabis is incorporated. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a an-adult-use cannabinoid edible product is ten milligrams and in a package is one hundred milligrams.
4. "Adult-use cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.
   a. Adult-use cannabinoid products are limited to the following forms:
      (1) Adult-use cannabinoid solution;
      (2) Adult-use cannabinoid capsule;
      (3) Adult-use cannabinoid transdermal patch;
      (4) Adult-use cannabinoid topical; and
      (5) Adult-use cannabinoid edible product.
   b. "Adult-use cannabinoid product" does not include:
      (1) An adult-use cannabinoid concentrate by itself; or
      (2) The dried leaves or flowers of the plant of the genus cannabis by itself.
5. "Adult-use cannabinoid solution" means a solution consisting of a mixture created from an adult-use cannabinoid concentrate and other ingredients. A container holding an adult-use cannabinoid solution for dispensing may not exceed thirty milliliters.

6. "Adult-use cannabinoid topical" means an adult-use cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in an adult-use cannabinoid topical is six percent.
7. "Adult-use cannabinoid transdermal patch" means an adhesive substance applied to the skin which contains an adult-use cannabinoid product or an adult-use cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid transdermal patch is ten milligrams.
8. "Adult-use cannabis" means the dried leaves or flowers of the plant of the genus cannabis.
9. "Adult-use cannabis business" means a manufacturing facility or dispensary.
10. "Adult-use cannabis business agent" means a principal officer, board member, member, manager, governor, employee, volunteer, or agent of an adult-use cannabis business. The term does not include a lawyer representing an adult-use cannabis business in civil or criminal litigation or in an adversarial administrative proceeding.
11. “Adult-use cannabis consumer” means a person, twenty-one years of age or older, who purchases approved adult-use cannabis products for personal use, but not for resale to others.
12. "Adult-use cannabis product" means adult-use cannabis, adult-use cannabinoid concentrates, or adult-use cannabinoid products.
13. "Cannabinoid" means a chemical compound that is one of the active constituents of cannabis.
14. “Cannabis” is a genus of flowering plants within the Cannabaceae family and means all parts of the plant, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacturer, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:
    a. Hemp regulated under chapter 4.1-18.1; or
    b. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
15. "Cannabis waste" means unused, surplus, returned, or out-of-date adult-use cannabis products; recalled adult-use cannabis products; unused cannabis; or

plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots.

16. "Cardholder" means an adult-use cannabis business agent who has been issued and possesses a valid registry identification card.
17. "Department" means the state department of health.
18. "Dispensary" means an entity registered by the department as an adult-use cannabis business authorized to sell adult-use cannabis products.
19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.
20. "Manufacturing facility" means an entity registered by the department as an adult-use cannabis business authorized to produce and process cannabis and to sell adult-use cannabis products to a dispensary.
21. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in an adult-use cannabinoid concentrate or an adult-use cannabinoid product.
22. “Owner” means an individual or an organization with an ownership interest in an adult-use cannabis business.
23. “Ownership interest” means an aggregate ownership interest of five percent or more in an adult-use cannabis business, unless such interest is solely a security, lien, or encumbrance, or an individual that will be participating in the direction, control, or management of the adult-use cannabis business.
24. "Processing" or "process" means the compounding or conversion of cannabis into an adult-use cannabinoid concentrate or adult-use cannabinoid product.
25. "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves or flowers of the plant of the genus cannabis.
26. “Registration certificate” means written authorization provided by the department under this chapter permitting an adult-use cannabis business to engage in a specified activity authorized pursuant to this chapter.
27. "Registry identification card" means a document issued by the department which identifies an individual as a registered adult-use cannabis business agent.
28. “School” means an institution of learning and education especially for children, the collective body of students under instruction in an institution of learning, and

a group of people adhering to the same philosophy or system of beliefs.

29. "Substantial corporate change" means the following:
    a. For a corporation, a change of ten percent or more of the officers or directors, or a transfer of ten percent or more of the stock of such corporation, or an existing stockholder obtaining ten percent or more of the stock of such corporation;
    b. For a limited liability company, a change of ten percent or more of the managing members of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company; or
    c. For a partnership, a change of ten percent or more of the managing partners of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company.
30. "Verification system" means the system maintained by the department for verification of registry identification cards.

19-24.2-02. Adult-use cannabis program.

The department shall establish and implement an adult-use cannabis program to allow for the production and processing of cannabis and the sale of adult-use cannabis products to persons twenty-one years of age and older, subject to the provisions of this chapter. A person may not produce, process, sell, possess, consume, transport, or transfer cannabis or adult-use cannabis products unless the person is authorized to do so in accordance with this chapter or by rule adopted pursuant to this chapter.

19-24.2-03. Adult-use cannabis businesses.

1. A person may not process or produce or transfer adult-use cannabis products or otherwise act as an adult-use cannabis business in this state unless the person is registered as an adult-use cannabis business.
2. By June 30, 2023, the department shall register no more than:
    a. Seven adult-use cannabis businesses with the sole purpose of operating as a manufacturing facility; and
    b. Eighteen adult-use cannabis businesses with the sole purpose of operating as a dispensary.

3. An adult-use cannabis business registered under this chapter shall provide registered qualifying patients and registered designated caregivers access to usable marijuana in accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all requirements in chapter 19-24.1.
4. The department shall establish an open application period for the submission of adult-use cannabis business applications. At the completion of the open application period, the department shall review each complete application using a competitive process established in accordance with rules adopted under this chapter and shall determine which applicants to register as adult-use cannabis businesses.
5. If the department revokes or does not renew an adult-use cannabis business registration certificate, the department may establish an open application period for the submission of adult-use cannabis business applications.
6. The department of commerce may not certify an adult-use cannabis business as a primary sector business.

19-24.2-04. Adult-use cannabis businesses - Authority - Ownership.

1. The activities of a manufacturing facility are limited to producing and processing and related activities, including acquiring, possessing, storing, transferring, and transporting cannabis and adult-use cannabis products, for the sole purpose of selling adult-use cannabis products to a dispensary.
2. The activities of a dispensary are limited to purchasing adult-use cannabis products from a manufacturing facility, and related activities, including storing, delivering, transferring, and transporting adult-use cannabis products, for the sole purpose of dispensing adult-use cannabis products to adult-use cannabis consumers.
3. The activities of a dispensary also include providing education material and selling supplies related to the consumption and storage of adult-use cannabis products. A dispensary may only sell supplies related to the consumption and storage of adult-use cannabis products to an adult-use cannabis consumer. All education material and supplies related to the consumption and storage of adult-use cannabis products are subject to prior department approval.
4. An individual or an organization is prohibited from holding an ownership interest in the following:
    a. More than one manufacturing facility.

b. More than four dispensaries.

c. More than one dispensary within a twenty mile radius of another dispensary.

5. No agreement may be entered into between a manufacturing facility and dispensary whereby a dispensary agrees to limit purchases or sales of adult-use cannabis products to one manufacturing facility.

19-24.2-05. Adult-use cannabis businesses - Application.

1. The department shall establish forms for an application to be registered as an adult-use cannabis business. For an adult-use cannabis business registration application to be complete and eligible for review, the applicant shall submit to the department all of the following:

   a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health".

   b. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement of the proposed adult-use cannabis business applicant.

   c. Evidence of the proposed adult-use cannabis business applicant's registration with the secretary of state and certificate of good standing.

   d. The physical address of the proposed location of the proposed adult-use cannabis business and:

      (1) Evidence of approval from local officials as to the proposed adult-use cannabis business applicant's compliance with local zoning laws for the physical address to be used by the proposed cannabis business; and

      (2) Evidence the physical address of the proposed adult-use cannabis business is not located within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school.

   e. For a manufacturing facility applicant, a description of the enclosed, locked facility that would be used in the production and processing of cannabis, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.

   f. The name, address, and date of birth of each principal officer and board member, or of each member-manager, manager, or governor, of the proposed adult-use cannabis business applicant and verification each officer and board member, or each member-manager, manager, or

governor, has consented to a criminal history record check conducted under section 12-60-24.

g. For each of the proposed adult-use cannabis business applicant's principal officers and board members, or for each of the proposed adult-use cannabis business applicant's member-managers, managers, or governors, a description of that individual's relevant experience, including training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, food science, food safety, production, processing, and the individual's experience running a business entity.

h. A description of proposed security and safety measures.

i. An example of the design and security features of adult-use cannabis product containers.

j. A complete operations manual.

k. A description of the plans for making usable marijuana available on an affordable basis to registered qualifying patients with limited financial resources in accordance with chapter 19-24.1.

l. A list of all individuals and business entities having direct or indirect authority over the management or policies of the proposed adult-use cannabis business applicant.

m. A list of all individuals and business entities having an ownership interest in the proposed adult-use cannabis business applicant, whether direct or indirect, and whether the interest is in profits, land, or building, including owners of any business entity that owns all or part of the land or building.

n. The identity of any creditor holding a security interest in the proposed adult-use cannabis business premises.

2. The department is not required to review an application submitted under this section unless the department determines the application is complete. The criteria considered by the department in reviewing an application must include:

a. The suitability of the proposed adult-use cannabis business location, including compliance with any local zoning laws, and the geographic convenience to access adult-use cannabis businesses for adult-use consumers throughout the state;

b. The character and relevant experience of the principal officers and board members, or of the member-managers, managers, or governors, including training or professional licensing and business experience;

c. The applicant's plan for operations and services, including staffing and training plans, whether the applicant has sufficient capital to operate, and the applicant's ability to provide an adequate supply of adult-use cannabis products and usable marijuana as defined in chapter 19-24.1.

d. The sufficiency of the applicant's plans for recordkeeping;

e. The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including the proposed location and security devices employed;

f. The applicant's plan for making usable marijuana, as defined in chapter 19-24.1, available on an affordable basis to registered qualifying patients with limited financial resources;

g. The applicant's plan for safe and accurate packaging and labeling of adult-use cannabis products; and

h. The applicant's plans for testing adult-use cannabis products and cannabis.

3. Following completion of the review under subsection 2, the department shall select the applicants eligible for registration.

19-24.2-06. Adult-use cannabis businesses - Registration.

1. Upon receiving notification by the department that an adult-use cannabis business application is eligible for registration, the applicant shall submit all of the following additional items to the department to qualify for registration:

a. A certification fee, made payable to the "North Dakota Department of Health", in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.

b. A financial assurance or security bond to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness to meet the requirements of this chapter.

c. The physical address of the proposed adult-use cannabis business; confirmation the information in the application regarding the physical location of the proposed adult-use cannabis business has not changed, and if the information has changed the department shall determine whether the new information meets the requirements of this chapter; and a current certificate of occupancy, or equivalent document, to demonstrate compliance with the provisions of state and local fire code for the physical address of the proposed adult-use cannabis business. It is not necessary for an applicant to resubmit any information provided in the initial application unless there has been a change in that information.

d. An update to previously submitted information, including information about adult-use cannabis business agents.

2. If an applicant complies with subsection 1, the department shall issue the applicant a registration certificate.

19-24.2-07. Adult-use cannabis businesses - Renewal.

1. An adult-use cannabis business registration certificate expires two years after issuance. An adult-use cannabis business may submit a renewal application at any time beginning ninety calendar days before the expiration of the registration certificate. An adult-use cannabis business shall submit a renewal application a minimum of sixty calendar days before the expiration of the registration certificate to avoid suspension of the certificate.

2. The department shall approve an adult-use cannabis business's renewal application within sixty calendar days of submission, if the following conditions are satisfied:

a. The adult-use cannabis business submits a renewal fee, in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;

b. The adult-use cannabis business submits a complete renewal application;

c. The department has at no time suspended the adult-use cannabis business's registration for violation of this chapter or chapter 19-24.1;

d. Inspections conducted under this chapter do not raise any serious concerns about the continued operation of the adult-use cannabis business; and

e. The adult-use cannabis business continues to meet all the requirements for the operation of an adult-use cannabis business as set forth in this chapter, chapter 19-24.1, and rules adopted under this chapter.

3. If an-adult-use cannabis business does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the adult-use cannabis business with written notice of the determination. If an adult-use cannabis business's certificate is not renewed, the adult-use cannabis business shall dispose of all cannabis and adult-use cannabis products in accordance with rules adopted under this chapter.

19-24.2-08. Adult-use cannabis businesses - Registration certificates.

A registration certificate authorizing the operation of an adult-use cannabis shall include the following:

1. The name and address of the adult-use cannabis business;
2. Whether the type of adult-use cannabis business is a manufacturing facility or dispensary;
3. A unique license number issued by the department; and
4. Any other information deemed necessary by the department.

19-24.2-09. Adult-use cannabis businesses - Notification of changes.

1. Upon application of an adult-use cannabis business to the department, a registration certificate of an adult-use cannabis business may be amended to authorize a change in the authorized physical location of the adult-use cannabis business, or to amend the ownership or organizational structure of the adult-use cannabis business with the registration certificate. An adult-use cannabis business shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change.
2. A registration certificate authorizing the operation of an adult-use cannabis business shall become void by a change in ownership, substantial corporate change, change in location, or discontinued operation, without prior approval of the department. The department may adopt rules allowing for certain types of changes in ownership without the need for prior written approval from the

department.

3. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the cannabis business being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

19-24.2-10. Adult-use cannabis businesses - Agents - Registry identification cards.

1. Upon issuance of an adult-use cannabis business registry certificate, the department shall issue a registry identification card to each qualified adult-use cannabis business agent associated with the adult-use cannabis business.
2. To qualify to be issued a registry identification card, each adult-use cannabis business agent must be at least twenty-one years of age and shall submit all of the following registry identification card application material to the department:
   a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.
   b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
   c. A written and signed statement from an officer or executive staff member of the adult-use cannabis business stating the applicant is associated with the adult-use cannabis business and the capacity of the association.
   d. The name, address, and telephone number of the agent.
   e. The name, address, and telephone number of the adult-use cannabis business with which the agent is associated.
   f. The agent's signature and the date.
   g. A nonrefundable application or renewal fee in the amount of two hundred dollars.
3. Each adult-use cannabis business agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.
   a. All applicable fees associated with the required criminal history record checks must be paid by the adult-use cannabis business or the agent.
   b. A criminal history record check must be performed upon initial application

and biennially upon renewal. An adult-use cannabis business agent shall consent to a criminal history record check at any time the department determines necessary.

c. An individual convicted of a drug-related misdemeanor offense within the two-year period, or a felony offense within the ten-year period, before the date of application is prohibited from being an adult-use cannabis business agent.

4. The department shall notify the adult-use cannabis business in writing of the purpose for denying an adult-use cannabis business agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.
5. The department shall issue an adult-use cannabis business agent a registry identification card within thirty calendar days of approval of an application.
6. An adult-use cannabis business agent with a registry identification card shall notify the department of any of the following within ten calendar days of the change, in a manner prescribed by the department:
   a. A change in the cardholder's name or address; and
   b. Knowledge of a change that would render the adult-use cannabis business agent no longer eligible to be a cardholder.
7. If an adult-use cannabis business agent loses the agent's registry identification card, that agent shall notify the department in writing within twenty-four hours of becoming aware the card has been lost.
8. If a cardholder notifies the department of items listed in this section but the nature of the item reported results in the cardholder remaining eligible, the department may issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifies the department of an item that results in the cardholder being ineligible, the registry identification card immediately becomes void.
9. An adult-use cannabis business shall notify the department in writing within two

calendar days of the date an adult-use cannabis business agent ceases to work for or be associated with the adult-use cannabis business. Upon receipt of the notification, that individual's registry identification card becomes void immediately.

10. The registry identification card of an adult-use cannabis business agent expires one year after issuance or upon the termination of the adult-use cannabis business's registration certificate, whichever occurs first. To prevent interruption of possession of a valid registry identification card, an adult-use cannabis business agent shall renew a registry identification card by submitting a complete renewal application no less than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.2-11. Registry identification cards - Nontransferable.

A registry identification card of an adult-use cannabis business agent is not transferable, by assignment or otherwise, to another person. If a person attempts to transfer a card in violation of this section, the registry identification card is void and the person is prohibited from all privileges provided under this chapter.

19-24.2-12. Registry identification cards.

1. The registry identification card of an adult-use cannabis business agent must include:
   a. The name of the cardholder;
   b. The cardholders affiliated adult-use cannabis business;
   c. The date of issuance and expiration date;
   d. A random ten-digit alphanumeric identification number containing at least four numbers and at least four letters which is unique to the cardholder;
   e. A photograph of the cardholder; and
   f. The phone number or website address at which the card can be verified.
2. Except as otherwise provided in this section or rule adopted under this chapter, a registry identification card expiration date must be one year after the date of issuance.

19-24.2-13. Adult-use cannabis businesses and adult-use cannabis agents - Suspension and revocation.

1. The department may suspend or revoke the registry identification card of an

adult-use cannabis business agent or a registration certificate of an adult-use cannabis business for a material misstatement by an applicant in an application or renewal.

2. The department may suspend or revoke a registry identification card of an adult-use cannabis business agent or registration certificate of an adult-use cannabis business for a violation of this chapter or rules adopted under this chapter.
3. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products to a person not authorized to possess cannabis or adult-use cannabis products under this chapter, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
4. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products in a form not authorized under this chapter or chapter 19-24.1, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
5. The department shall provide written notice of suspension or revocation of a registry identification card or registration certificate.
    a. A suspension may not be for a period longer than six months.
    b. A manufacturing facility may continue to produce, process, and possess cannabis and adult-use cannabis products during a suspension, but may not transfer or sell adult-use cannabis products.
    c. A dispensary may continue to possess adult-use cannabis products during a suspension, but may not purchase, transfer, or transfer adult-use cannabis products.
    d. An adult-use cannabis business agent or adult-use cannabis business may appeal a suspension or revocation of a registry identification card or registration certificate to the district court of Burleigh County for hearing. The court may authorize the adult-use cannabis business agent or adult-use cannabis business to appear by reliable electronic means.
6. If the department revokes a registry identification card of an adult-use cannabis business agent under this chapter, the adult-use cannabis business agent is disqualified from further participation under this chapter.

19-24.2-14. Adult-use cannabis businesses and adult-use cannabis business agents - Violations - Penalties.

1. An adult-use cannabis business agent or adult-use cannabis business that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.
2. In addition to any other penalty applicable in law, a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility is guilty of a class B felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis products in any form, to a person other than a dispensary, or for intentionally selling or otherwise transferring cannabis in any form other than adult-use cannabis products, to a dispensary.
3. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products, to a person under twenty-one years of age, in a form not allowed under this chapter, or in an amount that would cause the adult-use cannabis consumer to purchase or possess more than the amount of adult-use cannabis products authorized by this chapter.
4. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class A misdemeanor for intentionally selling or otherwise transferring paraphernalia, to a person under twenty-one years of age, or in a form not allowed under this chapter. A dispensary or an adult-use cannabis business agent is not subject to prosecution under this subsection for selling paraphernalia to a registered qualifying patient who is nineteen years of age or older.
5. In addition to any other penalty applicable in law, an adult-use cannabis business or an adult-use cannabis business agent is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products in a form not allowed under this chapter.
6. An adult-use cannabis business or an adult-use cannabis business agent that knowingly submits false records or documentation required by the department to certify an adult-use cannabis business under this chapter is guilty of a class C felony.
7. In addition to any other penalty applicable in law, if an adult-use cannabis

business violates this chapter the department may fine the cannabis business up to one thousand dollars per violation, per day, and upon subsequent violations a fine not to exceed five thousand dollars per violation, per day.

8. In addition to any other penalty applicable in law, an adult-use cannabis consumer who intentionally sells or otherwise transfers adult-use cannabis products, to a person under twenty-one years of age, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.
9. An individual who knowingly submits false records or documentation required by the department to receive an adult-use cannabis business agent registry identification card is guilty of a class A misdemeanor. An individual convicted under this subsection may not continue to be affiliated with an adult-use cannabis business.

19-24.2-15. Adult-use cannabis businesses - Transfer and sale.

1. An adult-use cannabis business shall comply with the transfer and sale requirements of this section.
2. Design and security features of adult-use cannabis products containers must be in accordance with rules adopted under this chapter.
3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing facility may not transfer or sell cannabis or adult-use cannabis products, except a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility may sell adult-use cannabis products to a dispensary.
4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell or provide adult-use cannabis products to the following:
   a. An individual under twenty-one years of age, unless the individual is registered qualifying patient and the sale or dispensing is in accordance with chapter 19-24.1; or
   b. An adult-use cannabis consumer in an amount that would cause the adult-use cannabis consumer to purchase or possess more adult-use cannabis products than permitted by this chapter.
5. Before selling or providing an adult-use cannabis product to an individual, a dispensary or an adult-use cannabis business agent of the dispensary must verify the following:

a. The individuals age by requiring the individual to produce one of the following pieces of identification:
   (1) The person's passport, issued by the United States or a foreign government;
   (2) The person's driver license, issued by the State of North Dakota or another state of the United States;
   (3) An identification card issued by the State of North Dakota;
   (4) A United States military identification card;
   (5) An identification card issued by a federally recognized Indian tribe; or
   (6) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

b. The purchase history of the adult-use cannabis consumer using the department approved information technology system to ensure the adult-use cannabis consumer does not purchase more than the amount of adult-use cannabis products authorized by this chapter.

6. The Department may adopt rules requiring a dispensary to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the dispensary does not sell adult-use cannabis products to a person under twenty-one years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age.

19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.

The maximum amount an adult-use cannabis consumer is authorized to purchase is as follows:

1. For the first day of a calendar month through the fifteenth day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and
   c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.
2. For the sixteenth day of the calendar month through the last day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;

b. One gram of adult-use cannabinoid concentrates; and
c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

19-24.2-17. Maximum possession amounts for adult-use cannabis consumers.

1. It is unlawful for an adult-use cannabis consumer to possess more than the following:
   a. One ounce of adult-use cannabis;
   b. One and one half grams of an adult use cannabinoid concentrate; and
   c. Four hundred milligrams of total tetrahydrocannabinol in the form of an adult-use cannabinoid product.
2. An adult-use cannabis consumer who possesses more than the maximum amount of adult-use cannabis products authorized by this chapter is subject to prosecution under chapter 19-03.1.

19-24.2-17. Adult-use cannabis businesses - Inspections.

1. An adult-use cannabis business is subject to random inspection by the department. During an inspection, the department may review the adult-use cannabis business's records, including the adult-use cannabis business's financial, inventory, and sales records.
2. The department shall conduct inspections of adult-use cannabis businesses to ensure compliance with this chapter and chapter 19-24.1. The department shall conduct inspections of manufacturing facilities for the presence of contaminants. The department shall select a certified laboratory to conduct random quality sampling testing, in accordance with rules adopted under this chapter. An adult-use cannabis business shall pay the cost of all random quality sampling testing.
3. The provisions of chapter 54-44.4 do not apply to the selection of a certified laboratory required by this chapter.

19-24.2-18. Adult-use cannabis businesses - Pesticide testing.

A manufacturing facility shall test cannabis at a manufacturing facility for the presence of pesticides. If a cannabis test indicates the presence of a pesticide, the manufacturing facility shall report the test result immediately to the department and to the agriculture commissioner. Upon the order of the department or agriculture commissioner, the manufacturing facility immediately shall destroy all affected or contaminated cannabis and

adult-use cannabis products inventory in accordance with rules adopted under this chapter, and shall certify to the department and to the agriculture commissioner that all affected or contaminated inventory has been destroyed.

19-24.2-19. Adult-use cannabis businesses - Cannabis plants.

1. A manufacturing facility may have no more than ten thousand plants. For every five hundred plants in excess of one thousand plants a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of ten thousand dollars. This fee is due at the time of increase and again at renewal of the adult-use cannabis business registration certificate.
2. A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of adult-use cannabis products at any time, regardless of formulation.
3. The health council shall adopt rules to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

19-24.2-20. Adult-use cannabis businesses - Security and safety.

1. In compliance with rules adopted under this chapter, an adult-use cannabis business shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance to areas containing cannabis and adult-use cannabis products and to prevent the theft of cannabis and adult-use cannabis products.
2. An adult-use cannabis business shall limit entry to an area in which production or processing takes place or in which cannabis or adult-use cannabis products are held to authorized personnel .
3. An adult-use cannabis business must have a fully operational security alarm system at the authorized physical address which includes an electrical support backup system for the alarm system to provide suitable protection against theft and diversion.
4. An adult-use cannabis business shall maintain documentation in an auditable form for:
    a. All maintenance inspections and tests conducted under this section, and

any servicing, modification, or upgrade performed on the security alarm system;

b. An alarm activation or other event that requires response by public safety personnel; and

c. Any breach of security.

19-24.2-21. Adult-use cannabis businesses - Inventory control.

1. An adult-use cannabis business shall comply with the inventory control requirements provided under this section and rules adopted under this chapter.
   a. A manufacturing facility shall:
      (1) Employ a bar coding inventory control system to track batch, strain, and amounts of cannabis and adult-use cannabis products in inventory and to track amounts of adult-use cannabis products sold to dispensaries; and
      (2) Host a secure computer interface to transfer inventory amounts and dispensary purchase information to the department.
   b. A dispensary shall:
      (1) Employ a bar coding inventory control system to track batch, strain, and amounts of adult-use cannabis products in inventory and to track amounts sold to adult-use cannabis consumers; and
      (2) Host a secure computer interface to transfer inventory amounts and adult-use cannabis consumer purchase information to the department.
2. An adult-use cannabis business shall store the adult-use cannabis business's cannabis and adult-use cannabis products in an enclosed locked facility with adequate security, in accordance with rules adopted under this chapter.
3. An adult-use cannabis business shall conduct inventories of cannabis and adult-use cannabis products at the authorized location at the frequency and in the manner provided by rules adopted under this chapter. If an inventory results in the identification of a discrepancy, the adult-use cannabis business shall notify the department immediately and appropriate law enforcement authorities within seventy-two hours. An adult-use cannabis business shall document each inventory conducted by the adult-use cannabis business.
4. The provisions of chapter 54-44.4 do not apply to the selection of the information technology system selected by the department.

19-24.2-22. Adult-use cannabis businesses - Operating manual - Training.

1. An adult-use cannabis business shall maintain a current copy of the adult-use cannabis business's operating manual that meets the requirements of rules adopted under this chapter.
2. An adult-use cannabis business shall develop, implement, and maintain on the premises an onsite training curriculum or shall enter contractual relationships with outside resources capable of meeting adult-use cannabis business agent training needs.

19-24.2-23. Adult-use cannabis businesses - Bylaws and operating agreements.

As part of a proposed adult-use cannabis business's initial application, the applicant shall provide to the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the bylaws or operating agreement in accordance with this chapter. In addition to any other requirements, the bylaws or operating agreement must include the ownership or management structure of the adult-use cannabis business; the composition of the board of directors, board of governors, member-managers, or managers; and provisions relative to the disposition of revenues and earnings

19-24.2-24. Adult-use cannabis businesses - Retention of and access to records and reports.

An adult-use cannabis business shall keep detailed financial reports of proceeds and expenses. An adult-use cannabis business shall maintain all inventory, sales, and financial records in accordance with generally accepted accounting principles. The adult use cannabis business shall maintain for a period of seven years all reports and records required under this section. An adult-use cannabis business shall allow the department, or an audit firm contracted by the department, access at all times to all books and records kept by the adult-use cannabis business.

19-24.2-25. Adult-use cannabis businesses - Recordkeeping - Adult-use cannabis business agents - Registry identification cards.

1. Each adult-use cannabis business shall maintain:
    a. In compliance with rules adopted under this chapter, a personnel record for each adult-use cannabis business agent for a period of at least three years

following termination of the individual's affiliation with the adult-use cannabis business. The personnel record must comply with minimum requirements set by rule adopted under this chapter.

b. A record of the source of funds that will be used to open or maintain the adult-use cannabis business, including the name, address, and date of birth of any investor.

c. A record of each instance in which a current or prospective board member, member-manager, manager, or governor, who managed or served on the board of a business or not-for-profit entity and in the course of that service was convicted, fined, or censured or had a registration or license suspended or revoked in any administrative or judicial proceeding.

2. Each adult-use cannabis business agent shall hold a valid registry identification card.

19-24.2-26. Verification system.

1. The department shall maintain a confidential list of cardholders and each cardholder's registry identification number.
2. The department shall establish a secure verification system. The verification system must allow law enforcement personnel twenty-four-hour access to enter a registry identification number to determine whether the number corresponds with a current valid registry identification card. The system may disclose:
   a. Whether an identification card is valid;
   b. The name of the cardholder; and
   c. The cardholders affiliated adult-use cannabis business.

19-24.2-27. Protections.

Except as provided in sections 19-24.2-14 and 19-24.1-28:

1. An adult-use cannabis consumer is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity for the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies under this chapter.
2. It is presumed an adult-use cannabis consumer is engaged in the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies in accordance with this chapter if the adult-use consumer is not in

possession of adult-use cannabis products in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence that the conduct related to acquisition, use, consumption, or possession of adult-use cannabis products or related supplies was not in accordance with this chapter.

3. A manufacturing facility is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
    a. Produce or process or to conduct related activities for the sole purpose of selling adult-use cannabis products to a dispensary; or
    b. Transfer, transport, or deliver cannabis or adult-use cannabis products to and from a department designee or manufacturing facility in accordance with this chapter.
4. A dispensary is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
    a. Purchase adult-use cannabis products from a manufacturing facility and conducting related activities for the sole purpose of selling adult-use cannabis products and related supplies, and providing educational materials to adult-use cannabis consumers; or
    b. Transfer adult-use cannabis products to and from a department designee or related manufacturing facility in accordance with this chapter.
5. A registered adult-use cannabis business agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for an adult-use cannabis business if the action performed by the adult-use cannabis business agent on behalf of the adult-use cannabis business is authorized under this chapter.
6. The sale and possession of supplies related to possession and consumption of adult-use cannabis products by a dispensary is lawful if in accordance with this chapter.
7. The adult-use of cannabis by an adult-use cannabis consumer or the producing and processing and the selling of adult-use cannabis products by an adult-use cannabis business is lawful if in accordance with this chapter.
8. An adult-use cannabis consumer, adult-use cannabis business agent, or adult-

use cannabis business is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

9. A person in possession of cannabis waste in the course of transporting or disposing of the waste under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or transportation.
10. A person in possession of cannabis, adult-use cannabis products, or cannabis waste in the course of performing laboratory tests as provided under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or testing.

19-24.2-28. Limitations.

1. An adult-use cannabis consumer may use adult-use cannabis products in the following locations:
    a. A private residence, including the person's curtilage, or yard;
    b. On private property, not generally accessible by the public, when the adult-use cannabis consumer is explicitly permitted to consume the adult-use cannabis products on the property by the owner of the property
2. This chapter does not authorize an adult-use cannabis consumer to engage in, and does not prevent the imposition of any civil liability or criminal liability or other penalties for engaging in the following conduct:
    a. Use, possession, or transportation of adult-use cannabis products by an individual under twenty-one years of age.
    b. Use or consumption of adult-use cannabis products by an adult-use consumer in any public place, including an indoor or outdoor area used by, or open to, the general public or on any form of public transportation.
    c. Use or consumption of an adult-use cannabis product on the grounds of any adult-use cannabis business.
    d. Undertaking an activity under the influence of cannabis if doing so would constitute negligence or professional malpractice.
    e. Possession or consumption of adult-use cannabis products in any of the following locations:
        i. On a school bus or school van that is used for school purposes;
        ii. On the grounds of any public or private school, including all facilities, whether owned, rented, or leased, and all vehicles that a public or

private school owns, leases, rents, contracts for, or controls;

iii. At any location while a public or private school sanctioned event is occurring at that location;

iv. On state or federal property, including all facilities, whether owned, rented, or leased, and all vehicles the state or federal government, leases, rents, contracts for, or controls;

v. On the grounds of a correctional facility;

vi. On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department of human services.

f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2, 23-12-10.4, 23-12-10.5, or 23-12-11.

g. Use of adult-use cannabis products in a motor vehicle as defined by chapter 39-01.

h. Using a combustible delivery form of adult-use cannabis products or vaporizing adult-use cannabis products under this chapter if the smoke or vapor would be inhaled by a person under twenty-one years of age.

i. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat, while under the influence of cannabis. However, a registered qualifying patient may not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

3. This chapter does not require the following:

a. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume adult-use cannabis products on or in that property; or

b. A landlord to allow production and processing of cannabis or possession and consumption of adult-use cannabis products on rental property.

4. This chapter does not prohibit an employer from the following:

a. Disciplining or terminating the employment of an employee for possessing or consuming adult-use cannabis products in the workplace or for working while under the influence of cannabis. Working as used in this subsection includes when an employee is on call.

b. Adopting reasonable zero tolerance or drug-free workplace policies, or

employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call provided that the policy is applied in a nondiscriminatory manner.

c. Disciplining or terminating the employment of an employee for violating an employer's employment policies or workplace drug policy.

5. An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If an employer elects to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the employer must afford the employee a reasonable opportunity to contest the basis of the determination.
6. Nothing in this chapter shall be construed to create or imply a cause of action for any person against an employer for:
    a. Actions, including subjecting an employee or applicant to reasonable drug and alcohol testing under the employer's workplace drug policy, including an employee's refusal to be tested or to cooperate in testing procedures or disciplining termination of employment, based on the employer's good faith belief that an employee used or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies;
    b. Actions, including discipline or termination of employment, based on the employer's good faith belief that an employee was impaired as a result of the use of cannabis, or under the influence of cannabis, while at the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policy; or
    c. Injury, loss or liability to a third party if the employer neither knew nor had reason to know that the employee was impaired.
7. Nothing in this chapter shall be construed to interfere with any federal, state or local

restrictions on employment including, the United States Department of Transportation regulation 49 CFR 40.151(e) or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.

19-24.2-29. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of cannabis and adult-use cannabis products, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.
2. The health council may adopt rules regarding the operation and governance of additional categories of registered adult-use cannabis businesses.

19-24.2-30. Confidentiality.

1. Except as provided under subsection 2, information kept or maintained by the department is confidential, including information in a registration application or renewal and supporting information submitted by an adult-use cannabis business, proposed adult-use cannabis business, or adult-use cannabis business agent. Information kept or maintained by the department that could be used to identify an adult-use cannabis consumer is confidential.
2. Information kept or maintained by the department may be disclosed as necessary for:
    a. The verification of registration certificates and registry identification cards under this chapter;
    b. Notification of state or local law enforcement of apparent criminal violation;
    c. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or
    d. Date for statistical purposes in a manner such that no individual person or adult-use cannabis business is identified.
3. Information submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.2-31. Annual Report to Legislative Management

The department shall submit an annual report to the legislative management. The following information shall be included in the annual report in a manner such that no individual person or adult-use cannabis business can be identified:

1. The number and type of adult-use cannabis businesses;
2. Revenue and expenses of the department related to the implementation of this chapter;
3. Sales data by product type; and
4. Information for statistical purposes.

19-24.2-32. Adult-use cannabis fees.

The department shall deposit all fees collected under this chapter in the fund established under section 19-24.1-40.

CHAPTER 19-03.1
UNIFORM CONTROLLED SUBSTANCES ACT

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:
   a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
   b. The patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.
3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.
4. "Board" means the state board of pharmacy.
5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.
6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.
7. "Controlled substance analog":
   a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:
      (1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or
      (2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.
   b. Does not include:
      (1) A controlled substance;
      (2) Any substance for which there is an approved new drug application; or
      (3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.
8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.
10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.
11. "Dispenser" means a practitioner who dispenses.

12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.
13. "Distributor" means a person who distributes.
14. "Drug" means:
    a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;
    b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;
    c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and
    d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.
~~15. "Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.~~
16. "Immediate precursor" means a substance:
    a. That the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;
    b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and
    c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.
17. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:
    a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or
    b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.
18. "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include:
    a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
    b. Hemp as defined in chapter 4.1-18.1;
    c. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355]; or
    d. Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.
19. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
    a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.

b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
c. Opium poppy and poppy straw.
d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

20. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.
21. "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.
22. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.
23. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
24. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
25. "Practitioner" means:
    a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.
    b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.
26. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.
27. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.
28. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.
29. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.
30. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

19-03.1-05. Schedule I.

1. The controlled substances listed in this section are included in schedule I.
2. Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

3. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:
   a. Acetylmethadol.
   b. Allylprodine.
   c. Alphacetylmethadol.
   d. Alphameprodine.
   e. Alphamethadol.
   f. Benzethidine.
   g. Betacetylmethadol.
   h. Betameprodine.
   i. Betamethadol.
   j. Betaprodine.
   k. Clonitazene.
   l. Dextromoramide.
   m. Diampromide.
   n. Diethylthiambutene.
   o. Difenoxin.
   p. Dimenoxadol.
   q. Dimepheptanol.
   r. Dimethylthiambutene.
   s. Dioxaphetyl butyrate.
   t. Dipipanone.
   u. Ethylmethylthiambutene.
   v. Etonitazene.
   w. Etoxeridine.
   x. Furethidine.
   y. Hydroxypethidine.
   z. Ketobemidone.
   aa. Levomoramide.
   bb. Levophenacylmorphan.
   cc. Morpheridine.
   dd. MPPP (also known as 1-methyl-4-phenyl-4-propionoxypiperidine).
   ee. Noracymethadol.
   ff. Norlevorphanol.
   gg. Normethadone.
   hh. Norpipanone.
   ii. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-acetoxypiperidine). jj. Phenadoxone.
   kk. Phenampromide.
   ll. Phenomorphan.
   mm. Phenoperidine.
   nn. Piritramide.
   oo. Proheptazine.
   pp. Properidine.
   qq. Propiram.
   rr. Racemoramide.
   ss. Tilidine.
   tt. Trimeperidine.
   uu. 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700).
   vv. 1-cyclohexyl-4-(1,2-diphenylethyl)piperazine (also know as MT-45).
   ww. 3,4-dichloro-*N*-{[1-(dimethylamino)cyclohexyl]methyl}benzamide (also known as AH-7921).

xx. Fentanyl derivatives. Unless specifically excepted or unless listed in another schedule or are not FDA approved drugs, and are derived from N-(1-(2-Phenylethyl)-4-piperidinyl)-N-phenylpropanamide (Fentanyl) by any substitution on or replacement of the phenethyl group, any substitution on the piperidine ring, any substitution on or replacement of the propanamide group, any substitution on the anilido phenyl group, or any combination of the above. Examples include:

(1) N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide (also known as Acetyl-alpha-methylfentanyl).

(2) N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine (also known as Alpha-methylfentanyl).

(3) N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (also known as Alpha-methylthiofentanyl).

(4) N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide (also known as Beta-hydroxyfentanyl).

(5) N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide (also known as Beta-hydroxy-3-methylfentanyl).

(6) N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (also known as 3-Methylfentanyl).

(7) N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (also known as 3-Methylthiofentanyl).

(8) N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide (also known as Para-fluorofentanyl).

(9) N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]propanamide (also known as Thiofentanyl).

(10) N-(1-phenylethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide (also known as Furanyl Fentanyl).

(11) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide; N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide (also known as Butyryl Fentanyl).

(12) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide; N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide (also known as Beta-Hydroxythiofentanyl).

(13) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (also known as Acetyl Fentanyl).

(14) N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide (also known as Acryl Fentanyl).

(15) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide (also known as Valeryl Fentanyl).

(16) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (also known as 4-Fluoroisobutyryl Fentanyl).

(17) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (also known as Ortho-fluorofentanyl, 2-Fluorofentanyl).

(18) N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (also known as Tetrahydrofuranyl Fentanyl).

(19) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (also known as Methoxyacetyl Fentanyl).

(20) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (also known as Cyclopropyl Fentanyl).

(21) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide (also known as Ocfentanil).

(22) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (also known as Cyclopentyl Fentanyl).

(23) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (also known as Isobutyryl Fentanyl).

(24) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (also known as Para-chloroisobutyryl Fentanyl).

(25) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (also known as Para-methoxybutyryl Fentanyl).
(26) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (also known as Para-fluorobutyryl Fentanyl).

4. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
   a. Acetorphine.
   b. Acetyldihydrocodeine.
   c. Benzylmorphine.
   d. Codeine methylbromide.
   e. Codeine-N-Oxide.
   f. Cyprenorphine.
   g. Desomorphine.
   h. Dihydromorphine.
   i. Drotebanol.
   j. Etorphine (except hydrochloride salt).
   k. Heroin.
   l. Hydromorphinol.
   m. Methyldesorphine.
   n. Methyldihydromorphine.
   o. Morphine methylbromide.
   p. Morphine methylsulfonate.
   q. Morphine-N-Oxide.
   r. Myrophine.
   s. Nicocodeine.
   t. Nicomorphine.
   u. Normorphine.
   v. Pholcodine.
   w. Thebacon.
5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):
   a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
   b. Alpha-methyltryptamine.
   c. 4-methoxyamphetamine (also known as 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA).
   d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA.
   ~~e. Hashish.~~
   f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
   g. Lysergic acid diethylamide.
   h. Marijuana.
   i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl).
   j. Peyote (all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
   k. N-ethyl-3-piperidyl benzilate.

l. N-methyl-3-piperidyl benzilate.

m. Psilocybin.

n. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1;~~ such as the following:

(1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

(2) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.

(3) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

Tetrahydrocannabinols does not include:

(1) Tetrahydrocannabinols found in hemp as defined in tille 4.1-18.1; or

(2) Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

o. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.

(1) Indole carboxaldehydes. Any compound structurally derived from 1H-indole-3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.

[2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.

[3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.

[4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.

[5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.

[6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.

[7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.

[8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.

[9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.

[10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.

[11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole - Other names: RCS-8.
[12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
[13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
[14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
[15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
[16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
[17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone - Other names: WIN 48,098 and Pravadoline.
[18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
[19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
[20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
[21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
[22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone -- Other names: THJ-018.
[23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone - Other names: FUBIMINA.
[24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.
[25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.

(2) Indole carboxamides. Any compound structurally derived from 1H-indole-3-carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:
(a) Substitution to the indole ring to any extent; or
(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or
(c) A nitrogen heterocyclic analog of the indole ring; or
(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
(e) Examples include:
[1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.
[2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.
[3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide - Other names: AKB 48 and APINACA.
[4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide - Other names: NNEI and MN-24.
[5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide - Other names: ADBICA.

[6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: AB-PINACA.

[7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.

[8] N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA and 5F-AB-PINACA.

[9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: ADB-PINACA.

[10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: AB-CHMINACA.

[11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: ADB-FUBINACA.

[12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-fluorobenzyl) analog.

[13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.

[14] methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: 5-fluoro AMB and 5F-AMB.

[15] methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: FUB-AMB, MMB-FUBINACA, and AMB-FUBINACA.

[16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.

[17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.

[18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.

[19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.

[20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.

[21] 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide - Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78.

[22] methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate - Other names: MMB-CHMICA, AMB-CHMICA.

[23] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide - Other names: 5F-CUMYL-P7AICA.

(3) Indole carboxylic acids. Any compound structurally derived from 1H-indole-3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
(c) A nitrogen heterocyclic analog of the indole ring; or
(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
(e) Examples include:
[1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.
[2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FDU-PB-22.
[3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.
[4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.
[5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.
[6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate - Other names: NM2201 and CBL2201.

(4) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:
(a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.
(b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.

(5) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1- ylmethanone - Other names: JWH-307.

(6) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2 (4 morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane
- Other names: JWH-176.

(7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
(a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: CP 47,497.

(b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
(c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.

(8) Others specifically named:
(a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.
(b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: Dexanabinol and HU-211.
(c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone - Other names: WIN 55,212-2.
(d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone - Other names: CB-13.

p. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.

(1) Whether or not the compound is further modified in any of the following ways, that is to say:
(a) By substitution of phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups;
(b) By substitution at the 2-position by any alkyl groups; or
(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.

(2) Examples include:
(a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).
(b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).
(c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).
(d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).
(e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).
(f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).
(g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).
(h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).
(i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).
(j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).
(k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).
(l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).

(m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).
(n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).
(o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).
(p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2 -methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).
(q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine).
(r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine).
(s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).
(t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (also known as 2C-B-FLY).
(u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine (also known as 2C-B-butterFLY).
(v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).
(w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).
(x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine (also known as 2C-I-NBOH or 2,5I-NBOH).
(y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).
(z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).
(aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).
(bb) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (also known as 6-APDB).
(cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA).
(dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).
(ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T-7).
(ff) 5-methoxy-3,4-methylenedioxy-amphetamine.
(gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM and STP).
(hh) 3,4-methylenedioxy amphetamine (also known as MDA).
(ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).
(jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).
(kk) 3,4,5-trimethoxy amphetamine.
(ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).

q. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not

further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:

(1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
(2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
(3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
(4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
(5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MiPT).
(6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).
(7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine).
(8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DiPT).
(9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
(10) Dimethyltryptamine (also known as DMT).
(11) Psilocyn.

r. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
s. 1-[4-(trifluoromethylphenyl)]piperazine.
t. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
u. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TPCP, TCP).
y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
z. Salvia divinorum, salvinorin A, or any of the active ingredients of salvia divinorum.

6. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
   a. Gamma-hydroxybutyric acid.
   b. Mecloqualone.
   c. Methaqualone.
7. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
   a. Aminorex (also known as 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine).
   b. Cathinone.
   c. Substituted cathinones. Any compound, material, mixture, preparation, or other product, unless listed in another schedule or an approved food and drug administration drug (e.g., buproprion, pyrovalerone), structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
      (1) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substitutents;
      (2) By substitution at the 3-position with an acyclic alkyl substituent;

(3) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
(4) By inclusion of the 2-amino nitrogen atom in a cyclic structure.
Some trade or other names:
(a) 3,4-Methylenedioxy-alpha-pyrrolidinopropiophenone (also known as MDPPP).
(b) 3,4-Methylenedioxy-N-ethylcathinone (also known as Ethylone, MDEC, or bk-MDEA).
(c) 3,4-Methylenedioxy-N-methylcathinone (also known as Methylone or bk-MDMA).
(d) 3,4-Methylenedioxypyrovalerone (also known as MDPV).
(e) 3,4-Dimethylmethcathinone (also known as 3,4-DMMC).
(f) 2-(methylamino)-1-phenylpentan-1-one (also known as Pentedrone).
(g) 2-Fluoromethcathinone (also known as 2-FMC).
(h) 3-Fluoromethcathinone (also known as 3-FMC).
(i) 4-Methylethcathinone (also known as 4-MEC and 4-methyl-N-ethylcathinone).
(j) 4-Fluoromethcathinone (also known as Flephedrone and 4-FMC).
(k) 4-Methoxy-alpha-pyrrolidinopropiophenone (also known as MOPPP).
(l) 4-Methoxymethcathinone (also known as Methedrone; bk-PMMA).
(m) 4'-Methyl-alpha-pyrrolidinobutiophenone (also known as MPBP).
(n) Alpha-methylamino-butyrophenone (also known as Buphedrone or MABP).
(o) Alpha-pyrrolidinobutiophenone (also known as alpha-PBP).
(p) Alpha-pyrrolidinopropiophenone (also known as alpha-PPP).
(q) Alpha-pyrrolidinopentiophenone (also known as Alpha-pyrrolidinovalerophenone or alpha-PVP).
(r) Beta-keto-N-methylbenzodioxolylbutanamine (also known as Butylone or bk-MBDB).
(s) Ethcathinone (also known as N-Ethylcathinone).
(t) 4-Methylmethcathinone (also known as Mephedrone or 4-MMC).
(u) Methcathinone.
(v) N,N-dimethylcathinone (also known as metamfepramone).
(w) Naphthylpyrovalerone (naphyrone).
(x) B-Keto-Methylbenzodioxolylpentanamine (also known as Pentylone).
(y) 4-Methyl-alpha-pyrrolidinopropiophenone (also known as 4-MePPP and MPPP).
(z) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one (also known as Ephylone and N-Ethylpentylone).

d. Fenethylline.
e. Fluoroamphetamine.
f. Fluoromethamphetamine.
g. (±)cis-4-methylaminorex (also known as (±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).
h. N-Benzylpiperazine (also known as BZP, 1-benzylpiperazine).
i. N-ethylamphetamine.
j. N, N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine).

19-03.1-22.2. Endangerment of child or vulnerable adult.

1. For purposes of this section:
a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.

b. "Child" means an individual who is under the age of eighteen years.
c. "Controlled substance" means the same as that term is defined in section 19-03.1-01~~, except the term does not include less than one-half ounce of marijuana~~.
d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.
e. "Prescription" means the same as that term is described in section 19-03.1-22.
f. "Vulnerable adult" means a vulnerable adult as the term is defined in section 50-25.2-01.

2. Unless a greater penalty is otherwise provided by law, a person who knowingly or intentionally causes or permits a child or vulnerable adult to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in subsection 1, is guilty of a class C felony.
3. Unless a greater penalty is otherwise provided by law, a person who violates subsection 2, and a child or vulnerable adult actually suffers bodily injury by exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia, is guilty of a class B felony unless the exposure, ingestion, inhalation, or contact results in the death of the child or vulnerable adult, in which case the person is guilty of a class A felony.
4. It is an affirmative defense to a violation of this section that the controlled substance was provided by lawful prescription for the child or vulnerable adult and that it was administered to the child or vulnerable adult in accordance with the prescription instructions provided with the controlled substance.

19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. ~~This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana.~~
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of an infraction~~class B misdemeanor~~.
3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

19-03.1-23. Prohibited acts - Penalties.

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
   a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
   b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony.
   c. A substance classified in schedule IV, is guilty of a class C felony.
   d. A substance classified in schedule V, is guilty of a class A misdemeanor.
2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.
3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by

means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:

a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.

4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.
5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
   a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
   b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

   A person who violates this subsection is guilty of a class C felony.
7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.
   b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.
   c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana.
   d. ~~A person who violates this subsection by possessing:~~
      ~~(1) Marijuana in an amount of less than one half ounce [14.175 grams] is guilty of an infraction~~
      ~~(2) At least one half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.~~
      ~~(3) More than 500 grams of marijuana is guilty of a class A misdemeanor.~~

      A person under the age of twenty-one is in violation of this subsection by possessing:

      (1) Marijuana
         i. In an amount less than one ounce [28.35 grams] is guilty of an infraction.

ii. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

iii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. In an amount up to the applicable maximum amount authorized by chapter 19-24.2 is guilty of an infraction.

ii. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

iii. More than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class A misdemeanor.

e. A person age twenty-one or older is in violation of this section by possessing:

(1) Marijuana

i. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

ii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

ii. More than two times the applicable maximum amount authorized by chapter 19-24.2 authorized by chapter19-24.2 is guilty of a class A misdemeanor.

f. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

g. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

h. Probation under this subsection may include placement in another facility, treatment program, or drug court. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

i. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.

j. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

8. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.
9. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or an amount up to the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.
10. Upon successful completion of a drug court program, a person who has been convicted of a felony under this section and sentenced to drug court is deemed to have been convicted of a misdemeanor.
11. If a person convicted of a misdemeanor under this section is sentenced to drug court and successfully completes a drug court program, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

19-03.1-23.1. Increased penalties for aggravating factors in drug offenses.

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
   a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
   b. The offense involved:
      (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
      (2) Fifty grams or more of a mixture or substance containing a detectable amount of:
         (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
         (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
         (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
         (d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;
      (3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
      (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
      (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
      (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;
(8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C11H15NO2;
(9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate;
(10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam;
(11) Five hundred grams or more of marijuana ; or
(12) Tetrahydrocannabinol in an amount more than four times the applicable maximum amount authorized by chapter 19-24.2.

c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

2. The offense is:
   a. A class A felony if the violation of section 19-03.1-23 is designated as a class B felony.
   b. A class B felony if the violation of section 19-03.1-23 is designated as a class C felony.
   c. A class C felony if the violation of section 19-03.1-23 is designated as a class A misdemeanor.

CHAPTER 19-03.4
DRUG PARAPHERNALIA

19-03.4-01. Definition - Drug paraphernalia.

In this chapter, unless the context otherwise requires, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of chapter 19-03.1. The term includes:

1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Diluents and adulterants, including quinine hydrochloride, mannitol, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.
7. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
8. Blenders, bowls, containers, spoons, grinders, and mixing devices used, intended for use, or designed for use in compounding, manufacturing, producing, processing, or preparing controlled substances.
9. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
10. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or products or materials used or intended for use in manufacturing, producing, processing, or preparing controlled substances.
11. Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, including:
    a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
    b. Water pipes.
    c. Carburetion tubes and devices.
    d. Smoking and carburetion masks.
    e. Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, a marijuana cigarette, that has become too small or too short to be held in the hand.
    f. Miniature cocaine spoons and cocaine vials.
    g. Chamber pipes.
    h. Carburetor pipes.
    i. Electric pipes.
    j. Air-driven pipes.
    k. Chillums.
    l. Bongs.
    m. Ice pipes or chillers.
13. Ingredients or components to be used or intended or designed to be used in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance, whether or not otherwise lawfully obtained, including anhydrous ammonia,

nonprescription medications, methamphetamine precursor drugs, or lawfully dispensed controlled substances.

19-03.4-02. Drug paraphernalia - Guidelines.

In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors:

1. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.
3. The proximity of the object, in time and space, to a direct violation of chapter 19-03.1.
4. The proximity of the object to controlled substances.
5. The existence of any residue of controlled substances on the object.
6. Direct or circumstantial evidence of the intent of an owner, or of any person in control of the object, to deliver the object to another person whom the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of chapter 19-03.1. The innocence of an owner, or of any person in control of the object, as to a direct violation of chapter 19-03.1 may not prevent a finding that the object is intended or designed for use as drug paraphernalia.
7. Instructions, oral or written, provided with the object concerning the object's use.
8. Descriptive materials accompanying the object which explain or depict the object's use.
9. National and local advertising concerning the object's use.
10. The manner in which the object is displayed for sale.
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, for example, a licensed distributor or dealer of tobacco products.
12. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
13. The existence and scope of legitimate uses for the object in the community.
14. Expert testimony concerning the object's use.
15. The actual or constructive possession by the owner or by a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions, or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance.
16. Whether the object is a needle or syringe collected during the operation of a needle exchange program under chapter 23-01 to aid in the prevention of bloodborne diseases.
17. Whether the object is used by a registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent in accordance with chapter 19-24.1.
18. Whether the object is used by an adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent in accordance with chapter 19-24.2.

19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. A person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1.
2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person

previously has been convicted of an offense under this title, other than an offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony

3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.1 and chapter 19-24.2 is not subject to prosecution under this subsection.
4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or tetrahydrocannabinol, or possess with the intent to use drug paraphernalia to store or contain marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of an infraction. The following persons are not subject to prosecution under this subsection:
    a. A registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
    b. An adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent acting in accordance with chapter 19-24.2.
5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug and alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia - Penalty.

A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class C felony if the drug paraphernalia will be used to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section is a class A misdemeanor. The following persons are not subject to prosecution under this subsection:

1. A registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
2. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.2.

Subsection 1 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, ~~saliva~~oral fluid, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, ~~saliva~~oral fluid, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

39-20-14. Screening tests.

1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath or oral fluid for the purpose of estimating the alcohol concentration or presence of drugs or substances in the individual's breath or oral fluid upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or a violation under section 39-08-01 or an equivalent offense, or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol or other drugs or substances that render the individual

incapable of safely operating a motor vehicle.

2. An individual may not be required to submit to a screening test or tests of breath or oral fluid while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.

3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol or other drugs or substances and that refusal of the individual to submit to a screening test may result in a revocation for at least one hundred eighty days and up to three years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is admissible in a court proceeding if the individual was arrested in violation of section 39-08-01 and did not take any additional chemical tests requested by the law enforcement officer. Such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available.

4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath,

blood, oral fluid, or urine sample for a chemical test requested under section 39-20-01 for the same incident.

5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.

6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol or other drugs or substances in an individual's blood, breath, oral fluid, or urine.

Subsection 12 of section 65-05-08 of the North Dakota Century Code is amended and reenacted as follows:

12. The organization may not pay wage loss benefits if the wage loss is related to the use ~~or presence of medical marijuana~~ of usable marijuana or adult-use cannabis products, or the presence of tetrahydrocannabinol.

North Dakota Purchase Amounts Comparison of Current Medical Marijuana Program to Drafted Adult-Use Cannabis Program

	Medical Marijuana (current)	Adult-Use Cannabis (drafted)
Age Limit	19 and older (minor needs a caregiver)	21 and older
Purchase Time Period	30 Days	2 Weeks
Types of Products		
Dried Leaves & Flowers	2.5 ounces* (70.87 grams)	21 grams
Cannabinoid Concentrates	4,000 mg of THC	1 gram
Cannabinoid Solutions		300 mg of THC
Cannabinoid Capsules		
Cannabinoid Transdermal Patches		
Cannabinoid Topical		
Cannabinoid Edible Product	Not Applicable	

* An enhanced amount of six ounces is available for registered qualifying patients with a debilitating medical condition of cancer (health care provider must authorize).

North Dakota Possession Amounts Comparison of Current Medical Marijuana Program to Drafted Adult-Use Cannabis Program

Type of Product	Medical Marijuana (current)	Adult-Use Cannabis (drafted)
Dried Leaves & Flowers	3 ounces*	1 ounce
Cannabinoid Concentrates	No limit	1.5 grams
Cannabinoid Solutions		400 mg of THC
Cannabinoid Capsules		
Cannabinoid Transdermal Patches		
Cannabinoid Topical		
Cannabinoid Edible Product	Not Applicable	

* Registered patient with an enhanced amount authorized may possess up to 7.5 ounces.

North Dakota Medical Marijuana Purchase and Possession Limits (current)

	Dried Leaves & Flowers*	Concentrates and Other Products
Purchase Amount (30 day period)	2.5 ounces (70.87 grams)	4,000 mg of THC
Possession Limit	3 ounces	No limit

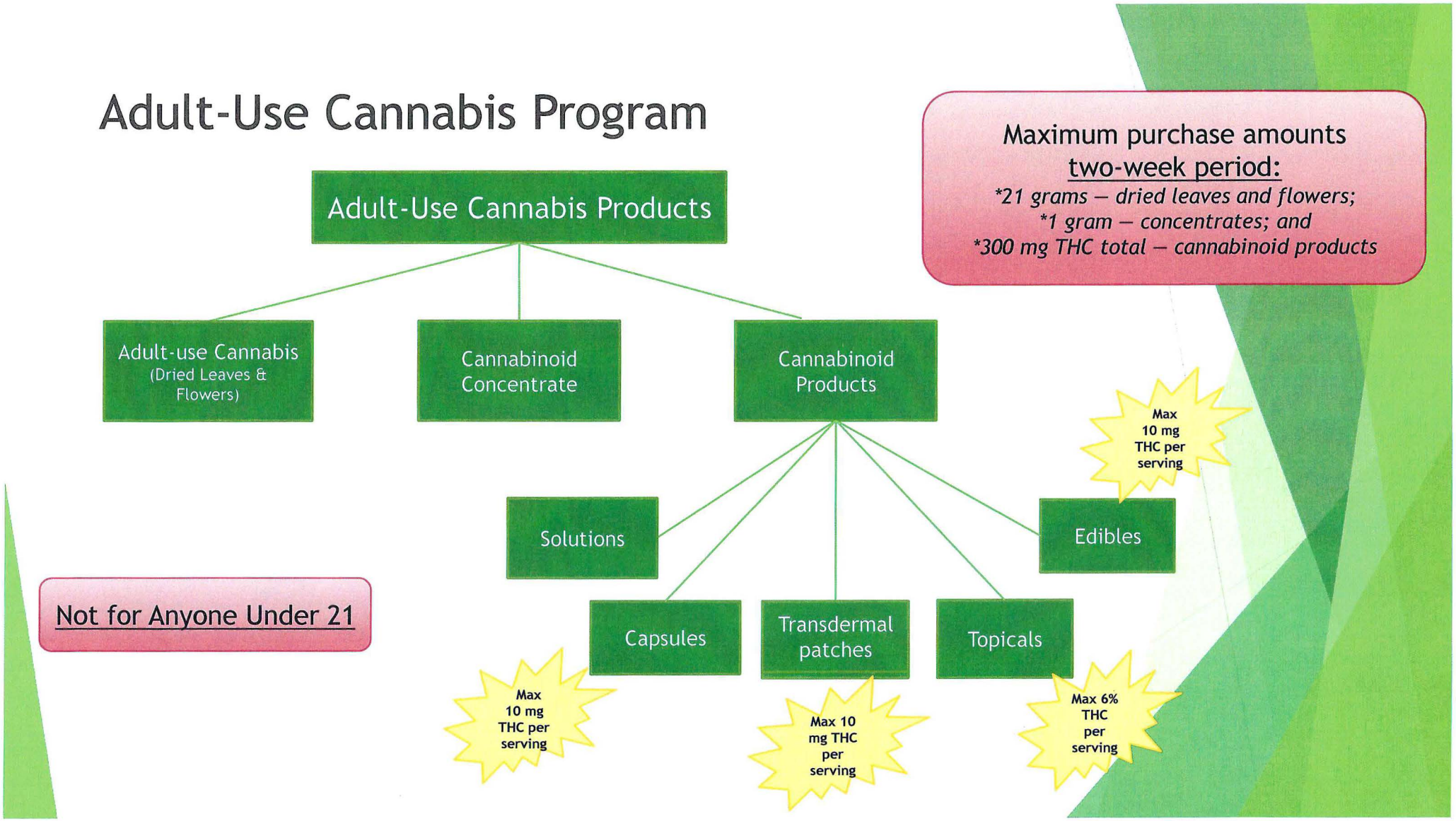
* An enhanced amount of six ounces is available for registered qualifying patients with a debilitating medical condition of cancer (health care provider must authorize). Possession limit is seven ounces.

North Dakota Adult-Use Cannabis Purchase and Possession Limits (drafted)

	Dried Leaves & Flowers*	Concentrates	Other Products
Purchase Amount (2 week period)	21 grams	1 gram	300 mg of THC
Possession Limit	1 ounce (28 grams)	1.5 grams	400 mg of THC

Two Week Purchase Limit Equivalent Examples		
Product Type	**Purchase Amount**	**Equivalent purchasing examples**
Dried Leaves & Flowers	21 grams	42 pre-rolls at 0.5 gram each
Concentrate	1 gram	2 vape cartridges at 0.5 gram each; OR 1 gram of shatter, wax, etc.; OR A combination of the above
Other Products	300 mg of THC	30 edibles at 10 mg each; OR 30 capsules at 10 mg each; OR One 50 gram topical; OR One 15 ml tincture; OR A combination of the above

Adult-Use Cannabis Program



21.0683.03001
Title.

Prepared by the Legislative Council staff for
Representative Dobervich
February 11, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1420

Page 1, line 1, after "19-24.3" insert "and a new section to chapter 54-07"

Page 1, line 2, after "marijuana" insert "and the duty of the governor to enter agreements relating to marijuana businesses"

Page 9, after line 2, insert:

"**SECTION 7.** A new section to chapter 54-07 of the North Dakota Century Code is created and enacted as follows:

Agreement for coordination and enforcement - Marijuana-related businesses.

1. The governor may enter an agreement with the governing body of an Indian tribe recognized by the United States department of the interior and located in this state for the purpose of cross-jurisdictional coordination and enforcement of marijuana-related businesses licensed under chapters 19-24.1 and 19-24.3 to conduct business on tribal trust land by the governing body of the Indian tribe.

2. An agreement under this section may:

   a. Provide for the cross-jurisdictional coordination and enforcement of marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories licensed by the governing body of the Indian tribe.

   b. Require the governing body of the Indian tribe to establish the same or similar requirements on marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories consistent with chapters 19-24.1 and 19-24.3.

   c. Ensure enforceable public health and safety standards and include a system to regulate and track the production, processing, and dispensing of marijuana for marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories licensed by the governing body of the Indian tribe.

   d. Authorize an agency of this state to assist in the implementation and enforcement of the terms of the agreement."

Renumber accordingly

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1420
2/16/2021
Subcommittee

Relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty

Subcommittee Chairman M. Ruby opened the subcommittee meeting at 8:03 a.m.

Roll Call: Subcommittee Chairman Matthew Ruby, Rep. Mike Beltz, Rep. Gretchen Dobervich, Rep. Greg Westlind – All Present

Discussion Topics:

- Tribal community
- Program regulation
- Dispensary location
- Marijuana lab testing
- Tribal police

Rep. Greg Westlind (8:04) moved recommendation to present amendments from Attorney General's Office to full committee - #6722 & #6723

Rep. Mike Beltz (8:04) second

Voice Vote – Recommendation Carried

Rep. Gretchen Dobervich (8:05) moved recommendation to present Amendment 21.0683.03001 to full committee - #6724.

No second.

Rep. Gretchen Dobervich (8:16) moved to dissolve the subcommittee

Rep. Mike Beltz (8:17) second

Voice Vote – Motion Carried

Subcommittee Chairman M. Ruby adjourned at 8:18 a.m.

Tamara Krause, Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1420

Page 1, line 1, after “A BILL” replace the remainder of the bill with “A BILL for an Act to create and enact two new subsections to section 19-03.4-02 and chapter 19-24.2 of the North Dakota Century Code, relating to the personal use of marijuana; to amend and reenact section 19-03.1-01, subsection 5 of section 19-03.1-05, subsection 1 of section 19-03.1-22.2, section 19-03.1-22.3, section 19-03.1-23, subsection 1 of section 19-03.1-23.1, section 19-03.4-03, section 19-03.4-04, subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of the North Dakota Century Code, relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:
   a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
   b. The patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.
3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.
4. "Board" means the state board of pharmacy.
5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.
6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.
7. "Controlled substance analog":
   a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:
      (1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

b. Does not include:

(1) A controlled substance;

(2) Any substance for which there is an approved new drug application; or

(3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.

8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.
10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.
11. "Dispenser" means a practitioner who dispenses.
12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.
13. "Distributor" means a person who distributes.
14. "Drug" means:
    a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;
    b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;
    c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and
    d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.
15. ~~"Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.~~
16. "Immediate precursor" means a substance:
    a. That the board has found to be and by rule designates as being the principal

compound commonly used or produced primarily for use in the manufacture of a controlled substance;

b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and

c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

17. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:

    a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

    b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

18. "Marijuana" ~~means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include: The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term does not include hemp as defined in title 4.1~~means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include:

    a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

    b. Hemp as defined in chapter 4.1-18.1;

    c. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355]; or

    d. Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

19. "Narcotic drug" means any of the following, whether produced directly or indirectly

by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.
b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
c. Opium poppy and poppy straw.
d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

20. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.
21. "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.
22. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.
23. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
24. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
25. "Practitioner" means:
    a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.
    b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.
26. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.
27. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.
28. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in

the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.

29. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.
30. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

SECTION 2. AMENDMENT. Subsection 5 of section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):
   a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
   b. Alpha-methyltryptamine.
   c. 4-methoxyamphetamine (also known as 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA).
   d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA.
   ~~e. Hashish.~~
   f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
   g. Lysergic acid diethylamide.
   h. Marijuana.
   i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl- 6H-dibenzol[b,d]pyran; Synhexyl).
   j. Peyote (all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
   k. N-ethyl-3-piperidyl benzilate.
   l. N-methyl-3-piperidyl benzilate.
   m. Psilocybin.
   n. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the

resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1;~~ such as the following:

(1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

(2) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.

(3) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

Tetrahydrocannabinols does not include:

(1) Tetrahydrocannabinols found in hemp as defined in tille 4.1-18.1; or

(2) Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

o. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.

(1) Indole carboxaldehydes. Any compound structurally derived from 1H-indole- 3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.

[2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.

[3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.

[4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.

[5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
[6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
[7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
[8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
[9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
[10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
[11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole -Other names: RCS-8.
[12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
[13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
[14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
[15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
[16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
[17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3- yl]methanone - Other names: WIN 48,098 and Pravadoline.
[18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
[19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
[20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
[21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
[22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone --Other names: THJ-018.
[23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1- yl)methanone - Other names: FUBIMINA.
[24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.
[25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.

(2) Indole carboxamides. Any compound structurally derived from 1H-indole-

3- carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.

[2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.

[3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide -Other names: AKB 48 and APINACA.

[4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide -Other names: NNEI and MN-24.

[5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3- carboxamide - Other names: ADBICA.

[6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole- 3-carboxamide - Other names: AB-PINACA.

[7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.

[8] N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA and 5F-AB-PINACA.

[9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole- 3-carboxamide - Other names: ADB-PINACA.

[10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)- 1H-indazole-3-carboxamide - Other names: AB-CHMINACA.

[11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H- indazole-3-carboxamide - Other names: ADB-FUBINACA.

[12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3- carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-

fluorobenzyl) analog.

[13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.

[14] methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3- methylbutanoate - Other names: 5-fluoro AMB and 5F-AMB.

[15] methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: FUB-AMB, MMB-FUBINACA, and AMB-FUBINACA.

[16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1 H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.

[17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.

[18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.

[19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.

[20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.

[21] 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxa mide - Other names: 4-CN-CUMYL-BUTINACA; 4-cyano- CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN -BINACA; SGT-78.

[22] methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)- 3-methylbutanoate - Other names: MMB-CHMICA, AMB- CHMICA.

[23] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridi ne-3-carboxamide - Other names: 5F-CUMYL-P7AICA.

(3) Indole carboxylic acids. Any compound structurally derived from 1H-indole- 3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or
(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
(c) A nitrogen heterocyclic analog of the indole ring; or
(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
(e) Examples include:
[1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.
[2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate- Other names: FDU-PB-22.
[3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.
[4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.
[5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.
[6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate- Other names: NM2201 and CBL2201.

(4) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:
(a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.
(b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.

(5) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl- 2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4- yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.

(6) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl- 2-piperidinyl)methyl, 2 (4 morpholinyl)ethyl, 1-(N-methyl-2-

pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4- yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane
- Other names: JWH-176.

(7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1- (N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
   (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol – Other names: CP 47,497.
   (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
   (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.

(8) Others specifically named:
   (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.
   (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol -Other names: Dexanabinol and HU-211.
   (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone - Other names: WIN 55,212-2.
   (d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone -Other names: CB-13.

p. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.

(1) Whether or not the compound is further modified in any of the following ways, that is to say:
   (a) By substitution of phenyl ring by any halo, hydroxyl,

alkyl, trifluoromethyl, alkoxy, or alkylthio groups;

(b) By substitution at the 2-position by any alkyl groups; or

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.

(2) Examples include:

(a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).

(b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).

(c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).

(d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).

(e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).

(f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).

(g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).

(h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C- T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).

(i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).

(j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).

(k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).

(l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).

(m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).

(n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).

(o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).

(p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I- NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).

(q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-

methoxybenzyl)phenethylamine).

(r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2- methoxybenzyl)phenethylamine).

(s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).

(t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4- yl)ethanamine (also known as 2C-B-FLY).

(u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5- yl)ethanamine (also known as 2C-B-butterFLY).

(v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5- b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).

(w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).

(x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine(also known as 2C-I-NBOH or 2,5I-NBOH).

(y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).

(z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).

(aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).

(bb) (bb) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (also known as 6-APDB). (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA).

(dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).

(ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T- 7).

(ff) 5-methoxy-3,4-methylenedioxy-amphetamine.

(gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM and STP).

(hh) 3,4-methylenedioxy amphetamine (also known as MDA).

(ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).

(jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).

(kk) 3,4,5-trimethoxy amphetamine.

(ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).

q. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or

alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:

(1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
(2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
(3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
(4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
(5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MiPT).
(6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).
(7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N- dimethyltryptamine; mappine).
(8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DiPT).
(9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
(10) Dimethyltryptamine (also known as DMT).
(11) Psilocyn.

r. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
s. 1-[4-(trifluoromethylphenyl)]piperazine.
t. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
u. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TPCP, TCP).
y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
z. Salvia divinorum, salvinorin A, or any of the active ingredients of salvia divinorum.

SECTION 3. AMENDMENT. Subsection 1 of section 19-03.1-22.2 of the North Dakota Century Code is amended and reenacted as follows:

1. For purposes of this section:
   a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.

b. "Child" means an individual who is under the age of eighteen years.
c. "Controlled substance" means the same as that term is defined in section 19-03.1-01~~, except the term does not include less than one-half ounce of marijuana~~.
d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.
e. "Prescription" means the same as that term is described in section 19-03.1-22.
f. "Vulnerable adult" means a vulnerable adult as the term is defined in section 50-25.2-01.

SECTION 4. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance – Venue for violation – Penalty.

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. ~~This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana.~~
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of an ~~class B misdemeanor~~infraction.
3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

SECTION 5. AMENDMENT. Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
   a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
   b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony.
   c. A substance classified in schedule IV, is guilty of a class C felony.

d. A substance classified in schedule V, is guilty of a class A misdemeanor.

2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.

3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
   a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
   b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
   c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.

4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.

5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.

6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
   a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
   b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

   A person who violates this subsection is guilty of a class C felony.

7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's

professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.

c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana.

d. ~~A person who violates this subsection by possessing:~~

~~(1) Marijuana in an amount of less than one half ounce [14.175 grams] is guilty of an infraction~~

~~(2) At least one half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.~~

~~(3) More than 500 grams of marijuana is guilty of a class A misdemeanor.~~

A person under the age of twenty-one is in violation of this subsection by possessing:

(1) Marijuana

i. In an amount less than one ounce [28.35 grams] is guilty of an infraction.

ii. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

iii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. In an amount up to the applicable maximum amount authorized by chapter 19-24.2 is guilty of an infraction.

ii. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

iii. More than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class A misdemeanor.

e. A person age twenty-one or older is in violation of this section by possessing:

(1) Marijuana

i. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

ii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

ii. More than two times the applicable maximum amount authorized by chapter 19-24.2 authorized by chapter19-24.2 is guilty of a class A misdemeanor.

~~e.~~ f. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

~~f.~~ g. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

~~g.~~ h. Probation under this subsection may include placement in another facility, treatment program, or drug court. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

~~h.~~ i. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.

~~i.~~ j. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

6. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.

7. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or an amount up to the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

8. Upon successful completion of a drug court program, a person who has been convicted of a felony under this section and sentenced to drug court is deemed to have been convicted of a misdemeanor.

9. If a person convicted of a misdemeanor under this section is sentenced to drug court and successfully completes a drug court program, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

SECTION 6. AMENDMENT. Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
   a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
   b. The offense involved:
      (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
      (2) Fifty grams or more of a mixture or substance containing a detectable amount of:
         (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
         (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
         (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
         (d) Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subparagraphs a through c;
      (3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
      (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
      (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
      (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
      (7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C11H15NO2;
(9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate;
(10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam;
(11) Five hundred grams or more of marijuana ; or
(12) Tetrahydrocannabinol in an amount more than four times the applicable maximum amount authorized by chapter 19-24.2.

c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

SECTION 7. AMENDMENT. Two new subsections to section 19-03.4-02 of the North Dakota Century Code is created and enacted as follows:

Whether the object is used by a registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent in accordance with chapter 19-24.1.

Whether the object is used by an adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent in accordance with chapter 19-24.2.

SECTION 8. AMENDMENT. Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. A person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1.
2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this title, other than an offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony

3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.1 and chapter 19-24.2 is not subject to prosecution under this subsection.
4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or tetrahydrocannabinol, or possess with the intent to use drug paraphernalia to store or contain marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of an infraction. The following persons are not subject to prosecution under this subsection:
   a. A registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
   b. An adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent acting in accordance with chapter 19-24.2.
5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug and alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

SECTION 9. AMENDMENT. Section 19-03.4-04 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia – Penalty.

A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class C felony if the drug paraphernalia will be used to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section

is a class A misdemeanor. The following persons are not subject to prosecution under this subsection:

1. A registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
2. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.2.

SECTION 10. AMENDMENT. Chapter 19-24.2 of the North Dakota Century Code is created and enacted.

19-24.2-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use cannabinoid concentrate intended for consumption. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid capsule is ten milligrams.
2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or extract obtained by separating cannabinoids from cannabis by a mechanical, chemical, or other process.
3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric square shape into which an adult-use cannabinoid concentrate or the dried leaves or flowers of the plant of the genus cannabis is incorporated. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a an-adult-use cannabinoid edible product is ten milligrams and in a package is one hundred milligrams.
4. "Adult-use cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.
    a. Adult-use cannabinoid products are limited to the following forms:
        (1) Adult-use cannabinoid solution;
        (2) Adult-use cannabinoid capsule;
        (3) Adult-use cannabinoid transdermal patch;
        (4) Adult-use cannabinoid topical; and
        (5) Adult-use cannabinoid edible product.
    b. "Adult-use cannabinoid product" does not include:
        (1) An adult-use cannabinoid concentrate by itself; or
        (2) The dried leaves or flowers of the plant of the genus cannabis by itself.
5. "Adult-use cannabinoid solution" means a solution consisting of a mixture created from an adult-use cannabinoid concentrate and other ingredients. A container holding an adult-use cannabinoid solution for dispensing may not exceed thirty milliliters.
6. "Adult-use cannabinoid topical" means an adult-use cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in an adult-use cannabinoid topical is six percent.
7. "Adult-use cannabinoid transdermal patch" means an adhesive substance applied

to the skin which contains an adult-use cannabinoid product or an adult-use cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid transdermal patch is ten milligrams.

8. "Adult-use cannabis" means the dried leaves or flowers of the plant of the genus cannabis.
9. "Adult-use cannabis business" means a manufacturing facility or dispensary.
10. "Adult-use cannabis business agent" means a principal officer, board member, member, manager, governor, employee, volunteer, or agent of an adult-use cannabis business. The term does not include a lawyer representing an adult-use cannabis business in civil or criminal litigation or in an adversarial administrative proceeding.
11. “Adult-use cannabis consumer” means a person, twenty-one years of age or older, who purchases approved adult-use cannabis products for personal use, but not for resale to others.
12. "Adult-use cannabis product" means adult-use cannabis, adult-use cannabinoid concentrates, or adult-use cannabinoid products.
13. "Cannabinoid" means a chemical compound that is one of the active constituents of cannabis.
14. “Cannabis” is a genus of flowering plants within the Cannabaceae family and means all parts of the plant, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacturer, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:
    a. Hemp regulated under chapter 4.1-18.1; or
    b. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
15. "Cannabis waste" means unused, surplus, returned, or out-of-date adult-use cannabis products; recalled adult-use cannabis products; unused cannabis; or plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots.
16. "Cardholder" means an adult-use cannabis business agent who has been issued and possesses a valid registry identification card.
17. "Department" means the state department of health.
18. "Dispensary" means an entity registered by the department as an adult-use cannabis business authorized to sell adult-use cannabis products.
19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.
20. "Manufacturing facility" means an entity registered by the department as an adult-use cannabis business authorized to produce and process cannabis and to sell adult-use cannabis products to a dispensary.

21. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in an adult-use cannabinoid concentrate or an adult-use cannabinoid product.
22. “Owner” means an individual or an organization with an ownership interest in an adult-use cannabis business.
23. “Ownership interest” means an aggregate ownership interest of five percent or more in an adult-use cannabis business, unless such interest is solely a security, lien, or encumbrance, or an individual that will be participating in the direction, control, or management of the adult-use cannabis business.
24. "Processing" or "process" means the compounding or conversion of cannabis into an adult-use cannabinoid concentrate or adult-use cannabinoid product.
25. "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves or flowers of the plant of the genus cannabis.
26. “Registration certificate” means written authorization provided by the department under this chapter permitting an adult-use cannabis business to engage in a specified activity authorized pursuant to this chapter.
27. "Registry identification card" means a document issued by the department which identifies an individual as a registered adult-use cannabis business agent.
28. “School” means an institution of learning and education especially for children, the collective body of students under instruction in an institution of learning, and a group of people adhering to the same philosophy or system of beliefs.
29. “Substantial corporate change” means the following:
    a. For a corporation, a change of ten percent or more of the officers or directors, or a transfer of ten percent or more of the stock of such corporation, or an existing stockholder obtaining ten percent or more of the stock of such corporation;
    b. For a limited liability company, a change of ten percent or more of the managing members of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company; or
    c. For a partnership, a change of ten percent or more of the managing partners of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company.
30. "Verification system" means the system maintained by the department for verification of registry identification cards.

19-24.2-02. Adult-use cannabis program.

The department shall establish and implement an adult-use cannabis program to allow for the production and processing of cannabis and the sale of adult-use cannabis products to persons twenty-one years of age and older, subject to the provisions of this chapter. A person may not produce, process, sell, possess, consume, transport, or

transfer cannabis or adult-use cannabis products unless the person is authorized to do so in accordance with this chapter or by rule adopted pursuant to this chapter.

19-24.2-03. Adult-use cannabis businesses.

1. A person may not process or produce or transfer adult-use cannabis products or otherwise act as an adult-use cannabis business in this state unless the person is registered as an adult-use cannabis business.
2. By June 30, 2023, the department shall register no more than:
   a. Seven adult-use cannabis businesses with the sole purpose of operating as a manufacturing facility; and
   b. Eighteen adult-use cannabis businesses with the sole purpose of operating as a dispensary.
3. An adult-use cannabis business registered under this chapter may not sell adult-use cannabis products to adult-use cannabis consumers until July 1, 2022.
4. An adult-use cannabis business registered under this chapter shall provide registered qualifying patients and registered designated caregivers access to usable marijuana in accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all requirements in chapter 19-24.1.
5. The department shall establish an open application period for the submission of adult-use cannabis business applications. At the completion of the open application period, the department shall review each complete application using a competitive process established in accordance with rules adopted under this chapter and shall determine which applicants to register as adult-use cannabis businesses.
6. If the department revokes or does not renew an adult-use cannabis business registration certificate, the department may establish an open application period for the submission of adult-use cannabis business applications.
7. The department of commerce may not certify an adult-use cannabis business as a primary sector business.

19-24.2-04. Adult-use cannabis businesses - Authority - Ownership.

1. The activities of a manufacturing facility are limited to producing and processing and related activities, including acquiring, possessing, storing, transferring, and transporting cannabis and adult-use cannabis products, for the sole purpose of selling adult-use cannabis products to a dispensary.
2. The activities of a dispensary are limited to purchasing adult-use cannabis products from a manufacturing facility, and related activities, including storing, delivering, transferring, and transporting adult-use cannabis products, for the sole purpose of dispensing adult-use cannabis products to adult-use cannabis consumers.
3. The activities of a dispensary also include providing education material and selling supplies related to the consumption and storage of adult-use cannabis products. A dispensary may only sell supplies related to the consumption and storage of adult-use cannabis products to an adult-use cannabis consumer. All education material and supplies related to the consumption and storage of adult-use cannabis products are subject to prior department approval.

4. An individual or an organization is prohibited from holding an ownership interest in the following:
    a. More than one manufacturing facility.
    b. More than four dispensaries.
    c. More than one dispensary within a twenty-mile radius of another dispensary.
5. No agreement may be entered into between a manufacturing facility and dispensary whereby a dispensary agrees to limit purchases or sales of adult-use cannabis products to one manufacturing facility.

19-24.2-05. Adult-use cannabis businesses - Application.

1. The department shall establish forms for an application to be registered as an adult-use cannabis business. For an adult-use cannabis business registration application to be complete and eligible for review, the applicant shall submit to the department all of the following:
    a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health".
    b. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement of the proposed adult-use cannabis business applicant.
    c. Evidence of the proposed adult-use cannabis business applicant's registration with the secretary of state and certificate of good standing.
    d. The physical address of the proposed location of the proposed adult-use cannabis business and:
        (1) Evidence of approval from local officials as to the proposed adult-use cannabis business applicant's compliance with local zoning laws for the physical address to be used by the proposed cannabis business; and
        (2) Evidence the physical address of the proposed adult-use cannabis business is not located within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school.
    e. For a manufacturing facility applicant, a description of the enclosed, locked facility that would be used in the production and processing of cannabis, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.
    f. The name, address, and date of birth of each principal officer and board member, or of each member-manager, manager, or governor, of the proposed adult-use cannabis business applicant and verification each officer and board member, or each member-manager, manager, or governor, has consented to a criminal history record check conducted under section 12-60-24.
    g. For each of the proposed adult-use cannabis business applicant's principal officers and board members, or for each of the proposed adult-use cannabis business applicant's member-managers, managers, or governors, a description of that individual's relevant experience, including training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, food science, food safety, production, processing, and the individual's experience

running a business entity.

h. A description of proposed security and safety measures.

i. An example of the design and security features of adult-use cannabis product containers.

j. A complete operations manual.

k. A description of the plans for making usable marijuana available on an affordable basis to registered qualifying patients with limited financial resources in accordance with chapter 19-24.1.

l. A list of all individuals and business entities having direct or indirect authority over the management or policies of the proposed adult-use cannabis business applicant.

m. A list of all individuals and business entities having an ownership interest in the proposed adult-use cannabis business applicant, whether direct or indirect, and whether the interest is in profits, land, or building, including owners of any business entity that owns all or part of the land or building.

n. The identity of any creditor holding a security interest in the proposed adult-use cannabis business premises.

2. The department is not required to review an application submitted under this section unless the department determines the application is complete. The criteria considered by the department in reviewing an application must include:

a. The suitability of the proposed adult-use cannabis business location, including compliance with any local zoning laws, and the geographic convenience to access adult-use cannabis businesses for adult-use consumers throughout the state;

b. The character and relevant experience of the principal officers and board members, or of the member-managers, managers, or governors, including training or professional licensing and business experience;

c. The applicant's plan for operations and services, including staffing and training plans, whether the applicant has sufficient capital to operate, and the applicant's ability to provide an adequate supply of adult-use cannabis products and usable marijuana as defined in chapter 19-24.1.

d. The sufficiency of the applicant's plans for recordkeeping;

e. The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including the proposed location and security devices employed;

f. The applicant's plan for making usable marijuana, as defined in chapter 19-24.1, available on an affordable basis to registered qualifying patients with limited financial resources;

g. The applicant's plan for safe and accurate packaging and labeling of adult-use cannabis products; and

h. The applicant's plans for testing adult-use cannabis products and cannabis.

3. Following completion of the review under subsection 2, the department shall select the applicants eligible for registration.

19-24.2-06. Adult-use cannabis businesses - Registration.

1. Upon receiving notification by the department that an adult-use cannabis business application is eligible for registration, the applicant shall submit all of the following additional items to the department to qualify for registration:
    a. A certification fee, made payable to the "North Dakota Department of Health", in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.
    b. A financial assurance or security bond to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness to meet the requirements of this chapter.
    c. The physical address of the proposed adult-use cannabis business; confirmation the information in the application regarding the physical location of the proposed adult-use cannabis business has not changed, and if the information has changed the department shall determine whether the new information meets the requirements of this chapter; and a current certificate of occupancy, or equivalent document, to demonstrate compliance with the provisions of state and local fire code for the physical address of the proposed adult-use cannabis business. It is not necessary for an applicant to resubmit any information provided in the initial application unless there has been a change in that information.
    d. An update to previously submitted information, including information about adult-use cannabis business agents.
2. If an applicant complies with subsection 1, the department shall issue the applicant a registration certificate.

19-24.2-07. Adult-use cannabis businesses - Renewal.

1. An adult-use cannabis business registration certificate expires two years after issuance. An adult-use cannabis business may submit a renewal application at any time beginning ninety calendar days before the expiration of the registration certificate. An adult-use cannabis business shall submit a renewal application a minimum of sixty calendar days before the expiration of the registration certificate to avoid suspension of the certificate.
2. The department shall approve an adult-use cannabis business's renewal application within sixty calendar days of submission, if the following conditions are satisfied:
    a. The adult-use cannabis business submits a renewal fee, in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;
    b. The adult-use cannabis business submits a complete renewal application;
    c. The department has at no time suspended the adult-use cannabis business's registration for violation of this chapter or chapter 19-24.1;
    d. Inspections conducted under this chapter do not raise any serious concerns about the continued operation of the adult-use cannabis business; and
    e. The adult-use cannabis business continues to meet all the requirements for the operation of an adult-use cannabis business as set forth in this chapter,

chapter 19-24.1, and rules adopted under this chapter.

3. If an-adult-use cannabis business does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the adult-use cannabis business with written notice of the determination. If an adult-use cannabis business's certificate is not renewed, the adult-use cannabis business shall dispose of all cannabis and adult-use cannabis products in accordance with rules adopted under this chapter.

19-24.2-08. Adult-use cannabis businesses - Registration certificates.

A registration certificate authorizing the operation of an adult-use cannabis shall include the following:

1. The name and address of the adult-use cannabis business;
2. Whether the type of adult-use cannabis business is a manufacturing facility or dispensary;
3. A unique license number issued by the department; and
4. Any other information deemed necessary by the department.

19-24.2-09. Adult-use cannabis businesses - Notification of changes.

1. Upon application of an adult-use cannabis business to the department, a registration certificate of an adult-use cannabis business may be amended to authorize a change in the authorized physical location of the adult-use cannabis business, or to amend the ownership or organizational structure of the adult-use cannabis business with the registration certificate. An adult-use cannabis business shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change.
2. A registration certificate authorizing the operation of an adult-use cannabis business shall become void by a change in ownership, substantial corporate change, change in location, or discontinued operation, without prior approval of the department. The department may adopt rules allowing for certain types of changes in ownership without the need for prior written approval from the department.
3. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the cannabis business being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

19-24.2-10. Adult-use cannabis businesses - Agents - Registry identification cards.

1. Upon issuance of an adult-use cannabis business registry certificate, the department shall issue a registry identification card to each qualified adult-use cannabis business agent associated with the adult-use cannabis business.
2. To qualify to be issued a registry identification card, each adult-use cannabis business agent must be at least twenty-one years of age and shall submit all of the

following registry identification card application material to the department:

a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.
b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
c. A written and signed statement from an officer or executive staff member of the adult-use cannabis business stating the applicant is associated with the adult-use cannabis business and the capacity of the association.
d. The name, address, and telephone number of the agent.
e. The name, address, and telephone number of the adult-use cannabis business with which the agent is associated.
f. The agent's signature and the date.
g. A nonrefundable application or renewal fee in the amount of two hundred dollars.

3. Each adult-use cannabis business agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.
   a. All applicable fees associated with the required criminal history record checks must be paid by the adult-use cannabis business or the agent.
   b. A criminal history record check must be performed upon initial application and biennially upon renewal. An adult-use cannabis business agent shall consent to a criminal history record check at any time the department determines necessary.
   c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being an adult-use cannabis business agent.

1. The department shall notify the adult-use cannabis business in writing of the purpose for denying an adult-use cannabis business agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.
2. The department shall issue an adult-use cannabis business agent a registry identification card within thirty calendar days of approval of an application.
3. An adult-use cannabis business agent with a registry identification card shall notify the department of any of the following within ten calendar days of the change, in a manner prescribed by the department:
   a. A change in the cardholder's name or address; and
   b. Knowledge of a change that would render the adult-use cannabis business agent no longer eligible to be a cardholder.
4. If an adult-use cannabis business agent loses the agent's registry identification card, that agent shall notify the department in writing within twenty-four hours of becoming

aware the card has been lost.

5. If a cardholder notifies the department of items listed in this section but the nature of the item reported results in the cardholder remaining eligible, the department may issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifies the department of an item that results in the cardholder being ineligible, the registry identification card immediately becomes void.
6. An adult-use cannabis business shall notify the department in writing within two calendar days of the date an adult-use cannabis business agent ceases to work for or be associated with the adult-use cannabis business. Upon receipt of the notification, that individual's registry identification card becomes void immediately.
7. The registry identification card of an adult-use cannabis business agent expires one year after issuance or upon the termination of the adult-use cannabis business's registration certificate, whichever occurs first. To prevent interruption of possession of a valid registry identification card, an adult-use cannabis business agent shall renew a registry identification card by submitting a complete renewal application no less than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.2-11. Registry identification cards - Nontransferable.

A registry identification card of an adult-use cannabis business agent is not transferable, by assignment or otherwise, to another person. If a person attempts to transfer a card in violation of this section, the registry identification card is void and the person is prohibited from all privileges provided under this chapter.

19-24.2-12. Registry identification cards.

1. The registry identification card of an adult-use cannabis business agent must include:
   a. The name of the cardholder;
   b. The cardholders affiliated adult-use cannabis business;
   c. The date of issuance and expiration date;
   d. A random ten-digit alphanumeric identification number containing at least four numbers and at least four letters which is unique to the cardholder;
   e. A photograph of the cardholder; and
   f. The phone number or website address at which the card can be verified.
2. Except as otherwise provided in this section or rule adopted under this chapter, a registry identification card expiration date must be one year after the date of issuance.

19-24.2-13. Adult-use cannabis businesses and adult-use cannabis agents Suspension and revocation.

1. The department may suspend or revoke the registry identification card of an adult-use cannabis business agent or a registration certificate of an adult-use cannabis business for a material misstatement by an applicant in an application or renewal.
2. The department may suspend or revoke a registry identification card of an adult-use cannabis business agent or registration certificate of an adult-use cannabis business for a violation of this chapter or rules adopted under this chapter.
3. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products to a person not authorized to possess cannabis or adult-use cannabis products under this chapter, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
4. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products in a form not authorized under this chapter or chapter 19-24.1, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
5. The department shall provide written notice of suspension or revocation of a registry identification card or registration certificate.
    a. A suspension may not be for a period longer than six months.
    b. A manufacturing facility may continue to produce, process, and possess cannabis and adult-use cannabis products during a suspension, but may not transfer or sell adult-use cannabis products.
    c. A dispensary may continue to possess adult-use cannabis products during a suspension, but may not purchase, transfer, or transfer adult-use cannabis products.
    d. An adult-use cannabis business agent or adult-use cannabis business may appeal a suspension or revocation of a registry identification card or registration certificate to the district court of Burleigh County for hearing. The court may authorize the adult-use cannabis business agent or adult-use cannabis business to appear by reliable electronic means.
6. If the department revokes a registry identification card of an adult-use cannabis business agent under this chapter, the adult-use cannabis business agent is disqualified from further participation under this chapter.

19-24.2-14. Adult-use cannabis businesses and adult-use cannabis business agents - Violations - Penalties.

1. An adult-use cannabis business agent or adult-use cannabis business that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.
2. In addition to any other penalty applicable in law, a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility is guilty of a class B felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis products in any form, to a person other than a dispensary, or for intentionally selling

or otherwise transferring cannabis in any form other than adult-use cannabis products, to a dispensary.

3. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products, to a person under twenty-one years of age, in a form not allowed under this chapter, or in an amount that would cause the adult-use cannabis consumer to purchase or possess more than the amount of adult-use cannabis products authorized by this chapter.
4. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class A misdemeanor for intentionally selling or otherwise transferring paraphernalia, to a person under twenty-one years of age, or in a form not allowed under this chapter. A dispensary or an adult-use cannabis business agent is not subject to prosecution under this subsection for selling paraphernalia to a registered qualifying patient who is nineteen years of age or older.
5. In addition to any other penalty applicable in law, an adult-use cannabis business or an adult-use cannabis business agent is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products in a form not allowed under this chapter.
6. An adult-use cannabis business or an adult-use cannabis business agent that knowingly submits false records or documentation required by the department to certify an adult-use cannabis business under this chapter is guilty of a class C felony.
7. In addition to any other penalty applicable in law, if an adult-use cannabis business violates this chapter the department may fine the cannabis business up to one thousand dollars per violation, per day, and upon subsequent violations a fine not to exceed five thousand dollars per violation, per day.
8. In addition to any other penalty applicable in law, an adult-use cannabis consumer who intentionally sells or otherwise transfers adult-use cannabis products, to a person under twenty-one years of age, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.
9. An individual who knowingly submits false records or documentation required by the department to receive an adult-use cannabis business agent registry identification card is guilty of a class A misdemeanor. An individual convicted under this subsection may not continue to be affiliated with an adult-use cannabis business.

19-24.2-15. Adult-use cannabis businesses - Transfer and sale.

1. An adult-use cannabis business shall comply with the transfer and sale requirements of this section.
2. Design and security features of adult-use cannabis products containers must be in accordance with rules adopted under this chapter.
3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing facility may not transfer or sell cannabis or adult-use cannabis

products, except a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility may sell adult-use cannabis products to a dispensary.

4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell or provide adult-use cannabis products to the following:
   a. An individual under twenty-one years of age, unless the individual is registered qualifying patient and the sale or dispensing is in accordance with chapter 19-24.1; or
   b. An adult-use cannabis consumer in an amount that would cause the adult-use cannabis consumer to purchase or possess more adult-use cannabis products than permitted by this chapter.
5. Before selling or providing an adult-use cannabis product to an individual, a dispensary or an adult-use cannabis business agent of the dispensary must verify the following:
   a. The individuals age by requiring the individual to produce one of the following pieces of identification:
      (1) The person's passport, issued by the United States or a foreign government;
      (2) The person's driver license, issued by the State of North Dakota or another state of the United States;
      (3) An identification card issued by the State of North Dakota;
      (4) A United States military identification card;
      (5) An identification card issued by a federally recognized Indian tribe; or
      (6) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
   b. The purchase history of the adult-use cannabis consumer using the department approved information technology system to ensure the adult-use cannabis consumer does not purchase more than the amount of adult-use cannabis products authorized by this chapter.
6. The Department may adopt rules requiring a dispensary to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the dispensary does not sell adult-use cannabis products to a person under twenty-one years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age.

19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.

The maximum amount an adult-use cannabis consumer is authorized to purchase is as follows:

1. For the first day of a calendar month through the fifteenth day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and

c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

2. For the sixteenth day of the calendar month through the last day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and
   c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

19-24.2-17. Maximum possession amounts for adult-use cannabis consumers.

1. It is unlawful for an adult-use cannabis consumer to possess more than the following:
   a. One ounce of adult-use cannabis;
   b. One and one half grams of an adult use cannabinoid concentrate; and
   c. Four hundred milligrams of total tetrahydrocannabinol in the form of an adult-use cannabinoid product.
2. An adult-use cannabis consumer who possesses more than the maximum amount of adult-use cannabis products authorized by this chapter is subject to prosecution under chapter 19-03.1.

19-24.2-18. Adult-use cannabis businesses - Inspections.

1. An adult-use cannabis business is subject to random inspection by the department. During an inspection, the department may review the adult-use cannabis business's records, including the adult-use cannabis business's financial, inventory, and sales records.
2. The department shall conduct inspections of adult-use cannabis businesses to ensure compliance with this chapter and chapter 19-24.1. The department shall conduct inspections of manufacturing facilities for the presence of contaminants. The department shall select a certified laboratory to conduct random quality sampling testing, in accordance with rules adopted under this chapter. An adult-use cannabis business shall pay the cost of all random quality sampling testing.
3. The provisions of chapter 54-44.4 do not apply to the selection of a certified laboratory required by this chapter.

19-24.2-19. Adult-use cannabis businesses - Pesticide testing.

A manufacturing facility shall test cannabis at a manufacturing facility for the presence of pesticides. If a cannabis test indicates the presence of a pesticide, the manufacturing facility shall report the test result immediately to the department and to the agriculture commissioner. Upon the order of the department or agriculture commissioner, the manufacturing facility immediately shall destroy all affected or contaminated cannabis and adult-use cannabis products inventory in accordance with rules adopted under this chapter, and shall certify to the department and to the agriculture commissioner that all affected or contaminated inventory has been destroyed.

19-24.2-20. Adult-use cannabis businesses - Cannabis plants.

1. A manufacturing facility may have no more than ten thousand plants. For every five hundred plants in excess of one thousand plants a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of ten thousand dollars. This fee is due at the time of increase and again at renewal of the adult-use cannabis business registration certificate.
2. A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of adult-use cannabis products at any time, regardless of formulation.
3. The health council shall adopt rules to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

19-24.2-21. Adult-use cannabis businesses - Security and safety.

1. In compliance with rules adopted under this chapter, an adult-use cannabis business shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance to areas containing cannabis and adult-use cannabis products and to prevent the theft of cannabis and adult-use cannabis products.
2. An adult-use cannabis business shall limit entry to an area in which production or processing takes place or in which cannabis or adult-use cannabis products are held to authorized personnel .
3. An adult-use cannabis business must have a fully operational security alarm system at the authorized physical address which includes an electrical support backup system for the alarm system to provide suitable protection against theft and diversion.
4. An adult-use cannabis business shall maintain documentation in an auditable form for:
    a. All maintenance inspections and tests conducted under this section, and any servicing, modification, or upgrade performed on the security alarm system;
    b. An alarm activation or other event that requires response by public safety personnel; and
    c. Any breach of security.

19-24.2-22. Adult-use cannabis businesses - Inventory control.

1. An adult-use cannabis business shall comply with the inventory control requirements provided under this section and rules adopted under this chapter.
    a. A manufacturing facility shall:
        (1) Employ a bar coding inventory control system to track batch, strain, and amounts of cannabis and adult-use cannabis products in inventory and to track amounts of adult-use cannabis products sold to dispensaries; and
        (2) Host a secure computer interface to transfer inventory amounts and

dispensary purchase information to the department.

b. A dispensary shall:

(1) Employ a bar coding inventory control system to track batch, strain, and amounts of adult-use cannabis products in inventory and to track amounts sold to adult-use cannabis consumers; and

(2) Host a secure computer interface to transfer inventory amounts and adult-use cannabis consumer purchase information to the department.

2. An adult-use cannabis business shall store the adult-use cannabis business's cannabis and adult-use cannabis products in an enclosed locked facility with adequate security, in accordance with rules adopted under this chapter.

3. An adult-use cannabis business shall conduct inventories of cannabis and adult-use cannabis products at the authorized location at the frequency and in the manner provided by rules adopted under this chapter. If an inventory results in the identification of a discrepancy, the adult-use cannabis business shall notify the department immediately and appropriate law enforcement authorities within seventy-two hours. An adult-use cannabis business shall document each inventory conducted by the adult-use cannabis business.

4. The provisions of chapter 54-44.4 do not apply to the selection of the information technology system selected by the department.

19-24.2-23. Adult-use cannabis businesses - Operating manual - Training.

1. An adult-use cannabis business shall maintain a current copy of the adult-use cannabis business's operating manual that meets the requirements of rules adopted under this chapter.

2. An adult-use cannabis business shall develop, implement, and maintain on the premises an onsite training curriculum or shall enter contractual relationships with outside resources capable of meeting adult-use cannabis business agent training needs.

19-24.2-24. Adult-use cannabis businesses - Bylaws and operating agreements.

As part of a proposed adult-use cannabis business's initial application, the applicant shall provide to the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the bylaws or operating agreement in accordance with this chapter. In addition to any other requirements, the bylaws or operating agreement must include the ownership or management structure of the adult-use cannabis business; the composition of the board of directors, board of governors, member-managers, or managers; and provisions relative to the disposition of revenues and earnings

19-24.2-25. Adult-use cannabis businesses - Retention of and access to records and reports.

An adult-use cannabis business shall keep detailed financial reports of proceeds and expenses. An adult-use cannabis business shall maintain all inventory, sales, and financial records in accordance with generally accepted accounting principles. The adult

use cannabis business shall maintain for a period of seven years all reports and records required under this section. An adult-use cannabis business shall allow the department, or an audit firm contracted by the department, access at all times to all books and records kept by the adult-use cannabis business.

19-24.2-26. Adult-use cannabis businesses - Recordkeeping - Adult-use cannabis business agents - Registry identification cards.

1. Each adult-use cannabis business shall maintain:
   a. In compliance with rules adopted under this chapter, a personnel record for each adult-use cannabis business agent for a period of at least three years following termination of the individual's affiliation with the adult-use cannabis business. The personnel record must comply with minimum requirements set by rule adopted under this chapter.
   b. A record of the source of funds that will be used to open or maintain the adult-use cannabis business, including the name, address, and date of birth of any investor.
   c. A record of each instance in which a current or prospective board member, member-manager, manager, or governor, who managed or served on the board of a business or not-for-profit entity and in the course of that service was convicted, fined, or censured or had a registration or license suspended or revoked in any administrative or judicial proceeding.
2. Each adult-use cannabis business agent shall hold a valid registry identification card.

19-24.2-27. Verification system.

1. The department shall maintain a confidential list of cardholders and each cardholder's registry identification number.
2. The department shall establish a secure verification system. The verification system must allow law enforcement personnel twenty-four-hour access to enter a registry identification number to determine whether the number corresponds with a current valid registry identification card. The system may disclose:
   a. Whether an identification card is valid;
   b. The name of the cardholder; and
   c. The cardholders affiliated adult-use cannabis business.

19-24.2-28. Protections.

Except as provided in sections 19-24.2-14 and 19-24.1-28:

1. An adult-use cannabis consumer is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity for the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies under this chapter.
2. It is presumed an adult-use cannabis consumer is engaged in the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies in accordance with this chapter if the adult-use consumer is not in possession of adult-

use cannabis products in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence that the conduct related to acquisition, use, consumption, or possession of adult-use cannabis products or related supplies was not in accordance with this chapter.

3. A manufacturing facility is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
   a. Produce or process or to conduct related activities for the sole purpose of selling adult-use cannabis products to a dispensary; or
   b. Transfer, transport, or deliver cannabis or adult-use cannabis products to and from a department designee or manufacturing facility in accordance with this chapter.
4. A dispensary is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
   a. Purchase adult-use cannabis products from a manufacturing facility and conducting related activities for the sole purpose of selling adult-use cannabis products and related supplies, and providing educational materials to adult-use cannabis consumers; or
   b. Transfer adult-use cannabis products to and from a department designee or related manufacturing facility in accordance with this chapter.
5. A registered adult-use cannabis business agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for an adult-use cannabis business if the action performed by the adult-use cannabis business agent on behalf of the adult-use cannabis business is authorized under this chapter.
6. The sale and possession of supplies related to possession and consumption of adult-use cannabis products by a dispensary is lawful if in accordance with this chapter.
7. The adult-use of cannabis by an adult-use cannabis consumer or the producing and processing and the selling of adult-use cannabis products by an adult-use cannabis business is lawful if in accordance with this chapter.
8. An adult-use cannabis consumer, adult-use cannabis business agent, or adult-use cannabis business is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.
9. A person in possession of cannabis waste in the course of transporting or disposing of the waste under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or transportation.
10. A person in possession of cannabis, adult-use cannabis products, or cannabis waste in the course of performing laboratory tests as provided under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or testing.

19-24.2-29. Limitations.

1. An adult-use cannabis consumer may use adult-use cannabis products in the following locations:
    a. A private residence, including the person's curtilage, or yard;
    b. On private property, not generally accessible by the public, when the adult-use cannabis consumer is explicitly permitted to consume the adult-use cannabis products on the property by the owner of the property
2. This chapter does not authorize an adult-use cannabis consumer to engage in, and does not prevent the imposition of any civil liability or criminal liability or other penalties for engaging in the following conduct:
    a. Use, possession, or transportation of adult-use cannabis products by an individual under twenty-one years of age.
    b. Use or consumption of adult-use cannabis products by an adult-use consumer in any public place, including an indoor or outdoor area used by, or open to, the general public or on any form of public transportation.
    c. Use or consumption of an adult-use cannabis product on the grounds of any adult-use cannabis business.
    d. Undertaking an activity under the influence of cannabis if doing so would constitute negligence or professional malpractice.
    e. Possession or consumption of adult-use cannabis products in any of the following locations:
        i. On a school bus or school van that is used for school purposes;
        ii. On the grounds of any public or private school, including all facilities, whether owned, rented, or leased, and all vehicles that a public or private school owns, leases, rents, contracts for, or controls;
        iii. At any location while a public or private school sanctioned event is occurring at that location;
        iv. On state or federal property, including all facilities, whether owned, rented, or leased, and all vehicles the state or federal government, leases, rents, contracts for, or controls;
        v. On the grounds of a correctional facility;
        vi. On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department of human services.
    f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2, 23-12-10.4, 23-12-10.5, or 23-12-11.
    g. Use of adult-use cannabis products in a motor vehicle as defined by chapter 39-01.
    h. Using a combustible delivery form of adult-use cannabis products or vaporizing adult-use cannabis products under this chapter if the smoke or vapor would be inhaled by a person under twenty-one years of age.
    i. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat, while under the influence of cannabis. However, a registered qualifying patient may not be considered to be under the

influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

3. This chapter does not require the following:
    a. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume adult-use cannabis products on or in that property; or
    b. A landlord to allow production and processing of cannabis or possession and consumption of adult-use cannabis products on rental property.
4. This chapter does not prohibit an employer from the following:
    a. Disciplining or terminating the employment of an employee for possessing or consuming adult-use cannabis products in the workplace or for working while under the influence of cannabis. Working as used in this subsection includes when an employee is on call.
    b. Adopting reasonable zero tolerance or drug-free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call provided that the policy is applied in a nondiscriminatory manner.
    c. Disciplining or terminating the employment of an employee for violating an employer's employment policies or workplace drug policy.
5. An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If an employer elects to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the employer must afford the employee a reasonable opportunity to contest the basis of the determination.
6. Nothing in this chapter shall be construed to create or imply a cause of action for any person against an employer for:
    a. Actions, including subjecting an employee or applicant to reasonable drug and alcohol testing under the employer's workplace drug policy, including an employee's refusal to be tested or to cooperate in testing procedures or disciplining termination of employment, based on the employer's good faith belief that an employee used or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies;
    b. Actions, including discipline or termination of employment, based on the employer's good faith belief that an employee was impaired as a result of the use of cannabis, or under the influence of cannabis, while at the employer's

workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policy; or

c. Injury, loss or liability to a third party if the employer neither knew nor had reason to know that the employee was impaired.

7. Nothing in this chapter shall be construed to interfere with any federal, state or local restrictions on employment including, the United States Department of Transportation regulation 49 CFR 40.151(e) or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.

19-24.2-30. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of cannabis and adult-use cannabis products, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.
2. The health council may adopt rules regarding the operation and governance of additional categories of registered adult-use cannabis businesses.

19-24.2-31. Confidentiality.

1. Except as provided under subsection 2, information kept or maintained by the department is confidential, including information in a registration application or renewal and supporting information submitted by an adult-use cannabis business, proposed adult-use cannabis business, or adult-use cannabis business agent. Information kept or maintained by the department that could be used to identify an adult-use cannabis consumer is confidential.
2. Information kept or maintained by the department may be disclosed as necessary for:
   a. The verification of registration certificates and registry identification cards under this chapter;
   b. Notification of state or local law enforcement of apparent criminal violation;
   c. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or
   d. Date for statistical purposes in a manner such that no individual person or adult-use cannabis business is identified.
3. Information submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.2-32. Annual Report to Legislative Management

The department shall submit an annual report to the legislative management. The following information shall be included in the annual report in a manner such that no individual person or adult-use cannabis business can be identified:

1. The number and type of adult-use cannabis businesses;
2. Revenue and expenses of the department related to the implementation of this chapter;

3. Sales data by product type; and
4. Information for statistical purposes.

19-24.2-33. Adult-use cannabis fees.

The department shall deposit all fees collected under this chapter in the fund established under section 19-24.1-40.

SECTION 11. AMENDMENT. Subsection 1 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, ~~saliva~~oral fluid, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, ~~saliva~~oral fluid, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

SECTION 12. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

39-20-14. Screening tests.

1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath or oral fluid for the purpose of estimating the alcohol concentration or presence of drugs or substances in the individual's breath or oral fluid upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or a violation under section 39-08-01 or an equivalent offense, or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol or other drugs or substances that render the individual incapable of safely operating a motor vehicle.
2. An individual may not be required to submit to a screening test or tests of breath or oral fluid while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.
3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's

designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol or other drugs or substances and that refusal of the individual to submit to a screening test may result in a revocation for at least one hundred eighty days and up to three years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is admissible in a court proceeding if the individual was arrested in violation of section 39-08-01 and did not take any additional chemical tests requested by the law enforcement officer. Such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available.

4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, oral fluid, or urine sample for a chemical test requested under section 39-20-01 for the same incident.
5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.
6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol or other drugs or substances in an individual's blood, breath, oral fluid, or urine.

SECTION 13. AMENDMENT. Subsection 12 of section 65-05-08 of the North Dakota Century Code is amended and reenacted as follows:

12. The organization may not pay wage loss benefits if the wage loss is related to the use ~~or presence of medical marijuana~~of usable marijuana or adult-use cannabis products, or the presence of tetrahydrocannabinol."

Renumber accordingly.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1420

Page 1, line 1, after “A BILL” replace the remainder of the bill with “A BILL for an Act to create and enact two new subsections to section 19-03.4-02 and chapter 19-24.2 of the North Dakota Century Code, relating to the personal use of marijuana; to amend and reenact section 19-03.1-01, subsection 5 of section 19-03.1-05, subsection 1 of section 19-03.1-22.2, section 19-03.1-22.3, section 19-03.1-23, subsection 1 of section 19-03.1-23.1, section 19-03.4-03, section 19-03.4-04, subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of the North Dakota Century Code, relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:
   a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
   b. The patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.
3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.
4. "Board" means the state board of pharmacy.
5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.
6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.
7. "Controlled substance analog":
   a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:
      (1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

b. Does not include:
   (1) A controlled substance;
   (2) Any substance for which there is an approved new drug application; or
   (3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.

8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.
10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.
11. "Dispenser" means a practitioner who dispenses.
12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.
13. "Distributor" means a person who distributes.
14. "Drug" means:
    a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;
    b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;
    c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and
    d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.
15. ~~"Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.~~
16. "Immediate precursor" means a substance:
    a. That the board has found to be and by rule designates as being the principal

compound commonly used or produced primarily for use in the manufacture of a controlled substance;

b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and

c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

17. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:

    a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

    b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

18. "Marijuana" ~~means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include: The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term does not include hemp as defined in title 4.1~~means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include:

    a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

    b. Hemp as defined in chapter 4.1-18.1;

    c. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355]; or

    d. Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

19. "Narcotic drug" means any of the following, whether produced directly or indirectly

by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.
b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
c. Opium poppy and poppy straw.
d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

20. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.
21. "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.
22. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.
23. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
24. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
25. "Practitioner" means:
    a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.
    b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.
26. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.
27. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.
28. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in

the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.

29. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.
30. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

SECTION 2. AMENDMENT. Subsection 5 of section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):
   a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
   b. Alpha-methyltryptamine.
   c. 4-methoxyamphetamine (also known as 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA).
   d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA.
   ~~e. Hashish.~~
   f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
   g. Lysergic acid diethylamide.
   h. Marijuana.
   i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl- 6H-dibenzol[b,d]pyran; Synhexyl).
   j. Peyote (all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
   k. N-ethyl-3-piperidyl benzilate.
   l. N-methyl-3-piperidyl benzilate.
   m. Psilocybin.
   n. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the

resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1;~~ such as the following:

(1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

(2) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.

(3) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

Tetrahydrocannabinols does not include:

(1) Tetrahydrocannabinols found in hemp as defined in tille 4.1-18.1; or

(2) Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

o. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.

(1) Indole carboxaldehydes. Any compound structurally derived from 1H-indole- 3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.

[2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.

[3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.

[4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.

[5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
[6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
[7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
[8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
[9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
[10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
[11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole -Other names: RCS-8.
[12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
[13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
[14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
[15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
[16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
[17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3- yl]methanone - Other names: WIN 48,098 and Pravadoline.
[18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
[19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
[20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
[21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
[22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone --Other names: THJ-018.
[23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1- yl)methanone - Other names: FUBIMINA.
[24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.
[25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.

(2) Indole carboxamides. Any compound structurally derived from 1H-indole-

3- carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.

[2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.

[3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide -Other names: AKB 48 and APINACA.

[4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide -Other names: NNEI and MN-24.

[5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3- carboxamide - Other names: ADBICA.

[6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole- 3-carboxamide - Other names: AB-PINACA.

[7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.

[8] N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA and 5F-AB-PINACA.

[9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole- 3-carboxamide - Other names: ADB-PINACA.

[10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)- 1H-indazole-3-carboxamide - Other names: AB-CHMINACA.

[11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H- indazole-3-carboxamide - Other names: ADB-FUBINACA.

[12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3- carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-

fluorobenzyl) analog.

[13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.

[14] methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3- methylbutanoate - Other names: 5-fluoro AMB and 5F-AMB.

[15] methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: FUB-AMB, MMB-FUBINACA, and AMB-FUBINACA.

[16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1 H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.

[17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.

[18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.

[19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.

[20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.

[21] 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxa mide - Other names: 4-CN-CUMYL-BUTINACA; 4-cyano- CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN -BINACA; SGT-78.

[22] methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)- 3-methylbutanoate - Other names: MMB-CHMICA, AMB- CHMICA.

[23] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridi ne-3-carboxamide - Other names: 5F-CUMYL-P7AICA.

(3) Indole carboxylic acids. Any compound structurally derived from 1H-indole- 3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or
(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
(c) A nitrogen heterocyclic analog of the indole ring; or
(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
(e) Examples include:
[1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.
[2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate- Other names: FDU-PB-22.
[3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.
[4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.
[5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.
[6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate- Other names: NM2201 and CBL2201.

(4) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:
(a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.
(b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.

(5) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl- 2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4- yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.

(6) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl- 2-piperidinyl)methyl, 2 (4 morpholinyl)ethyl, 1-(N-methyl-2-

pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4- yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane
- Other names: JWH-176.

(7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1- (N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
   (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol – Other names: CP 47,497.
   (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
   (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.

(8) Others specifically named:
   (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.
   (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol -Other names: Dexanabinol and HU-211.
   (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone - Other names: WIN 55,212-2.
   (d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone -Other names: CB-13.

p. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.

(1) Whether or not the compound is further modified in any of the following ways, that is to say:
   (a) By substitution of phenyl ring by any halo, hydroxyl,

alkyl, trifluoromethyl, alkoxy, or alkylthio groups;

(b) By substitution at the 2-position by any alkyl groups; or

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.

(2) Examples include:

(a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).

(b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).

(c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).

(d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).

(e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).

(f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).

(g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).

(h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C- T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).

(i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).

(j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).

(k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).

(l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).

(m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).

(n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).

(o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).

(p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I- NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).

(q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-

methoxybenzyl)phenethylamine).

(r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2- methoxybenzyl)phenethylamine).

(s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).

(t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4- yl)ethanamine (also known as 2C-B-FLY).

(u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5- yl)ethanamine (also known as 2C-B-butterFLY).

(v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5- b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).

(w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).

(x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine(also known as 2C-I-NBOH or 2,5I-NBOH).

(y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).

(z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).

(aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).

(bb) (bb) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (also known as 6-APDB). (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA).

(dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).

(ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T- 7).

(ff) 5-methoxy-3,4-methylenedioxy-amphetamine.

(gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM and STP).

(hh) 3,4-methylenedioxy amphetamine (also known as MDA).

(ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).

(jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).

(kk) 3,4,5-trimethoxy amphetamine.

(ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).

q. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or

alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:

(1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
(2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
(3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
(4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
(5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MiPT).
(6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).
(7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N- dimethyltryptamine; mappine).
(8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DiPT).
(9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
(10) Dimethyltryptamine (also known as DMT).
(11) Psilocyn.

r. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
s. 1-[4-(trifluoromethylphenyl)]piperazine.
t. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
u. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TPCP, TCP).
y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
z. Salvia divinorum, salvinorin A, or any of the active ingredients of salvia divinorum.

SECTION 3. AMENDMENT. Subsection 1 of section 19-03.1-22.2 of the North Dakota Century Code is amended and reenacted as follows:

1. For purposes of this section:
   a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.

b. "Child" means an individual who is under the age of eighteen years.
c. "Controlled substance" means the same as that term is defined in section 19-03.1-01~~, except the term does not include less than one-half ounce of marijuana~~.
d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.
e. "Prescription" means the same as that term is described in section 19-03.1-22.
f. "Vulnerable adult" means a vulnerable adult as the term is defined in section 50-25.2-01.

SECTION 4. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance – Venue for violation – Penalty.

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. ~~This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana.~~
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of an ~~class B misdemeanor~~infraction.
3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

SECTION 5. AMENDMENT. Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
   a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
   b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony.
   c. A substance classified in schedule IV, is guilty of a class C felony.

d. A substance classified in schedule V, is guilty of a class A misdemeanor.

2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.

3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
   a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
   b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
   c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.

4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.

5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.

6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
   a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
   b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

   A person who violates this subsection is guilty of a class C felony.

7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's

professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.

c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana.

d. ~~A person who violates this subsection by possessing:~~

~~(1) Marijuana in an amount of less than one half ounce [14.175 grams] is guilty of an infraction~~

~~(2) At least one half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.~~

~~(3) More than 500 grams of marijuana is guilty of a class A misdemeanor.~~

A person under the age of twenty-one is in violation of this subsection by possessing:

(1) Marijuana

i. In an amount less than one ounce [28.35 grams] is guilty of an infraction.

ii. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

iii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. In an amount up to the applicable maximum amount authorized by chapter 19-24.2 is guilty of an infraction.

ii. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

iii. More than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class A misdemeanor.

e. A person age twenty-one or older is in violation of this section by possessing:

(1) Marijuana

i. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

ii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

ii. More than two times the applicable maximum amount authorized by chapter 19-24.2 authorized by chapter19-24.2 is guilty of a class A misdemeanor.

~~e.~~f. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

~~f.~~g. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

~~g.~~h. Probation under this subsection may include placement in another facility, treatment program, or drug court. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

~~h.~~i. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.

~~i.~~j. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

6. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.

7. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or an amount up to the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

8. Upon successful completion of a drug court program, a person who has been convicted of a felony under this section and sentenced to drug court is deemed to have been convicted of a misdemeanor.

9. If a person convicted of a misdemeanor under this section is sentenced to drug court and successfully completes a drug court program, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

SECTION 6. AMENDMENT. Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
   a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
   b. The offense involved:
      (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
      (2) Fifty grams or more of a mixture or substance containing a detectable amount of:
         (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
         (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
         (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
         (d) Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subparagraphs a through c;
      (3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
      (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
      (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
      (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
      (7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C11H15NO2;
(9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate;
(10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam;
(11) Five hundred grams or more of marijuana ; or
(12) Tetrahydrocannabinol in an amount more than four times the applicable maximum amount authorized by chapter 19-24.2.

c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

SECTION 7. AMENDMENT. Two new subsections to section 19-03.4-02 of the North Dakota Century Code is created and enacted as follows:

Whether the object is used by a registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent in accordance with chapter 19-24.1.

Whether the object is used by an adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent in accordance with chapter 19-24.2.

SECTION 8. AMENDMENT. Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. A person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1.
2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this title, other than an offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony

3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.1 and chapter 19-24.2 is not subject to prosecution under this subsection.
4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or tetrahydrocannabinol, or possess with the intent to use drug paraphernalia to store or contain marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of an infraction. The following persons are not subject to prosecution under this subsection:
   a. A registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
   b. An adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent acting in accordance with chapter 19-24.2.
5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug and alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

SECTION 9. AMENDMENT. Section 19-03.4-04 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia – Penalty.

A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class C felony if the drug paraphernalia will be used to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section

is a class A misdemeanor. The following persons are not subject to prosecution under this subsection:

1. A registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
2. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.2.

SECTION 10. AMENDMENT. Chapter 19-24.2 of the North Dakota Century Code is created and enacted.

19-24.2-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use cannabinoid concentrate intended for consumption. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid capsule is ten milligrams.
2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or extract obtained by separating cannabinoids from cannabis by a mechanical, chemical, or other process.
3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric square shape into which an adult-use cannabinoid concentrate or the dried leaves or flowers of the plant of the genus cannabis is incorporated. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a an-adult-use cannabinoid edible product is ten milligrams and in a package is one hundred milligrams.
4. "Adult-use cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.
    a. Adult-use cannabinoid products are limited to the following forms:
        (1) Adult-use cannabinoid solution;
        (2) Adult-use cannabinoid capsule;
        (3) Adult-use cannabinoid transdermal patch;
        (4) Adult-use cannabinoid topical; and
        (5) Adult-use cannabinoid edible product.
    b. "Adult-use cannabinoid product" does not include:
        (1) An adult-use cannabinoid concentrate by itself; or
        (2) The dried leaves or flowers of the plant of the genus cannabis by itself.
5. "Adult-use cannabinoid solution" means a solution consisting of a mixture created from an adult-use cannabinoid concentrate and other ingredients. A container holding an adult-use cannabinoid solution for dispensing may not exceed thirty milliliters.
6. "Adult-use cannabinoid topical" means an adult-use cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in an adult-use cannabinoid topical is six percent.
7. "Adult-use cannabinoid transdermal patch" means an adhesive substance applied

to the skin which contains an adult-use cannabinoid product or an adult-use cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid transdermal patch is ten milligrams.

8. "Adult-use cannabis" means the dried leaves or flowers of the plant of the genus cannabis.
9. "Adult-use cannabis business" means a manufacturing facility or dispensary.
10. "Adult-use cannabis business agent" means a principal officer, board member, member, manager, governor, employee, volunteer, or agent of an adult-use cannabis business. The term does not include a lawyer representing an adult-use cannabis business in civil or criminal litigation or in an adversarial administrative proceeding.
11. “Adult-use cannabis consumer” means a person, twenty-one years of age or older, who purchases approved adult-use cannabis products for personal use, but not for resale to others.
12. "Adult-use cannabis product" means adult-use cannabis, adult-use cannabinoid concentrates, or adult-use cannabinoid products.
13. "Cannabinoid" means a chemical compound that is one of the active constituents of cannabis.
14. “Cannabis” is a genus of flowering plants within the Cannabaceae family and means all parts of the plant, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacturer, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:
    a. Hemp regulated under chapter 4.1-18.1; or
    b. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
15. "Cannabis waste" means unused, surplus, returned, or out-of-date adult-use cannabis products; recalled adult-use cannabis products; unused cannabis; or plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots.
16. "Cardholder" means an adult-use cannabis business agent who has been issued and possesses a valid registry identification card.
17. "Department" means the state department of health.
18. "Dispensary" means an entity registered by the department as an adult-use cannabis business authorized to sell adult-use cannabis products.
19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.
20. "Manufacturing facility" means an entity registered by the department as an adult-use cannabis business authorized to produce and process cannabis and to sell adult-use cannabis products to a dispensary.

21. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in an adult-use cannabinoid concentrate or an adult-use cannabinoid product.
22. “Owner” means an individual or an organization with an ownership interest in an adult-use cannabis business.
23. “Ownership interest” means an aggregate ownership interest of five percent or more in an adult-use cannabis business, unless such interest is solely a security, lien, or encumbrance, or an individual that will be participating in the direction, control, or management of the adult-use cannabis business.
24. "Processing" or "process" means the compounding or conversion of cannabis into an adult-use cannabinoid concentrate or adult-use cannabinoid product.
25. "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves or flowers of the plant of the genus cannabis.
26. “Registration certificate” means written authorization provided by the department under this chapter permitting an adult-use cannabis business to engage in a specified activity authorized pursuant to this chapter.
27. "Registry identification card" means a document issued by the department which identifies an individual as a registered adult-use cannabis business agent.
28. “School” means an institution of learning and education especially for children, the collective body of students under instruction in an institution of learning, and a group of people adhering to the same philosophy or system of beliefs.
29. “Substantial corporate change” means the following:
    a. For a corporation, a change of ten percent or more of the officers or directors, or a transfer of ten percent or more of the stock of such corporation, or an existing stockholder obtaining ten percent or more of the stock of such corporation;
    b. For a limited liability company, a change of ten percent or more of the managing members of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company; or
    c. For a partnership, a change of ten percent or more of the managing partners of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company.
30. "Verification system" means the system maintained by the department for verification of registry identification cards.

19-24.2-02. Adult-use cannabis program.

The department shall establish and implement an adult-use cannabis program to allow for the production and processing of cannabis and the sale of adult-use cannabis products to persons twenty-one years of age and older, subject to the provisions of this chapter. A person may not produce, process, sell, possess, consume, transport, or

transfer cannabis or adult-use cannabis products unless the person is authorized to do so in accordance with this chapter or by rule adopted pursuant to this chapter.

19-24.2-03. Adult-use cannabis businesses.

1. A person may not process or produce or transfer adult-use cannabis products or otherwise act as an adult-use cannabis business in this state unless the person is registered as an adult-use cannabis business.
2. By June 30, 2023, the department shall register no more than:
   a. Seven adult-use cannabis businesses with the sole purpose of operating as a manufacturing facility; and
   b. Eighteen adult-use cannabis businesses with the sole purpose of operating as a dispensary.
3. An adult-use cannabis business registered under this chapter may not sell adult-use cannabis products to adult-use cannabis consumers until July 1, 2022.
4. An adult-use cannabis business registered under this chapter shall provide registered qualifying patients and registered designated caregivers access to usable marijuana in accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all requirements in chapter 19-24.1.
5. The department shall establish an open application period for the submission of adult-use cannabis business applications. At the completion of the open application period, the department shall review each complete application using a competitive process established in accordance with rules adopted under this chapter and shall determine which applicants to register as adult-use cannabis businesses.
6. If the department revokes or does not renew an adult-use cannabis business registration certificate, the department may establish an open application period for the submission of adult-use cannabis business applications.
7. The department of commerce may not certify an adult-use cannabis business as a primary sector business.

19-24.2-04. Adult-use cannabis businesses - Authority - Ownership.

1. The activities of a manufacturing facility are limited to producing and processing and related activities, including acquiring, possessing, storing, transferring, and transporting cannabis and adult-use cannabis products, for the sole purpose of selling adult-use cannabis products to a dispensary.
2. The activities of a dispensary are limited to purchasing adult-use cannabis products from a manufacturing facility, and related activities, including storing, delivering, transferring, and transporting adult-use cannabis products, for the sole purpose of dispensing adult-use cannabis products to adult-use cannabis consumers.
3. The activities of a dispensary also include providing education material and selling supplies related to the consumption and storage of adult-use cannabis products. A dispensary may only sell supplies related to the consumption and storage of adult-use cannabis products to an adult-use cannabis consumer. All education material and supplies related to the consumption and storage of adult-use cannabis products are subject to prior department approval.

4. An individual or an organization is prohibited from holding an ownership interest in the following:
    a. More than one manufacturing facility.
    b. More than four dispensaries.
    c. More than one dispensary within a twenty-mile radius of another dispensary.
5. No agreement may be entered into between a manufacturing facility and dispensary whereby a dispensary agrees to limit purchases or sales of adult-use cannabis products to one manufacturing facility.

19-24.2-05. Adult-use cannabis businesses - Application.

1. The department shall establish forms for an application to be registered as an adult-use cannabis business. For an adult-use cannabis business registration application to be complete and eligible for review, the applicant shall submit to the department all of the following:
    a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health".
    b. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement of the proposed adult-use cannabis business applicant.
    c. Evidence of the proposed adult-use cannabis business applicant's registration with the secretary of state and certificate of good standing.
    d. The physical address of the proposed location of the proposed adult-use cannabis business and:
        (1) Evidence of approval from local officials as to the proposed adult-use cannabis business applicant's compliance with local zoning laws for the physical address to be used by the proposed cannabis business; and
        (2) Evidence the physical address of the proposed adult-use cannabis business is not located within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school.
    e. For a manufacturing facility applicant, a description of the enclosed, locked facility that would be used in the production and processing of cannabis, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.
    f. The name, address, and date of birth of each principal officer and board member, or of each member-manager, manager, or governor, of the proposed adult-use cannabis business applicant and verification each officer and board member, or each member-manager, manager, or governor, has consented to a criminal history record check conducted under section 12-60-24.
    g. For each of the proposed adult-use cannabis business applicant's principal officers and board members, or for each of the proposed adult-use cannabis business applicant's member-managers, managers, or governors, a description of that individual's relevant experience, including training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, food science, food safety, production, processing, and the individual's experience

running a business entity.

h. A description of proposed security and safety measures.

i. An example of the design and security features of adult-use cannabis product containers.

j. A complete operations manual.

k. A description of the plans for making usable marijuana available on an affordable basis to registered qualifying patients with limited financial resources in accordance with chapter 19-24.1.

l. A list of all individuals and business entities having direct or indirect authority over the management or policies of the proposed adult-use cannabis business applicant.

m. A list of all individuals and business entities having an ownership interest in the proposed adult-use cannabis business applicant, whether direct or indirect, and whether the interest is in profits, land, or building, including owners of any business entity that owns all or part of the land or building.

n. The identity of any creditor holding a security interest in the proposed adult-use cannabis business premises.

2. The department is not required to review an application submitted under this section unless the department determines the application is complete. The criteria considered by the department in reviewing an application must include:

a. The suitability of the proposed adult-use cannabis business location, including compliance with any local zoning laws, and the geographic convenience to access adult-use cannabis businesses for adult-use consumers throughout the state;

b. The character and relevant experience of the principal officers and board members, or of the member-managers, managers, or governors, including training or professional licensing and business experience;

c. The applicant's plan for operations and services, including staffing and training plans, whether the applicant has sufficient capital to operate, and the applicant's ability to provide an adequate supply of adult-use cannabis products and usable marijuana as defined in chapter 19-24.1.

d. The sufficiency of the applicant's plans for recordkeeping;

e. The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including the proposed location and security devices employed;

f. The applicant's plan for making usable marijuana, as defined in chapter 19-24.1, available on an affordable basis to registered qualifying patients with limited financial resources;

g. The applicant's plan for safe and accurate packaging and labeling of adult-use cannabis products; and

h. The applicant's plans for testing adult-use cannabis products and cannabis.

3. Following completion of the review under subsection 2, the department shall select the applicants eligible for registration.

19-24.2-06. Adult-use cannabis businesses - Registration.

1. Upon receiving notification by the department that an adult-use cannabis business application is eligible for registration, the applicant shall submit all of the following additional items to the department to qualify for registration:
    a. A certification fee, made payable to the "North Dakota Department of Health", in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.
    b. A financial assurance or security bond to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness to meet the requirements of this chapter.
    c. The physical address of the proposed adult-use cannabis business; confirmation the information in the application regarding the physical location of the proposed adult-use cannabis business has not changed, and if the information has changed the department shall determine whether the new information meets the requirements of this chapter; and a current certificate of occupancy, or equivalent document, to demonstrate compliance with the provisions of state and local fire code for the physical address of the proposed adult-use cannabis business. It is not necessary for an applicant to resubmit any information provided in the initial application unless there has been a change in that information.
    d. An update to previously submitted information, including information about adult-use cannabis business agents.
2. If an applicant complies with subsection 1, the department shall issue the applicant a registration certificate.

19-24.2-07. Adult-use cannabis businesses - Renewal.

1. An adult-use cannabis business registration certificate expires two years after issuance. An adult-use cannabis business may submit a renewal application at any time beginning ninety calendar days before the expiration of the registration certificate. An adult-use cannabis business shall submit a renewal application a minimum of sixty calendar days before the expiration of the registration certificate to avoid suspension of the certificate.
2. The department shall approve an adult-use cannabis business's renewal application within sixty calendar days of submission, if the following conditions are satisfied:
    a. The adult-use cannabis business submits a renewal fee, in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;
    b. The adult-use cannabis business submits a complete renewal application;
    c. The department has at no time suspended the adult-use cannabis business's registration for violation of this chapter or chapter 19-24.1;
    d. Inspections conducted under this chapter do not raise any serious concerns about the continued operation of the adult-use cannabis business; and
    e. The adult-use cannabis business continues to meet all the requirements for the operation of an adult-use cannabis business as set forth in this chapter,

chapter 19-24.1, and rules adopted under this chapter.

3. If an-adult-use cannabis business does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the adult-use cannabis business with written notice of the determination. If an adult-use cannabis business's certificate is not renewed, the adult-use cannabis business shall dispose of all cannabis and adult-use cannabis products in accordance with rules adopted under this chapter.

19-24.2-08. Adult-use cannabis businesses - Registration certificates.

A registration certificate authorizing the operation of an adult-use cannabis shall include the following:

1. The name and address of the adult-use cannabis business;
2. Whether the type of adult-use cannabis business is a manufacturing facility or dispensary;
3. A unique license number issued by the department; and
4. Any other information deemed necessary by the department.

19-24.2-09. Adult-use cannabis businesses - Notification of changes.

1. Upon application of an adult-use cannabis business to the department, a registration certificate of an adult-use cannabis business may be amended to authorize a change in the authorized physical location of the adult-use cannabis business, or to amend the ownership or organizational structure of the adult-use cannabis business with the registration certificate. An adult-use cannabis business shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change.
2. A registration certificate authorizing the operation of an adult-use cannabis business shall become void by a change in ownership, substantial corporate change, change in location, or discontinued operation, without prior approval of the department. The department may adopt rules allowing for certain types of changes in ownership without the need for prior written approval from the department.
3. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the cannabis business being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

19-24.2-10. Adult-use cannabis businesses - Agents - Registry identification cards.

1. Upon issuance of an adult-use cannabis business registry certificate, the department shall issue a registry identification card to each qualified adult-use cannabis business agent associated with the adult-use cannabis business.
2. To qualify to be issued a registry identification card, each adult-use cannabis business agent must be at least twenty-one years of age and shall submit all of the

following registry identification card application material to the department:

a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.
b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
c. A written and signed statement from an officer or executive staff member of the adult-use cannabis business stating the applicant is associated with the adult-use cannabis business and the capacity of the association.
d. The name, address, and telephone number of the agent.
e. The name, address, and telephone number of the adult-use cannabis business with which the agent is associated.
f. The agent's signature and the date.
g. A nonrefundable application or renewal fee in the amount of two hundred dollars.

3. Each adult-use cannabis business agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.
   a. All applicable fees associated with the required criminal history record checks must be paid by the adult-use cannabis business or the agent.
   b. A criminal history record check must be performed upon initial application and biennially upon renewal. An adult-use cannabis business agent shall consent to a criminal history record check at any time the department determines necessary.
   c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being an adult-use cannabis business agent.
4. The department shall notify the adult-use cannabis business in writing of the purpose for denying an adult-use cannabis business agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.
5. The department shall issue an adult-use cannabis business agent a registry identification card within thirty calendar days of approval of an application.
6. An adult-use cannabis business agent with a registry identification card shall notify the department of any of the following within ten calendar days of the change, in a manner prescribed by the department:
   a. A change in the cardholder's name or address; and
   b. Knowledge of a change that would render the adult-use cannabis business agent no longer eligible to be a cardholder.
7. If an adult-use cannabis business agent loses the agent's registry identification card, that agent shall notify the department in writing within twenty-four hours of becoming

aware the card has been lost.

8. If a cardholder notifies the department of items listed in this section but the nature of the item reported results in the cardholder remaining eligible, the department may issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifies the department of an item that results in the cardholder being ineligible, the registry identification card immediately becomes void.
9. An adult-use cannabis business shall notify the department in writing within two calendar days of the date an adult-use cannabis business agent ceases to work for or be associated with the adult-use cannabis business. Upon receipt of the notification, that individual's registry identification card becomes void immediately.
10. The registry identification card of an adult-use cannabis business agent expires one year after issuance or upon the termination of the adult-use cannabis business's registration certificate, whichever occurs first. To prevent interruption of possession of a valid registry identification card, an adult-use cannabis business agent shall renew a registry identification card by submitting a complete renewal application no less than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.2-11. Registry identification cards - Nontransferable.

A registry identification card of an adult-use cannabis business agent is not transferable, by assignment or otherwise, to another person. If a person attempts to transfer a card in violation of this section, the registry identification card is void and the person is prohibited from all privileges provided under this chapter.

19-24.2-12. Registry identification cards.

1. The registry identification card of an adult-use cannabis business agent must include:
   a. The name of the cardholder;
   b. The cardholders affiliated adult-use cannabis business;
   c. The date of issuance and expiration date;
   d. A random ten-digit alphanumeric identification number containing at least four numbers and at least four letters which is unique to the cardholder;
   e. A photograph of the cardholder; and
   f. The phone number or website address at which the card can be verified.
2. Except as otherwise provided in this section or rule adopted under this chapter, a registry identification card expiration date must be one year after the date of issuance.

19-24.2-13. Adult-use cannabis businesses and adult-use cannabis agents Suspension and revocation.

1. The department may suspend or revoke the registry identification card of an adult-use cannabis business agent or a registration certificate of an adult-use cannabis business for a material misstatement by an applicant in an application or renewal.
2. The department may suspend or revoke a registry identification card of an adult-use cannabis business agent or registration certificate of an adult-use cannabis business for a violation of this chapter or rules adopted under this chapter.
3. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products to a person not authorized to possess cannabis or adult-use cannabis products under this chapter, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
4. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products in a form not authorized under this chapter or chapter 19-24.1, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
5. The department shall provide written notice of suspension or revocation of a registry identification card or registration certificate.
    a. A suspension may not be for a period longer than six months.
    b. A manufacturing facility may continue to produce, process, and possess cannabis and adult-use cannabis products during a suspension, but may not transfer or sell adult-use cannabis products.
    c. A dispensary may continue to possess adult-use cannabis products during a suspension, but may not purchase, transfer, or transfer adult-use cannabis products.
    d. An adult-use cannabis business agent or adult-use cannabis business may appeal a suspension or revocation of a registry identification card or registration certificate to the district court of Burleigh County for hearing. The court may authorize the adult-use cannabis business agent or adult-use cannabis business to appear by reliable electronic means.
6. If the department revokes a registry identification card of an adult-use cannabis business agent under this chapter, the adult-use cannabis business agent is disqualified from further participation under this chapter.

19-24.2-14. Adult-use cannabis businesses and adult-use cannabis business agents - Violations - Penalties.

1. An adult-use cannabis business agent or adult-use cannabis business that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.
2. In addition to any other penalty applicable in law, a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility is guilty of a class B felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis products in any form, to a person other than a dispensary, or for intentionally selling

or otherwise transferring cannabis in any form other than adult-use cannabis products, to a dispensary.

3. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products, to a person under twenty-one years of age, in a form not allowed under this chapter, or in an amount that would cause the adult-use cannabis consumer to purchase or possess more than the amount of adult-use cannabis products authorized by this chapter.
4. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class A misdemeanor for intentionally selling or otherwise transferring paraphernalia, to a person under twenty-one years of age, or in a form not allowed under this chapter. A dispensary or an adult-use cannabis business agent is not subject to prosecution under this subsection for selling paraphernalia to a registered qualifying patient who is nineteen years of age or older.
5. In addition to any other penalty applicable in law, an adult-use cannabis business or an adult-use cannabis business agent is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products in a form not allowed under this chapter.
6. An adult-use cannabis business or an adult-use cannabis business agent that knowingly submits false records or documentation required by the department to certify an adult-use cannabis business under this chapter is guilty of a class C felony.
7. In addition to any other penalty applicable in law, if an adult-use cannabis business violates this chapter the department may fine the cannabis business up to one thousand dollars per violation, per day, and upon subsequent violations a fine not to exceed five thousand dollars per violation, per day.
8. In addition to any other penalty applicable in law, an adult-use cannabis consumer who intentionally sells or otherwise transfers adult-use cannabis products, to a person under twenty-one years of age, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.
9. An individual who knowingly submits false records or documentation required by the department to receive an adult-use cannabis business agent registry identification card is guilty of a class A misdemeanor. An individual convicted under this subsection may not continue to be affiliated with an adult-use cannabis business.

19-24.2-15. Adult-use cannabis businesses - Transfer and sale.

1. An adult-use cannabis business shall comply with the transfer and sale requirements of this section.
2. Design and security features of adult-use cannabis products containers must be in accordance with rules adopted under this chapter.
3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing facility may not transfer or sell cannabis or adult-use cannabis

products, except a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility may sell adult-use cannabis products to a dispensary.

4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell or provide adult-use cannabis products to the following:
   a. An individual under twenty-one years of age, unless the individual is registered qualifying patient and the sale or dispensing is in accordance with chapter 19-24.1; or
   b. An adult-use cannabis consumer in an amount that would cause the adult-use cannabis consumer to purchase or possess more adult-use cannabis products than permitted by this chapter.
5. Before selling or providing an adult-use cannabis product to an individual, a dispensary or an adult-use cannabis business agent of the dispensary must verify the following:
   a. The individuals age by requiring the individual to produce one of the following pieces of identification:
      (1) The person's passport, issued by the United States or a foreign government;
      (2) The person's driver license, issued by the State of North Dakota or another state of the United States;
      (3) An identification card issued by the State of North Dakota;
      (4) A United States military identification card;
      (5) An identification card issued by a federally recognized Indian tribe; or
      (6) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
   b. The purchase history of the adult-use cannabis consumer using the department approved information technology system to ensure the adult-use cannabis consumer does not purchase more than the amount of adult-use cannabis products authorized by this chapter.
6. The Department may adopt rules requiring a dispensary to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the dispensary does not sell adult-use cannabis products to a person under twenty-one years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age.

19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.

The maximum amount an adult-use cannabis consumer is authorized to purchase is as follows:

1. For the first day of a calendar month through the fifteenth day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and

c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

2. For the sixteenth day of the calendar month through the last day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and
   c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

19-24.2-17. Maximum possession amounts for adult-use cannabis consumers.

1. It is unlawful for an adult-use cannabis consumer to possess more than the following:
   a. One ounce of adult-use cannabis;
   b. One and one half grams of an adult use cannabinoid concentrate; and
   c. Four hundred milligrams of total tetrahydrocannabinol in the form of an adult-use cannabinoid product.
2. An adult-use cannabis consumer who possesses more than the maximum amount of adult-use cannabis products authorized by this chapter is subject to prosecution under chapter 19-03.1.

19-24.2-18. Adult-use cannabis businesses - Inspections.

1. An adult-use cannabis business is subject to random inspection by the department. During an inspection, the department may review the adult-use cannabis business's records, including the adult-use cannabis business's financial, inventory, and sales records.
2. The department shall conduct inspections of adult-use cannabis businesses to ensure compliance with this chapter and chapter 19-24.1. The department shall conduct inspections of manufacturing facilities for the presence of contaminants. The department shall select a certified laboratory to conduct random quality sampling testing, in accordance with rules adopted under this chapter. An adult-use cannabis business shall pay the cost of all random quality sampling testing.
3. The provisions of chapter 54-44.4 do not apply to the selection of a certified laboratory required by this chapter.

19-24.2-19. Adult-use cannabis businesses - Pesticide testing.

A manufacturing facility shall test cannabis at a manufacturing facility for the presence of pesticides. If a cannabis test indicates the presence of a pesticide, the manufacturing facility shall report the test result immediately to the department and to the agriculture commissioner. Upon the order of the department or agriculture commissioner, the manufacturing facility immediately shall destroy all affected or contaminated cannabis and adult-use cannabis products inventory in accordance with rules adopted under this chapter, and shall certify to the department and to the agriculture commissioner that all affected or contaminated inventory has been destroyed.

19-24.2-20. Adult-use cannabis businesses - Cannabis plants.

1. A manufacturing facility may have no more than ten thousand plants. For every five hundred plants in excess of one thousand plants a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of ten thousand dollars. This fee is due at the time of increase and again at renewal of the adult-use cannabis business registration certificate.
2. A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of adult-use cannabis products at any time, regardless of formulation.
3. The health council shall adopt rules to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

19-24.2-21. Adult-use cannabis businesses - Security and safety.

1. In compliance with rules adopted under this chapter, an adult-use cannabis business shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance to areas containing cannabis and adult-use cannabis products and to prevent the theft of cannabis and adult-use cannabis products.
2. An adult-use cannabis business shall limit entry to an area in which production or processing takes place or in which cannabis or adult-use cannabis products are held to authorized personnel .
3. An adult-use cannabis business must have a fully operational security alarm system at the authorized physical address which includes an electrical support backup system for the alarm system to provide suitable protection against theft and diversion.
4. An adult-use cannabis business shall maintain documentation in an auditable form for:
    a. All maintenance inspections and tests conducted under this section, and any servicing, modification, or upgrade performed on the security alarm system;
    b. An alarm activation or other event that requires response by public safety personnel; and
    c. Any breach of security.

19-24.2-22. Adult-use cannabis businesses - Inventory control.

1. An adult-use cannabis business shall comply with the inventory control requirements provided under this section and rules adopted under this chapter.
    a. A manufacturing facility shall:
        (1) Employ a bar coding inventory control system to track batch, strain, and amounts of cannabis and adult-use cannabis products in inventory and to track amounts of adult-use cannabis products sold to dispensaries; and
        (2) Host a secure computer interface to transfer inventory amounts and

dispensary purchase information to the department.

b. A dispensary shall:

(1) Employ a bar coding inventory control system to track batch, strain, and amounts of adult-use cannabis products in inventory and to track amounts sold to adult-use cannabis consumers; and

(2) Host a secure computer interface to transfer inventory amounts and adult-use cannabis consumer purchase information to the department.

2. An adult-use cannabis business shall store the adult-use cannabis business's cannabis and adult-use cannabis products in an enclosed locked facility with adequate security, in accordance with rules adopted under this chapter.

3. An adult-use cannabis business shall conduct inventories of cannabis and adult-use cannabis products at the authorized location at the frequency and in the manner provided by rules adopted under this chapter. If an inventory results in the identification of a discrepancy, the adult-use cannabis business shall notify the department immediately and appropriate law enforcement authorities within seventy-two hours. An adult-use cannabis business shall document each inventory conducted by the adult-use cannabis business.

4. The provisions of chapter 54-44.4 do not apply to the selection of the information technology system selected by the department.

19-24.2-23. Adult-use cannabis businesses - Operating manual - Training.

1. An adult-use cannabis business shall maintain a current copy of the adult-use cannabis business's operating manual that meets the requirements of rules adopted under this chapter.

2. An adult-use cannabis business shall develop, implement, and maintain on the premises an onsite training curriculum or shall enter contractual relationships with outside resources capable of meeting adult-use cannabis business agent training needs.

19-24.2-24. Adult-use cannabis businesses - Bylaws and operating agreements.

As part of a proposed adult-use cannabis business's initial application, the applicant shall provide to the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the bylaws or operating agreement in accordance with this chapter. In addition to any other requirements, the bylaws or operating agreement must include the ownership or management structure of the adult-use cannabis business; the composition of the board of directors, board of governors, member-managers, or managers; and provisions relative to the disposition of revenues and earnings

19-24.2-25. Adult-use cannabis businesses - Retention of and access to records and reports.

An adult-use cannabis business shall keep detailed financial reports of proceeds and expenses. An adult-use cannabis business shall maintain all inventory, sales, and financial records in accordance with generally accepted accounting principles. The adult

use cannabis business shall maintain for a period of seven years all reports and records required under this section. An adult-use cannabis business shall allow the department, or an audit firm contracted by the department, access at all times to all books and records kept by the adult-use cannabis business.

19-24.2-26. Adult-use cannabis businesses - Recordkeeping - Adult-use cannabis business agents - Registry identification cards.

1. Each adult-use cannabis business shall maintain:
   a. In compliance with rules adopted under this chapter, a personnel record for each adult-use cannabis business agent for a period of at least three years following termination of the individual's affiliation with the adult-use cannabis business. The personnel record must comply with minimum requirements set by rule adopted under this chapter.
   b. A record of the source of funds that will be used to open or maintain the adult-use cannabis business, including the name, address, and date of birth of any investor.
   c. A record of each instance in which a current or prospective board member, member-manager, manager, or governor, who managed or served on the board of a business or not-for-profit entity and in the course of that service was convicted, fined, or censured or had a registration or license suspended or revoked in any administrative or judicial proceeding.
2. Each adult-use cannabis business agent shall hold a valid registry identification card.

19-24.2-27. Verification system.

1. The department shall maintain a confidential list of cardholders and each cardholder's registry identification number.
2. The department shall establish a secure verification system. The verification system must allow law enforcement personnel twenty-four-hour access to enter a registry identification number to determine whether the number corresponds with a current valid registry identification card. The system may disclose:
   a. Whether an identification card is valid;
   b. The name of the cardholder; and
   c. The cardholders affiliated adult-use cannabis business.

19-24.2-28. Protections.

Except as provided in sections 19-24.2-14 and 19-24.1-28:

1. An adult-use cannabis consumer is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity for the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies under this chapter.
2. It is presumed an adult-use cannabis consumer is engaged in the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies in accordance with this chapter if the adult-use consumer is not in possession of adult-use cannabis products in an amount that exceeds what is authorized under this

chapter. This presumption may be rebutted by evidence that the conduct related to acquisition, use, consumption, or possession of adult-use cannabis products or related supplies was not in accordance with this chapter.

3. A manufacturing facility is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
    a. Produce or process or to conduct related activities for the sole purpose of selling adult-use cannabis products to a dispensary; or
    b. Transfer, transport, or deliver cannabis or adult-use cannabis products to and from a department designee or manufacturing facility in accordance with this chapter.
4. A dispensary is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
    a. Purchase adult-use cannabis products from a manufacturing facility and conducting related activities for the sole purpose of selling adult-use cannabis products and related supplies, and providing educational materials to adult-use cannabis consumers; or
    b. Transfer adult-use cannabis products to and from a department designee or related manufacturing facility in accordance with this chapter.
5. A registered adult-use cannabis business agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for an adult-use cannabis business if the action performed by the adult-use cannabis business agent on behalf of the adult-use cannabis business is authorized under this chapter.
6. The sale and possession of supplies related to possession and consumption of adult-use cannabis products by a dispensary is lawful if in accordance with this chapter.
7. The adult-use of cannabis by an adult-use cannabis consumer or the producing and processing and the selling of adult-use cannabis products by an adult-use cannabis business is lawful if in accordance with this chapter.
8. An adult-use cannabis consumer, adult-use cannabis business agent, or adult-use cannabis business is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.
9. A person in possession of cannabis waste in the course of transporting or disposing of the waste under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or transportation.
10. A person in possession of cannabis, adult-use cannabis products, or cannabis waste in the course of performing laboratory tests as provided under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or testing.

19-24.2-29. Limitations.

1. An adult-use cannabis consumer may use adult-use cannabis products in the following locations:
    a. A private residence, including the person's curtilage, or yard;
    b. On private property, not generally accessible by the public, when the adult-use cannabis consumer is explicitly permitted to consume the adult-use cannabis products on the property by the owner of the property
2. This chapter does not authorize an adult-use cannabis consumer to engage in, and does not prevent the imposition of any civil liability or criminal liability or other penalties for engaging in the following conduct:
    a. Use, possession, or transportation of adult-use cannabis products by an individual under twenty-one years of age.
    b. Use or consumption of adult-use cannabis products by an adult-use consumer in any public place, including an indoor or outdoor area used by, or open to, the general public or on any form of public transportation.
    c. Use or consumption of an adult-use cannabis product on the grounds of any adult-use cannabis business.
    d. Undertaking an activity under the influence of cannabis if doing so would constitute negligence or professional malpractice.
    e. Possession or consumption of adult-use cannabis products in any of the following locations:
        i. On a school bus or school van that is used for school purposes;
        ii. On the grounds of any public or private school, including all facilities, whether owned, rented, or leased, and all vehicles that a public or private school owns, leases, rents, contracts for, or controls;
        iii. At any location while a public or private school sanctioned event is occurring at that location;
        iv. On state or federal property, including all facilities, whether owned, rented, or leased, and all vehicles the state or federal government, leases, rents, contracts for, or controls;
        v. On the grounds of a correctional facility;
        vi. On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department of human services.
    f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2, 23-12-10.4, 23-12-10.5, or 23-12-11.
    g. Use of adult-use cannabis products in a motor vehicle as defined by chapter 39-01.
    h. Using a combustible delivery form of adult-use cannabis products or vaporizing adult-use cannabis products under this chapter if the smoke or vapor would be inhaled by a person under twenty-one years of age.
    i. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat, while under the influence of cannabis. However, a registered qualifying patient may not be considered to be under the influence of cannabis solely because of the presence of metabolites or

components of cannabis that appear in insufficient concentration to cause impairment.

3. This chapter does not require the following:
    a. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume adult-use cannabis products on or in that property; or
    b. A landlord to allow production and processing of cannabis or possession and consumption of adult-use cannabis products on rental property.
4. This chapter does not prohibit an employer from the following:
    a. Disciplining or terminating the employment of an employee for possessing or consuming adult-use cannabis products in the workplace or for working while under the influence of cannabis. Working as used in this subsection includes when an employee is on call.
    b. Adopting reasonable zero tolerance or drug-free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call provided that the policy is applied in a nondiscriminatory manner.
    c. Disciplining or terminating the employment of an employee for violating an employer's employment policies or workplace drug policy.
5. An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If an employer elects to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the employer must afford the employee a reasonable opportunity to contest the basis of the determination.
6. Nothing in this chapter shall be construed to create or imply a cause of action for any person against an employer for:
    a. Actions, including subjecting an employee or applicant to reasonable drug and alcohol testing under the employer's workplace drug policy, including an employee's refusal to be tested or to cooperate in testing procedures or disciplining termination of employment, based on the employer's good faith belief that an employee used or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies;
    b. Actions, including discipline or termination of employment, based on the employer's good faith belief that an employee was impaired as a result of the use of cannabis, or under the influence of cannabis, while at the employer's workplace or while performing the employee's job duties or while on call in

violation of the employer's workplace drug policy; or

c. Injury, loss or liability to a third party if the employer neither knew nor had reason to know that the employee was impaired.

7. Nothing in this chapter shall be construed to interfere with any federal, state or local restrictions on employment including, the United States Department of Transportation regulation 49 CFR 40.151(e) or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.

19-24.2-30. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of cannabis and adult-use cannabis products, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.
2. The health council may adopt rules regarding the operation and governance of additional categories of registered adult-use cannabis businesses.

19-24.2-31. Confidentiality.

1. Except as provided under subsection 2, information kept or maintained by the department is confidential, including information in a registration application or renewal and supporting information submitted by an adult-use cannabis business, proposed adult-use cannabis business, or adult-use cannabis business agent. Information kept or maintained by the department that could be used to identify an adult-use cannabis consumer is confidential.
2. Information kept or maintained by the department may be disclosed as necessary for:
   a. The verification of registration certificates and registry identification cards under this chapter;
   b. Notification of state or local law enforcement of apparent criminal violation;
   c. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or
   d. Date for statistical purposes in a manner such that no individual person or adult-use cannabis business is identified.
3. Information submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.2-32. Annual Report to Legislative Management

The department shall submit an annual report to the legislative management. The following information shall be included in the annual report in a manner such that no individual person or adult-use cannabis business can be identified:

1. The number and type of adult-use cannabis businesses;
2. Revenue and expenses of the department related to the implementation of this chapter;
3. Sales data by product type; and

4. Information for statistical purposes.

19-24.2-33. Adult-use cannabis fees.

The department shall deposit all fees collected under this chapter in the fund established under section 19-24.1-40.

SECTION 11. AMENDMENT. Subsection 1 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, ~~saliva~~oral fluid, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, ~~saliva~~oral fluid, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

SECTION 12. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

39-20-14. Screening tests.

1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath or oral fluid for the purpose of estimating the alcohol concentration or presence of drugs or substances in the individual's breath or oral fluid upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or a violation under section 39-08-01 or an equivalent offense, or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol or other drugs or substances that render the individual incapable of safely operating a motor vehicle.
2. An individual may not be required to submit to a screening test or tests of breath or oral fluid while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.
3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the

state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol or other drugs or substances and that refusal of the individual to submit to a screening test may result in a revocation for at least one hundred eighty days and up to three years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is admissible in a court proceeding if the individual was arrested in violation of section 39-08-01 and did not take any additional chemical tests requested by the law enforcement officer. Such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available.

4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, oral fluid, or urine sample for a chemical test requested under section 39-20-01 for the same incident.
5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.
6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol or other drugs or substances in an individual's blood, breath, oral fluid, or urine.

SECTION 13. AMENDMENT. Subsection 12 of section 65-05-08 of the North Dakota Century Code is amended and reenacted as follows:

12. The organization may not pay wage loss benefits if the wage loss is related to the use ~~or presence of medical marijuana~~of usable marijuana or adult-use cannabis products, or the presence of tetrahydrocannabinol."

Renumber accordingly.

21.0683.03001
Title.

Prepared by the Legislative Council staff for
Representative Dobervich
February 11, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1420

Page 1, line 1, after "19-24.3" insert "and a new section to chapter 54-07"

Page 1, line 2, after "marijuana" insert "and the duty of the governor to enter agreements relating to marijuana businesses"

Page 9, after line 2, insert:

"**SECTION 7.** A new section to chapter 54-07 of the North Dakota Century Code is created and enacted as follows:

Agreement for coordination and enforcement - Marijuana-related businesses.

1. The governor may enter an agreement with the governing body of an Indian tribe recognized by the United States department of the interior and located in this state for the purpose of cross-jurisdictional coordination and enforcement of marijuana-related businesses licensed under chapters 19-24.1 and 19-24.3 to conduct business on tribal trust land by the governing body of the Indian tribe.

2. An agreement under this section may:

   a. Provide for the cross-jurisdictional coordination and enforcement of marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories licensed by the governing body of the Indian tribe.

   b. Require the governing body of the Indian tribe to establish the same or similar requirements on marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories consistent with chapters 19-24.1 and 19-24.3.

   c. Ensure enforceable public health and safety standards and include a system to regulate and track the production, processing, and dispensing of marijuana for marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories licensed by the governing body of the Indian tribe.

   d. Authorize an agency of this state to assist in the implementation and enforcement of the terms of the agreement."

Renumber accordingly

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1420
2/16/2021

Relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty

Chairman Weisz opened the committee meeting at 9:34 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Adult-use program
- Edible proposal
- Compassionate centers
- Marijuana definition
- Effective date
- Self-sufficient program

Rep. Matthew Ruby (9:34) presented Christmas Tree version of HB 1420 which would mirror the medical use program and it would be a program administered by the compassionate centers - #6722. **Rep. Matthew Ruby** moved to approve the version he presented to committee.

Jason Wahl, Department of Health Division of Medical Marijuana (9:53) answered committee questions.

Rep. Todd Porter (10:21) second.

Tara Brandner, Attorney General's Office (10:22) answered committee questions.

Voice Vote – Motion Carried.

Rep. Gretchen Dobervich (10:47) proposed **Amendment #21.0683.03001** - #6685.

Rep. Gretchen Dobervich (10:57) moved on **Amendment #21.0683.03001**

Rep. Mary Schneider (10: 57) second.

Voice Vote – Motion Failed

Rep. Matthew Ruby (10:58) proposed to further amend to delay changes in controlled substance section until July 1, 2022 as well as drug paraphernalia.

Rep. Todd Porter (10:58) second

Voice Vote – Motion Carried

Rep. Matthew Ruby (10:59) moved **Do Pass As Amended Rerefer to Appropriations**

Rep. Mary Schneider (10:59) second

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	N
Representative Mike Beltz	Y
Representative Chuck Damschen	N
Representative Bill Devlin	N
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	N
Representative Dwight Kiefert	N
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	N
Representative Bill Tveit	N
Representative Greg Westlind	Y

Motion Failed Do Pass As Amended Rerefer to Appropriations 7-7-0

Rep. Kathy Skroch (11:01) made motion **Send out of Committee Without Recommendation**

Rep. Karen Rohr (11:01) second.

Chairman Weisz rejected the motion – hold over until 2/17/2021

Chairman Weisz adjourned at 11:05 a.m.

Tamara Krause, Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1420

Page 1, line 1, after “A BILL” replace the remainder of the bill with “A BILL for an Act to create and enact two new subsections to section 19-03.4-02 and chapter 19-24.2 of the North Dakota Century Code, relating to the personal use of marijuana; to amend and reenact section 19-03.1-01, subsection 5 of section 19-03.1-05, subsection 1 of section 19-03.1-22.2, section 19-03.1-22.3, section 19-03.1-23, subsection 1 of section 19-03.1-23.1, section 19-03.4-03, section 19-03.4-04, subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of the North Dakota Century Code, relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:
   a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
   b. The patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.
3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.
4. "Board" means the state board of pharmacy.
5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.
6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.
7. "Controlled substance analog":
   a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:
      (1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

b. Does not include:

(1) A controlled substance;

(2) Any substance for which there is an approved new drug application; or

(3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.

8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.
10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.
11. "Dispenser" means a practitioner who dispenses.
12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.
13. "Distributor" means a person who distributes.
14. "Drug" means:
    a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;
    b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;
    c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and
    d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.
15. ~~"Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.~~
16. "Immediate precursor" means a substance:
    a. That the board has found to be and by rule designates as being the principal

compound commonly used or produced primarily for use in the manufacture of a controlled substance;

b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and

c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

17. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:

    a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

    b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

18. "Marijuana" ~~means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include: The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term does not include hemp as defined in title 4.1~~means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include:

    a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

    b. Hemp as defined in chapter 4.1-18.1;

    c. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355]; or

    d. Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

19. "Narcotic drug" means any of the following, whether produced directly or indirectly

by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.
b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
c. Opium poppy and poppy straw.
d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

20. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.
21. "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.
22. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.
23. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
24. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
25. "Practitioner" means:
    a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.
    b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.
26. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.
27. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.
28. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in

the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.

29. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.
30. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

SECTION 2. AMENDMENT. Subsection 5 of section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):
   a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
   b. Alpha-methyltryptamine.
   c. 4-methoxyamphetamine (also known as 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA).
   d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA.
   ~~e. Hashish.~~
   f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
   g. Lysergic acid diethylamide.
   h. Marijuana.
   i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl- 6H-dibenzol[b,d]pyran; Synhexyl).
   j. Peyote (all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
   k. N-ethyl-3-piperidyl benzilate.
   l. N-methyl-3-piperidyl benzilate.
   m. Psilocybin.
   n. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the

resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1;~~ such as the following:

(1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

(2) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.

(3) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

Tetrahydrocannabinols does not include:

(1) Tetrahydrocannabinols found in hemp as defined in tille 4.1-18.1; or

(2) Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

o. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.

(1) Indole carboxaldehydes. Any compound structurally derived from 1H-indole- 3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.

[2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.

[3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.

[4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.

[5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
[6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
[7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
[8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
[9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
[10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
[11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole -Other names: RCS-8.
[12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
[13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
[14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
[15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
[16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
[17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3- yl]methanone - Other names: WIN 48,098 and Pravadoline.
[18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
[19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
[20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
[21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
[22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone --Other names: THJ-018.
[23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1- yl)methanone - Other names: FUBIMINA.
[24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.
[25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.

(2) Indole carboxamides. Any compound structurally derived from 1H-indole-

3- carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.

[2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.

[3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide -Other names: AKB 48 and APINACA.

[4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide -Other names: NNEI and MN-24.

[5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3- carboxamide - Other names: ADBICA.

[6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole- 3-carboxamide - Other names: AB-PINACA.

[7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.

[8] N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA and 5F-AB-PINACA.

[9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole- 3-carboxamide - Other names: ADB-PINACA.

[10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)- 1H-indazole-3-carboxamide - Other names: AB-CHMINACA.

[11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H- indazole-3-carboxamide - Other names: ADB-FUBINACA.

[12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3- carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-

fluorobenzyl) analog.

[13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.

[14] methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3- methylbutanoate - Other names: 5-fluoro AMB and 5F-AMB.

[15] methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: FUB-AMB, MMB-FUBINACA, and AMB-FUBINACA.

[16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1 H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.

[17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.

[18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.

[19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.

[20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.

[21] 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxa mide - Other names: 4-CN-CUMYL-BUTINACA; 4-cyano- CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN -BINACA; SGT-78.

[22] methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)- 3-methylbutanoate - Other names: MMB-CHMICA, AMB- CHMICA.

[23] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridi ne-3-carboxamide - Other names: 5F-CUMYL-P7AICA.

(3) Indole carboxylic acids. Any compound structurally derived from 1H-indole- 3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or
(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
(c) A nitrogen heterocyclic analog of the indole ring; or
(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
(e) Examples include:
[1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.
[2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate- Other names: FDU-PB-22.
[3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.
[4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.
[5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.
[6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate- Other names: NM2201 and CBL2201.

(4) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:
(a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.
(b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.

(5) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl- 2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4- yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.

(6) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl- 2-piperidinyl)methyl, 2 (4 morpholinyl)ethyl, 1-(N-methyl-2-

pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4- yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane
- Other names: JWH-176.

(7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1- (N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
   (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol – Other names: CP 47,497.
   (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
   (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.

(8) Others specifically named:
   (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.
   (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol -Other names: Dexanabinol and HU-211.
   (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone - Other names: WIN 55,212-2.
   (d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone -Other names: CB-13.

p. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.

(1) Whether or not the compound is further modified in any of the following ways, that is to say:
   (a) By substitution of phenyl ring by any halo, hydroxyl,

alkyl, trifluoromethyl, alkoxy, or alkylthio groups;

(b) By substitution at the 2-position by any alkyl groups; or

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.

(2) Examples include:

(a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).

(b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).

(c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).

(d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).

(e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).

(f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).

(g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).

(h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C- T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).

(i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).

(j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).

(k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).

(l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).

(m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).

(n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).

(o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).

(p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I- NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).

(q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-

methoxybenzyl)phenethylamine).

(r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2- methoxybenzyl)phenethylamine).

(s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).

(t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4- yl)ethanamine (also known as 2C-B-FLY).

(u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5- yl)ethanamine (also known as 2C-B-butterFLY).

(v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5- b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).

(w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).

(x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine(also known as 2C-I-NBOH or 2,5I-NBOH).

(y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).

(z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).

(aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).

(bb) (bb) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (also known as 6-APDB). (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA).

(dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).

(ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T- 7).

(ff) 5-methoxy-3,4-methylenedioxy-amphetamine.

(gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM and STP).

(hh) 3,4-methylenedioxy amphetamine (also known as MDA).

(ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).

(jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).

(kk) 3,4,5-trimethoxy amphetamine.

(ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).

q. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or

alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:

(1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
(2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
(3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
(4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
(5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MiPT).
(6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).
(7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N- dimethyltryptamine; mappine).
(8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DiPT).
(9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
(10) Dimethyltryptamine (also known as DMT).
(11) Psilocyn.

r. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
s. 1-[4-(trifluoromethylphenyl)]piperazine.
t. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
u. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TPCP, TCP).
y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
z. Salvia divinorum, salvinorin A, or any of the active ingredients of salvia divinorum.

SECTION 3. AMENDMENT. Subsection 1 of section 19-03.1-22.2 of the North Dakota Century Code is amended and reenacted as follows:

1. For purposes of this section:
   a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.

b. "Child" means an individual who is under the age of eighteen years.
c. "Controlled substance" means the same as that term is defined in section 19-03.1-01~~, except the term does not include less than one-half ounce of marijuana~~.
d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.
e. "Prescription" means the same as that term is described in section 19-03.1-22.
f. "Vulnerable adult" means a vulnerable adult as the term is defined in section 50-25.2-01.

SECTION 4. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance – Venue for violation – Penalty.

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. ~~This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana.~~
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of an ~~class B misdemeanor~~infraction.
3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

SECTION 5. AMENDMENT. Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
   a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
   b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony.
   c. A substance classified in schedule IV, is guilty of a class C felony.

d. A substance classified in schedule V, is guilty of a class A misdemeanor.

2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.

3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
   a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
   b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
   c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.

4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.

5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.

6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
   a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
   b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

   A person who violates this subsection is guilty of a class C felony.

7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's

professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.

c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana.

d. ~~A person who violates this subsection by possessing:~~

~~(1) Marijuana in an amount of less than one half ounce [14.175 grams] is guilty of an infraction~~

~~(2) At least one half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.~~

~~(3) More than 500 grams of marijuana is guilty of a class A misdemeanor.~~

A person under the age of twenty-one is in violation of this subsection by possessing:

(1) Marijuana

i. In an amount less than one ounce [28.35 grams] is guilty of an infraction.

ii. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

iii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. In an amount up to the applicable maximum amount authorized by chapter 19-24.2 is guilty of an infraction.

ii. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

iii. More than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class A misdemeanor.

e. A person age twenty-one or older is in violation of this section by possessing:

(1) Marijuana

i. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

ii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

ii. More than two times the applicable maximum amount authorized by chapter 19-24.2 authorized by chapter19-24.2 is guilty of a class A misdemeanor.

~~e.~~ f. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

~~f.~~ g. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

~~g.~~ h. Probation under this subsection may include placement in another facility, treatment program, or drug court. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

~~h.~~ i. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.

~~i.~~ j. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

6. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.

7. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or an amount up to the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

8. Upon successful completion of a drug court program, a person who has been convicted of a felony under this section and sentenced to drug court is deemed to have been convicted of a misdemeanor.

9. If a person convicted of a misdemeanor under this section is sentenced to drug court and successfully completes a drug court program, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

SECTION 6. AMENDMENT. Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
   a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
   b. The offense involved:
      (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
      (2) Fifty grams or more of a mixture or substance containing a detectable amount of:
         (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
         (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
         (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
         (d) Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subparagraphs a through c;
      (3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
      (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
      (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
      (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
      (7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C11H15NO2;
(9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate;
(10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam;
(11) Five hundred grams or more of marijuana ; or
(12) Tetrahydrocannabinol in an amount more than four times the applicable maximum amount authorized by chapter 19-24.2.

c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

SECTION 7. AMENDMENT. Two new subsections to section 19-03.4-02 of the North Dakota Century Code is created and enacted as follows:

Whether the object is used by a registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent in accordance with chapter 19-24.1.

Whether the object is used by an adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent in accordance with chapter 19-24.2.

SECTION 8. AMENDMENT. Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. A person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1.
2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this title, other than an offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony

3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.1 and chapter 19-24.2 is not subject to prosecution under this subsection.
4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or tetrahydrocannabinol, or possess with the intent to use drug paraphernalia to store or contain marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of an infraction. The following persons are not subject to prosecution under this subsection:
   a. A registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
   b. An adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent acting in accordance with chapter 19-24.2.
5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug and alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

SECTION 9. AMENDMENT. Section 19-03.4-04 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia – Penalty.

A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class C felony if the drug paraphernalia will be used to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section

is a class A misdemeanor. The following persons are not subject to prosecution under this subsection:

1. A registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
2. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.2.

SECTION 10. AMENDMENT. Chapter 19-24.2 of the North Dakota Century Code is created and enacted.

19-24.2-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use cannabinoid concentrate intended for consumption. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid capsule is ten milligrams.
2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or extract obtained by separating cannabinoids from cannabis by a mechanical, chemical, or other process.
3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric square shape into which an adult-use cannabinoid concentrate or the dried leaves or flowers of the plant of the genus cannabis is incorporated. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a an-adult-use cannabinoid edible product is ten milligrams and in a package is one hundred milligrams.
4. "Adult-use cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.
    a. Adult-use cannabinoid products are limited to the following forms:
        (1) Adult-use cannabinoid solution;
        (2) Adult-use cannabinoid capsule;
        (3) Adult-use cannabinoid transdermal patch;
        (4) Adult-use cannabinoid topical; and
        (5) Adult-use cannabinoid edible product.
    b. "Adult-use cannabinoid product" does not include:
        (1) An adult-use cannabinoid concentrate by itself; or
        (2) The dried leaves or flowers of the plant of the genus cannabis by itself.
5. "Adult-use cannabinoid solution" means a solution consisting of a mixture created from an adult-use cannabinoid concentrate and other ingredients. A container holding an adult-use cannabinoid solution for dispensing may not exceed thirty milliliters.
6. "Adult-use cannabinoid topical" means an adult-use cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in an adult-use cannabinoid topical is six percent.
7. "Adult-use cannabinoid transdermal patch" means an adhesive substance applied

to the skin which contains an adult-use cannabinoid product or an adult-use cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid transdermal patch is ten milligrams.

8. "Adult-use cannabis" means the dried leaves or flowers of the plant of the genus cannabis.
9. "Adult-use cannabis business" means a manufacturing facility or dispensary.
10. "Adult-use cannabis business agent" means a principal officer, board member, member, manager, governor, employee, volunteer, or agent of an adult-use cannabis business. The term does not include a lawyer representing an adult-use cannabis business in civil or criminal litigation or in an adversarial administrative proceeding.
11. “Adult-use cannabis consumer” means a person, twenty-one years of age or older, who purchases approved adult-use cannabis products for personal use, but not for resale to others.
12. "Adult-use cannabis product" means adult-use cannabis, adult-use cannabinoid concentrates, or adult-use cannabinoid products.
13. "Cannabinoid" means a chemical compound that is one of the active constituents of cannabis.
14. “Cannabis” is a genus of flowering plants within the Cannabaceae family and means all parts of the plant, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacturer, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:
    a. Hemp regulated under chapter 4.1-18.1; or
    b. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
15. "Cannabis waste" means unused, surplus, returned, or out-of-date adult-use cannabis products; recalled adult-use cannabis products; unused cannabis; or plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots.
16. "Cardholder" means an adult-use cannabis business agent who has been issued and possesses a valid registry identification card.
17. "Department" means the state department of health.
18. "Dispensary" means an entity registered by the department as an adult-use cannabis business authorized to sell adult-use cannabis products.
19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.
20. "Manufacturing facility" means an entity registered by the department as an adult-use cannabis business authorized to produce and process cannabis and to sell adult-use cannabis products to a dispensary.

21. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in an adult-use cannabinoid concentrate or an adult-use cannabinoid product.
22. “Owner” means an individual or an organization with an ownership interest in an adult-use cannabis business.
23. “Ownership interest” means an aggregate ownership interest of five percent or more in an adult-use cannabis business, unless such interest is solely a security, lien, or encumbrance, or an individual that will be participating in the direction, control, or management of the adult-use cannabis business.
24. "Processing" or "process" means the compounding or conversion of cannabis into an adult-use cannabinoid concentrate or adult-use cannabinoid product.
25. "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves or flowers of the plant of the genus cannabis.
26. “Registration certificate” means written authorization provided by the department under this chapter permitting an adult-use cannabis business to engage in a specified activity authorized pursuant to this chapter.
27. "Registry identification card" means a document issued by the department which identifies an individual as a registered adult-use cannabis business agent.
28. “School” means an institution of learning and education especially for children, the collective body of students under instruction in an institution of learning, and a group of people adhering to the same philosophy or system of beliefs.
29. “Substantial corporate change” means the following:
    a. For a corporation, a change of ten percent or more of the officers or directors, or a transfer of ten percent or more of the stock of such corporation, or an existing stockholder obtaining ten percent or more of the stock of such corporation;
    b. For a limited liability company, a change of ten percent or more of the managing members of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company; or
    c. For a partnership, a change of ten percent or more of the managing partners of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company.
30. "Verification system" means the system maintained by the department for verification of registry identification cards.

19-24.2-02. Adult-use cannabis program.

The department shall establish and implement an adult-use cannabis program to allow for the production and processing of cannabis and the sale of adult-use cannabis products to persons twenty-one years of age and older, subject to the provisions of this chapter. A person may not produce, process, sell, possess, consume, transport, or

transfer cannabis or adult-use cannabis products unless the person is authorized to do so in accordance with this chapter or by rule adopted pursuant to this chapter.

19-24.2-03. Adult-use cannabis businesses.

1. A person may not process or produce or transfer adult-use cannabis products or otherwise act as an adult-use cannabis business in this state unless the person is registered as an adult-use cannabis business.
2. By June 30, 2023, the department shall register no more than:
   a. Seven adult-use cannabis businesses with the sole purpose of operating as a manufacturing facility; and
   b. Eighteen adult-use cannabis businesses with the sole purpose of operating as a dispensary.
3. An adult-use cannabis business registered under this chapter may not sell adult-use cannabis products to adult-use cannabis consumers until July 1, 2022.
4. An adult-use cannabis business registered under this chapter shall provide registered qualifying patients and registered designated caregivers access to usable marijuana in accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all requirements in chapter 19-24.1.
5. The department shall establish an open application period for the submission of adult-use cannabis business applications. At the completion of the open application period, the department shall review each complete application using a competitive process established in accordance with rules adopted under this chapter and shall determine which applicants to register as adult-use cannabis businesses.
6. If the department revokes or does not renew an adult-use cannabis business registration certificate, the department may establish an open application period for the submission of adult-use cannabis business applications.
7. The department of commerce may not certify an adult-use cannabis business as a primary sector business.

19-24.2-04. Adult-use cannabis businesses - Authority - Ownership.

1. The activities of a manufacturing facility are limited to producing and processing and related activities, including acquiring, possessing, storing, transferring, and transporting cannabis and adult-use cannabis products, for the sole purpose of selling adult-use cannabis products to a dispensary.
2. The activities of a dispensary are limited to purchasing adult-use cannabis products from a manufacturing facility, and related activities, including storing, delivering, transferring, and transporting adult-use cannabis products, for the sole purpose of dispensing adult-use cannabis products to adult-use cannabis consumers.
3. The activities of a dispensary also include providing education material and selling supplies related to the consumption and storage of adult-use cannabis products. A dispensary may only sell supplies related to the consumption and storage of adult-use cannabis products to an adult-use cannabis consumer. All education material and supplies related to the consumption and storage of adult-use cannabis products are subject to prior department approval.

4. An individual or an organization is prohibited from holding an ownership interest in the following:
    a. More than one manufacturing facility.
    b. More than four dispensaries.
    c. More than one dispensary within a twenty-mile radius of another dispensary.
5. No agreement may be entered into between a manufacturing facility and dispensary whereby a dispensary agrees to limit purchases or sales of adult-use cannabis products to one manufacturing facility.

19-24.2-05. Adult-use cannabis businesses - Application.

1. The department shall establish forms for an application to be registered as an adult-use cannabis business. For an adult-use cannabis business registration application to be complete and eligible for review, the applicant shall submit to the department all of the following:
    a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health".
    b. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement of the proposed adult-use cannabis business applicant.
    c. Evidence of the proposed adult-use cannabis business applicant's registration with the secretary of state and certificate of good standing.
    d. The physical address of the proposed location of the proposed adult-use cannabis business and:
        (1) Evidence of approval from local officials as to the proposed adult-use cannabis business applicant's compliance with local zoning laws for the physical address to be used by the proposed cannabis business; and
        (2) Evidence the physical address of the proposed adult-use cannabis business is not located within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school.
    e. For a manufacturing facility applicant, a description of the enclosed, locked facility that would be used in the production and processing of cannabis, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.
    f. The name, address, and date of birth of each principal officer and board member, or of each member-manager, manager, or governor, of the proposed adult-use cannabis business applicant and verification each officer and board member, or each member-manager, manager, or governor, has consented to a criminal history record check conducted under section 12-60-24.
    g. For each of the proposed adult-use cannabis business applicant's principal officers and board members, or for each of the proposed adult-use cannabis business applicant's member-managers, managers, or governors, a description of that individual's relevant experience, including training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, food science, food safety, production, processing, and the individual's experience

running a business entity.

h. A description of proposed security and safety measures.

i. An example of the design and security features of adult-use cannabis product containers.

j. A complete operations manual.

k. A description of the plans for making usable marijuana available on an affordable basis to registered qualifying patients with limited financial resources in accordance with chapter 19-24.1.

l. A list of all individuals and business entities having direct or indirect authority over the management or policies of the proposed adult-use cannabis business applicant.

m. A list of all individuals and business entities having an ownership interest in the proposed adult-use cannabis business applicant, whether direct or indirect, and whether the interest is in profits, land, or building, including owners of any business entity that owns all or part of the land or building.

n. The identity of any creditor holding a security interest in the proposed adult-use cannabis business premises.

2. The department is not required to review an application submitted under this section unless the department determines the application is complete. The criteria considered by the department in reviewing an application must include:

a. The suitability of the proposed adult-use cannabis business location, including compliance with any local zoning laws, and the geographic convenience to access adult-use cannabis businesses for adult-use consumers throughout the state;

b. The character and relevant experience of the principal officers and board members, or of the member-managers, managers, or governors, including training or professional licensing and business experience;

c. The applicant's plan for operations and services, including staffing and training plans, whether the applicant has sufficient capital to operate, and the applicant's ability to provide an adequate supply of adult-use cannabis products and usable marijuana as defined in chapter 19-24.1.

d. The sufficiency of the applicant's plans for recordkeeping;

e. The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including the proposed location and security devices employed;

f. The applicant's plan for making usable marijuana, as defined in chapter 19-24.1, available on an affordable basis to registered qualifying patients with limited financial resources;

g. The applicant's plan for safe and accurate packaging and labeling of adult-use cannabis products; and

h. The applicant's plans for testing adult-use cannabis products and cannabis.

3. Following completion of the review under subsection 2, the department shall select the applicants eligible for registration.

19-24.2-06. Adult-use cannabis businesses - Registration.

1. Upon receiving notification by the department that an adult-use cannabis business application is eligible for registration, the applicant shall submit all of the following additional items to the department to qualify for registration:
    a. A certification fee, made payable to the "North Dakota Department of Health", in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.
    b. A financial assurance or security bond to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness to meet the requirements of this chapter.
    c. The physical address of the proposed adult-use cannabis business; confirmation the information in the application regarding the physical location of the proposed adult-use cannabis business has not changed, and if the information has changed the department shall determine whether the new information meets the requirements of this chapter; and a current certificate of occupancy, or equivalent document, to demonstrate compliance with the provisions of state and local fire code for the physical address of the proposed adult-use cannabis business. It is not necessary for an applicant to resubmit any information provided in the initial application unless there has been a change in that information.
    d. An update to previously submitted information, including information about adult-use cannabis business agents.
2. If an applicant complies with subsection 1, the department shall issue the applicant a registration certificate.

19-24.2-07. Adult-use cannabis businesses - Renewal.

1. An adult-use cannabis business registration certificate expires two years after issuance. An adult-use cannabis business may submit a renewal application at any time beginning ninety calendar days before the expiration of the registration certificate. An adult-use cannabis business shall submit a renewal application a minimum of sixty calendar days before the expiration of the registration certificate to avoid suspension of the certificate.
2. The department shall approve an adult-use cannabis business's renewal application within sixty calendar days of submission, if the following conditions are satisfied:
    a. The adult-use cannabis business submits a renewal fee, in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;
    b. The adult-use cannabis business submits a complete renewal application;
    c. The department has at no time suspended the adult-use cannabis business's registration for violation of this chapter or chapter 19-24.1;
    d. Inspections conducted under this chapter do not raise any serious concerns about the continued operation of the adult-use cannabis business; and
    e. The adult-use cannabis business continues to meet all the requirements for the operation of an adult-use cannabis business as set forth in this chapter,

chapter 19-24.1, and rules adopted under this chapter.

3. If an-adult-use cannabis business does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the adult-use cannabis business with written notice of the determination. If an adult-use cannabis business's certificate is not renewed, the adult-use cannabis business shall dispose of all cannabis and adult-use cannabis products in accordance with rules adopted under this chapter.

19-24.2-08. Adult-use cannabis businesses - Registration certificates.

A registration certificate authorizing the operation of an adult-use cannabis shall include the following:

1. The name and address of the adult-use cannabis business;
2. Whether the type of adult-use cannabis business is a manufacturing facility or dispensary;
3. A unique license number issued by the department; and
4. Any other information deemed necessary by the department.

19-24.2-09. Adult-use cannabis businesses - Notification of changes.

1. Upon application of an adult-use cannabis business to the department, a registration certificate of an adult-use cannabis business may be amended to authorize a change in the authorized physical location of the adult-use cannabis business, or to amend the ownership or organizational structure of the adult-use cannabis business with the registration certificate. An adult-use cannabis business shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change.
2. A registration certificate authorizing the operation of an adult-use cannabis business shall become void by a change in ownership, substantial corporate change, change in location, or discontinued operation, without prior approval of the department. The department may adopt rules allowing for certain types of changes in ownership without the need for prior written approval from the department.
3. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the cannabis business being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

19-24.2-10. Adult-use cannabis businesses - Agents - Registry identification cards.

1. Upon issuance of an adult-use cannabis business registry certificate, the department shall issue a registry identification card to each qualified adult-use cannabis business agent associated with the adult-use cannabis business.
2. To qualify to be issued a registry identification card, each adult-use cannabis business agent must be at least twenty-one years of age and shall submit all of the

following registry identification card application material to the department:

a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.
b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
c. A written and signed statement from an officer or executive staff member of the adult-use cannabis business stating the applicant is associated with the adult-use cannabis business and the capacity of the association.
d. The name, address, and telephone number of the agent.
e. The name, address, and telephone number of the adult-use cannabis business with which the agent is associated.
f. The agent's signature and the date.
g. A nonrefundable application or renewal fee in the amount of two hundred dollars.

3. Each adult-use cannabis business agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.
   a. All applicable fees associated with the required criminal history record checks must be paid by the adult-use cannabis business or the agent.
   b. A criminal history record check must be performed upon initial application and biennially upon renewal. An adult-use cannabis business agent shall consent to a criminal history record check at any time the department determines necessary.
   c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being an adult-use cannabis business agent.

1. The department shall notify the adult-use cannabis business in writing of the purpose for denying an adult-use cannabis business agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.
2. The department shall issue an adult-use cannabis business agent a registry identification card within thirty calendar days of approval of an application.
3. An adult-use cannabis business agent with a registry identification card shall notify the department of any of the following within ten calendar days of the change, in a manner prescribed by the department:
   a. A change in the cardholder's name or address; and
   b. Knowledge of a change that would render the adult-use cannabis business agent no longer eligible to be a cardholder.
4. If an adult-use cannabis business agent loses the agent's registry identification card, that agent shall notify the department in writing within twenty-four hours of becoming

aware the card has been lost.

5. If a cardholder notifies the department of items listed in this section but the nature of the item reported results in the cardholder remaining eligible, the department may issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifies the department of an item that results in the cardholder being ineligible, the registry identification card immediately becomes void.
6. An adult-use cannabis business shall notify the department in writing within two calendar days of the date an adult-use cannabis business agent ceases to work for or be associated with the adult-use cannabis business. Upon receipt of the notification, that individual's registry identification card becomes void immediately.
7. The registry identification card of an adult-use cannabis business agent expires one year after issuance or upon the termination of the adult-use cannabis business's registration certificate, whichever occurs first. To prevent interruption of possession of a valid registry identification card, an adult-use cannabis business agent shall renew a registry identification card by submitting a complete renewal application no less than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.2-11. Registry identification cards - Nontransferable.

A registry identification card of an adult-use cannabis business agent is not transferable, by assignment or otherwise, to another person. If a person attempts to transfer a card in violation of this section, the registry identification card is void and the person is prohibited from all privileges provided under this chapter.

19-24.2-12. Registry identification cards.

1. The registry identification card of an adult-use cannabis business agent must include:
   a. The name of the cardholder;
   b. The cardholders affiliated adult-use cannabis business;
   c. The date of issuance and expiration date;
   d. A random ten-digit alphanumeric identification number containing at least four numbers and at least four letters which is unique to the cardholder;
   e. A photograph of the cardholder; and
   f. The phone number or website address at which the card can be verified.
2. Except as otherwise provided in this section or rule adopted under this chapter, a registry identification card expiration date must be one year after the date of issuance.

19-24.2-13. Adult-use cannabis businesses and adult-use cannabis agents Suspension and revocation.

1. The department may suspend or revoke the registry identification card of an adult-use cannabis business agent or a registration certificate of an adult-use cannabis business for a material misstatement by an applicant in an application or renewal.
2. The department may suspend or revoke a registry identification card of an adult-use cannabis business agent or registration certificate of an adult-use cannabis business for a violation of this chapter or rules adopted under this chapter.
3. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products to a person not authorized to possess cannabis or adult-use cannabis products under this chapter, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
4. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products in a form not authorized under this chapter or chapter 19-24.1, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
5. The department shall provide written notice of suspension or revocation of a registry identification card or registration certificate.
    a. A suspension may not be for a period longer than six months.
    b. A manufacturing facility may continue to produce, process, and possess cannabis and adult-use cannabis products during a suspension, but may not transfer or sell adult-use cannabis products.
    c. A dispensary may continue to possess adult-use cannabis products during a suspension, but may not purchase, transfer, or transfer adult-use cannabis products.
    d. An adult-use cannabis business agent or adult-use cannabis business may appeal a suspension or revocation of a registry identification card or registration certificate to the district court of Burleigh County for hearing. The court may authorize the adult-use cannabis business agent or adult-use cannabis business to appear by reliable electronic means.
6. If the department revokes a registry identification card of an adult-use cannabis business agent under this chapter, the adult-use cannabis business agent is disqualified from further participation under this chapter.

19-24.2-14. Adult-use cannabis businesses and adult-use cannabis business agents - Violations - Penalties.

1. An adult-use cannabis business agent or adult-use cannabis business that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.
2. In addition to any other penalty applicable in law, a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility is guilty of a class B felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis products in any form, to a person other than a dispensary, or for intentionally selling

or otherwise transferring cannabis in any form other than adult-use cannabis products, to a dispensary.

3. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products, to a person under twenty-one years of age, in a form not allowed under this chapter, or in an amount that would cause the adult-use cannabis consumer to purchase or possess more than the amount of adult-use cannabis products authorized by this chapter.
4. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class A misdemeanor for intentionally selling or otherwise transferring paraphernalia, to a person under twenty-one years of age, or in a form not allowed under this chapter. A dispensary or an adult-use cannabis business agent is not subject to prosecution under this subsection for selling paraphernalia to a registered qualifying patient who is nineteen years of age or older.
5. In addition to any other penalty applicable in law, an adult-use cannabis business or an adult-use cannabis business agent is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products in a form not allowed under this chapter.
6. An adult-use cannabis business or an adult-use cannabis business agent that knowingly submits false records or documentation required by the department to certify an adult-use cannabis business under this chapter is guilty of a class C felony.
7. In addition to any other penalty applicable in law, if an adult-use cannabis business violates this chapter the department may fine the cannabis business up to one thousand dollars per violation, per day, and upon subsequent violations a fine not to exceed five thousand dollars per violation, per day.
8. In addition to any other penalty applicable in law, an adult-use cannabis consumer who intentionally sells or otherwise transfers adult-use cannabis products, to a person under twenty-one years of age, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.
9. An individual who knowingly submits false records or documentation required by the department to receive an adult-use cannabis business agent registry identification card is guilty of a class A misdemeanor. An individual convicted under this subsection may not continue to be affiliated with an adult-use cannabis business.

19-24.2-15. Adult-use cannabis businesses - Transfer and sale.

1. An adult-use cannabis business shall comply with the transfer and sale requirements of this section.
2. Design and security features of adult-use cannabis products containers must be in accordance with rules adopted under this chapter.
3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing facility may not transfer or sell cannabis or adult-use cannabis

products, except a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility may sell adult-use cannabis products to a dispensary.

4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell or provide adult-use cannabis products to the following:
   a. An individual under twenty-one years of age, unless the individual is registered qualifying patient and the sale or dispensing is in accordance with chapter 19-24.1; or
   b. An adult-use cannabis consumer in an amount that would cause the adult-use cannabis consumer to purchase or possess more adult-use cannabis products than permitted by this chapter.
5. Before selling or providing an adult-use cannabis product to an individual, a dispensary or an adult-use cannabis business agent of the dispensary must verify the following:
   a. The individuals age by requiring the individual to produce one of the following pieces of identification:
      (1) The person's passport, issued by the United States or a foreign government;
      (2) The person's driver license, issued by the State of North Dakota or another state of the United States;
      (3) An identification card issued by the State of North Dakota;
      (4) A United States military identification card;
      (5) An identification card issued by a federally recognized Indian tribe; or
      (6) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
   b. The purchase history of the adult-use cannabis consumer using the department approved information technology system to ensure the adult-use cannabis consumer does not purchase more than the amount of adult-use cannabis products authorized by this chapter.
6. The Department may adopt rules requiring a dispensary to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the dispensary does not sell adult-use cannabis products to a person under twenty-one years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age.

19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.

The maximum amount an adult-use cannabis consumer is authorized to purchase is as follows:

1. For the first day of a calendar month through the fifteenth day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and

c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

2. For the sixteenth day of the calendar month through the last day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and
   c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

19-24.2-17. Maximum possession amounts for adult-use cannabis consumers.

1. It is unlawful for an adult-use cannabis consumer to possess more than the following:
   a. One ounce of adult-use cannabis;
   b. One and one half grams of an adult use cannabinoid concentrate; and
   c. Four hundred milligrams of total tetrahydrocannabinol in the form of an adult-use cannabinoid product.
2. An adult-use cannabis consumer who possesses more than the maximum amount of adult-use cannabis products authorized by this chapter is subject to prosecution under chapter 19-03.1.

19-24.2-18. Adult-use cannabis businesses - Inspections.

1. An adult-use cannabis business is subject to random inspection by the department. During an inspection, the department may review the adult-use cannabis business's records, including the adult-use cannabis business's financial, inventory, and sales records.
2. The department shall conduct inspections of adult-use cannabis businesses to ensure compliance with this chapter and chapter 19-24.1. The department shall conduct inspections of manufacturing facilities for the presence of contaminants. The department shall select a certified laboratory to conduct random quality sampling testing, in accordance with rules adopted under this chapter. An adult-use cannabis business shall pay the cost of all random quality sampling testing.
3. The provisions of chapter 54-44.4 do not apply to the selection of a certified laboratory required by this chapter.

19-24.2-19. Adult-use cannabis businesses - Pesticide testing.

A manufacturing facility shall test cannabis at a manufacturing facility for the presence of pesticides. If a cannabis test indicates the presence of a pesticide, the manufacturing facility shall report the test result immediately to the department and to the agriculture commissioner. Upon the order of the department or agriculture commissioner, the manufacturing facility immediately shall destroy all affected or contaminated cannabis and adult-use cannabis products inventory in accordance with rules adopted under this chapter, and shall certify to the department and to the agriculture commissioner that all affected or contaminated inventory has been destroyed.

19-24.2-20. Adult-use cannabis businesses - Cannabis plants.

1. A manufacturing facility may have no more than ten thousand plants. For every five hundred plants in excess of one thousand plants a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of ten thousand dollars. This fee is due at the time of increase and again at renewal of the adult-use cannabis business registration certificate.
2. A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of adult-use cannabis products at any time, regardless of formulation.
3. The health council shall adopt rules to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

19-24.2-21. Adult-use cannabis businesses - Security and safety.

1. In compliance with rules adopted under this chapter, an adult-use cannabis business shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance to areas containing cannabis and adult-use cannabis products and to prevent the theft of cannabis and adult-use cannabis products.
2. An adult-use cannabis business shall limit entry to an area in which production or processing takes place or in which cannabis or adult-use cannabis products are held to authorized personnel .
3. An adult-use cannabis business must have a fully operational security alarm system at the authorized physical address which includes an electrical support backup system for the alarm system to provide suitable protection against theft and diversion.
4. An adult-use cannabis business shall maintain documentation in an auditable form for:
    a. All maintenance inspections and tests conducted under this section, and any servicing, modification, or upgrade performed on the security alarm system;
    b. An alarm activation or other event that requires response by public safety personnel; and
    c. Any breach of security.

19-24.2-22. Adult-use cannabis businesses - Inventory control.

1. An adult-use cannabis business shall comply with the inventory control requirements provided under this section and rules adopted under this chapter.
    a. A manufacturing facility shall:
        (1) Employ a bar coding inventory control system to track batch, strain, and amounts of cannabis and adult-use cannabis products in inventory and to track amounts of adult-use cannabis products sold to dispensaries; and
        (2) Host a secure computer interface to transfer inventory amounts and

dispensary purchase information to the department.

b. A dispensary shall:

(1) Employ a bar coding inventory control system to track batch, strain, and amounts of adult-use cannabis products in inventory and to track amounts sold to adult-use cannabis consumers; and

(2) Host a secure computer interface to transfer inventory amounts and adult-use cannabis consumer purchase information to the department.

2. An adult-use cannabis business shall store the adult-use cannabis business's cannabis and adult-use cannabis products in an enclosed locked facility with adequate security, in accordance with rules adopted under this chapter.

3. An adult-use cannabis business shall conduct inventories of cannabis and adult-use cannabis products at the authorized location at the frequency and in the manner provided by rules adopted under this chapter. If an inventory results in the identification of a discrepancy, the adult-use cannabis business shall notify the department immediately and appropriate law enforcement authorities within seventy-two hours. An adult-use cannabis business shall document each inventory conducted by the adult-use cannabis business.

4. The provisions of chapter 54-44.4 do not apply to the selection of the information technology system selected by the department.

19-24.2-23. Adult-use cannabis businesses - Operating manual - Training.

1. An adult-use cannabis business shall maintain a current copy of the adult-use cannabis business's operating manual that meets the requirements of rules adopted under this chapter.

2. An adult-use cannabis business shall develop, implement, and maintain on the premises an onsite training curriculum or shall enter contractual relationships with outside resources capable of meeting adult-use cannabis business agent training needs.

19-24.2-24. Adult-use cannabis businesses - Bylaws and operating agreements.

As part of a proposed adult-use cannabis business's initial application, the applicant shall provide to the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the bylaws or operating agreement in accordance with this chapter. In addition to any other requirements, the bylaws or operating agreement must include the ownership or management structure of the adult-use cannabis business; the composition of the board of directors, board of governors, member-managers, or managers; and provisions relative to the disposition of revenues and earnings

19-24.2-25. Adult-use cannabis businesses - Retention of and access to records and reports.

An adult-use cannabis business shall keep detailed financial reports of proceeds and expenses. An adult-use cannabis business shall maintain all inventory, sales, and financial records in accordance with generally accepted accounting principles. The adult

use cannabis business shall maintain for a period of seven years all reports and records required under this section. An adult-use cannabis business shall allow the department, or an audit firm contracted by the department, access at all times to all books and records kept by the adult-use cannabis business.

19-24.2-26. Adult-use cannabis businesses - Recordkeeping - Adult-use cannabis business agents - Registry identification cards.

1. Each adult-use cannabis business shall maintain:
   a. In compliance with rules adopted under this chapter, a personnel record for each adult-use cannabis business agent for a period of at least three years following termination of the individual's affiliation with the adult-use cannabis business. The personnel record must comply with minimum requirements set by rule adopted under this chapter.
   b. A record of the source of funds that will be used to open or maintain the adult-use cannabis business, including the name, address, and date of birth of any investor.
   c. A record of each instance in which a current or prospective board member, member-manager, manager, or governor, who managed or served on the board of a business or not-for-profit entity and in the course of that service was convicted, fined, or censured or had a registration or license suspended or revoked in any administrative or judicial proceeding.
2. Each adult-use cannabis business agent shall hold a valid registry identification card.

19-24.2-27. Verification system.

1. The department shall maintain a confidential list of cardholders and each cardholder's registry identification number.
2. The department shall establish a secure verification system. The verification system must allow law enforcement personnel twenty-four-hour access to enter a registry identification number to determine whether the number corresponds with a current valid registry identification card. The system may disclose:
   a. Whether an identification card is valid;
   b. The name of the cardholder; and
   c. The cardholders affiliated adult-use cannabis business.

19-24.2-28. Protections.

Except as provided in sections 19-24.2-14 and 19-24.1-28:

1. An adult-use cannabis consumer is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity for the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies under this chapter.
2. It is presumed an adult-use cannabis consumer is engaged in the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies in accordance with this chapter if the adult-use consumer is not in possession of adult-

use cannabis products in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence that the conduct related to acquisition, use, consumption, or possession of adult-use cannabis products or related supplies was not in accordance with this chapter.

3. A manufacturing facility is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
   a. Produce or process or to conduct related activities for the sole purpose of selling adult-use cannabis products to a dispensary; or
   b. Transfer, transport, or deliver cannabis or adult-use cannabis products to and from a department designee or manufacturing facility in accordance with this chapter.
4. A dispensary is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
   a. Purchase adult-use cannabis products from a manufacturing facility and conducting related activities for the sole purpose of selling adult-use cannabis products and related supplies, and providing educational materials to adult-use cannabis consumers; or
   b. Transfer adult-use cannabis products to and from a department designee or related manufacturing facility in accordance with this chapter.
5. A registered adult-use cannabis business agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for an adult-use cannabis business if the action performed by the adult-use cannabis business agent on behalf of the adult-use cannabis business is authorized under this chapter.
6. The sale and possession of supplies related to possession and consumption of adult-use cannabis products by a dispensary is lawful if in accordance with this chapter.
7. The adult-use of cannabis by an adult-use cannabis consumer or the producing and processing and the selling of adult-use cannabis products by an adult-use cannabis business is lawful if in accordance with this chapter.
8. An adult-use cannabis consumer, adult-use cannabis business agent, or adult-use cannabis business is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.
9. A person in possession of cannabis waste in the course of transporting or disposing of the waste under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or transportation.
10. A person in possession of cannabis, adult-use cannabis products, or cannabis waste in the course of performing laboratory tests as provided under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or testing.

19-24.2-29. Limitations.

1. An adult-use cannabis consumer may use adult-use cannabis products in the following locations:
    a. A private residence, including the person's curtilage, or yard;
    b. On private property, not generally accessible by the public, when the adult-use cannabis consumer is explicitly permitted to consume the adult-use cannabis products on the property by the owner of the property
2. This chapter does not authorize an adult-use cannabis consumer to engage in, and does not prevent the imposition of any civil liability or criminal liability or other penalties for engaging in the following conduct:
    a. Use, possession, or transportation of adult-use cannabis products by an individual under twenty-one years of age.
    b. Use or consumption of adult-use cannabis products by an adult-use consumer in any public place, including an indoor or outdoor area used by, or open to, the general public or on any form of public transportation.
    c. Use or consumption of an adult-use cannabis product on the grounds of any adult-use cannabis business.
    d. Undertaking an activity under the influence of cannabis if doing so would constitute negligence or professional malpractice.
    e. Possession or consumption of adult-use cannabis products in any of the following locations:
        i. On a school bus or school van that is used for school purposes;
        ii. On the grounds of any public or private school, including all facilities, whether owned, rented, or leased, and all vehicles that a public or private school owns, leases, rents, contracts for, or controls;
        iii. At any location while a public or private school sanctioned event is occurring at that location;
        iv. On state or federal property, including all facilities, whether owned, rented, or leased, and all vehicles the state or federal government, leases, rents, contracts for, or controls;
        v. On the grounds of a correctional facility;
        vi. On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department of human services.
    f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2, 23-12-10.4, 23-12-10.5, or 23-12-11.
    g. Use of adult-use cannabis products in a motor vehicle as defined by chapter 39-01.
    h. Using a combustible delivery form of adult-use cannabis products or vaporizing adult-use cannabis products under this chapter if the smoke or vapor would be inhaled by a person under twenty-one years of age.
    i. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat, while under the influence of cannabis. However, a registered qualifying patient may not be considered to be under the

influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

3. This chapter does not require the following:
    a. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume adult-use cannabis products on or in that property; or
    b. A landlord to allow production and processing of cannabis or possession and consumption of adult-use cannabis products on rental property.
4. This chapter does not prohibit an employer from the following:
    a. Disciplining or terminating the employment of an employee for possessing or consuming adult-use cannabis products in the workplace or for working while under the influence of cannabis. Working as used in this subsection includes when an employee is on call.
    b. Adopting reasonable zero tolerance or drug-free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call provided that the policy is applied in a nondiscriminatory manner.
    c. Disciplining or terminating the employment of an employee for violating an employer's employment policies or workplace drug policy.
5. An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If an employer elects to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the employer must afford the employee a reasonable opportunity to contest the basis of the determination.
6. Nothing in this chapter shall be construed to create or imply a cause of action for any person against an employer for:
    a. Actions, including subjecting an employee or applicant to reasonable drug and alcohol testing under the employer's workplace drug policy, including an employee's refusal to be tested or to cooperate in testing procedures or disciplining termination of employment, based on the employer's good faith belief that an employee used or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies;
    b. Actions, including discipline or termination of employment, based on the employer's good faith belief that an employee was impaired as a result of the use of cannabis, or under the influence of cannabis, while at the employer's

workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policy; or

c. Injury, loss or liability to a third party if the employer neither knew nor had reason to know that the employee was impaired.

7. Nothing in this chapter shall be construed to interfere with any federal, state or local restrictions on employment including, the United States Department of Transportation regulation 49 CFR 40.151(e) or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.

19-24.2-30. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of cannabis and adult-use cannabis products, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.
2. The health council may adopt rules regarding the operation and governance of additional categories of registered adult-use cannabis businesses.

19-24.2-31. Confidentiality.

1. Except as provided under subsection 2, information kept or maintained by the department is confidential, including information in a registration application or renewal and supporting information submitted by an adult-use cannabis business, proposed adult-use cannabis business, or adult-use cannabis business agent. Information kept or maintained by the department that could be used to identify an adult-use cannabis consumer is confidential.
2. Information kept or maintained by the department may be disclosed as necessary for:
   a. The verification of registration certificates and registry identification cards under this chapter;
   b. Notification of state or local law enforcement of apparent criminal violation;
   c. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or
   d. Date for statistical purposes in a manner such that no individual person or adult-use cannabis business is identified.
3. Information submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.2-32. Annual Report to Legislative Management

The department shall submit an annual report to the legislative management. The following information shall be included in the annual report in a manner such that no individual person or adult-use cannabis business can be identified:

1. The number and type of adult-use cannabis businesses;
2. Revenue and expenses of the department related to the implementation of this chapter;

3. Sales data by product type; and
4. Information for statistical purposes.

19-24.2-33. Adult-use cannabis fees.

The department shall deposit all fees collected under this chapter in the fund established under section 19-24.1-40.

SECTION 11. AMENDMENT. Subsection 1 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, ~~saliva~~oral fluid, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, ~~saliva~~oral fluid, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

SECTION 12. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

39-20-14. Screening tests.

1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath or oral fluid for the purpose of estimating the alcohol concentration or presence of drugs or substances in the individual's breath or oral fluid upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or a violation under section 39-08-01 or an equivalent offense, or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol or other drugs or substances that render the individual incapable of safely operating a motor vehicle.
2. An individual may not be required to submit to a screening test or tests of breath or oral fluid while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.
3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's

designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol or other drugs or substances and that refusal of the individual to submit to a screening test may result in a revocation for at least one hundred eighty days and up to three years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is admissible in a court proceeding if the individual was arrested in violation of section 39-08-01 and did not take any additional chemical tests requested by the law enforcement officer. Such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available.

4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, oral fluid, or urine sample for a chemical test requested under section 39-20-01 for the same incident.
5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.
6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol or other drugs or substances in an individual's blood, breath, oral fluid, or urine.

SECTION 13. AMENDMENT. Subsection 12 of section 65-05-08 of the North Dakota Century Code is amended and reenacted as follows:

12. The organization may not pay wage loss benefits if the wage loss is related to the use ~~or presence of medical marijuana~~of usable marijuana or adult-use cannabis products, or the presence of tetrahydrocannabinol."

Renumber accordingly.

21.0683.03001
Title.

Prepared by the Legislative Council staff for
Representative Dobervich
February 11, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1420

Page 1, line 1, after "19-24.3" insert "and a new section to chapter 54-07"

Page 1, line 2, after "marijuana" insert "and the duty of the governor to enter agreements relating to marijuana businesses"

Page 9, after line 2, insert:

"**SECTION 7.** A new section to chapter 54-07 of the North Dakota Century Code is created and enacted as follows:

Agreement for coordination and enforcement - Marijuana-related businesses.

1. The governor may enter an agreement with the governing body of an Indian tribe recognized by the United States department of the interior and located in this state for the purpose of cross-jurisdictional coordination and enforcement of marijuana-related businesses licensed under chapters 19-24.1 and 19-24.3 to conduct business on tribal trust land by the governing body of the Indian tribe.

2. An agreement under this section may:

   a. Provide for the cross-jurisdictional coordination and enforcement of marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories licensed by the governing body of the Indian tribe.

   b. Require the governing body of the Indian tribe to establish the same or similar requirements on marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories consistent with chapters 19-24.1 and 19-24.3.

   c. Ensure enforceable public health and safety standards and include a system to regulate and track the production, processing, and dispensing of marijuana for marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories licensed by the governing body of the Indian tribe.

   d. Authorize an agency of this state to assist in the implementation and enforcement of the terms of the agreement."

Renumber accordingly

Prepared by the Legislative Council staff for
House Human Services Committee
February 16, 2021

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1420

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new subsections to section 19-03.4-02 and chapter 19-24.2 of the North Dakota Century Code, relating to the personal use of marijuana; to amend and reenact section 19-03.1-01, subdivision n of subsection 5 of section 19-03.1-05, subsection 1 of section 19-03.1-22.2, sections 19-03.1-22.3 and 19-03.1-23, subsection 1 of section 19-03.1-23.1, subsection 12 of section 19-03.4-01, sections 19-03.4-03 and 19-03.4-04, subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of the North Dakota Century Code, relating to the legalization of marijuana; to provide for a legislative management report; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

   a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

   b. The patient or research subject at the direction and in the presence of the practitioner.

2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.

4. "Board" means the state board of pharmacy.

5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.

6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.

7. "Controlled substance analog":

   a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:

      (1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

      (2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

   b. Does not include:

      (1) A controlled substance;

      (2) Any substance for which there is an approved new drug application; or

      (3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.

8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.

10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

11. "Dispenser" means a practitioner who dispenses.

12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.

13. "Distributor" means a person who distributes.

14. "Drug" means:

a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;

b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;

c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and

d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.

15. ~~"Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.~~

~~16.~~ "Immediate precursor" means a substance:

a. That the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;

b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and

c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

~~17.~~16. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:

a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

~~18.~~17. "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include ~~the~~:

a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks,

except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. ~~The term marijuana does not include hemp as defined in title 4.1.~~

b. Hemp as defined in chapter 4.1-18.1;

c. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355]; or

d. Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

~~19.~~18. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.

b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

~~20.~~19. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.

~~21.~~20. "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

~~22.~~21. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.

~~23.~~22. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~24.~~23. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

~~25.~~24. "Practitioner" means:

a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.

b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

~~26.~~25. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

~~27.~~26. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.

~~28.~~27. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.

~~29.~~28. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.

~~30.~~29. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

SECTION 2. AMENDMENT. Subdivision n of subsection 5 of section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

n. (1) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1;~~ such as the following:

~~(1)~~(a) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

~~(2)~~(b) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.

~~(3)~~(c) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(2) Tetrahydrocannabinols does not include:

(a) Tetrahydrocannabinols found in hemp as defined in chapter 4.1-18.1; or

(b) Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

SECTION 3. AMENDMENT. Subsection 1 of section 19-03.1-22.2 of the North Dakota Century Code is amended and reenacted as follows:

1. For purposes of this section:

a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.

b. "Child" means an individual who is under the age of eighteen years.

c. "Controlled substance" means the same as that term is defined in section 19-03.1-01~~, except the term does not include less than one-half ounce of marijuana~~.

d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.

e. "Prescription" means the same as that term is described in section 19-03.1-22.

f. "Vulnerable adult" means a vulnerable adult as the term is defined in section 50-25.2-01.

SECTION 4. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. ~~This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana.~~

2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was

medical marijuana obtained in accordance with chapter 19-24.1, is guilty of ~~a class B misdemeanor~~an infraction.

3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

SECTION 5. AMENDMENT. Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-23. Prohibited acts - Penalties.

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:

   a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.

   b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony.

   c. A substance classified in schedule IV, is guilty of a class C felony.

   d. A substance classified in schedule V, is guilty of a class A misdemeanor.

2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.

3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:

   a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.

   b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.

   c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.

4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving

consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.

5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.

6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:

   a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or

   b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

   A person who violates this subsection is guilty of a class C felony.

7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

   b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.

   c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana.

   d. A person ~~who violates this subsection by possessing:~~

      ~~(1) Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.~~

      ~~(2) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.~~

~~(3) More than 500 grams of marijuana is guilty of a class A misdemeanor.~~under the age of twenty-one is in violation of this subsection by possessing:

(1) Marijuana:

(a) In an amount less than one ounce [28.35 grams] is guilty of an infraction.

(b) At least one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

(c) More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol:

(a) In an amount up to the applicable maximum amount authorized by chapter 19-24.2 is guilty of an infraction.

(b) More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

(c) At least two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class A misdemeanor.

e. A person age twenty-one or older is in violation of this section by possessing:

(1) More than one ounce [28.35 grams] of marijuana but not more than two ounces [56.70 grams] of marijuana is guilty of a class B misdemeanor.

(2) More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(3) More than the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 but less than two times the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

(4) At least two times the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a class A misdemeanor.

~~e.~~f. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

~~f.~~g. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

~~g.~~h. Probation under this subsection may include placement in another facility, treatment program, or drug court. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

~~h.~~i. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.

~~i.~~j. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

8. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.

9. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or an amount up to the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

10. Upon successful completion of a drug court program, a person who has been convicted of a felony under this section and sentenced to drug court is deemed to have been convicted of a misdemeanor.

11. If a person convicted of a misdemeanor under this section is sentenced to drug court and successfully completes a drug court program, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

SECTION 6. AMENDMENT. Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:

   a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled

substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;

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b. The offense involved:

(1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;

(2) Fifty grams or more of a mixture or substance containing a detectable amount of:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;

(3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;

(4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;

(5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

(6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C11H15NO2;

(9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4

butanediol or any substance that is an analog of gamma-hydroxybutyrate;

(10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam; ~~or~~

(11) Five hundred grams or more of marijuana; or

(12) Tetrahydrocannabinol in an amount more than four times the applicable maximum amount authorized by chapter 19-24.2; or

c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

SECTION 7. AMENDMENT. Subsection 12 of section 19-03.4-01 of the North Dakota Century Code is amended and reenacted as follows:

12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, or cocaine~~, hashish, or hashish oil~~ into the human body, including:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens~~, hashish heads~~, or punctured metal bowls.

b. Water pipes.

c. Carburetion tubes and devices.

d. Smoking and carburetion masks.

e. Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, a marijuana cigarette, that has become too small or too short to be held in the hand.

f. Miniature cocaine spoons and cocaine vials.

g. Chamber pipes.

h. Carburetor pipes.

i. Electric pipes.

j. Air-driven pipes.

k. Chillums.

l. Bongs.

m. Ice pipes or chillers.

SECTION 8. Two new subsections to section 19-03.4-02 of the North Dakota Century Code are created and enacted as follows:

Whether the object is used by a registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent in accordance with chapter 19-24.1.

Whether the object is used by an adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent in accordance with chapter 19-24.2.

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SECTION 9. AMENDMENT. Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. A person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1.

2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this title, other than an offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony.

3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapters 19-24.1 and 19-24.2 is not subject to prosecution under this subsection.

4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or tetrahydrocannabinol or possess with the intent to use drug paraphernalia to store or contain marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of an infraction. The following persons are not subject to prosecution under this subsection:

   a. A registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.

   b. An adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent acting in accordance with chapter 19-24.2.

5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug

and alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

SECTION 10. AMENDMENT. Section 19-03.4-04 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia - Penalty.

1. A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class C felony if the drug paraphernalia will be used to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section is a class A misdemeanor.

2. The following persons are not subject to prosecution under this subsection:

   a. A registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.

   b. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.2.

SECTION 11. Chapter 19-24.2 of the North Dakota Century Code is created and enacted as follows:

19-24.2-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use cannabinoid concentrate intended for consumption. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid capsule is ten milligrams.

2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or extract obtained by separating cannabinoids from cannabis by a mechanical, chemical, or other process.

3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric square shape into which an adult-use cannabinoid concentrate or the dried leaves or flowers of the plant of the genus cannabis is incorporated. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid edible product is ten milligrams and in a package is one hundred milligrams.

4. "Adult-use cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.

   a. Adult-use cannabinoid products are limited to the following forms:

      (1) Adult-use cannabinoid solution;

      (2) Adult-use cannabinoid capsule;

      (3) Adult-use cannabinoid transdermal patch;

      (4) Adult-use cannabinoid topical; and

      (5) Adult-use cannabinoid edible product.

   b. The term does not include:

      (1) An adult-use cannabinoid concentrate by itself; or

      (2) The dried leaves or flowers of the plant of the genus cannabis by itself.

5. "Adult-use cannabinoid solution" means a solution consisting of a mixture created from an adult-use cannabinoid concentrate and other ingredients. A container holding an adult-use cannabinoid solution for dispensing may not exceed thirty milliliters.

6. "Adult-use cannabinoid topical" means an adult-use cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in an adult-use cannabinoid topical is six percent.

7. "Adult-use cannabinoid transdermal patch" means an adhesive substance applied to the skin which contains an adult-use cannabinoid product or an adult-use cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid transdermal patch is ten milligrams.

8. "Adult-use cannabis" means the dried leaves or flowers of the plant of the genus cannabis.

9. "Adult-use cannabis business" means a manufacturing facility or dispensary.

10. "Adult-use cannabis business agent" means a principal officer, board member, member, manager, governor, employee, volunteer, or agent of an adult-use cannabis business. The term does not include a lawyer representing an adult-use cannabis business in civil or criminal litigation or in an adversarial administrative proceeding.

11. "Adult-use cannabis consumer" means in individual, twenty-one years of age or older, who purchases approved adult-use cannabis products for personal use, but not for resale to others.

12. "Adult-use cannabis product" means adult-use cannabis, an adult-use cannabinoid concentrate, or adult-use cannabinoid product.

13. "Cannabinoid" means a chemical compound that is one of the active constituents of cannabis.

14. "Cannabis" is a genus of flowering plants within the Cannabaceae family and means all parts of the plant, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacturer, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

    a. Hemp regulated under chapter 4.1-18.1; or

    b. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

15. "Cannabis waste" means unused, surplus, returned, or out-of-date adult-use cannabis products; recalled adult-use cannabis products; unused cannabis; or plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots.

16. "Cardholder" means an adult-use cannabis business agent who has been issued and possesses a valid registry identification card.

17. "Department" means the state department of health.

18. "Dispensary" means an entity registered by the department as an adult-use cannabis business authorized to sell adult-use cannabis products.

19. "Enclosed and locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.

20. "Manufacturing facility" means an entity registered by the department as an adult-use cannabis business authorized to produce and process cannabis and to sell adult-use cannabis products to a dispensary.

21. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in an adult-use cannabinoid concentrate or an adult-use cannabinoid product.

22. "Owner" means an individual or an organization with an ownership interest in an adult-use cannabis business.

23. "Ownership interest" means an aggregate ownership interest of five percent or more in an adult-use cannabis business, unless such interest is solely a security, lien, or encumbrance, or an individual that will be participating in the direction, control, or management of the adult-use cannabis business.

24. "Processing" or "process" means the compounding or conversion of cannabis into an adult-use cannabinoid concentrate or adult-use cannabinoid product.

25. "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of cannabis or the drying of the leaves or flowers of cannabis.

26. "Registration certificate" means written authorization provided by the department under this chapter permitting an adult-use cannabis business to engage in a specified activity authorized pursuant to this chapter.

27. "Registry identification card" means a document issued by the department which identifies an individual as a registered adult-use cannabis business agent.

28. "School" means an institution of learning and education especially for children, the collective body of students under instruction in an institution of learning, and a group of individuals adhering to the same philosophy or system of beliefs.

29. "Substantial corporate change" means:

    a. For a corporation, a change of ten percent or more of the officers or directors, or a transfer of ten percent or more of the stock of such corporation, or an existing stockholder obtaining ten percent or more of the stock of the corporation;

    b. For a limited liability company, a change of ten percent or more of the managing members of the company, or a transfer of ten percent or more of the ownership interest in the company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in the company; or

    c. For a partnership, a change of ten percent or more of the managing partners of the partnership, or a transfer of ten percent or more of the ownership interest in the partnership, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in the partnership.

30. "Verification system" means the system maintained by the department for verification of registry identification cards.

19-24.2-02. Adult-use cannabis program.

The department shall establish and implement an adult-use cannabis program to allow for the production and processing of cannabis and the sale of adult-use cannabis products to an individual who is twenty-one years of age and older, subject to the provisions of this chapter. A person may not produce, process, sell, possess, consume, transport, or transfer cannabis or adult-use cannabis products unless the person is authorized to do so in accordance with this chapter or by rule adopted pursuant to this chapter.

19-24.2-03. Adult-use cannabis business.

1. A person may not process, produce, or transfer adult-use cannabis products or otherwise act as an adult-use cannabis business in this state unless the person is registered as an adult-use cannabis business.

2. As of July 1, 2023, the department may not register more than:

   a. Seven adult-use cannabis businesses with the sole purpose of operating as a manufacturing facility; and

   b. Eighteen adult-use cannabis businesses with the sole purpose of operating as a dispensary.

3. An adult-use cannabis business registered under this chapter may not sell adult-use cannabis products to adult-use cannabis consumers until July 1, 2022.

4. An adult-use cannabis business registered under this chapter shall provide registered qualifying patients and registered designated caregivers access to usable marijuana in accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all requirements in chapter 19-24.1.

5. The department shall establish an open application period for the submission of adult-use cannabis business applications. At the completion of the open application period, the department shall review each complete application using a competitive process established in accordance with rules adopted under this chapter and shall determine which applicants to register as adult-use cannabis businesses.

6. If the department revokes or does not renew an adult-use cannabis business registration certificate, the department may establish an open application period for the submission of adult-use cannabis business applications.

7. The department of commerce may not certify an adult-use cannabis business as a primary sector business.

19-24.2-04. Adult-use cannabis business - Authority - Ownership.

1. The activities of a manufacturing facility are limited to producing, processing, and related activities, including acquiring, possessing, storing, transferring, and transporting cannabis and adult-use cannabis products, for the sole purpose of selling adult-use cannabis products to a dispensary.

2. The activities of a dispensary are limited to purchasing adult-use cannabis products from a manufacturing facility and related activities, including storing, delivering, transferring, and transporting adult-use cannabis products, for the sole purpose of dispensing adult-use cannabis products to adult-use cannabis consumers.

3. The activities of a dispensary includes providing education material and selling supplies related to the consumption and storage of adult-use cannabis products. A dispensary may sell only supplies related to the consumption and storage of adult-use cannabis products to an adult-use cannabis consumer. All education material and supplies related to the consumption and storage of adult-use cannabis products are subject to prior department approval.

4. An individual or an organization may not hold an ownership interest in:

   a. More than one manufacturing facility.

   b. More than four dispensaries.

   c. More than one dispensary within a twenty-mile [32.19 kilometers] radius of another dispensary.

5. A manufacturing facility and dispensary may not enter an agreement under which a dispensary agrees to limit purchases or sales of adult-use cannabis products to one manufacturing facility.

19-24.2-05. Adult-use cannabis business - Application.

1. The department shall establish forms for an applicant to be registered as an adult-use cannabis business. For an adult-use cannabis business registration application to be complete and eligible for review, the applicant shall submit to the department:

   a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "State Department of Health".

   b. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement of the proposed adult-use cannabis business applicant.

   c. Evidence of the proposed adult-use cannabis business applicant's registration with the secretary of state and certificate of good standing.

   d. The physical address of the proposed location of the proposed adult-use cannabis business and:

      (1) Evidence of approval from local officials as to the proposed adult-use cannabis business applicant's compliance with local zoning laws for the physical address to be used by the proposed cannabis business; and

      (2) Evidence the physical address of the proposed adult-use cannabis business is not located within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school.

e. For a manufacturing facility applicant, a description of the enclosed and locked facility that would be used in the production and processing of cannabis, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.

f. The name, address, and date of birth of each principal officer and board member, or of each member-manager, manager, or governor, of the proposed adult-use cannabis business applicant and verification each officer and board member, or each member-manager, manager, or governor, has consented to a criminal history record check conducted under section 12-60-24.

g. For each of the proposed adult-use cannabis business applicant's principal officers and board members, or for each of the proposed adult-use cannabis business applicant's member-managers, managers, or governors, a description of that individual's relevant experience, including training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, food science, food safety, production, processing, and the individual's experience running a business entity.

h. A description of proposed security and safety measures.

i. An example of the design and security features of adult-use cannabis product containers.

j. A complete operations manual.

k. A description of the plans for making usable marijuana available on an affordable basis to registered qualifying patients with limited financial resources in accordance with chapter 19-24.1.

l. A list of all individuals and business entities having direct or indirect authority over the management or policies of the proposed adult-use cannabis business applicant.

m. A list of all individuals and business entities having an ownership interest in the proposed adult-use cannabis business applicant, whether direct or indirect, and whether the interest is in profits, land, or building, including owners of any business entity that owns all or part of the land or building.

n. The identity of any creditor holding a security interest in the proposed adult-use cannabis business premises.

2. The department is not required to review an application submitted under this section unless the department determines the application is complete. The criteria considered by the department in reviewing an application must include:

a. The suitability of the proposed adult-use cannabis business location, including compliance with any local zoning laws, and the geographic convenience to access adult-use cannabis businesses for adult-use consumers throughout the state;

b. The character and relevant experience of the principal officers and board members, or of the member-managers, managers, or governors, including training or professional licensing and business experience;

c. The applicant's plan for operations and services, including staffing and training plans, whether the applicant has sufficient capital to operate, and the applicant's ability to provide an adequate supply of adult-use cannabis products and usable marijuana as defined in chapter 19-24.1;

d. The sufficiency of the applicant's plans for recordkeeping;

e. The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including the proposed location and security devices employed;

f. The applicant's plan for making usable marijuana, as defined in chapter 19-24.1, available on an affordable basis to registered qualifying patients with limited financial resources;

g. The applicant's plan for safe and accurate packaging and labeling of adult-use cannabis products; and

h. The applicant's plans for testing adult-use cannabis products and cannabis.

3. Following completion of the review under subsection 2, the department shall select the applicants eligible for registration.

19-24.2-06. Adult-use cannabis business - Registration.

1. Upon receiving notification by the department that an adult-use cannabis business application is eligible for registration, the applicant shall submit all of the following items to the department to qualify for registration:

a. A certification fee, made payable to the "State Department of Health", in an amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.

b. A financial assurance or security bond to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness to meet the requirements of this chapter.

c. The physical address of the proposed adult-use cannabis business; confirmation the information in the application regarding the physical location of the proposed adult-use cannabis business has not changed, and if the information has changed the department shall determine whether the new information meets the requirements of this chapter; and a current certificate of occupancy, or equivalent document, to demonstrate compliance with the provisions of state and local fire code for the physical address of the proposed adult-use cannabis business. It is not necessary for an applicant to resubmit any information provided in the initial application unless there has been a change in that information.

d. An update to previously submitted information, including information about adult-use cannabis business agents.

2. If an applicant complies with subsection 1, the department shall issue the applicant a registration certificate.

19-24.2-07. Adult-use cannabis business - Renewal.

1. An adult-use cannabis business registration certificate expires two years after issuance. An adult-use cannabis business may submit a renewal application at any time beginning ninety calendar days before the expiration of the registration certificate. An adult-use cannabis business shall submit a renewal application a minimum of sixty calendar days before the expiration of the registration certificate to avoid suspension of the certificate.

2. The department shall approve an adult-use cannabis business's renewal application within sixty calendar days of submission if:

   a. The adult-use cannabis business submits a renewal fee, in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;

   b. The adult-use cannabis business submits a complete renewal application;

   c. The department has at no time suspended the adult-use cannabis business's registration for violation of this chapter or chapter 19-24.1;

   d. Inspections conducted under this chapter do not raise any serious concerns about the continued operation of the adult-use cannabis business; and

   e. The adult-use cannabis business continues to meet all the requirements for the operation of an adult-use cannabis business as set forth in this chapter, chapter 19-24.1, and rules adopted under this chapter.

3. If an adult-use cannabis business does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the adult-use cannabis business with written notice of the determination. If an adult-use cannabis business's certificate is not renewed, the adult-use cannabis business shall dispose of all cannabis and adult-use cannabis products in accordance with rules adopted under this chapter.

19-24.2-08. Adult-use cannabis business - Registration certificates.

A registration certificate authorizing the operation of an adult-use cannabis must include:

1. The name and address of the adult-use cannabis business;

2. Whether the type of adult-use cannabis business is a manufacturing facility or dispensary;

3. A unique license number issued by the department; and

4. Any other information deemed necessary by the department.

19-24.2-09. Adult-use cannabis business - Notification of changes.

1. Upon application of an adult-use cannabis business to the department, a registration certificate of an adult-use cannabis business may be amended to authorize a change in the authorized physical location of the adult-use cannabis business, or to amend the ownership or organizational structure of the adult-use cannabis business with the registration certificate. An adult-use cannabis business shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change.

2. A registration certificate authorizing the operation of an adult-use cannabis business is void upon a change in ownership, substantial corporate change, change in location, or discontinued operation, without prior approval of the department. The health council may adopt rules allowing for certain types of changes in ownership without the need for prior written approval from the department.

3. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the cannabis business being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

19-24.2-10. Adult-use cannabis business - Agents - Registry identification cards.

1. Upon issuance of an adult-use cannabis business registry certificate, the department shall issue a registry identification card to each qualified adult-use cannabis business agent associated with the adult-use cannabis business.

2. To qualify to be issued a registry identification card, each adult-use cannabis business agent must be at least twenty-one years of age and shall submit all of the following registry identification card application material to the department:

   a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.

   b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.

c. A written and signed statement from an officer or executive staff member of the adult-use cannabis business stating the applicant is associated with the adult-use cannabis business and the capacity of the association.

d. The name, address, and telephone number of the agent.

e. The name, address, and telephone number of the adult-use cannabis business with which the agent is associated.

f. The agent's signature and the date.

g. A nonrefundable application or renewal fee in the amount of two hundred dollars.

3. Each adult-use cannabis business agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.

a. All applicable fees associated with the required criminal history record checks must be paid by the adult-use cannabis business or the agent.

b. A criminal history record check must be performed upon initial application and biennially upon renewal. An adult-use cannabis business agent shall consent to a criminal history record check at any time the department determines necessary.

c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being an adult-use cannabis business agent.

4. The department shall notify the adult-use cannabis business in writing of the purpose for denying an adult-use cannabis business agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County. The court may authorize the cardholder to appear by reliable electronic means.

5. The department shall issue an adult-use cannabis business agent a registry identification card within thirty calendar days of approval of an application.

6. Within ten calendar days of a change in the cardholder's name or address or knowledge of a change that would render the adult-use cannabis business agent no longer eligible to be a cardholder, an adult-use cannabis business agent with a registry identification card shall notify the department in a manner prescribed by the department.

7. If an adult-use cannabis business agent loses the agent's registry identification card, that agent shall notify the department in writing within twenty-four hours of becoming aware the card has been lost.

8. If a cardholder notifies the department of items listed in this section but the nature of the item reported results in the cardholder remaining eligible, the department may issue the cardholder a new registry identification card with

a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifies the department of an item that results in the cardholder being ineligible, the registry identification card becomes void immediately.

9. An adult-use cannabis business shall notify the department in writing within two calendar days of the date an adult-use cannabis business agent ceases to work for or be associated with the adult-use cannabis business. Upon receipt of the notification, that individual's registry identification card is void.

10. The registry identification card of an adult-use cannabis business agent expires one year after issuance or upon the termination of the adult-use cannabis business's registration certificate, whichever occurs first. To prevent interruption of possession of a valid registry identification card, an adult-use cannabis business agent shall renew a registry identification card by submitting a complete renewal application no fewer than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.2-11. Registry identification card - Nontransferable.

A registry identification card of an adult-use cannabis business agent is not transferable, by assignment or otherwise, to another person. If a person attempts to transfer a card in violation of this section, the registry identification card is void and the person is prohibited from all privileges provided under this chapter.

19-24.2-12. Registry identification card.

1. The registry identification card of an adult-use cannabis business agent must include:

   a. The name of the cardholder;

   b. The cardholder's affiliated adult-use cannabis business;

   c. The date of issuance and expiration date;

   d. A random ten-digit alphanumeric identification number containing at least four numbers and at least four letters which is unique to the cardholder;

   e. A photograph of the cardholder; and

   f. The phone number or website address at which the card can be verified.

2. Except as otherwise provided in this section or rule adopted under this chapter, a registry identification card expiration date is one year after the date of issuance.

19-24.2-13. Adult-use cannabis business - Adult-use cannabis agents - Suspension - Revocation.

1. The department may suspend or revoke the registry identification card of an adult-use cannabis business agent or a registration certificate of an adult-use cannabis business for a material misstatement by an applicant in an application or renewal.

2. The department may suspend or revoke a registry identification card of an adult-use cannabis business agent or registration certificate of an adult-use cannabis business for a violation of this chapter or rules adopted under this chapter.

3. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products to a person not authorized to possess cannabis or adult-use cannabis products under this chapter, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.

4. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products in a form not authorized under this chapter or chapter 19-24.1, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.

5. The department shall provide written notice of suspension or revocation of a registry identification card or registration certificate.

   a. A suspension may not be for a period longer than six months.

   b. A manufacturing facility may continue to produce, process, and possess cannabis and adult-use cannabis products during a suspension, but may not transfer or sell adult-use cannabis products.

   c. A dispensary may continue to possess adult-use cannabis products during a suspension, but may not purchase or transfer adult-use cannabis products.

   d. An adult-use cannabis business agent or adult-use cannabis business may appeal a suspension or revocation of a registry identification card or registration certificate to the district court of Burleigh County. The court may authorize the adult-use cannabis business agent or adult-use cannabis business to appear by reliable electronic means.

6. If the department revokes a registry identification card of an adult-use cannabis business agent under this chapter, the adult-use cannabis business agent is disqualified from further participation under this chapter.

19-24.2-14. Adult-use cannabis business - Adult-use cannabis business agents - Violations - Penalties.

1. An adult-use cannabis business agent or adult-use cannabis business that fails to provide a notice as required under this chapter shall pay to the

department a fee in an amount established by the department, not to exceed one hundred fifty dollars.

2. In addition to any other penalty applicable in law, a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility is guilty of a class B felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis products in any form, to a person other than a dispensary, or for intentionally selling or otherwise transferring cannabis in any form other than adult-use cannabis products, to a dispensary.

3. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary for intentionally selling or otherwise transferring adult-use cannabis products, to an individual who is under twenty-one years of age, in a form not allowed under this chapter, or in an amount that would cause the adult-use cannabis consumer to purchase or possess more than the amount of adult-use cannabis products authorized by this chapter is guilty of a class B felony.

4. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary which intentionally sells or otherwise transfers paraphernalia, to an individual who is under twenty-one years of age, or in a form not allowed under this chapter is guilty of a class A misdemeanor. A dispensary or an adult-use cannabis business agent is not subject to prosecution under this subsection for selling paraphernalia to a registered qualifying patient who is nineteen years of age or older under chapter 19-24.1.

5. In addition to any other penalty applicable in law, an adult-use cannabis business or an adult-use cannabis business agent that intentionally sells or otherwise transfers adult-use cannabis products in a form not allowed under this chapter is guilty of a class B felony.

6. An adult-use cannabis business or an adult-use cannabis business agent that knowingly submits false records or documentation required by the department to certify an adult-use cannabis business under this chapter is guilty of a class C felony.

7. In addition to any other penalty applicable in law, if an adult-use cannabis business violates this chapter the department may fine the adult-use cannabis business up to one thousand dollars per violation, per day, and upon subsequent violations a fine not to exceed five thousand dollars per violation, per day.

8. In addition to any other penalty applicable in law, an adult-use cannabis consumer who intentionally sells or otherwise transfers adult-use cannabis products, to an individual who is under twenty-one years of age, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.

9. An individual who knowingly submits false records or documentation required by the department to receive an adult-use cannabis business agent registry identification card is guilty of a class A misdemeanor. An individual convicted under this subsection may not continue to be affiliated with an adult-use cannabis business.

19-24.2-15. Adult-use cannabis business - Transfer - Sale.

1. An adult-use cannabis business shall comply with the transfer and sale requirements of this section.

2. Design and security features of adult-use cannabis products containers must be in accordance with rules adopted under this chapter.

3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing facility may not transfer or sell cannabis or adult-use cannabis products. A manufacturing facility or an adult-use cannabis business agent of a manufacturing facility may sell adult-use cannabis products to a dispensary.

4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell or provide adult-use cannabis products to:

   a. An individual under twenty-one years of age, unless the individual is a registered qualifying patient and the sale or dispensing is in accordance with chapter 19-24.1; or

   b. An adult-use cannabis consumer in an amount that would cause the adult-use cannabis consumer to purchase or possess more adult-use cannabis products than permitted by this chapter.

5. Before selling or providing an adult-use cannabis product to an individual, a dispensary or an adult-use cannabis business agent of the dispensary shall verify:

   a. The age of the individual by requiring the individual to produce one of the following pieces of identification:

      (1) The individual's passport, issued by the United States or a foreign government;

      (2) The individual's driver's license, issued by the state or another state of the United States;

      (3) An identification card issued by the state;

      (4) A United States military identification card;

      (5) An identification card issued by a federally recognized Indian tribe; or

      (6) Any other identification card issued by a state or territory of the United States which bears a picture of the individual, the name of the individual, the individual's date of birth, and a physical description of the individual.

   b. The purchase history of the adult-use cannabis consumer using the department-approved information technology system to ensure the adult-use cannabis consumer does not purchase more than the amount of adult-use cannabis products authorized by this chapter.

6. The health council may adopt rules requiring a dispensary to use an age verification scanner or any other equipment used to verify the age of an

individual for the purpose of ensuring that the dispensary does not sell adult-use cannabis products to an individual who is under twenty-one years of age. Information obtained under this section may not be retained after verifying the age of an individual and may not be used for any purpose other than verifying the age of an individual.

19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.

The maximum amount an adult-use cannabis consumer is authorized to purchase for:

1. The first day of a calendar month through the fifteenth day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and
   c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.
2. The sixteenth day of the calendar month through the last day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and
   c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

19-24.2-17. Maximum possession amount for adult-use cannabis consumer.

1. It is unlawful for an adult-use cannabis consumer to possess more than the following:
   a. One ounce [28.35 grams] of adult-use cannabis;
   b. One and one-half grams of an adult use cannabinoid concentrate; and
   c. Four hundred milligrams of total tetrahydrocannabinol in the form of an adult-use cannabinoid product.
2. An adult-use cannabis consumer who possesses more than the maximum amount of adult-use cannabis products authorized by this chapter is subject to prosecution under chapter 19-03.1.

19-24.2-18. Adult-use cannabis business - Inspection.

1. An adult-use cannabis business is subject to random inspection by the department. During an inspection, the department may review the records of the adult-use cannabis business, including the adult-use cannabis business's financial, inventory, and sales records.
2. The department shall conduct inspections of adult-use cannabis businesses to ensure compliance with this chapter and chapter 19-24.1.

The department shall conduct inspections of manufacturing facilities for the presence of contaminants. The department shall select a certified laboratory to conduct random quality sampling testing in accordance with rules adopted under this chapter. An adult-use cannabis business shall pay the cost of all random quality sampling testing.

3. The provisions of chapter 54-44.4 do not apply to the selection of a certified laboratory required by this chapter.

19-24.2-19. Adult-use cannabis business - Pesticide testing.

A manufacturing facility shall test cannabis at a manufacturing facility for the presence of pesticides. If a cannabis test indicates the presence of a pesticide, the manufacturing facility immediately shall report the test result to the department and to the agriculture commissioner. Upon the order of the department or agriculture commissioner, the manufacturing facility immediately shall destroy all affected or contaminated cannabis and adult-use cannabis products inventory in accordance with rules adopted under this chapter and shall certify to the department and to the agriculture commissioner that all affected or contaminated inventory has been destroyed.

19-24.2-20. Adult-use cannabis business - Cannabis plant.

1. A manufacturing facility may have no more than ten thousand plants. For every five hundred plants in excess of one thousand plants that a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of ten thousand dollars. This fee is due at the time of increase and again at renewal of the adult-use cannabis business registration certificate.

2. A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of adult-use cannabis products at any time, regardless of formulation.

3. The health council shall adopt rules to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

19-24.2-21. Adult-use cannabis business - Security and safety.

1. In compliance with rules adopted under this chapter, an adult-use cannabis business shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance to areas containing cannabis and adult-use cannabis products and to prevent the theft of cannabis and adult-use cannabis products.

2. An adult-use cannabis business shall limit entry to an area in which production or processing takes place or in which cannabis or adult-use cannabis products are held and access is limited to authorized personnel.

3. An adult-use cannabis business must have a fully operational security alarm system at the authorized physical address which includes an

electrical support backup system for the alarm system to provide suitable protection against theft and diversion.

4. An adult-use cannabis business shall maintain documentation in an auditable form for:

   a. All maintenance inspections and tests conducted under this section, and any servicing, modification, or upgrade performed on the security alarm system;

   b. An alarm activation or other event that requires response by public safety personnel; and

   c. Any breach of security.

19-24.2-22. Adult-use cannabis business - Inventory control.

1. An adult-use cannabis business shall comply with the inventory control requirements provided under this section and rules adopted under this chapter.

   a. A manufacturing facility shall:

      (1) Employ a bar coding inventory control system to track batch, strain, and amounts of cannabis and adult-use cannabis products in inventory and to track amounts of adult-use cannabis products sold to dispensaries; and

      (2) Host a secure computer interface to transfer inventory amounts and dispensary purchase information to the department.

   b. A dispensary shall:

      (1) Employ a bar coding inventory control system to track batch, strain, and amounts of adult-use cannabis products in inventory and to track amounts sold to adult-use cannabis consumers; and

      (2) Host a secure computer interface to transfer inventory amounts and adult-use cannabis consumer purchase information to the department.

2. An adult-use cannabis business shall store the adult-use cannabis business's cannabis and adult-use cannabis products in an enclosed and locked facility with adequate security, in accordance with rules adopted under this chapter.

3. An adult-use cannabis business shall conduct inventories of cannabis and adult-use cannabis products at the authorized location at the frequency and in the manner provided by rules adopted under this chapter. If an inventory results in the identification of a discrepancy, the adult-use cannabis business immediately shall notify the department and appropriate law enforcement authorities within seventy-two hours. An adult-use cannabis business shall document each inventory conducted by the adult-use cannabis business.

4. The provisions of chapter 54-44.4 do not apply to the selection of the information technology system selected by the department.

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19-24.2-23. Adult-use cannabis business - Operating manual - Training.

1. An adult-use cannabis business shall maintain a current copy of the operating manual of the adult-use cannabis business which meets the requirements of rules adopted under this chapter.

2. An adult-use cannabis business shall develop, implement, and maintain on the premises an onsite training curriculum or shall enter contractual relationships with outside resources capable of meeting adult-use cannabis business agent training needs.

19-24.2-24. Adult-use cannabis business - Bylaws and operating agreements.

As part of the initial application of a proposed adult-use cannabis business, the applicant shall provide to the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the bylaws or operating agreement in accordance with this chapter. In addition to any other requirements, the bylaws or operating agreement must include the ownership or management structure of the adult-use cannabis business; the composition of the board of directors, board of governors, member-managers, or managers; and provisions relative to the disposition of revenues and earnings.

19-24.2-25. Adult-use cannabis business - Retention of and access to records and reports.

An adult-use cannabis business shall keep detailed financial reports of proceeds and expenses. An adult-use cannabis business shall maintain all inventory, sales, and financial records in accordance with generally accepted accounting principles. The adult-use cannabis business shall maintain all reports and records required under this section for a period of seven years. An adult-use cannabis business shall allow the department, or an audit firm contracted by the department, access at all times to all books and records kept by the adult-use cannabis business.

19-24.2-26. Adult-use cannabis business - Recordkeeping - Adult-use cannabis business agents - Registry identification cards.

1. Each adult-use cannabis business shall maintain:

   a. In compliance with rules adopted under this chapter, a personnel record for each adult-use cannabis business agent for a period of at least three years following termination of the individual's affiliation with the adult-use cannabis business. The personnel record must comply with minimum requirements set by rule adopted under this chapter.

   b. A record of the source of funds that will be used to open or maintain the adult-use cannabis business, including the name, address, and date of birth of any investor.

   c. A record of each instance in which a current or prospective board member, member-manager, manager, or governor, who managed or served on the board of a business or not-for-profit entity and in the

course of that service was convicted, fined, or censured or had a registration or license suspended or revoked in any administrative or judicial proceeding.

2. Each adult-use cannabis business agent shall hold a valid registry identification card.

19-24.2-27. Verification system.

1. The department shall maintain a confidential list of cardholders and each cardholder's registry identification number.

2. The department shall establish a secure verification system. The verification system must allow law enforcement personnel twenty-four hour access to enter a registry identification number to determine whether the number corresponds with a current valid registry identification card. The system may disclose:

   a. Whether an identification card is valid;

   b. The name of the cardholder; and

   c. The cardholder's affiliated adult-use cannabis business.

19-24.2-28. Protections.

Except as provided in sections 19-24.2-14 and 19-24.1-28:

1. An adult-use cannabis consumer is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity for the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies under this chapter.

2. It is presumed an adult-use cannabis consumer is engaged in the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies in accordance with this chapter if the adult-use consumer is not in possession of adult-use cannabis products in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence that the conduct related to acquisition, use, consumption, or possession of adult-use cannabis products or related supplies was not in accordance with this chapter.

3. A manufacturing facility is not subject to prosecution, search or inspection, or seizure, except by the department or the department's designee, under this chapter for acting under this chapter to:

   a. Produce, process, or conduct related activities for the sole purpose of selling adult-use cannabis products to a dispensary; or

   b. Transfer, transport, or deliver cannabis or adult-use cannabis products to and from a department designee or manufacturing facility in accordance with this chapter.

4. A dispensary is not subject to prosecution, search or inspection, or seizure, except by the department or the department's designee, under this chapter for acting under this chapter to:

   a. Purchase adult-use cannabis products from a manufacturing facility and conducting related activities for the sole purpose of selling adult-use cannabis products and related supplies, and providing educational materials to adult-use cannabis consumers; or

   b. Transfer adult-use cannabis products to and from a department designee or related manufacturing facility in accordance with this chapter.

5. If the action performed by the adult-use cannabis business agent on behalf of the adult-use cannabis business is authorized under this chapter, a registered adult-use cannabis business agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for an adult-use cannabis business.

6. The sale and possession of supplies related to possession and consumption of adult-use cannabis products by a dispensary is lawful if in accordance with this chapter.

7. The adult-use of cannabis by an adult-use cannabis consumer or the producing and processing and the selling of adult-use cannabis products by an adult-use cannabis business is lawful if in accordance with this chapter.

8. An adult-use cannabis consumer, adult-use cannabis business agent, or adult-use cannabis business is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

9. A person in possession of cannabis waste in the course of transporting or disposing of the waste under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or transportation.

10. A person in possession of cannabis, adult-use cannabis products, or cannabis waste in the course of performing laboratory tests as provided under this chapter and rules adopted under this chapter is not subject to arrest or prosecution for possession or testing.

19-24.2-29. Limitations.

1. An adult-use cannabis consumer may use adult-use cannabis products in the following locations:

   a. A private residence, including the person's curtilage, or yard;

   b. On private property, not generally accessible by the public, if the adult-use cannabis consumer is explicitly permitted to consume the adult-use cannabis products on the property by the owner of the property.

2. This chapter does not authorize an adult-use cannabis consumer to engage in, and does not prevent the imposition of any civil liability or criminal liability or other penalties for engaging in:

   a. Use, possession, or transportation of adult-use cannabis products by an individual under twenty-one years of age.

   b. Use or consumption of adult-use cannabis products by an adult-use consumer in any public place, including an indoor or outdoor area used by, or open to, the general public or on any form of public transportation.

   c. Use or consumption of an adult-use cannabis product on the grounds of any adult-use cannabis business.

   d. Undertaking an activity under the influence of cannabis if doing so would constitute negligence or professional malpractice.

   e. Possession or consumption of adult-use cannabis products in any of the following locations:

      (1) On a school bus or school van that is used for school purposes;

      (2) On the grounds of any public or private school, including all facilities, whether owned, rented, or leased, and all vehicles that a public or private school owns, leases, rents, contracts for, or controls;

      (3) At any location while a public or private school sanctioned event is occurring at that location;

      (4) On state or federal property, including all facilities, whether owned, rented or leased, and all vehicles the state or federal government leases, rents, contracts for, or controls;

      (5) On the grounds of a correctional facility;

      (6) On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department of human services.

   f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2, 23-12-10.4, 23-12-10.5, or 23-12-11.

   g. Use of adult-use cannabis products in a motor vehicle as defined by chapter 39-01.

   h. Using a combustible delivery form of adult-use cannabis products or vaporizing adult-use cannabis products under this chapter if the smoke or vapor would be inhaled by an individual under twenty-one years of age.

   i. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat, while under the influence of cannabis. A registered qualifying patient may not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

3. This chapter does not require:

   a. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume adult-use cannabis products on or in the property; or

   b. A landlord to allow production and processing of cannabis or possession and consumption of adult-use cannabis products on rental property.

4. This chapter does not prohibit an employer from:

   a. Disciplining or terminating the employment of an employee for possessing or consuming adult-use cannabis products in the workplace or for working while under the influence of cannabis. "Working" as used in this subdivision includes when an employee is on call.

   b. Adopting reasonable zero tolerance or drug-free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call provided that the policy is applied in a nondiscriminatory manner.

   c. Disciplining or terminating the employment of an employee for violating an employer's employment policies or workplace drug policy.

5. An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good-faith belief that an employee manifests specific, articulable symptoms while working which decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If an employer elects to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the employer shall afford the employee a reasonable opportunity to contest the basis of the determination.

6. This chapter does not create or imply a cause of action for any person against an employer for:

   a. Actions, including subjecting an employee or applicant to reasonable drug and alcohol testing under the employer's workplace drug policy, including an employee's refusal to be tested or to cooperate in testing procedures or disciplining termination of employment, based on the employer's good-faith belief that an employee used or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies;

   b. Actions, including discipline or termination of employment, based on the employer's good-faith belief that an employee was impaired as a

result of the use of cannabis, or under the influence of cannabis, while at the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policy; or

c. Injury, loss or liability to a third party if the employer did not know or have a reason to know the employee was impaired.

7. This chapter may not be construed to interfere with any federal, state or local restrictions on employment, including the United States department of transportation regulation under title 49, Code of Federal Regulations, part 40, section 40.151(e) or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.

19-24.2-30. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of cannabis and adult-use cannabis products, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.

2. The health council may adopt rules regarding the operation and governance of additional categories of registered adult-use cannabis businesses.

19-24.2-31. Confidentiality.

1. Except as provided under subsection 2, information kept or maintained by the department is confidential, including information in a registration application or renewal and supporting information submitted by an adult-use cannabis business, proposed adult-use cannabis business, or adult-use cannabis business agent. Information kept or maintained by the department which could be used to identify an adult-use cannabis consumer is confidential.

2. Information kept or maintained by the department may be disclosed as necessary for:

   a. The verification of registration certificates and registry identification cards under this chapter;

   b. Notification of state or local law enforcement of an apparent criminal violation;

   c. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or

   d. Date for statistical purposes in a manner such that an individual person or adult-use cannabis business is not identified.

3. Information submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.2-32. Report to the legislative management.

By July first of each year, the department shall submit a report to the legislative management. The report must be written in a manner such that no individual, person, or adult-use cannabis business can be identified and must include:

1. The number and type of adult-use cannabis businesses;
2. Revenue and expenses of the department related to the implementation of this chapter;
3. Sales data by product type; and
4. Information for statistical purposes.

19-24.2-33. Adult-use cannabis fees.

The department shall deposit all fees collected under this chapter in the fund established under section 19-24.1-40.

SECTION 12. AMENDMENT. Subsection 1 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, ~~saliva~~oral fluid, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, ~~saliva~~oral fluid, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

SECTION 13. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

39-20-14. Screening tests.

1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath or oral fluid for the purpose of estimating the alcohol concentration or presence of drugs or substances in the individual's breath or oral fluid upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or a violation under section 39-08-01 or an equivalent offense, or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol or other drugs or substances that render the individual incapable of safely operating a motor vehicle.

2. An individual may not be required to submit to a screening test or tests of breath or oral fluid while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.

3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol or other drugs or substances and that refusal of the individual to submit to a screening test may result in a revocation for at least one hundred eighty days and up to three years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is admissible in a court proceeding if the individual was arrested in violation of section 39-08-01 and did not take any additional chemical tests requested by the law enforcement officer. Such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available.

4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, oral fluid, or urine sample for a chemical test requested under section 39-20-01 for the same incident.

5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.

6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol or other drugs or substances in an individual's blood, breath, oral fluid, or urine.

SECTION 14. AMENDMENT. Subsection 12 of section 65-05-08 of the North Dakota Century Code is amended and reenacted as follows:

12. The organization may not pay wage loss benefits if the wage loss is related to the use ~~or presence of medical marijuana~~of usable marijuana or adult-use cannabis products, or the presence of tetrahydrocannabinol.

SECTION 15. EFFECTIVE DATE. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of this Act become effective on July 1, 2022."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1420

Page 1, line 1, after “A BILL” replace the remainder of the bill with “A BILL for an Act to create and enact two new subsections to section 19-03.4-02 and chapter 19-24.2 of the North Dakota Century Code, relating to the personal use of marijuana; to amend and reenact section 19-03.1-01, subsection 5 of section 19-03.1-05, subsection 1 of section 19-03.1-22.2, section 19-03.1-22.3, section 19-03.1-23, subsection 1 of section 19-03.1-23.1, section 19-03.4-03, section 19-03.4-04, subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of the North Dakota Century Code, relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:
   a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
   b. The patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.
3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.
4. "Board" means the state board of pharmacy.
5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.
6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.
7. "Controlled substance analog":
   a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:
      (1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

b. Does not include:

(1) A controlled substance;

(2) Any substance for which there is an approved new drug application; or

(3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.

8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.
10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.
11. "Dispenser" means a practitioner who dispenses.
12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.
13. "Distributor" means a person who distributes.
14. "Drug" means:
    a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;
    b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;
    c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and
    d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.
15. ~~"Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.~~
16. "Immediate precursor" means a substance:
    a. That the board has found to be and by rule designates as being the principal

compound commonly used or produced primarily for use in the manufacture of a controlled substance;

b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and

c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

17. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:

    a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

    b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

18. "Marijuana" ~~means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include: The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term does not include hemp as defined in title 4.1~~means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include:

    a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

    b. Hemp as defined in chapter 4.1-18.1;

    c. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355]; or

    d. Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

19. "Narcotic drug" means any of the following, whether produced directly or indirectly

by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.
b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
c. Opium poppy and poppy straw.
d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

20. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.
21. "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.
22. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.
23. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
24. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
25. "Practitioner" means:
    a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.
    b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.
26. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.
27. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.
28. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in

the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.

29. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.
30. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

SECTION 2. AMENDMENT. Subsection 5 of section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):
   a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
   b. Alpha-methyltryptamine.
   c. 4-methoxyamphetamine (also known as 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA).
   d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA.
   ~~e. Hashish.~~
   f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
   g. Lysergic acid diethylamide.
   h. Marijuana.
   i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl- 6H-dibenzol[b,d]pyran; Synhexyl).
   j. Peyote (all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
   k. N-ethyl-3-piperidyl benzilate.
   l. N-methyl-3-piperidyl benzilate.
   m. Psilocybin.
   n. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the

resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1;~~ such as the following:

(1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

(2) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.

(3) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

Tetrahydrocannabinols does not include:

(1) Tetrahydrocannabinols found in hemp as defined in tille 4.1-18.1; or

(2) Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

o. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.

(1) Indole carboxaldehydes. Any compound structurally derived from 1H-indole- 3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.

[2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.

[3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.

[4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.

[5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
[6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
[7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
[8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
[9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
[10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
[11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole -Other names: RCS-8.
[12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
[13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
[14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
[15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
[16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
[17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3- yl]methanone - Other names: WIN 48,098 and Pravadoline.
[18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
[19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
[20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
[21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
[22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone --Other names: THJ-018.
[23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1- yl)methanone - Other names: FUBIMINA.
[24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.
[25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.

(2) Indole carboxamides. Any compound structurally derived from 1H-indole-

3- carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.

[2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.

[3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide -Other names: AKB 48 and APINACA.

[4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide -Other names: NNEI and MN-24.

[5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3- carboxamide - Other names: ADBICA.

[6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole- 3-carboxamide - Other names: AB-PINACA.

[7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.

[8] N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA and 5F-AB-PINACA.

[9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole- 3-carboxamide - Other names: ADB-PINACA.

[10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)- 1H-indazole-3-carboxamide - Other names: AB-CHMINACA.

[11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H- indazole-3-carboxamide - Other names: ADB-FUBINACA.

[12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3- carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-

fluorobenzyl) analog.

[13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.

[14] methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3- methylbutanoate - Other names: 5-fluoro AMB and 5F-AMB.

[15] methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: FUB-AMB, MMB-FUBINACA, and AMB-FUBINACA.

[16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1 H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.

[17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.

[18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.

[19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.

[20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.

[21] 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxa mide - Other names: 4-CN-CUMYL-BUTINACA; 4-cyano- CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN -BINACA; SGT-78.

[22] methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)- 3-methylbutanoate - Other names: MMB-CHMICA, AMB- CHMICA.

[23] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridi ne-3-carboxamide - Other names: 5F-CUMYL-P7AICA.

(3) Indole carboxylic acids. Any compound structurally derived from 1H-indole- 3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or
(b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
(c) A nitrogen heterocyclic analog of the indole ring; or
(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
(e) Examples include:
[1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.
[2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate- Other names: FDU-PB-22.
[3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.
[4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.
[5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.
[6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate- Other names: NM2201 and CBL2201.

(4) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:
(a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.
(b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.

(5) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl- 2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4- yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.

(6) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl- 2-piperidinyl)methyl, 2 (4 morpholinyl)ethyl, 1-(N-methyl-2-

pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4- yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane
- Other names: JWH-176.

(7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1- (N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
   (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol – Other names: CP 47,497.
   (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
   (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.

(8) Others specifically named:
   (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.
   (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol -Other names: Dexanabinol and HU-211.
   (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone - Other names: WIN 55,212-2.
   (d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone -Other names: CB-13.

p. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.

(1) Whether or not the compound is further modified in any of the following ways, that is to say:
   (a) By substitution of phenyl ring by any halo, hydroxyl,

alkyl, trifluoromethyl, alkoxy, or alkylthio groups;

(b) By substitution at the 2-position by any alkyl groups; or

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.

(2) Examples include:

(a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).

(b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).

(c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).

(d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).

(e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).

(f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).

(g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).

(h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C- T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).

(i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).

(j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).

(k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).

(l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).

(m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).

(n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).

(o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).

(p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I- NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).

(q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-

methoxybenzyl)phenethylamine).

(r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2- methoxybenzyl)phenethylamine).

(s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).

(t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4- yl)ethanamine (also known as 2C-B-FLY).

(u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5- yl)ethanamine (also known as 2C-B-butterFLY).

(v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5- b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).

(w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).

(x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine(also known as 2C-I-NBOH or 2,5I-NBOH).

(y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).

(z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).

(aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).

(bb) (bb) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (also known as 6-APDB). (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA).

(dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).

(ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T- 7).

(ff) 5-methoxy-3,4-methylenedioxy-amphetamine.

(gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM and STP).

(hh) 3,4-methylenedioxy amphetamine (also known as MDA).

(ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).

(jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).

(kk) 3,4,5-trimethoxy amphetamine.

(ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).

q. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or

alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:

(1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
(2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
(3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
(4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
(5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MiPT).
(6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).
(7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N- dimethyltryptamine; mappine).
(8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DiPT).
(9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
(10) Dimethyltryptamine (also known as DMT).
(11) Psilocyn.

r. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
s. 1-[4-(trifluoromethylphenyl)]piperazine.
t. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
u. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TPCP, TCP).
y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
z. Salvia divinorum, salvinorin A, or any of the active ingredients of salvia divinorum.

SECTION 3. AMENDMENT. Subsection 1 of section 19-03.1-22.2 of the North Dakota Century Code is amended and reenacted as follows:

1. For purposes of this section:
   a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.

b. "Child" means an individual who is under the age of eighteen years.
c. "Controlled substance" means the same as that term is defined in section 19-03.1-01~~, except the term does not include less than one-half ounce of marijuana~~.
d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.
e. "Prescription" means the same as that term is described in section 19-03.1-22.
f. "Vulnerable adult" means a vulnerable adult as the term is defined in section 50-25.2-01.

SECTION 4. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance – Venue for violation – Penalty.

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. ~~This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana.~~
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of an ~~class B misdemeanor~~infraction.
3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

SECTION 5. AMENDMENT. Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
   a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.
   b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony.
   c. A substance classified in schedule IV, is guilty of a class C felony.

d. A substance classified in schedule V, is guilty of a class A misdemeanor.

2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.

3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
   a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
   b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
   c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.

4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.

5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.

6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
   a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
   b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

   A person who violates this subsection is guilty of a class C felony.

7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's

professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.

c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana.

d. ~~A person who violates this subsection by possessing:~~

~~(1) Marijuana in an amount of less than one half ounce [14.175 grams] is guilty of an infraction~~

~~(2) At least one half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.~~

~~(3) More than 500 grams of marijuana is guilty of a class A misdemeanor.~~

A person under the age of twenty-one is in violation of this subsection by possessing:

(1) Marijuana

i. In an amount less than one ounce [28.35 grams] is guilty of an infraction.

ii. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

iii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. In an amount up to the applicable maximum amount authorized by chapter 19-24.2 is guilty of an infraction.

ii. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

iii. More than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class A misdemeanor.

e. A person age twenty-one or older is in violation of this section by possessing:

(1) Marijuana

i. More than one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

ii. More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol

i. More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

ii. More than two times the applicable maximum amount authorized by chapter 19-24.2 authorized by chapter19-24.2 is guilty of a class A misdemeanor.

~~e.~~ f. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

~~f.~~ g. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

~~g.~~ h. Probation under this subsection may include placement in another facility, treatment program, or drug court. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

~~h.~~ i. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.

~~i.~~ j. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

6. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.

7. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or an amount up to the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

8. Upon successful completion of a drug court program, a person who has been convicted of a felony under this section and sentenced to drug court is deemed to have been convicted of a misdemeanor.

9. If a person convicted of a misdemeanor under this section is sentenced to drug court and successfully completes a drug court program, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

SECTION 6. AMENDMENT. Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
   a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
   b. The offense involved:
      (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
      (2) Fifty grams or more of a mixture or substance containing a detectable amount of:
         (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
         (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
         (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
         (d) Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subparagraphs a through c;
      (3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
      (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
      (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
      (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
      (7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C11H15NO2;
(9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate;
(10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam;
(11) Five hundred grams or more of marijuana ; or
(12) Tetrahydrocannabinol in an amount more than four times the applicable maximum amount authorized by chapter 19-24.2.

c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

SECTION 7. AMENDMENT. Two new subsections to section 19-03.4-02 of the North Dakota Century Code is created and enacted as follows:

Whether the object is used by a registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent in accordance with chapter 19-24.1.

Whether the object is used by an adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent in accordance with chapter 19-24.2.

SECTION 8. AMENDMENT. Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. A person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1.
2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this title, other than an offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony

3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.1 and chapter 19-24.2 is not subject to prosecution under this subsection.
4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or tetrahydrocannabinol, or possess with the intent to use drug paraphernalia to store or contain marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of an infraction. The following persons are not subject to prosecution under this subsection:
   a. A registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
   b. An adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent acting in accordance with chapter 19-24.2.
5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug and alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

SECTION 9. AMENDMENT. Section 19-03.4-04 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia – Penalty.

A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class C felony if the drug paraphernalia will be used to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section

is a class A misdemeanor. The following persons are not subject to prosecution under this subsection:

1. A registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.
2. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.2.

SECTION 10. AMENDMENT. Chapter 19-24.2 of the North Dakota Century Code is created and enacted.

19-24.2-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use cannabinoid concentrate intended for consumption. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid capsule is ten milligrams.
2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or extract obtained by separating cannabinoids from cannabis by a mechanical, chemical, or other process.
3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric square shape into which an adult-use cannabinoid concentrate or the dried leaves or flowers of the plant of the genus cannabis is incorporated. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a an-adult-use cannabinoid edible product is ten milligrams and in a package is one hundred milligrams.
4. "Adult-use cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.
    a. Adult-use cannabinoid products are limited to the following forms:
        (1) Adult-use cannabinoid solution;
        (2) Adult-use cannabinoid capsule;
        (3) Adult-use cannabinoid transdermal patch;
        (4) Adult-use cannabinoid topical; and
        (5) Adult-use cannabinoid edible product.
    b. "Adult-use cannabinoid product" does not include:
        (1) An adult-use cannabinoid concentrate by itself; or
        (2) The dried leaves or flowers of the plant of the genus cannabis by itself.
5. "Adult-use cannabinoid solution" means a solution consisting of a mixture created from an adult-use cannabinoid concentrate and other ingredients. A container holding an adult-use cannabinoid solution for dispensing may not exceed thirty milliliters.
6. "Adult-use cannabinoid topical" means an adult-use cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in an adult-use cannabinoid topical is six percent.
7. "Adult-use cannabinoid transdermal patch" means an adhesive substance applied

to the skin which contains an adult-use cannabinoid product or an adult-use cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid transdermal patch is ten milligrams.

8. "Adult-use cannabis" means the dried leaves or flowers of the plant of the genus cannabis.
9. "Adult-use cannabis business" means a manufacturing facility or dispensary.
10. "Adult-use cannabis business agent" means a principal officer, board member, member, manager, governor, employee, volunteer, or agent of an adult-use cannabis business. The term does not include a lawyer representing an adult-use cannabis business in civil or criminal litigation or in an adversarial administrative proceeding.
11. “Adult-use cannabis consumer” means a person, twenty-one years of age or older, who purchases approved adult-use cannabis products for personal use, but not for resale to others.
12. "Adult-use cannabis product" means adult-use cannabis, adult-use cannabinoid concentrates, or adult-use cannabinoid products.
13. "Cannabinoid" means a chemical compound that is one of the active constituents of cannabis.
14. “Cannabis” is a genus of flowering plants within the Cannabaceae family and means all parts of the plant, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacturer, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:
    a. Hemp regulated under chapter 4.1-18.1; or
    b. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
15. "Cannabis waste" means unused, surplus, returned, or out-of-date adult-use cannabis products; recalled adult-use cannabis products; unused cannabis; or plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots.
16. "Cardholder" means an adult-use cannabis business agent who has been issued and possesses a valid registry identification card.
17. "Department" means the state department of health.
18. "Dispensary" means an entity registered by the department as an adult-use cannabis business authorized to sell adult-use cannabis products.
19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.
20. "Manufacturing facility" means an entity registered by the department as an adult-use cannabis business authorized to produce and process cannabis and to sell adult-use cannabis products to a dispensary.

21. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in an adult-use cannabinoid concentrate or an adult-use cannabinoid product.
22. “Owner” means an individual or an organization with an ownership interest in an adult-use cannabis business.
23. “Ownership interest” means an aggregate ownership interest of five percent or more in an adult-use cannabis business, unless such interest is solely a security, lien, or encumbrance, or an individual that will be participating in the direction, control, or management of the adult-use cannabis business.
24. "Processing" or "process" means the compounding or conversion of cannabis into an adult-use cannabinoid concentrate or adult-use cannabinoid product.
25. "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves or flowers of the plant of the genus cannabis.
26. “Registration certificate” means written authorization provided by the department under this chapter permitting an adult-use cannabis business to engage in a specified activity authorized pursuant to this chapter.
27. "Registry identification card" means a document issued by the department which identifies an individual as a registered adult-use cannabis business agent.
28. “School” means an institution of learning and education especially for children, the collective body of students under instruction in an institution of learning, and a group of people adhering to the same philosophy or system of beliefs.
29. “Substantial corporate change” means the following:
    a. For a corporation, a change of ten percent or more of the officers or directors, or a transfer of ten percent or more of the stock of such corporation, or an existing stockholder obtaining ten percent or more of the stock of such corporation;
    b. For a limited liability company, a change of ten percent or more of the managing members of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company; or
    c. For a partnership, a change of ten percent or more of the managing partners of the company, or a transfer of ten percent or more of the ownership interest in said company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in said company.
30. "Verification system" means the system maintained by the department for verification of registry identification cards.

19-24.2-02. Adult-use cannabis program.

The department shall establish and implement an adult-use cannabis program to allow for the production and processing of cannabis and the sale of adult-use cannabis products to persons twenty-one years of age and older, subject to the provisions of this chapter. A person may not produce, process, sell, possess, consume, transport, or

transfer cannabis or adult-use cannabis products unless the person is authorized to do so in accordance with this chapter or by rule adopted pursuant to this chapter.

19-24.2-03. Adult-use cannabis businesses.

1. A person may not process or produce or transfer adult-use cannabis products or otherwise act as an adult-use cannabis business in this state unless the person is registered as an adult-use cannabis business.
2. By June 30, 2023, the department shall register no more than:
   a. Seven adult-use cannabis businesses with the sole purpose of operating as a manufacturing facility; and
   b. Eighteen adult-use cannabis businesses with the sole purpose of operating as a dispensary.
3. An adult-use cannabis business registered under this chapter may not sell adult-use cannabis products to adult-use cannabis consumers until July 1, 2022.
4. An adult-use cannabis business registered under this chapter shall provide registered qualifying patients and registered designated caregivers access to usable marijuana in accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all requirements in chapter 19-24.1.
5. The department shall establish an open application period for the submission of adult-use cannabis business applications. At the completion of the open application period, the department shall review each complete application using a competitive process established in accordance with rules adopted under this chapter and shall determine which applicants to register as adult-use cannabis businesses.
6. If the department revokes or does not renew an adult-use cannabis business registration certificate, the department may establish an open application period for the submission of adult-use cannabis business applications.
7. The department of commerce may not certify an adult-use cannabis business as a primary sector business.

19-24.2-04. Adult-use cannabis businesses - Authority - Ownership.

1. The activities of a manufacturing facility are limited to producing and processing and related activities, including acquiring, possessing, storing, transferring, and transporting cannabis and adult-use cannabis products, for the sole purpose of selling adult-use cannabis products to a dispensary.
2. The activities of a dispensary are limited to purchasing adult-use cannabis products from a manufacturing facility, and related activities, including storing, delivering, transferring, and transporting adult-use cannabis products, for the sole purpose of dispensing adult-use cannabis products to adult-use cannabis consumers.
3. The activities of a dispensary also include providing education material and selling supplies related to the consumption and storage of adult-use cannabis products. A dispensary may only sell supplies related to the consumption and storage of adult-use cannabis products to an adult-use cannabis consumer. All education material and supplies related to the consumption and storage of adult-use cannabis products are subject to prior department approval.

4. An individual or an organization is prohibited from holding an ownership interest in the following:
    a. More than one manufacturing facility.
    b. More than four dispensaries.
    c. More than one dispensary within a twenty-mile radius of another dispensary.
5. No agreement may be entered into between a manufacturing facility and dispensary whereby a dispensary agrees to limit purchases or sales of adult-use cannabis products to one manufacturing facility.

19-24.2-05. Adult-use cannabis businesses - Application.

1. The department shall establish forms for an application to be registered as an adult-use cannabis business. For an adult-use cannabis business registration application to be complete and eligible for review, the applicant shall submit to the department all of the following:
    a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health".
    b. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement of the proposed adult-use cannabis business applicant.
    c. Evidence of the proposed adult-use cannabis business applicant's registration with the secretary of state and certificate of good standing.
    d. The physical address of the proposed location of the proposed adult-use cannabis business and:
        (1) Evidence of approval from local officials as to the proposed adult-use cannabis business applicant's compliance with local zoning laws for the physical address to be used by the proposed cannabis business; and
        (2) Evidence the physical address of the proposed adult-use cannabis business is not located within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school.
    e. For a manufacturing facility applicant, a description of the enclosed, locked facility that would be used in the production and processing of cannabis, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.
    f. The name, address, and date of birth of each principal officer and board member, or of each member-manager, manager, or governor, of the proposed adult-use cannabis business applicant and verification each officer and board member, or each member-manager, manager, or governor, has consented to a criminal history record check conducted under section 12-60-24.
    g. For each of the proposed adult-use cannabis business applicant's principal officers and board members, or for each of the proposed adult-use cannabis business applicant's member-managers, managers, or governors, a description of that individual's relevant experience, including training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, food science, food safety, production, processing, and the individual's experience

running a business entity.

h. A description of proposed security and safety measures.

i. An example of the design and security features of adult-use cannabis product containers.

j. A complete operations manual.

k. A description of the plans for making usable marijuana available on an affordable basis to registered qualifying patients with limited financial resources in accordance with chapter 19-24.1.

l. A list of all individuals and business entities having direct or indirect authority over the management or policies of the proposed adult-use cannabis business applicant.

m. A list of all individuals and business entities having an ownership interest in the proposed adult-use cannabis business applicant, whether direct or indirect, and whether the interest is in profits, land, or building, including owners of any business entity that owns all or part of the land or building.

n. The identity of any creditor holding a security interest in the proposed adult-use cannabis business premises.

2. The department is not required to review an application submitted under this section unless the department determines the application is complete. The criteria considered by the department in reviewing an application must include:

a. The suitability of the proposed adult-use cannabis business location, including compliance with any local zoning laws, and the geographic convenience to access adult-use cannabis businesses for adult-use consumers throughout the state;

b. The character and relevant experience of the principal officers and board members, or of the member-managers, managers, or governors, including training or professional licensing and business experience;

c. The applicant's plan for operations and services, including staffing and training plans, whether the applicant has sufficient capital to operate, and the applicant's ability to provide an adequate supply of adult-use cannabis products and usable marijuana as defined in chapter 19-24.1.

d. The sufficiency of the applicant's plans for recordkeeping;

e. The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including the proposed location and security devices employed;

f. The applicant's plan for making usable marijuana, as defined in chapter 19-24.1, available on an affordable basis to registered qualifying patients with limited financial resources;

g. The applicant's plan for safe and accurate packaging and labeling of adult-use cannabis products; and

h. The applicant's plans for testing adult-use cannabis products and cannabis.

3. Following completion of the review under subsection 2, the department shall select the applicants eligible for registration.

19-24.2-06. Adult-use cannabis businesses - Registration.

1. Upon receiving notification by the department that an adult-use cannabis business application is eligible for registration, the applicant shall submit all of the following additional items to the department to qualify for registration:
    a. A certification fee, made payable to the "North Dakota Department of Health", in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.
    b. A financial assurance or security bond to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness to meet the requirements of this chapter.
    c. The physical address of the proposed adult-use cannabis business; confirmation the information in the application regarding the physical location of the proposed adult-use cannabis business has not changed, and if the information has changed the department shall determine whether the new information meets the requirements of this chapter; and a current certificate of occupancy, or equivalent document, to demonstrate compliance with the provisions of state and local fire code for the physical address of the proposed adult-use cannabis business. It is not necessary for an applicant to resubmit any information provided in the initial application unless there has been a change in that information.
    d. An update to previously submitted information, including information about adult-use cannabis business agents.
2. If an applicant complies with subsection 1, the department shall issue the applicant a registration certificate.

19-24.2-07. Adult-use cannabis businesses - Renewal.

1. An adult-use cannabis business registration certificate expires two years after issuance. An adult-use cannabis business may submit a renewal application at any time beginning ninety calendar days before the expiration of the registration certificate. An adult-use cannabis business shall submit a renewal application a minimum of sixty calendar days before the expiration of the registration certificate to avoid suspension of the certificate.
2. The department shall approve an adult-use cannabis business's renewal application within sixty calendar days of submission, if the following conditions are satisfied:
    a. The adult-use cannabis business submits a renewal fee, in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;
    b. The adult-use cannabis business submits a complete renewal application;
    c. The department has at no time suspended the adult-use cannabis business's registration for violation of this chapter or chapter 19-24.1;
    d. Inspections conducted under this chapter do not raise any serious concerns about the continued operation of the adult-use cannabis business; and
    e. The adult-use cannabis business continues to meet all the requirements for the operation of an adult-use cannabis business as set forth in this chapter,

chapter 19-24.1, and rules adopted under this chapter.

3. If an-adult-use cannabis business does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the adult-use cannabis business with written notice of the determination. If an adult-use cannabis business's certificate is not renewed, the adult-use cannabis business shall dispose of all cannabis and adult-use cannabis products in accordance with rules adopted under this chapter.

19-24.2-08. Adult-use cannabis businesses - Registration certificates.

A registration certificate authorizing the operation of an adult-use cannabis shall include the following:

1. The name and address of the adult-use cannabis business;
2. Whether the type of adult-use cannabis business is a manufacturing facility or dispensary;
3. A unique license number issued by the department; and
4. Any other information deemed necessary by the department.

19-24.2-09. Adult-use cannabis businesses - Notification of changes.

1. Upon application of an adult-use cannabis business to the department, a registration certificate of an adult-use cannabis business may be amended to authorize a change in the authorized physical location of the adult-use cannabis business, or to amend the ownership or organizational structure of the adult-use cannabis business with the registration certificate. An adult-use cannabis business shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change.
2. A registration certificate authorizing the operation of an adult-use cannabis business shall become void by a change in ownership, substantial corporate change, change in location, or discontinued operation, without prior approval of the department. The department may adopt rules allowing for certain types of changes in ownership without the need for prior written approval from the department.
3. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the cannabis business being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

19-24.2-10. Adult-use cannabis businesses - Agents - Registry identification cards.

1. Upon issuance of an adult-use cannabis business registry certificate, the department shall issue a registry identification card to each qualified adult-use cannabis business agent associated with the adult-use cannabis business.
2. To qualify to be issued a registry identification card, each adult-use cannabis business agent must be at least twenty-one years of age and shall submit all of the

following registry identification card application material to the department:

a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.
b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
c. A written and signed statement from an officer or executive staff member of the adult-use cannabis business stating the applicant is associated with the adult-use cannabis business and the capacity of the association.
d. The name, address, and telephone number of the agent.
e. The name, address, and telephone number of the adult-use cannabis business with which the agent is associated.
f. The agent's signature and the date.
g. A nonrefundable application or renewal fee in the amount of two hundred dollars.

3. Each adult-use cannabis business agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.
   a. All applicable fees associated with the required criminal history record checks must be paid by the adult-use cannabis business or the agent.
   b. A criminal history record check must be performed upon initial application and biennially upon renewal. An adult-use cannabis business agent shall consent to a criminal history record check at any time the department determines necessary.
   c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being an adult-use cannabis business agent.

1. The department shall notify the adult-use cannabis business in writing of the purpose for denying an adult-use cannabis business agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.
2. The department shall issue an adult-use cannabis business agent a registry identification card within thirty calendar days of approval of an application.
3. An adult-use cannabis business agent with a registry identification card shall notify the department of any of the following within ten calendar days of the change, in a manner prescribed by the department:
   a. A change in the cardholder's name or address; and
   b. Knowledge of a change that would render the adult-use cannabis business agent no longer eligible to be a cardholder.
4. If an adult-use cannabis business agent loses the agent's registry identification card, that agent shall notify the department in writing within twenty-four hours of becoming

aware the card has been lost.

5. If a cardholder notifies the department of items listed in this section but the nature of the item reported results in the cardholder remaining eligible, the department may issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifies the department of an item that results in the cardholder being ineligible, the registry identification card immediately becomes void.
6. An adult-use cannabis business shall notify the department in writing within two calendar days of the date an adult-use cannabis business agent ceases to work for or be associated with the adult-use cannabis business. Upon receipt of the notification, that individual's registry identification card becomes void immediately.
7. The registry identification card of an adult-use cannabis business agent expires one year after issuance or upon the termination of the adult-use cannabis business's registration certificate, whichever occurs first. To prevent interruption of possession of a valid registry identification card, an adult-use cannabis business agent shall renew a registry identification card by submitting a complete renewal application no less than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.2-11. Registry identification cards - Nontransferable.

A registry identification card of an adult-use cannabis business agent is not transferable, by assignment or otherwise, to another person. If a person attempts to transfer a card in violation of this section, the registry identification card is void and the person is prohibited from all privileges provided under this chapter.

19-24.2-12. Registry identification cards.

1. The registry identification card of an adult-use cannabis business agent must include:
   a. The name of the cardholder;
   b. The cardholders affiliated adult-use cannabis business;
   c. The date of issuance and expiration date;
   d. A random ten-digit alphanumeric identification number containing at least four numbers and at least four letters which is unique to the cardholder;
   e. A photograph of the cardholder; and
   f. The phone number or website address at which the card can be verified.
2. Except as otherwise provided in this section or rule adopted under this chapter, a registry identification card expiration date must be one year after the date of issuance.

19-24.2-13. Adult-use cannabis businesses and adult-use cannabis agents Suspension and revocation.

1. The department may suspend or revoke the registry identification card of an adult-use cannabis business agent or a registration certificate of an adult-use cannabis business for a material misstatement by an applicant in an application or renewal.
2. The department may suspend or revoke a registry identification card of an adult-use cannabis business agent or registration certificate of an adult-use cannabis business for a violation of this chapter or rules adopted under this chapter.
3. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products to a person not authorized to possess cannabis or adult-use cannabis products under this chapter, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
4. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products in a form not authorized under this chapter or chapter 19-24.1, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.
5. The department shall provide written notice of suspension or revocation of a registry identification card or registration certificate.
    a. A suspension may not be for a period longer than six months.
    b. A manufacturing facility may continue to produce, process, and possess cannabis and adult-use cannabis products during a suspension, but may not transfer or sell adult-use cannabis products.
    c. A dispensary may continue to possess adult-use cannabis products during a suspension, but may not purchase, transfer, or transfer adult-use cannabis products.
    d. An adult-use cannabis business agent or adult-use cannabis business may appeal a suspension or revocation of a registry identification card or registration certificate to the district court of Burleigh County for hearing. The court may authorize the adult-use cannabis business agent or adult-use cannabis business to appear by reliable electronic means.
6. If the department revokes a registry identification card of an adult-use cannabis business agent under this chapter, the adult-use cannabis business agent is disqualified from further participation under this chapter.

19-24.2-14. Adult-use cannabis businesses and adult-use cannabis business agents - Violations - Penalties.

1. An adult-use cannabis business agent or adult-use cannabis business that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.
2. In addition to any other penalty applicable in law, a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility is guilty of a class B felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis products in any form, to a person other than a dispensary, or for intentionally selling

or otherwise transferring cannabis in any form other than adult-use cannabis products, to a dispensary.

3. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products, to a person under twenty-one years of age, in a form not allowed under this chapter, or in an amount that would cause the adult-use cannabis consumer to purchase or possess more than the amount of adult-use cannabis products authorized by this chapter.
4. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary is guilty of a class A misdemeanor for intentionally selling or otherwise transferring paraphernalia, to a person under twenty-one years of age, or in a form not allowed under this chapter. A dispensary or an adult-use cannabis business agent is not subject to prosecution under this subsection for selling paraphernalia to a registered qualifying patient who is nineteen years of age or older.
5. In addition to any other penalty applicable in law, an adult-use cannabis business or an adult-use cannabis business agent is guilty of a class B felony for intentionally selling or otherwise transferring adult-use cannabis products in a form not allowed under this chapter.
6. An adult-use cannabis business or an adult-use cannabis business agent that knowingly submits false records or documentation required by the department to certify an adult-use cannabis business under this chapter is guilty of a class C felony.
7. In addition to any other penalty applicable in law, if an adult-use cannabis business violates this chapter the department may fine the cannabis business up to one thousand dollars per violation, per day, and upon subsequent violations a fine not to exceed five thousand dollars per violation, per day.
8. In addition to any other penalty applicable in law, an adult-use cannabis consumer who intentionally sells or otherwise transfers adult-use cannabis products, to a person under twenty-one years of age, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.
9. An individual who knowingly submits false records or documentation required by the department to receive an adult-use cannabis business agent registry identification card is guilty of a class A misdemeanor. An individual convicted under this subsection may not continue to be affiliated with an adult-use cannabis business.

19-24.2-15. Adult-use cannabis businesses - Transfer and sale.

1. An adult-use cannabis business shall comply with the transfer and sale requirements of this section.
2. Design and security features of adult-use cannabis products containers must be in accordance with rules adopted under this chapter.
3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing facility may not transfer or sell cannabis or adult-use cannabis

products, except a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility may sell adult-use cannabis products to a dispensary.

4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell or provide adult-use cannabis products to the following:
   a. An individual under twenty-one years of age, unless the individual is registered qualifying patient and the sale or dispensing is in accordance with chapter 19-24.1; or
   b. An adult-use cannabis consumer in an amount that would cause the adult-use cannabis consumer to purchase or possess more adult-use cannabis products than permitted by this chapter.
5. Before selling or providing an adult-use cannabis product to an individual, a dispensary or an adult-use cannabis business agent of the dispensary must verify the following:
   a. The individuals age by requiring the individual to produce one of the following pieces of identification:
      (1) The person's passport, issued by the United States or a foreign government;
      (2) The person's driver license, issued by the State of North Dakota or another state of the United States;
      (3) An identification card issued by the State of North Dakota;
      (4) A United States military identification card;
      (5) An identification card issued by a federally recognized Indian tribe; or
      (6) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
   b. The purchase history of the adult-use cannabis consumer using the department approved information technology system to ensure the adult-use cannabis consumer does not purchase more than the amount of adult-use cannabis products authorized by this chapter.
6. The Department may adopt rules requiring a dispensary to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the dispensary does not sell adult-use cannabis products to a person under twenty-one years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age.

19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.

The maximum amount an adult-use cannabis consumer is authorized to purchase is as follows:

1. For the first day of a calendar month through the fifteenth day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and

c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

2. For the sixteenth day of the calendar month through the last day of the same calendar month:
   a. Twenty-one grams of adult-use cannabis;
   b. One gram of adult-use cannabinoid concentrates; and
   c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

19-24.2-17. Maximum possession amounts for adult-use cannabis consumers.

1. It is unlawful for an adult-use cannabis consumer to possess more than the following:
   a. One ounce of adult-use cannabis;
   b. One and one half grams of an adult use cannabinoid concentrate; and
   c. Four hundred milligrams of total tetrahydrocannabinol in the form of an adult-use cannabinoid product.
2. An adult-use cannabis consumer who possesses more than the maximum amount of adult-use cannabis products authorized by this chapter is subject to prosecution under chapter 19-03.1.

19-24.2-18. Adult-use cannabis businesses - Inspections.

1. An adult-use cannabis business is subject to random inspection by the department. During an inspection, the department may review the adult-use cannabis business's records, including the adult-use cannabis business's financial, inventory, and sales records.
2. The department shall conduct inspections of adult-use cannabis businesses to ensure compliance with this chapter and chapter 19-24.1. The department shall conduct inspections of manufacturing facilities for the presence of contaminants. The department shall select a certified laboratory to conduct random quality sampling testing, in accordance with rules adopted under this chapter. An adult-use cannabis business shall pay the cost of all random quality sampling testing.
3. The provisions of chapter 54-44.4 do not apply to the selection of a certified laboratory required by this chapter.

19-24.2-19. Adult-use cannabis businesses - Pesticide testing.

A manufacturing facility shall test cannabis at a manufacturing facility for the presence of pesticides. If a cannabis test indicates the presence of a pesticide, the manufacturing facility shall report the test result immediately to the department and to the agriculture commissioner. Upon the order of the department or agriculture commissioner, the manufacturing facility immediately shall destroy all affected or contaminated cannabis and adult-use cannabis products inventory in accordance with rules adopted under this chapter, and shall certify to the department and to the agriculture commissioner that all affected or contaminated inventory has been destroyed.

19-24.2-20. Adult-use cannabis businesses - Cannabis plants.

1. A manufacturing facility may have no more than ten thousand plants. For every five hundred plants in excess of one thousand plants a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of ten thousand dollars. This fee is due at the time of increase and again at renewal of the adult-use cannabis business registration certificate.
2. A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of adult-use cannabis products at any time, regardless of formulation.
3. The health council shall adopt rules to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

19-24.2-21. Adult-use cannabis businesses - Security and safety.

1. In compliance with rules adopted under this chapter, an adult-use cannabis business shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance to areas containing cannabis and adult-use cannabis products and to prevent the theft of cannabis and adult-use cannabis products.
2. An adult-use cannabis business shall limit entry to an area in which production or processing takes place or in which cannabis or adult-use cannabis products are held to authorized personnel .
3. An adult-use cannabis business must have a fully operational security alarm system at the authorized physical address which includes an electrical support backup system for the alarm system to provide suitable protection against theft and diversion.
4. An adult-use cannabis business shall maintain documentation in an auditable form for:
    a. All maintenance inspections and tests conducted under this section, and any servicing, modification, or upgrade performed on the security alarm system;
    b. An alarm activation or other event that requires response by public safety personnel; and
    c. Any breach of security.

19-24.2-22. Adult-use cannabis businesses - Inventory control.

1. An adult-use cannabis business shall comply with the inventory control requirements provided under this section and rules adopted under this chapter.
    a. A manufacturing facility shall:
        (1) Employ a bar coding inventory control system to track batch, strain, and amounts of cannabis and adult-use cannabis products in inventory and to track amounts of adult-use cannabis products sold to dispensaries; and
        (2) Host a secure computer interface to transfer inventory amounts and

dispensary purchase information to the department.

b. A dispensary shall:

(1) Employ a bar coding inventory control system to track batch, strain, and amounts of adult-use cannabis products in inventory and to track amounts sold to adult-use cannabis consumers; and

(2) Host a secure computer interface to transfer inventory amounts and adult-use cannabis consumer purchase information to the department.

2. An adult-use cannabis business shall store the adult-use cannabis business's cannabis and adult-use cannabis products in an enclosed locked facility with adequate security, in accordance with rules adopted under this chapter.

3. An adult-use cannabis business shall conduct inventories of cannabis and adult-use cannabis products at the authorized location at the frequency and in the manner provided by rules adopted under this chapter. If an inventory results in the identification of a discrepancy, the adult-use cannabis business shall notify the department immediately and appropriate law enforcement authorities within seventy-two hours. An adult-use cannabis business shall document each inventory conducted by the adult-use cannabis business.

4. The provisions of chapter 54-44.4 do not apply to the selection of the information technology system selected by the department.

19-24.2-23. Adult-use cannabis businesses - Operating manual - Training.

1. An adult-use cannabis business shall maintain a current copy of the adult-use cannabis business's operating manual that meets the requirements of rules adopted under this chapter.

2. An adult-use cannabis business shall develop, implement, and maintain on the premises an onsite training curriculum or shall enter contractual relationships with outside resources capable of meeting adult-use cannabis business agent training needs.

19-24.2-24. Adult-use cannabis businesses - Bylaws and operating agreements.

As part of a proposed adult-use cannabis business's initial application, the applicant shall provide to the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the bylaws or operating agreement in accordance with this chapter. In addition to any other requirements, the bylaws or operating agreement must include the ownership or management structure of the adult-use cannabis business; the composition of the board of directors, board of governors, member-managers, or managers; and provisions relative to the disposition of revenues and earnings

19-24.2-25. Adult-use cannabis businesses - Retention of and access to records and reports.

An adult-use cannabis business shall keep detailed financial reports of proceeds and expenses. An adult-use cannabis business shall maintain all inventory, sales, and financial records in accordance with generally accepted accounting principles. The adult

use cannabis business shall maintain for a period of seven years all reports and records required under this section. An adult-use cannabis business shall allow the department, or an audit firm contracted by the department, access at all times to all books and records kept by the adult-use cannabis business.

19-24.2-26. Adult-use cannabis businesses - Recordkeeping - Adult-use cannabis business agents - Registry identification cards.

1. Each adult-use cannabis business shall maintain:
   a. In compliance with rules adopted under this chapter, a personnel record for each adult-use cannabis business agent for a period of at least three years following termination of the individual's affiliation with the adult-use cannabis business. The personnel record must comply with minimum requirements set by rule adopted under this chapter.
   b. A record of the source of funds that will be used to open or maintain the adult-use cannabis business, including the name, address, and date of birth of any investor.
   c. A record of each instance in which a current or prospective board member, member-manager, manager, or governor, who managed or served on the board of a business or not-for-profit entity and in the course of that service was convicted, fined, or censured or had a registration or license suspended or revoked in any administrative or judicial proceeding.
2. Each adult-use cannabis business agent shall hold a valid registry identification card.

19-24.2-27. Verification system.

1. The department shall maintain a confidential list of cardholders and each cardholder's registry identification number.
2. The department shall establish a secure verification system. The verification system must allow law enforcement personnel twenty-four-hour access to enter a registry identification number to determine whether the number corresponds with a current valid registry identification card. The system may disclose:
   a. Whether an identification card is valid;
   b. The name of the cardholder; and
   c. The cardholders affiliated adult-use cannabis business.

19-24.2-28. Protections.

Except as provided in sections 19-24.2-14 and 19-24.1-28:

1. An adult-use cannabis consumer is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity for the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies under this chapter.
2. It is presumed an adult-use cannabis consumer is engaged in the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies in accordance with this chapter if the adult-use consumer is not in possession of adult-

use cannabis products in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence that the conduct related to acquisition, use, consumption, or possession of adult-use cannabis products or related supplies was not in accordance with this chapter.

3. A manufacturing facility is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
   a. Produce or process or to conduct related activities for the sole purpose of selling adult-use cannabis products to a dispensary; or
   b. Transfer, transport, or deliver cannabis or adult-use cannabis products to and from a department designee or manufacturing facility in accordance with this chapter.
4. A dispensary is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
   a. Purchase adult-use cannabis products from a manufacturing facility and conducting related activities for the sole purpose of selling adult-use cannabis products and related supplies, and providing educational materials to adult-use cannabis consumers; or
   b. Transfer adult-use cannabis products to and from a department designee or related manufacturing facility in accordance with this chapter.
5. A registered adult-use cannabis business agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for an adult-use cannabis business if the action performed by the adult-use cannabis business agent on behalf of the adult-use cannabis business is authorized under this chapter.
6. The sale and possession of supplies related to possession and consumption of adult-use cannabis products by a dispensary is lawful if in accordance with this chapter.
7. The adult-use of cannabis by an adult-use cannabis consumer or the producing and processing and the selling of adult-use cannabis products by an adult-use cannabis business is lawful if in accordance with this chapter.
8. An adult-use cannabis consumer, adult-use cannabis business agent, or adult-use cannabis business is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.
9. A person in possession of cannabis waste in the course of transporting or disposing of the waste under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or transportation.
10. A person in possession of cannabis, adult-use cannabis products, or cannabis waste in the course of performing laboratory tests as provided under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or testing.

19-24.2-29. Limitations.

1. An adult-use cannabis consumer may use adult-use cannabis products in the following locations:
    a. A private residence, including the person's curtilage, or yard;
    b. On private property, not generally accessible by the public, when the adult-use cannabis consumer is explicitly permitted to consume the adult-use cannabis products on the property by the owner of the property
2. This chapter does not authorize an adult-use cannabis consumer to engage in, and does not prevent the imposition of any civil liability or criminal liability or other penalties for engaging in the following conduct:
    a. Use, possession, or transportation of adult-use cannabis products by an individual under twenty-one years of age.
    b. Use or consumption of adult-use cannabis products by an adult-use consumer in any public place, including an indoor or outdoor area used by, or open to, the general public or on any form of public transportation.
    c. Use or consumption of an adult-use cannabis product on the grounds of any adult-use cannabis business.
    d. Undertaking an activity under the influence of cannabis if doing so would constitute negligence or professional malpractice.
    e. Possession or consumption of adult-use cannabis products in any of the following locations:
        i. On a school bus or school van that is used for school purposes;
        ii. On the grounds of any public or private school, including all facilities, whether owned, rented, or leased, and all vehicles that a public or private school owns, leases, rents, contracts for, or controls;
        iii. At any location while a public or private school sanctioned event is occurring at that location;
        iv. On state or federal property, including all facilities, whether owned, rented, or leased, and all vehicles the state or federal government, leases, rents, contracts for, or controls;
        v. On the grounds of a correctional facility;
        vi. On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department of human services.
    f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2, 23-12-10.4, 23-12-10.5, or 23-12-11.
    g. Use of adult-use cannabis products in a motor vehicle as defined by chapter 39-01.
    h. Using a combustible delivery form of adult-use cannabis products or vaporizing adult-use cannabis products under this chapter if the smoke or vapor would be inhaled by a person under twenty-one years of age.
    i. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat, while under the influence of cannabis. However, a registered qualifying patient may not be considered to be under the

influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

3. This chapter does not require the following:
    a. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume adult-use cannabis products on or in that property; or
    b. A landlord to allow production and processing of cannabis or possession and consumption of adult-use cannabis products on rental property.
4. This chapter does not prohibit an employer from the following:
    a. Disciplining or terminating the employment of an employee for possessing or consuming adult-use cannabis products in the workplace or for working while under the influence of cannabis. Working as used in this subsection includes when an employee is on call.
    b. Adopting reasonable zero tolerance or drug-free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on call provided that the policy is applied in a nondiscriminatory manner.
    c. Disciplining or terminating the employment of an employee for violating an employer's employment policies or workplace drug policy.
5. An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If an employer elects to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the employer must afford the employee a reasonable opportunity to contest the basis of the determination.
6. Nothing in this chapter shall be construed to create or imply a cause of action for any person against an employer for:
    a. Actions, including subjecting an employee or applicant to reasonable drug and alcohol testing under the employer's workplace drug policy, including an employee's refusal to be tested or to cooperate in testing procedures or disciplining termination of employment, based on the employer's good faith belief that an employee used or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies;
    b. Actions, including discipline or termination of employment, based on the employer's good faith belief that an employee was impaired as a result of the use of cannabis, or under the influence of cannabis, while at the employer's

workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policy; or

c. Injury, loss or liability to a third party if the employer neither knew nor had reason to know that the employee was impaired.

7. Nothing in this chapter shall be construed to interfere with any federal, state or local restrictions on employment including, the United States Department of Transportation regulation 49 CFR 40.151(e) or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.

19-24.2-30. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of cannabis and adult-use cannabis products, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.
2. The health council may adopt rules regarding the operation and governance of additional categories of registered adult-use cannabis businesses.

19-24.2-31. Confidentiality.

1. Except as provided under subsection 2, information kept or maintained by the department is confidential, including information in a registration application or renewal and supporting information submitted by an adult-use cannabis business, proposed adult-use cannabis business, or adult-use cannabis business agent. Information kept or maintained by the department that could be used to identify an adult-use cannabis consumer is confidential.
2. Information kept or maintained by the department may be disclosed as necessary for:
   a. The verification of registration certificates and registry identification cards under this chapter;
   b. Notification of state or local law enforcement of apparent criminal violation;
   c. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or
   d. Date for statistical purposes in a manner such that no individual person or adult-use cannabis business is identified.
3. Information submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.2-32. Annual Report to Legislative Management

The department shall submit an annual report to the legislative management. The following information shall be included in the annual report in a manner such that no individual person or adult-use cannabis business can be identified:

1. The number and type of adult-use cannabis businesses;
2. Revenue and expenses of the department related to the implementation of this chapter;

3. Sales data by product type; and
4. Information for statistical purposes.

19-24.2-33. Adult-use cannabis fees.

The department shall deposit all fees collected under this chapter in the fund established under section 19-24.1-40.

SECTION 11. AMENDMENT. Subsection 1 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, ~~saliva~~oral fluid, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, ~~saliva~~oral fluid, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

SECTION 12. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

39-20-14. Screening tests.

1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath or oral fluid for the purpose of estimating the alcohol concentration or presence of drugs or substances in the individual's breath or oral fluid upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or a violation under section 39-08-01 or an equivalent offense, or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol or other drugs or substances that render the individual incapable of safely operating a motor vehicle.
2. An individual may not be required to submit to a screening test or tests of breath or oral fluid while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.
3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's

designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol or other drugs or substances and that refusal of the individual to submit to a screening test may result in a revocation for at least one hundred eighty days and up to three years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is admissible in a court proceeding if the individual was arrested in violation of section 39-08-01 and did not take any additional chemical tests requested by the law enforcement officer. Such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available.

4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, oral fluid, or urine sample for a chemical test requested under section 39-20-01 for the same incident.
5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.
6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol or other drugs or substances in an individual's blood, breath, oral fluid, or urine.

SECTION 13. AMENDMENT. Subsection 12 of section 65-05-08 of the North Dakota Century Code is amended and reenacted as follows:

12. The organization may not pay wage loss benefits if the wage loss is related to the use ~~or presence of medical marijuana~~of usable marijuana or adult-use cannabis products, or the presence of tetrahydrocannabinol."

Renumber accordingly.

21.0683.03001
Title.

Prepared by the Legislative Council staff for
Representative Dobervich
February 11, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1420

Page 1, line 1, after "19-24.3" insert "and a new section to chapter 54-07"

Page 1, line 2, after "marijuana" insert "and the duty of the governor to enter agreements relating to marijuana businesses"

Page 9, after line 2, insert:

"**SECTION 7.** A new section to chapter 54-07 of the North Dakota Century Code is created and enacted as follows:

Agreement for coordination and enforcement - Marijuana-related businesses.

1. The governor may enter an agreement with the governing body of an Indian tribe recognized by the United States department of the interior and located in this state for the purpose of cross-jurisdictional coordination and enforcement of marijuana-related businesses licensed under chapters 19-24.1 and 19-24.3 to conduct business on tribal trust land by the governing body of the Indian tribe.

2. An agreement under this section may:

   a. Provide for the cross-jurisdictional coordination and enforcement of marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories licensed by the governing body of the Indian tribe.

   b. Require the governing body of the Indian tribe to establish the same or similar requirements on marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories consistent with chapters 19-24.1 and 19-24.3.

   c. Ensure enforceable public health and safety standards and include a system to regulate and track the production, processing, and dispensing of marijuana for marijuana compassion centers, dispensaries, manufacturing facilities, and marijuana testing laboratories licensed by the governing body of the Indian tribe.

   d. Authorize an agency of this state to assist in the implementation and enforcement of the terms of the agreement."

Renumber accordingly

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1420
2/17/2021

Relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty

Chairman Weisz opened the committee meeting at 10:42 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	A
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Constitutional amendments
- Initiated measures
- Proactive position

Chairman Weisz called to committee's attention amendments from prior day that had been moved on, voted on, and at the end of the meeting on 2/16/21 tabled the bill for one day to call for a revote the next day. The following action was taken:

Rep. Matthew Ruby (10:43) again moved **Do Pass As Amended Rerefer To Appropriations**

Rep. Todd Porter (10:43) second

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	N
Representative Mike Beltz	Y
Representative Chuck Damschen	N
Representative Bill Devlin	N
Representative Gretchen Dobervich	A

Representative Clayton Fegley	Y
Representative Dwight Kiefert	N
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	N
Representative Bill Tveit	N
Representative Greg Westlind	Y

Motion Carried Do Pass As Amended Rerefer To Appropriations 7-6-1

Bill Carrier: Rep. Matthew Ruby

Chairman Weisz adjourned at 11:03 a.m.

Tamara Krause, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1420: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1420 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new subsections to section 19-03.4-02 and chapter 19-24.2 of the North Dakota Century Code, relating to the personal use of marijuana; to amend and reenact section 19-03.1-01, subdivision n of subsection 5 of section 19-03.1-05, subsection 1 of section 19-03.1-22.2, sections 19-03.1-22.3 and 19-03.1-23, subsection 1 of section 19-03.1-23.1, subsection 12 of section 19-03.4-01, sections 19-03.4-03 and 19-03.4-04, subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of the North Dakota Century Code, relating to the legalization of marijuana; to provide for a legislative management report; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

   a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

   b. The patient or research subject at the direction and in the presence of the practitioner.

2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.

4. "Board" means the state board of pharmacy.

5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.

6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.

7. "Controlled substance analog":

   a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:

(1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

b. Does not include:

(1) A controlled substance;

(2) Any substance for which there is an approved new drug application; or

(3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.

8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.

10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

11. "Dispenser" means a practitioner who dispenses.

12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.

13. "Distributor" means a person who distributes.

14. "Drug" means:

a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;

b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;

c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and

d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.

15. ~~"Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.~~

~~16.~~ "Immediate precursor" means a substance:

a. That the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;

b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and

c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

~~17.~~16. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:

a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

~~18.~~17. "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include ~~the~~:

a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. ~~The term marijuana does not include hemp as defined in title 4.1.~~

b. Hemp as defined in chapter 4.1-18.1;

c. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355]; or

d. Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

~~19.~~18. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.

b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

~~20.~~19. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.

~~21.~~20. "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

~~22.~~21. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.

~~23.~~22. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~24.~~23. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

~~25.~~24. "Practitioner" means:

a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.

b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

~~26.~~25. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

~~27.~~26. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.

~~28.~~27. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.

~~29.~~28. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.

~~30.~~29. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

SECTION 2. AMENDMENT. Subdivision n of subsection 5 of section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

n. (1) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1;~~ such as the following:

~~(1)~~(a) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

~~(2)~~(b) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.

~~(3)~~(c) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(2) Tetrahydrocannabinols does not include:

(a) Tetrahydrocannabinols found in hemp as defined in chapter 4.1-18.1; or

(b) Adult-use cannabis products purchased, possessed, or consumed by an adult-use cannabis consumer in accordance with chapter 19-24.2.

SECTION 3. AMENDMENT. Subsection 1 of section 19-03.1-22.2 of the North Dakota Century Code is amended and reenacted as follows:

1. For purposes of this section:

   a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.

   b. "Child" means an individual who is under the age of eighteen years.

   c. "Controlled substance" means the same as that term is defined in section 19-03.1-01~~, except the term does not include less than one-half ounce of marijuana~~.

   d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.

   e. "Prescription" means the same as that term is described in section 19-03.1-22.

   f. "Vulnerable adult" means a vulnerable adult as the term is defined in section 50-25.2-01.

SECTION 4. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor.~~ This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana.~~

2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of ~~a class B misdemeanor~~an infraction.

3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

SECTION 5. AMENDMENT. Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-23. Prohibited acts - Penalties.

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:

a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony.

b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony.

c. A substance classified in schedule IV, is guilty of a class C felony.

d. A substance classified in schedule V, is guilty of a class A misdemeanor.

2. A prior misdemeanor conviction under subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsection 1.

3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:

   a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.

   b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.

   c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.

4. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.

5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsection 1. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.

6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:

   a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or

b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

A person who violates this subsection is guilty of a class C felony.

7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense under this subsection and a class C felony for a second or subsequent offense under this subsection.

c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana.

d. A person ~~who violates this subsection by possessing:~~

~~(1) Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.~~

~~(2) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.~~

~~(3) More than 500 grams of marijuana is guilty of a class A misdemeanor.~~under the age of twenty-one is in violation of this subsection by possessing:

(1) Marijuana:

(a) In an amount less than one ounce [28.35 grams] is guilty of an infraction.

(b) At least one ounce [28.35 grams] but not more than two ounces [56.70 grams] is guilty of a class B misdemeanor.

(c) More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol:

(a) In an amount up to the applicable maximum amount authorized by chapter 19-24.2 is guilty of an infraction.

(b) More than the applicable maximum amount authorized by chapter 19-24.2 but less than two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

(c) At least two times the applicable maximum amount authorized by chapter 19-24.2 is guilty of a class A misdemeanor.

e. A person age twenty-one or older is in violation of this section by possessing:

(1) More than one ounce [28.35 grams] of marijuana but not more than two ounces [56.70 grams] of marijuana is guilty of a class B misdemeanor.

(2) More than two ounces [56.70 grams] but less than 500 grams is guilty of a class A misdemeanor.

(3) More than the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 but less than two times the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

(4) At least two times the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a class A misdemeanor.

~~e.~~f. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

~~f.~~g. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

~~g.~~h. Probation under this subsection may include placement in another facility, treatment program, or drug court. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

~~h.~~i. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.

~~i.~~j. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

8. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation.

9. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana or an amount up to the applicable maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is

not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

10. Upon successful completion of a drug court program, a person who has been convicted of a felony under this section and sentenced to drug court is deemed to have been convicted of a misdemeanor.

11. If a person convicted of a misdemeanor under this section is sentenced to drug court and successfully completes a drug court program, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

SECTION 6. AMENDMENT. Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:

   a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;

   b. The offense involved:

      (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;

      (2) Fifty grams or more of a mixture or substance containing a detectable amount of:

         (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

         (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

         (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

         (d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;

      (3) Twenty-eight grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;

      (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;

(5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

(6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C11H15NO2;

(9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate;

(10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam; ~~or~~

(11) Five hundred grams or more of marijuana; or

(12) Tetrahydrocannabinol in an amount more than four times the applicable maximum amount authorized by chapter 19-24.2; or

c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

SECTION 7. AMENDMENT. Subsection 12 of section 19-03.4-01 of the North Dakota Century Code is amended and reenacted as follows:

12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, or cocaine~~, hashish, or hashish oil~~ into the human body, including:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens~~, hashish heads~~, or punctured metal bowls.

b. Water pipes.

c. Carburetion tubes and devices.

d. Smoking and carburetion masks.

e. Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, a marijuana cigarette, that has become too small or too short to be held in the hand.

f. Miniature cocaine spoons and cocaine vials.

g. Chamber pipes.

h. Carburetor pipes.

i. Electric pipes.

j. Air-driven pipes.

k. Chillums.

l. Bongs.

m. Ice pipes or chillers.

SECTION 8. Two new subsections to section 19-03.4-02 of the North Dakota Century Code are created and enacted as follows:

Whether the object is used by a registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent in accordance with chapter 19-24.1.

Whether the object is used by an adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent in accordance with chapter 19-24.2.

SECTION 9. AMENDMENT. Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. A person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1.

2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this title, other than an offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony.

3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapters 19-24.1 and 19-24.2 is not subject to prosecution under this subsection.

4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human

body marijuana or tetrahydrocannabinol or possess with the intent to use drug paraphernalia to store or contain marijuana or tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection is guilty of an infraction. The following persons are not subject to prosecution under this subsection:

a. A registered qualifying patient, registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.

b. An adult-use cannabis consumer, adult-use cannabis business, or adult-use cannabis business agent acting in accordance with chapter 19-24.2.

5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug and alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

SECTION 10. AMENDMENT. Section 19-03.4-04 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia - Penalty.

1. A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section is guilty of a class C felony if the drug paraphernalia will be used to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section is a class A misdemeanor.

2. The following persons are not subject to prosecution under this subsection:

a. A registered designated caregiver, compassion center, or compassion center agent acting in accordance with chapter 19-24.1.

b. An adult-use cannabis business or adult-use cannabis business agent acting in accordance with chapter 19-24.2.

SECTION 11. Chapter 19-24.2 of the North Dakota Century Code is created and enacted as follows:

19-24.2-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use cannabinoid concentrate intended for consumption. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid capsule is ten milligrams.

2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or extract obtained by separating cannabinoids from cannabis by a mechanical, chemical, or other process.

3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric square shape into which an adult-use cannabinoid concentrate or the dried leaves or flowers of the plant of the genus cannabis is incorporated. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid edible product is ten milligrams and in a package is one hundred milligrams.

4. "Adult-use cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.

   a. Adult-use cannabinoid products are limited to the following forms:

      (1) Adult-use cannabinoid solution;

      (2) Adult-use cannabinoid capsule;

      (3) Adult-use cannabinoid transdermal patch;

      (4) Adult-use cannabinoid topical; and

      (5) Adult-use cannabinoid edible product.

   b. The term does not include:

      (1) An adult-use cannabinoid concentrate by itself; or

      (2) The dried leaves or flowers of the plant of the genus cannabis by itself.

5. "Adult-use cannabinoid solution" means a solution consisting of a mixture created from an adult-use cannabinoid concentrate and other ingredients. A container holding an adult-use cannabinoid solution for dispensing may not exceed thirty milliliters.

6. "Adult-use cannabinoid topical" means an adult-use cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in an adult-use cannabinoid topical is six percent.

7. "Adult-use cannabinoid transdermal patch" means an adhesive substance applied to the skin which contains an adult-use cannabinoid product or an adult-use cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid transdermal patch is ten milligrams.

8. "Adult-use cannabis" means the dried leaves or flowers of the plant of the genus cannabis.

9. "Adult-use cannabis business" means a manufacturing facility or dispensary.

10. "Adult-use cannabis business agent" means a principal officer, board member, member, manager, governor, employee, volunteer, or agent of an adult-use cannabis business. The term does not include a lawyer representing an adult-use cannabis business in civil or criminal litigation or in an adversarial administrative proceeding.

11. "Adult-use cannabis consumer" means in individual, twenty-one years of age or older, who purchases approved adult-use cannabis products for personal use, but not for resale to others.

12. "Adult-use cannabis product" means adult-use cannabis, an adult-use cannabinoid concentrate, or adult-use cannabinoid product.

13. "Cannabinoid" means a chemical compound that is one of the active constituents of cannabis.

14. "Cannabis" is a genus of flowering plants within the Cannabaceae family and means all parts of the plant, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacturer, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

    a. Hemp regulated under chapter 4.1-18.1; or

    b. A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

15. "Cannabis waste" means unused, surplus, returned, or out-of-date adult-use cannabis products; recalled adult-use cannabis products; unused cannabis; or plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots.

16. "Cardholder" means an adult-use cannabis business agent who has been issued and possesses a valid registry identification card.

17. "Department" means the state department of health.

18. "Dispensary" means an entity registered by the department as an adult-use cannabis business authorized to sell adult-use cannabis products.

19. "Enclosed and locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.

20. "Manufacturing facility" means an entity registered by the department as an adult-use cannabis business authorized to produce and process cannabis and to sell adult-use cannabis products to a dispensary.

21. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in an adult-use cannabinoid concentrate or an adult-use cannabinoid product.

22. "Owner" means an individual or an organization with an ownership interest in an adult-use cannabis business.

23. "Ownership interest" means an aggregate ownership interest of five percent or more in an adult-use cannabis business, unless such interest is solely a security, lien, or encumbrance, or an individual that will be participating in the direction, control, or management of the adult-use cannabis business.

24. "Processing" or "process" means the compounding or conversion of cannabis into an adult-use cannabinoid concentrate or adult-use cannabinoid product.

25. "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of cannabis or the drying of the leaves or flowers of cannabis.

26. "Registration certificate" means written authorization provided by the department under this chapter permitting an adult-use cannabis business to engage in a specified activity authorized pursuant to this chapter.

27. "Registry identification card" means a document issued by the department which identifies an individual as a registered adult-use cannabis business agent.

28. "School" means an institution of learning and education especially for children, the collective body of students under instruction in an institution of learning, and a group of individuals adhering to the same philosophy or system of beliefs.

29. "Substantial corporate change" means:

    a. For a corporation, a change of ten percent or more of the officers or directors, or a transfer of ten percent or more of the stock of such corporation, or an existing stockholder obtaining ten percent or more of the stock of the corporation;

    b. For a limited liability company, a change of ten percent or more of the managing members of the company, or a transfer of ten percent or more of the ownership interest in the company, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in the company; or

    c. For a partnership, a change of ten percent or more of the managing partners of the partnership, or a transfer of ten percent or more of the ownership interest in the partnership, or an existing member obtaining a cumulative of ten percent or more of the ownership interest in the partnership.

30. "Verification system" means the system maintained by the department for verification of registry identification cards.

19-24.2-02. Adult-use cannabis program.

The department shall establish and implement an adult-use cannabis program to allow for the production and processing of cannabis and the sale of adult-use cannabis products to an individual who is twenty-one years of age and older, subject to the provisions of this chapter. A person may not produce, process, sell, possess, consume, transport, or transfer cannabis or adult-use cannabis products unless the person is authorized to do so in accordance with this chapter or by rule adopted pursuant to this chapter.

19-24.2-03. Adult-use cannabis business.

1. A person may not process, produce, or transfer adult-use cannabis products or otherwise act as an adult-use cannabis business in this state unless the person is registered as an adult-use cannabis business.

2. As of July 1, 2023, the department may not register more than:

   a. Seven adult-use cannabis businesses with the sole purpose of operating as a manufacturing facility; and

   b. Eighteen adult-use cannabis businesses with the sole purpose of operating as a dispensary.

3. An adult-use cannabis business registered under this chapter may not sell adult-use cannabis products to adult-use cannabis consumers until July 1, 2022.

4. An adult-use cannabis business registered under this chapter shall provide registered qualifying patients and registered designated caregivers access to usable marijuana in accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all requirements in chapter 19-24.1.

5. The department shall establish an open application period for the submission of adult-use cannabis business applications. At the completion of the open application period, the department shall review each complete application using a competitive process established in accordance with rules adopted under this chapter and shall determine which applicants to register as adult-use cannabis businesses.

6. If the department revokes or does not renew an adult-use cannabis business registration certificate, the department may establish an open application period for the submission of adult-use cannabis business applications.

7. The department of commerce may not certify an adult-use cannabis business as a primary sector business.

19-24.2-04. Adult-use cannabis business - Authority - Ownership.

1. The activities of a manufacturing facility are limited to producing, processing, and related activities, including acquiring, possessing, storing, transferring, and transporting cannabis and adult-use cannabis products, for the sole purpose of selling adult-use cannabis products to a dispensary.

2. The activities of a dispensary are limited to purchasing adult-use cannabis products from a manufacturing facility and related activities, including storing, delivering, transferring, and transporting adult-use cannabis products, for the sole purpose of dispensing adult-use cannabis products to adult-use cannabis consumers.

3. The activities of a dispensary includes providing education material and selling supplies related to the consumption and storage of adult-use cannabis products. A dispensary may sell only supplies related to the consumption and storage of adult-use cannabis products to an adult-use cannabis consumer. All education material and supplies related to the consumption and storage of adult-use cannabis products are subject to prior department approval.

4. An individual or an organization may not hold an ownership interest in:

   a. More than one manufacturing facility.

   b. More than four dispensaries.

   c. More than one dispensary within a twenty-mile [32.19 kilometers] radius of another dispensary.

5. A manufacturing facility and dispensary may not enter an agreement under which a dispensary agrees to limit purchases or sales of adult-use cannabis products to one manufacturing facility.

19-24.2-05. Adult-use cannabis business - Application.

1. The department shall establish forms for an applicant to be registered as an adult-use cannabis business. For an adult-use cannabis business registration application to be complete and eligible for review, the applicant shall submit to the department:

   a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "State Department of Health".

   b. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement of the proposed adult-use cannabis business applicant.

   c. Evidence of the proposed adult-use cannabis business applicant's registration with the secretary of state and certificate of good standing.

   d. The physical address of the proposed location of the proposed adult-use cannabis business and:

      (1) Evidence of approval from local officials as to the proposed adult-use cannabis business applicant's compliance with local zoning laws for the physical address to be used by the proposed cannabis business; and

      (2) Evidence the physical address of the proposed adult-use cannabis business is not located within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school.

   e. For a manufacturing facility applicant, a description of the enclosed and locked facility that would be used in the production and processing of cannabis, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.

   f. The name, address, and date of birth of each principal officer and board member, or of each member-manager, manager, or governor, of the proposed adult-use cannabis business applicant and verification each officer and board member, or each member-manager, manager, or governor, has consented to a criminal history record check conducted under section 12-60-24.

   g. For each of the proposed adult-use cannabis business applicant's principal officers and board members, or for each of the proposed adult-use cannabis business applicant's member-managers, managers, or governors, a description of that individual's relevant

experience, including training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, food science, food safety, production, processing, and the individual's experience running a business entity.

h. A description of proposed security and safety measures.

i. An example of the design and security features of adult-use cannabis product containers.

j. A complete operations manual.

k. A description of the plans for making usable marijuana available on an affordable basis to registered qualifying patients with limited financial resources in accordance with chapter 19-24.1.

l. A list of all individuals and business entities having direct or indirect authority over the management or policies of the proposed adult-use cannabis business applicant.

m. A list of all individuals and business entities having an ownership interest in the proposed adult-use cannabis business applicant, whether direct or indirect, and whether the interest is in profits, land, or building, including owners of any business entity that owns all or part of the land or building.

n. The identity of any creditor holding a security interest in the proposed adult-use cannabis business premises.

2. The department is not required to review an application submitted under this section unless the department determines the application is complete. The criteria considered by the department in reviewing an application must include:

a. The suitability of the proposed adult-use cannabis business location, including compliance with any local zoning laws, and the geographic convenience to access adult-use cannabis businesses for adult-use consumers throughout the state;

b. The character and relevant experience of the principal officers and board members, or of the member-managers, managers, or governors, including training or professional licensing and business experience;

c. The applicant's plan for operations and services, including staffing and training plans, whether the applicant has sufficient capital to operate, and the applicant's ability to provide an adequate supply of adult-use cannabis products and usable marijuana as defined in chapter 19-24.1;

d. The sufficiency of the applicant's plans for recordkeeping;

e. The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including the proposed location and security devices employed;

f. The applicant's plan for making usable marijuana, as defined in chapter 19-24.1, available on an affordable basis to registered qualifying patients with limited financial resources;

g. The applicant's plan for safe and accurate packaging and labeling of adult-use cannabis products; and

h. The applicant's plans for testing adult-use cannabis products and cannabis.

3. Following completion of the review under subsection 2, the department shall select the applicants eligible for registration.

19-24.2-06. Adult-use cannabis business - Registration.

1. Upon receiving notification by the department that an adult-use cannabis business application is eligible for registration, the applicant shall submit all of the following items to the department to qualify for registration:

a. A certification fee, made payable to the "State Department of Health", in an amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.

b. A financial assurance or security bond to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness to meet the requirements of this chapter.

c. The physical address of the proposed adult-use cannabis business; confirmation the information in the application regarding the physical location of the proposed adult-use cannabis business has not changed, and if the information has changed the department shall determine whether the new information meets the requirements of this chapter; and a current certificate of occupancy, or equivalent document, to demonstrate compliance with the provisions of state and local fire code for the physical address of the proposed adult-use cannabis business. It is not necessary for an applicant to resubmit any information provided in the initial application unless there has been a change in that information.

d. An update to previously submitted information, including information about adult-use cannabis business agents.

2. If an applicant complies with subsection 1, the department shall issue the applicant a registration certificate.

19-24.2-07. Adult-use cannabis business - Renewal.

1. An adult-use cannabis business registration certificate expires two years after issuance. An adult-use cannabis business may submit a renewal application at any time beginning ninety calendar days before the expiration of the registration certificate. An adult-use cannabis business shall submit a renewal application a minimum of sixty calendar days before the expiration of the registration certificate to avoid suspension of the certificate.

2. The department shall approve an adult-use cannabis business's renewal application within sixty calendar days of submission if:

a. The adult-use cannabis business submits a renewal fee, in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;

b. The adult-use cannabis business submits a complete renewal application;

c. The department has at no time suspended the adult-use cannabis business's registration for violation of this chapter or chapter 19-24.1;

d. Inspections conducted under this chapter do not raise any serious concerns about the continued operation of the adult-use cannabis business; and

e. The adult-use cannabis business continues to meet all the requirements for the operation of an adult-use cannabis business as set forth in this chapter, chapter 19-24.1, and rules adopted under this chapter.

3. If an adult-use cannabis business does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the adult-use cannabis business with written notice of the determination. If an adult-use cannabis business's certificate is not renewed, the adult-use cannabis business shall dispose of all cannabis and adult-use cannabis products in accordance with rules adopted under this chapter.

19-24.2-08. Adult-use cannabis business - Registration certificates.

A registration certificate authorizing the operation of an adult-use cannabis must include:

1. The name and address of the adult-use cannabis business;

2. Whether the type of adult-use cannabis business is a manufacturing facility or dispensary;

3. A unique license number issued by the department; and

4. Any other information deemed necessary by the department.

19-24.2-09. Adult-use cannabis business - Notification of changes.

1. Upon application of an adult-use cannabis business to the department, a registration certificate of an adult-use cannabis business may be amended to authorize a change in the authorized physical location of the adult-use cannabis business, or to amend the ownership or organizational structure of the adult-use cannabis business with the registration certificate. An adult-use cannabis business shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change.

2. A registration certificate authorizing the operation of an adult-use cannabis business is void upon a change in ownership, substantial corporate change, change in location, or discontinued operation, without prior approval of the department. The health council may adopt rules allowing for certain types of changes in ownership without the need for prior written approval from the department.

3. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety

or would result in the cannabis business being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

19-24.2-10. Adult-use cannabis business - Agents - Registry identification cards.

1. Upon issuance of an adult-use cannabis business registry certificate, the department shall issue a registry identification card to each qualified adult-use cannabis business agent associated with the adult-use cannabis business.

2. To qualify to be issued a registry identification card, each adult-use cannabis business agent must be at least twenty-one years of age and shall submit all of the following registry identification card application material to the department:

   a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.

   b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.

   c. A written and signed statement from an officer or executive staff member of the adult-use cannabis business stating the applicant is associated with the adult-use cannabis business and the capacity of the association.

   d. The name, address, and telephone number of the agent.

   e. The name, address, and telephone number of the adult-use cannabis business with which the agent is associated.

   f. The agent's signature and the date.

   g. A nonrefundable application or renewal fee in the amount of two hundred dollars.

3. Each adult-use cannabis business agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.

   a. All applicable fees associated with the required criminal history record checks must be paid by the adult-use cannabis business or the agent.

   b. A criminal history record check must be performed upon initial application and biennially upon renewal. An adult-use cannabis business agent shall consent to a criminal history record check at any time the department determines necessary.

   c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being an adult-use cannabis business agent.

4. The department shall notify the adult-use cannabis business in writing of the purpose for denying an adult-use cannabis business agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to

provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County. The court may authorize the cardholder to appear by reliable electronic means.

5. The department shall issue an adult-use cannabis business agent a registry identification card within thirty calendar days of approval of an application.

6. Within ten calendar days of a change in the cardholder's name or address or knowledge of a change that would render the adult-use cannabis business agent no longer eligible to be a cardholder, an adult-use cannabis business agent with a registry identification card shall notify the department in a manner prescribed by the department.

7. If an adult-use cannabis business agent loses the agent's registry identification card, that agent shall notify the department in writing within twenty-four hours of becoming aware the card has been lost.

8. If a cardholder notifies the department of items listed in this section but the nature of the item reported results in the cardholder remaining eligible, the department may issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifies the department of an item that results in the cardholder being ineligible, the registry identification card becomes void immediately.

9. An adult-use cannabis business shall notify the department in writing within two calendar days of the date an adult-use cannabis business agent ceases to work for or be associated with the adult-use cannabis business. Upon receipt of the notification, that individual's registry identification card is void.

10. The registry identification card of an adult-use cannabis business agent expires one year after issuance or upon the termination of the adult-use cannabis business's registration certificate, whichever occurs first. To prevent interruption of possession of a valid registry identification card, an adult-use cannabis business agent shall renew a registry identification card by submitting a complete renewal application no fewer than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.2-11. Registry identification card - Nontransferable.

A registry identification card of an adult-use cannabis business agent is not transferable, by assignment or otherwise, to another person. If a person attempts to transfer a card in violation of this section, the registry identification card is void and the person is prohibited from all privileges provided under this chapter.

19-24.2-12. Registry identification card.

1. The registry identification card of an adult-use cannabis business agent must include:

   a. The name of the cardholder;

   b. The cardholder's affiliated adult-use cannabis business;

c. The date of issuance and expiration date;

d. A random ten-digit alphanumeric identification number containing at least four numbers and at least four letters which is unique to the cardholder;

e. A photograph of the cardholder; and

f. The phone number or website address at which the card can be verified.

2. Except as otherwise provided in this section or rule adopted under this chapter, a registry identification card expiration date is one year after the date of issuance.

19-24.2-13. Adult-use cannabis business - Adult-use cannabis agents - Suspension - Revocation.

1. The department may suspend or revoke the registry identification card of an adult-use cannabis business agent or a registration certificate of an adult-use cannabis business for a material misstatement by an applicant in an application or renewal.

2. The department may suspend or revoke a registry identification card of an adult-use cannabis business agent or registration certificate of an adult-use cannabis business for a violation of this chapter or rules adopted under this chapter.

3. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products to a person not authorized to possess cannabis or adult-use cannabis products under this chapter, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.

4. If an adult-use cannabis business agent or an adult-use cannabis business sells or otherwise transfers cannabis or adult-use cannabis products in a form not authorized under this chapter or chapter 19-24.1, the department may suspend or revoke the registry identification card of the adult-use cannabis business agent or the registration certificate of the adult-use cannabis business, or both.

5. The department shall provide written notice of suspension or revocation of a registry identification card or registration certificate.

a. A suspension may not be for a period longer than six months.

b. A manufacturing facility may continue to produce, process, and possess cannabis and adult-use cannabis products during a suspension, but may not transfer or sell adult-use cannabis products.

c. A dispensary may continue to possess adult-use cannabis products during a suspension, but may not purchase or transfer adult-use cannabis products.

d. An adult-use cannabis business agent or adult-use cannabis business may appeal a suspension or revocation of a registry identification card or registration certificate to the district court of Burleigh County. The court may authorize the adult-use cannabis

business agent or adult-use cannabis business to appear by reliable electronic means.

6. If the department revokes a registry identification card of an adult-use cannabis business agent under this chapter, the adult-use cannabis business agent is disqualified from further participation under this chapter.

19-24.2-14. Adult-use cannabis business - Adult-use cannabis business agents - Violations - Penalties.

1. An adult-use cannabis business agent or adult-use cannabis business that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.

2. In addition to any other penalty applicable in law, a manufacturing facility or an adult-use cannabis business agent of a manufacturing facility is guilty of a class B felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis products in any form, to a person other than a dispensary, or for intentionally selling or otherwise transferring cannabis in any form other than adult-use cannabis products, to a dispensary.

3. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary for intentionally selling or otherwise transferring adult-use cannabis products, to an individual who is under twenty-one years of age, in a form not allowed under this chapter, or in an amount that would cause the adult-use cannabis consumer to purchase or possess more than the amount of adult-use cannabis products authorized by this chapter is guilty of a class B felony.

4. In addition to any other penalty applicable in law, a dispensary or an adult-use cannabis business agent of a dispensary which intentionally sells or otherwise transfers paraphernalia, to an individual who is under twenty-one years of age, or in a form not allowed under this chapter is guilty of a class A misdemeanor. A dispensary or an adult-use cannabis business agent is not subject to prosecution under this subsection for selling paraphernalia to a registered qualifying patient who is nineteen years of age or older under chapter 19-24.1.

5. In addition to any other penalty applicable in law, an adult-use cannabis business or an adult-use cannabis business agent that intentionally sells or otherwise transfers adult-use cannabis products in a form not allowed under this chapter is guilty of a class B felony.

6. An adult-use cannabis business or an adult-use cannabis business agent that knowingly submits false records or documentation required by the department to certify an adult-use cannabis business under this chapter is guilty of a class C felony.

7. In addition to any other penalty applicable in law, if an adult-use cannabis business violates this chapter the department may fine the adult-use cannabis business up to one thousand dollars per violation, per day, and upon subsequent violations a fine not to exceed five thousand dollars per violation, per day.

8. In addition to any other penalty applicable in law, an adult-use cannabis consumer who intentionally sells or otherwise transfers adult-use cannabis products, to an individual who is under twenty-one years of

age, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.

9. An individual who knowingly submits false records or documentation required by the department to receive an adult-use cannabis business agent registry identification card is guilty of a class A misdemeanor. An individual convicted under this subsection may not continue to be affiliated with an adult-use cannabis business.

19-24.2-15. Adult-use cannabis business - Transfer - Sale.

1. An adult-use cannabis business shall comply with the transfer and sale requirements of this section.

2. Design and security features of adult-use cannabis products containers must be in accordance with rules adopted under this chapter.

3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing facility may not transfer or sell cannabis or adult-use cannabis products. A manufacturing facility or an adult-use cannabis business agent of a manufacturing facility may sell adult-use cannabis products to a dispensary.

4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell or provide adult-use cannabis products to:

   a. An individual under twenty-one years of age, unless the individual is a registered qualifying patient and the sale or dispensing is in accordance with chapter 19-24.1; or

   b. An adult-use cannabis consumer in an amount that would cause the adult-use cannabis consumer to purchase or possess more adult-use cannabis products than permitted by this chapter.

5. Before selling or providing an adult-use cannabis product to an individual, a dispensary or an adult-use cannabis business agent of the dispensary shall verify:

   a. The age of the individual by requiring the individual to produce one of the following pieces of identification:

      (1) The individual's passport, issued by the United States or a foreign government;

      (2) The individual's driver's license, issued by the state or another state of the United States;

      (3) An identification card issued by the state;

      (4) A United States military identification card;

      (5) An identification card issued by a federally recognized Indian tribe; or

      (6) Any other identification card issued by a state or territory of the United States which bears a picture of the individual, the name of the individual, the individual's date of birth, and a physical description of the individual.

   b. The purchase history of the adult-use cannabis consumer using the department-approved information technology system to ensure the

adult-use cannabis consumer does not purchase more than the amount of adult-use cannabis products authorized by this chapter.

6. The health council may adopt rules requiring a dispensary to use an age verification scanner or any other equipment used to verify the age of an individual for the purpose of ensuring that the dispensary does not sell adult-use cannabis products to an individual who is under twenty-one years of age. Information obtained under this section may not be retained after verifying the age of an individual and may not be used for any purpose other than verifying the age of an individual.

19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.

The maximum amount an adult-use cannabis consumer is authorized to purchase for:

1. The first day of a calendar month through the fifteenth day of the same calendar month:

   a. Twenty-one grams of adult-use cannabis;

   b. One gram of adult-use cannabinoid concentrates; and

   c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

2. The sixteenth day of the calendar month through the last day of the same calendar month:

   a. Twenty-one grams of adult-use cannabis;

   b. One gram of adult-use cannabinoid concentrates; and

   c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use cannabinoid products.

19-24.2-17. Maximum possession amount for adult-use cannabis consumer.

1. It is unlawful for an adult-use cannabis consumer to possess more than the following:

   a. One ounce [28.35 grams] of adult-use cannabis;

   b. One and one-half grams of an adult use cannabinoid concentrate; and

   c. Four hundred milligrams of total tetrahydrocannabinol in the form of an adult-use cannabinoid product.

2. An adult-use cannabis consumer who possesses more than the maximum amount of adult-use cannabis products authorized by this chapter is subject to prosecution under chapter 19-03.1.

19-24.2-18. Adult-use cannabis business - Inspection.

1. An adult-use cannabis business is subject to random inspection by the department. During an inspection, the department may review the records of the adult-use cannabis business, including the adult-use cannabis business's financial, inventory, and sales records.

2. The department shall conduct inspections of adult-use cannabis businesses to ensure compliance with this chapter and chapter 19-24.1. The department shall conduct inspections of manufacturing facilities for the presence of contaminants. The department shall select a certified laboratory to conduct random quality sampling testing in accordance with rules adopted under this chapter. An adult-use cannabis business shall pay the cost of all random quality sampling testing.

3. The provisions of chapter 54-44.4 do not apply to the selection of a certified laboratory required by this chapter.

19-24.2-19. Adult-use cannabis business - Pesticide testing.

A manufacturing facility shall test cannabis at a manufacturing facility for the presence of pesticides. If a cannabis test indicates the presence of a pesticide, the manufacturing facility immediately shall report the test result to the department and to the agriculture commissioner. Upon the order of the department or agriculture commissioner, the manufacturing facility immediately shall destroy all affected or contaminated cannabis and adult-use cannabis products inventory in accordance with rules adopted under this chapter and shall certify to the department and to the agriculture commissioner that all affected or contaminated inventory has been destroyed.

19-24.2-20. Adult-use cannabis business - Cannabis plant.

1. A manufacturing facility may have no more than ten thousand plants. For every five hundred plants in excess of one thousand plants that a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of ten thousand dollars. This fee is due at the time of increase and again at renewal of the adult-use cannabis business registration certificate.

2. A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of adult-use cannabis products at any time, regardless of formulation.

3. The health council shall adopt rules to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

19-24.2-21. Adult-use cannabis business - Security and safety.

1. In compliance with rules adopted under this chapter, an adult-use cannabis business shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance to areas containing cannabis and adult-use cannabis products and to prevent the theft of cannabis and adult-use cannabis products.

2. An adult-use cannabis business shall limit entry to an area in which production or processing takes place or in which cannabis or adult-use cannabis products are held and access is limited to authorized personnel.

3. An adult-use cannabis business must have a fully operational security alarm system at the authorized physical address which includes an electrical support backup system for the alarm system to provide suitable protection against theft and diversion.

4. An adult-use cannabis business shall maintain documentation in an auditable form for:

   a. All maintenance inspections and tests conducted under this section, and any servicing, modification, or upgrade performed on the security alarm system;

   b. An alarm activation or other event that requires response by public safety personnel; and

   c. Any breach of security.

19-24.2-22. Adult-use cannabis business - Inventory control.

1. An adult-use cannabis business shall comply with the inventory control requirements provided under this section and rules adopted under this chapter.

   a. A manufacturing facility shall:

      (1) Employ a bar coding inventory control system to track batch, strain, and amounts of cannabis and adult-use cannabis products in inventory and to track amounts of adult-use cannabis products sold to dispensaries; and

      (2) Host a secure computer interface to transfer inventory amounts and dispensary purchase information to the department.

   b. A dispensary shall:

      (1) Employ a bar coding inventory control system to track batch, strain, and amounts of adult-use cannabis products in inventory and to track amounts sold to adult-use cannabis consumers; and

      (2) Host a secure computer interface to transfer inventory amounts and adult-use cannabis consumer purchase information to the department.

2. An adult-use cannabis business shall store the adult-use cannabis business's cannabis and adult-use cannabis products in an enclosed and locked facility with adequate security, in accordance with rules adopted under this chapter.

3. An adult-use cannabis business shall conduct inventories of cannabis and adult-use cannabis products at the authorized location at the frequency and in the manner provided by rules adopted under this chapter. If an inventory results in the identification of a discrepancy, the adult-use cannabis business immediately shall notify the department and appropriate law enforcement authorities within seventy-two hours. An adult-use cannabis business shall document each inventory conducted by the adult-use cannabis business.

4. The provisions of chapter 54-44.4 do not apply to the selection of the information technology system selected by the department.

19-24.2-23. Adult-use cannabis business - Operating manual - Training.

1. An adult-use cannabis business shall maintain a current copy of the operating manual of the adult-use cannabis business which meets the requirements of rules adopted under this chapter.

2. An adult-use cannabis business shall develop, implement, and maintain on the premises an onsite training curriculum or shall enter contractual relationships with outside resources capable of meeting adult-use cannabis business agent training needs.

19-24.2-24. Adult-use cannabis business - Bylaws and operating agreements.

As part of the initial application of a proposed adult-use cannabis business, the applicant shall provide to the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the bylaws or operating agreement in accordance with this chapter. In addition to any other requirements, the bylaws or operating agreement must include the ownership or management structure of the adult-use cannabis business; the composition of the board of directors, board of governors, member-managers, or managers; and provisions relative to the disposition of revenues and earnings.

19-24.2-25. Adult-use cannabis business - Retention of and access to records and reports.

An adult-use cannabis business shall keep detailed financial reports of proceeds and expenses. An adult-use cannabis business shall maintain all inventory, sales, and financial records in accordance with generally accepted accounting principles. The adult-use cannabis business shall maintain all reports and records required under this section for a period of seven years. An adult-use cannabis business shall allow the department, or an audit firm contracted by the department, access at all times to all books and records kept by the adult-use cannabis business.

19-24.2-26. Adult-use cannabis business - Recordkeeping - Adult-use cannabis business agents - Registry identification cards.

1. Each adult-use cannabis business shall maintain:

   a. In compliance with rules adopted under this chapter, a personnel record for each adult-use cannabis business agent for a period of at least three years following termination of the individual's affiliation with the adult-use cannabis business. The personnel record must comply with minimum requirements set by rule adopted under this chapter.

   b. A record of the source of funds that will be used to open or maintain the adult-use cannabis business, including the name, address, and date of birth of any investor.

   c. A record of each instance in which a current or prospective board member, member-manager, manager, or governor, who managed or served on the board of a business or not-for-profit entity and in the course of that service was convicted, fined, or censured or had a registration or license suspended or revoked in any administrative or judicial proceeding.

2. Each adult-use cannabis business agent shall hold a valid registry identification card.

19-24.2-27. Verification system.

1. The department shall maintain a confidential list of cardholders and each cardholder's registry identification number.

2. The department shall establish a secure verification system. The verification system must allow law enforcement personnel twenty-four hour access to enter a registry identification number to determine whether the number corresponds with a current valid registry identification card. The system may disclose:

   a. Whether an identification card is valid;

   b. The name of the cardholder; and

   c. The cardholder's affiliated adult-use cannabis business.

19-24.2-28. Protections.

Except as provided in sections 19-24.2-14 and 19-24.1-28:

1. An adult-use cannabis consumer is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity for the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies under this chapter.

2. It is presumed an adult-use cannabis consumer is engaged in the acquisition, use, consumption, or possession of adult-use cannabis products or related supplies in accordance with this chapter if the adult-use consumer is not in possession of adult-use cannabis products in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence that the conduct related to acquisition, use, consumption, or possession of adult-use cannabis products or related supplies was not in accordance with this chapter.

3. A manufacturing facility is not subject to prosecution, search or inspection, or seizure, except by the department or the department's designee, under this chapter for acting under this chapter to:

   a. Produce, process, or conduct related activities for the sole purpose of selling adult-use cannabis products to a dispensary; or

   b. Transfer, transport, or deliver cannabis or adult-use cannabis products to and from a department designee or manufacturing facility in accordance with this chapter.

4. A dispensary is not subject to prosecution, search or inspection, or seizure, except by the department or the department's designee, under this chapter for acting under this chapter to:

   a. Purchase adult-use cannabis products from a manufacturing facility and conducting related activities for the sole purpose of selling adult-use cannabis products and related supplies, and providing educational materials to adult-use cannabis consumers; or

   b. Transfer adult-use cannabis products to and from a department designee or related manufacturing facility in accordance with this chapter.

5. If the action performed by the adult-use cannabis business agent on behalf of the adult-use cannabis business is authorized under this chapter, a registered adult-use cannabis business agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or

professional regulating entity, for working or volunteering for an adult-use cannabis business.

6. The sale and possession of supplies related to possession and consumption of adult-use cannabis products by a dispensary is lawful if in accordance with this chapter.

7. The adult-use of cannabis by an adult-use cannabis consumer or the producing and processing and the selling of adult-use cannabis products by an adult-use cannabis business is lawful if in accordance with this chapter.

8. An adult-use cannabis consumer, adult-use cannabis business agent, or adult-use cannabis business is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

9. A person in possession of cannabis waste in the course of transporting or disposing of the waste under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or transportation.

10. A person in possession of cannabis, adult-use cannabis products, or cannabis waste in the course of performing laboratory tests as provided under this chapter and rules adopted under this chapter is not subject to arrest or prosecution for possession or testing.

19-24.2-29. Limitations.

1. An adult-use cannabis consumer may use adult-use cannabis products in the following locations:

   a. A private residence, including the person's curtilage, or yard;

   b. On private property, not generally accessible by the public, if the adult-use cannabis consumer is explicitly permitted to consume the adult-use cannabis products on the property by the owner of the property.

2. This chapter does not authorize an adult-use cannabis consumer to engage in, and does not prevent the imposition of any civil liability or criminal liability or other penalties for engaging in:

   a. Use, possession, or transportation of adult-use cannabis products by an individual under twenty-one years of age.

   b. Use or consumption of adult-use cannabis products by an adult-use consumer in any public place, including an indoor or outdoor area used by, or open to, the general public or on any form of public transportation.

   c. Use or consumption of an adult-use cannabis product on the grounds of any adult-use cannabis business.

   d. Undertaking an activity under the influence of cannabis if doing so would constitute negligence or professional malpractice.

   e. Possession or consumption of adult-use cannabis products in any of the following locations:

(1) On a school bus or school van that is used for school purposes;

(2) On the grounds of any public or private school, including all facilities, whether owned, rented, or leased, and all vehicles that a public or private school owns, leases, rents, contracts for, or controls;

(3) At any location while a public or private school sanctioned event is occurring at that location;

(4) On state or federal property, including all facilities, whether owned, rented or leased, and all vehicles the state or federal government leases, rents, contracts for, or controls;

(5) On the grounds of a correctional facility;

(6) On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department of human services.

f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2, 23-12-10.4, 23-12-10.5, or 23-12-11.

g. Use of adult-use cannabis products in a motor vehicle as defined by chapter 39-01.

h. Using a combustible delivery form of adult-use cannabis products or vaporizing adult-use cannabis products under this chapter if the smoke or vapor would be inhaled by an individual under twenty-one years of age.

i. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat, while under the influence of cannabis. A registered qualifying patient may not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

3. This chapter does not require:

a. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume adult-use cannabis products on or in the property; or

b. A landlord to allow production and processing of cannabis or possession and consumption of adult-use cannabis products on rental property.

4. This chapter does not prohibit an employer from:

a. Disciplining or terminating the employment of an employee for possessing or consuming adult-use cannabis products in the workplace or for working while under the influence of cannabis. "Working" as used in this subdivision includes when an employee is on call.

b. Adopting reasonable zero tolerance or drug-free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while

on call provided that the policy is applied in a nondiscriminatory manner.

c. Disciplining or terminating the employment of an employee for violating an employer's employment policies or workplace drug policy.

5. An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good-faith belief that an employee manifests specific, articulable symptoms while working which decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If an employer elects to discipline an employee on the basis that the employee is under the influence or impaired by cannabis, the employer shall afford the employee a reasonable opportunity to contest the basis of the determination.

6. This chapter does not create or imply a cause of action for any person against an employer for:

a. Actions, including subjecting an employee or applicant to reasonable drug and alcohol testing under the employer's workplace drug policy, including an employee's refusal to be tested or to cooperate in testing procedures or disciplining termination of employment, based on the employer's good-faith belief that an employee used or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies;

b. Actions, including discipline or termination of employment, based on the employer's good-faith belief that an employee was impaired as a result of the use of cannabis, or under the influence of cannabis, while at the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policy; or

c. Injury, loss or liability to a third party if the employer did not know or have a reason to know the employee was impaired.

7. This chapter may not be construed to interfere with any federal, state or local restrictions on employment, including the United States department of transportation regulation under title 49, Code of Federal Regulations, part 40, section 40.151(e) or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.

19-24.2-30. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of cannabis and adult-use cannabis products, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.

2. The health council may adopt rules regarding the operation and governance of additional categories of registered adult-use cannabis businesses.

19-24.2-31. Confidentiality.

1. Except as provided under subsection 2, information kept or maintained by the department is confidential, including information in a registration application or renewal and supporting information submitted by an adult-use cannabis business, proposed adult-use cannabis business, or adult-use cannabis business agent. Information kept or maintained by the department which could be used to identify an adult-use cannabis consumer is confidential.

2. Information kept or maintained by the department may be disclosed as necessary for:

   a. The verification of registration certificates and registry identification cards under this chapter;

   b. Notification of state or local law enforcement of an apparent criminal violation;

   c. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or

   d. Date for statistical purposes in a manner such that an individual person or adult-use cannabis business is not identified.

3. Information submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.2-32. Report to the legislative management.

By July first of each year, the department shall submit a report to the legislative management. The report must be written in a manner such that no individual, person, or adult-use cannabis business can be identified and must include:

1. The number and type of adult-use cannabis businesses;

2. Revenue and expenses of the department related to the implementation of this chapter;

3. Sales data by product type; and

4. Information for statistical purposes.

19-24.2-33. Adult-use cannabis fees.

The department shall deposit all fees collected under this chapter in the fund established under section 19-24.1-40.

SECTION 12. AMENDMENT. Subsection 1 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to

the provisions of this chapter, to a chemical test, or tests, of the blood, breath, ~~saliva~~oral fluid, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, ~~saliva~~oral fluid, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.

SECTION 13. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

39-20-14. Screening tests.

1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath or oral fluid for the purpose of estimating the alcohol concentration or presence of drugs or substances in the individual's breath or oral fluid upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or a violation under section 39-08-01 or an equivalent offense, or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol or other drugs or substances that render the individual incapable of safely operating a motor vehicle.

2. An individual may not be required to submit to a screening test or tests of breath or oral fluid while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.

3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol or other drugs or substances and that refusal of the individual to submit to a screening test may result in a revocation for at least one hundred eighty days and up to three years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is admissible in a court proceeding if the individual was arrested in violation of section 39-08-01 and did not take any additional chemical tests requested by the law enforcement officer. Such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available.

4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual

provides a sufficient breath, blood, oral fluid, or urine sample for a chemical test requested under section 39-20-01 for the same incident.

5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.

6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol or other drugs or substances in an individual's blood, breath, oral fluid, or urine.

SECTION 14. AMENDMENT. Subsection 12 of section 65-05-08 of the North Dakota Century Code is amended and reenacted as follows:

12. The organization may not pay wage loss benefits if the wage loss is related to the use ~~or presence of medical marijuana~~of usable marijuana or adult-use cannabis products, or the presence of tetrahydrocannabinol.

SECTION 15. EFFECTIVE DATE. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of this Act become effective on July 1, 2022."

Renumber accordingly

2021 SENATE HUMAN SERVICES

HB 1420

2021 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Sakakawea Room, State Capitol

HB 1420
3/15/2021

A BILL for an Act to create and enact two new subsections to section 19-03.4-02 and chapter 19-24.2 of the North Dakota Century Code, relating to the personal use of marijuana; to amend and reenact section 19-03.1-01, subdivision n of subsection 5 of section 19-03.1-05, subsection 1 of section 19-03.1-22.2, sections 19-03.1-22.3 and 19-03.1-23, subsection 1 of section 19-03.1-23.1, subsection 12 of section 19-03.4-01, sections 19-03.4-03 and 19-03.4-04, subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of the North Dakota Century Code, relating to the legalization of marijuana; to provide for a legislative management report; to provide a penalty; and to provide an effective date.

Madam Chair Lee opened the hearing on HB 1420 at 9:40 a.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

Discussion Topics:

- Initiated measure
- Employer protection
- Manufacturer capacity
- FDA approved THC pharmaceuticals
- Marijuana penalties
- Public/private use
- THC testing
- Black market marijuana
- Taxation

[9:41] Representative Jason Dockter, District 7. Introduced HB 1420.

[9:50] Tara Bradner, Assistant Attorney General. Provided an overview of the language on HB 1420.

[10:45] Charlene Rittenbach, Forensic Scientist, ND State Crime Lab. Provided the committee with clarification on THC/chemical testing.

[10:48] Tom Tracy, Jamestown Resident. Provided oral testimony in opposition.

[10:58] Representative Bill Tveit, District 33. Provided testimony #9178 in opposition.

[11:06] Bill Goekle, Kulm Resident. Provided oral testimony in opposition.

[11:08] Rev. Carel Two Eagle, Church of the Helping Hand, INC. Provided testimony #9188 in opposition.

[11:12] Chad Kaiser, Sheriff, Stutsman County. Provided testimony #9190 in opposition.

[11:27] Donnell Preskey, ND Association of Counties. Provided oral testimony in opposition.

[11:29] Stephanie Dassinger, On Behalf of the Chiefs of Police Association of ND. Provided testimony #9114 in opposition and marijuana study documents (testimony #9111, #9112, and #9113).

[11:31] ShaunAnne Tangney, Minot Resident. Provided testimony #9199 in favor.

[11:41] Hugh Grindberg, Jamestown Resident. Provided testimony #9024 in opposition.

[11:44] Jonah Lantto, Minot Business Owner. Provided testimony #9210 in favor.

[11:50] Valerie Jundt, Bismarck Resident. Provided neutral testimony #9213.

[11:59] Dustin Peyer, District 28 Resident. Provided neutral testimony #9048.

[12:06] Recess

[2:08] Madam Chair Lee re-opened the hearing on HB 1420.

[2:09] Dave Owen, Chairman, Legalize ND. Provided oral testimony in favor.

[2:38] Ty Hegland, President/CEO, Sharehouse. Provided testimony #8997 in favor.

[2:46] Gail Pederson, Special Practice RN, Cannabis Nurse Educator and Consultant. Provided neutral testimony #9063.

[2:58] Christopher Dodson, Executive Director, ND Catholic Conference. Provided testimony #9163 in opposition.

[3:01] Chris Noldan, ND Citizen. Provided oral testimony in favor.

Additional written testimony: (6)

Jody Vetter, Patient Advocate and Chairperson, Committee for Compassionate Care and ND Freedom of Cannabis Act. Written neutral testimony #9094 and #10720 in favor.

Joseph M. Dura, ND Citizen. Written neutral testimony #9007.

Patti Senn, Licensed Master Addiction Counselor. Written testimony #9058 in opposition.

Amanda Remynse, ND Motor Carriers Association. Written testimony #8933 in opposition.

Mark Jorritsma, Executive Director, Family Policy Alliance of ND. Written testimony #9103, #9104, #9105, and #9106 in opposition.

Veronica Michael, CEO & DRC Member, Prairie Products LLC. Written testimony #9066 in favor.

Vice Chair K. Roers closed the hearing on HB 1420 at 3:09 p.m.

Justin Velez, Committee Clerk

RODNEY ATKINS – "I've Been Watching You, Dad"

Driving through town, just my boy and me

With a happy meal in his booster seat
Knowing that he couldn't have the toy
Till his nuggets were gone
A green traffic light turned straight to red
I hit my brakes and mumbled under my breath
As fries went a flying and his orange drink covered his lap
Well, then my four year old said a four letter word
That started with "s," and I was concerned
So I said, "Son, now where did you learn to talk like that?"

He said, "I've been watching you, dad, ain't that cool?
I'm your buckaroo, I wanna be like you
And eat all my food, and grow as tall as you are
We got cowboy boots and camo pants
Yeah, we're just alike, hey, ain't we dad?
I wanna do everything you do
So I've been watching you."

We got back home, and I went to the barn
I bowed my head, and I prayed real hard
Said, "Lord, please help me help my stupid self."
Then this side of bedtime later that night
Turning on my son's Scooby Doo night light
He crawled out of bed, and he got down on his knees
He closed his little eyes, folded his little hands
And spoke to God like he was talking to a friend
And I said, "Son, now where'd you learn to pray like that?"

He said, "I've been watching you, dad, ain't that cool?
I'm your buckaroo, I wanna be like you

And eat all my food, and grow as tall as you are
We like fixing things and holding mama's hand
Yeah, we're just alike, hey, ain't we, dad?
I wanna do everything you do
So I've been watching you."

With tears in my eyes, I wrapped him in a hug
Said, "My little bear is growing up."
He said, "But when I'm big, I'll still know what to do."

"'Cause I've been watching you, dad, ain't that cool?
I'm your buckaroo, I wanna be like you
And eat all my food, and grow as tall as you are
Then I'll be as strong as Superman
We'll be just alike, hey, won't we, dad?
When I can do everything you do
'Cause I've been watching you."

Writer/s: Brian White, Rodney Adkins, Steve Dean
Publisher: Warner Chappell Music, Inc., Universal Music Publishing Group
Lyrics licensed and provided by LyricFind

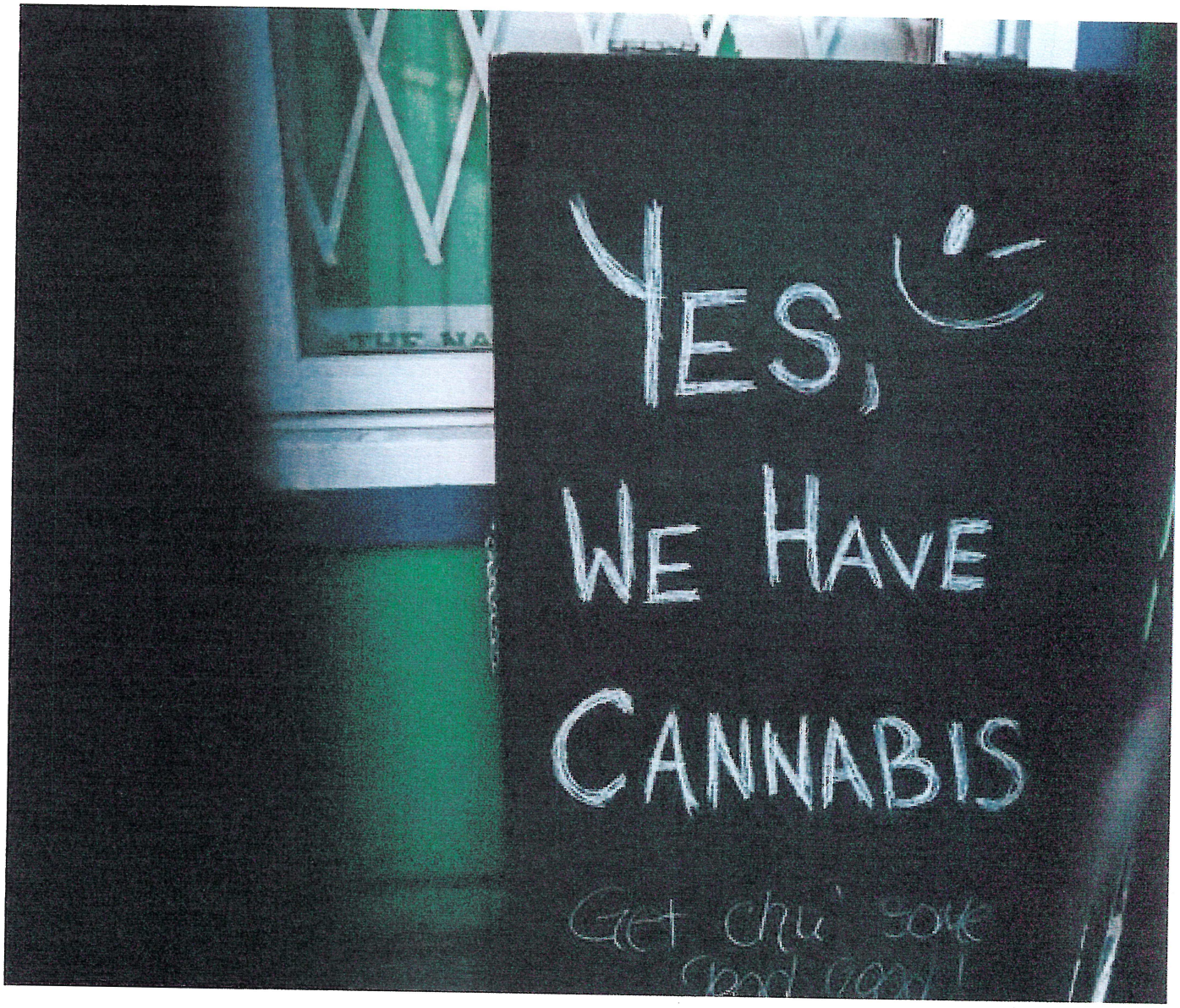
North Dakota has held a Double Trophy for many years, of which I take no pride. **One may be legal**, while **the other is not!**

According to ***The American Health Rankings***:

The 2019 Trend for % of adults Excessive Binge Drinking in the last 30 days: **North Dakota @24%** vs **United States @19%**

In 2020 Adult Binge Drinking in ND got aced out of the #1 spot. US=18.6%; ND 23.6%; WI=23.9%; District of Columbia =27.2%

The 2020 binge drinking rate among North Dakota teens remains among the highest in the nation. A recent study found 15.6 percent of North Dakota high school students had five or more drinks in one sitting within the past 30 days. The national average for binge drinking was 13.5 percent.


YES,
WE HAVE
CANNABIS

Teens May Be More Likely to Use Marijuana After Legalization for Adult Recreational Use.

Mallie J. Paschall 510-883-5753 paschall@prev.org

PISCATAWAY, N.J., **Feb. 15, 2021** /PRNewswire/ -- Adolescents who live in California may be more likely to use marijuana since adult recreational marijuana use was legalized in 2016, according to a new report in the Journal of Studies on Alcohol and Drugs.

The apparent increase in marijuana use among California adolescents after recreational marijuana legalization for adult use in 2016 is surprising given the steady downward trend in marijuana use during years before legalization," says lead researcher Mallie J. Paschall, Ph.D., senior research scientist at the Prevention Research Center of the Pacific Institute for Research and Evaluation in Berkeley, Calif.

Paschall and colleagues analyzed data from over three million 7th, 9th, and 11th graders who participated in the California Healthy Kids Survey from 2010-2011 through 2018-2019 school years. The adolescents provided information on their grade, sex, ethnicity, race and lifetime and past-30-day marijuana use.

The researchers observed significant increases in the prevalence of lifetime and past-30-day marijuana use among nearly all demographic groups from 2017-2018 to 2018-2019 school years, after legalization of adult recreational use: an 18% increase in the likelihood of lifetime use and a 23% increase in past-30-day use. These numbers may reflect greater use of vaping products, and the overall increase was even more likely among those in demographic groups with historically lower rates of marijuana use.

I was somewhat surprised to see relatively greater increases in the prevalence of marijuana use among younger adolescents (7th graders) relative to 9th and 11th graders, among females versus males, among non-Hispanic versus Hispanic youth, and among Whites versus youth in other racial groups," says Paschall. "In other words, there were greater increases in marijuana use prevalence after recreational marijuana legalization among youth in 'low-risk' groups, which is concerning."

Paschall says he can only speculate as to the reason, but that the greater increases in these normally low-risk groups may be attributed to marijuana use becoming more normative due to legalization, along with relatively greater overall declines in marijuana use among youth in historically 'high-risk' groups during the study period.

The study also indicated greater increases in the frequency of past-30-day marijuana use among older adolescents, males, African American and Asian youth who were regular users. There were notable increases in marijuana use frequency among adolescents in 2018-2019, which may reflect national increases in the use of vaping products.

The researchers suggest that recreational marijuana legalization may present increased opportunities for adolescents to obtain marijuana and that the increasing availability of non-smoking products such as edibles may prove appealing as well.

Paschall and his colleagues also write that states and communities that have legalized adult recreational marijuana use and sales could benefit from implementing both stricter controls on the availability of marijuana to adolescents and evidence-based prevention programs

Madam Chair, **committee members, please give up your fear of a**

referendum by a minority of the voters of ND.

I suggest we stand our ground, hold fast to our principles.

Let us, for the sake of our youth, our future,

create a Meadow in the Forest of Recreational Marijuana states that

surround us.

Let us create a climate that people will desire, will choose to relocate their families here. Please be proactive, protective.

PLEASE GIVE YOUR BEST CHOICE TO HB 1420, DO NOT PASS

THANK YOU for your attention and I will stand for any questions.

<< TESTIMONY ON HB1201, 1420, & ALL MARIJUANA BILLS & RESOLUTIONS >>

Rev. Carel Two-Eagle, PK, PB
Church of the Helping Hand, Inc.

Good morning Legislators! For the record, my name is Rev. Carel Two-Eagle, and I come before you today in staunch opposition of HB1201, 1420, & all marijuana bills & resolutions.

A former professor from Minot & others testified on HB1420 that marijuana is safe. It is not. Marijuana is anything but safe. The proof is great & of long standing, given below.

As a Pipe Keeper, I am a spiritual guide. People come to me for counseling on many subjects. I have lost count of the number of people who have come to me asking – even begging – for help to get free of the problems marijuana has caused them. As the Presiding Bishop of the Church of the Helping Hand, Inc., I see the same thing, because we of this Church worship by helping others.

I deal in facts, and I am well-known for my thoroughness & attention to detail, so what I tell you here is all verified many times over and over many years of scientific experiments, and you can look these things up on the Internet .

A Dr. Amen has done many TED talks about his work on the effects of marijuana on the human brain. He has more than 83,000 SPECT brain scans in his files! They speak reams about the dangers of this material. All of his files show great damage to the brains of users, *and that none of it can be reversed or prevented.* This is only common sense, too, of course. Interestingly, damage from alcohol does repair.

Marijuana has been amply proven to cause:

Holes to form in the brain. Once they have formed, they cannot be filled in again or removed.

Thickening of the cerebral cortex. The cerebral cortex is where thinking occurs.
Slowing of thinking processes.
Early senility.
Memory loss. In the 1970s there was a spate of air crashes where the engines fell off of airliners. The FAA found that the mechanics involved, who were marijuana users, had forgotten to put the nuts on the bolts that held the engines to the planes!

Genetic changes. These cannot be predicted or controlled, nor can they be reversed.

Loss of ability to determine spatial relationships. Even if this only happened temporarily, think of the damage that can come from this loss. In the 1970s, experiments were done in which jumbo jet pilots who had never used marijuana were persuaded to smoke one government-issue cigarette and then be tested on

flying in a simulator. *72 hours after smoking that one marijuana cigarette, they were still missing the runway by more than the length of a football field.* More than that, the experiments proved that **1/10 of an ounce of THC**, the active part of marijuana, **caused** *the same impairment as 1 ounce of alcohol.* That means that marijuana is 100 times more destructive than alcohol.

Psychological changes. Again, these cannot be predicted or controlled.
Psychological dependence. I and a man went to Gulfport, LA to clean up after Hurricane Katrina. We were hired by a man who had a tree-trimming business, to look after a property of his so looters and vandals didn't damage it. One day, we came back from our other work to find our camp in shambles and our 35-lb dog – who loved almost everyone he met - hiding in terror under our tool trailer. The man we had been providing security for had come there while we were gone. He never told us why. It turns out he had smoked marijuana daily *before he began his day's work, running chainsaws and such,* and he had run out of marijuana. He had a temper tantrum and tore our camp to shreds! He tried to apologize, but I have ***no*** patience with dope or its use, and we left. I came within a hair's breadth of beating him for terrorizing the dog. I will never apologize for that. You can be assured I would have hurt him, and I wouldn't apologize for that, either.

Loss of will to eat, to fight back, to survive. It seems to me that if you wanted to destroy a country, legalizing marijuana for "recreation" would be a prime way to do it. Think about that. Who is likely to be behind this push to legalize a material so dangerous to our freedom? Hmm? The US has many enemies, including from within it.

Marijuana causes the brain to atrophy. That is, it causes the brain to shrink. This is easily seen in CT and MRI scans. The areas where the brain has atrophied fill with cerebro-spinal fluid. CSF does many things in the brain. Among them is removal of toxic substances from the brain, such as the ingredients in marijuana & the products of metabolizing it. Those toxic substances then *stay in the brain & cannot be removed.* CSF has no role in thinking; only brain tissue does.

A legislator said in one hearing that since the bill would only make it legal to smoke this trash in the privacy of their own home, was it anyone else's business. Are you planning to boot your children out of the house to play unwatched so you can smoke marijuana and impair yourself? Really? Who will take care of them if something bad happens while you are unable to function? What kind of parenting is that? What kind of example does that set for the children? Everything a parent or grandparent does sets an example to children. I can't imagine how impairing oneself is "fun", let alone a good example.

It is well-known that secondary tobacco smoke is more dangerous than primary smoke. This is true of all smoke. So what are you doing to your children or others, including your pets, if you smoke this "in the privacy of your home"? Smoking anything causes lung damage, by the way, so more damage is done to anyone foolish or unlucky enough to be there while you smoke. That doesn't sound like real friendship to me. It does sound like child and animal abuse, though.

You hear several bills every Session about traumatic brain injury. While TBI is usually caused by impact, the net effect of drugs is TBI. Why would you put considerable amounts of time, consideration, and money into preventing and combating TBI, and then legalize a toxic substance like marijuana, which has the same result in the long run?

Several people, including the prime sponsor of one or more of these bills, have spoken about "jobs" and "millions of dollars". What about GOOD jobs? And, is there ever enough money to pay for all the collateral damage and misery this material is known to cause?

All of these things I have put down here are facts, not fantasy. There are many safe, natural means of pain control. I have had pain that lifted me off the mattress – I know what I'm talking about. I had fibromyalgia for decades, until I cured it with a combination of natural supplements. I published a book about it – "My Fibromyalgia Miracle – And Maybe Yours Too". Everyone who has bought it has replied that it has ended their fibromyalgia misery (!).
I have been a Lakota Traditional healer for more than 50 years. Schooling for us never ends.
Safe means include: a mental yoga procedure called "isolation". One's consciousness goes away from their body. It is very effective. A person appears to be asleep, when in reality, their consciousness is elsewhere & they can return to ordinary consciousness when they choose to.
There are also a number of supplements that do a great job, acting from the perspective of greatly decreasing whole-body inflammation. They create, promote, & preserve good health. They do not diminish it. These include magnesium malate & magnesium citrate, either one taken with aspirin (preferably buffered, such as "Bufferin"), zinc, Coenzyme Q10, vitamin C with bioflavonoids, and shilajit. Shilajit is an ancient Ayurvedic material. It looks, smells, & tastes like road tar – but it works. It is medicine, not candy. Shilajit works on many ailments of the brain as well as those caused by or including great inflammation in the body. Self-hypnosis is extremely effective. Like yoga mental isolation, it is easy to learn. Acupuncture is extremely successful when done by a competent practitioner. And all of these are safe. They are not expensive. There are others.

You are needed to give these marijuana bills a resounding FAIL. Thank you for hearing me in a good way now & killing these bills that only damage people's health & do nothing to improve it. I am always available to answer any questions.

03/15/2001
Chad Kaiser
Stutsman County Sheriff

RE: Opposition Testimony for HB 1420

Chair and committee members, I'm Chad Kaiser Stutsman County Sheriff and I'm in opposition of HB 1420. I am providing you with some concerns about HB 1420.

Not long-ago ND had on the ballot to legalize marijuana as an initiated measure. The voters defeated that measure by around 60%. The voters approved medical marijuana. So now we have a bill Infront of you now to allow personal use marijuana of up to one ounce. I feel the voters of ND have spoken and do not want to legalize marijuana this should be brought up to the voters to decide.

Some public safety concerns that other states are seeing that have legalized marijuana:

1. Increase health care/mental health costs
2. Increase DUI's with marijuana
3. Increase traffic crashes/fatalities with marijuana
4. Increase marijuana use in all ages from 12-28 years of age

Some Law enforcement concerns:

1. What happens to the K-9s in the state that are trained in detection of marijuana?
2. As in alcohol we have a measure of .08BAC for being impaired. We do not have a measure for marijuana currently.
3. Cost to LE on training more Drug recognition experts to detect impaired driving.
4. We have no crime lab certified road test for marijuana. Scales to determine if under 1oz.

You hear a lot about having an initiated measure and the problems that it brings. I do agree with this, but I believe this topic of legalizing marijuana should be the decision of the voters. If we are concerned about initiated measure then maybe our ND Legislature could bring forth an initiated measure to the public for a vote.

I hope you understand what some of these long term consequences are with HB1420 and VOTE NO on HB1420.

March 15, 2021
Senate Human Services Committee
HB 1420
Sen. Judy Lee, Chair

For the record, I am Stephanie Dassinger. I am appearing on behalf of the Chiefs of Police Association of North Dakota. I am also the deputy director and attorney for the North Dakota League of Cities.

The Chiefs of Police appear today in opposition to HB 1420. The Chiefs understand the difficult position the Legislature is in due to the petition that is being circulated for constitutional legalization of marijuana and that there may be reasons to set up a legislatively controlled system for adult use marijuana. Additionally, the Chiefs would like to recognize the work of the bill sponsor and the House Human Services Committee in addressing the many issues that existed with the bill as initially submitted. Regardless, the Chiefs believe that legalization of adult use marijuana through the legislature or through a ballot measure would have negative public safety implications.

I have submitted three documents electronically on research done by the Rocky Mountain High Intensity Drug Trafficking Area for 2020, by the Insurance Institute for Highway Safety, and by the Centennial Institute on impacts to public safety due to the legalization of marijuana in Colorado for your review.

I would just like to highlight a few statistics from those reports.

Colorado Traffic Fatalities & Impaired Driving – Page 1, Volume 1, September 2020, *The Legalization of Marijuana in Colorado: The Impact*, Rocky Mountain High Intensity Drug Trafficking Area

- Since recreational marijuana was legalized in 2013, traffic deaths in which drivers tested positive for marijuana increased 135% while all Colorado traffic deaths increased 24%.
- Since recreational marijuana was legalized, traffic deaths involving drivers who tested positive for marijuana more than doubled from 55 in 2013 to 129 people killed in 2019.
    - This equates to one person killed every 3 1/2 days in 2019 compared to one person killed every 6 1/2 days in 2013.
- Since recreational marijuana was legalized, the percentage of all Colorado traffic deaths that were marijuana related increased from 15% in 2013 to 25% in 2019.

Costs Association with Legalization – Page 3, November 2018, *Economic and Social Costs of Legalized Marijuana*, Centennial Institute

- For every dollar gained in tax revenue Coloradans spend almost $4.50 to mitigate the effects of legalization. The costs related to the healthcare system and from high school dropouts are the largest cost contributors. Costs of marijuana ranged for accidental

poisonings and traffic facilities to increased court costs for impaired drivers, juvenile use, and employer related costs.

Other specific law enforcement costs have been identified. Police department narcotics detection dogs that are in service will likely need to be retired unless those dogs have not been trained on THC. Additionally, more Drug Recognition Experts (DRE) will need to be trained to detect impaired drivers. DREs perform what almost amounts to a physical exam to determine what classification of drug someone is under the influence of. The classroom portion of a DREs training is three weeks long. The DRE training is followed-up with a week in a large jail, like Maricopa County, Arizona, to get experience doing investigations.

Again, the Chiefs of Police recognize the difficult decision the Legislature needs to make but hopes the information provided puts into context the negative public safety implications legalization of adult-use marijuana would have in North Dakota.

Thank you for your consideration.

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The Centennial Institute at Colorado Christian University commissioned this study to better understand the economic and social costs of legalized marijuana. While much has been written about the tax revenue and total sales generated from commercial marijuana, there has been little research to understand how Coloradans are paying to mitigate the consequences of commercial marijuana.

No matter where you stand in the marijuana legalization debate, having more information is critical to making the best decisions for the future of Colorado and our nation. This report is an important first step in giving researchers and policymakers a sense of the breadth of costs associated with commercial marijuana. Furthermore, it is clear from the report that much more information is needed to fully understand the social costs associated with commercial marijuana.

The bad news is that the costs associated with commercial marijuana are only going to go up as the long-term health consequences have not been fully determined. Like tobacco, commercial marijuana is likely to have health consequences that we won't be able to determine for decades. Those costs are not configured in this report.

This report is fair in presenting the economic benefits of commercial marijuana to Colorado including reporting tax revenue, jobs, and overall sales. It is contrasted with the economic and social costs of commercial marijuana, which took a very cautious approach in determining costs. Bottom line, the economic and social costs in this report are intentionally low and the comprehensive costs are likely much higher.

Here are the important findings from this report:

- For every dollar gained in tax revenue, Coloradans spent approximately $4.50 to mitigate the effects of legalization
- Costs related to the healthcare system and from high school drop-outs are the largest cost contributors
- While people who attended college and use marijuana has grown since legalization, marijuana use remains more prevalent in the population with less education
- Research shows a connection between marijuana use and the use of alcohol and other substances
- Calls to Poison Control related to marijuana increased dramatically since legalization of medical marijuana and legalization of recreational marijuana
- About 15 people are severely burned as a result of marijuana use per year
- People who use marijuana more frequently tend to be less physically active, and a sedentary or inactive lifestyle is associated with increased medical costs
- Adult marijuana users generally have lower educational attainment than non-users
- Research does suggest that long-term marijuana use may lead to reduced cognitive ability, particularly in people who begin using it before they turn 18
- Yearly cost-estimates for marijuana users: $2,200 for heavy users, $1,250 for moderate users, $650 for light users

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- 69% of marijuana users say they have driven under the influence of marijuana at least once, and 27% admit to driving under the influence on a daily basis
- The estimated costs of DUIs for people who tested positive for marijuana only in 2016 approaches $25 million
- The marijuana industry used enough electricity to power 32,355 homes in 2016
- In 2016, the marijuana industry was responsible for approximately 393,053 pounds of CO2 emissions
- Marijuana packaging yielded over 18.78 million pieces of plastic

The researchers felt strongly that Colorado needs to have an important conversation about the presence of THC in fatal car crashes and suicide and they included these numbers in the report without attaching a monetary value to the loss of life. They pointed out that these are preventable deaths and if we're serious about stopping THC-related car crashes and suicides, we need to explore these issues further.

The research firm used to create the report is QREM, a third-party evaluation firm serving non-profits and many of Colorado's most reputable foundations.

We hope this report spurs further research into the effects of commercial marijuana upon our communities.

Sincerely,

Jeff Hunt
Vice President of Public Policy, Colorado Christian University
Director, Centennial Institute

Economic and Social Costs of Legalized Marijuana

Centennial Institute

November 18, 2018

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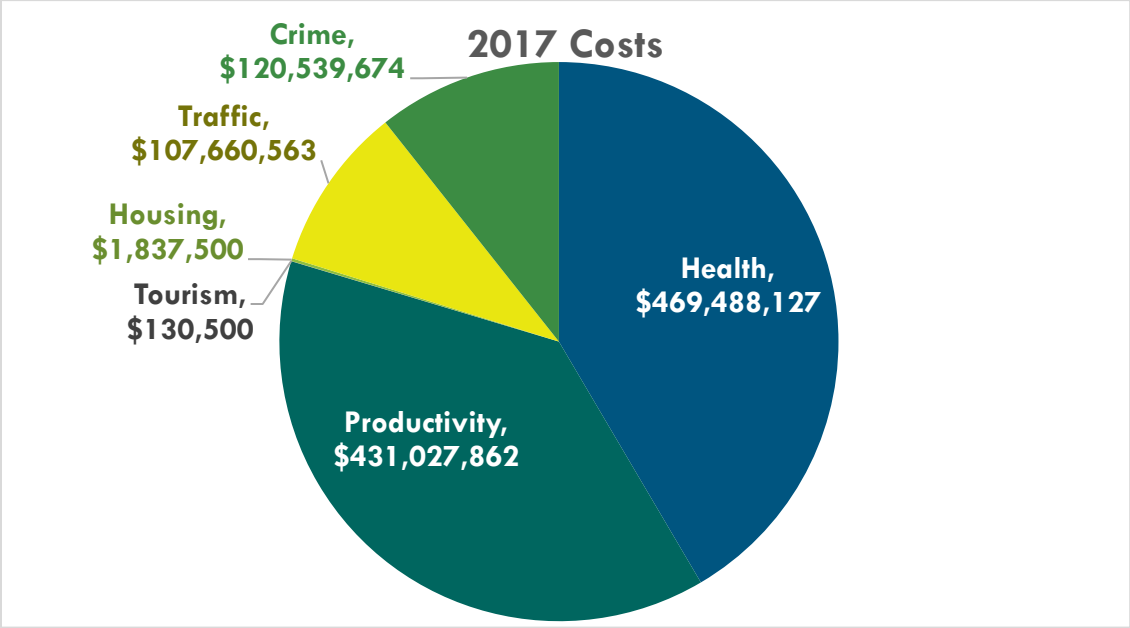
Executive Summary

For every dollar gained in tax revenue, Coloradans spend approximately $4.50 to mitigate the effects of legalization. Costs related to the healthcare system and from high school drop-outs are the largest cost contributors, but many other costs were included as well. Costs of marijuana ranged from accidental poisonings and traffic fatalities to increased court costs for impaired drivers, juvenile use, and employer related costs.

While only 2017 costs were tabulated for this report[1], whenever possible, the longitudinal data were presented. It is too early for trends to be analyzed; however, as more time passes, more costs are likely to be realized. It is worth noting that this report took a conservative approach to calculating the costs and fees associated with increased marijuana use. When a range of costs or numbers of individuals were presented, the lower value was used.

This study was limited in that longitudinal data and research were not available for items such as educational remediation for those with heavy marijuana use or the long-term impacts on employee productivity. For other items –such as toxicity to pets from ingesting marijuana products –data are simply not available.

There are other costs that could not be calculated. For example, the cost to the environment of the single-use plastics and the stickers that are used by pot-shops for product sales and distribution are not biodegradable and will impact our landfills and oceans.



[1] When 2017 data were not available, the most recent available year's data were used.

Costs Summary

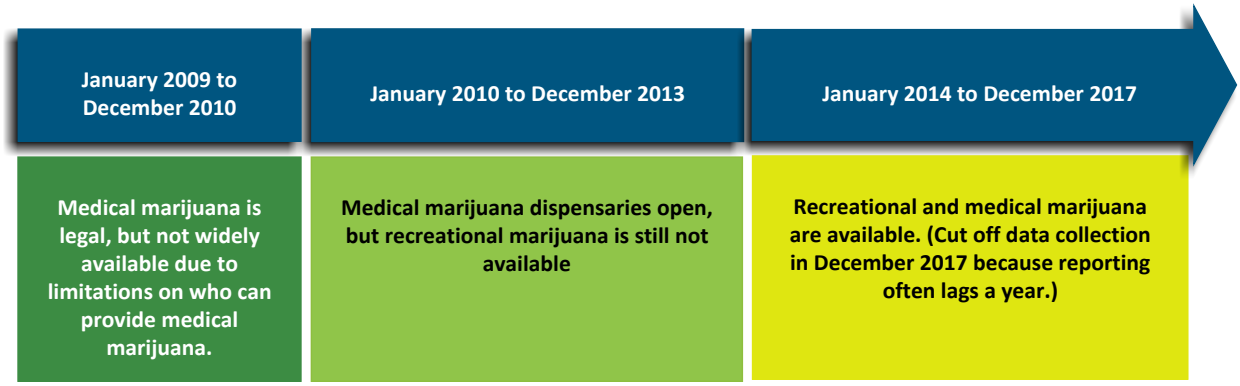
Amount	Section	Notes
		Costs
($381,915,043)	Health	Hospitalizations
($31,448,906)	Health	Treatment for cannabis use disorder
($593,924)	Health	Burn treatments
($697,036)	Health	Low weight babies
($54,833,218)	Health	Cost of physical inactivity
($3,782,625)	Productivity	Cost of businesses for policy development
($3,401,300)	Productivity	Cost to employer for rehabilitation
($481,600)	Productivity	Employees costs for rehabilitation
($423,362,337)	Productivity	K-12 drop-outs
($7,194,600)	Crime	Arrests
($18,565,226)	Crime	DUI court-costs
($1,170,126)	Crime	Juvenile court filings
($3,484,282)	Crime	Adult court filings
($3,111,114)	Crime	Denver-only marijuana-related crime
($87,014,326)	Crime	Probationers going back for THC violation
($5,362,620)	Traffic	Fatal car accidents
($18,565,226)	Traffic	DUIs
($83,732,717)	Traffic	Car accidents from impaired drivers
($1,837,500)	Housing	Evictions due to pot, cost to landlord
($130,500)	Tourism	Arrests crossing the border to Colorado
($1,130,684,227)		Total
		Benefits
$247,368,473.00	Tax Revenue	2017 only
$127,452,000.00	Housing	Increased value of homes in areas with legalized marijuana
		Amount Spent on Marijuana
$1,444,524,486		Collective income spent on marijuana
		Lives lost†
-139	Traffic	Fatal accidents caused by a driver using THC
-180	Health	Suicides where victim had THC in system

†Marijuana cannot be determined to be the cause of lives lost, especially for suicides as there are many contributing factors including mental illness. It is not possible to determine if marijuana changed a person's mental state or was used as a medication to address that person's mental state. Suicide data from Reed (2018).

Approaches

In Colorado, marijuana was legalized for medical use in 2000 and recreational use in 2012. In the years since legalization, agencies, researchers, and journalists have collected data on the impacts of marijuana use in a way that was not possible prior to legalization (because of social stigma, users admitting illegal behavior, etc.). What this report seeks to measure are the dollar costs of legalization (car crashes, educational attainment, crime, etc.), with the goal of ascertaining a cost that can be used to measure the impact of legalization. While several years of data were used, 2017 was the primary focus of the study. As some data were not tracked until very recently—and some are not tracked to this day—the chart below gives a rough timeline of the evolution of legal use of marijuana in the state.

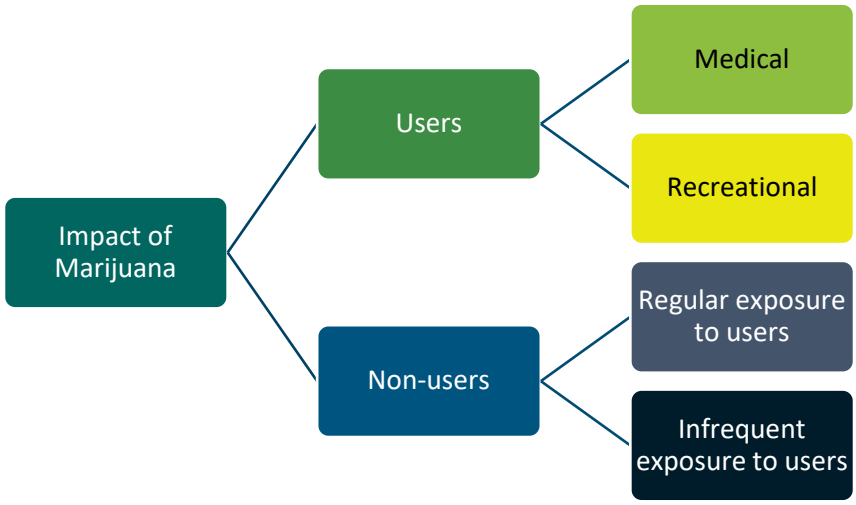
Time-Period Comparisons: Legalized Marijuana



As all sections differ, formula for determining costs are described within the report. Computations for marijuana use relied on Orens et al. (2018) as noted from the Colorado Department of Revenue, the population of Colorado as of July 1, 2017, and the demographics of marijuana users from the Substance Abuse and Mental Health Services Administration (SAMHSA).

Multiple data sources were used to provide specific information. The use of these data often required a calculation to derive an estimate, either by number of individuals or a monetary impact. All calculations used to make these estimates are mentioned within the section along with the sources used for these calculations. For example, *The Colorado Department of Local Affairs (2018) reported there were approximately 431,421 individuals 12 to 17 years old in 2016, and SAMHSA (2018) reported 9.08% of them had used marijuana in 2015-16 over the past 30 days. Therefore, it is estimated 39,173 individuals of this age group are current marijuana users, according to the definition derived from the National Academy of Sciences (2017).*

These proportions are derived from reliable public datasets and research-based formulae from peer-reviewed publications. Each section has a cost computed from incidents that are directly attributed to marijuana, as determined by the research or from the databases collected. The goal is to tabulate from these areas the total dollars (or dollar-amount equivalent) of the cost of marijuana legalization to the state of Colorado.



This report examined the populations in the figure above (medical users, recreational user, non-users exposed to users on a regular basis, and non-users exposed to users on an infrequent basis), in order to assess the direct and indirect effects of marijuana use on the entire Colorado population. As the use of marijuana touches several aspects within Colorado society, it was prudent to break down the influence of this policy into several sections.

Health

The impacts of marijuana on health have been the most studied, especially as the use of marijuana for medical therapies has risen. As marijuana is comprised of more than 400 known chemical compounds (Atakan, 2012), the analyses focused on the two most prevalent chemical compounds known for their medical and psychoactive impacts: cannabidiol (CBD) and tetrahydrocannabinol (THC).

We examined the impacts of unintentional marijuana use as well, including ingestion of edible marijuana by children, overdosing on marijuana (especially through edibles, as overconsumption can easily lead to overdoses), and accidents related to marijuana use. Further assessments include the costs of addiction and treatment for marijuana use, the impact of hospitalizations and poisonings, and the impact of marijuana on specific populations, such as pregnant women and adolescents.

Productivity

The impact of marijuana on businesses was addressed in two ways: (1) impacts of the marijuana industry and (2) impacts of marijuana use by employees/employers in non-marijuana related industries.

The primary impact of the marijuana industry on Colorado is related to taxes collected on the sale of marijuana and marijuana products as well as employment within the industry. In the analysis of research on marijuana use by employees and employers, the emphasis was centered on the impacts on worker productivity and businesses' risk. Due to the long-lasting properties of marijuana compounds (like THC), marijuana can remain in a user's system up to 30 days after use (Goodwin et al., 2008). The active impacts of the chemicals are also wide-ranging, which can lead to problems for businesses trying to determine if someone was high on the job or had residual chemicals in their system from off-duty use, and what the cost is to that worker's productivity when under the influence. Other factors within this section focus on the costs of unemployment and reduced income attainment for marijuana users.

The research examined the interactions of marijuana use and educational attainment. While no definitive findings show that recreational marijuana use may impede educational achievement and motivation, marijuana has negative impacts on attention, memory, and learning (NIDA, 2018), which can prevent students from reaching their full educational potential. The costs in this centered more on disciplinary actions for students, and the impact/cost of expulsion, suspension, and other disciplinary behaviors due to recreational marijuana use.

Traffic

In this section, research and data captured the number of car accidents that can be directly attributable to marijuana use. Much like driving impaired due to alcohol, driving impaired due to marijuana can affect response time, choices about risk, and coordination.

Crime

This area of research focused on illegal behaviors and actions mostly as it pertains to marijuana users. Although legalization of marijuana use lowers the crime rate—as individuals are no longer arrested for marijuana possession—legalization also led to loopholes which actually expanded part of the black market for marijuana in Denver (Greigo, 2014). This section examined how marijuana legalization impacted drug crime, including how it may bolster some black markets and undermine others. This section explored crimes related to marijuana use such as driving while under the influence, engaging in risky behavior while under the influence, or other crimes that might be related to marijuana use.

Additionally, the research focused on how law enforcement is impacted by marijuana use. This included examining the demand on law enforcement resources related to marijuana businesses[2], disturbing the

[2] Marijuana businesses are cash-only businesses for the most part due to federal laws concerning drug sales and banking/financial transactions (Mandelbaum, 2018)

peace (e.g. smoking in public, loud parties where marijuana use occurs, etc.), and any form of interpersonal violence related to marijuana use.

Environment

The impact of marijuana use is not limited to those who consume it, as it has negative environmental consequences such as its use of energy and the contributions to landfills from the single-use packaging utilized by the industry (Sullivan, 2012; Hood, 2018; Kaspar, 2014).

Marijuana Tourism

The analysis in this section examines the impact of people coming to Colorado to use marijuana, especially on the costs incurred by surrounding states.

Homelessness

Due to several media outlets reporting a correlation between homelessness and legalized marijuana, this analysis examined if there was a relationship. It found that homelessness is not caused by marijuana use, but some homeless persons decide to come to Colorado in part due to legalized marijuana. It is difficult to say, however, if this causes any additional costs for the state.

Pets

Similarly, media outlets have reported a rise in pets consuming marijuana. While exact costs cannot be determined, this analysis outlines the potential harms marijuana could have on household pets.

Tax Revenue

As this analysis is a cost-focused analysis, the inclusion of tax revenue is for comparison purposes only. It is meant to give context to the dollar amounts listed for costs of marijuana.

Research and data collection

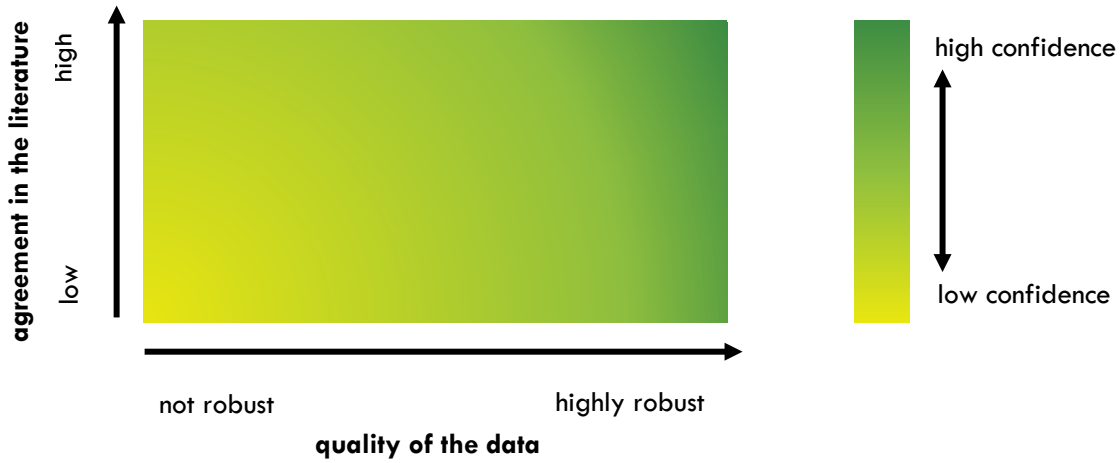
All research presented in these subjects came from adjudicated (peer-reviewed) literature and published reports from governmental agencies. All sources used in this report have been confirmed and were not arbitrary. The research was conducted with an emphasis on studies that were not sponsored by any politically affiliated group, in order to remove bias from this report. Most sources were published in scholarly reviewed journals or nationally recognized research centers, such as the National Institute of Health. Other sources included organizations that have been traditionally and commonly accepted as legitimate news sources such as the New York Times and the Denver Post.

With full knowledge that the findings presented in this report will be treated to extraordinary skepticism and review, QREM took a conservative approach. All values and data came from government reports, data sets and peer-reviewed literature. Websites offering data and values were screened for both pro- and anti-marijuana statements, and whenever a range was given, the lower number was taken. For example, the US Marshalls stated that between 6% and 9% of prison recidivism is due to a technical parole violation involving marijuana, and this report used the 6% value.

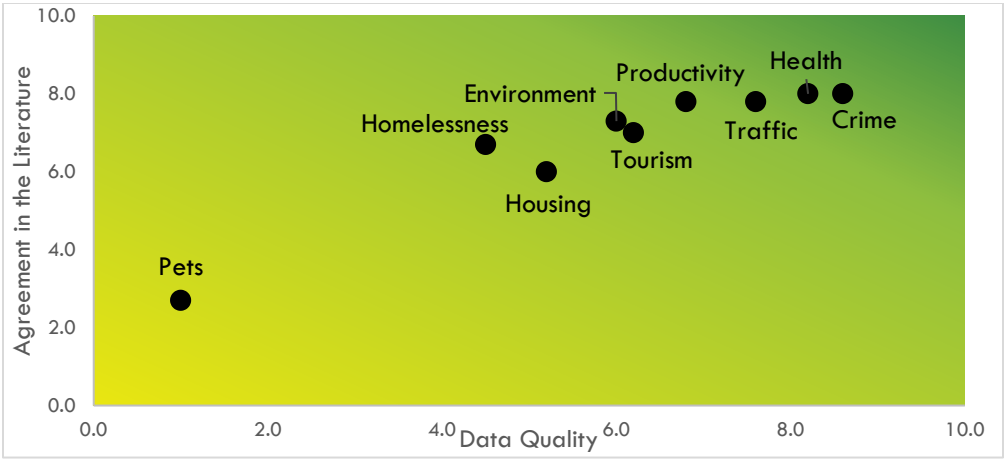
Finally, population estimates were taken midway through 2017. Population estimates also followed a conservative estimation. For instance, while it is likely that 5-year-olds are not regular users of marijuana, they may have taken or used marijuana or marijuana products. As such, estimations included the entire population.

Confidence

This report uses the same system employed by the United Nations Intergovernmental Panel on Climate Change to communicate the strength of data and research presented. As marijuana remains a Schedule I drug and has only recently been legalized for recreational use in several US states, part of the Netherlands, and Canada, research and data concerning the social side effects of marijuana use are not always available. In each section, the robustness of the data used is evaluated from not robust to highly robust. Additionally, each section evaluates the strength of the research and consensus among scholars about the impact of marijuana. These two elements are plotted on an X,Y graph to show overall confidence in the results presented in each section.



To determine the levels of confidence for each section, QREM's research staff discussed the quality of the data and the amount of agreement in the peer reviewed literature. When there was disagreement that could not be resolved through lengthy discussion, the lower level of confidence was accepted due to the still-evolving nature of all marijuana impacts research and data collection.



The graph on the previous page summarizes the confidence for each section. Levels of confidence are also reported in green at the top of each section.

Limitations

Time, research, reporting, and data availability limited the topics covered in this report. Some costs could not be determined, such as the long-term medical costs of regular recreational users, because not enough time has passed to assess these costs with longitudinal studies. As only four years have passed, there cannot be a 10-year longitudinal result. In other cases, reliable data was simply unavailable. For example, while we examined the impacts on pets, there are no data regarding the number of dogs who have ingested marijuana. Individual veterinarians keep track of their own patients, and there is no central collection point for marijuana poisonings. Furthermore, not all pet owners report accidental poisonings and not all poisonings require interventions.

Unknown unknowns are problematic in this type of research. For instance, it would be easy to state that the state of Colorado realized a savings from enforcement since legalization. For example, if enforcement of illegal marijuana cost $14 million in 2008 and $6 million in 2017, then it could be stated that Colorado saved $8 million dollars. Unfortunately, there are too many unknowns. We do not know how many individuals would continue to use marijuana and marijuana products if it were still illegal. We cannot assume that critical variables such as the rate of use, availability of products, etc., within the population would remain static. As such, comparisons of that sort were not attempted.

Also, investments and gains realized from investments were not tracked. The growth of the marijuana industry and marijuana stocks have become mainstream. Market reporting and advising groups such as the Motley Fool have started analyzing stock movements and investment into the marijuana industry. As speculation may prove fruitful for Coloradans, or not, speculation was not included.

Data limitations

This evaluation is first and foremost a cost analysis with the goal of determining unintended or spill-over effect costs of the legalization of recreational marijuana in Colorado. While benefits were considered

when they were found, the research team looked predominantly at areas where *negative* impacts were likely. To determine these areas, QREM staff examined the peer reviewed literature on marijuana and similar substances (alcohol and tobacco use) to generate a list of areas that might be impacted by legal substance use. Additionally, QREM staff looked at popular press articles in reputable news sources like the *Denver Post*, *New York Times*, and *Washington Post* to generate the following list of impact areas:

- Health
- Productivity (education, employment, and income)
- Traffic
- Crime
- Housing
- Natural environment
- Tourism (out-of-state resident users)
- Homelessness
- Animals (pets)

Other areas of impact were considered but eventually dropped from the analysis due to insufficient data and research including federal aid to individuals who use marijuana and family cohesiveness.

The entire analysis is also impacted by the changing social acceptability of using marijuana. As research shows, individuals are less likely to be honest about socially undesirable activities even when they have an expectation of anonymity (Akinci et al., 2001; Gruenewald and Johnson, 2006). However, the legalization of recreational marijuana is causing perceptions of the social acceptability of marijuana use in Colorado to change. Therefore, it is difficult to determine if under-reporting is a problem in these data or when under-reporting may have ceased to be a problem in these data. However, under-reporting of these effects only underscores the conservative estimates the researchers strove to present throughout this report.

There are limitations in each of the areas of this report, in part due to limitations in available data and in part due to the limitations posed by the recency of legalization precluding long-term studies of effects. Each section is addressed below.

Health

While the academic literature has examined many facets of marijuana use, there is little data looking at the long-term impacts of regular marijuana use either for medical or recreational uses. Due to this, there are many "unknown unknowns" concerning long-term damage or health benefits of using marijuana, especially in comparison to other substances like alcohol or tobacco where the long-term effects are established in the literature. Additionally, research is only beginning concerning the interaction of marijuana use and other substance or medications.

Researchers have not yet been able to follow a cohort of individuals diagnosed with cannabis use disorder over their lifetimes in order to determine things like how often they relapse, if cannabis use disorder leads to other substance use problems, etc.

The change in hospital billing codes in 2016 makes the comparison of reasons why individuals went to emergency rooms or hospitals before the change to after the change difficult as the new categories do not match up with the old categories. The new data are likely to provide a clearer picture of marijuana-related health emergencies, but it prevents comparisons at this time.

Productivity

Limited research and data exist on the benefits or costs of regular marijuana use on work productivity, especially studies that can distinguish differences between individual characteristics and the impact of marijuana use. Similarly, limited data exist on how educational or employment aspirations change as people use marijuana (longitudinal data) separate from individual characteristics.

There is not enough accurate data on the number of people who lose a job for marijuana use, in part because employers can find other reasons for termination than marijuana use.

Crime

Research is just beginning to understand the effects of fewer marijuana-related incarcerations on communities and families. Additionally, researchers are not yet able to determine how organized crime has changed due to legalization, in part due to the patchwork of legalization in the United States (what is a crime on the Nebraska side of the border is legal on the Colorado side).

There is insufficient data to describe crimes related to marijuana use outside Denver, as Denver specifically tracks this information, but Colorado does not. Additionally, there is not enough data describing the number of probationers whose use of marijuana is a violation of their probation terms (not legal medical marijuana use).

Housing

No publicly available data describes how housing and property values change in close proximity to different types of structures related to the marijuana industry (e.g. growing locations vs. storefronts).

There is also no publicly available data on the number of renters evicted for marijuana. This runs into a similar problem with employment where landlords can use other reasons than marijuana to evict someone when marijuana use might have been the catalyst.

Environment

As marijuana contributes to large problems like climate change and plastic pollution where the costs of clean up are unknown, the cost of the marijuana industry cannot be estimated. These problems may take generations to be fixed, if they can be fixed at all.

Tourism

No data exists for non-marijuana related revenue that marijuana tourism generates. For instance, how many marijuana tourists stay in Colorado hotels? How much money is spent on meals and other recreation in the state that would not exist if people were not coming to Colorado due to legalized marijuana? Little data exists concerning lost-tourism revenue from people who are unwilling to visit (and ski or hike for instance) because they do not want to be around legalized marijuana.

Homelessness

There are no data tallying the number of homeless persons who use marijuana or measuring whether marijuana use is a barrier to ending their homelessness. This is in part because collecting data about homeless people is inherently difficult. Additionally, there is no data on the cost of public services for homeless persons who are dealing with cannabis use disorder.

Pets

Data is not collected on the number of pets treated for marijuana exposure. Additionally, it is difficult for veterinarians to determine if marijuana or other toxic substances are responsible for a pet's distress without blood tests, which are often not used.

Data Sources

All data collected came from non-biased sources as well. Specifically, all data were collected from non-partisan, highly respected sources, predominantly from open-access government agencies, specifically from the federal, state, and local levels. These sources include, but are not limited to:

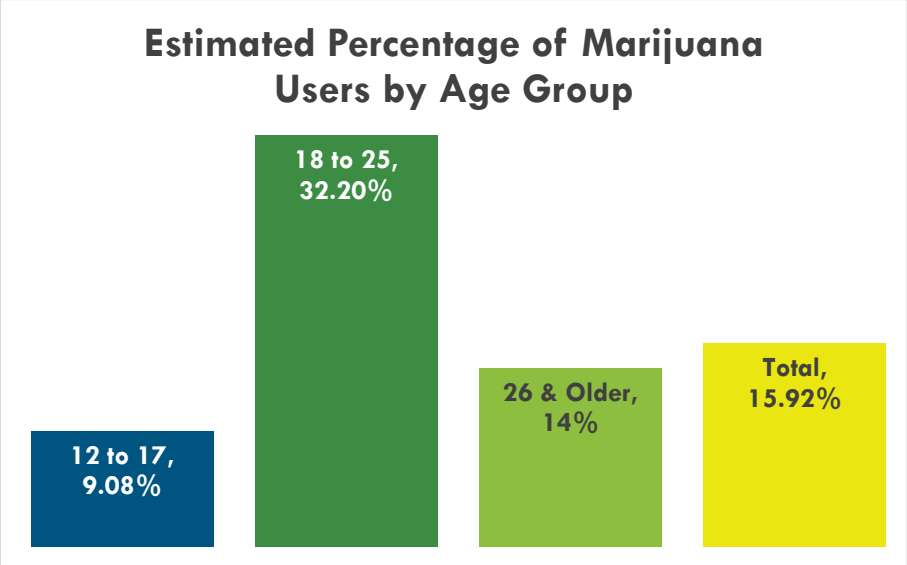
- The American Community Survey – Five Year Estimates (U.S. Census Bureau)
- The American Veterinary Medical Association
- Bureau of Labor Statistics (U.S. Department of Labor)
- Center for Behavioral Health Statistics and Quality
- The Center for Disease Control and Prevention (CDC)
- The City and County of Denver
- The Colorado Bureau of Investigation
- The Colorado Department of Education
- The Colorado Department of Human Services, Office of Behavioral Health
- The Colorado Department of Local Affairs
- The Colorado Department of Public Health & Environment
- The Colorado Department of Public Safety
- The Colorado Department of Revenue
- The Colorado Department of Transportation
- Colorado Health and Environmental Data
- Colorado Health Institute
- Colorado State Patrol – Department of Public Safety
- Colorado Tourism Office
- The Current Population Survey (U.S. Census Bureau)
- The Denver Open Data Catalogue
- The General Social Survey
- The Highway Loss Data Institute
- The Institute of Education Sciences
- The Insurance Institute for Highway Safety
- The Living Wage Calculator – Massachusetts Institute of Technology
- The Metro Denver Homeless Initiative
- The National Center for Education Statistics (NCES)
- The National Institute on Drug Abuse (NIDA)
- The National Survey on Drug Use and Health

- The Retail Marijuana Public Health Advisory Committee
- The Rocky Mountain Insurance Information Association
- The Substance Abuse and Mental Health Services Administration (SAMHSA)
- The U.S. Department of Justice, Drug Enforcement Agency
- The U.S. Department of Transportation.

Demographic Information

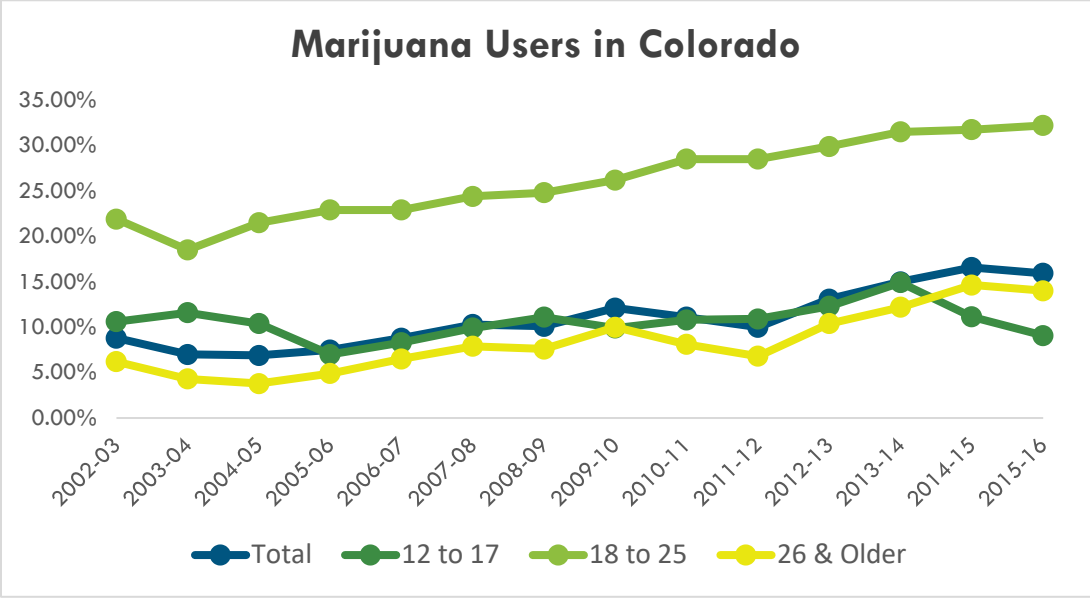
Several studies find that medical marijuana users are most likely to be male, white, lower income, about 40 years old, and in possession of health insurance (Ogborne and Smart, 2000; Ware et al., 2005; Swift et al., 2005; Reiman, 2007; O'Connell and Bou-Matar, 2007; Freistheler and Gruenewald, 2014). These demographic characteristics match those for recreational marijuana users (Ogborne and Smart, 2000). Research also shows that impulsive people and people with a higher tolerance for socially deviant behaviors are more likely to use marijuana, predicting behavior more accurately than demographic characteristics (Brook et al., 2011; Dougherty et al., 2013). Those least likely to have used marijuana at all during their lives were married individuals, Latinos, those born outside of the US, and people over 60 years old (Freistheler and Gruenewald, 2014).

Current (2017) recreational marijuana users are more likely to be male, white, and have somewhat higher incomes (above $60,000 a year). Those least likely to have used marijuana in the past year were married, not born in the US, and over the age of 30 (Freistheler and Gruenewald, 2014). According to SAMHSA (Substance Abuse and Mental Health Services Administration), approximately 15.92% of the population 12 and older used marijuana in the past 30 days in 2016. The chart reflects the age breakdown supplied by SAMHSA from 2016.



Between 2002-03 and 2012-13, estimates of current users of marijuana remained relatively stable. After legalization of recreational marijuana on January 1, 2013, the estimated numbers of users increased for all groups (Colorado Department of Local Affairs, 2018; Azofeifa et al., 2016; SAMHSA, 2017; SAMHSA, 2018). It is important to note that between 2003 and 2013, it is estimated that the

overall population of Colorado grew by nearly 14%. As seen in the tables below, it is estimated that nearly a million individuals in Colorado (985,533) use marijuana to some degree. As stated in the *Approaches* section, estimates were taken across the entire population.

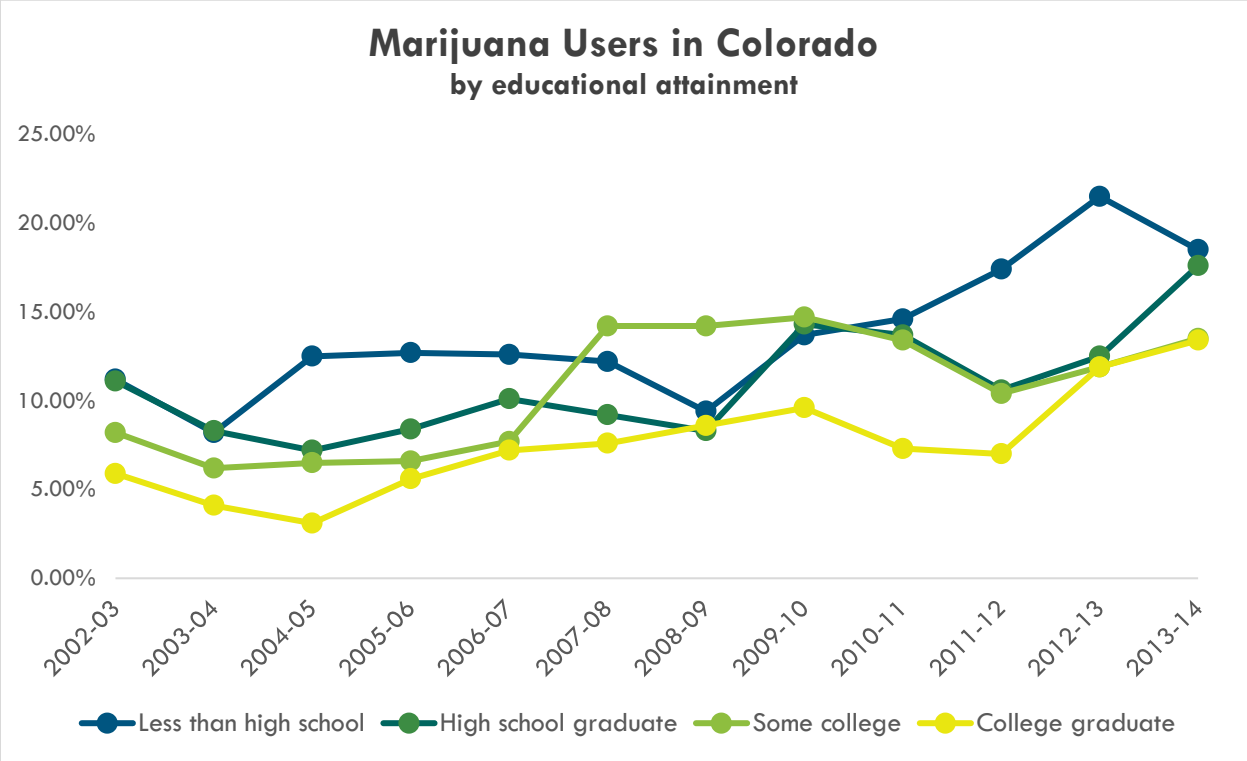


Light, moderate, and heavy use designations are shown in the table below. Overall, it is estimated that 17.6% of the total population were current users of marijuana and marijuana products in 2017. The chart (next page) shows that undereducated individuals and those with high school diplomas make up the largest share of marijuana users. While people who attended college and use marijuana has grown since legalization, marijuana use remains more prevalent in the population with less education. This matches research finding that the number of users by educational attainment has increased since 2002. Those with less than a high school diploma (regardless of age) are more likely to be current users of marijuana. The rate of users among college graduates has also increased over this period of time (Azofeifa et al.,2016)

Marijuana Market Size, 2017

How Often You Use a Month	Number of Users	Percentage of Colorado Population
Light user, <1 time a month	297,592	5.31%
Light user, 1-5 times a month	216,387	3.86%
Moderate user, 6-10 times a month	68,694	1.23%
Moderate user, 11-15 times a month	58,390	1.04%
Moderate user, 16-20 times a month	78,998	1.41%
Moderate user, 21-25 times a month	42,590	0.76%
Heavy user, 26-31 times a month	221,882	3.96%
Total	984,533	17.56%

Data from Orens et al. (2018)



Finally, Denver area residents (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson counties) comprise over half of the total population of Colorado (ACS, 2018), remaining at a relatively stable 56% since 2003. Furthermore, Colorado is the second fastest growing state in the country, with an annual growth rate of approximately 1.9% (ACS, 2018).

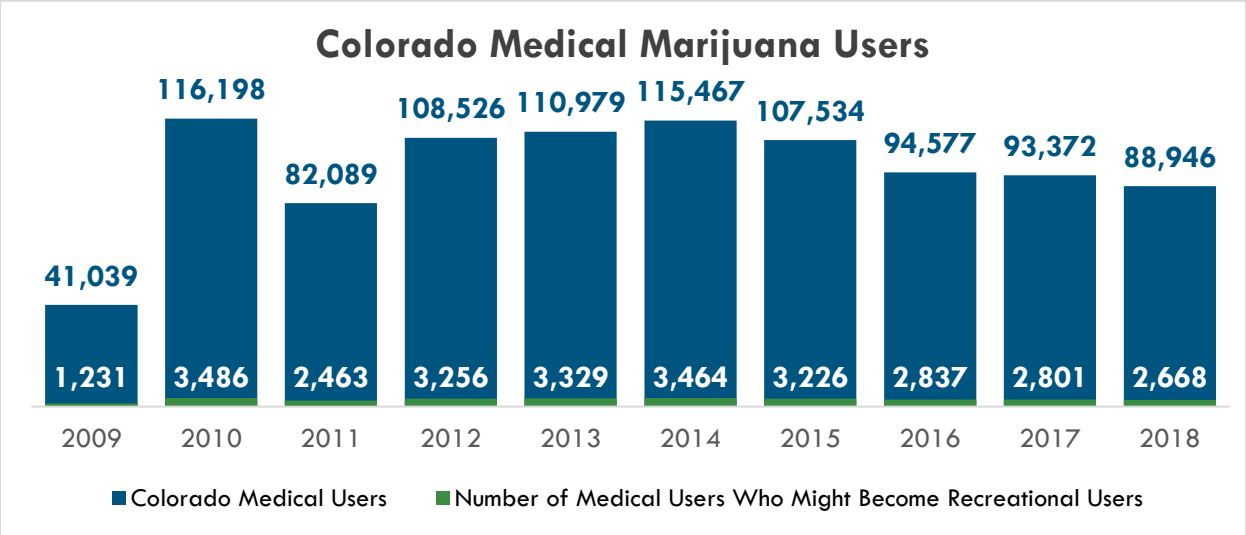
Cost Estimates

1. Health

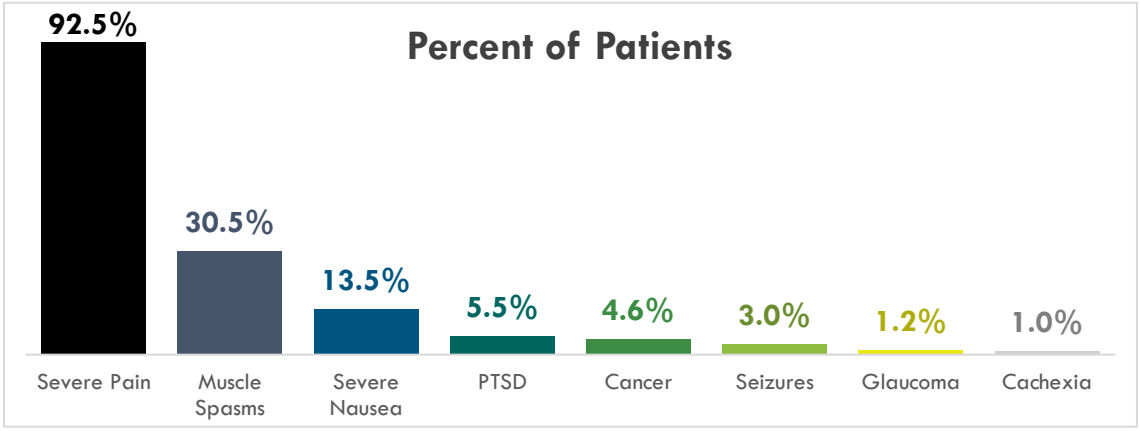
Confidence: High Confidence

1.1 Medical Marijuana Users

The chart (below) shows the number of Denver and Colorado residents who possess valid medical marijuana cards by year (Colorado Department of Public Health & Environment, 2018), as well as the estimated number who may have begun using marijuana recreationally. Lucas and Walsh (2017) find that about 3% of medical users begin using marijuana recreationally, and those who do transition from medical use to recreational use are likely to be younger users, as Haug et al. (2017) find that young people are more likely to report using marijuana when they were bored.

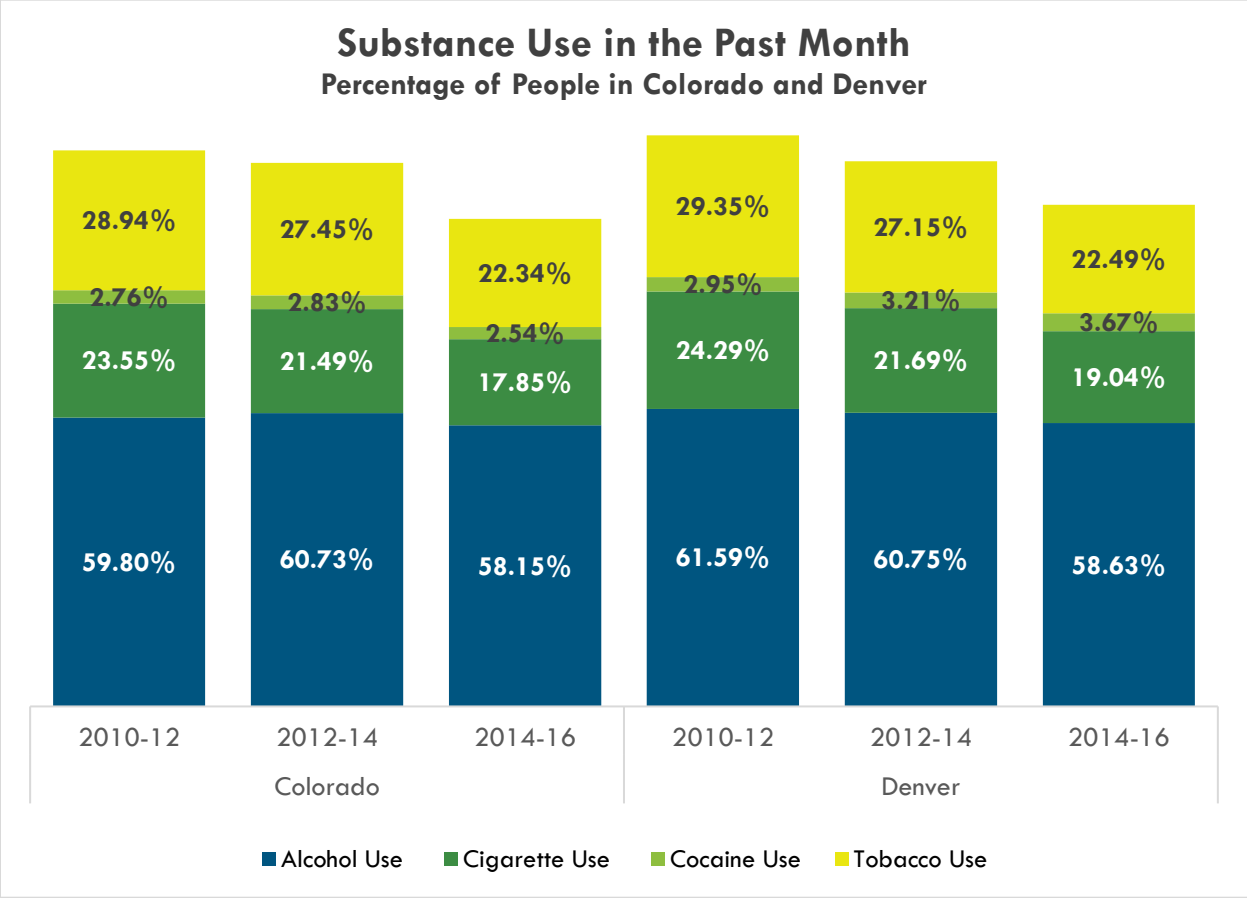


In 2010, medical marijuana use peaked and remained consistent until recreational marijuana became legal. Since legalization, there has been a steady decrease of medical marijuana users.



Medical marijuana is used to treat or manage a variety of conditions, but it is most commonly used to manage severe pain. About 93% of medical marijuana users cited severe pain as a reason in 2017, followed by muscle spasms (30.5%) and severe nausea (13.5%)[3] (Colorado Department of Public Health & Environment, 2017). Research also indicates that reasons for using medical marijuana tend to vary by age group. Middle-aged people often use it to treat insomnia, and older people are more likely to use it for various chronic conditions (cancer, glaucoma, HIV/AIDS, etc.) or pain management. While much more research is needed, it may be that the availability of low-THC medical marijuana may be a benefit for older adults. There are indications in the research that CBD use can relieve pain, nausea/vomiting, cachexia resulting from cancer treatments or HIV/AIDs, muscle spasms for people with multiple sclerosis, and a number of other chronic conditions (Goodman, Gilman, and Brunton, 2006; Choo et al., 2011).

1.2 Physical Health



Since 2010, there has been a slight decline in the use of various substances in both Colorado and Denver. Rates of use for alcohol, cigarettes, cocaine, and tobacco (smokeless and nicotine products) are

[3] Figures do not add up to 100% because some medical marijuana users cite multiple conditions.

all trending downward statewide. With the exception of cocaine use, the same is true in Denver. While slight and relatively new, this trend is consistent with Lucas and Walsh's (2017) findings that some individuals substitute cannabis in place of prescription drugs (63%), opioids (30%), alcohol (25%), cigarettes/tobacco (12%), and illegal drugs (3%). At the same time, concerted efforts to reduce opioid use, such as limiting prescriptions, physician training, and public education and awareness campaigns, are mitigating factors. As such, it is not possible to determine an offset cost of legal marijuana and opioid use[4].

1.3 Addiction and Treatment

Research shows a connection between marijuana use and the use of alcohol and other substances. Wen et al. (2015) find that marijuana use is linked with a higher probability of binge drinking. Furthermore, SAMHSA finds that in adolescents (youth 12 to 17 years old), smoking cigarettes and binge drinking are related to greater likelihood of using marijuana. They report that 57.9% of this age group who binge drink and 49.5% who smoke cigarettes also use marijuana. This indicates that marijuana use is social and that individuals with a tendency toward risky behaviors are likely to use marijuana at an early age.

SAMHSA also reports that at the time of the study in 2013, the average age that people first tried marijuana was 18. This is consistent with Lucas and Walsh's (2017) findings as well. That number rose from the previous decade, as the average age was 16.8 in 2003 (SAMHSA, 2013). This is noteworthy because research shows that people who begin using marijuana during adolescence are two to four times more likely to show symptoms of dependence within two years of starting (Volkow et al., 2014).

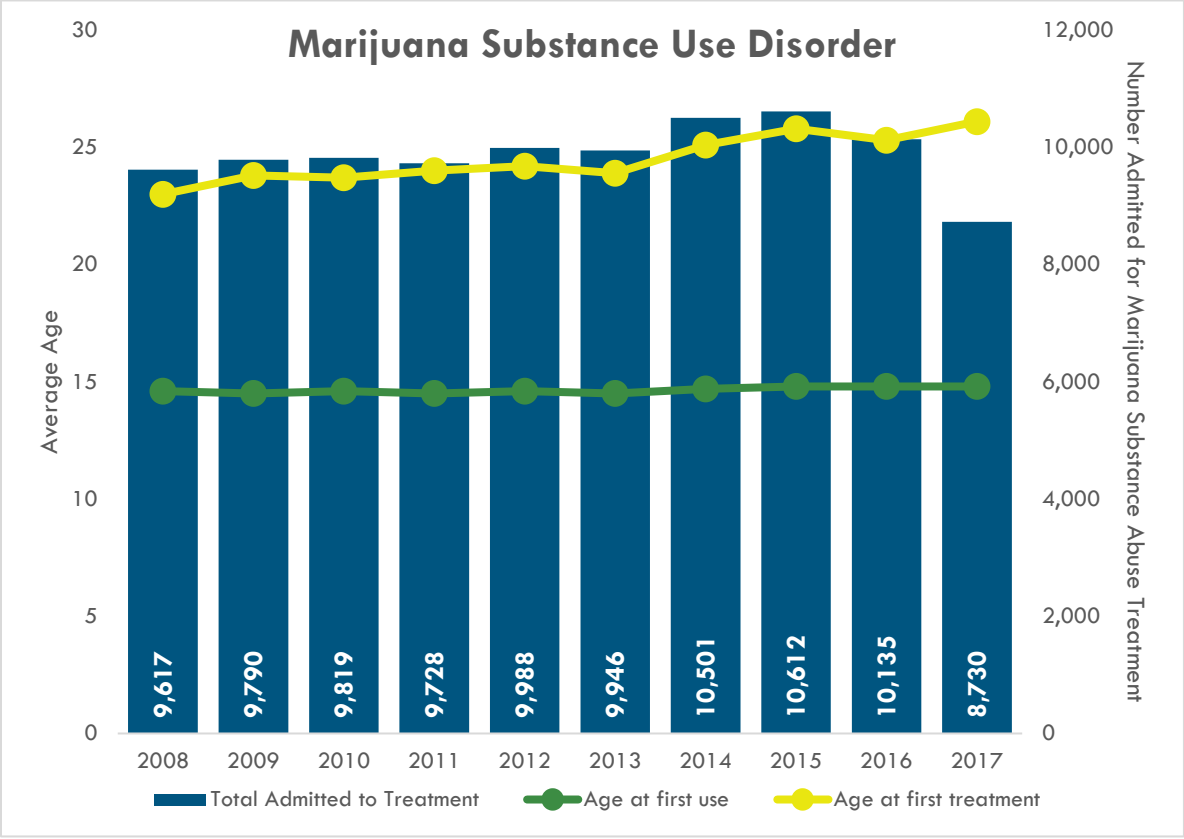
Estimated number of persons with cannabis use disorder in Colorado

	Number of Users	Percent likely to develop cannabis use disorder‡	Number in 2017 Likely to be developing/have CUD
People who use marijuana (2017)	984,533	9%	88,608
People who use marijuana daily or near daily (2017)	221,882	25% to 50%	55,471 to 110,941

‡Rates of individuals developing cannabis use disorder determined by Voklow et al, 2014

[4] According to the Centers for Disease Control and Prevention (2018), the opioid prescription rate per 100 persons has been consistently lower in Colorado than the US as a whole, even as both rates have dropped significantly. Nationwide, that rate dropped from 79.5 to 66.5 between 2009 and 2016. In Colorado, it fell from 69.8 to 59.5 in the same time period. While research is ongoing, research and data suggest the difference is related to the availability of medical marijuana, as the Colorado Department of Public Health and Environment (2017) reports that 93% of medical marijuana users cite severe pain as their reason for using it, Lucas and Walsh (2017) find that people commonly report using marijuana as a substitute for opioids (30%), and Boehnke et al. (2016) find that there is a 64% decrease in opioid use when patients can manage pain with medical marijuana. The Colorado Health Institute (2018), using data from the Colorado Department of Health and Environment (2018), conclude that about 8.4 fewer people die as a result of opioid use in states with marijuana.

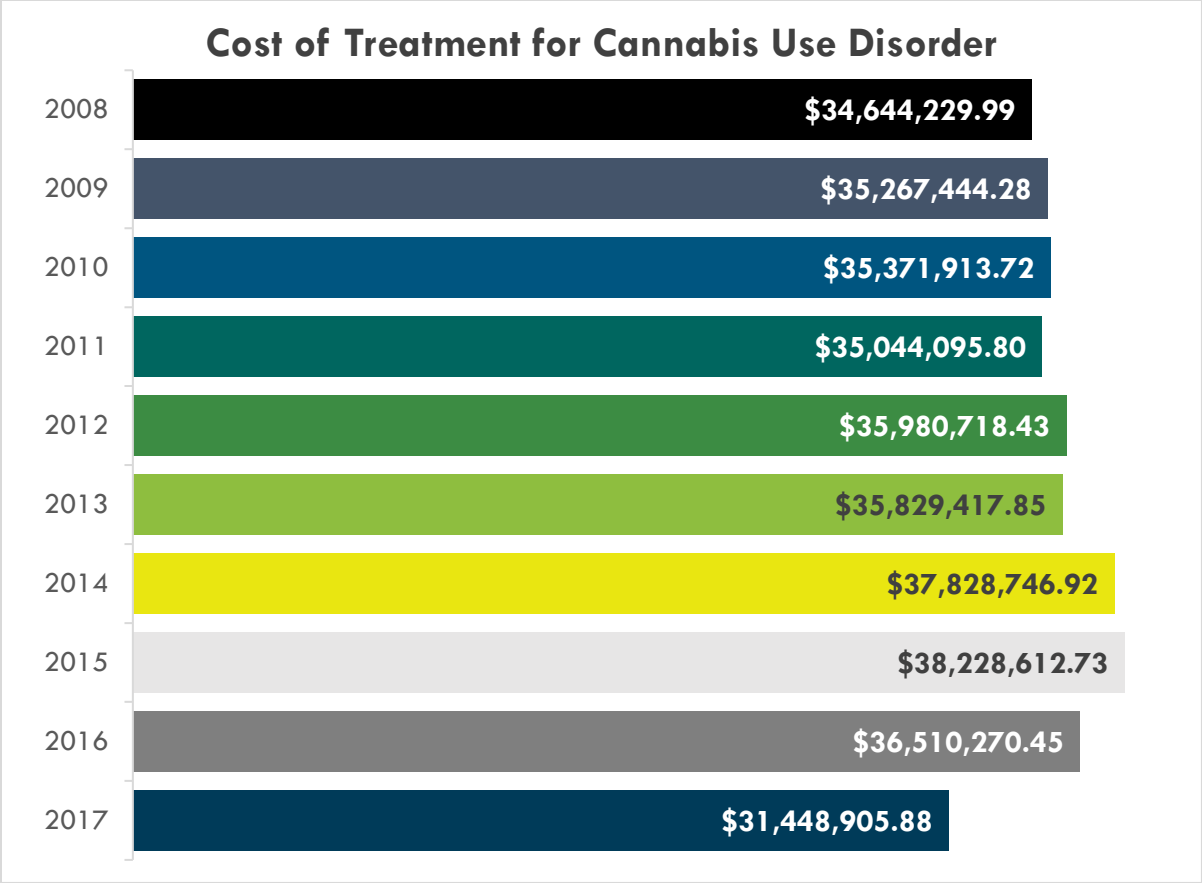
According to Voklow et al. (2014), 9% of people who use marijuana are at risk of becoming dependent—referred to as cannabis use disorder (CUD)—and somewhere between 25-50% of daily or near-daily users are at risk. The table above uses those estimates, along with data from estimating the number of people in Colorado who are at risk of developing CUD and the cost of various treatments for all of those people (Orens et al., 2018). There are currently no FDA-approved medications for treating CUD (National Institute on Drug Abuse, 2018), so treatment typically involves motivational enhancement therapy, cognitive behavioral therapy, or a detox program. Per-person costs for these treatments are estimated to be $1,153 for motivational enhancement therapy, $3,478.50 for cognitive behavioral therapy, and $15,750 for a 30-day detox program (Xiu, Yonkers, and Ruger, 2014; Mayo Foundation for Medical Education and Research, 2018; Advanced Recovery Systems, 2018).



The table above shows the number of people who were admitted for treatment for marijuana substance abuse, their average age at first use, and their average age when they first sought treatment. After the legalization of recreational marijuana, the average age of first use went up slightly (0.1 of a year) and the average age when they first sought treatment increased by two to three years, likely because of the larger number of older people who use marijuana since legalization[5].

[5] Numbers for 2017 are likely to be revised upward when 2018 numbers are published.

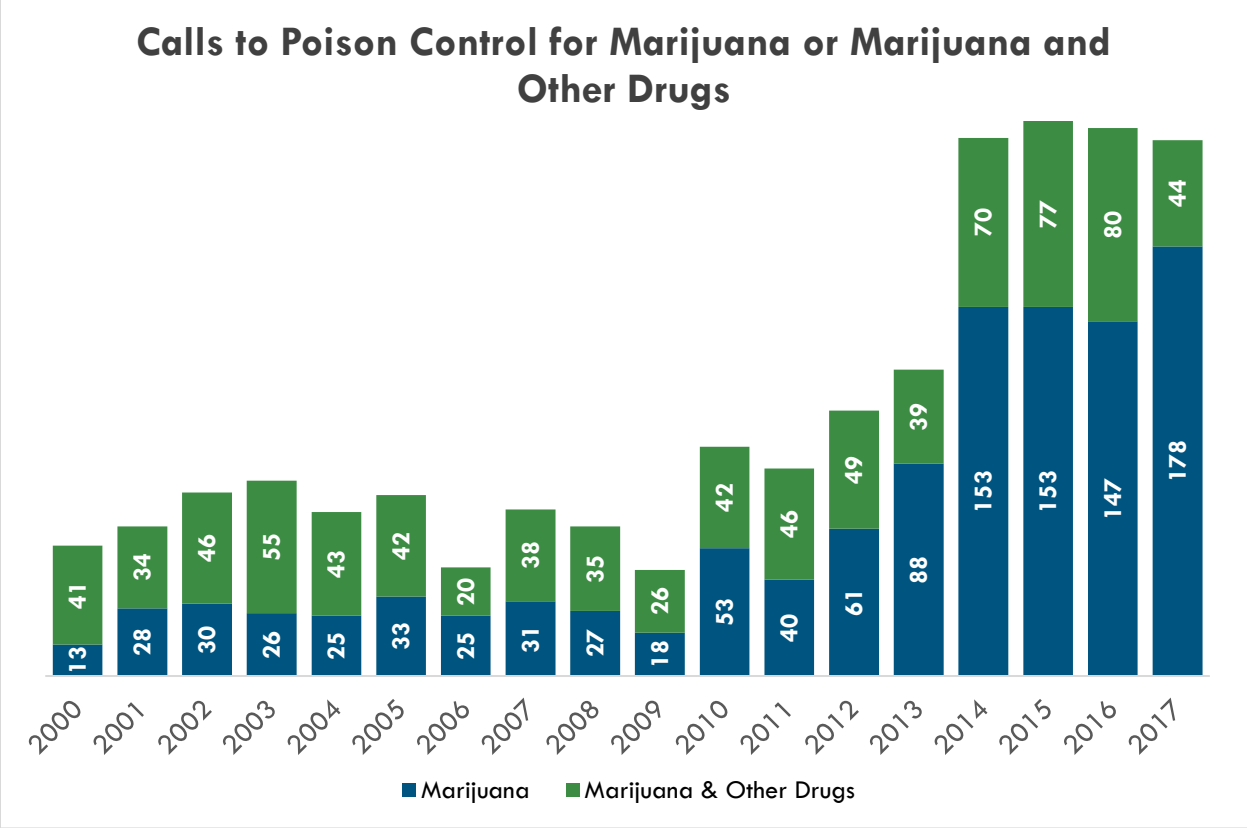
Costs for CUD were calculated using the percent of individuals likely to develop CUD in 2017 who were admitted into treatment, the type and cost of treatment, and the percentages receiving that type of treatment (Xiu, Yonkers, and Rutgers, 2014). As seen in the chart below, estimated costs average approximately $36 million each year until 2017, when they dropped to about $32 million.[6]



It is also important to understand that CUD costs are not new to legalization. The chart above shows a slight increase in CUD treatment; however, this is more likely a function of treatment availability rather than need. This is evidenced by the surge of calls to Poison Control for marijuana-related incidents (next page).

[6] Using a conservative estimate for the most recent data available, the lower 2017 number was used in the tabulation of costs.

1.4 Unintended Consequences



According to the Colorado Department of Public Health and Environment (2018), the number of calls to Poison Control have increased in Colorado since 2000. In 2017, there were 178 calls related to just marijuana and another 44 related to marijuana in combination with another substance. In 2000, there were just 13 calls made entirely because of marijuana and 41 calls made because of marijuana combined with another substance. However, it is unclear how reliable these figures are, as the increase in marijuana-related calls may be driven partially by people's willingness to admit to using or possessing marijuana now that it has been legalized. Marijuana-related calls also continue to lag far behind those related to alcohol, as there were 592 alcohol-related calls in 2017 and 870 calls in 2008 (the peak for alcohol since 2000).

Data from Poison Control indicates that 85% of cases called in are considered nontoxic, minimally toxic, or having a minor effect. Most calls are also the result of intentional use of marijuana, rather than unintentional, though the number of unintended cases has grown alongside the number of intentional ones (Barket, Vigil, and Wang, 2016; Colorado Department of Public Health & Environment, 2018).

Calls to Poison Control increased dramatically since legalization of medical marijuana and legalization of recreational marijuana. In 2009 there were only 44 calls to the Poison Control Center, compared to 222 in 2017. The table below shows that for very young children (0-8 years old), calls to Poison Control regarding edible products increased 31% from 2015 to 2017.

Calls to Poison Control Related to Marijuana, by Type of Marijuana

Age Groups	Year	Total Reports	Smokable Marijuana	Edible Marijuana	Other Marijuana	Cannabidiol
All ages	2015	230	54.8%	36.5%	8.3%	0.4%
	2016	227	52.0%	36.4%	8.8%	1.8%
	2017	222‡	38.7%	45.0%	14.0%	2.3%
0 to 8 years old	2015	49	40.8%	51.0%	8.2%	0.0%
	2016	50	30.0%	62.0%	8.0%	0.0%
	2017	64	23.4%	65.6%	10.9%	0.0%
9 to 17 years old	2015	47	64.1%	28.1%	6.3%	1.6%
	2016	44	61.4%	31.8%	4.5%	2.3%
	2017	64	59.6%	27.7%	12.8%	0.0%
18 to 24 years old	2015	25	68.0%	28.0%	4.0%	0.0%
	2016	40	60.0%	30.0%	7.5%	2.5%
	2017	20	35.0%	20.0%	45.0%	0.0%
25 or older	2015	79	54.4%	32.9%	12.7%	0.0%
	2016	81	54.3%	29.6%	13.6%	2.5%
	2017	69	39.1%	43.5%	10.1%	7.2%

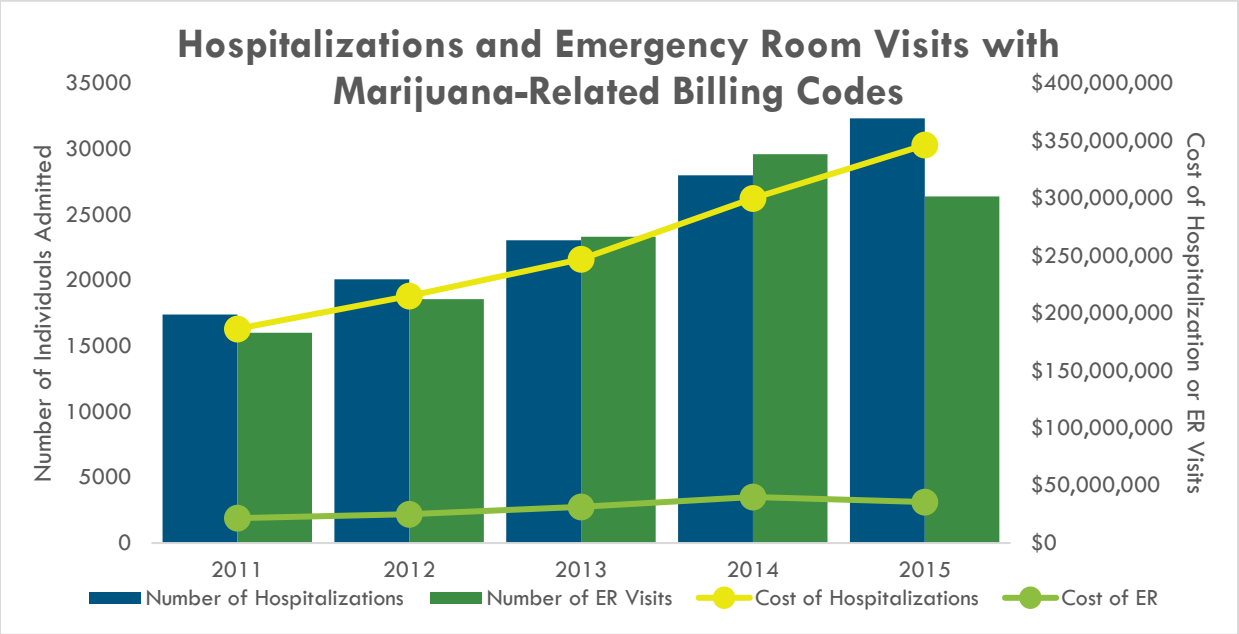
‡ Adding the number of reports for each age group results in 217 reports, suggesting that there were five reports not associated with a specific age group. These data are as they appear in the Reed (2018) report.

Costs for those who went to the emergency room after calling Poison Control are found in the table below. The average cost of an ER visit is $1,354 and does not include follow-ups or hospitalizations. These are numbers specific to poisonings through the Poison Control Center.

Cost of Calls to Poison Control

Age range	0 to 8	9 to 17	18 to 24	25 & Older	Total
Number	64	64	20	69	217
Rate Actually Going to ER	14.9%	69.7%	69.7%	52.9%	---
Total Cost of ER Visits	$12,912	$60,399	$14,325	$49,422	$137,058

The figure below estimates the number of people who were hospitalized as a result of marijuana use[7] based on research by Wang et al. (2017) as well as the cost associated with those hospitalizations. As shown, the rate of hospitalizations is steadily climbing, although there is a small dip in the number of emergency room visits. The costs were determined by multiplying the number of people who were hospitalized or visited an emergency room by the respective costs for each type of visit. Hospitalization costs $10,713.48 on average and a visit to the emergency room alone costs $1,354 on average.

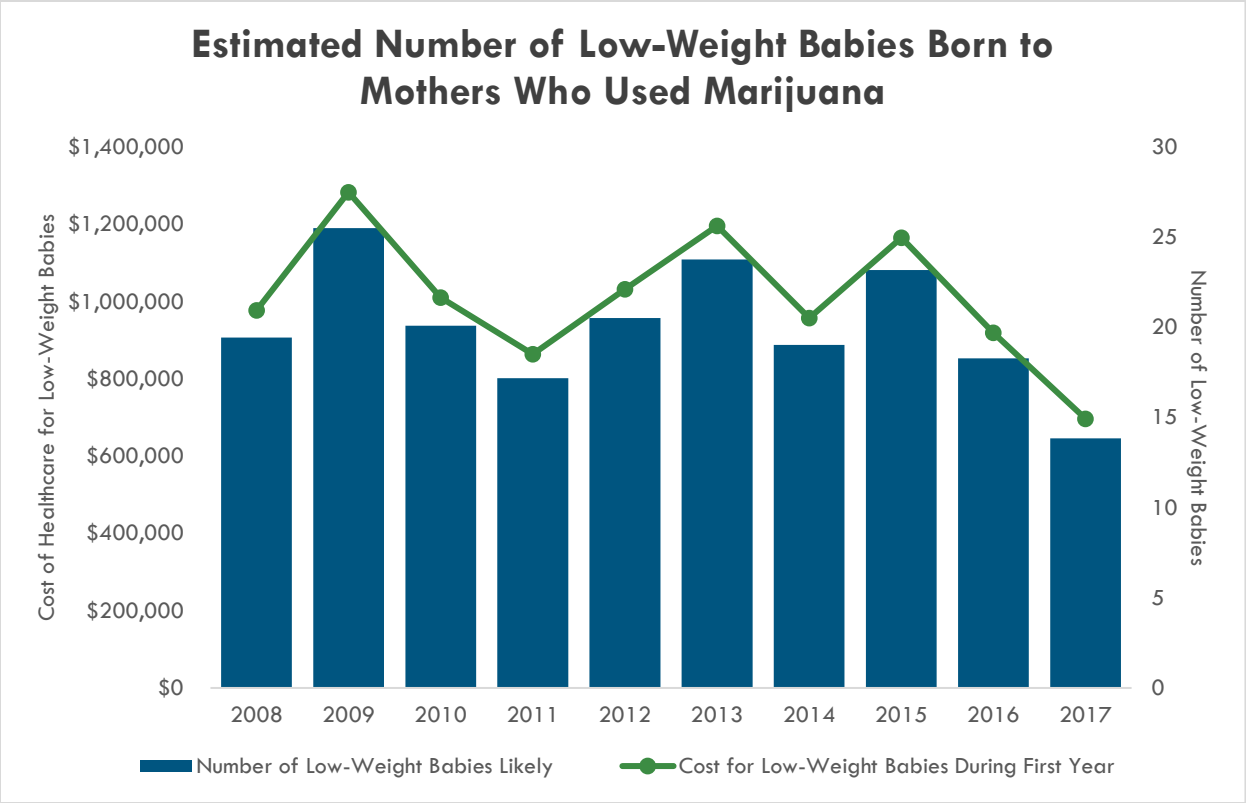


Emergency room and hospitalizations costs for marijuana-related use include: Code #305.20 = cannabis abuse, unspecific; Code #305.21 = cannabis abuse, continuous; Code #305.22 = Cannabis abuse, episodic; Code #305.23 = in remission; Code #304.30 = Cannabis dependence, unspecific; Code #304.31 = Cannabis dependence, continuous; Code #304.32 = Cannabis dependence, episodic; and Code #304.33 = cannabis dependence, in remission; and Code #E845.1 poisoning by psychodysleptics. The graph above shows the prevalence and related ER and hospitalizations associated with these codes since 2011. As shown, there was a 22% increase in ER visits and hospitalizations since legalization of recreational marijuana

About 15 people are severely burned as a result of marijuana use per year (based on research by Monte et al., 2015), often as a result of mishandling oil derived from the plant. Treating these burns is expensive, costing an estimated $39,594.90 per case, or $593,923.50 for the 15 cases per year (Anami et al., 2017).

[7] These figures are based on hospitalization and emergency room admittance codes for cannabis or marijuana abuse, overuse, or accidental poisoning. In 2016, these codes changed, so direct comparisons cannot be performed between pre-2016 data and more recent data. Therefore, only pre-2016 are reported.

1.5 Pregnancy Use and Baby Birth Weights



According to a report from the March of Dimes, the costs associated with having a low-weight baby (born in fewer than 37 weeks or weighing fewer than 2,500 grams) amount to $55,393 in the first year. That is far higher than the cost associated with having a healthy baby, which is an estimated $5,085.

The graph (above) estimates the number of babies that are likely to be born underweight as a result of the mother's marijuana use[8] (Colorado Health and Environmental Data, 2017) as well as the total costs[9]. Having a low-weight baby is 1.7 times more likely among mothers who use marijuana, and having a pre-term baby is 1.5 times more likely (Hayatbakhsh et al., 2015). At an annual cost of $50,308 (March of Dimes, 2018), low birth-weight and pre-term babies cost the state nearly $700,000 last year. The estimated number of low-weight births attributable to marijuana has ranged between 14 to 26 in different years, with significant fluctuation from year to year. Similar to the opioid epidemic, there are mitigating factors affecting the number of low birth weight babies.

[8] The number of underweight babies born to mothers who used marijuana was estimated by multiplying the number of pregnant women receiving substance abuse treatment for marijuana by the chance of having a low-weight baby (1.7 times more likely, according to Hayatbakhsh et al., 2012) and the percent of babies born in Colorado that are underweight (9.0% according to https://www.cohealthdata.dphe.state.co.us/chd/Resources/vs/2015/Colorado.pdf).

[9] Costs are determined by the additional cost required to take care of a low-weight baby during its first year of life compared to a regular-weight baby, approximately $50,308.

1.6 Costs of Physical Inactivity

People who use marijuana more frequently also tend to be less physically active, and a sedentary or inactive lifestyle is associated with increased medical costs. The table below estimates the increased yearly healthcare costs for inactive or sedentary marijuana users in the light, moderate, and heavy categories, compared to the overall populations of Colorado (Carlson et al., 2015; Centers for Disease Control). The cost of inactivity relies on a few calculations. First, the percentage of marijuana users who are less active than suggested is compared to the percentage of people who are less active than suggested in Colorado[10] (67.5%). This difference captures the percentage of people whose inactivity is likely due to marijuana use. This percentage is then multiplied by the number of marijuana users in each category to determine the number of people whose inactivity can be linked to marijuana. It costs an extra $482 a year in medical costs for a person who is inactive[11].

Cost of Inactivity Likely Caused by Marijuana Use

Usage	Percent of marijuana users who are not as active as recommended	Difference in activity levels between marijuana users and the average Coloradan (67.5%)	Number of Marijuana Users in Colorado in 2017	Extra Healthcare Costs for Inactive Marijuana Users
Current Users	80.30%	12.80%	984,533	$60,741,748
Heavy User	82.30%	14.80%	221,882	$15,828,174
Moderate User	80.20%	12.70%	248,672	$15,222,208
Light User	77.10%	9.60%	513,979	$23,782,836
Combined Costs for Heavy, Moderate, and Light Users				$54,833,218

The table above (page 15) displays data on how often people who use marijuana in Colorado consume it each month. Most are considered light users, as an estimated 513,979 people out of 984,533 total marijuana users in Colorado use marijuana five or fewer days per month. An estimated 221,882 people use marijuana between 26-31 days per month, which is about 3.9% of Colorado's total population (Colorado Department of Revenue, 2017; Orens et al., 2018).

[10] Colorado residents are more active than the average US resident. According to the CDC, 77.1% of Americans do not meet suggested weekly activity levels whereas only 67.5% of Coloradans do not meet suggested weekly activity levels. https://www.cdc.gov/nchs/data/nhsr/nhsr112.pdf

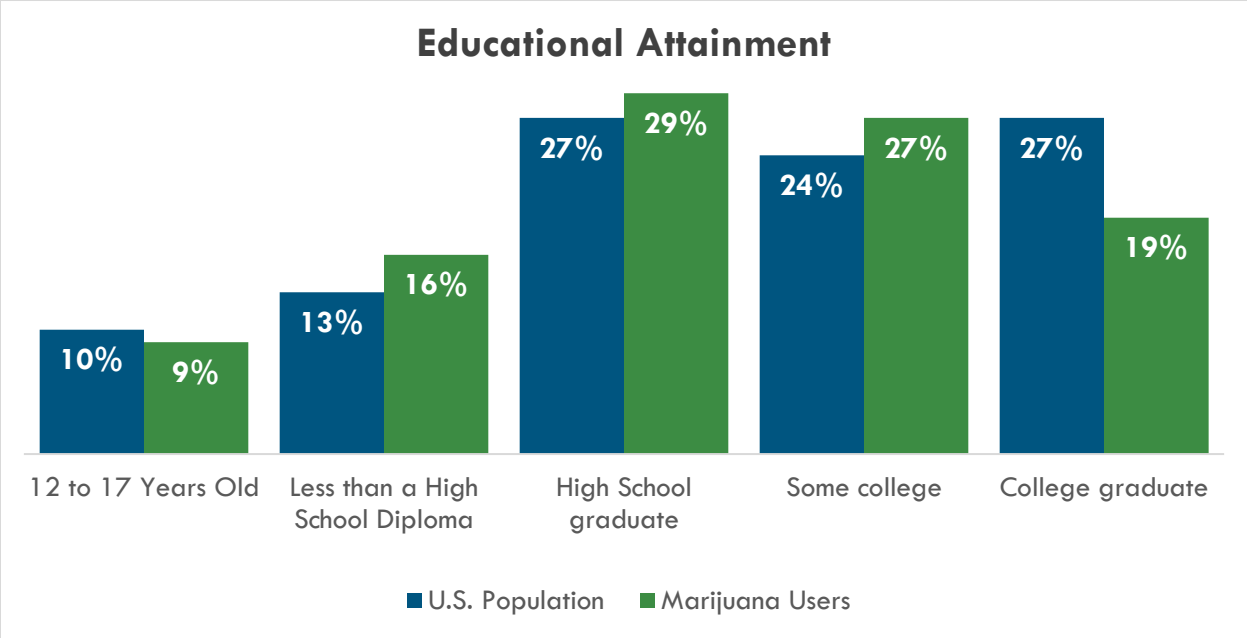
[11] A sedentary person's healthcare costs are $920 higher per year than an active person (Carlson et al., 2015).

2. Productivity

Confidence: Moderate-High Confidence

Research suggests that marijuana, when used heavily or early in life, can negatively impact people in ways that can limit productivity. However, this research is in its infancy and more longitudinal data are necessary before coming to solid conclusions.

2.1 Education

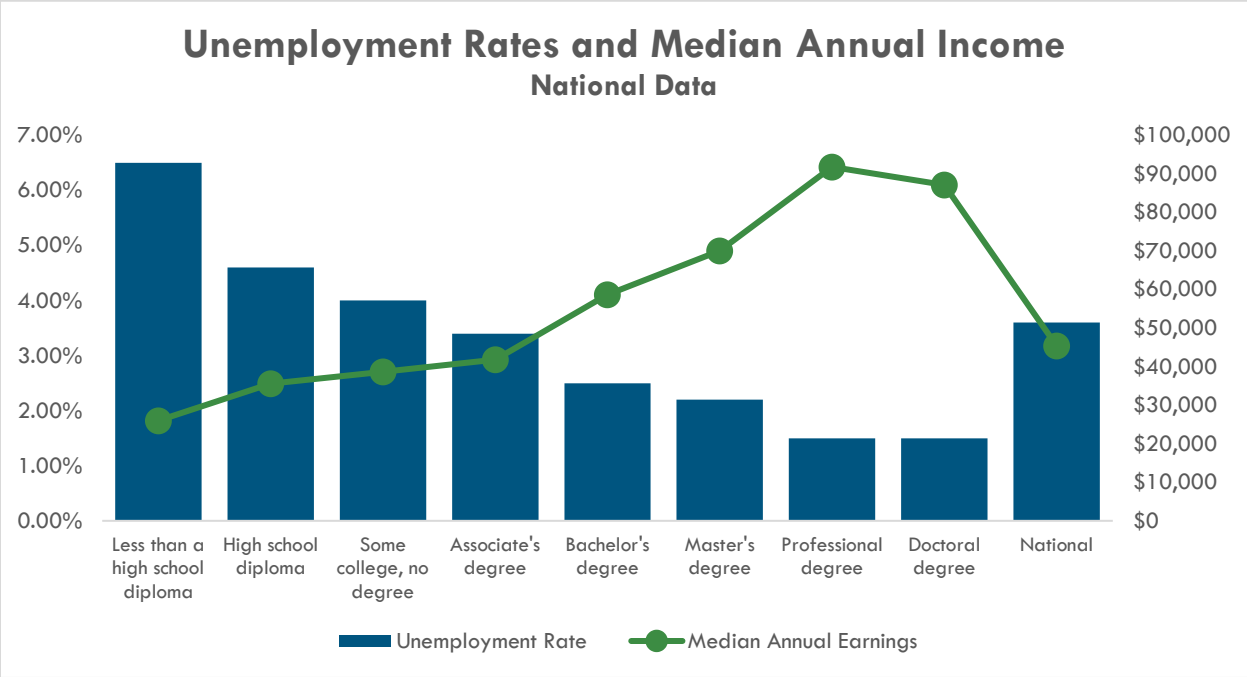


According to Davenport and Caulkins (2016), adult marijuana users (18 and older) generally have lower educational attainment than non-users. A slightly higher percentage of marijuana users are high school graduates, but there is also a larger percentage that have less than a high school diploma and a smaller percentage who have graduated from college. The same is true for Colorado (see *Demographics*).

Colorado Education, Marijuana Use, and Earnings

	Percent Who Use Marijuana	Median Income	Unemployment Rate
Less than a high school graduate	18.50%	$23,811	8.2%
High school graduate	17.60%	$30,823	6.4%
Some college	13.50%	$35,654	5.2%
Bachelor's degree and more	13.40%	$58,162	3.2%

Moreover, people with higher educational attainment are less likely to use marijuana. From those with less than a high school diploma to those with a bachelor's degree, the rate of people who use marijuana at least once per month declines with more education (Azofeifa, Mattson, and Lyerla, 2016). This also suggests that the rate of marijuana use is higher among people with lower incomes, as lower educational attainment is linked with lower incomes in adults 25 and older and higher unemployment in people between the ages of 25 and 64 (American Community Survey, 2018).



While it is impossible to say how many people do not gain a post-secondary credential (whether for a four-year degree, a graduate degree, or other certificate) as a direct result of marijuana use, it is clear that people who do not fulfill their educational potential are likely to have lower incomes than they might have otherwise. Based on Bureau of Labor Statistics (2018) data, it is estimated that someone with a bachelor's degree is likely to make about $20,000 more each year, compared to someone who attended college but did not earn a degree. As marijuana use during adolescence can stunt educational potential, it is likely that it also leads to lower educational attainment and thus lower potential earnings. According to Davenport and Caulkins (2016), about 9% of people who admitted to using marijuana in the previous month (in 2012-2013) were between the ages of 12 and 17.

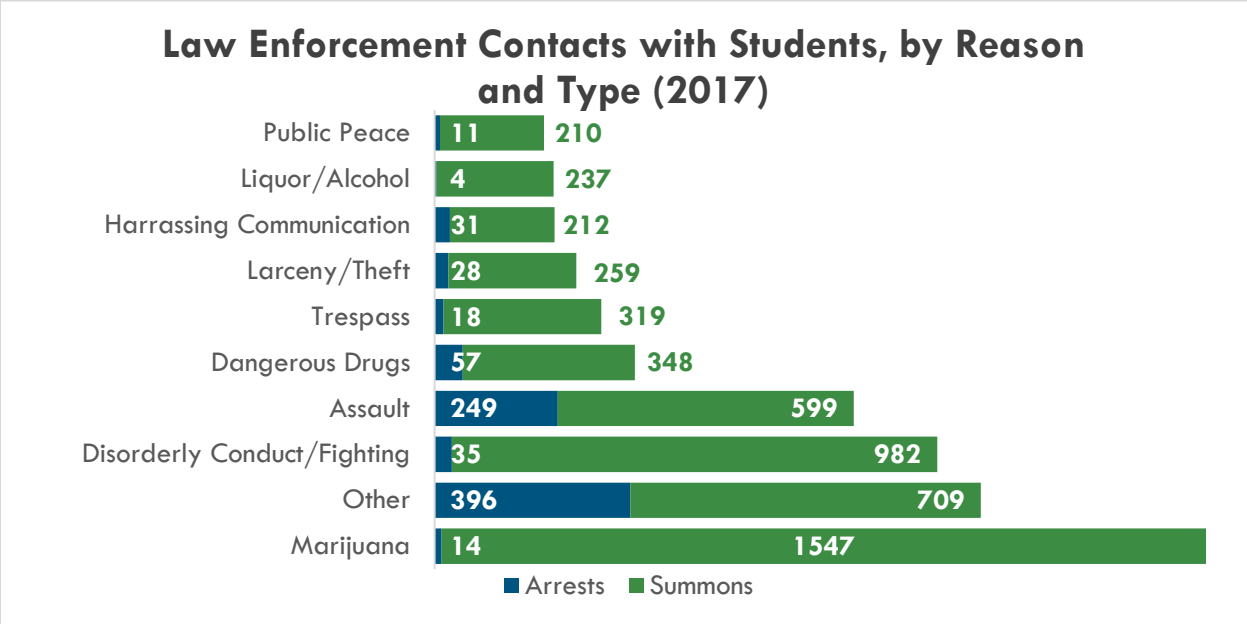
Research does suggest that long-term marijuana use may lead to reduced cognitive ability, particularly in people who begin using it before they turn 18 (Choo et al., 2014; Meier et al., 2012; Wilson et al., 2009). The effects include decreases in memory, learning, attention span, and executive functioning (Jacobus et al., 2009; Schweinsberg, Brown, and Tapert, 2008; Thoma, Monnig, and Lysne, 2010). Roebuck et al. (2004) also finds that regular marijuana use increases the probability that a student will drop out of high school (though they also find that non-chronic use slightly reduces the probability).

However, connecting marijuana use to academic outcomes can be difficult, as there are myriad other factors that can influence these outcomes, and it is difficult to determine whether the relationship between marijuana use and academic outcomes is causal or simply correlational. In other words, if marijuana users are shown to have less academic success than non-users, it may not be because they used marijuana. It may simply be that people who are less motivated to succeed in school or who have conditions that interfere with their ability to succeed academically may be more prone to use marijuana.

One study that attempts to separate out self-selection issues, by Maggs et al. (2015), finds that 19- and 20-year-olds who frequently use marijuana are less likely to graduate before their mid-20s. However, the researchers write that the difference was statistically non-significant when they controlled for substance use at age 18. Essentially, frequent marijuana use in 19- and 20-year-olds was not highly predictive of failure to graduate unless substance use began earlier (most likely in high school). Moreover, infrequent marijuana use in this age group was not shown to have any effect on the likelihood of graduation, regardless of controls.

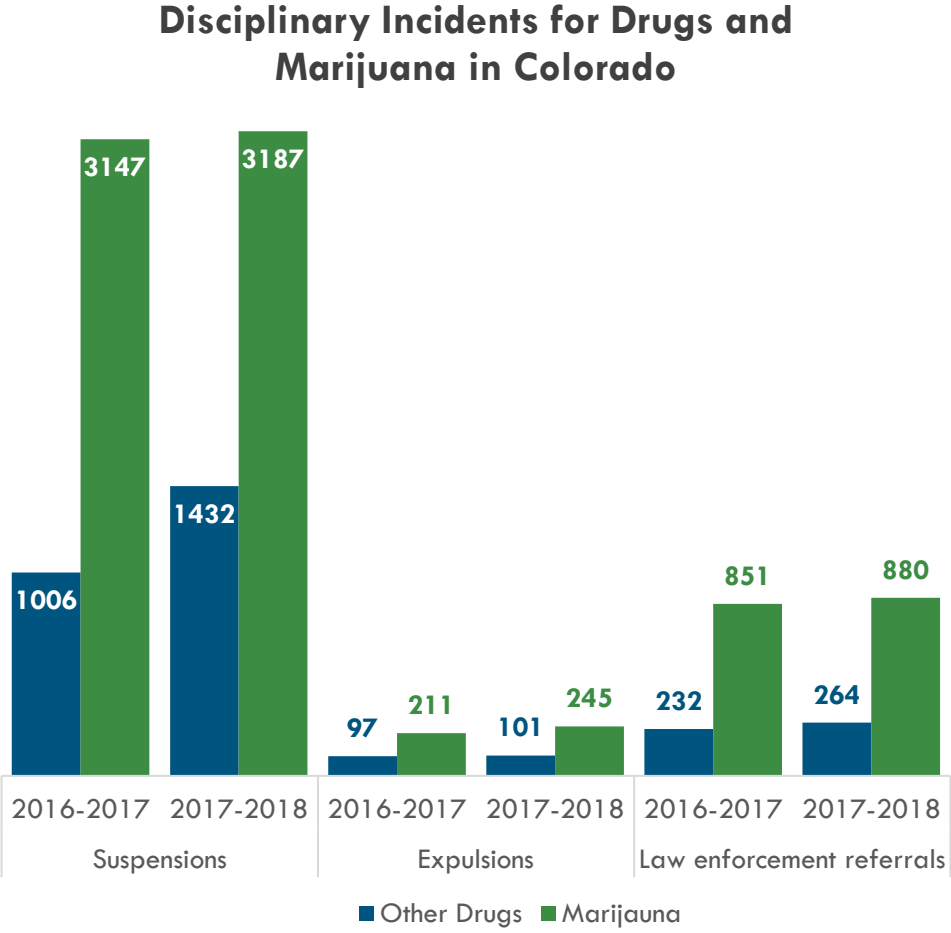
Similarly, McCaffrey et al. (2010) looked at the relationship between marijuana use and dropping out of high school, and while they did find a correlation, the link between marijuana use and dropping out was largely explained by other characteristics and behaviors.

2.1a Discipline Related to Marijuana



While cognitive achievement may not be able to be calculated, disciplinary actions are disruptive to both a school and to the individual.

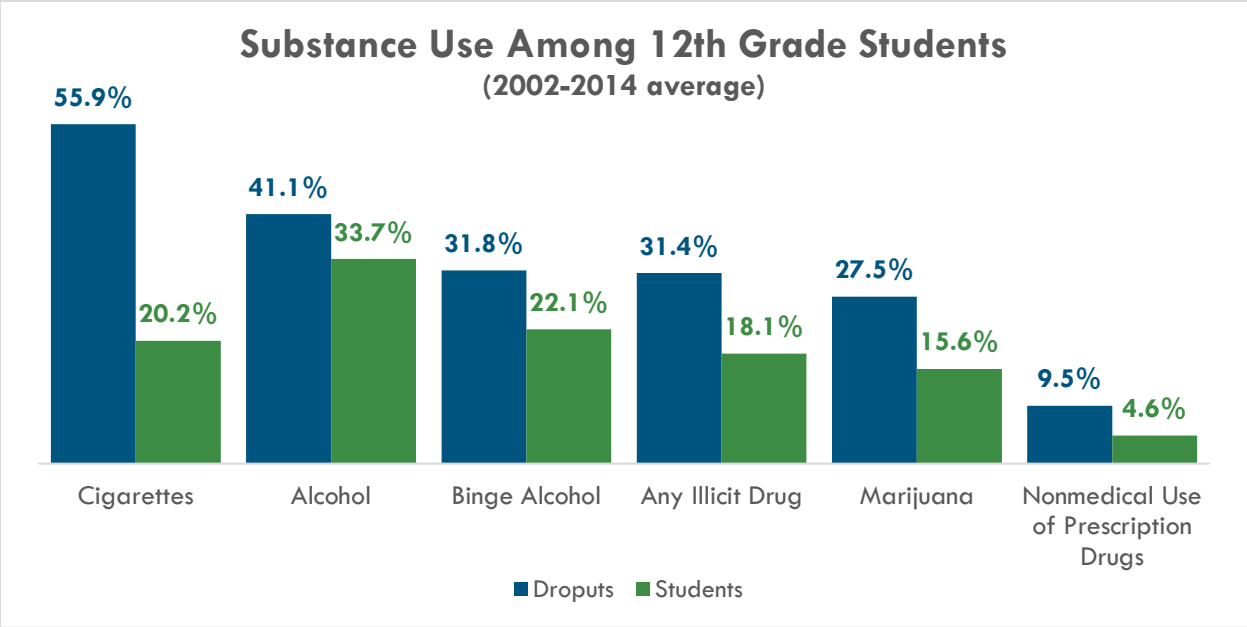
According to Reed (2018), there were 14 arrests made and 1,547 summons issued related to marijuana in Colorado schools in 2017. Of all such incidents, 1.66% of arrests and 28.53% of summons were related to marijuana, as well as 24.92% of all contacts (Colorado Division of Criminal Justice in the Department of Public Safety, 2018). As the figure (right) shows, the number of suspensions related to marijuana and other drugs was high in 2017-2018, compared to 2016-2017[12]. There were more suspensions than expulsions or referrals to law enforcement. It is important to note that incidents that involved marijuana and other drugs are counted separately, thus there were not over 6,000 separate drug-related incidents in Colorado schools in the 2017-2018 school year.



Data and chart reproduced from Reed (2018) using data from the Colorado Department of Education

The number of academic suspensions related to marijuana is troubling, as suspensions are linked with additional problems later on. Higher rates of suspensions are related to higher rates of future antisocial behaviors, poor academic achievement, and academic disengagement or failure (Iselin, 2010; Quinn, 2017).

[12] Data on marijuana were collected separately in schools for the first time in 2016, allowing for a comparison between marijuana and other drugs beginning in the 2016-2017 school year.



Students (nationally) who dropped out of school in 12th grade between 2002 and 2014 had higher rates of substance use across the board than students who stayed in school. Students who dropped out were significantly more likely to use marijuana (27.5% compared to 15.6%), cigarettes (55.9% compared to 20.2%), and to binge drink alcohol (31.8% compared to 22.1%) (Tice, Lipari, and Van Horn, 2017). However, it should be noted that while it is clear that substance use is more common in students who drop out, these figures do not demonstrate causation.

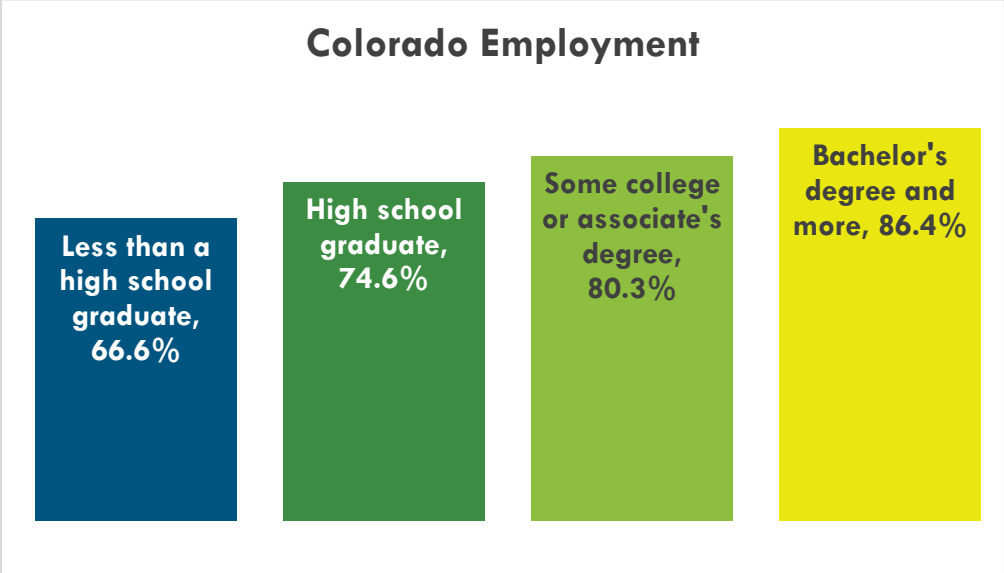
To calculate the potential cost of marijuana use among students, two approaches were used. The first multiplies the number of students who dropped out of school in the 2016-2017 school year (10,421 students) by the percentage who likely use marijuana (11.9% more than their peers who stayed in school), and then by the cost of not earning a high school diploma ($334,716.12)[13]. The second approach multiplied the number of students who were expelled because of marijuana (245) by the cost of not earning a high school diploma ($334,716.12). This is added to the number of suspended students who are likely later to drop out, determined by using the likelihood that a student who is suspended is more likely to drop out than one who is not. According to Jones (2018), 32% of students who experience one suspension are likely to drop out, and 3,187 students were suspended for marijuana in the 2017-2018 school year. Therefore, the third calculation multiples the number of students who were suspended by 32%, then by the cost of not earning a high school diploma. The range of costs are displayed below.

[13] Determined by Northeastern University, the cost of not completing high school was $292,000 (which updated to 2018 dollars is $334,716.12). This captures costs to society including potential interactions with law enforcement and lost income (i.e. taxes) (Breslow, 2012).

Estimates for Cost of Marijuana-Related Drop-Outs				
Estimation Method	Number of Students	Multiplied by	Cost of not having a high school diploma	Total Cost
1	10,421 drop-outs in Colorado	11.9% more drop-outs use marijuana than students who stay in school	$334,716.12	$415,081,125.70
2	245 expelled for marijuana	n/a	$334,716.12	$82,005,449.40
	3,187 suspended for marijuana	32% of suspended students drop out	$334,716.12	+$341,356,887.82
				$423,362,337.22

2.2 Employment

The table to the right displays labor force data for the entire state of Colorado, not just people who use marijuana, based on American Community Survey (2018) data. Overall, the unemployment rate in Colorado stands at 2.7%.



The table (next page) estimates the cost of unemployment benefits for people at various education levels between the ages of 25 and 64 years old. It assumes that each person receives the average of $375 per week. The total estimated value for 9.4 weeks (the median time period that people receive unemployment benefits) is a little over $6 million, with the largest cost coming from those with just a high school diploma (just under $3 million). The total value for 26 weeks (the maximum time someone can receive unemployment in Colorado) is more than $16.7 million, with more than $8.1 million going to people with a high school diploma (Bureau of Labor Statistics, 2018; File Unemployment, 2018).

These estimates assume that marijuana users' unemployment rates will be similar to that of other people with the same education level, as research on the connection between marijuana use and unemployment is mixed. Summarizing the literature on this subject, Popovici and French (2014) write:

> *"Some studies have shown a negative relationship between cannabis use (as well as cannabis combined with other illicit drug use) and wages. However, the magnitude of the relationship varies widely across age groups and consumption patterns. Surprisingly, other studies found evidence of a wage premium associated with cannabis use. These authors typically argue that illicit drug use could increase the users' productivity in the short term when consumed to alleviate conditions such as workplace stress. Between these two extremes is a study by French et al., which found a non-significant relationship between illicit drug use and wages."*

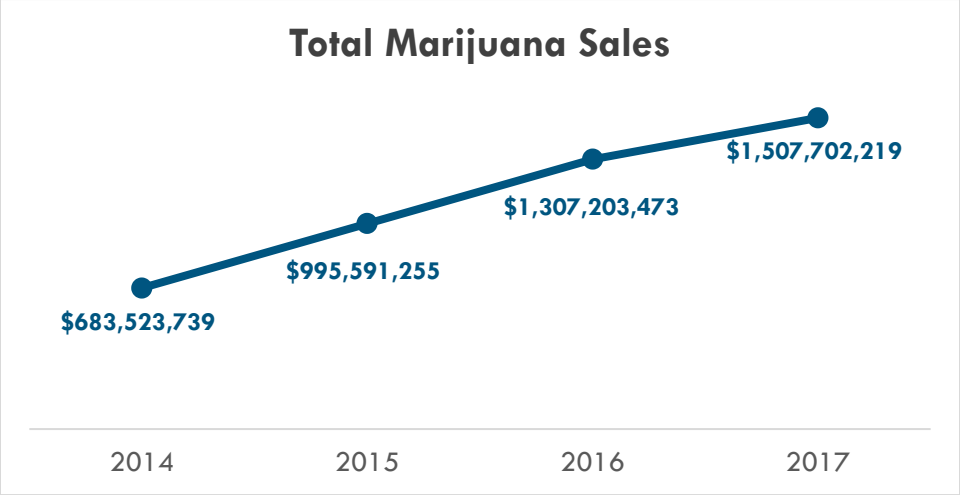
Unemployment Benefits for Marijuana Users

	Estimated Number of Marijuana Users	Unemployment Rates by Educational Attainment Category	Percent who qualify for unemployment benefits‡	% of People Who Draw Benefits (2015 data)†	Unemployment Benefits for 26 weeks at $375	Unemployment Benefits for 9.4 weeks at $375
Less than a high school graduate	46,587	8.2%	10%	29%	$1,080,140.22	$390,512.23
High school graduate	106,240	6.4%	42.5%	29%	$8,170,741.61	$2,954,037.35
Some college or Associate's degree	122,078	5.2%	20.7%	29%	$3,715,459.37	$1,343,281.46
Bachelor's degree and more	154,445	3.2%	26.9%	29%	$3,759,043.56	$1,359,038.83
		Total			$16,725,384.76	$6,046,869.87

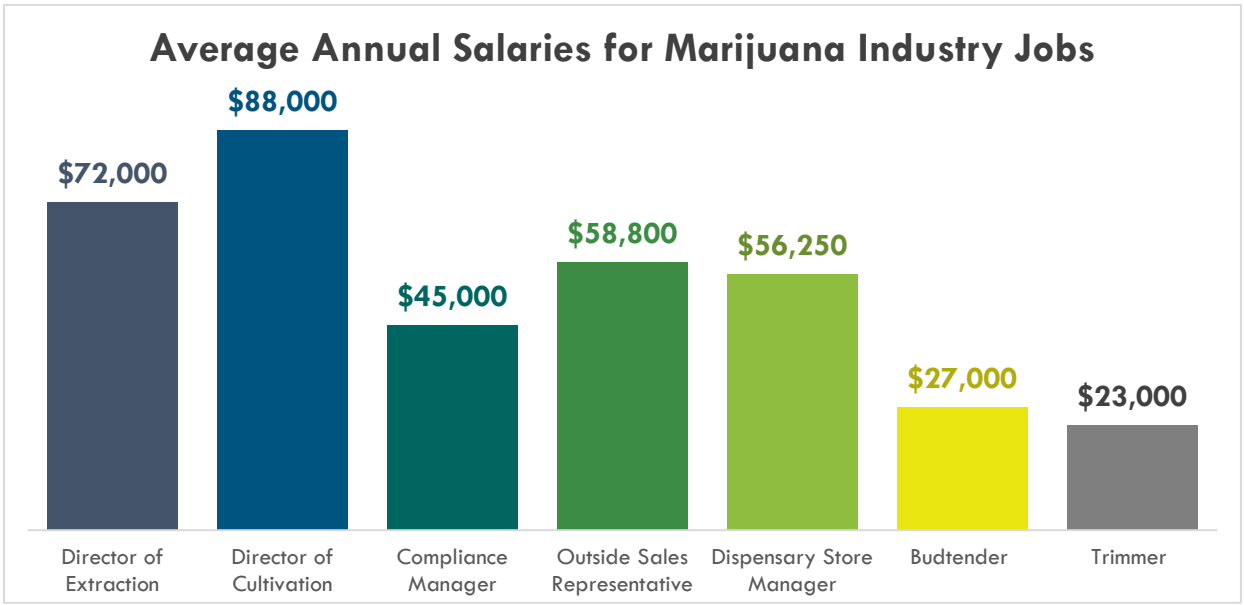
‡ Data from the Bureau of Labor Statistics, 2016 https://www.bls.gov/opub/mlr/2016/article/an-analysis-of-long-term-unemployment.htm

† Data from the National Employment Law Project https://www.nelp.org/blog/presidents-budget-proposes-unemployment-insurance-reforms-as-share-of-unemployed-receiving-jobless-aid-remained-at-record-low-in-2015/

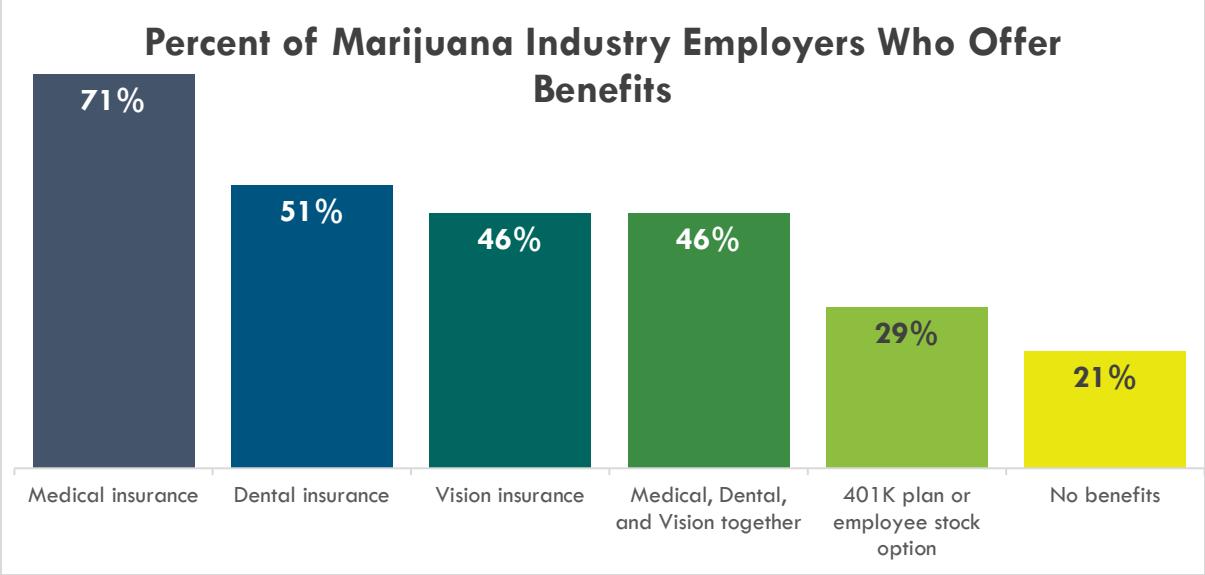
2.2a Marijuana Industry



Total sales of marijuana have increased rapidly in recent years, from about $684 million in 2014 to more than $1.5 billion in 2017 (Colorado Department of Revenue, 2018). With those sales have come additional jobs as well. The Marijuana Policy Group estimates that one marijuana occupational license equates to 0.467 full-time jobs[14], and, using that figure, the Federal Reserve Bank of Kansas City calculates that the marijuana industry employed 17,821 full-time staff in 2017, which was an increase of 17.7% from the year before (Felix, 2018).



[14] The number of full-time jobs is smaller than the number of licenses because many people get a license without ever opening a shop (Felix, 2018).



Many of the jobs created by the marijuana industry pay well and offer benefits. Directors of extraction and cultivation earn average salaries of $72,000 and $88,000, respectively, and the average salary for a store manager is $56,250. Budtenders—the people who work the counters at dispensaries—make about $13.50 per hour, which equates to $27,000 per year if they work 40 hours a week for 50 weeks. About 71% of employers offer medical insurance to their employees as well, and many offer dental (51%), vision (46%), and 401k plans/employee stock options (29%). About 46% offer medical, dental, and vision together.

These numbers only apply to the jobs created directly by the marijuana industry, but the Federal Reserve Bank of Kansas City, citing data from the Marijuana Policy Group, notes that there are ripple effects that go beyond those jobs.

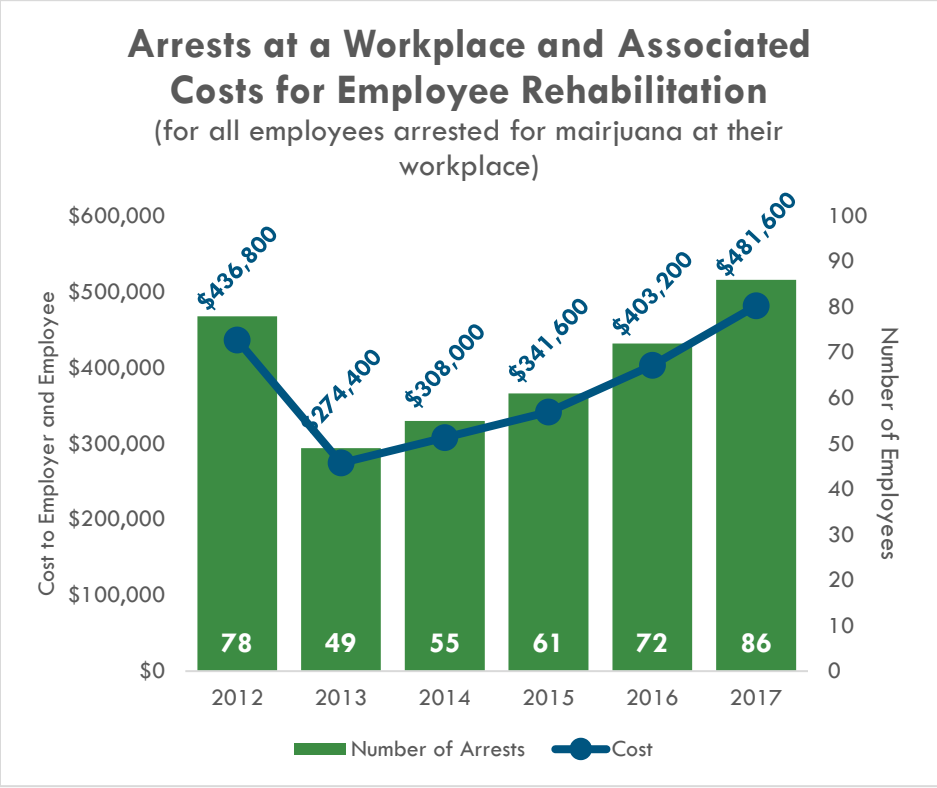
> *"A 2016 report by the Marijuana Policy Group estimated that indirect employment including 'security guards, construction and HVAC specialists, consulting, legal, and advisory services, and other business services' equaled about 23 percent of direct employment. In addition, the income earned by workers in the marijuana industry helps create jobs in the broader Colorado economy, and the Marijuana Policy Group estimates that these additional jobs equal almost 20 percent of direct employment in the marijuana industry," (Felix, 2018).*

The author goes on to add that when the broader effects are included, the marijuana industry was likely responsible for about 5.5% of the total growth in employment in the first half of 2017 (Felix, 2018).

Employer Costs if an Employee Tests Positive for Marijuana

	Rate	Hours	Estimated Cost
Counsel	$400.00	5.00	$2,000.00
Rehab and retesting (within self-insured plan)	--	--	$30,000.00
Lost time (6 weeks) substitute employee	$25.00	240.00	$6,000.00
Administration - Risk	$150.00	5.00	$750.00
Administration – Human Resources	$100.00	8.00	$800.00
Total			$39,550.00

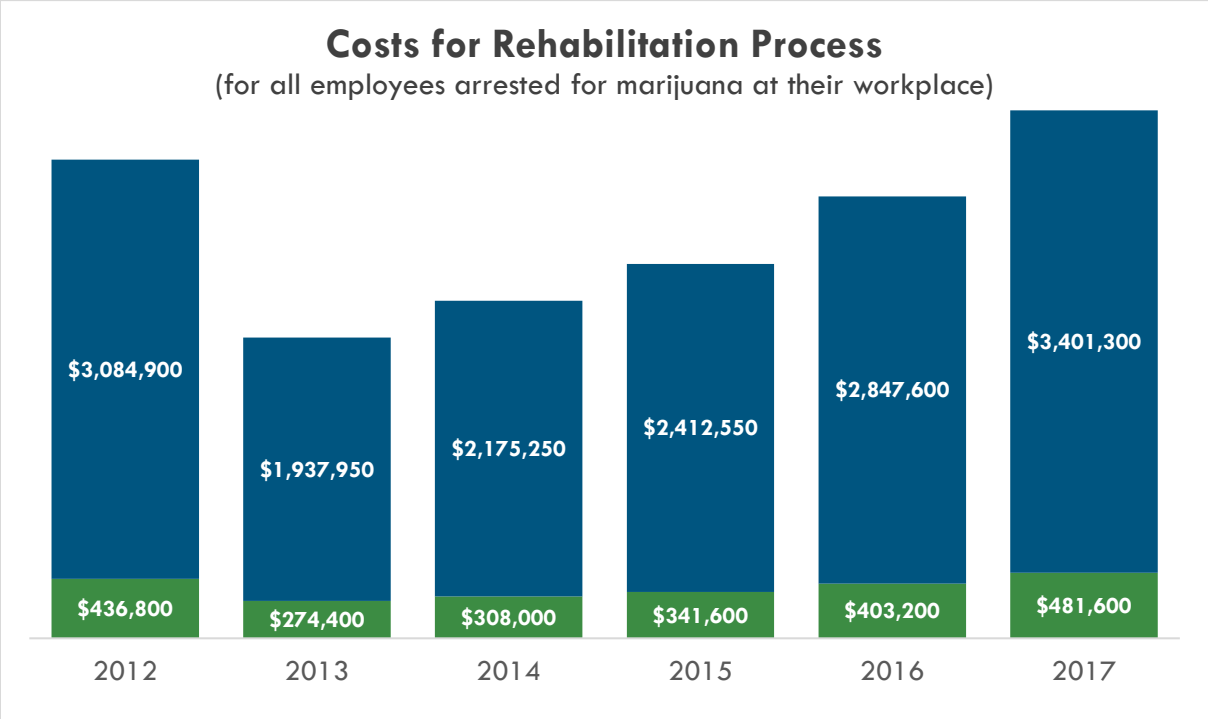
In other sectors, the costs to employers when their employees test positive for marijuana can be substantial. The table above estimates some of those costs, with the largest coming from rehab and retesting ($30,000) followed by the employee's lost time ($6,000) (Clark, 2018). However, these costs assume that the employer does not simply fire the employee for cause for some other reason. Similarly, the table below extrapolates those costs to include the number of people who were arrested at their workplace for a marijuana-related infraction in the last several years (Colorado Bureau of Investigation, 2018), but the real costs are likely higher, as many employers would simply find alternative causes to fire employees who were arrested.



Employees' marijuana use may lead to other costs for their employers as well. Slavit et al. (2009) finds that drug use (not just marijuana) could cost employers $200 billion a year due to absenteeism, accidents, and medical costs. Other research suggests the opposite. Keith et al. (2017) find that marijuana use allays issues common with night-shift

work, as users are more vigilant, less miserable, and less tired. In contrast, study participants who smoked placebo cigarettes were less vigilant and more tired.

Similar to education, longitudinal research in this area is sorely needed. However, current costs to employers can be tabulated. In order to calculate costs, several assumptions were made. Determining the number of employees who request rehabilitation as a means of keeping their jobs is not known. Instead, we used a conservative approach of stating that arrests made at workplaces resulted in work-sponsored rehabilitation. This assumption is made as most union and labor rules allow for employees to undergo treatment as a condition of work parole. This is likely to be a very low estimate as employers are more likely to offer rehabilitation to valuable employees and would rather not have any arrests made on business premises (Clark, 2018).

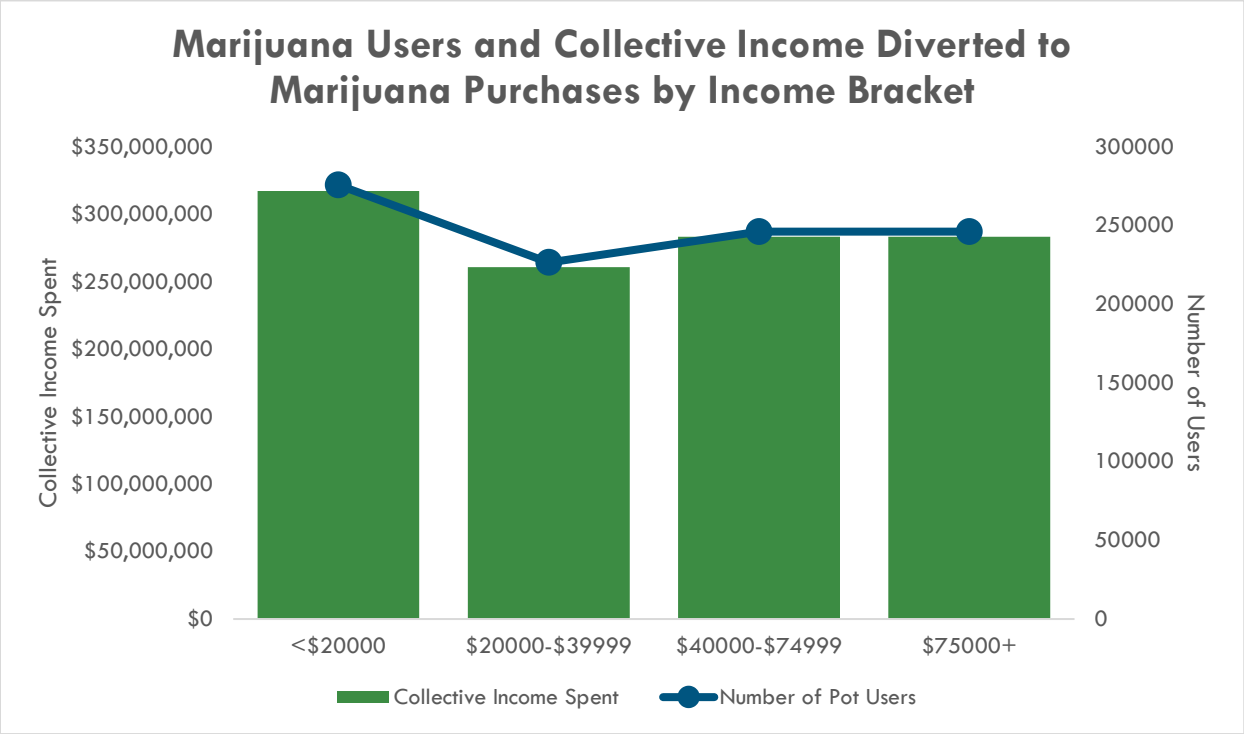


As the chart above shows, the employees' side of the rehabilitation (personal time off, out-of-pocket deductibles) totaled $481,600 in 2017, while the employer and employer's insurance costs are estimated considerably higher at $3.4 million dollars.

In the case of employers in Colorado, adapting to the new laws when marijuana was legalized would have come with some costs. For companies with more than 500 employees, risk manager Val Q. Clark estimates that the costs of counsel review, executive meetings, counsel approval, and internal administration would add up to about $5,500 per company or organization. Employees who test positive for marijuana can also face significant costs. If they do not lose their jobs, the employee rehabilitation process can mean mandated personal time off and expenses from out-of-pocket

deductibles, costing about $5,600 per incident. According to the Colorado Secretary of State Fourth Quarter (2017) Quarterly Business and Economic Indicators, there were 674,979 total entities in good standing, with 2,751 new entity filings for Domestic Corporations.[15] Assuming that most businesses updated their employee policies when legalization occurred in 2014 and that only one-quarter of the new entities require marijuana policy development, the estimated cost to businesses in 2017 is $3,782,625.

2.3 Income



The graph above estimates the amount of collective income spent on marijuana for people in various income brackets, based on data from the Market Size and Demand for Marijuana in Colorado 2017 Market Update (Orens et al., 2018). The cost estimate is based on the breakdown of use in study showing that 22.54% are heavy users, 25.26% are moderate users, and 52.21% are light users. The costs estimate that marijuana expenses differ by users: $2,200 for heavy users, $1,250 for moderate users, and $650 for light users (Davenport and Caulkins, 2016). In both cases, people with the lowest incomes (<$20,000) make up the largest part of the market.[16] The estimate for the total sales of marijuana was $1,507,702,219 in 2017, so this total is a close (under)estimation of $1,444,524,486.

[15] https://www.sos.state.co.us/pubs/business/quarterlyReports/2017/2017-Q4-SOSIndicatorsReport.pdf
[16] Using the estimated number of users at 984,533 (*Demographics* section).

Equivalent costs			
	Price per Item	Light Use	Heavy Use
Food	$3,564	35.1%	61.7%
Medical	$2,439	51.3%	90.2%
Housing	$9,088	13.8%	24.2%
Transportation	$3,930	31.8%	56.0%
Other	$2,855	43.8%	77.1%
Annual Taxes	$4,064	30.8%	54.1%
Required Income	$25,940	4.8%	8.5%

According to Glasmeir and the Massachusetts Institute of Technology (2018), the living wage for Colorado (or the wage needed just to cover basic living expenses), is $25,940. The above chart breaks down the expenses that factor into that estimate alongside the percentage of those costs that light and heavy marijuana use would displace. Perhaps most notably, someone making the living wage in Colorado is expected to spend $3,564 on food each year, and the costs associated with a light or heavy marijuana habit would be 35.1% and 61.7% of that total, respectively. Overall, a light or heavy marijuana habit would take up about 4.8% or 8.5% of the total budget, which would force significant cuts in other areas (Orens et al., 2018).

As the chart on the next page shows, regular marijuana use would take an even larger bite out of the budget in households with incomes lower than the living wage (this applies to more than 18% of all households in Colorado). It shows the percentage of income that would have to be devoted to a heavy or moderate marijuana habit[17]. For someone making the median income in Colorado—$62,520—heavy marijuana use would cost about 3.5% of that person's total income, and moderate use would cost about 1.9% (American Community Survey, 2018; Colorado Department of Revenue, 2017; Glasmeir and MIT, 2018; Orens et al., 2018).

[17] These figures use the highest number for each income range with the exception of the $200,000 or more category, which is just assumed to be $200,000.

Percent of Household Income Diverted to Marijuana Use by income bracket

	Households	Estimated Number of Households	Percent of Their Household Income a Heavy User's Pot Would Account For†	Percent of Their Household Income a Moderate User's Pot Would Account For‡
Less than $10,000	5.60%	114890	22.00%	12.50%
$10,000 to $14,999	3.90%	80013	14.67%	8.33%
$15,000 to $24,999	8.60%	176439	8.80%	5.00%
$25,000 to $34,999	9.00%	184645	6.29%	3.57%
$35,000 to $49,999	12.90%	264658	4.40%	2.50%
$50,000 to $74,999	18.20%	373394	2.93%	1.67%
$75,000 to $99,999	13.50%	276968	2.20%	1.25%
$100,000 to $149,999	15.40%	315949	1.47%	0.83%
$150,000 to $199,999	6.50%	133355	1.10%	0.63%
$200,000 or more	6.30%	129252	1.10%	0.63%

† $2,200 a year
‡ $1,250 a year

3. Traffic

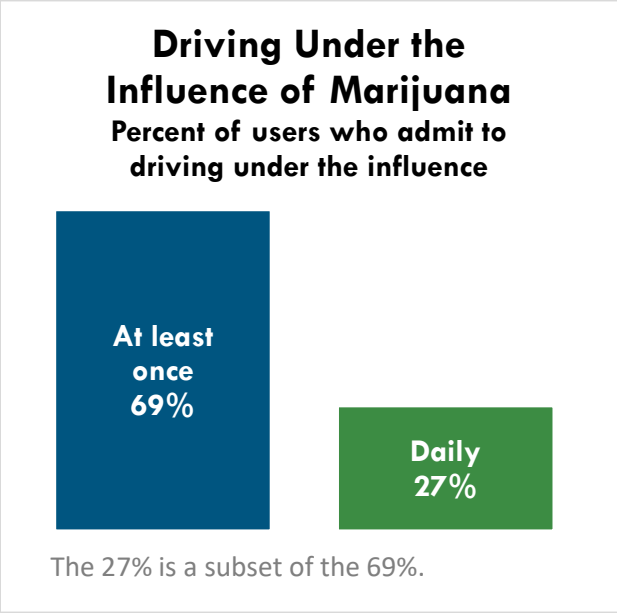
Confidence: Moderate-High

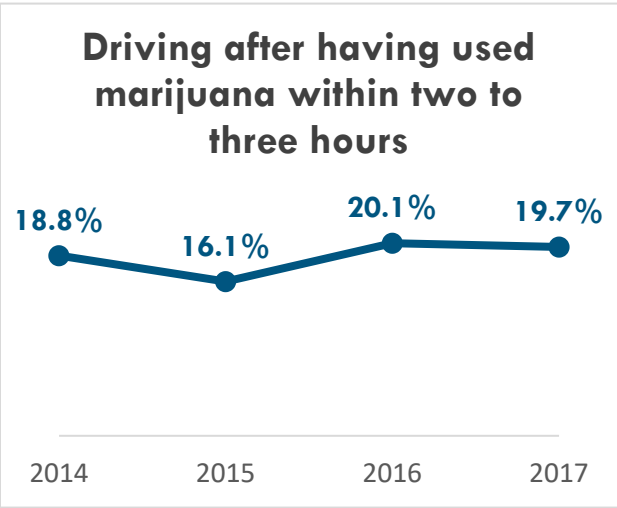
Research finds that driving while under the influence of marijuana is significantly more dangerous than driving unimpaired (Li et al., 2012; Ramaekers et al., 2004). Asbridge et al. (2012) estimate that the risk of an accident is about two times greater after using marijuana. Moreover, marijuana use has been linked to an increased likelihood of risk-taking and intoxicated driving (Aston et al., 2016; Johnson et al., 2012)[18]. These findings are confirmed in a recent report by the Colorado Division of Justice (Bui and Reed, 2018), finding that marijuana use before driving increases a driver's risk of causing a car crash and combining marijuana with alcohol increases that risk more than just using marijuana or alcohol separately. According to Volkow et al. (2014), higher levels of THC in the blood make the risk of an accident even greater—anywhere from 3-to-7 times higher. THC concentrations in marijuana have also steadily increased in recent decades, rising from about 3% to 12% in confiscated samples between the 1980s and 2012 (Volkow et al., 2014)[19].

Between 2008 and 2016, the number of car crashes in Colorado increased steadily from 104,742 to 121,128, an increase of about 15.6% (Colorado Department of Transportation, 2018). However, while it is likely that marijuana legalization may have contributed to the increase in some degree, it cannot entirely be attributed to that. Based on aforementioned demographic data, Colorado's population increased by about 13% in that same time-period, putting many more cars on the state's roads each year (Colorado Department of Local Affairs, 2018). Ultimately, the increase in accidents outpaced population growth by about 2.6%. What is clear is that some marijuana users do drive while under the influence, and some do use regularly. Reporting on a Colorado Department of Transportation survey, John Aguilar at the Denver Post (2018) notes that more than half of marijuana users admitted to driving within two hours of using marijuana in the previous 30 days, and that figure was about the same as the year before. According to the Colorado Department of Transportation (CDOT), 69% of marijuana users say they have driven under the influence of marijuana at least once, and 27% admit to driving under the influence on a daily basis.

[18] Gunn et al.'s 2017 study found that when people believed they were intoxicated, they compensated by being more cautious and taking fewer risks. When this is translated into individuals choosing not to drive, there is a clear benefit. However, some individuals drive "cautiously" impaired, which is significantly more dangerous.

[19] The professionalization of the marijuana industry is leading to more specialization and selective breeding in plants to reach higher THC concentrations, balance CBD and THC, or achieve other ends (e.g., flavors, variety of "high" experience, etc.) (Davenport and Caulkins, 2016).





The 27% of marijuana users who say they drive after using marijuana every day would be 59,908[20] people (Orens et al., 2018). The costs associated with the increased probability of those drivers being involved in car accidents is estimated to be about $89.5 million. This assumes that the average likelihood of being involved in a car crash in a given year is about 3.1%, based on the total number of

[20] This number is derived by multiplying 27% by the number of daily or near daily users (221,882) reported in Orens et al. (2018).

crashes in 2016 compared to the total number of licensed drivers[21] (CDOT, 2017) and that the likelihood for someone who is impaired by marijuana is about 1.92 times higher (Asbridge et al., 2012). It also estimates that the cost of a car crash is $25,050,[22] based on data from the Rocky Mountain Insurance Information Association.

To put this estimate in context, the total cost of all car accidents in Colorado in 2016 (using the same per-accident cost) amounts to more than $3.03 billion. The estimated cost associated with marijuana users who drive after using marijuana daily is therefore about 2.9% of the total cost of car accidents in Colorado.

Calculation to Determine Estimate of Marijuana-Impaired Drivers Who Cause Accidents

Estimated number of daily users‡ who drive under the influence•	59908
Increased likelihood to cause an accident†	1.92
Likelihood of a crash	3.1%
Cost of car crash	$25,050.00
Cost	$89,487,801.66

‡Orens et al, 2018 identified 221,882 people who used marijuana daily or nearly daily
†Asbridge et al, 2012
•CDOT survey of Colorado found that 27% of drivers admitted to driving impaired daily

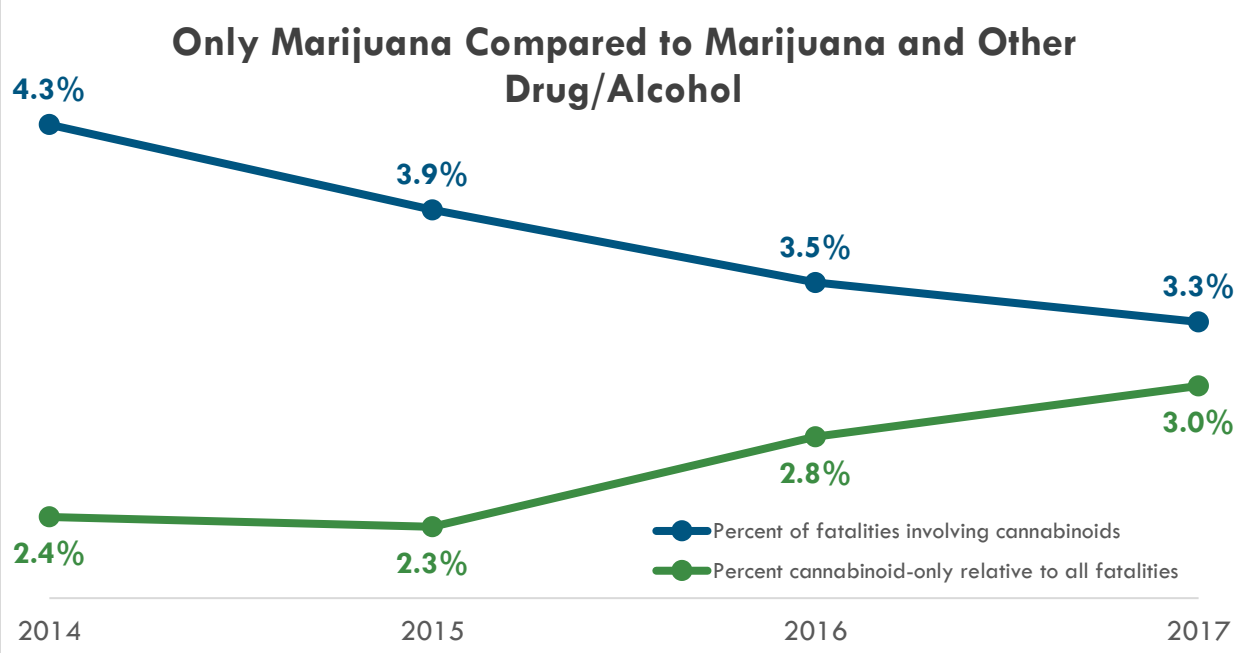
Drivers Testing Positive for Cannabinoids

	2013	2014	2015	2016	2017
Cannabinoid Only	23	32	42	45	46
Cannabinoid & Alcohol	18	31	26	46	36
Cannabinoid & Other Drugs	9	6	22	26	32
Cannabinoid, Alcohol & Other Drugs	5	6	8	8	25
Total Fatalities	481	488	546	608	648

Driver toxicology results indicate that approximately 5% of motor vehicle accidents with a fatality involved a driver who tested positive for only THC in 2013 and 2014, respectively. In 2017 that number increased to 7%. Likewise, prior to recreational legalization, 12.2% of traffic fatalities were marijuana-related; by 2017 that number has climbed to 21.5% (Reed, 2018).

[21] This includes only regular drivers' licenses, not motorcycle or commercial licenses.
[22] Translated from $23,439 (2013 dollars as reported) to $25,050 dollars in 2018 equivalent.

There is some evidence that marijuana use is becoming more prevalent with those drivers impaired enough to cause a fatal accident. The chart below shows traffic fatalities involving marijuana only as a percentage of all traffic fatalities. Additionally, there is a common misperception that THC impairment levels cannot be tested effectively, as it remains within your system much longer than alcohol. Reporting in the *Denver Post* and the *Cannabist* regarding traffic incidents and marijuana use often begins by noting that THC is difficult to accurately test at a road-side stop. This is likely feeding the myth that impairment due to marijuana use cannot be accurately assessed (Berger, 2018). Essentially, press reports since 2013 have stated that testing for THC on the road is inaccurate. However, testing has become more accurate for THC, beginning in 2016. Furthermore, Colorado law (CSR 42-4-1301 (6)(a)(IV) states that five nanograms or more of delta-9 THC is the threshold for legal impairment. At the same time, "permissible inference" is allowed for medical marijuana users[23] and other mitigating factors as THC does not dissipate from the human body the way alcohol does –thus confounding testing results. This is not prevalent in the public discourse.



According to the Rocky Mountain Insurance Information Association, the following table outlines 2017 data on costs of fatal accidents and applying those numbers to 2017 data published by the Colorado Division of Criminal Justice (Reed, 2018). Total costs for those testing positive rests at over $5 million. In reality, this number is likely to be much higher as approximately two-thirds (66%) of drivers in fatal

[23] Treatments involving medical marijuana often require regular dosing, causing a build-up of THC in the body. Infrequent users do not experience a similar build-up of THC in their systems, making a positive test for THC more likely to imply impairment.

crashes are tested. As drug testing become more prevalent, the number and percent of fatalities attributed to marijuana are likely to increase.

The table below represents only those that tested positive in 2017.

Cost of a fatal car accident

		THC only 2017 (n = 46)	THC and alcohol 2017 (n = 36)	THC and other drugs in 2017 (n = 32)	THC, alcohol, and other drugs in 2017 (n = 25)	Cost all THC in 2017 (n = 139)
Average DUI Costs†	$13,530	$622,380	$487,080	$432,960	$338,250	$1,880,670
Average property damage auto liability claim	$3,478	$159,988	$125,208	$111,296	$86,950	$483,442
Average bodily injury auto liability claim	$16,443	$756,378	$591,948	$526,176	$411,075	$2,285,577
Average collision claim	$3,384	$155,664	$121,824	$108,288	$84,600	$470,376
Comprehensive claim	$1,745	$80,270	$62,820	$55,840	$43,625	$242,555
Cost	$38,580	$1,774,680	$1,388,880	$1,234,560	$964,500	$5,362,620

†See the table on the next page for breakdown of costs

Importantly, this does not include the loss of life. Assuming that one life is lost in one fatal crash, we estimate that 46 people[24] would not have died had marijuana not been legalized. Drug testing in fatal accidents has increased along with prevalence. In 2013, there were 23 deaths attributed to cannabinoid use alone making up 4.8% of the overall percentage of those testing positive for drugs. By 2017, that number had grown to 46 deaths, and 33% of deaths involved drivers who tested positive for marijuana.

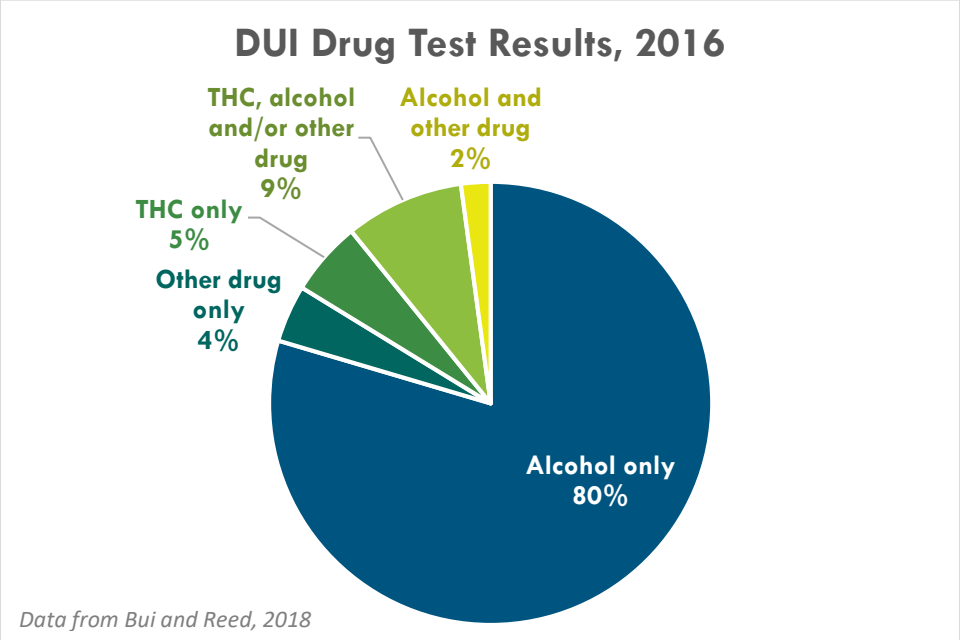
The costs associated with getting a DUI can be tremendous. In total, they add up to about $13,530 in the first year, with the largest expenses coming from hiring an attorney ($3,650) and higher auto insurance rates ($3,600). The first DUI conviction comprises approximately 62% of all DUI's, based on a 2016 report on public safety (Bui and Reed, 2018). According to Lawyers.com the second and third DUI

[24] Various estimates exist for placing a dollar value on a human life – ranging from those used in lawsuits to insurance claims. These range in value from $6 to $9 million dollars. However, this type of calculation cannot replace the invaluable aspects of human life. Therefore, both a dollar value cost and the number of human lives lost will be reported rather than translating a human life into a dollar amount.

offences average $6,600 and $7,300 respectively. Together second and third offences comprise 38% of DUIs (Bui and Reed, 2018).

Costs Associated with First DUI

Item	Costs	Item	Costs
Detox/Jail	$303.00	Victim Assistance Fund	$163.00
Towing Fee	$175.00	Victim Compensation Fund	$29.00
Court Cost	$26.00	Ignition Interlock Rental/Service	$2,172.00
Car Storage Fee	$49.20	Law Enforcement Assistance Fund	$90.00
Average Defense Attorney	$3,650.00	License Reinstatement	$95.00
Probation Alcohol/Drug Evaluation	$200.00	Community Service Supervision Fee	$60.00
Rural Alcohol & Substance Abuse Fund	$5.00	Instruction Permit	$16.80
Alcohol/Drug Education/Treatment	$1,000.00	Restricted License	$26.00
Victim Impact Panel Program	$50.00	PDD Surcharge Fee	$300.00
First Conviction Fine	$600.00	Brain Injury Fund Fee	$20.00
Probation Supervision Fee	$900.00	Auto Insurance Increase	$3,600.00
	Total First DUI		$13,530.00



According to a report by the Colorado Bureau of Investigation (CBI), a small portion of the state's total DUI citations can be attributed to marijuana. Alcohol was the sole substance involved in 81% of DUI citations from 2014 to 2017. Marijuana was the only substance cited in only 7% of cases during that same period. In total, marijuana was involved in 14% of all cases in those years, including when it was found in combination with alcohol or other substances. In 2016, 27,444 DUI cases were brought to court with 26,984 being final DUI charges (multiple charges of those cases resulted in 97,066 separate charges) (Bui and Reed, 2018). Of those 12.9% were first or youth offenses and understanding that not all will require an attorney, conservative estimates of costs to cover defense are listed below.

DUI Direct Court-Related Costs, 2016

	Estimated Number of Cases	Colorado DUI Court Case Costs
Total Marijuana Only	957	$10,555,317.63
Total Marijuana & Alcohol	829	$4,571,765.06
Total Marijuana & Other Drugs	469	$2,586,438.86
Total Marijuana, Alcohol & Other Drugs	234	$851,704.94
Total	2,489	$18,565,226.48

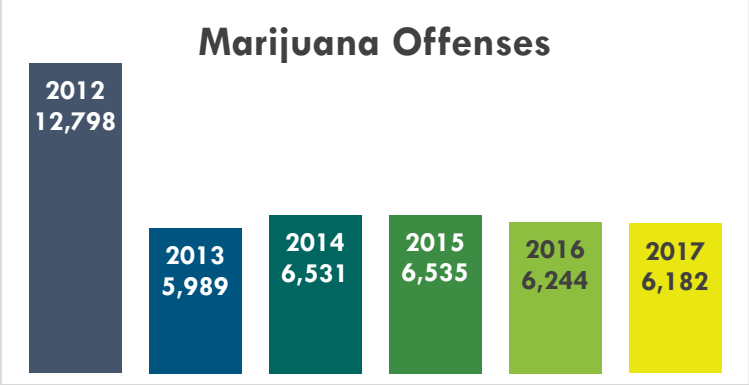
Based on these data, the estimated cost of DUIs for people who tested positive for marijuana only in 2016 approaches $25 million; however, that does not include the damage done by driving impaired.

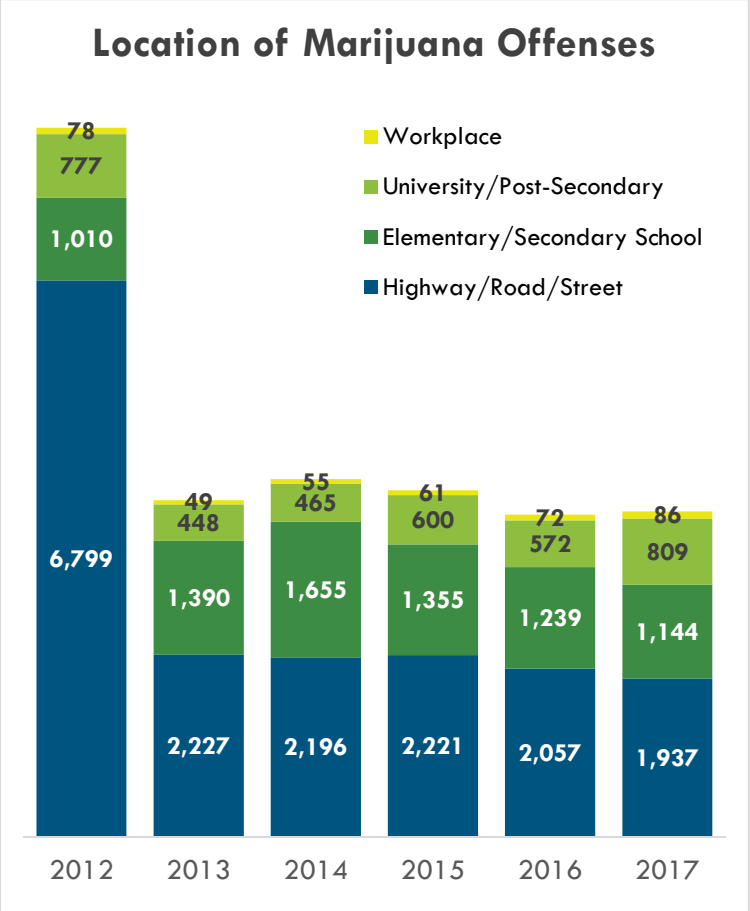
4. Crime

Confidence: High

One obvious result of marijuana legalization is a steep drop in marijuana-related offenses and arrests. Marijuana-related offenses dropped from 12,798 to 6,182 between 2012 and 2017, and arrests dropped from 11,361 to 5,154 in that same period[25]. According to an ACLU evaluation of the cost per arrest on marijuana charges using data from the Washington State Institute for Public Policy, the cost per arrest is $1,142 (translated to 2018 dollars). This cost includes (1) police expenditures, (2) judicial and legal service expenditures, and (3) corrections expenditures.

The graph (right) shows the drop in arrests since 2012. Decriminalization typically results in lower court costs and fees. Using this cost estimate, Colorado spent a total of $14,808,314 on marijuana-related arrests in 2012 and $7,194,600 in 2017. As stated in the limitations portion, it cannot be assumed that the arrest rate in 2017 would be the same as it was prior to legalization (table on the next page).





[25] Arrests include written citations and incidents where someone is taken into police custody, and resulting charges range from petty offenses to felonies. They are counted differently than offenses, as multiple arrests can be made for a single offense. If there are two arrests made regarding one robbery, then it counts as two arrests and one offense (Colorado Bureau of Investigations).

Marijuana Arrests

	2012	2013	2014	2015	2016	2017
Possession	11,361	5,407	5,962	5,982	5,454	5,154
Unspecified	1,120	766	653	526	439	621
Sales	301	224	229	175	221	251
Production	179	111	175	192	256	271
Smuggling	6	5	0	4	8	3
Total	12,967	6,513	7,019	6,879	6,378	6,300
Cost per arrest (2018-dollar equivalent)	$1,142	$1,142	$1,142	$1,142	$1,142	$1,142
Total cost	$14,808,314	$7,437,846	$8,015,698	$7,855,818	$7,283,676	$7,194,600

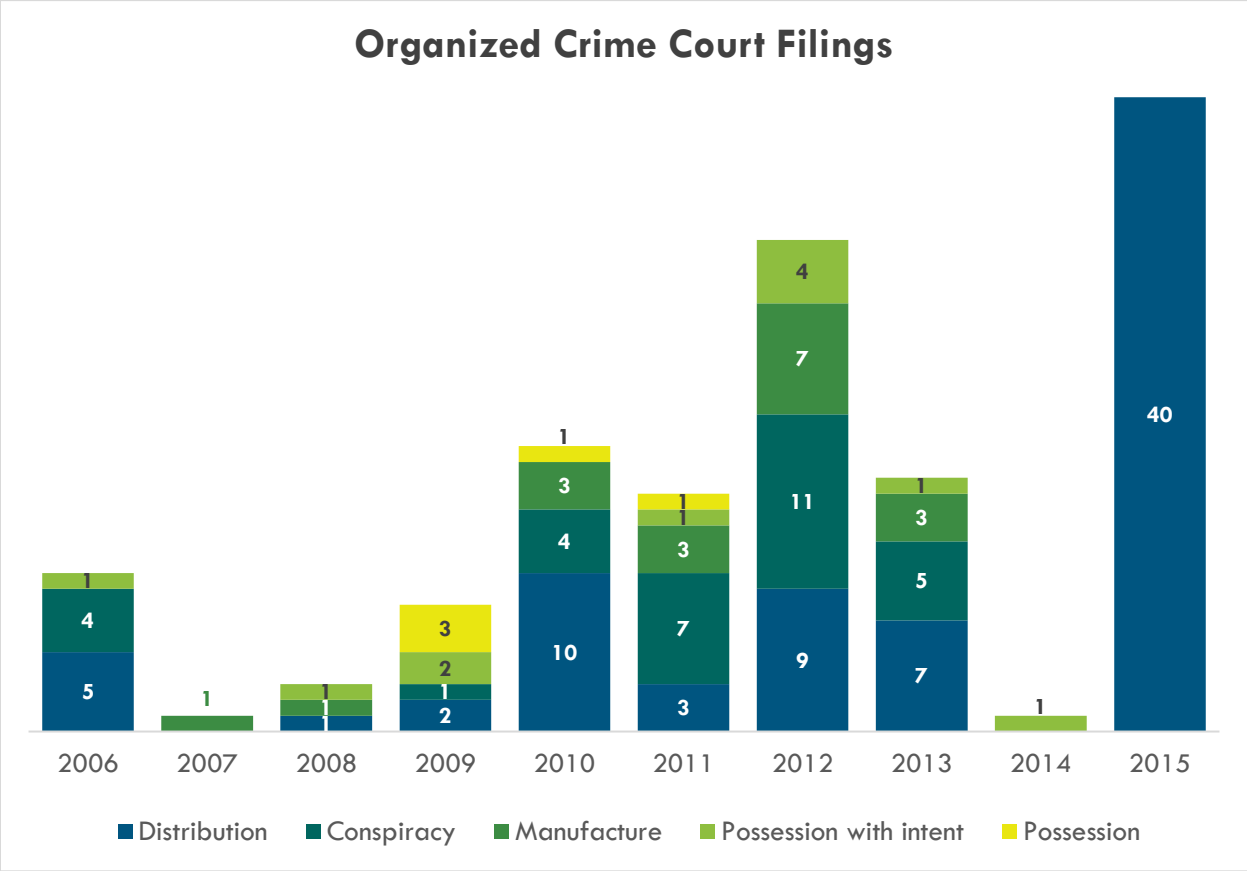
Marijuana Court Filings

	2012	2013	2014	2015	2016	2017
Possession	9,475	3,477	2,659	1,295	883	837
Possession with intent to sell	464	328	284	464	607	730
Possession under 21	no data	3	728	2,922	3,298	3,495
Possession - consumption in vehicle	10	95	1,012	874	829	856
Public consumption	206	241	310	211	165	230
Distribution	438	401	305	323	351	398
Manufacture	467	169	141	329	564	661
Conspiracy	168	126	71	112	179	243
Other	10	5	1	2	3	4
Total	9,923	4,041	4,619	4,934	4,913	5,288

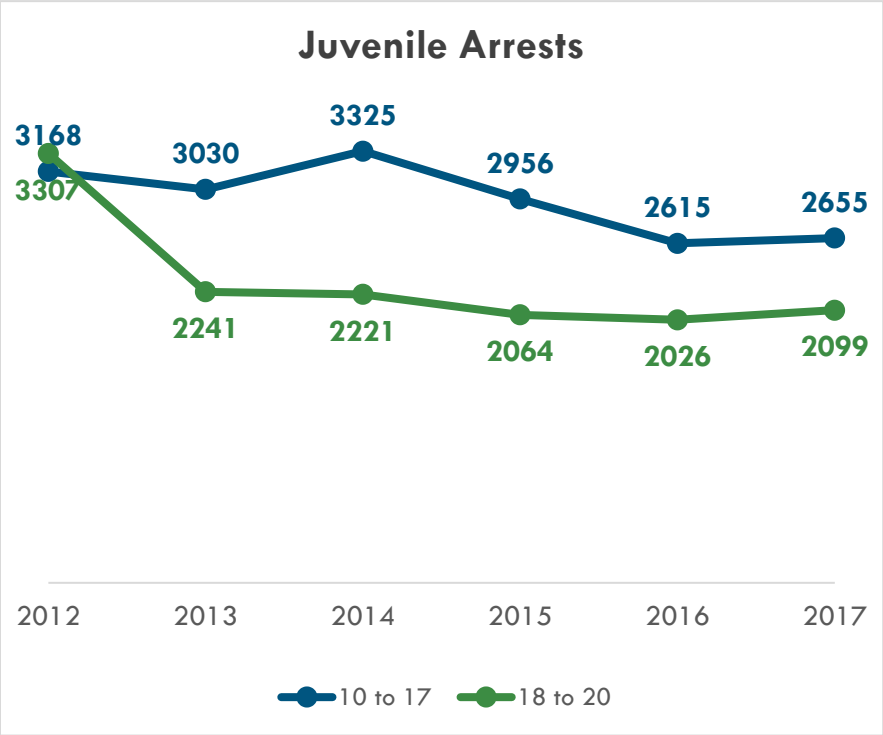
Similarly, marijuana related court filings are down. Underage possession charges have increased considerably since legalization, as have charges related to the sale of marijuana. Possession with intent to sell is up 64%, and court filings for illegal manufacturing have risen by 42% (Reed, 2018). The ACLU estimates that the low-end average cost of a misdemeanor possession charge—including court costs, defense costs, and prosecution costs—is $466 (in September 2018 dollars). Using that figure, the total cost of charges in Colorado dropped from $5,236,908 to $3,484,282 between 2012 and 2017—a savings of about one-third. It is important to note that not all who are charged pay for an attorney and fines and penalties vary according to mitigating factors such as defendant's record, age, ability to pay, amount

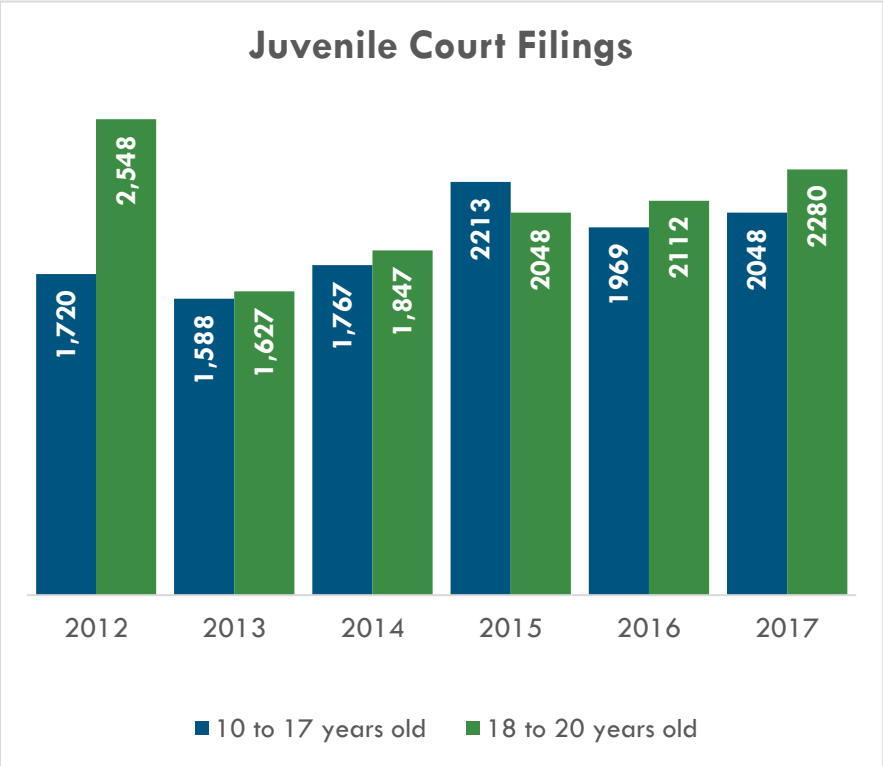
and type of marijuana in possession. The calculations represent *only* the costs to citizens for marijuana violations. For instance, according to the CRS 18-13-122 (4)(a)(b) and (c), fines range from $100 for a first offense to $250 for a third offense. Fines are typically paired with community service and treatment. Furthermore, according to a report written for the Institute of Court Management (2016) the average collection rate of 19% represents five states' active attempts to collect fines and fees owed. In Colorado HS 1311 (2014) addressed the issue of inability to pay court costs.

Based on filings associated with the Colorado Organized Crime Control Act, there has been an increase in charges related to marijuana involving organized crime. In 2006, there were 10 total filings—five for distribution, four for conspiracy, and one for possession. In 2015, there were 40 filings, all for distribution.



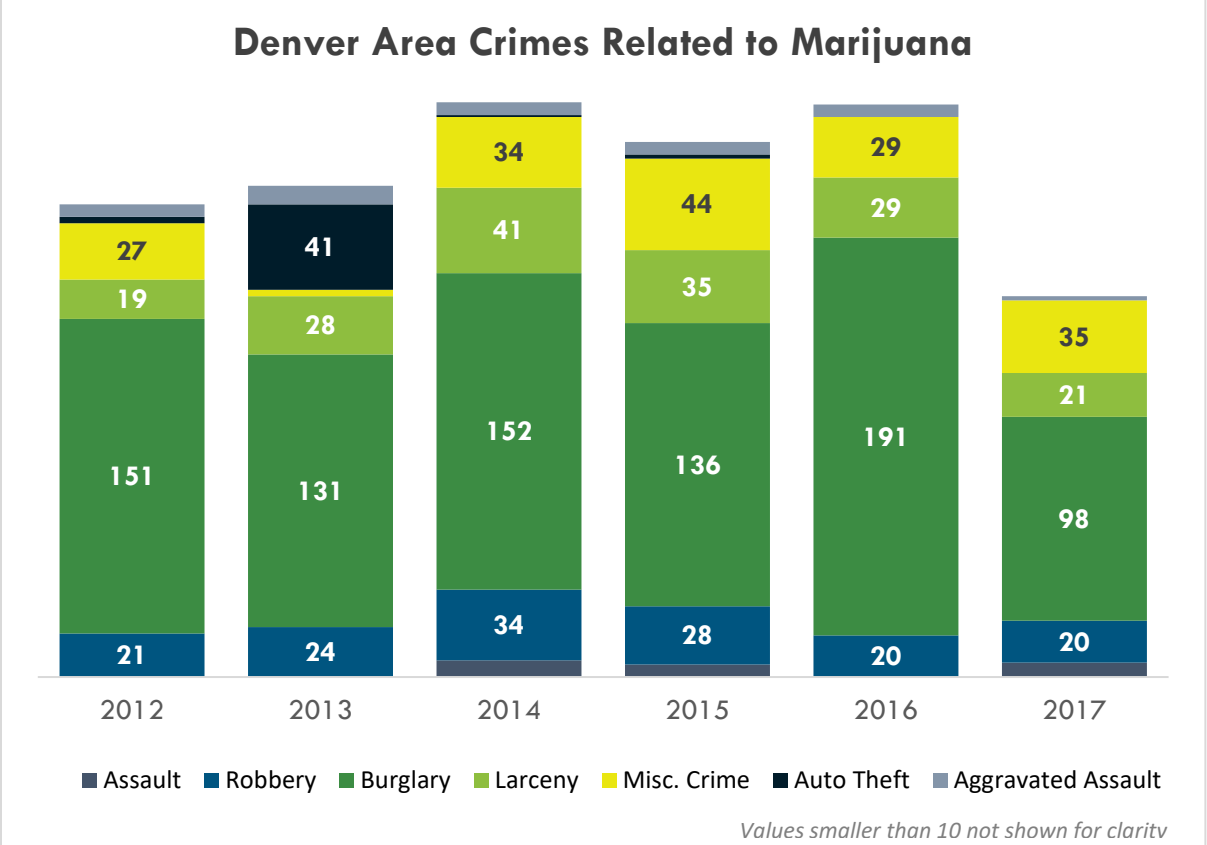
While the number of underage possession charges has increased, the overall number of arrests for marijuana-related crimes has declined by 16% for minors. This figure dropped even more (36%) for people between 18 and 20 years old (Reed, 2018).





Court filings, however, tell a different story for children aged 10 to 17. While court filings for older youth (18 to 20) have declined 11%, court filings for younger children (10 to 17) increased 19% over that same period. The cost of juvenile court filings is estimated at $466 according to the ACLU, which brings the cost of court filings in 2017 to approximately $1,170,126 for juveniles.

In the Denver area, there has been a slight decrease in crime related to marijuana since 2012, according to the Denver Open Data Catalogue. Based on costs associated with victimization in assault and robbery cases found by Miller, Cohen, and Rossman (1993) and the cost of other crimes estimated by RAND, the total cost of marijuana-related crimes in Denver decreases from $4,209,613 in 2012 to $3,111,114 in 2017.



Costs for Denver Area Crimes Related to Marijuana

	2012 Cost	2013 Cost	2014 Cost	2015 Cost	2016 Cost	2017 Cost
Assault†	$0	$0	$250,144	$187,608	$0	$218,876
Robbery†	$831,726	$950,544	$1,346,604	$1,108,968	$792,120	$792,120
Burglary‡	$2,466,132	$2,139,492	$2,482,464	$2,221,152	$3,119,412	$1,600,536
Larceny‡	$50,692	$74,704	$109,388	$93,380	$77,372	$56,028
Misc. Crime‡	$174,312	$19,368	$219,504	$284,064	$187,224	$225,960
Auto Theft‡	$33,969	$464,243	$11,323	$22,646	$0	$0
Aggravated Assault‡	$652,782	$979,173	$652,782	$652,782	$652,782	$217,594
Total	$4,209,613	$4,627,524	$5,072,209	$4,570,600	$4,828,910	$3,111,114

†Estimates describe lifetime cost of being a victim of assault or robbery from Miller et al. (1993) translated to 2018 dollars
‡Estimates from RAND translated to 2018 dollars

Even though Denver Metro's population is 56% of the state, extrapolating the cost of marijuana-related crime to all of Colorado cannot be accomplished as the demographics are different. It is important to note that tracking crimes related to marijuana throughout the state has proven to be difficult. In an interview for CNN, Lt. James Hennings (2018) stated:

> *If a marijuana dispensary is burglarized, is that because it was a marijuana dispensary or ... if it were a liquor store or a stereo store would it have been burglarized as well? The data is so tough to nail down and say this crime happened because of marijuana. It's just almost impossible to do that. (McClean & Weisfeldt, 2018)*

Colorado has seen an overall increase in crime just as the country as a whole has seen a decrease (McLean and Weisfeldt, 2018). This may or may not be related to legalizing recreational marijuana. More data and time are needed to determine the overall impact of crime on the state.

Probationers Testing Positive for Marijuana

Age Group	Times tested positive	2012	2013	2014	2015	2016	2017
< 15 years old	0 times	428	294	283	288	231	219
	1–2 times	122	100	132	107	130	79
	3 or more times	102	98	105	98	92	90
15 to 17 years old	0 times	1704	1338	1336	1238	1161	1034
	1–2 times	900	617	683	673	658	596
	3 or more times	773	644	757	732	704	694
18–25 years old	0 times	11635	11039	12509	11348	10309	9490
	1–2 times	3535	2954	3371	3141	2987	2986
	3 or more times	2061	1990	2952	3356	3620	3829
26–35 years old	0 times	12596	13069	16793	16280	15895	15258
	1–2 times	2124	1908	2440	2656	2678	2914
	3 or more times	1131	1215	2057	2646	3371	3906
36 years or older	0 times	14279	15392	20170	20195	19470	19056
	1–2 times	1462	1348	1834	1905	2067	2296
	3 or more times	853	821	1539	1916	2400	2972

The chart on the previous page shows the number of incidents of people on probation testing positive when required to take a THC drug test, based on data from the Colorado State Judicial Department. It should be noted that the use of medical marijuana is permitted for this population, but only with a valid medical marijuana card (House Bill 1267; 2015). Data on the number of people on probation who have medical marijuana cards was not available. However, parolees carrying a medical marijuana card are likely *not* to be tested according to the Marshall project. Additionally, the state Board of Parole encourages officers to try various interventions to prevent a return to incarceration, especially for technical violations (8 CCR 1511-1).

According to the Colorado Department of Corrections, the average cost to incarcerate one person for one day is $104.51 (up from $86.14 in 2012). Over a year, that adds up to $38,146.15 for every incarcerated person. The Marshall project studied the percent of parolees returned to prison each year for small, technical violations such as failing a drug test. In Colorado, the rate of failing probation for marijuana use is 6-10%. Taking the lower range, 6% of parolees violating their parole for failing a drug test are being returned to jail and assuming one-half year for the current year, with a 1 to 3 year sentence for violation, in 2018 the state would have spent $87,014,326 on re-incarceration due to technical parole violations for marijuana.

Three years' incarceration

	2015	2016	2017	Totals
Total Parolees Testing Positive for THC	17,230	18,707	20,362	56,299
Marshall Report 6% Technical Violation Return to Incarceration rate (Longitudinal Recidivism)	1034	1122	1222	3378
Cost of Incarceration each Day	104.51	104.51	104.51	-----
Estimated Number of Days of Parolee Population in Prison in 2017	187.5	365	187.5	2 years average (½ year for 2015, 1 full year for 2016, ½ year 2017)
Total Cost for Parolee THC Violation in 2017	$20,257,957	$42,816,002	$23,940,367	$87,014,326

5. Housing

Confidence: Moderate-Low

5.1 Homeowners

The Colorado housing market, and especially the Denver metro housing market, has a reputation for being expensive and inflated. While a large number of factors contribute to the cost of housing in Colorado, one surprising element is whether or not a home is located in a municipality that has permitted recreational marijuana dispensaries to open in the community. Cheng, Mayer, and Mayer (2018) employed a differences-in-differences statistical approach to determine how much housing prices change when a community adopts pro-recreational marijuana retail laws and found that housing prices rose 6%, or approximately $15,600 per property, after legalization compared to communities that did not allow for retail marijuana. The authors explain that the price difference is the result of changes in the local economy that accompany the arrival of retail marijuana, including jobs in the marijuana industry, employment in related industries, increased local tax revenue, and the appeal for some residents to live in an area with legalized retail marijuana. Furthermore, the authors point out that these forces increase housing demand but have no effect on housing supply (Cheng et al., 2018). Therefore, as housing supply catches up with demand in Colorado, the impact of retail marijuana is likely to drop off.

According to Cheng et al. (2018), retail marijuana was legalized in 46 of Colorado's 271 incorporated municipalities in August 2015. The authors compared municipalities who legalized to those who did not, keeping municipality type, rural or urban status, and population demographics (race, gender, and education) constant. The authors also obtained data to control for housing characteristics including number of bedrooms, number of bathrooms, age of home, and living area in the home. Data were available for 30 municipalities that had legalized and 111 that had not, allowing the authors to run multiple controls and test for robustness in the data. Their results show that there is a boost to housing prices, although one that is likely to fade as housing supply changes and more municipalities (and states) legalize.

In the 30 municipalities the authors studied, 8,170 homes were sold in 2015 alone. Assuming an average value increase of $15,600, this yields an overall benefit of $127,452,000. This number should be interpreted as a conservative estimate because the authors did not include 16 municipalities in their data who did legalize because of incomplete data. Furthermore, the largest increases in housing value were found in urban areas in low- and middle-tier housing prices[26], where the majority of houses are priced in the state[27].

[26] Low tier housing prices are defined as those under $200,000 and middle tier housing prices are those between $200,000 and $500,000 (Cheng et al., 2018, p. 1599).

[27] According to Zillow data, the median housing price in Colorado is listed at $356,700. This indicates that 50% of the homes sold in Colorado cost less than $356,700.

Cheng et al. acknowledge that legal retail marijuana comes with costs to the municipalities including costs to public health, traffic, and crime (see the appropriate sections in this document outlining these costs).

5.2 Renters

Recreational marijuana is legal to consume on private property with the approval of the property owner, placing many renters in a position where marijuana is legal in the state but not legal to consume in their home. Rental rules are set by landlords and can vary in what they do and do not allow. It is common for landlords to ban smoked marijuana citing damage caused by smoke and the nuisance it might cause to neighbors.

Despite this, renters still use marijuana in their rental properties and face conflict with their landlords. Based on figures provided by Risk Management Fellow Val Q. Clark, the cost for warning residents about marijuana violations is $1,225 per incident that ends in an eviction. While the *Denver Post* found that over 8,000 tenants were evicted, only a fraction could be attributed to behaviors associated with marijuana (smoking, disturbances, etc.). Clark estimates that there are approximately 1,500 incidents per year in Colorado that end in an eviction[28], yielding an overall cost of $1,837,500 to evict marijuana users who violate the terms of their rental agreement. For context, 730,999 or 35.63% of households in Colorado rent (American Community Survey, 2018). The median household income of renters is $39,538 a year, of which they spend $12,684 or 32.08% of their income on housing costs.

[28] The actual number of evictions due to marijuana is not reported. An article looking at eviction rates in Denver reported that 8,000 households received eviction notices in 2016. However, the reasons for eviction are not reported (Brown, 2017). In light of the many other reasons a tenant could be evited, 1,500 is a reasonable estimate (Clark, 2018).

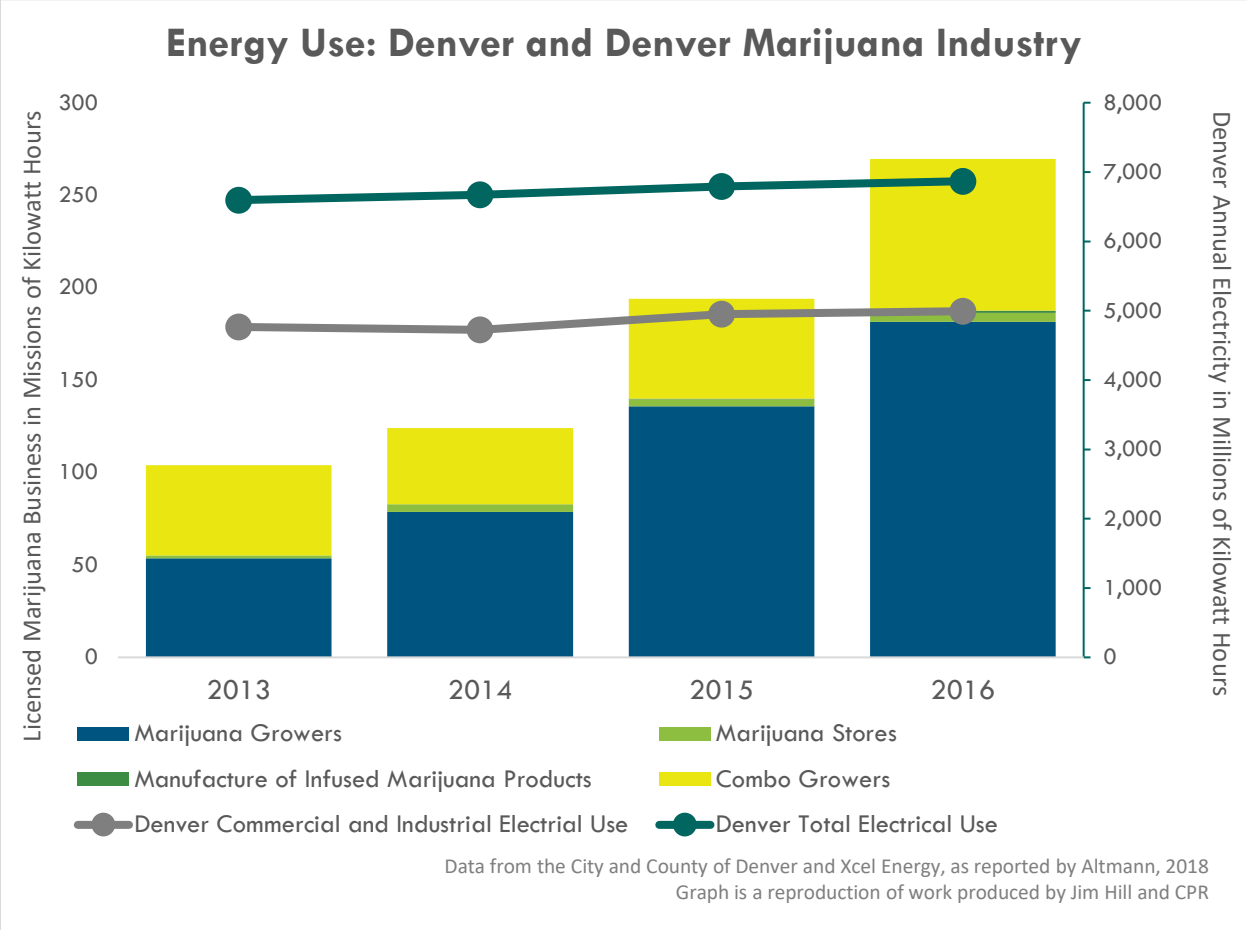
6. Environmental Impact

Confidence: Moderate

Determining the dollar-value cost of environmental impacts is almost impossible to achieve because the impacts of the marijuana industry contribute to larger problems like climate change and the build-up of single-use plastics in landfills (or the Pacific Ocean plastic island). It is almost impossible to determine the cost of fixing these problems. However, these impacts are important to acknowledge in the broader discussion of unintended consequences and costs related to marijuana legalization.

6.1 Energy Use and Greenhouse Gas Emissions

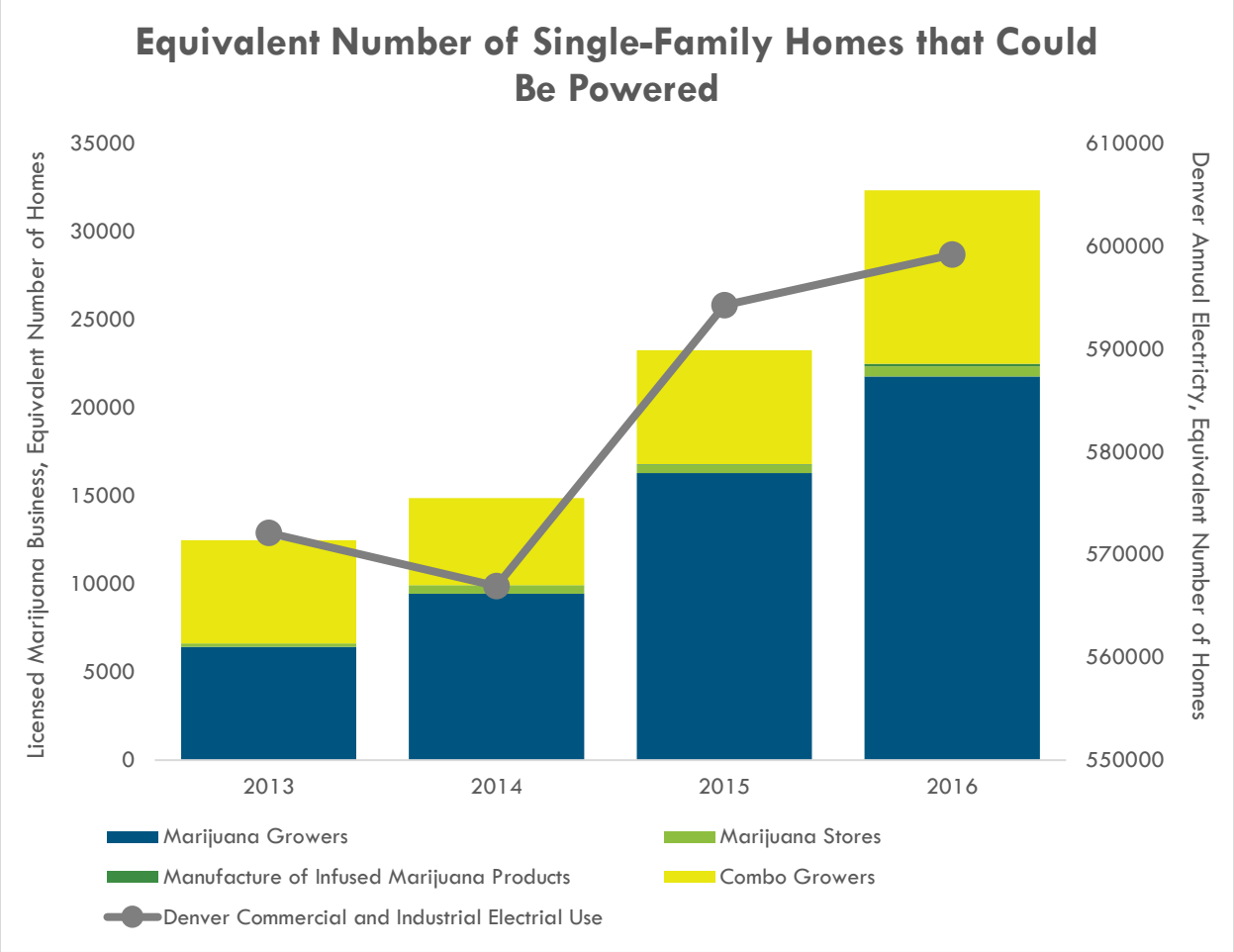
According to growing regulations, all marijuana must be grown in an enclosed and locked space to prevent unlawful possession of the plant (Altmann, 2017). As a consequence, growers use a large amount of energy to replace natural sunlight, provide irrigation, and maintain a healthy climate for the plants (including fans to simulate wind and temperature controls). While these efforts are common for greenhouse-grown crops of all varieties, the magnitude of the marijuana industry means it will use a lot of energy and release a large amount of associated greenhouse gases in the process.



Data from the City and County of Denver and Xcel Energy, as reported by Altmann, 2018
Graph is a reproduction of work produced by Jim Hill and CPR

According to data from the City and County of Denver and Xcel Energy, as reported by Grace Hood from Colorado Public Radio (2018), the Denver marijuana industry used 4% of the city's energy in 2016[29]. As shown in the graph below, the marijuana industry's energy use is growing, but it still represents only a fraction of the city's total use. The vast majority of the sector's energy use goes to growing operations, likely to create an artificial growing climate indoors.

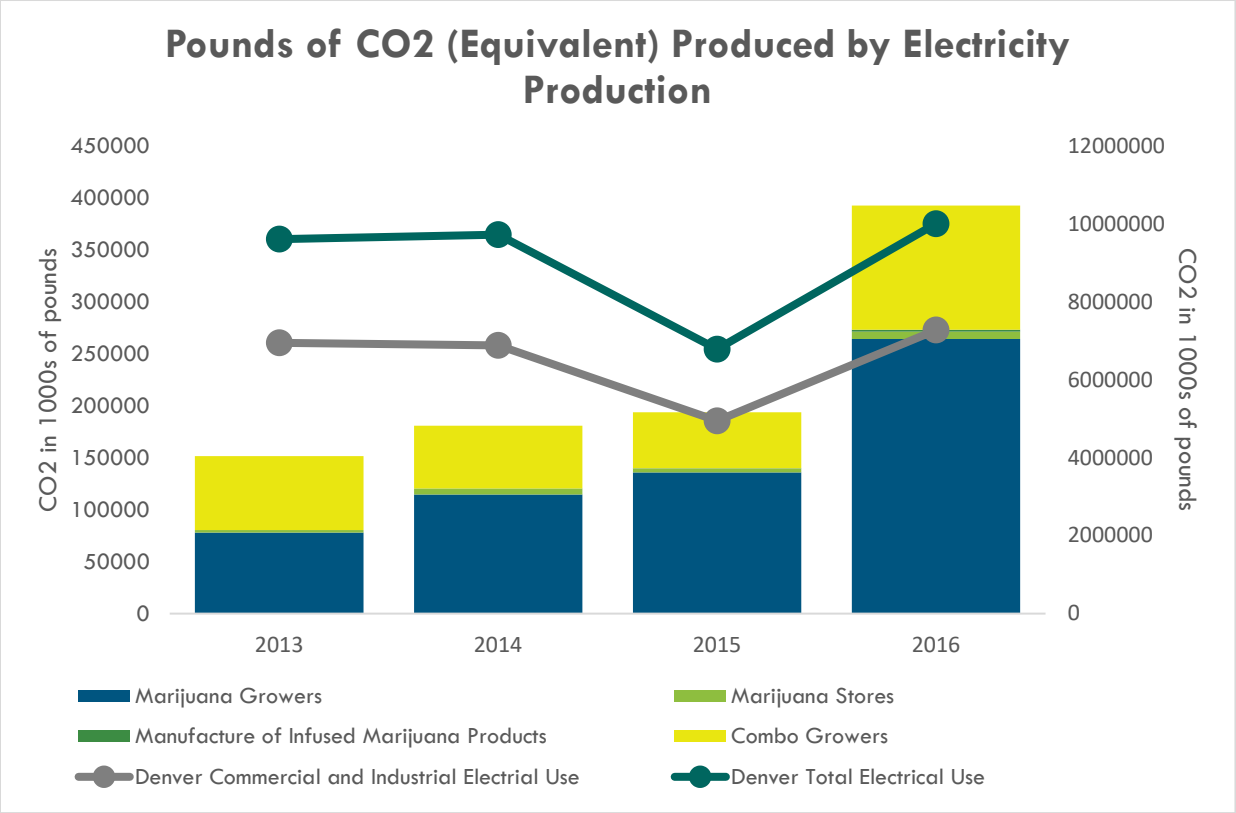
Figures for kilowatt hours of energy use or CO_2 emissions are difficult to translate into easily imaginable concepts, so the kilowatt energy use was translated into the average amount of energy it takes to power a single residential house for a year (12,148 kWh). As shown below, the marijuana industry used enough electricity to power 32,355 homes in 2016.



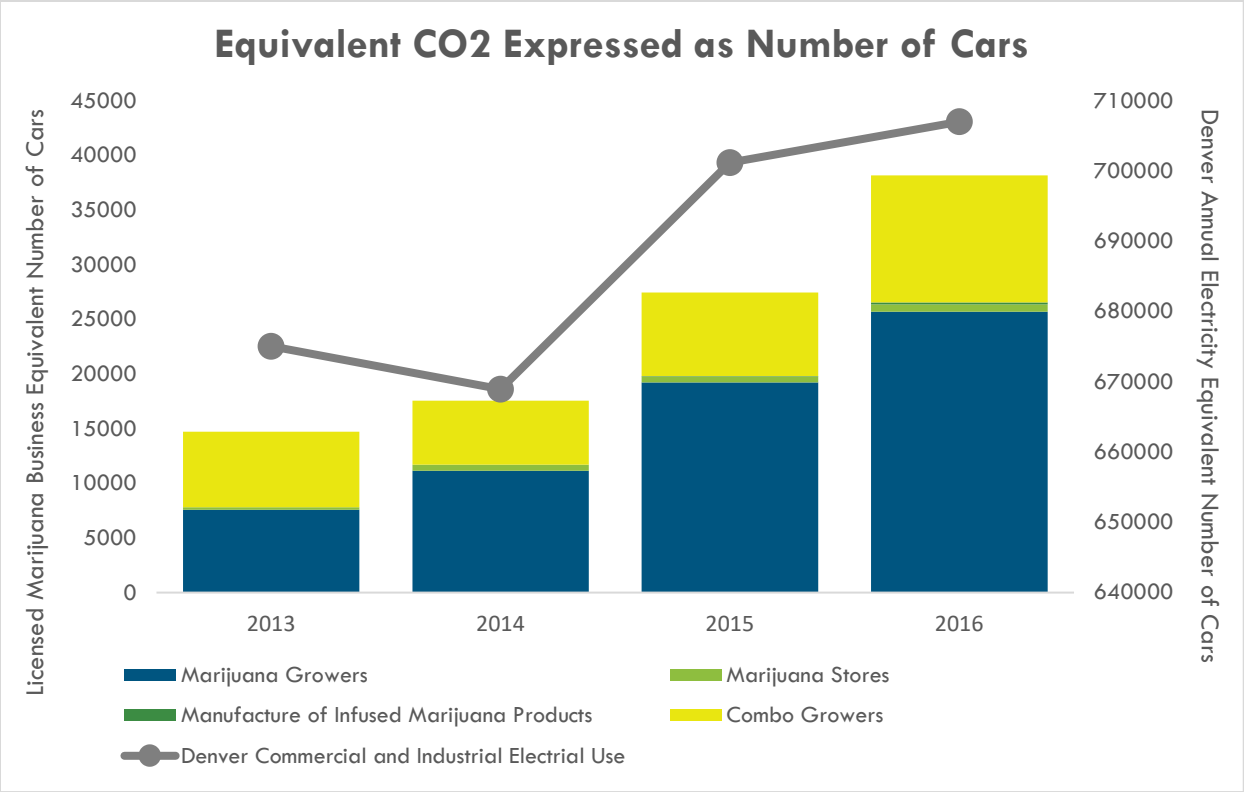
Expressed in terms of CO_2 emissions, the marijuana industry is responsible for contributing to climate change. The figures are based on the US Energy Information Administration's average CO_2 emissions for

[29] Figures on Denver commercial and industrial electricity use or all Denver electricity use are included for reference throughout this section.

the Colorado electricity sector (1,458 pounds of CO_2 per kWh of electricity). In 2016, the marijuana industry was responsible for approximately 393,053 pounds of CO_2 emissions.



Expressed differently, the amount of electricity (and associated greenhouse gases) produced by the marijuana industry created enough CO_2 to match what was produced by 38,177 cars in 2016. Considering there are 3,900,774 licensed drivers in the State of Colorado (Colorado Department of Transportation, 2018), this is a relatively small number. However, it does represent an environmental impact that would likely not exist without the presence of large indoor marijuana growing facilities.



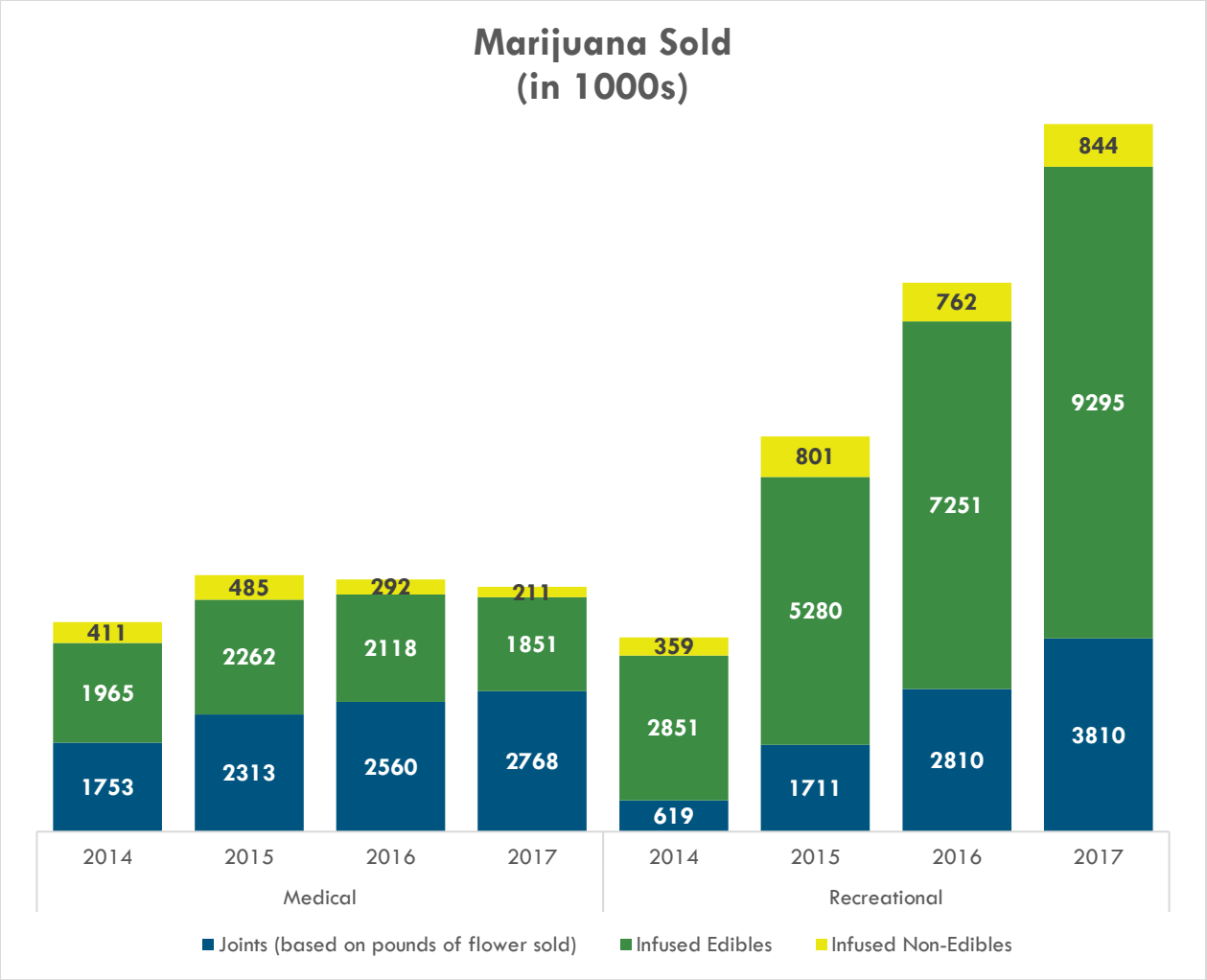
The marijuana industry occupied 4.2 million square feet of industrial space in Denver at the end of 2016 (CBRE Group, Inc., as cited in Rusch, 2017). This accounts for approximately 2.88 percent of the industrial warehouse space in the city. This number is likely to remain stable within Denver due to an ordinance passed in April 2016 by the Denver City Council setting limits on retail dispensaries and grow houses to approximately 470 locations (Murray, 2016; Rusch, 2017). However, the cap is likely pushing marijuana growers to look for locations outside of the city rather than limit the size of their operations.

6.2 Single-Use Packaging

Packaging laws passed by the State of Colorado are aimed at reducing the number of children who accidentally ingest marijuana as well as making it clear to anyone picking up a marijuana product that it contains THC. Furthermore, single servings of edibles or joints—defined as containing 10 mg of THC—must be separately packaged (Colorado Department of Revenue, 2018).

Based on data from the Colorado Department of Revenue's Marijuana Enforcement Division's annual reports, there were approximately 4.83 million medical marijuana products and 13.95 million recreational marijuana products sold in 2017. These data are based on one-ounce packages of marijuana flower (data is reported in pounds of marijuana flower sold), units of infused edibles, and units of infused non-edibles sold in Colorado. Each package contains more than one serving. For instance, a one-ounce package of flower contains enough marijuana to make many joints

(approximately 70)[30]. A single candy bar might have 10 servings. While packaging choices vary, if each of these marijuana products was wrapped in plastic, it would yield over 18.78 million pieces of plastic.



There is concern in the industry and in states that have legalized recreational marijuana about the quantity of non-recyclable plastic that ends up in landfills or potentially in the ocean (Young, 2018). However, the industry acknowledges the difficult balance that must be struck because the packaging is used to deter children and pets from accidentally ingesting pot.

[30] Based on figures from the National Alliance for Marijuana and a study by Ridgeway and Kilmer published in the Journal of Drug and Alcohol Dependence, one pound of marijuana yields approximately 1,100 joints. One pound is 16 ounces, averaging to about 70 joints per ounce.

7. Marijuana Tourism

Confidence: Moderate

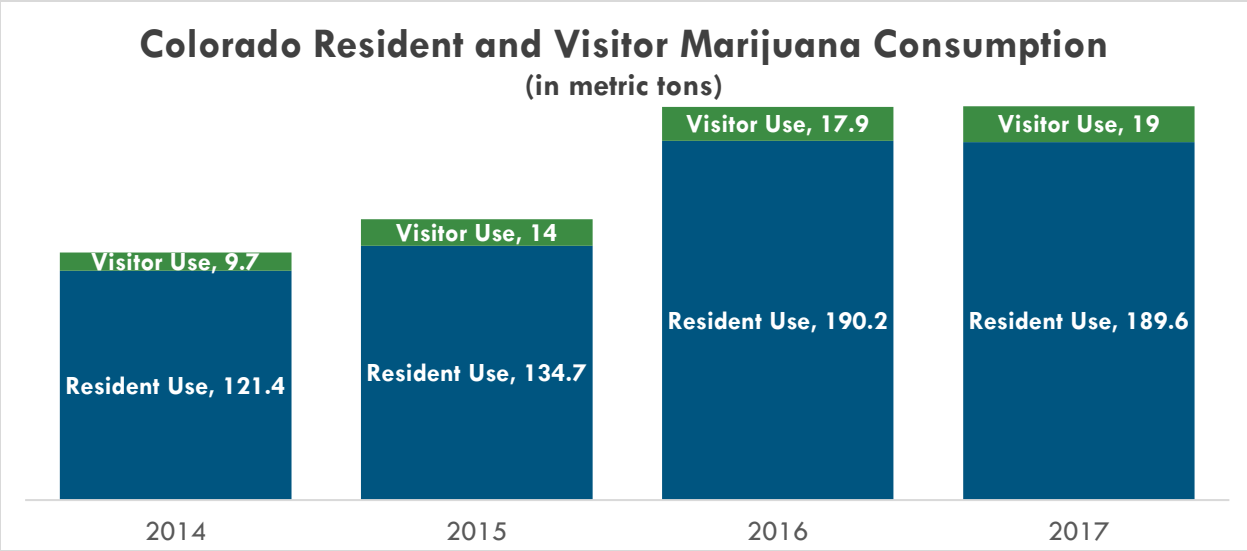
7.1 Marijuana Tourists

According to Runyan (2017), the Colorado travel industry generated approximately $1.3 billion in revenues for state and local governments in 2017. This is the equivalent of $594 of tax revenue for each household in Colorado. As a whole, it is hard to determine exactly how much marijuana contributed to this revenue, but according to Orens et al. (2018), marijuana visitors spent the equivalent of 17.9 million days in Colorado. Based on the metric tonnage of marijuana consumption by visitors in 2017, and the price per gram as determined by Orens et al., it is likely that tourists purchased about $101,460,000 worth of marijuana – approximately 6.73% of all marijuana sold by the Colorado marijuana industry (based on findings of the Colorado Department of Revenue, 2018).

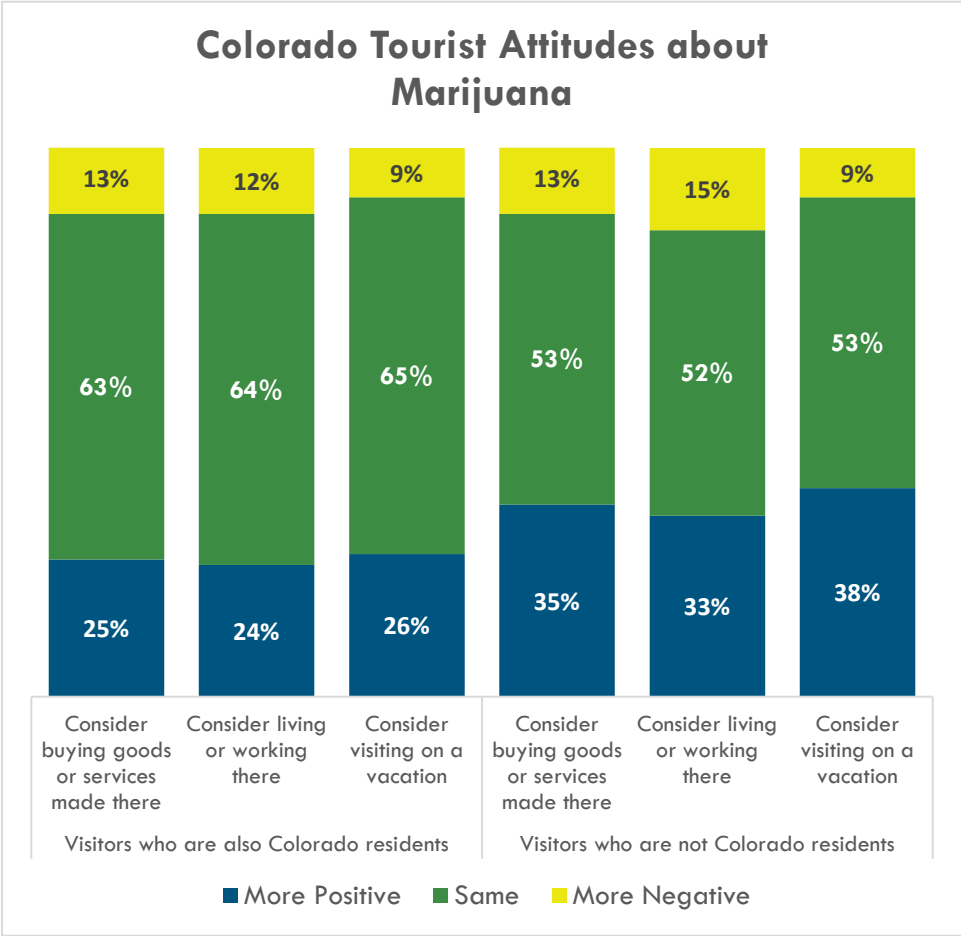
Marijuana Tourists' State of Origin

State of Origin	Visitor Use Days	% of Visitor Use Days
CA	3,477,792	19.40%
NY	1,068,146	5.96%
FL	923,487	5.15%
TX	1,369,107	7.64%
IL	1,555,775	8.68%
KS	516,158	2.88%
NM	31,215	0.17%
AZ	61,379	0.34%
VA	604,685	3.37%
WY	645,481	3.60%
NE	376,394	2.10%
All others	7,301,562	40.72%
Total	17,931,182	100.00%

Most marijuana visitors came from California (19.4%), followed by Illinois (8.68%), and New York (5.96%). As a whole, tourism accounts for a high level of consumption, accounting for 7.4% to 9.4% of all marijuana consumed in the state (Orens et al., 2018).



According to the Longwood Research Group (2017), with data collected from the Colorado Tourism Office, people who travel for leisure indicate that Colorado's marijuana laws made them more likely to visit Colorado.



Overall, marijuana tourism's benefits are far reaching, as the state benefits from the taxes on any marijuana that tourists purchase as well as the additional spending that that accompanies tourism (hotels, meals, admission to state parks, etc.).

7.2 Enforcement costs along borders

While the marijuana industry and tourism associated with this industry may provide a boon to the Colorado economy, other states are taking on added enforcement costs in response. According to Hao and Cowan (2017, p. 5-6):

"We find that [recreational marijuana legalization] causes a sharp increase in marijuana possession arrests of border counties relative to non-border counties in both the Colorado and Washington regions. If a county shares a physical border with an RML state, it experiences an increase in marijuana possession arrests of roughly 30% following RML implementation (relative to non-border counties in the same region). In subgroup analyses, we show that RML has no impact on juvenile marijuana possession arrests, consistent with previous findings that MML does not lead to increased marijuana consumption among teenagers (Anderson, Hansen, and Rees, 2015). We do not find conclusive evidence that marijuana sale/manufacture arrests, DUI arrests, or opium/cocaine possession arrests of border counties are affected on net by RML," (p. 5-6).

Hao and Cowan (2017) find that the arrest rate for marijuana possession at the border amounts to 8.1 arrests per 10,000, while the number of arrests that occurred within 100 miles of the border accounted for 6.7 arrests per 10,000 people. Finally, they estimate that 9.9 people were arrested per 10,000 residents within 100 miles of the border. These findings suggest that interstate highways increase the spillover effect in the legalization of marijuana. Furthermore, "[t]he results show that the RML (marijuana legalization) effect on marijuana possession arrests in border counties is entirely concentrated among adults." Adults are found to be breaking the law to transport marijuana across state lines, not teenagers or youth. These findings are consistent with Anderson et al.'s (2015) finding that legalization does not lead to increased consumption among teenagers.

The actual number of arrests for marijuana possession was 174 individuals. The ACLU estimates that the cost of any arrest is $750 dollars. Therefore, the estimated cost of these 174 arrests is $130,500. While this is not an expense incurred by the state of Colorado, this is a price other states are choosing to pay in response to Colorado's decision to legalize marijuana.

8. Homelessness

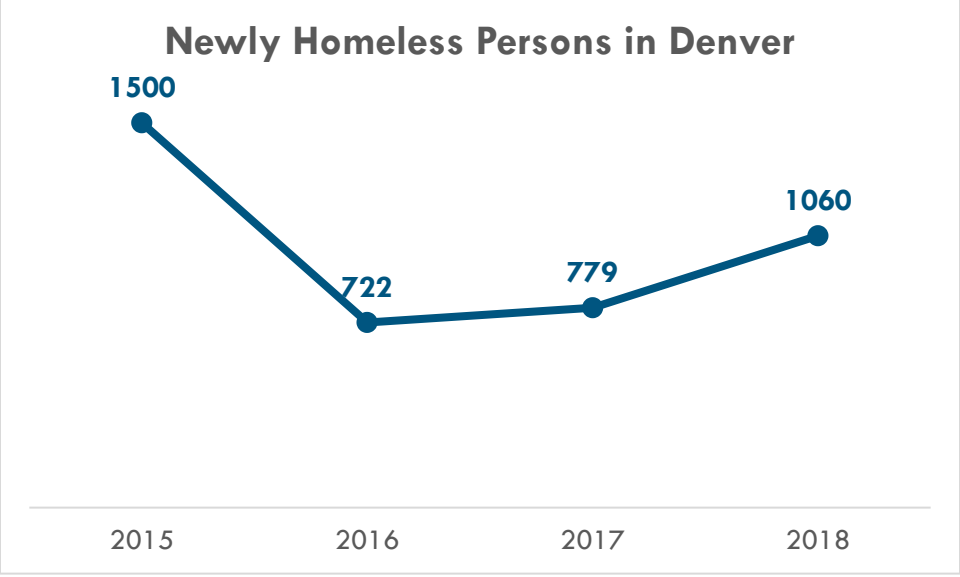
Confidence: Moderate-Low

8.1 Homelessness due to marijuana

In a 2017 article, Pampia spoke with Donald Burnes, the founder and board chair of the Burnes Center on Poverty and Homelessness at the University of Denver, about the impact of marijuana legalization on homelessness. The conclusion that Burnes offered was that, "Anecdotal reports and stereotypes notwithstanding, concrete data does not support a correlation between an increase in homelessness and legal cannabis," (Pampia, 2017).

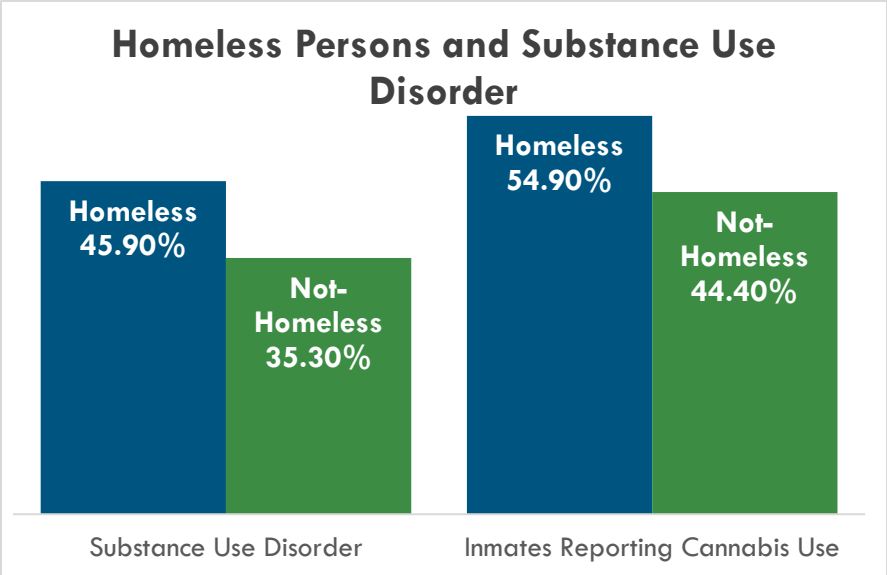
In doing so, Burnes also dispelled the myth that marijuana legalization has prompted a large number of homeless people to flock to Colorado from out of state. Pointing to responses to the point-in-time survey administered by the Metro Denver Homeless Initiative, which asks people about their most recent place of residence, Burnes said that the number of homeless people from out of state has been mostly stable, and even decreased between 2012 and 2016.

"What does, in fact, cause homelessness, Burnes continued, is the loss of a job, high housing costs (including exorbitant utility rates) and a relationship or family breakup, in that order. And while statistics show that substance abuse often does play a part in a person being homeless, Burnes said it is 'relatively low' on the list," (Pampia, 2017).



As earlier sections of this report stated, the Colorado Judicial Branch (2018) reports that 37,225 people were evicted from apartments in Colorado in 2016. It was estimated by Clark (2018) that about 1,500 people are evicted due to of marijuana use. However, this does not necessarily mean that marijuana use leads to homelessness in those cases, just that it can lead to evictions which may, in turn, increase the potential for those people to become homeless.

8.2 Homeless persons using marijuana



While there is little evidence to suggest that marijuana legalization has played a role in the rate of homelessness, some research does suggest that homeless people are more likely to abuse substances. Harman et al. (2018) finds that among prison inmates, 45.9% of homeless people had some type of substance abuse disorder, compared to 35.3% of non-homeless inmates. Homeless people in prison had similarly high rates of using marijuana in the past 30 days (54.9%) compared to the non-homeless inmate population (44.4%).

Among homeless inmates, marijuana (either medical or recreational) was cited as the third most common reason for moving to Colorado (35.1%) behind getting away from problems (44.2%) and family (37.8%). Only 18.5% said they stayed in Colorado because of marijuana, which was far below family (31.1%), outdoor activities (28.3%), and friends (26.6%) as the main reasons.

Homeless people's reasons for using marijuana often stem from the stresses of living on the street rather than being a result of legalization (Cuellar, Snowden, and Ewing, 2007; Weitzman, Knickman, and Shinn, 1992; White, Chafetz, Collins-Bride, and Nickens, 2006 - as cited in Saddichha et al., 2015). Research—conducted prior to marijuana legalization in Colorado—found estimated substance use disorder rates of 41% to 84% among homeless people (Gonzalez and Rosenheck, 2002; North, Eyrich, Pollio, and Spitznagel, 2004 - as cited by Saddichha et al., 2015), with cannabis use disorder rates between 22% and 78% among that group (Sara et al., 2012; Teesson et al., 2000 as cited by Saddichla et al., 2015)[31].

Essentially, marijuana use is not a cause of homelessness but, rather, a symptom of the current traumas that homeless people face (Saddichha et al., 2015).

[31] This does not imply the homeless population in the Denver Metro region with substance use disorder is using only cannabis, only that the rate of the Denver homeless population with a substance use disorder is similar to the rate of cannabis use disorder as cited by the literature.

9. Pets

Confidence: Low

The negative consequences of marijuana use are not limited to human users. Colorado pets, especially dogs[32], have experienced negative consequences of marijuana use. According to Fitzgerald, Bronstein, and Newquist, "the most common source of exposure is through ingestion of the owner's marijuana supply. The minimum lethal oral dose for dogs for THC is more than 3g/kg," (2013, p. 8). While marijuana is fairly safe in general, dogs have died after ingesting food products with higher concentrations of THC, such as THC medical grade butter. Some of the symptoms dogs experience as a result of toxicosis from marijuana include: (1) depression, (2) vomiting, (3) urinary incontinence, (4) hypothermia, (5) tremors, (6) seizures, and (7) tachycardia (Fitzgerald, Bronstein, and Newquist, 2013).

Over a five-year period, 125 dogs were hospitalized at Wheatridge and Colorado State University after consuming marijuana (Meola et al., 2012). The cost to treat toxicosis in pets is $525 – making the estimated cost to treat these 125 animals $65,625 (American Veterinary Medical Association, 2017)[33].

According to the American Community Survey (2018), there are about 2,051,616 households in the state of Colorado. The American Humane Association (n.d.), estimates that 37% of homes have dogs, and there are an estimated 1.6 dogs living in each home. By these estimates, there are more than 1.2 million dogs living in Colorado.

[32] The heightened olfactory abilities of dogs mean they often sniff out marijuana when other pets ignore it.
[33] Data are not regularly kept on the cause of pet emergency visits to vets. Many veterinarians acknowledge that the rate of marijuana-related pet emergency visits is increasing, but the exact rate is not measured.

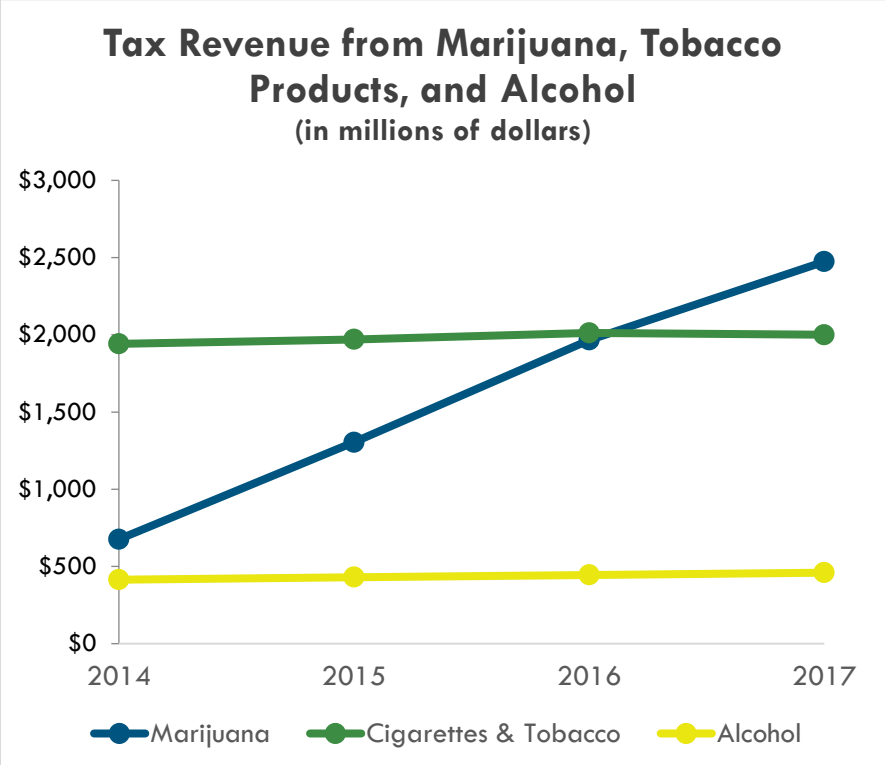
Tax Revenue

Tax revenue is used as a point of comparisons for the costs listed in this report. Since its legalization in 2014, retail marijuana has produced approximately $641,978,779 in tax revenue for the state of Colorado, which amounts to about 0.6% to 1.8% of all accumulated revenues for the state (Colorado Department of Revenue, 2018).

Tax Revenue from Marijuana

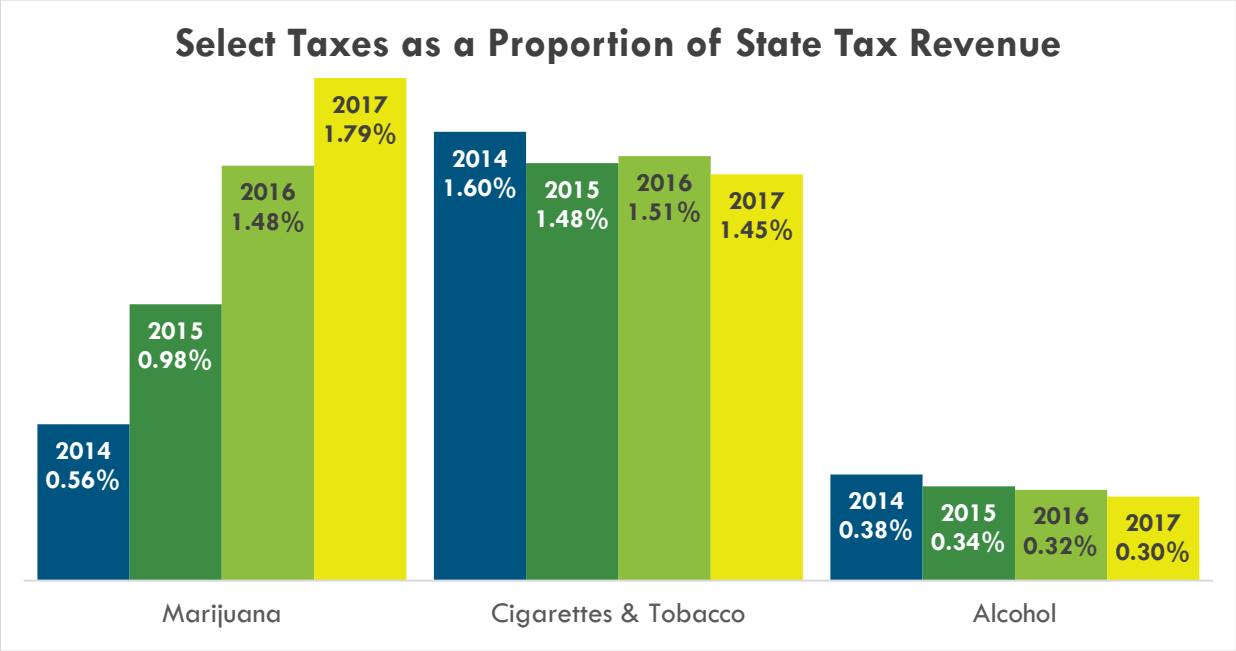
	Marijuana Tax Revenue	Gross Colorado Taxes	Marijuana Tax as Percent of Gross Colorado Taxes
2014	$67,594,323	$12,163,509,453	0.6%
2015	$130,411,173	$13,271,954,616	1.0%
2016	$196,604,810	$13,327,123,798	1.5%
2017	$247,368,473	$13,836,244,687	1.8%

Sales taxes from marijuana were compared to those collected from tobacco and alcohol sales. The taxes collected from marijuana surpassed the sales tax collected from alcohol since legalization (2014) and surpassed the amount of tax collected from cigarettes and tobacco products in 2017 by $47 million (Colorado Department of Revenue, 2018).

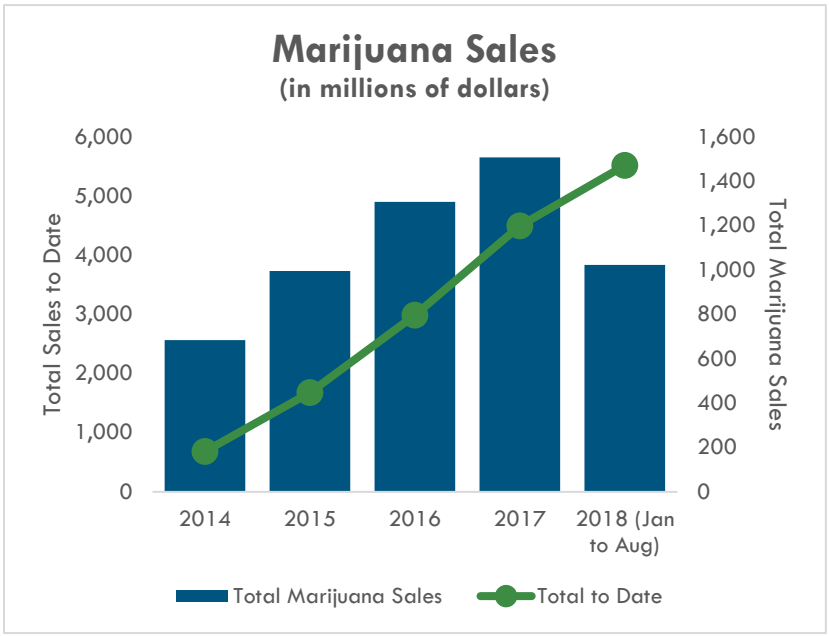


Marijuana is one of the fastest-growing sources of revenue for the state of Colorado, and the amount is beginning to outpace all revenues collected from alcohol and tobacco-products. Since the legalization of retail marijuana, the proportion of tax revenue collected from cigarette and tobacco sales as part of all state tax revenues collected began to decline. In 2014, taxes collected from tobacco product sales accounted for 1.6% of all taxes collected

by the state of Colorado, and that figure dropped to 1.45% in 2017. The proportion of sales taxes from alcohol has remained unchanged. In that same time period, total revenue from marijuana jumped 266%, while revenue from tobacco and alcohol grew by just 3% and 11%, respectively. For comparison, the total revenues collected by the state of Colorado has increased by 13.8% since legalization of marijuana (Colorado Department of Revenue, 2018).



Marijuana sales have generated approximately $5.5 billion since legalization[34], a figure which is comparable to the GDP of some small countries. The marijuana sales in Colorado in 2017 are slightly less than the 2017 GDP of Antiqua and Barbuda ($1.532 billion), and its accumulated sales are more than the 2017 GDP of Fiji (The World Bank Group, 2018). Since legalization, the rate of sales in this industry has grown by nearly 121%.



[34] Marijuana sales for 2018 were measured between January and August.

According to the Colorado Department of Revenue (2018) about 41,158 people possess licenses to sell marijuana. Most have support occupational licenses (64.4%), and 31.5% have key occupational licenses. Only 4% of all marijuana licenses are held by the owners of these centers.

Individual Licenses

Type of License	Number	Percentage
Associated Key (Owners)	1,682	4.09%
Key Occupational	12,960	31.49%
Support Occupational	26,516	64.42%

Types of Facilities with Marijuana Licenses

	Medical	Retail	Total
Centers/Stores	483	548	1,031
Cultivations	708	739	1,447
Product Manufacturers	242	286	528
Testing Facilities	11	11	22
Operators	5	9	14
Transporters	10	13	23
Total	1,459	1,606	3,065

There are a total of 3,065 facilities with marijuana licenses, with 1,459 possessing a medical marijuana license and 1,606 possessing a recreational marijuana license. Many of these licenses are held by businesses that have both a medical and a recreational side (Colorado Department of Revenue, 2018).

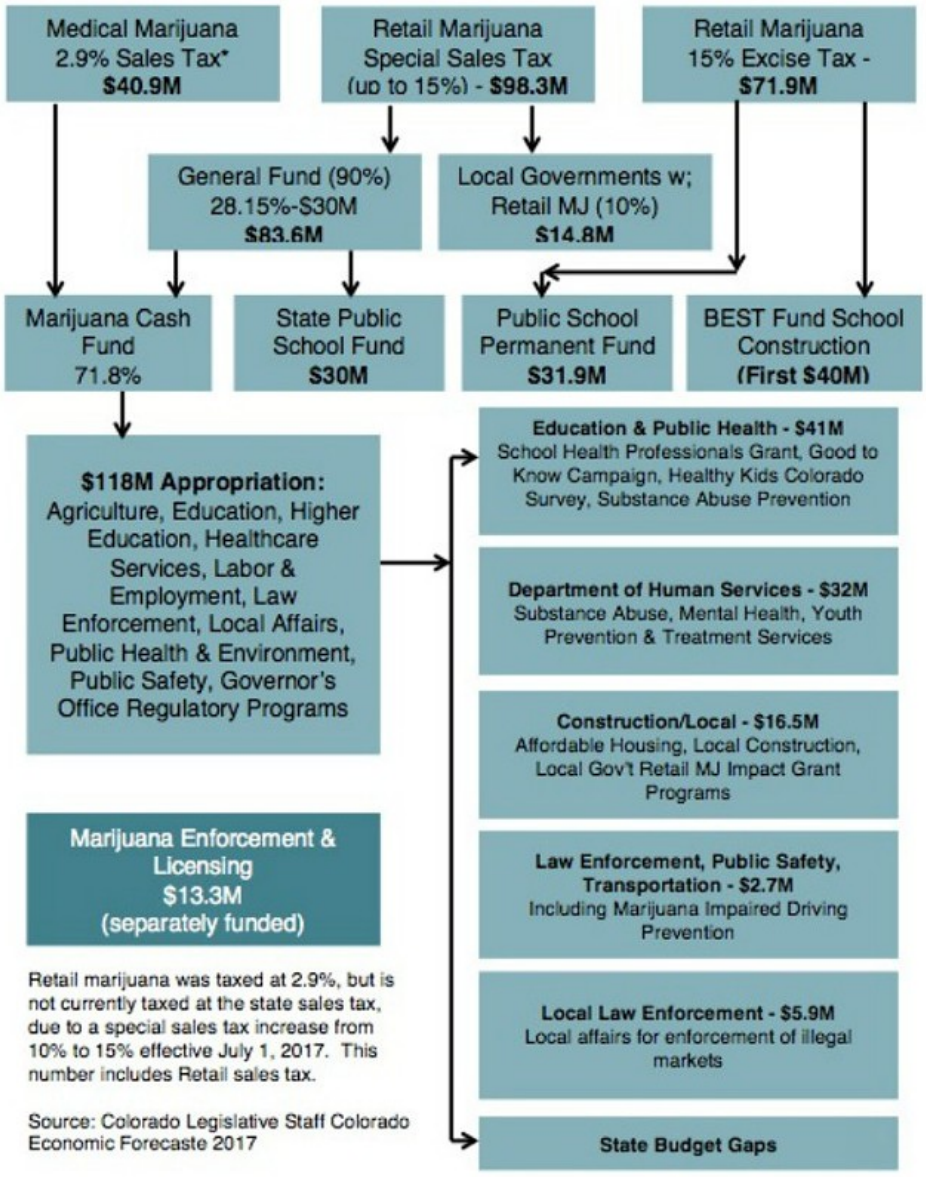
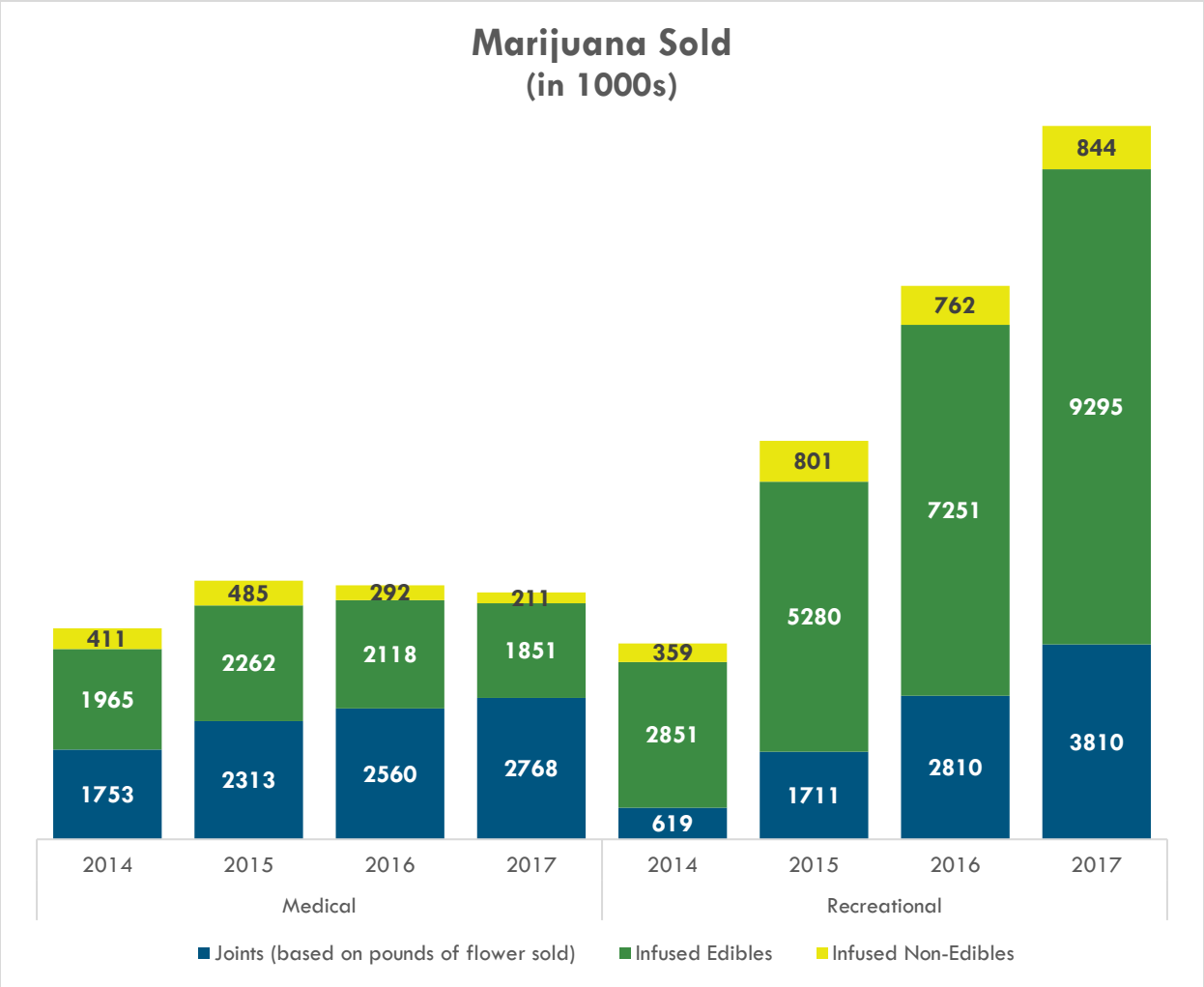


Table courtesy of *Westword Magazine*: https://www.westword.com/news/heres-where-your-colorado-marijuana-tax-dollars-go-10214271

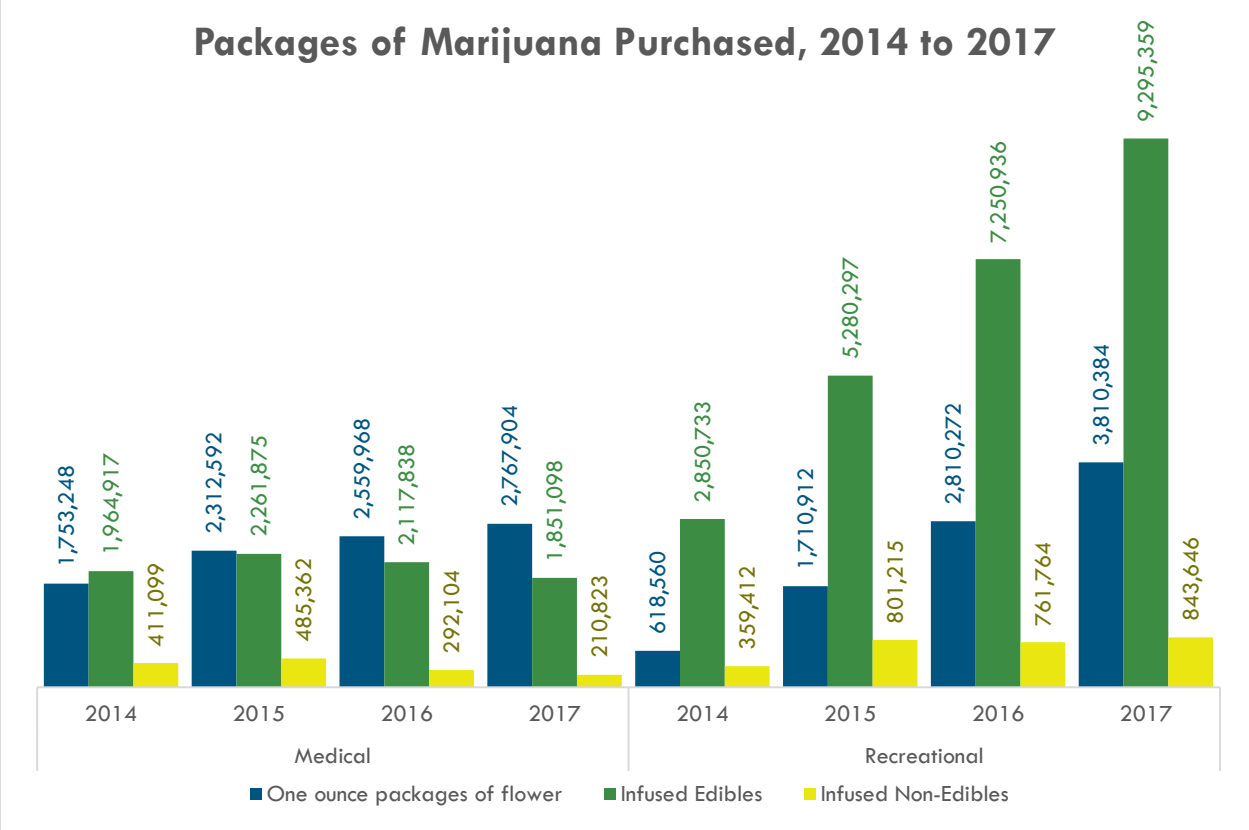
Appendix

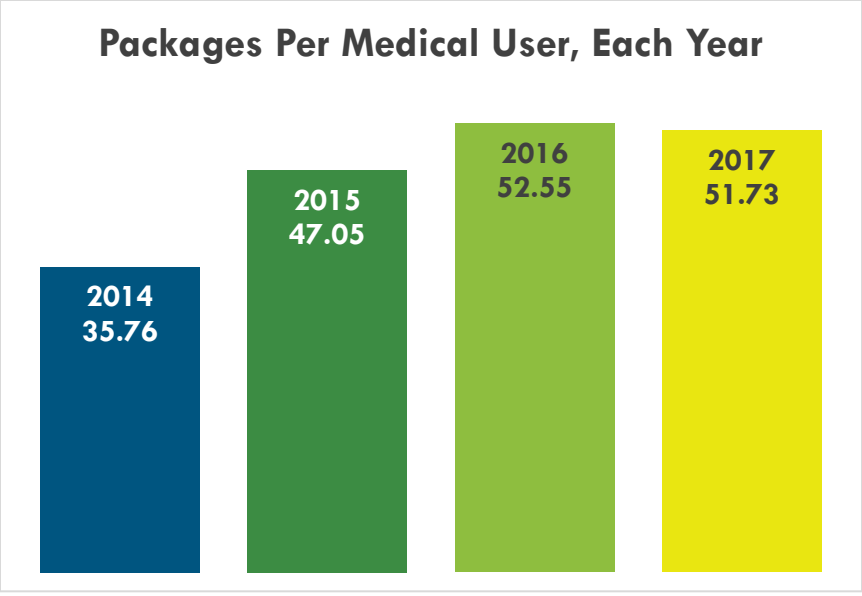
Servings Per User



The average number of packages of marijuana consumed per user per year ranges from less than one to over 50. A package is defined as a one-ounce package of marijuana flower, a single package of edibles (which often contain multiple servings) or a single package of non-edibles (which also contain multiple servings). Data provided by the Colorado Department of Revenue's Marijuana Enforcement Division's annual reports show that there are over 4 million packages of medical marijuana sold a year and more than 13 million packages of recreational marijuana sold a year. The graph (above) outlines the number of packages sold since 2014.

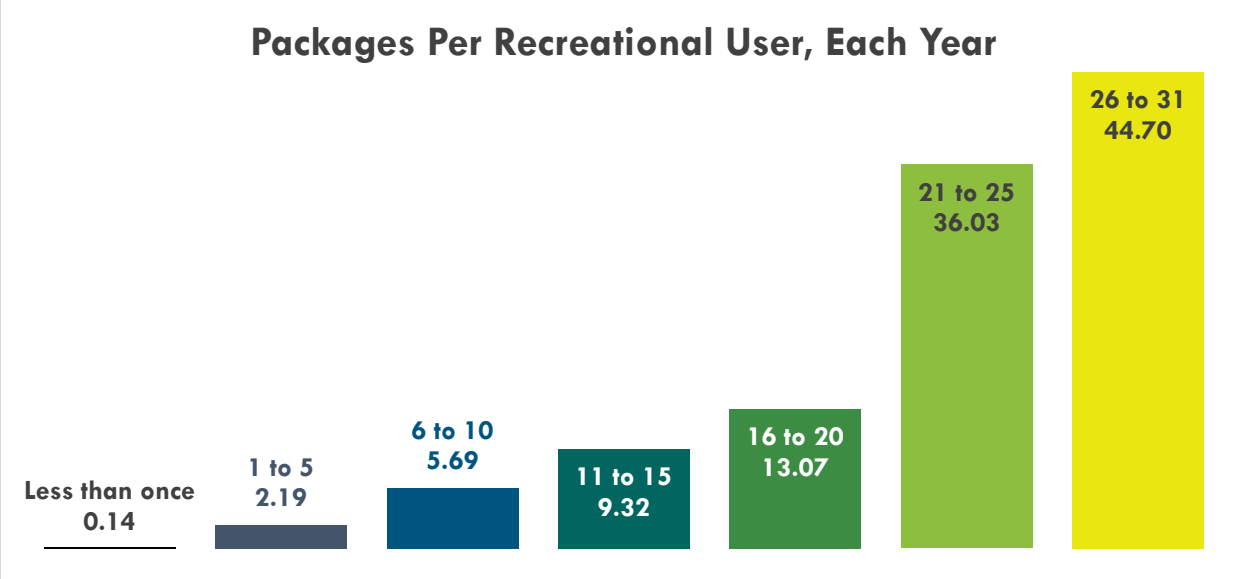
Converted to users, we see that the number of packages purchased by the average medical marijuana user has increased since 2014, but has leveled off in the past two years (see on next page).



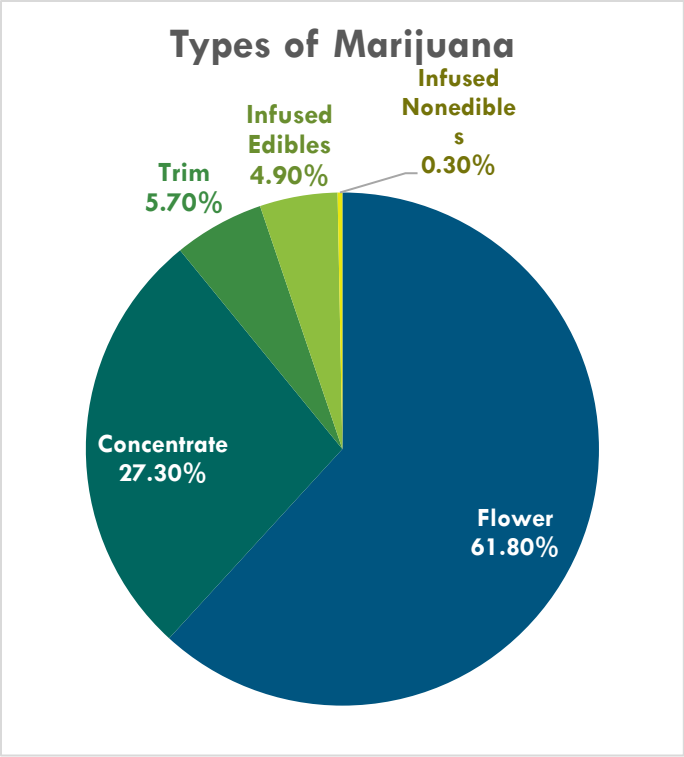


As shown in the graph on the next page, the average number of packages of marijuana varies drastically by the frequency of user for recreational users. These figures show that infrequent users purchase fewer than two packages per year whereas daily or near daily users purchase an average of 45 packages per year (about once a week)[35].

[35] Data are only available for one year estimating the number of recreational users by use frequency.



The vast majority of users purchase flower (used in making joints or in pipes) or concentrate rather than edibles, as shown in the table below.



List of Data Sources

Data Sources Used

American Community Survey (5-year estimates 2012-2016)

American Humane Association

American Veterinary Medical Association

Blue Cross Blue Shield

Bureau of Labor Statistics

Center for Behavioral Health Statistics and Quality

Centers for Disease Control & Prevention

City and County of Denver

Colorado Department of Revenue, Division of Motor Vehicles

Colorado Bureau of Investigation, National Incident Based Reporting System

Colorado Department of Education

Colorado Department of Human Services, Office of Behavioral Health

Colorado Department of Local Affairs

Colorado Department of Public Health & Environment

Colorado Department of Public Safety

Colorado Department of Revenue

Colorado Department of Transportation

Colorado Division of Criminal Justice

Colorado Health & Environmental Data

Colorado Health Institute

Colorado Judicial Branch

Colorado State Demography Office

Colorado State Judicial Department

Colorado State Patrol - Department of Public Safety

Colorado Tourism Office

Current Population Survey

Denver Open Data Catalogue

Division of Criminal Justice

File Unemployment

General Social Survey

Healthy People.gov, U.S. Department of Health & Human Services

Highway Loss Data Institute

Institute of Education Sciences

Insurance Institute for Highway Safety

Living Wage Calculator - Massachusetts Institute of Technology

Longwoods Research Group

Metro Denver Homeless Initiative

National Center for Education Statistics

National Institute on Drug Abuse

National Survey on Drug Use and Health

Office of Research and Statistics

Retail Marijuana Public Health Advisory Committee

Rocky Mountain Insurance Information Association

Substance Abuse and Mental Health Services Administration (SAMHSA)

U.S. Census Bureau, Population Division

U.S. Department of Justice, Drug Enforcement Agency

U.S. Department of Transportation

Xcel Energy

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Effect of recreational marijuana sales on police-reported crashes in Colorado, Oregon, and Washington

October 2018

Samuel S. Monfort
Insurance Institute for Highway Safety

1005 N. Glebe Road, Suite 800
Arlington, VA 22201
+1 703 247 1500

iihs.org

ABSTRACT

In January 2014, Colorado became the first U.S. state to allow retail sales of recreational marijuana, with Washington (July 2014) and Oregon (October 2015) following shortly afterward. With more states weighing legalization, it is important to understand the degree to which recreational marijuana legalization has affected traffic safety outcomes. The current study was based on the 2018 Highway Loss Data Institute research on the subject, which estimated that the legalization of retail sales was associated with a 6.0% increase in insurance collision claims compared with control states. The current study investigated police-reported crashes rather than insurance claims. Crash rates were computed for each month between January 2012 and December 2016 for the three study states as well as their neighboring states, which served as controls. Controlling for several demographic factors, the change in crash rate that occurred after recreational marijuana was legalized was compared with the change in crash rate in the control states over the same time frame. The legalization of retail sales in Colorado, Washington, and Oregon was associated with a 5.2% higher rate of police-reported crashes compared with neighboring states that did not legalize retail sales. These results contribute to the growing body of research on the impact of recreational marijuana legalization.

Keywords: recreational marijuana; traffic safety; crash risk; legalization; cannabis; THC

1. Introduction

Marijuana dulls the perceptual and cognitive abilities required for safely operating a motor vehicle (Bosker et al., 2012), and the legalization of recreational sales in several western states has drawn the attention of researchers and policymakers who seek to understand its effects on traffic safety. Results from simulator studies suggest that consuming marijuana increases lane weaving behavior and interferes with drivers' ability to maintain a constant headway (Bondallaz et al., 2017; Bosker et al., 2012). Despite the number of laboratory studies that have demonstrated a link between the use of marijuana and poor driving, the net effect that marijuana legalization has on real-world traffic safety outcomes is less clear. Meta-analyses of epidemiological research have found that drivers who use marijuana are slightly more likely to be involved in crashes than drivers who do not (Asbridge, Hayden, & Cartwright, 2012; Li et al., 2012; Rogeberg & Elvik, 2016), but some of the studies included did not carefully match control drivers to crash-involved drivers or failed to control for concurrent alcohol use. The best controlled study to date on the subject, conducted by the National Highway Traffic Safety Administration, found that drivers involved in crashes were not more likely to test positive for marijuana compared with drivers not involved in crashes after controlling for gender, age, race, and alcohol consumption (Lacey et al., 2016). Similarly, a recent study of recreational marijuana legalization in Colorado and Washington did not find a statistically significant increase in crash rates compared with control states (Aydelotte et al., 2017). Although some studies have found that liberalizing marijuana laws increases the proportion of drivers in fatal crashes that test positive for marijuana (Pollini, Romano, Johnson, & Lacey, 2015; Salomonsen-Sautel, Min, Sakai, Thurstone, & Hopfer, 2014), legalization seems to increase the number of users overall; an increase in marijuana-positive drivers alone does not necessarily imply impairment (Pacula,

Powell, Heaton, & Sevigny, 2015). Further, the presence of marijuana metabolites in the blood does not strongly predict impairment. Unlike alcohol, marijuana metabolites can remain in the bloodstream for days after the drug's effects wear off (Compton, 2017; Ramaekers et al., 2006).

1.1 Medical versus recreational marijuana

The effect that marijuana laws have on traffic safety may be related to whether the law governs medical or recreational use. Advocates of medical marijuana argue that the drug is a safe and efficacious treatment for several conditions and can serve as a substitute for other substances that are popularly used to manage those conditions (e.g., Lucas, 2012). Consistent with this conceptualization, research has found that legal medical marijuana is associated with lower rates of opioid and alcohol positivity among fatally injured drivers (Anderson, Hansen, & Rees, 2013; Kim et al., 2016). The reduction in opioid and alcohol abuse may offset (partially or entirely) the effects of more prevalent marijuana consumption (Anderson et al., 2013; Santaella-Tenorio et al., 2017). Thus, while medical marijuana legalization may increase the proportion of fatalities that involve marijuana (e.g., Pollini et al,. 2015), some research suggests that it may nonetheless reduce the overall number of fatalities (Hansen, Miller, & Weber, 2018; Santaella-Tenorio et al., 2017; Vogler, 2017). Efforts to understand the potential effects of legalizing marijuana should consider total crash numbers in addition to the proportion of fatal crashes involving marijuana.

Although research suggests that access to medical marijuana may reduce the prevalence of alcohol- and opioid-related crashes, these benefits may not extend to legalizing its recreational use. The size of the effect varies by study and state, but legalizing recreational marijuana seems to be associated with slightly increased fatality rates (Vogler, 2017). A study conducted by the Highway Loss Data Institute (HLDI) found that legal recreational marijuana sales in Colorado, Washington, and Oregon were associated with a 6.0% increase in collision claims compared with

neighboring states that did not legalize (HLDI, 2018). Except for HLDI (2018), most research evaluated the effect of marijuana legalization by analyzing fatal crashes. The current study was conducted to examine police-reported crashes of all severities in Colorado, Washington, Oregon, and several comparable western states that did not legalize recreational marijuana. Where possible, the methods, including covariates, from the 2018 HLDI study were used on the police-reported crash data. Given that the current study was designed to replicate and expand on this HLDI (2018) study, we hypothesized that the onset of recreational marijuana sales would be associated with a small increase in crash rates.

2. Method

2.1 Data

Monthly counts of police-reported crashes that occurred in the states of Colorado, Idaho, Nebraska, Oregon, Utah, Washington, and Wyoming were collected from annual published summaries. Data were available for years 2012–2016. Estimated counts of passenger vehicle registrations by state and year (IIHS analysis of data obtained from IHS Markit) were used as an exposure measure, and the outcome variable—crashes per million registrations—was computed to standardize crash data across states with varying vehicle population sizes.

States that legalized recreational marijuana sales were compared with neighboring states without such laws. Control states were chosen to match those used by HLDI (2018), which selected them according to their proximity to the study states and because of the strong correlation between the crash rates of these states and the study states in the years prior to legalization. This pattern was observed in the current study as well; Figure A1 in Appendix A shows the correlations and the changing crash rates over time per million registrations for Colorado, Washington, and Oregon, as well as their surrounding control states.

2.2 Legislation status

Each state in the sample that legalized recreational marijuana sales did so at a different time. For each study state and its matching controls, the months prior to legalization were coded as *pre-retail sales* and the months following legalization were coded as *post-retail sales*. States that legalized recreational sales were labeled *study states* and states that did not legalize recreational sales were labeled *control states*. Colorado (January 2014) was matched with Nebraska, Wyoming, and Utah; Washington (July 2014) and Oregon (October 2015) were matched with Idaho and Montana.

2.3 State characteristics

Monthly average temperature and precipitation data were obtained from the National Oceanic and Atmospheric Administration (NOAA, 2018) to control for the seasonal variation of crash rates. Data on unemployment were obtained from the Bureau of Labor Statistics (BLS, 2018) to account for differential economic conditions across states and time, which has been shown to be related to vehicle fatalities (Farmer, 2017; He, 2016).

2.4 Demographics

The population proportion of young drivers (20–24) and male drivers by state and year were included in the regression models to account for variation in state demographics (U.S. Census Bureau, 2016).

2.5 Model specification

States that legalized recreational marijuana sales were compared with neighboring states without such laws in a series of linear regression models. For all models, the crash rate outcome was log transformed to produce more interpretable estimates.

Two linear regression models were conducted for each study state. In the first model, a categorical state variable was used to make individual state comparisons. By setting the study state as the reference group, the differential effect of legalization on the study state compared with each of its controls was estimated through interactions between legislation status and the contrast terms for the control states. In the second regression model, a binary categorical variable was used that combined each control state into a single estimate (i.e., *study state* vs. *control states*). In this way, the study state was compared with the average of its control states, and the differential effect that legalization had on the study state compared with the aggregate of its controls was estimated through the interaction between legislation status and the contrast term for the control states.

Lastly, a single combined analysis was conducted to combine all study states and all control states. This regression produced an estimate for the overall effect of legal recreational sales on crash rates. All regression models described in this report were weighted by the number of crashes reported each month (i.e., sampling weights). Weighting improves the accuracy of parameter estimates by granting greater influence to months with more observations (i.e., crashes).

3. Results

3.1 Overall analysis

The combined analysis of all study states compared with all control states estimated the overall effect of legalizing recreational marijuana on traffic crashes at a relative increase of 5.2% (B=.0507, SE=.0213, t=2.38, p=.018) (Table 1). Although not always statistically significant, the estimated effects of the covariates tended to be in the hypothesized direction (Table B1 in Appendix B). For example, the parameter estimates for the proportion of young people and the

proportion of males were positive, while the parameter estimates for the unemployment rate were negative. It is estimated that if none of the covariates had changed over time, the three states in our sample that legalized recreational marijuana would have experienced a 4.1% increase in traffic crashes (Figure 1). In contrast, the control states would have experienced a 1.0% decrease in traffic crashes over the same period.

Table 1. Summary results of regression analyses comparing crash rates between study and control states before and after legalization of retail marijuana sales.

Study State(s)	Control State(s)	Effect	*B*	*SE*	*t*	*p*	
Colorado	Nebraska	+5.7%	.0551	.0457	1.21	.229	
	Utah	+8.5%	.0812	.0375	2.16	.032	*
	Wyoming	+7.4%	.0717	.0647	1.11	.269	
	Nebraska, Utah, Wyoming	+7.4%	.0718	.0307	2.34	.020	*
Washington	Idaho	+3.9%	.0387	.0563	.687	.493	
	Montana	+3.3%	.0321	.0573	.561	.576	
	Idaho and Montana	+3.6%	.0355	.0433	.819	.414	
Oregon	Idaho	+1.5%	.0148	.0494	.299	.765	
	Montana	+8.4%	.0807	.0565	1.43	.155	
	Idaho and Montana	+4.3%	.0417	.0420	.991	.323	
Colorado, Washington, Oregon	Idaho, Montana, Nebraska, Utah, Wyoming	+5.2%	.0507	.0213	2.38	.018	*

Note. This table contains summary results from seven different regression models. * = p<.05.

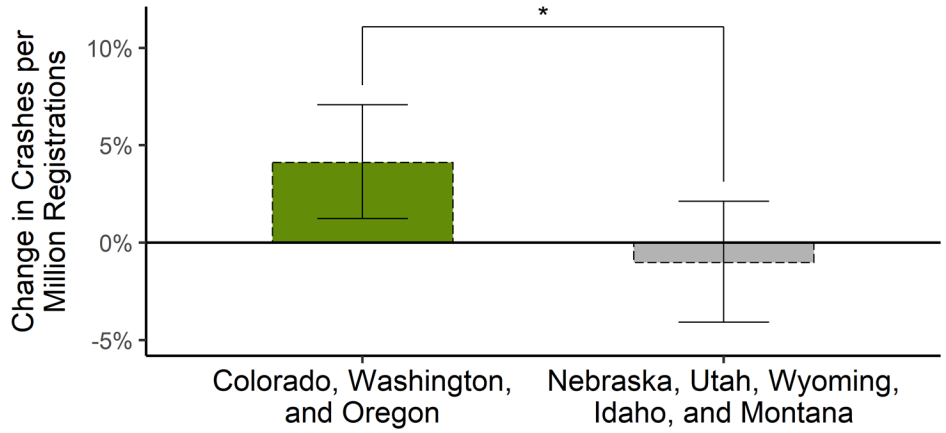

Figure 1. Estimated percent change in crash rates from pre- to post-legalization with covariates held constant. Error bars represent 95% confidence intervals.* = p<.05.

3.2 Individual state analyses

We also compared the study states individually with each of their control states, expecting the results to be consistent with the aggregate analysis.

3.2.1 Colorado

Consistent with the overall effect described previously, recreational marijuana legalization increased the police-reported crash rate in Colorado by 7.4% (*B*=.0718, *SE*=.0307, *t*=2.34, *p*=.020) (Table B2 in Appendix B). The regression model suggests that, if none of the covariates had changed, crash rates in the control states would have decreased by an average of 8.7% from pre- to post-legalization, compared with a decrease of 1.9% in Colorado (Figure 2). The individual comparisons between Colorado and its control states were not all statistically significant but were in the predicted direction (Table 1).

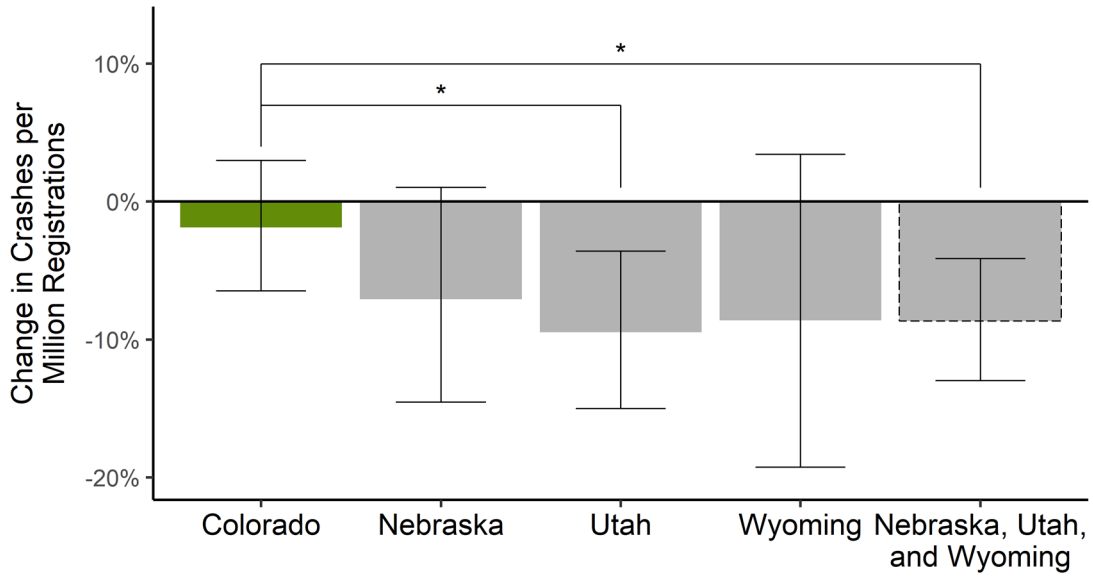

Figure 2. Estimated percent change in crash rates from pre- to post-legalization in Colorado and its controls with covariates held constant. Error bars represent 95% confidence intervals.
* = p<.05.

3.2.2 Washington

The effect of recreational marijuana legalization on crash rates in Washington was smaller than the effect for Colorado, a relative increase of 3.6% (Figure 3 and Table B3 in Appendix B). Although this effect was in the predicted direction, it was not statistically significant (p=.414). Individual comparisons between Washington and each control state resulted in similarly nonsignificant estimates (Table 1).

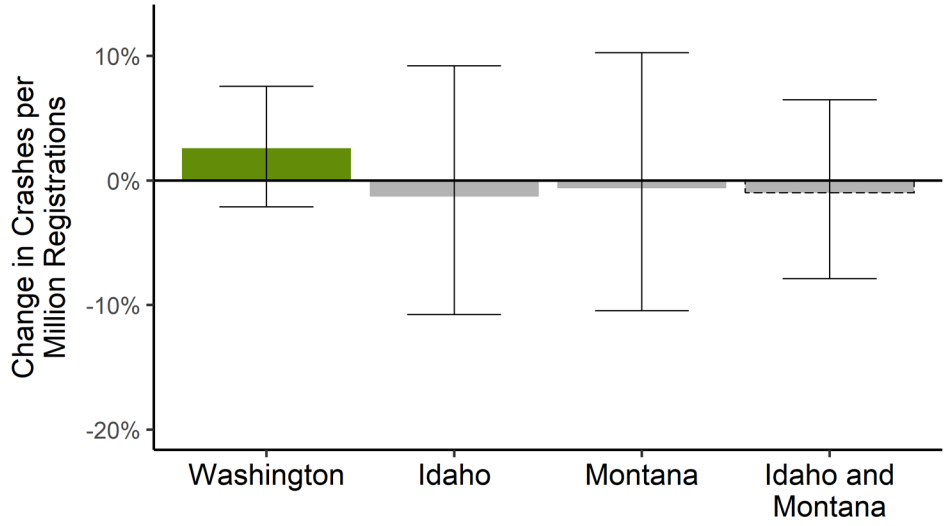

Figure 3. Estimated percent change in crash rates from pre- to post-legalization in Washington and its controls with covariates held constant. Error bars represent 95% confidence intervals.

3.2.3 Oregon

The effect of recreational marijuana legalization on crash rates in Oregon was also smaller than the effect for Colorado, a relative increase of 4.3% (Figure 4 and Table B4 in Appendix B). Although this effect also was in the predicted direction, it again was not statistically significant (p=.323). Individual comparisons between Oregon and each control state resulted in similarly nonsignificant estimates (Table 1).

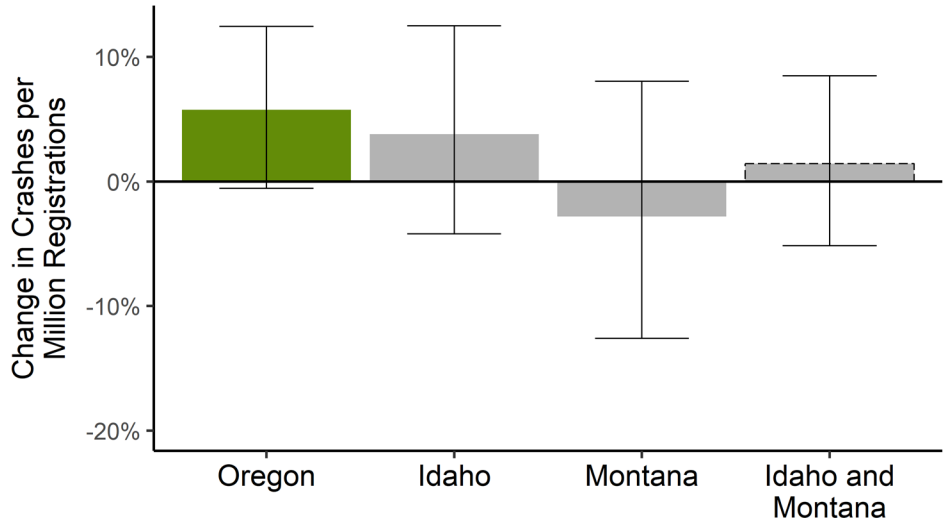

Figure 4. Estimated percent change in crash rates from pre- to post-legalization in Oregon and its controls with covariates held constant. Error bars represent 95% confidence intervals.

4. Discussion

Legalized recreational marijuana was hypothesized to be associated with increased police-reported crash rates in the affected states. Consistent with this hypothesis, crash rates in Colorado, Washington, and Oregon increased by an average of 5.2% from pre- to post-legalization relative to comparison states. Both the direction and size of this effect are consistent with past research by HLDI (2018), which found a 6.0% increase in collision claim rates over the same period.

4.1 State differences

The degree to which recreational marijuana legalization affected crash rates differed in the three study states, both in the size of the effects and in their statistical significance. Although the regression models included several variables intended to control for state differences, the three study states (and their controls) differ in ways that are difficult to quantify. For example, the details of the legislation in the three states differ slightly in terms of daily purchase limits, sales taxes involved, and available options for home growing. These differences, as well as other

factors, might affect the ways consumers typically behave: how often they buy marijuana, where they buy it, and where they consume it.

4.2 Enforcement options

Part of the reason that recreational marijuana legalization increases crash rates might be related to the lack of practical enforcement options. No test currently exists for law enforcement to measure marijuana impairment. Field sobriety tests have been adapted from their use in detecting alcohol-impaired drivers, but states vary widely in terms of their regulations governing tests for drivers (Romano, Torres-Saavedra, Voas, & Lacey, 2017). Research also suggests that field sobriety tests designed to assess alcohol-impaired drivers are only moderately successful at detecting impairment from marijuana (Papafotiou, Carter, & Stough, 2005). Ineffective enforcement may encourage drivers to engage in this risky behavior. Indeed, community intervention research suggests that the key mechanism in legislation's ability to deter impaired drivers lies in a greater perception of the risk of being arrested (Voas, Holder, & Gruenewald, 1997). It is likely that the development of portable technology capable of measuring driver THC levels will reduce marijuana-involved crashes in any state where it is legalized. Indeed, the development of portable blood-alcohol breathalyzer tests coupled with laws governing the legal limit of alcohol sharply reduced crash rates (Asbridge, Mann, Flam-Zalcman, & Stoduto, 2004). Nonetheless, potential complications remain if states adopt different legal limits for THC concentration, particularly because there is no convincing evidence to date to support what an appropriate per se limit would be. Legislation that considers legalizing recreational marijuana should consider available enforcement options when calculating potential societal costs.

4.3 Education options

Intervention-based education programs have been designed to change a variety of risky driving behaviors, from texting and driving (Unni, Morrow, Shultz, & Tian, 2013), to drowsy driving (James & Lauer, 1998), to driving while impaired by drugs or alcohol (Holder et al., 2000). However, these programs tend to have a limited effect on real-world driving behaviors and crash outcomes, particularly in the long-term (Vernick et al., 1999; Mayhew & Simpson, 2002). Some research on risk perceptions, for example, found that the risk that a driver perceives in performing a driving behavior is only weakly associated with performing that behavior (R^2=.044; Rhodes & Pivik, 2011). Increasing driver knowledge of risky behaviors can even make those behaviors more likely by engendering overconfidence (Mayhew & Simpson, 2002). Campaigns that seek to reduce marijuana-impaired driving by raising awareness of legal consequences may be similarly ineffective. A study of Colorado drivers after the state launched its "Drive High, Get a DUI" campaign found that knowledge of DUI laws alone is a weak predictor of DUI behavior (Davis et al., 2016). Programs aimed at reducing marijuana-impaired drivers may therefore have more success by focusing their efforts on targets ancillary to the drivers themselves. For example, Denver voters approved a social consumption law in 2016 that would allow certain establishments to serve marijuana. Education programs may be particularly important if legalization leads to marijuana "bars" where patrons arrive and depart by car. Training bartenders and servers to intervene when they observe rapid drinking (Russ & Geller, 1987) and to discourage patrons from leaving the premises with BACs above 0.08 g/dL (Lang, Stockwell, Rydon, & Beel, 1998) has been shown to have a substantial effect on alcohol-involved crashes.

Educational programs may also reduce harm from impaired driving by convincing the public to accept a greater legislative focus on regulating sales and advertising for the substance (Anderson, Chisholm, & Fuhr, 2009; Elder et al., 2004). Laws that limit the volume of alcohol advertising, for example, have been successful at reducing abuse, particularly in the case of indirect advertising (e.g., sponsorships, product placement; Anderson, de Bruijn, Angus, Gordon, & Hastings, 2009; Engels, Hermans, van Baaren, Hollenstein, & Bot, 2009). As recreational marijuana becomes more commonplace, it will be important to leverage legislation that has been effective at protecting the public from alcohol abuse to reduce the negative side effects of legal marijuana.

5. Conclusion

Colorado, Washington, and Oregon experienced a 5.2% higher police-reported crash rate overall than would have been expected had they not legalized recreational marijuana. These findings are consistent with past research that found a similarly sized effect on insurance collision claims (HLDI, 2018). Although the causal link between marijuana use and crash risk remains unproven, the consistent pattern of findings in the current study and in the 2018 HLDI study suggest with reasonable certainty that crash rates in Colorado, Washington, and Oregon did indeed increase after recreational marijuana was legalized there. The extent to which these findings will generalize to other states remains to be seen. States considering recreational marijuana legalization should weigh the impact of a higher crash rate and consider how enforcement and education can be developed to counteract a rise in impaired driving.

ACKNOWLEDGEMENTS

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APPENDIX A: FIGURES

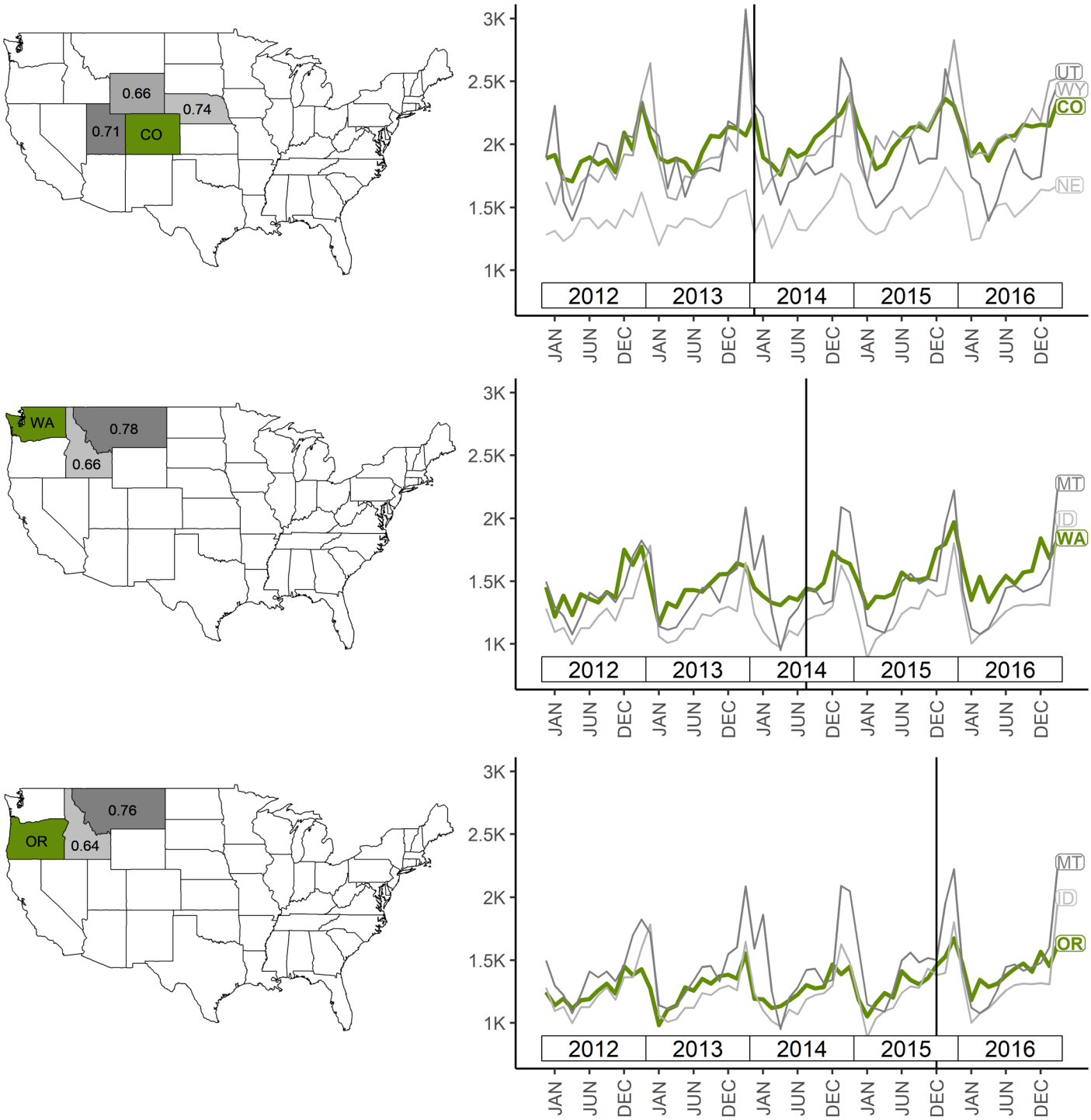

Figure A1. Correlations in police-reported crash rates pre-legalization between study states and neighboring control states (L) and crash rates per registered vehicle over time (R).

APPENDIX B: TABLES

Table B1. Output from regression analysis comparing crash rates between study states and control states before and after legalization of retail marijuana sales.

Parameter		*B*	*SE*	*t*	*p*	
(Intercept)		−1.04	10.5	−.10	.921	
Proportion age 20–24		.0635	.0650	.98	.329	
Proportion male		.167	.211	.79	.428	
Unemployment rate		−.000120	.00587	−.020	.984	
Temperature range (˚F)	32+	−.125	.0166	−7.52	<.001	***
	<32	—	—	—	—	
Precipitation (inches/month)		.00160	.00459	.35	.727	
Temperature × Precipitation	32+	.00934	.00472	1.98	.049	*
	<32	—	—	—	—	
State	Idaho	−.473	.0242	−19.5	<.001	***
	Montana	−.367	.0346	−10.6	<.001	***
	Nebraska	−.285	.0917	−3.11	.002	**
	Utah	−.195	.0935	−2.09	.037	*
	Wyoming	−.170	.195	−.87	.382	
	Oregon	−.322	.131	−2.47	.014	*
	Washington	−.273	.0620	−4.40	<.001	***
	Colorado	—	—	—	—	
Legislation status	Post-retail sales	−.0103	.0160	−.65	.517	
	Pre-retail sales	—	—	—	—	
Month index		.000262	.00100	.26	.794	
Month index × State	Idaho	.00158	.000970	1.62	.105	
	Montana	.00111	.000850	1.31	.192	
	Nebraska	.00104	.00104	1.00	.316	
	Utah	.00381	.000889	4.29	<.001	***
	Wyoming	−.000250	.00134	−.18	.854	
	Oregon	.00150	.000846	1.77	.078	†
	Washington	.000821	.000690	1.19	.235	
	Colorado	—	—	—	—	
Month	January	−.150	.0157	−9.50	<.001	***
	February	−.266	.0167	−15.9	<.001	***
	March	−.223	.0196	−11.4	<.001	***
	April	−.240	.0202	−11.9	<.001	***
	May	−.170	.0192	−8.85	<.001	***
	June	−.137	.0195	−7.00	<.001	***
	July	−.119	.0196	−6.06	<.001	***
	August	−.0972	.0192	−5.06	<.001	***
	September	−.101	.0187	−5.41	<.001	***
	October	−.0338	.0178	−1.89	.059	†
	November	−.0214	.0168	−1.28	.202	
	December	—	—	—	—	
State type × Legislation status		.0507	.0213	2.38	.018	*

* = p<.05. ** = p<.01. ***= p<.001. † = p<.10.

Table B2. Output from regression analysis comparing crash rates between Colorado and control states before and after legalization of retail marijuana sales.

Parameter		***B***	***SE***	***t***	***p***	
(Intercept)		−14.1	19.0	−.74	.461	
Proportion age 20–24		.267	.110	2.43	.016	*
Proportion male		.400	.377	1.06	.289	
Unemployment rate		−.0267	.00984	−2.71	.007	**
Temperature range (°F)	32+	−.0363	.0378	−.960	.339	
	<32	—	—	—	—	
Precipitation (inches/month)		.0653	.0260	2.52	.013	*
Temperature × Precipitation	32+	−.0541	.0271	−2.00	.047	**
	<32	—	—	—	—	
State	Nebraska	−.313	.159	−1.97	.050	†
	Utah	−.618	.178	−3.47	.001	**
	Wyoming	−.579	.362	−1.60	.111	*
	Colorado	—	—	—	—	
Legislation status	Post-retail sales	−.0906	.0246	−3.68	<.001	***
	Pre-retail sales	—	—	—	—	
Month index		−.00168	.00158	−1.06	.288	
Month index × State	Nebraska	.00291	.00135	2.15	.033	*
	Utah	.00716	.00131	5.46	<.001	***
	Wyoming	.00539	.00194	2.79	.006	**
	Colorado	—	—	—	—	
Month	January	−.0992	.0257	−3.86	<.001	***
	February	−.192	.0254	−7.54	<.001	***
	March	−.176	.0338	−5.20	<.001	***
	April	−.206	.0347	−5.94	<.001	***
	May	−.138	.0345	−3.99	<.001	***
	June	−.133	.0334	−3.98	<.001	***
	July	−.129	.0340	−3.78	<.001	***
	August	−.0942	.0334	−2.82	.005	**
	September	−.0953	.0331	−2.88	.004	**
	October	−.0325	.0324	−1.00	.317	
	November	−.00747	.0314	−.240	.812.	
	December	—	—	—	—	
State type × Legislation status		.0718	.0307	2.34	.020	*

* = p <.05. ** = p<.01. *** = p<.001. † = p<.10.

Table B3. Output from regression analysis comparing crash rates between Washington and control states before and after legalization of retail marijuana sales.

Parameter		***B***	***SE***	***t***	***p***	
(Intercept)		−13.8	18.8	−.732	.464	
Proportion age 20–24		−.212	.128	−1.66	.099	†
Proportion male		.460	.387	1.19	.236	
Unemployment rate		−.00334	.0107	−.311	.756	
Temperature range (°F)	32+	−.214	.0351	−6.10	<.001	***
	<32	—	—	—	—	
Precipitation (inches/month)		−.0152	.00763	−1.99	.049	*
Temperature × Precipitation	32+	.0293	.00790	3.71	<.001	***
	<32	—	—	—	—	
State	Idaho	−.317	.115	−2.77	.006	**
	Montana	−.228	.157	−1.45	.149	
	Washington	—	—	—	—	
Legislation status	Post-retail sales	−.00972	.0367	−.265	.791	
	Pre-retail sales	—	—	—	—	
Month index		−.00191	.00213	−.896	.372	
Month index × State	Idaho	.00121	.00154	.787	.432	
	Montana	.00195	.00168	1.17	.246	
	Washington	—	—	—	—	
Month	January	−.189	.0309	−6.11	<.001	***
	February	−.338	.0333	−10.2	<.001	***
	March	−.277	.0365	−7.61	<.001	***
	April	−.288	.0381	−7.57	<.001	***
	May	−.197	.0370	−5.33	<.001	***
	June	−.150	.0361	−4.15	<.001	***
	July	−.129	.0370	−3.48	<.001	***
	August	−.108	.0360	−2.99	.003	**
	September	−.110	.0336	−3.27	.001	**
	October	−.0354	.0286	−1.24	.217	
	November	−.0445	.0263	−1.69	.093	†
	December	—	—	—	—	
State type × Legislation status		.0355	.0433	.819	.414	

* = p <.05. ** = p<.01. *** = p<.001. † = p<.10.

Table B4. Output from regression analysis comparing crash rates between Oregon and control states before and after legalization of retail marijuana sales.

Parameter		***B***	***SE***	***t***	***p***	
(Intercept)		−4.48	17.6	−.251	.800	
Proportion age 20–24		−.135	.166	−.814	.417	
Proportion male		.261	.363	.720	.473	
Unemployment rate		−.000440	.0106	−.0420	.967	
Temperature range (°F)	32+	−.231	.0368	−6.29	<.001	***
	<32	—	—	—	—	
Precipitation (inches/month)		−.0287	.00990	−2.90	.004	**
Temperature × Precipitation	32+	.0369	.0102	3.61	<.001	***
	<32	—	—	—	—	
State	Idaho	−.196	.211	−.930	.355	
	Montana	−.0935	.256	−.370	.715	
	Oregon	—	—	—	—	
Legislation status	Post-retail sales	.0144	.0340	.424	.672	
	Pre-retail sales	—	—	—	—	
Month index		−.000113	.00152	−.0746	.941	
Month index × State	Idaho	−.000179	.00117	−.153	.879	
	Montana	.000358	.00167	.215	.830	
	Oregon	—	—	—	—	
Month	January	−.214	.0342	−6.25	<.001	***
	February	−.365	.0368	−9.90	<.001	***
	March	−.314	.0396	−7.93	<.001	***
	April	−.303	.0435	−6.96	<.001	***
	May	−.237	.0408	−5.81	<.001	***
	June	−.171	.0411	−4.15	<.001	***
	July	−.124	.0427	−2.89	.004	**
	August	−.122	.0423	−2.90	.004	**
	September	−.132	.0399	−3.31	.001	**
	October	−.0800	.0369	−2.17	.032	*
	November	−.0775	.0337	−2.30	.023	*
	December	—	—	—	—	
State type × Legislation status		.0417	.0420	.991	.323	

* = p <.05. ** = p<.01. *** = p<.001.

#9113

THE LEGALIZATION OF MARIJUANA IN COLORADO: *THE IMPACT*

Volume 7

September 2020

Rocky Mountain High Intensity Drug Trafficking Area

REPORT AVAILABLE AT:
www.RMHIDTA.org

PREPARED BY THE ROCKY MOUNTAIN HIDTA
TRAINING AND INFORMATION CENTER
SEPTEMBER 2020

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Rocky Mountain High Intensity Drug Trafficking Area

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Executive Summary

The Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) program has published annual reports every year since 2013 tracking the impact of legalizing recreational marijuana in Colorado. The purpose is to provide data and information so that policy makers and citizens can make informed decisions on the issue of marijuana legalization.

Section I: Traffic Fatalities & Impaired Driving

- Since recreational marijuana was legalized in 2013, traffic deaths in which drivers tested positive for marijuana **increased 135%** while all Colorado traffic deaths **increased 24%.**
- Since recreational marijuana was legalized, traffic deaths involving drivers who tested positive for marijuana **more than doubled** from 55 in 2013 to 129 people killed in 2019.
    - This equates to one person killed every 3 1/2 days in 2019 compared to one person killed every 6 1/2 days in 2013.
- Since recreational marijuana was legalized, the percentage of all Colorado traffic deaths that were marijuana related **increased from 15%** in 2013 **to 25%** in 2019.

Section II: Marijuana Use

Since recreational marijuana was legalized in 2013:

- Past month marijuana use (ages 12 and older) **increased 30%** and is **76%** higher than the national average, currently ranked **3rd** in the nation.
- Past month adult marijuana use (ages 18 and older) **increased 19%** and is **73% higher** than the national average, currently ranked **3rd** in the nation.
- Past month college age marijuana (ages 18-25) use **increased 6%** and is **50% higher** than the national average, currently ranked **3rd** in the nation.
- Past month youth marijuana (ages 12-17) use **decreased 25%** and is **43% higher** than the national average, currently ranked **7th** in the nation.

Section III: Public Health

- Marijuana *only* exposures more than **quadrupled** in the seven-year average (2013-2019) since recreational marijuana was legalized compared to the seven-year average (2006-2012) prior to legalization.
- Treatment for marijuana use for all ages **decreased 21%** from 2009 to 2019.
- The percent of suicide incidents in which toxicology results were positive for marijuana has **increased** from **14%** in 2013 to **23%** in 2018.

Section IV: Black Market

- RMHIDTA Colorado Drug Task Forces (10) conducted **278 investigations** of black-market marijuana in Colorado resulting in:
    - 237 felony arrests
    - 7.49 tons of marijuana seized
    - 68,600 marijuana plants seized
    - 29 different states the marijuana was destined
- Seizures of marijuana reported to the El Paso Intelligence Center in Colorado **increased 17%** from an average of 242 parcels (2009-2012) to an average of 283 parcels (2013-2019) during the time recreational marijuana has been commercialized.

Section V: Societal Impact

- Marijuana tax revenue represent approximately **0.85%** of Colorado's FY 2019 budget.
- **67%** of local jurisdictions in Colorado have banned medical and recreational marijuana businesses.

Introduction

Purpose

The purpose of this annual report is to document the impact of the legalization of marijuana for medical and recreational use in Colorado. Colorado serves as an experimental lab for the nation to determine the impact of legalizing marijuana. This is an important opportunity to gather and examine meaningful data and identify trends. Citizens and policymakers nationwide may want to delay any decisions on this important issue until there is sufficient and accurate data to make informed decisions. Readers are encouraged to review previous volumes of this report for a comprehensive understanding of the topic. These reports were prepared to identify data and trends related to the legalization of marijuana so that informed decisions can be made regarding this issue.

Background

It is important to note that, for purposes of the debate on legalizing marijuana in Colorado, there are three distinct timeframes to consider: the early medical marijuana era (2000-2008), the medical marijuana commercialization era (2009–current) and the recreational marijuana era (2013–current).

- **2000 – 2008, Early Medical Marijuana Era:** In November 2000, Colorado voters passed Amendment 20 which permitted a qualifying patient, and/or caregiver of a patient, to possess up to 2 ounces of marijuana and grow 6 marijuana plants for medical purposes. During that time there were between 1,000 and 4,800 medical marijuana cardholders and no known dispensaries operating in the state.
- **2009 – Current, Medical Marijuana Commercialization Era:** Beginning in 2009 due to a number of events, marijuana became de facto legalized through the commercialization of the medical marijuana industry. By the end of 2012, there were over 100,000 medical marijuana cardholders and 500 licensed dispensaries operating in Colorado. There were also licensed cultivation operations and edible manufacturers.
- **2013 – Current, Recreational Marijuana Legalization Era:** In November 2012, Colorado voters passed Constitutional Amendment 64 which legalized marijuana for recreational purposes for anyone over the age of 21. The amendment also allowed for licensed marijuana retail stores, cultivation operations and edible manufacturers. Retail marijuana businesses became operational January 1, 2014.

NOTE:

Data, if available, will compare pre- and post-2009 when medical marijuana became commercialized and after 2013 when recreational marijuana became legalized.

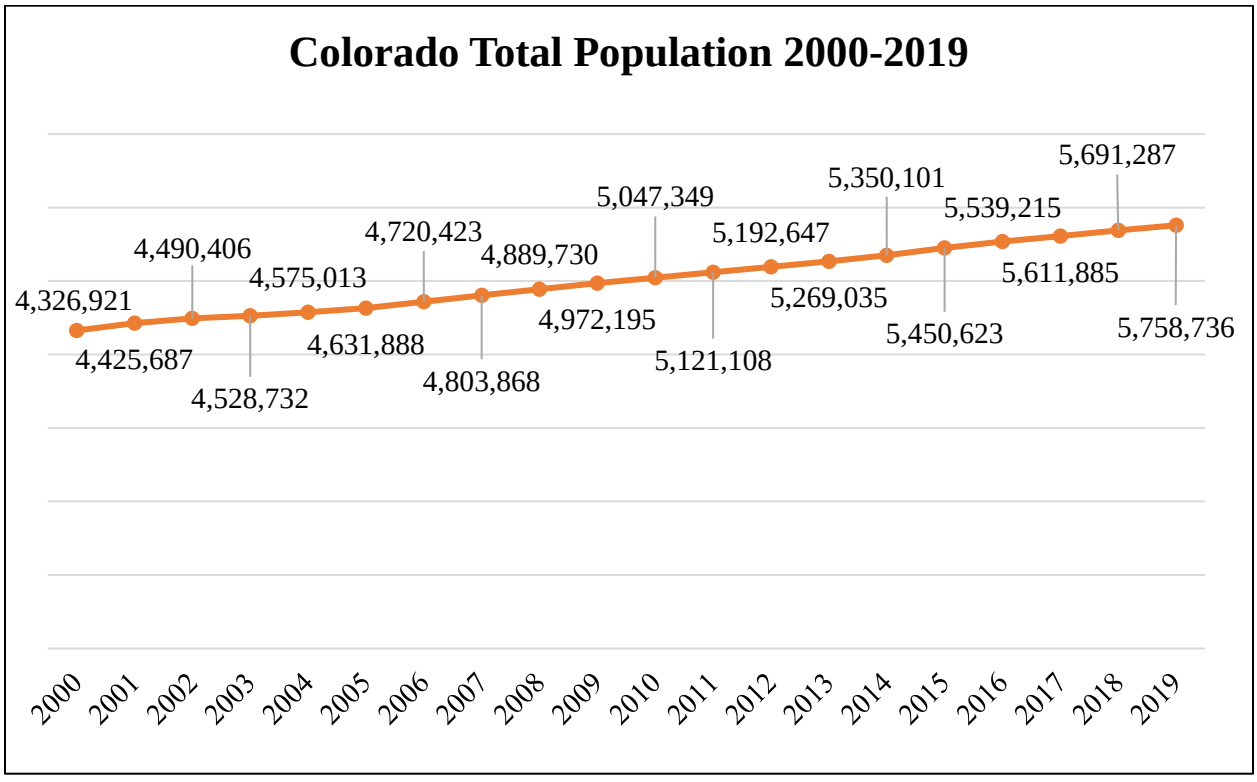
Multi-year comparisons are generally better indicators of trends. One-year fluctuations do not necessarily reflect a new trend.

Percentage comparisons may be rounded to the nearest whole number.

Percent changes found within graphs were calculated and added by RMHIDTA.

This report will cite datasets with terms such as “marijuana-related” or “tested positive for marijuana.” That does not necessarily prove that marijuana was the cause of the incident.

Throughout this report, rate per 100,000 is included to proportionately analyze various statistics. Below is Colorado’s total population from 2000 to 2019 for reference:



Section I: Traffic Fatalities & Impaired Driving

Some Findings

- Since recreational marijuana was legalized in 2013, traffic deaths where drivers tested positive for marijuana **increased 135%** while all Colorado traffic deaths **increased 24%.**
- Since recreational marijuana was legalized, traffic deaths involving drivers who tested positive for marijuana **more than doubled** from 55 in 2013 to 127 people killed in 2019.
    - This equates to one person killed every 3 1/2 days in 2019 compared to one person killed every 6 1/2 days in 2013.
- Since recreational marijuana was legalized, the percentage of all Colorado traffic deaths that were marijuana related **increased from 15%** in 2013 **to 25%** in 2019.

Definitions by Rocky Mountain HIDTA

Driving Under the Influence of Drugs (DUID): This term includes an individual under the influence of alcohol, marijuana, or other drugs along with any This is an important measurement since the driver's ability to operate a vehicle was sufficiently impaired that it brought his or her driving to the attention of law enforcement. The erratic driving and the subsequent evidence that the subject was under the influence of marijuana helps confirm the causation factor.

Marijuana-Related: Also called "marijuana mentions," is any time marijuana shows up in the toxicology report. It could be marijuana only or marijuana with other drugs and/or alcohol.

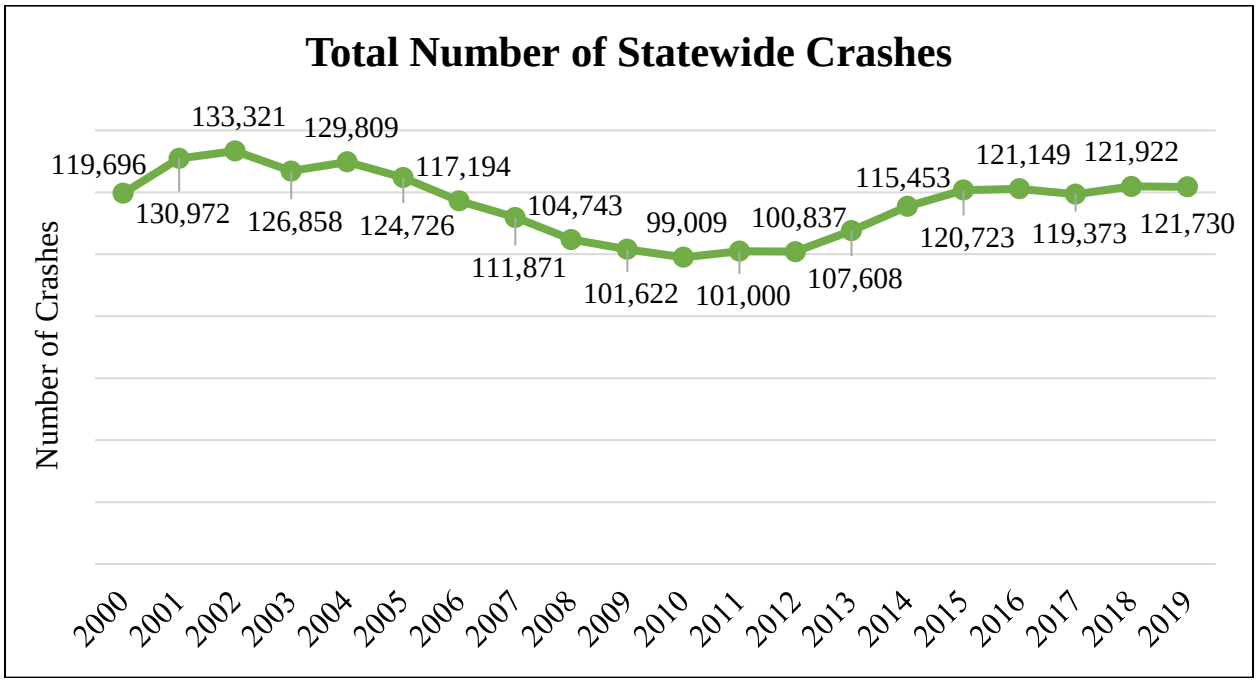
Marijuana Only: When toxicology results show marijuana and no other drugs or alcohol.

Fatalities: Any death resulting from a traffic crash involving a motor vehicle.

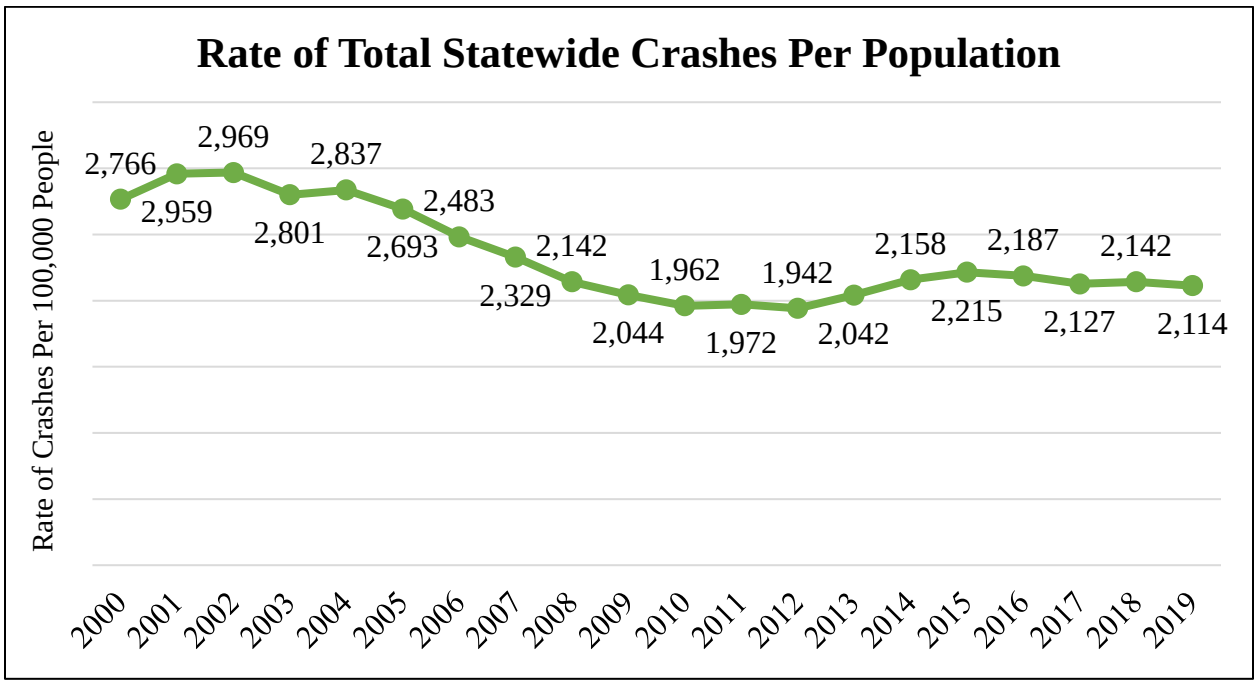
Operators: Anyone in control of their own movements such as a driver, pedestrian or bicyclist.

Drivers: An occupant who is in physical control of a transport vehicle. For an out-of-control vehicle, an occupant who was in control until control was lost.

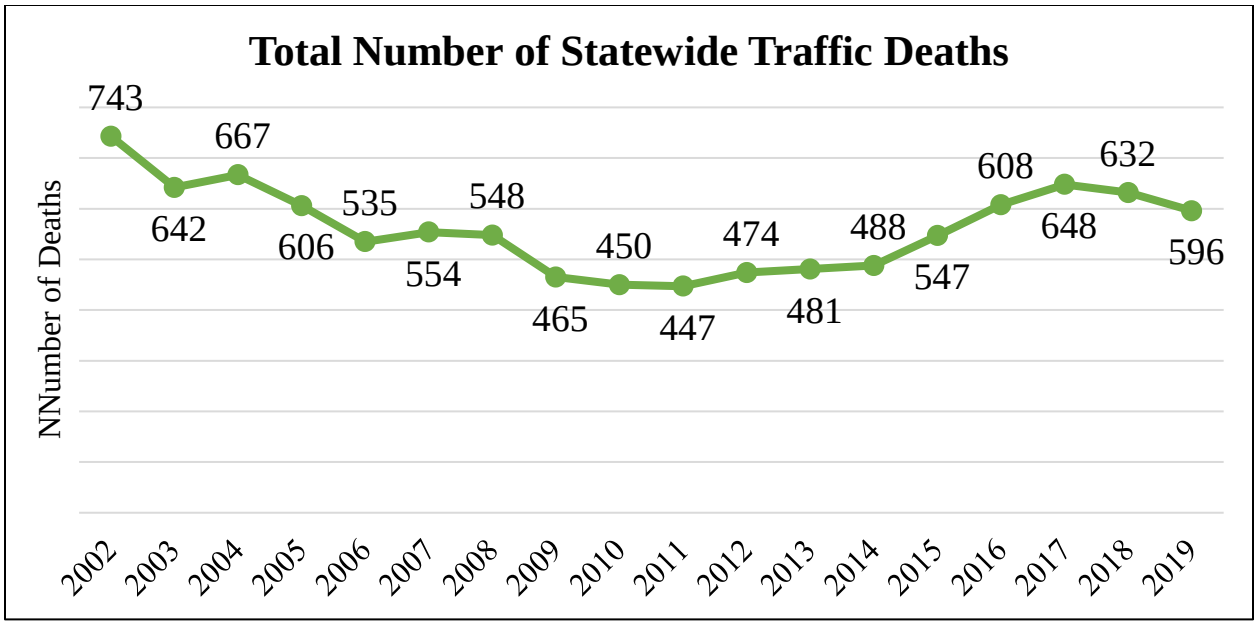
Traffic Fatalities



SOURCE: Colorado Department of Transportation (CDOT)

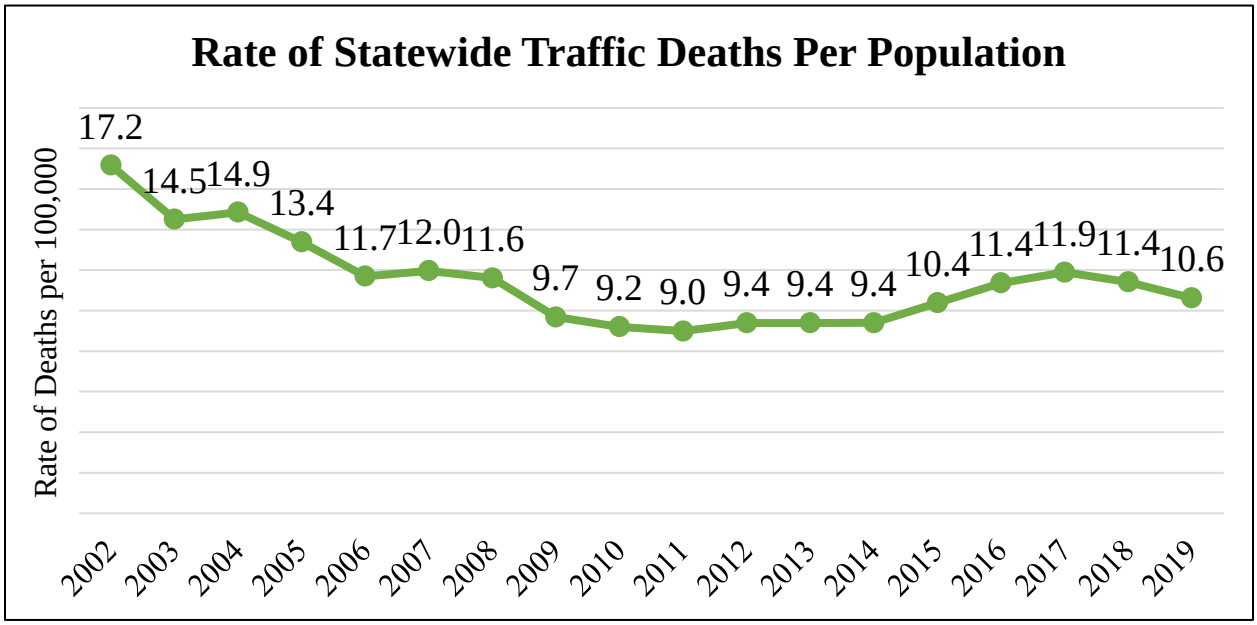


SOURCE: CDOT



- In 2019, there were a total of 596 traffic deaths. Of which:
  - 299 were drivers
  - 103 were motorcyclists
  - 98 were passengers
  - 76 were pedestrians
  - 20 were bicyclists

SOURCE: National Highway Traffic Safety Administration (NHTSA), Fatality Analysis Reporting System (FARS), 2006-2011 and CDOT 2012-2019



SOURCE: NHTSA, FARS, 2006-2011 and CDOT 2012-2019

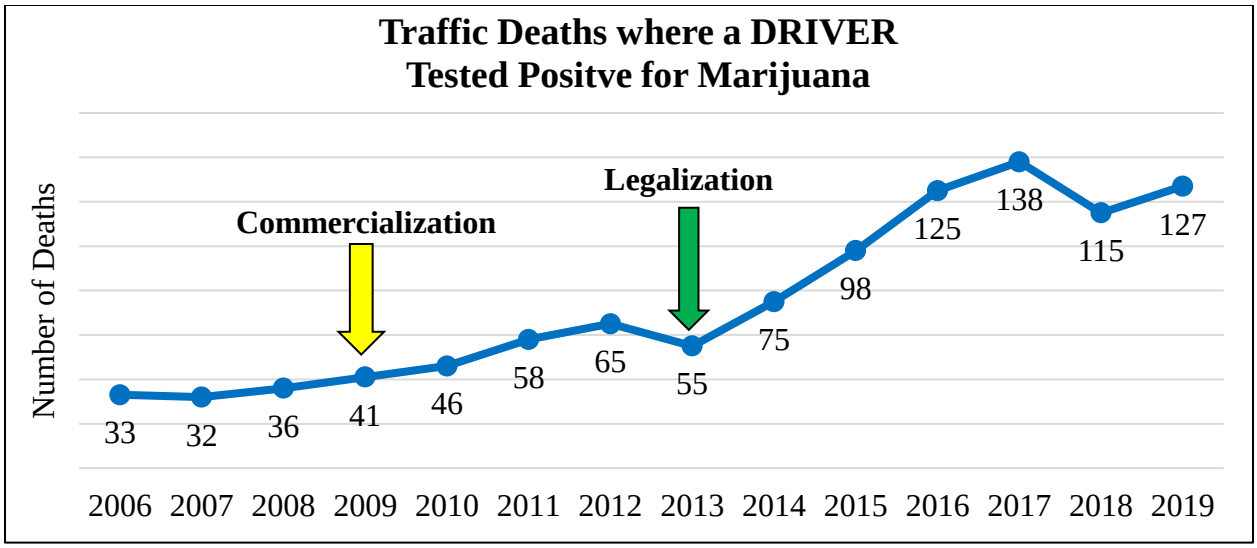
Traffic Deaths Related to Marijuana When a DRIVER Tested Positive for Marijuana			
Crash Year	**Total Statewide Fatalities**	**Fatalities with Drivers Testing Positive for Marijuana**	**Percentage Total Fatalities**
2006	535	33	6.2%
2007	554	32	5.8%
2008	548	36	6.6%
2009	465	41	8.8%
2010	450	46	10.2%
2011	447	58	13.0%
2012	472	65	13.8%
2013	481	55	11.4%
2014	488	75	15.4%
2015	547	98	17.9%
2016	608	125	20.6%
2017	648	138	21.3%
2018	632	115	18.2%
2019	596	127	21.3%

- In 2019, 127 marijuana-related traffic deaths:
  - 101 were drivers
  - 20 were passengers
  - 5 were pedestrians
  - 1 was a bicyclist

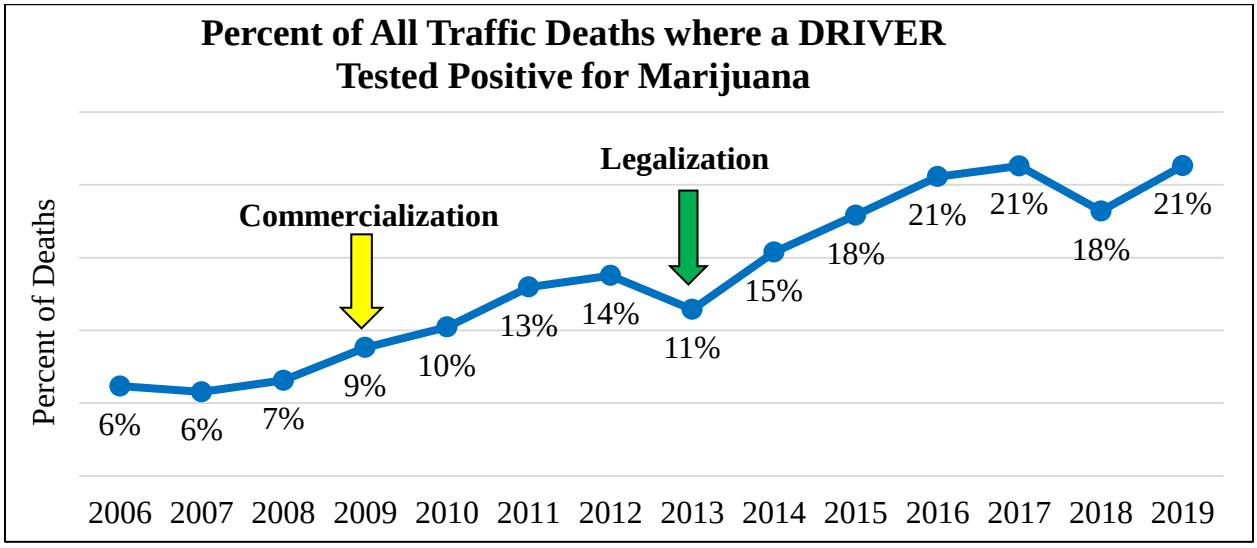
SOURCE: NHTSA, FARS, 2006-2011 and CDOT 2012-2019

NOTE: In 2019, 69% of drivers' blood was tested after being involved in a fatal crash.

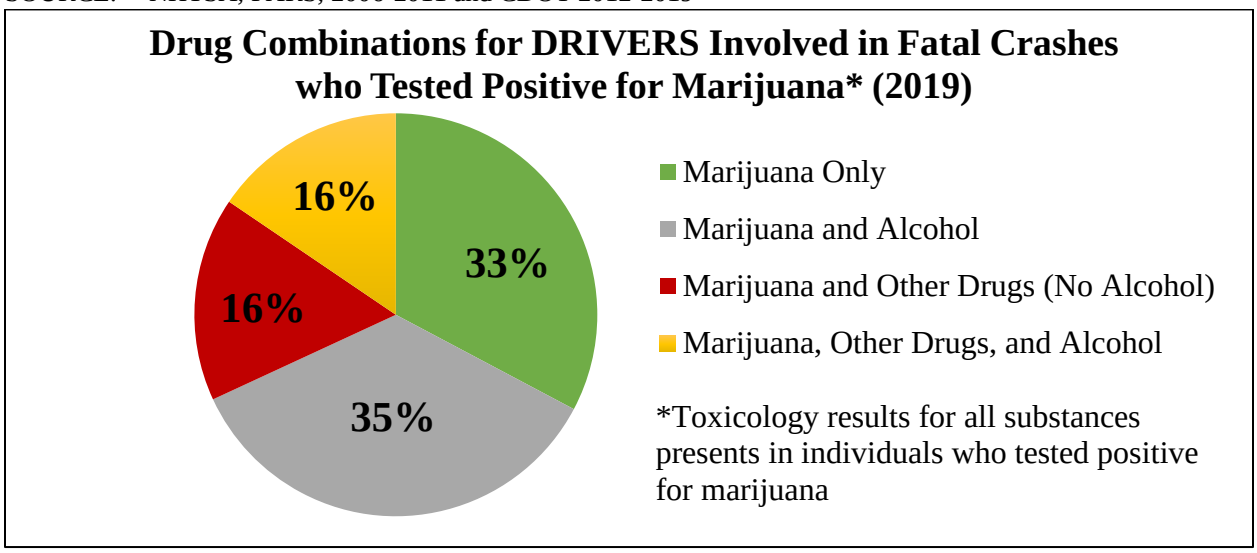
- In 2019, of the 116 drivers in fatal wrecks who tested positive for marijuana use, 113 were found to have Delta 9 tetrahydrocannabinol or THC, the psychoactive ingredient in marijuana, in their blood. This would indicate use within hours according to state data. Of those, 65% were over 5 nanograms per milliliter, the state permissible inference level for driving.
  - Similar to findings from the August 2017 article by David Migoya, "Exclusive: Traffic fatalities linked to marijuana are up sharply in Colorado. Is legalization to blame?" *The Denver Post*.



SOURCE: NHTSA, FARS, 2006-2011 and CDOT 2012-2019



SOURCE: NHTSA, FARS, 2006-2011 and CDOT 2012-2019



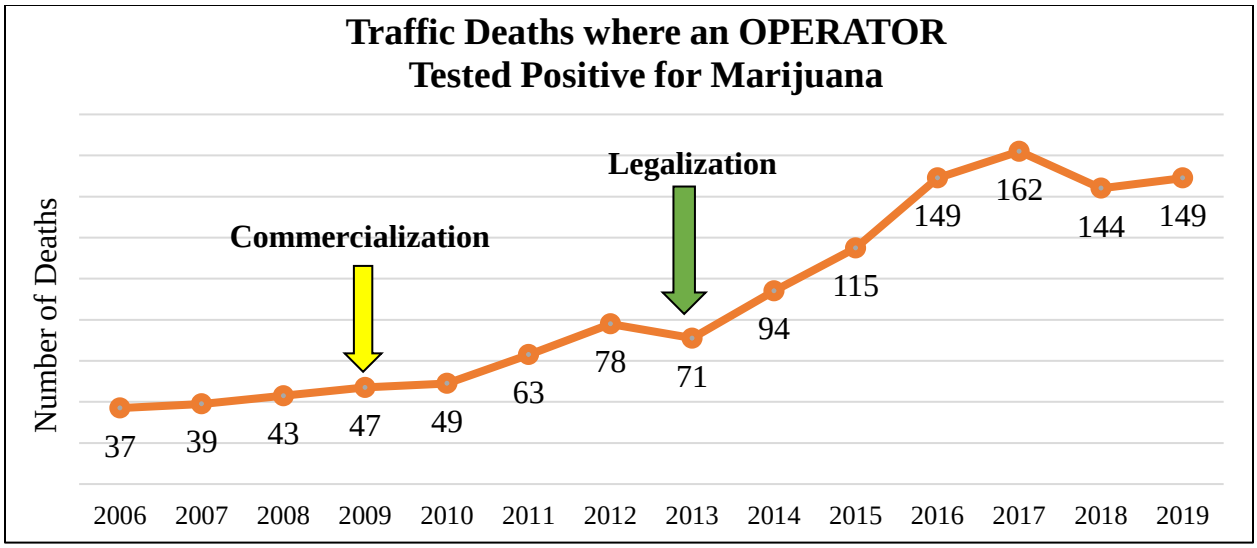
SOURCE: NHTSA, FARS, 2006-2011 and CDOT 2012-2019

Traffic Deaths Related to Marijuana Where an OPERATOR Tested Positive for Marijuana			
Crash Year	**Total Statewide Fatalities**	**Fatalities with Operators Testing Positive for Marijuana**	**Percentage Total Fatalities**
2006	535	37	6.9%
2007	554	39	7.0%
2008	548	43	7.9%
2009	465	47	10.1%
2010	450	49	10.9%
2011	447	63	14.1%
2012	472	78	16.5%
2013	481	71	14.8%
2014	488	94	19.3%
2015	547	115	21.0%
2016	608	149	24.5%
2017	648	162	25.0%
2018	632	144	23.0%
2019	596	149	25.0%

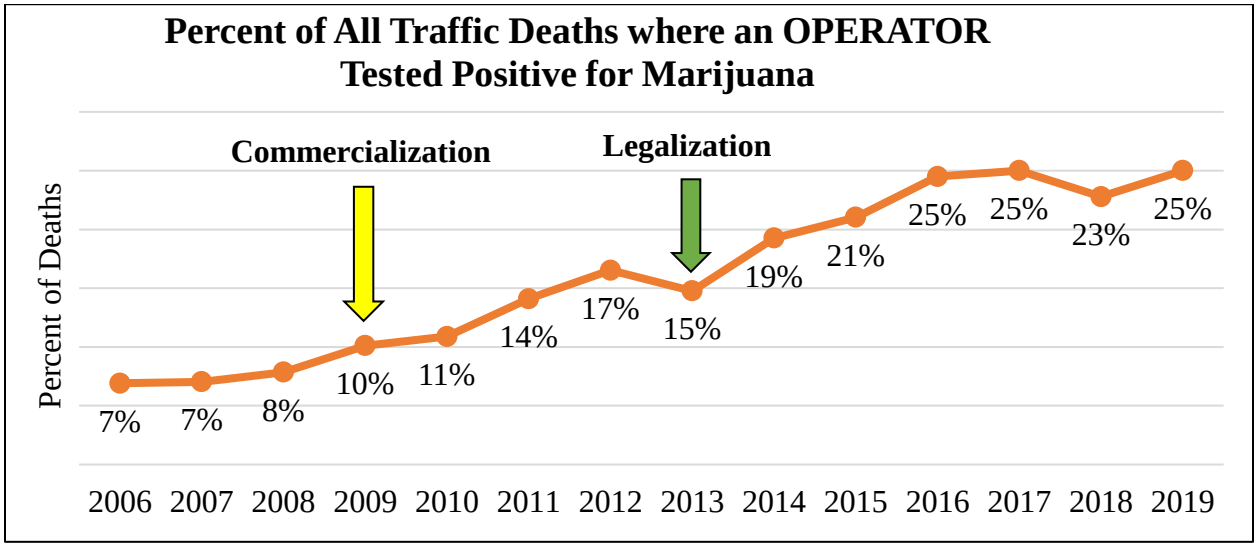
- Of the 149 marijuana-related traffic deaths:
  - 101 were drivers
  - 22 were pedestrians
  - 20 were passengers
  - 6 were bicyclists

SOURCE: NHTSA, FARS, 2006-2011 and CDOT 2012-2019

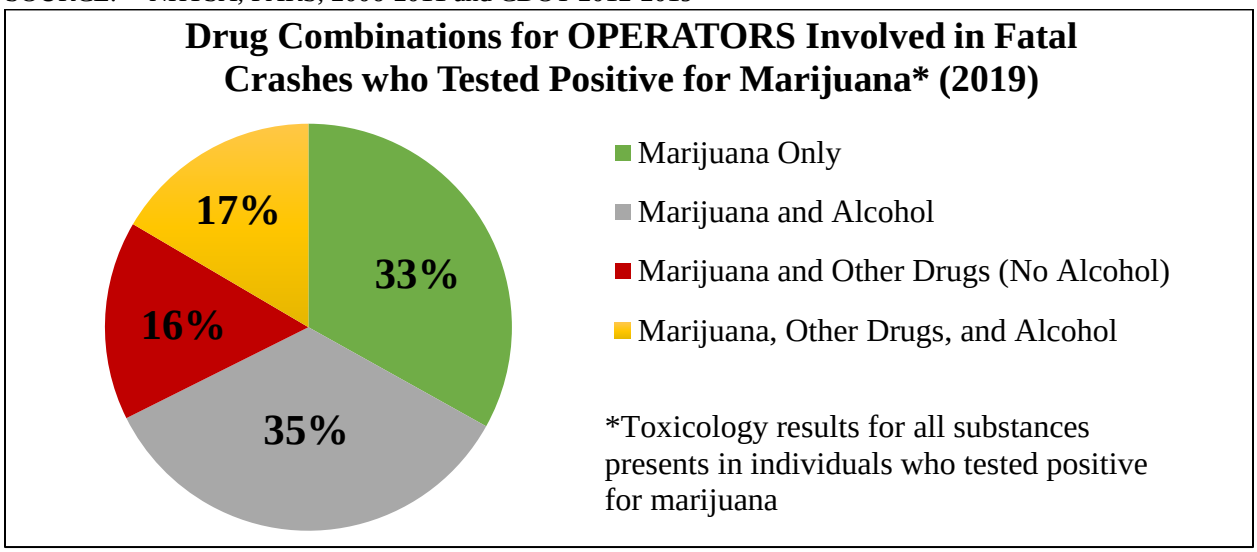
NOTE: In 2019, 66% of operators' blood was tested after being involved in a fatal crash.



SOURCE: NHTSA, FARS, 2006-2011 and CDOT 2012-2019



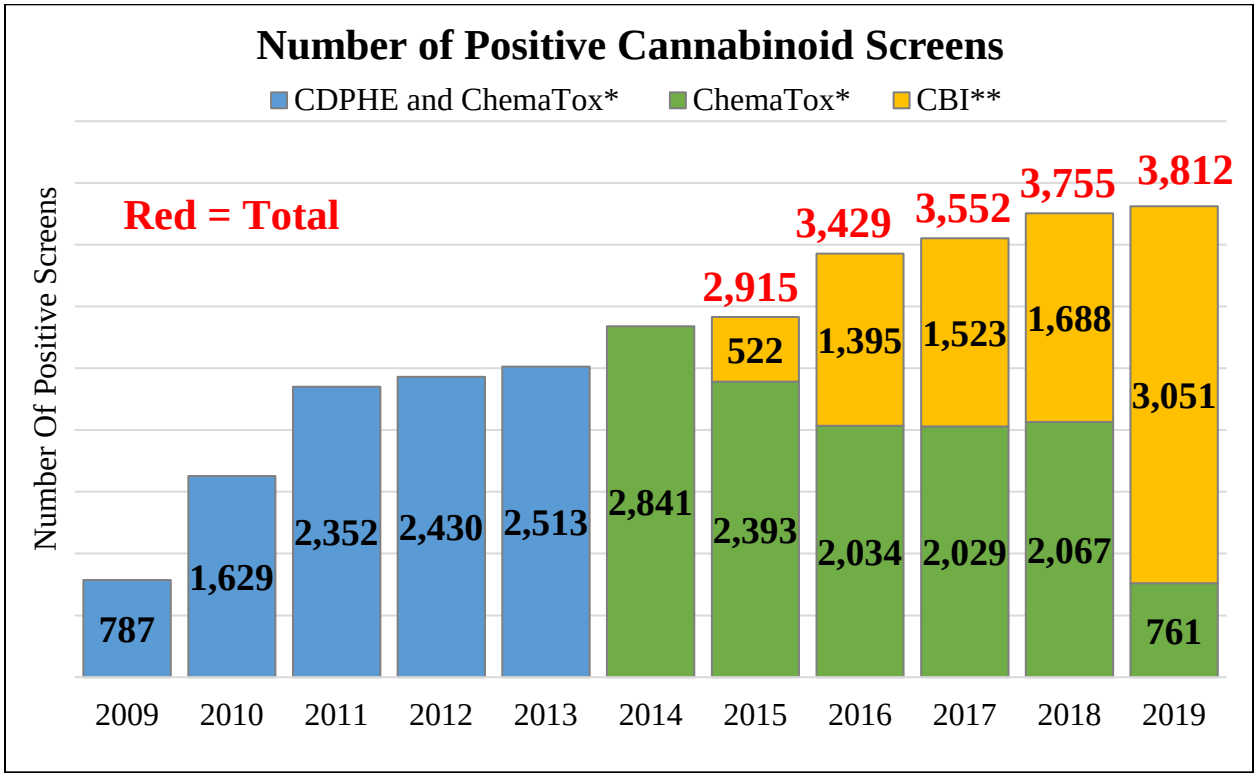
SOURCE: NHTSA, FARS, 2006-2011 and CDOT 2012-2019



SOURCE: NHTSA, FARS, 2006-2011 and CDOT 2012-2019

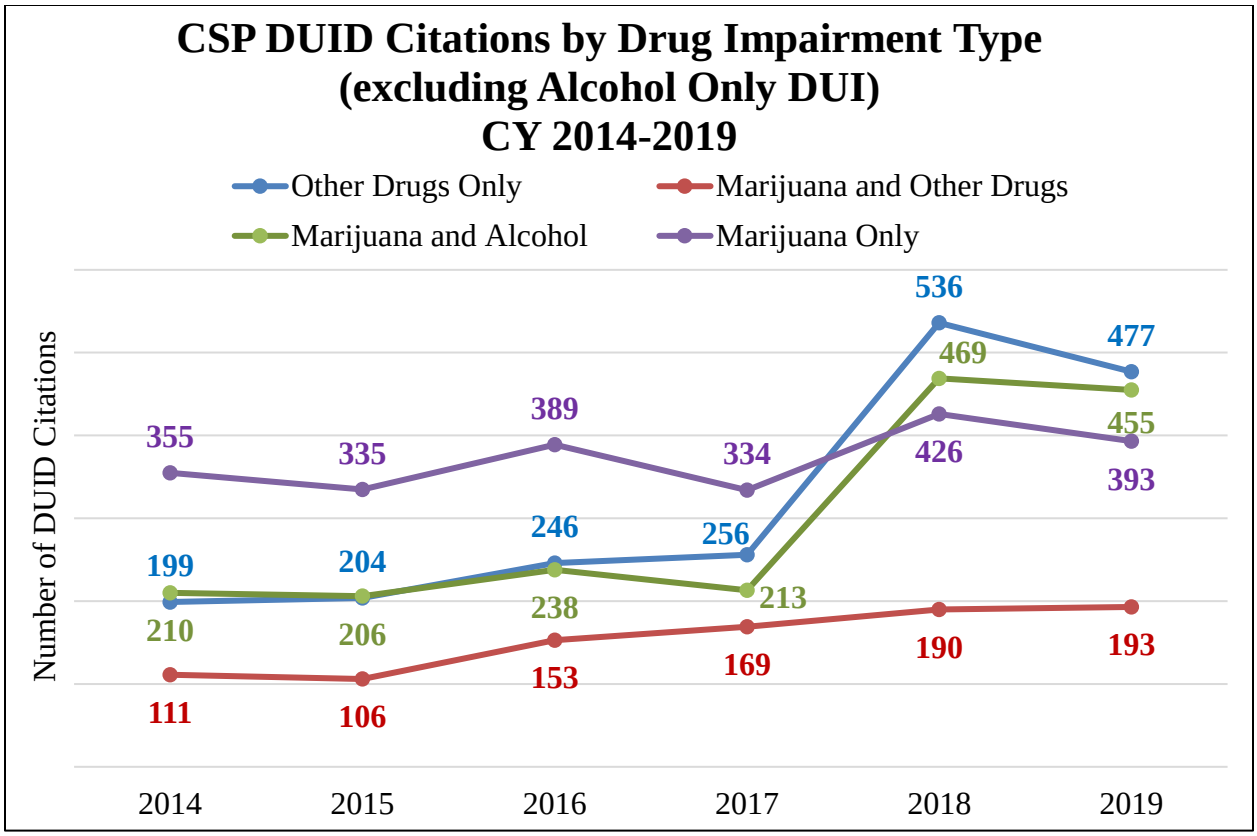
Impaired Driving

When a driver is arrested for impaired driving related to alcohol (usually 0.08 or higher blood alcohol content), typically tests for other drugs (including marijuana) are not requested since there is no additional punishment if the test comes back positive.



SOURCE: Colorado Bureau of Investigation, ChemaTox, and Rocky Mountain HIDTA

***NOTE:** Colorado Department of Public Health and Environment data was merged with ChemaTox data from 2009 to 2013. CDPHE discontinued testing July 2013 and ChemaTox discontinued testing July 2019.
****NOTE:** The Colorado Bureau of Investigation began toxicology operations July 1, 2015 and became the sole agency in the state to conduct toxicology reports July 1, 2019. The vast majority of the screens are DUID submissions from Colorado law enforcement.

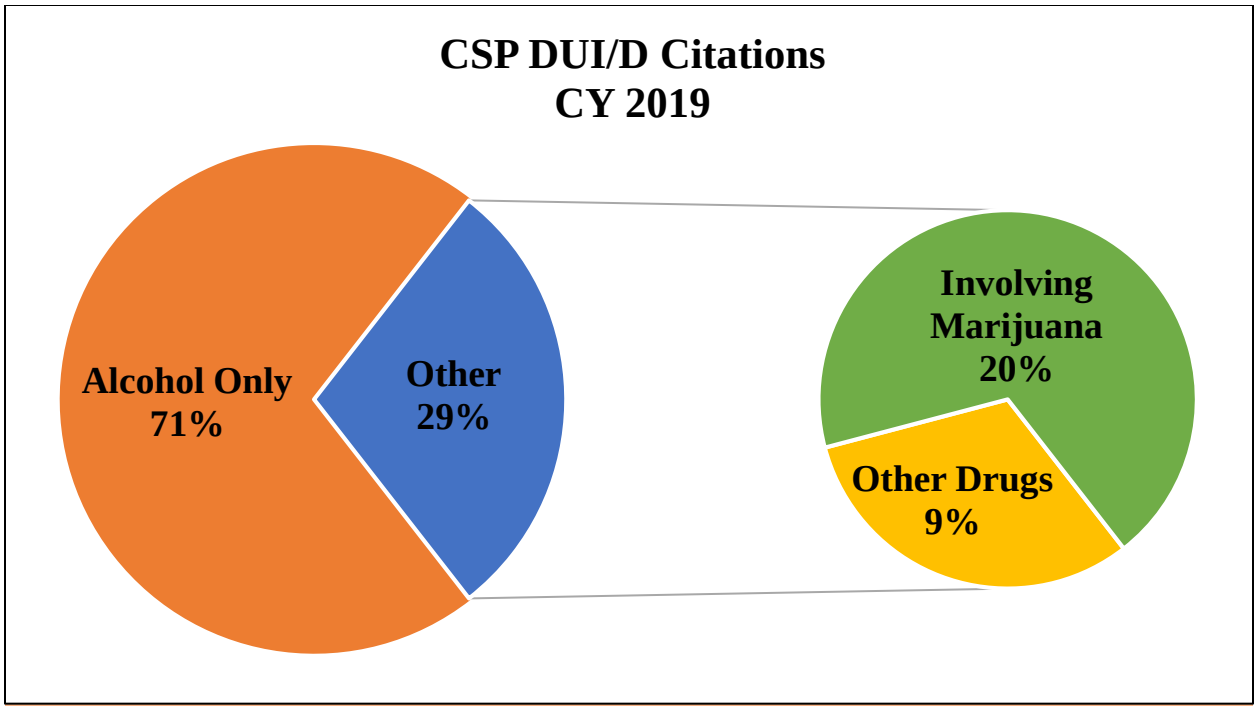


SOURCE: CSP RDW; only displaying data available as of 08/24/2020

DUI/D Citations by Drug Impairment Type						
	2014	**2015**	**2016**	**2017**	**2018**	**2019**
Alcohol Only	4620	3948	3528	3817	3541	3727
Other Drugs	199	204	246	256	536	477
Marijuana and Alcohol	210	206	238	213	469	455
Marijuana and Other Controlled Substances	111	106	153	169	190	193
Marijuana Only	355	335	389	334	426	393
Total Marijuana Involved Citations	**676**	**647**	**780**	**716**	**1085**	**1041**
Total DUI/D Citations	**5495**	**4799**	**4554**	**4789**	**5162**	**5245**

SOURCE: CSP RDW; only displaying data available as of 08/24/2020

NOTE: "Citations in the Colorado State Patrol (CSP) Reporting Data Warehouse (RDW) are defined as one per involved person when the involved person has at least one charge as denoted in the RDW (excluding oral and written warnings), that occurred during a traffic stop unique on date, time, location road, mile point round, and driver's license number. Impaired (DUI/D) citations were identified in the CSP RDW by the following common codes: 753, 754, 755, 765, 785, 800, 801, 802, 805, 806, 807, 808, 809, 810, 812, 813, 814, 815, 820, 821, or MPC." -Colorado State Patrol



SOURCE: CSP RDW; only displaying data available as of 08/24/2020

Impaired Driving Information

International Perceptive on Responding to Cannabis Impaired Driving

This article serves to summarize the key points from the Third International Symposium on Drug-Impaired Driving in Lisbon in October 2017:

- "Cannabis intoxication impairs performance in driving simulators and in on-road driving studies. Meta-analyses of epidemiological studies of biological indicators of cannabis and other drugs in the blood and urine of injured drivers and car crash fatalities suggest that recent cannabis use increases the risks of an accident from 1.5 to 2 times."
- "The proportion of fatalities attributed to cannabis has been much smaller than that are attributable to alcohol for two main reasons: the relative risk of having an accident is much smaller for cannabis-impaired than for alcohol-impaired drivers; the prevalence of cannabis-impaired driving is much lower than that of alcohol-impaired driving."
- One of the largest issues in reducing cannabis-impaired driving is the "absence of any equivalent to alcohol breath tests as a marker of driver impairment."
- Two of the approaches to cannabis impaired driving have been:
    - The use of "oral fluid testing to identify drivers who have recently used cannabis and measure THC in blood if they fail the oral fluid test."
    - Defining "cannabis-impaired driving as driving with higher than a legally specified level of THC in the blood"- greater than 5 ng/ml in the US
- "Critics of this approach have argued that these per se THC levels in blood do not measure impairment and are designed to discourage cannabis use rather than to protect public safety."
- "The meeting suggested that a high priority for research should be more rigorous evaluations of the effects of drug testing on: road fatalities and injuries in which alcohol, cannabis, and other drugs are detected postmortem; changes in public attitudes towards the acceptability of driving after using cannabis and changes in cannabis users' perceived risks of being detected if they drive after using cannabis."

Source: Hall, W. (2018). *How Should We Respond to Cannabis Impaired Driving?* Drug and Alcohol Review, 37(1), 3-5.

Medical Marijuana Use Related to Driving Under the Influence of Cannabis

While cannabis policies in the United States have expanded greatly in the past decade, the literature regarding driving under the influence of cannabis (DUIC) is mixed and there are still some large data gaps. The authors highlight this issue with some studies finding the presence of THC, particularly delta-9-tetrahydrocannabinol, is associated with impaired driving. Other studies have concluded that cannabis use does not largely impact "unfavorable traffic events." These authors focused on medical cannabis patients due to "their high frequency of use" and the lack of current studies on how and if they contribute to DUIC at a large scale.

The results of this study in Michigan were that "the majority (73%) reported using cannabis daily or almost daily in the past 6 months." Then the results of the users who were DUIC ten or more time in the past six months were: "21.6% of the sample drove within 2 h[ours] of cannabis use,

18.7% drove a little high, and 7.2% drove while very high." The measures of "a little high" and "very high" were assessed by the respondents with no set definitions. The authors also focused on the lack of a standard dose for medical cannabis users, emphasizing the need for greater research. Additionally, there is a lack of knowledge regarding the relationship of DUIC and alcohol consumption for medical marijuana users.

Source: Bonar, E., Cranford, J., Arteberry, B., Walton, M., Bohnert, K., and Ilgen, M. (2019). *Driving Under the Influence of Cannabis among Medical Cannabis Patients with Chronic Pain*. Drug and Alcohol Dependence, 195, 193-197. https://doi.org/10.1016/j.drugalcdep.2018.11.016

Colorado Department of Transportation Campaign on Decreasing Driving Under the Influence of Marijuana

In the summer of 2017, the Colorado Department of Transportation created a campaign to learn from cannabis users in the state, engage the public, and discover new areas for research. The results for the campaign were a need to better understand:

- "Why some people drive under the influence of cannabis"
- "What the public perceives as the dangers of driving while cannabis impaired"
- "What would convince people not to drive high"
- "Norms and opinions around driving high from multiple perspectives"
- "Reactions to past campaigns to reduce high driving"
- "Reactions to new campaigns ideas to reduce high driving "

The key findings were:

- "People who consume cannabis more often consider driving under the influence of marijuana to be less dangerous."
    - The top considerations for users before driving are travel conditions, feeling alert enough, and how recently they consumed cannabis
- "Many cannabis users are highly skeptical of the laws, policies and enforcement regarding driving under the influence of cannabis — and want credible, nuanced information"
    - The largest issues for respondents were:
        - "The current legal limit of active THC in the bloodstream is not based on sufficient evidence"
        - "Bloodstream THC is an inaccurate measure of impairment because tolerance varies widely based on individual characteristics"
        - "THC stays in a person's system for a much longer time than alcohol—several weeks or months, depending on how much or how frequently someone uses"
- The key to reaching some skeptics is to lead with feelings and follow with facts.
    - Respondents felt a future, effective campaign would not include negative stereotypes, scare tactics, or threats and instead focused on how the choice to drive under the influence puts others at risk.

Source: Colorado Department of Transportation, (2020). *The Cannabis Conversation.* Retrieved from https://www.codot.gov/safety/alcohol-and-impaired-driving/druggeddriving/assets/2020/cannabis-conversation-report_april-2020.pdf

Cannabis Use in Older Drivers in Colorado

From August 2015 to March 2017, 600 Colorado drivers aged 65 to 79 participated in a study to understand if cannabis had an impact on their driving. Since 2001, the prevalence of marijuana use by this demographic has increased as more states legalized medical marijuana. The eligibility criteria included driving on average at least once a week, living in Colorado ten months out of the year, and "without significant cognitive impairment based on medical record review and a Six-Item Screener score." The main focus areas of the study were if they ever used cannabis, how many times in the past 12 months, how many times they drove a motor vehicle within an hour of use in the past year, and how many times they drove under these circumstances in the past 30 days. This resulted in four main self-reported driving-related outcomes: "self-rated abilities for safe driving; lapses, errors and violations; drinking and driving; and crashes and citations."

The results were 41% of participants reported having ever used cannabis and 9% (54 participants) reported using in the past year. Of those 54 that used in the past year, 50% used cannabis less than once a month, 17% used one to three times a month, 20% used one to five times per week, and 13% used more than once a day. Less than one percent of all participants and 9% of past-year users reported driving within an hour of using cannabis and almost half of those had done this in the past 30 days. Those in the older age group (closer to 79) were significantly less likely to use cannabis. There was not found to be any correlation between past-year cannabis use and "self-reported involvement in a crash or receipt of a citation in the past year." Conversely, "cannabis users were significantly more likely than non-users to have reduced their driving in the past year due to self-regulation." Ultimately, the authors concluded that "driving under the influence of cannabis does not appear likely to have an important impact on crash rates among older drivers currently."

Source: DiGuiseppi, C., Smith, A., Betz, M., Hill, L., Lum, H., Andrews, H., Leu, C., Hyde, H., Eby, D., and Li, G. (2019). *Cannabis use in older drivers in Colorado: The LongROAD Study.* Accident Analysis and Prevention, 132.

Section II: Marijuana Use

Some Findings

Since recreational marijuana was legalized in 2013:

- Past month marijuana use for ages 12 and older **increased 30%** and is **76%** higher than the national average, currently ranked **3rd** in the nation.
- Past month adult marijuana use (ages 18 and older) **increased 19%** and is **73% higher** than the national average, currently ranked **3rd** in the nation.
- Past month college age marijuana (ages 18-25) use **increased 6%** and is **50% higher** than the national average, currently ranked **3rd** in the nation.
- Past month youth marijuana (ages 12-17) use **decreased 25%** and is **43% higher** than the national average, currently ranked **7th** in the nation.

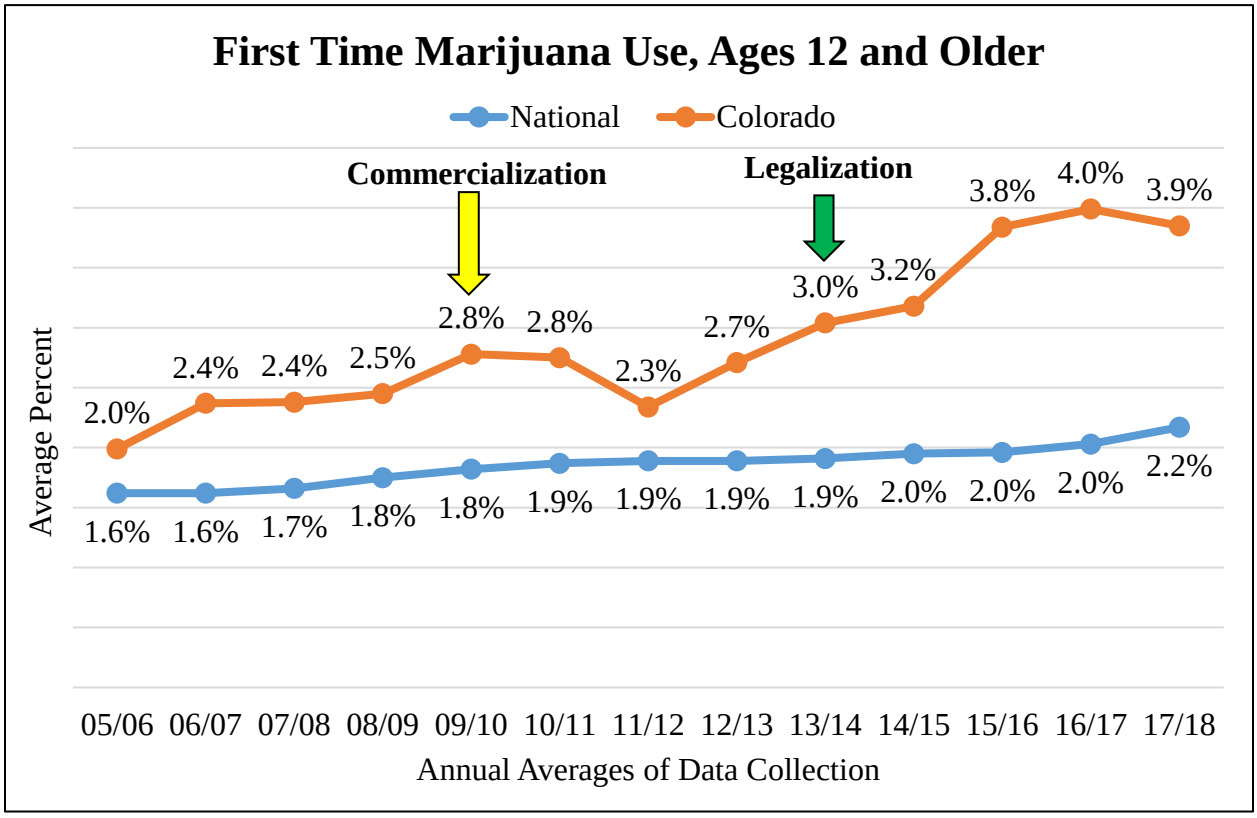
National Survey on Drug Use and Health (NSDUH) Data

Colorado Averages Compared to National Averages, Ages 12 and Older (NSDUH 2017/2018)		
	Colorado	**United States**
Marijuana Past Month Use	17.3%	9.8%
Perceptions of Risk for Smoking Marijuana	16.8%	25.5%
Illicit Drug Use Other than Marijuana Past Month	4.7%	3.3%
Alcohol Past Month Use	61.5%	51.4%
Cigarette Past Month Use	17.1%	17.5%
Perceptions of Risk for Smoking Cigarettes	73.6%	71.7%

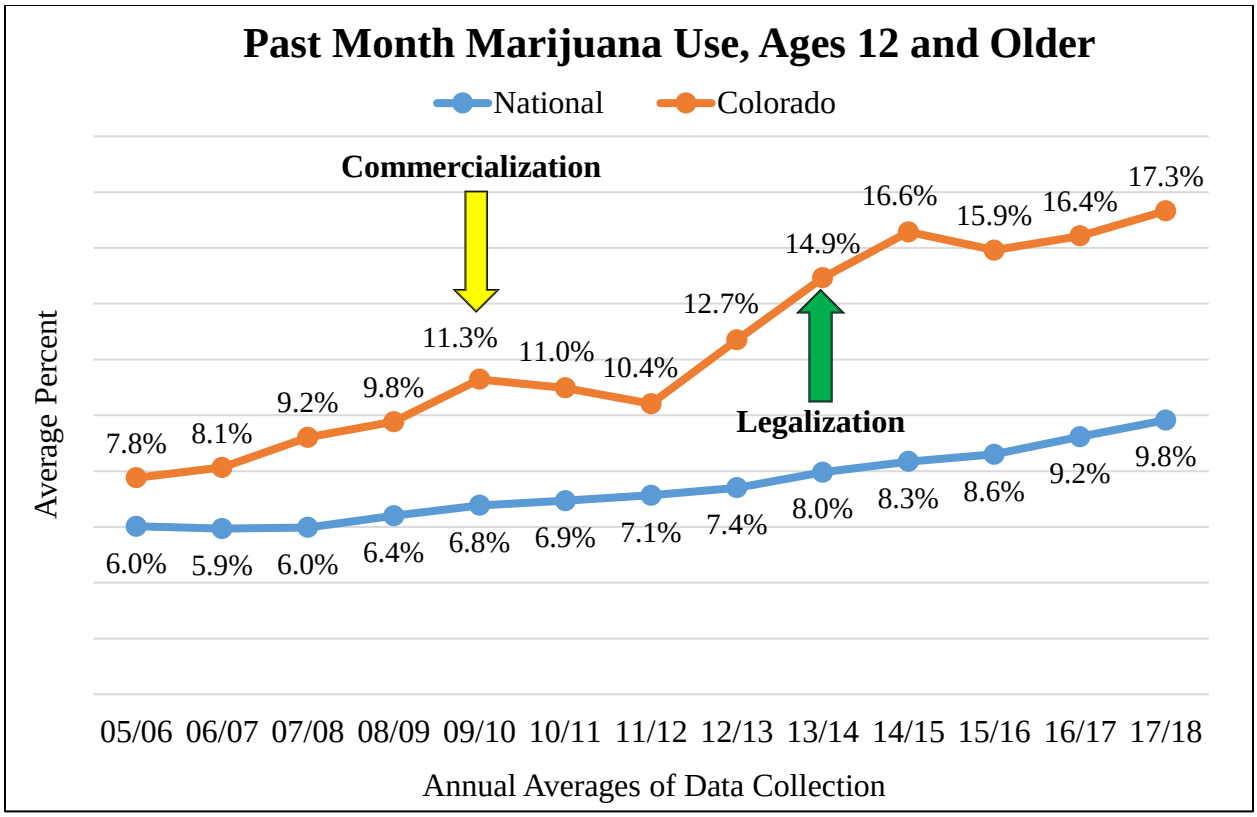
SOURCE: Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Behavioral Health Statistics and Quality, NSDUH, 2017 and 2018

Marijuana First Time Use			
Age	**Colorado %**	**Colorado U.S. Ranking**	**National %**
12 years +	3.9%	3rd	2.8%
12 – 17	7.7%	7th	5.5%
18 years +	3.0%	5th	1.6%
18 – 25	13.1%	6th	8.3%
26+	1.3%	5th	0.5%

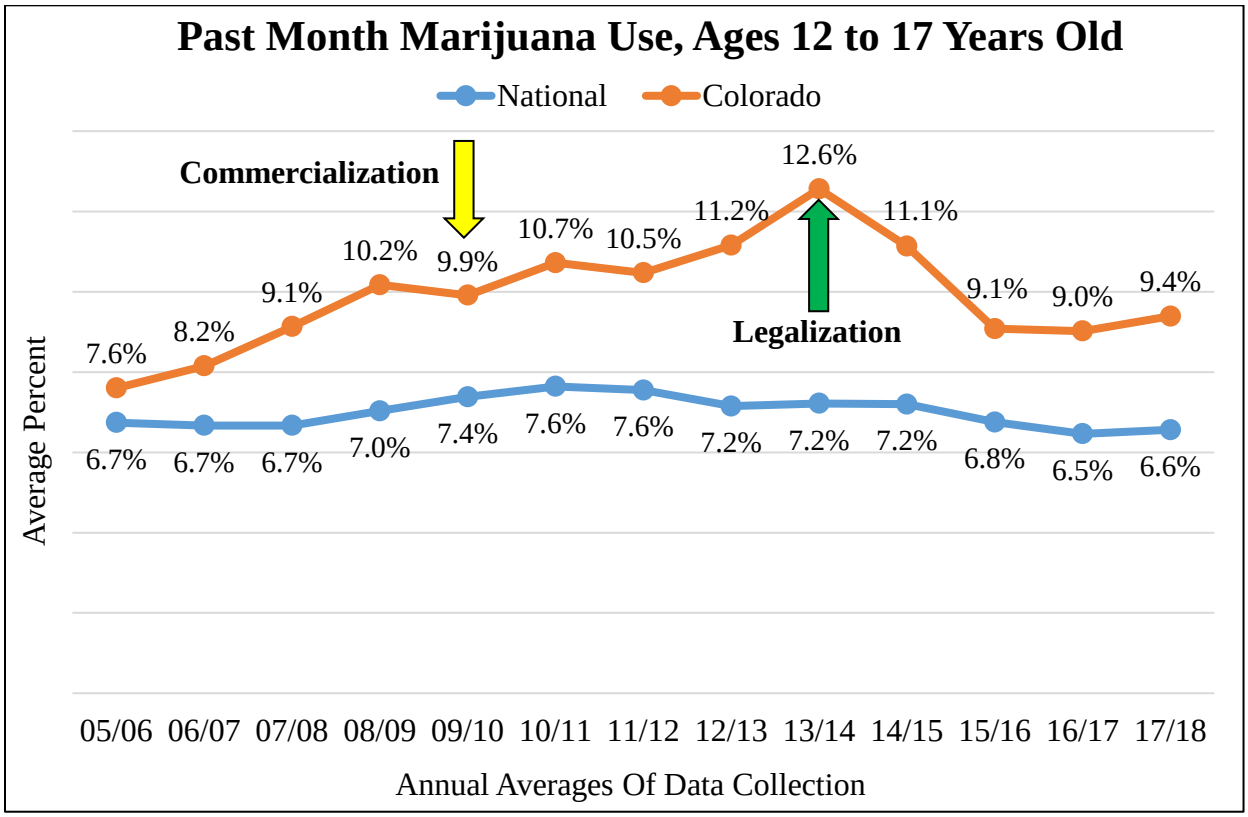
SOURCE: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2017 and 2018



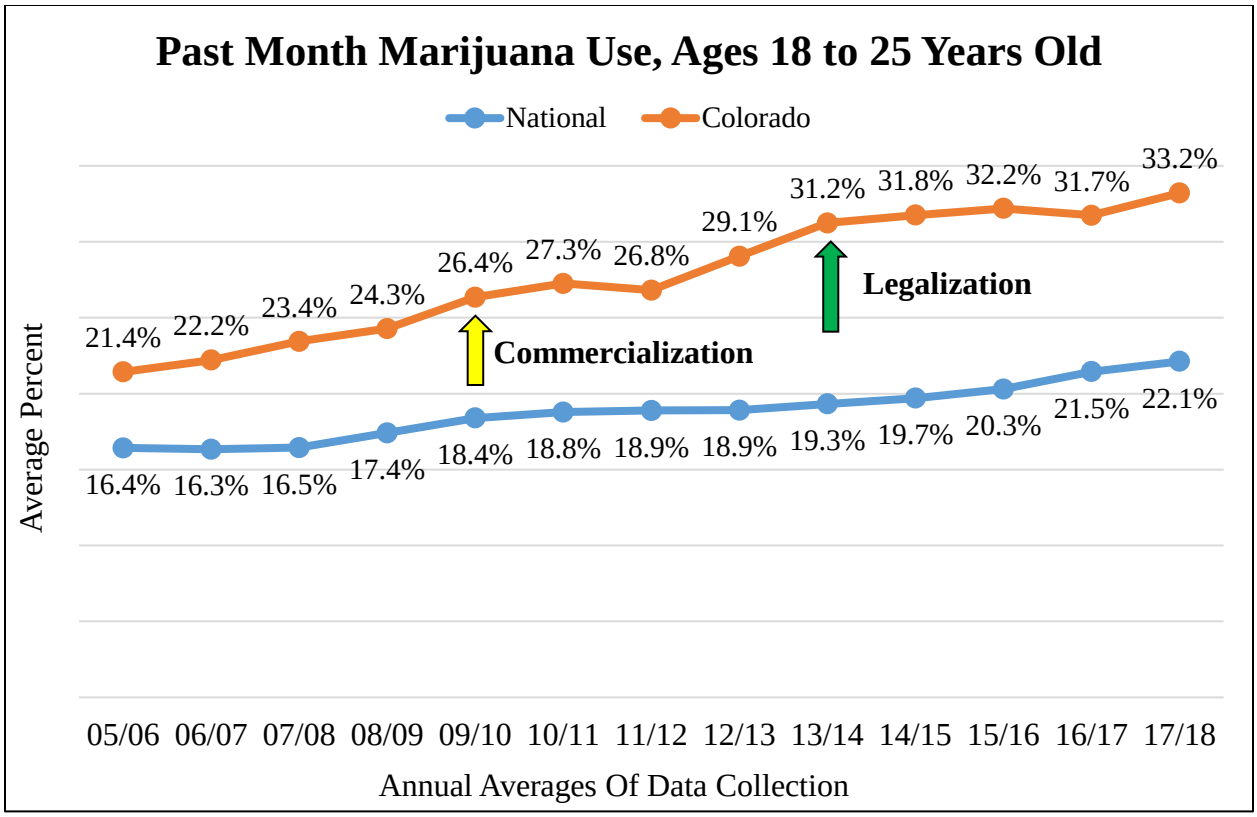
SOURCE: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2017 and 2018



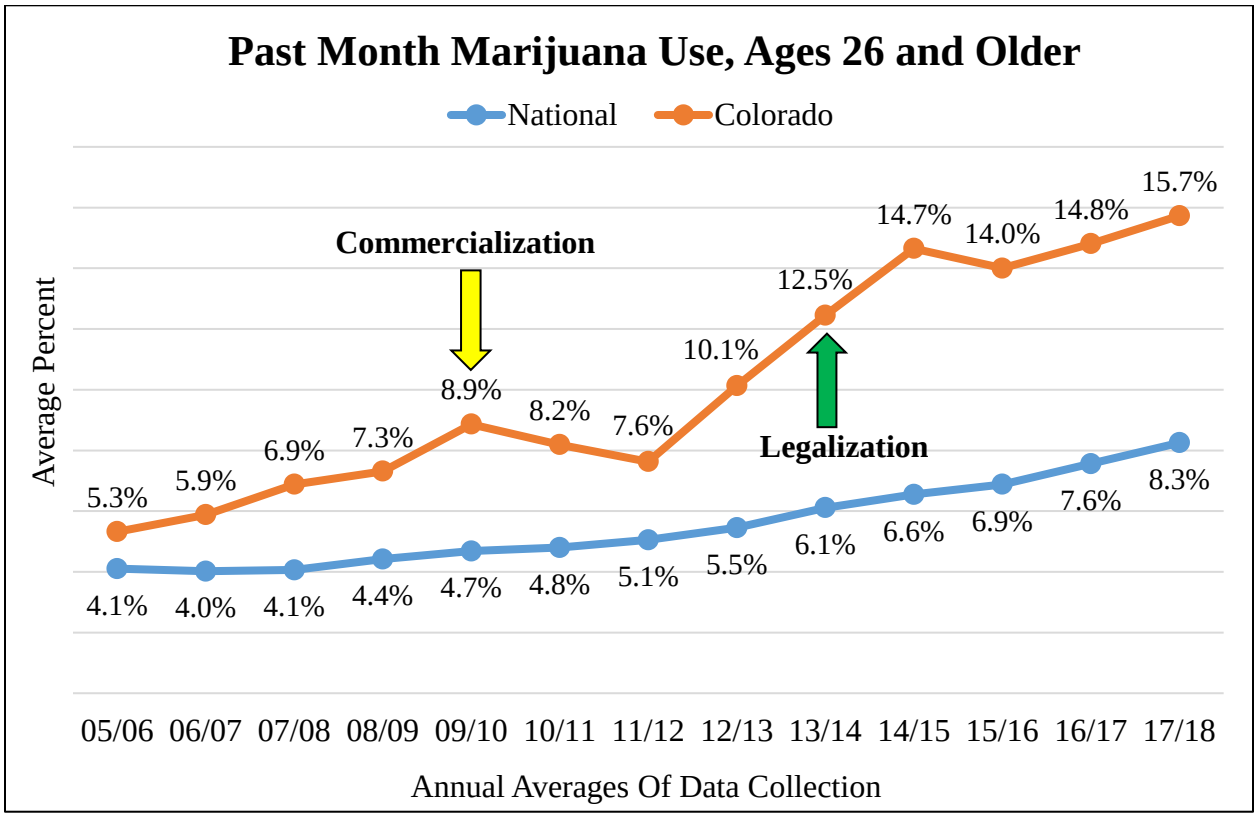
Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2017 and 2018



Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2017 and 2018



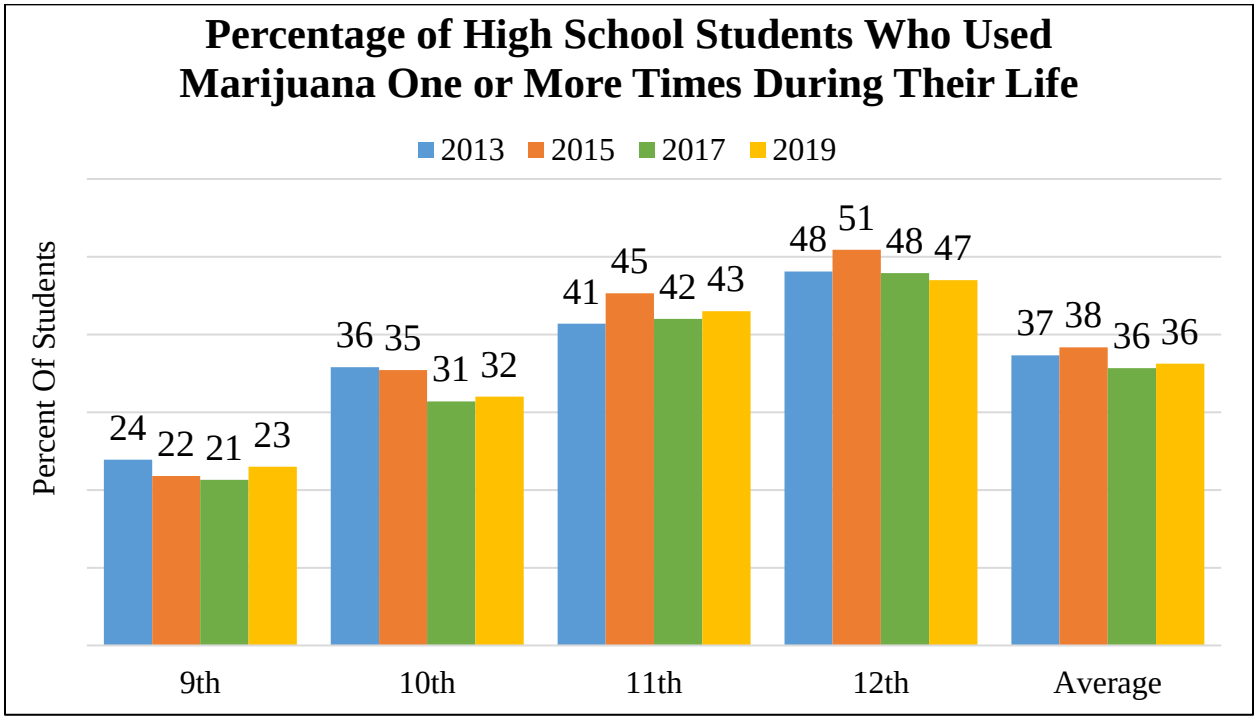
Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2017 and 2018



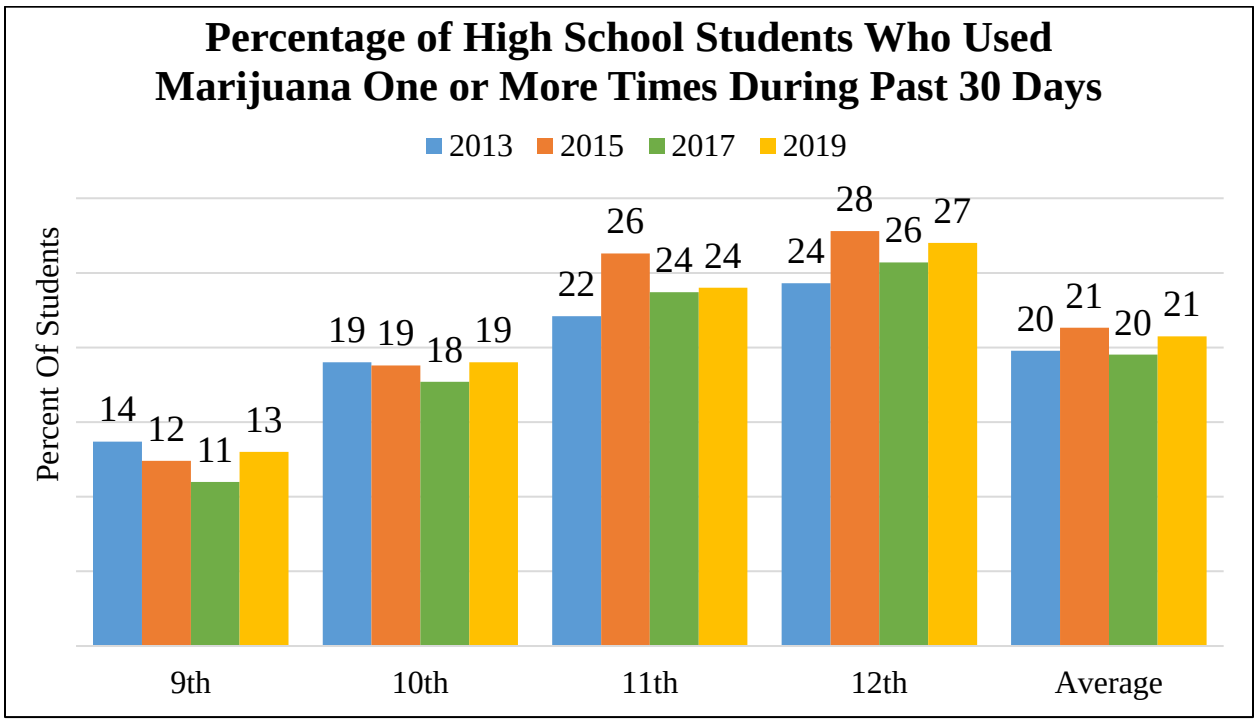
Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2017 and 2018

Healthy Kids Colorado Survey (HKCS) Data

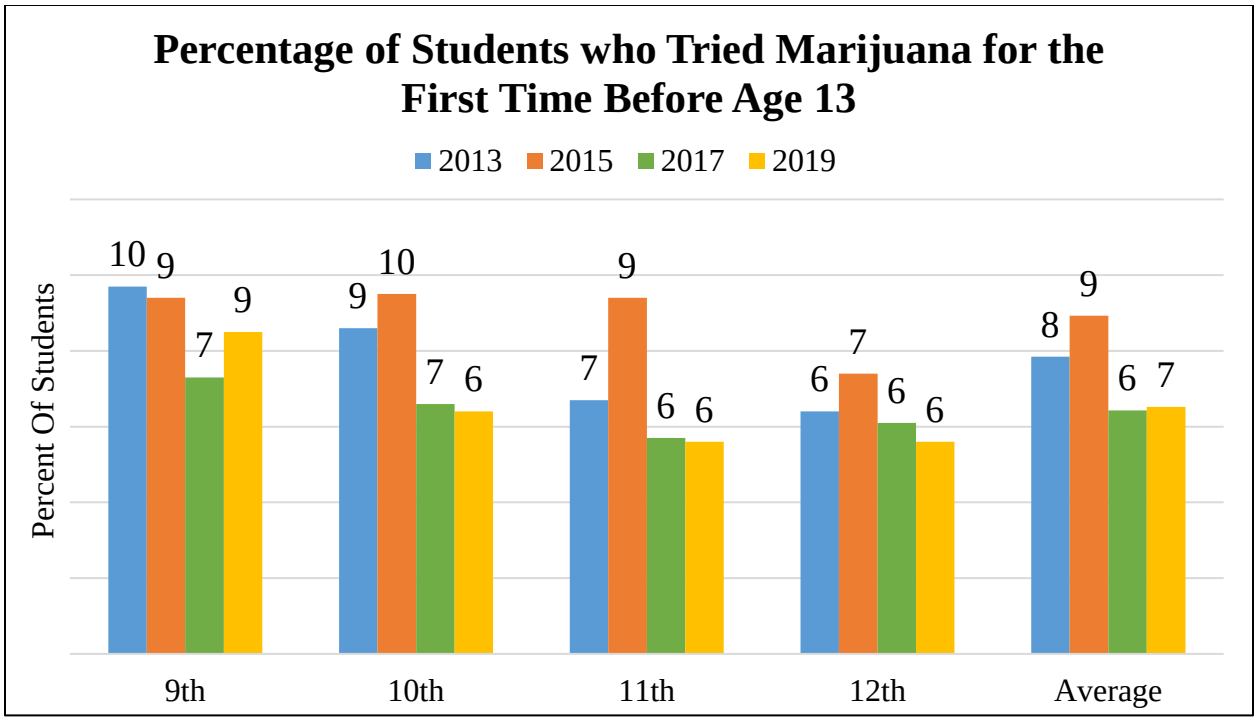
Data is collected in the odd years and released in even years, resulting in only 2013, 2015, 2017, and 2019 included for trend analysis.



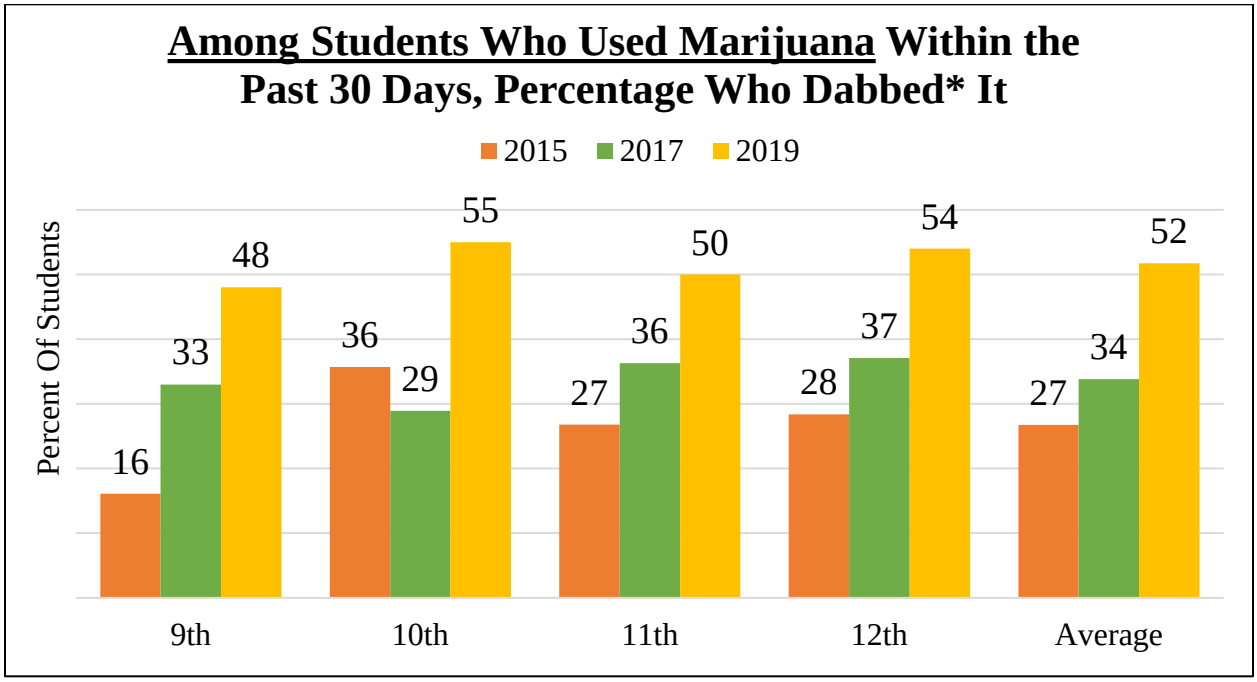
SOURCE: Colorado Department of Public Health and Environment (CDPHE), HKCS



SOURCE: CDPHE, HKCS



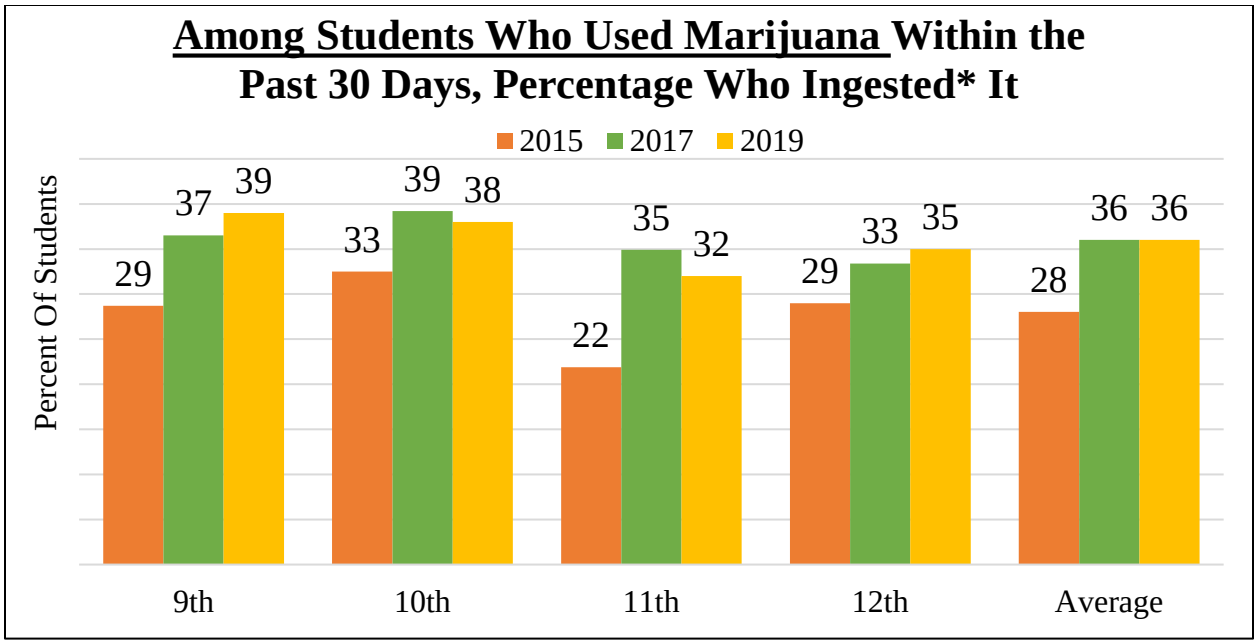
SOURCE: CDPHE, HKCS



SOURCE: CDPHE, HKCS

*Dabbing is the process of vaporizing concentrated marijuana, usually in the form of wax or resin, by placing it on a heated piece of metal and inhaling the vapors. Concentrated marijuana is known to often contain 70 percent or higher levels of THC, the psychoactive component of marijuana.

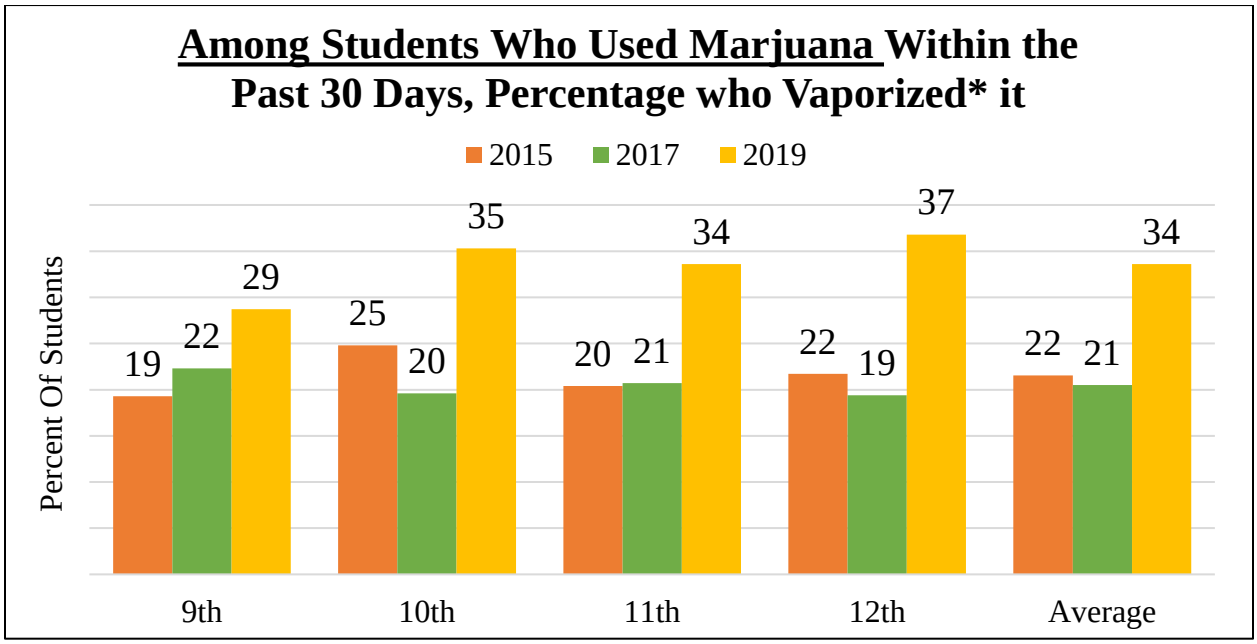
NOTE: Data was not gathered on this topic in 2013.



SOURCE: CDPHE, HKCS

*Eating marijuana most commonly refers to edible products. Edible products contain marijuana concentrates and extracts that have been made for the use of being mixed with food or other products.

NOTE: Data was not gathered on this topic in 2013.

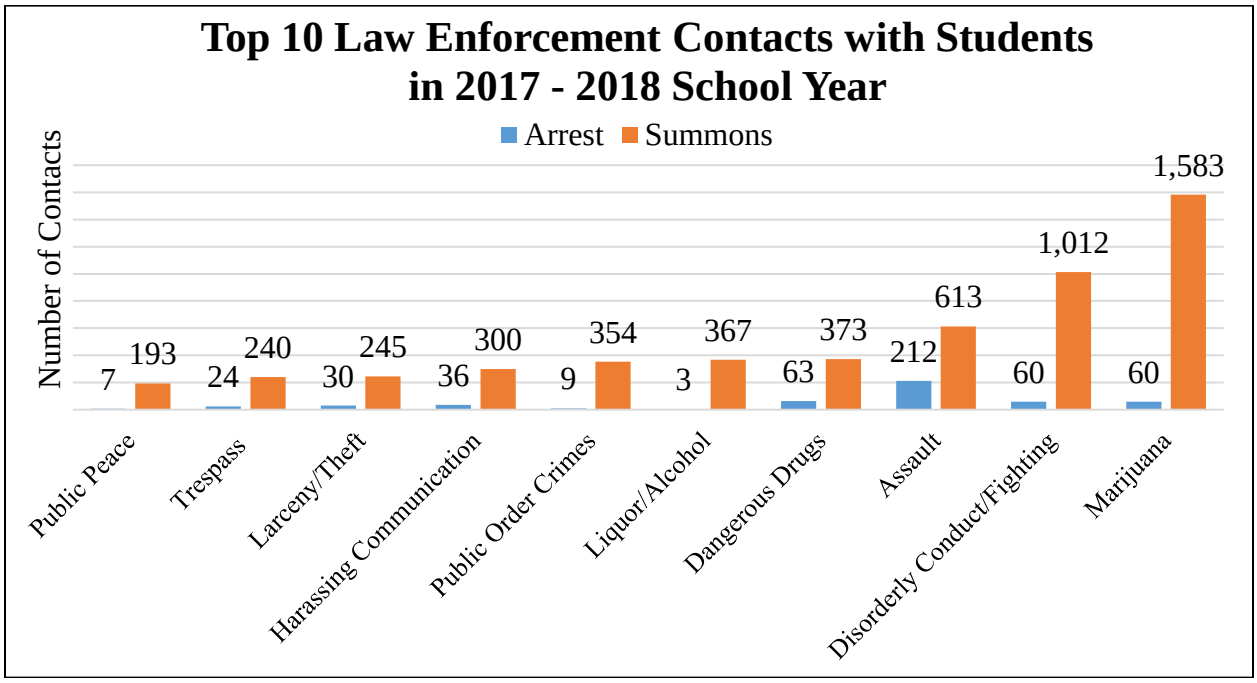


SOURCE: CDPHE, HKCS

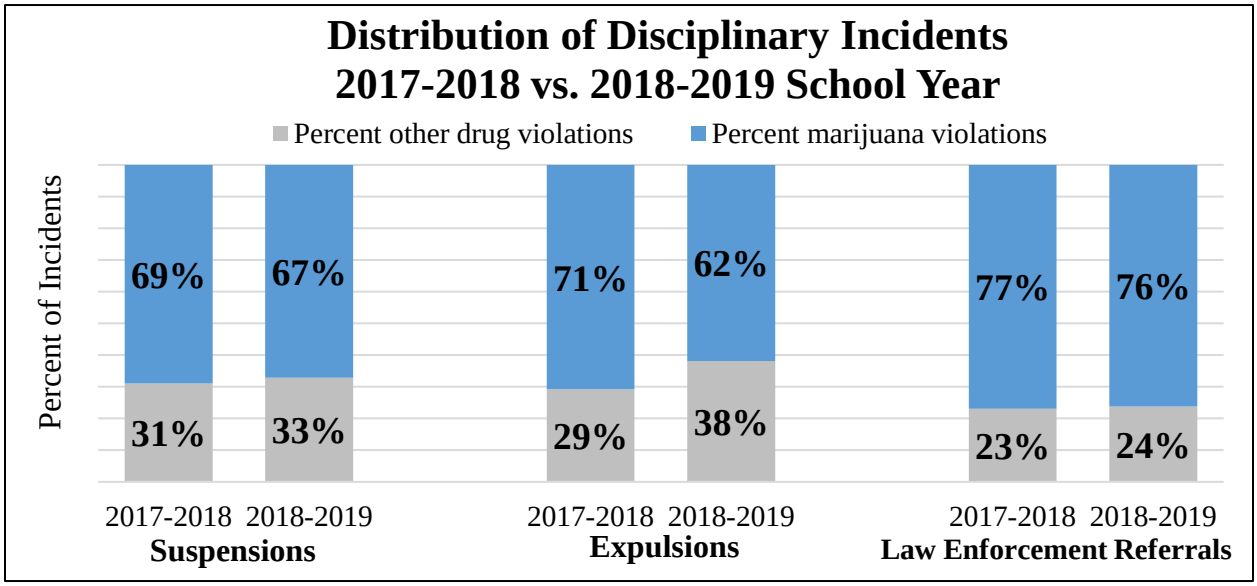
*"Vaporizing" marijuana most commonly refers to inhaling vapor through the mouth typically from a battery-operated electronic device that heats up and vaporizes a liquid or solid.

NOTE: Data was not gathered on this topic in 2013.

Marijuana in Schools



SOURCE: Colorado Division of Criminal Justice



SOURCE: Colorado Department of Education

NOTE: Law Enforcement Referrals may or may not have been in addition to another reported action taken (suspension, expulsion, or other).

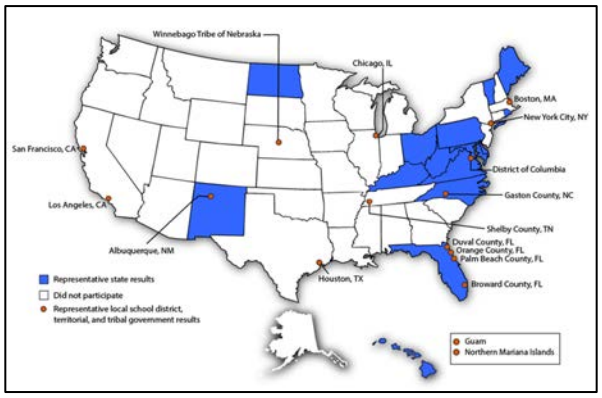
- For additional information regarding schools and incidents with marijuana, see "The Legalization of Marijuana in Colorado: *The Impact* Volume 5", at www.rmhidta.org for statements made by Colorado school resource officers.

Youth Risk Behavior Surveillance System (YRBSS) Data

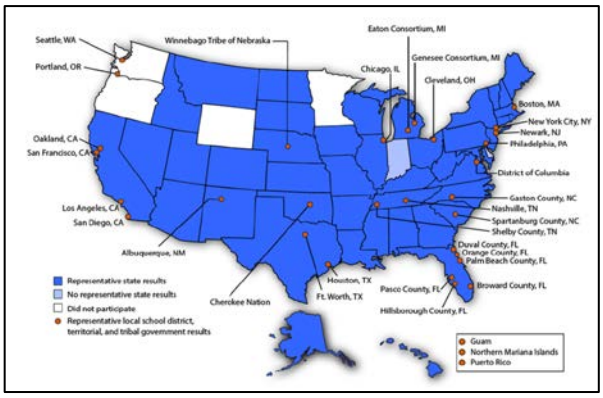
Typically, Colorado has fallen short of the required 60% participation rate and in some years, was not included with weighted data. In 2017 and 2019, the participation rate was high enough for high school, but Colorado still does not participate at a high enough level, if at all, for middle school. Additionally, states that meet the minimum participation requirements for inclusion with weighted data varies from year to year. As a result, comparisons of Colorado to the national averages will not be conducted until all states participate, especially all states that have legalized marijuana for an accurate portrayal. States that participated in the 2019 Middle School and High School YRBSS surveys are represented in dark blue in the below maps.

2019 YRBSS Participation Map

Middle Schools



High Schools

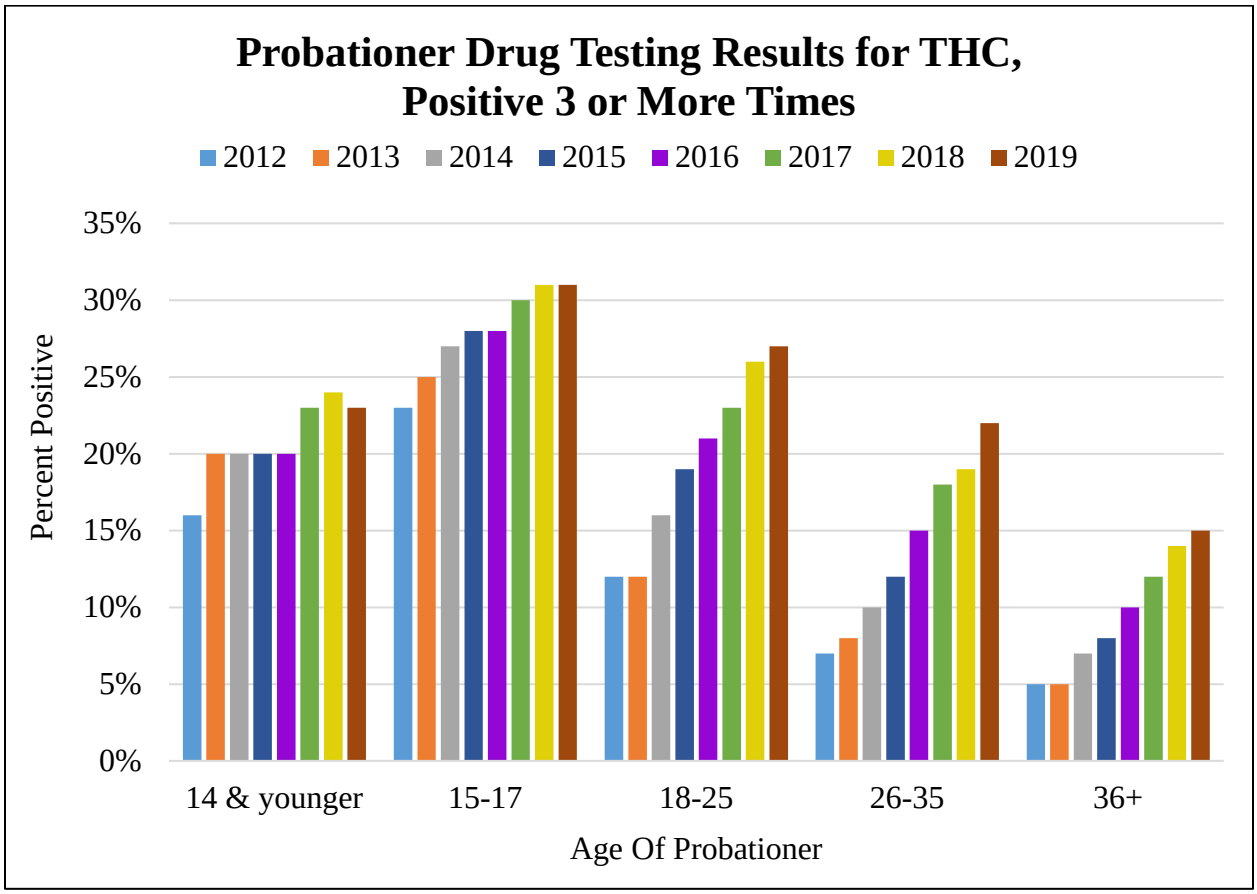


Marijuana First Time Use of Colorado High Schoolers (9-12th Grade)					
	2005	**2009**	**2011**	**2017**	**2019**
Ever Used Marijuana	42.4%	42.6%	39.5%	35.5%	35.4%
Tried Marijuana for the First Time Before Age 13	9.9%	8.3%	9.0%	5.9%	7.6%
Currently Use Marijuana	22.7%	24.8%	22.0%	19.6%	20.1%

SOURCE: YRBSS

NOTE: These five years were the only years that Colorado met the 60% participation rate.

Probationer Marijuana Use



SOURCE: Colorado State Judicial Branch, Division of Probation Services

NOTE: Data reflects drug test results for probationers required to undergo drug testing. This does not reflect all probationers in Colorado. Probationers who have a medical marijuana card are not prohibited from using marijuana while on probation. It is possible that some positive results may come from probationers using marijuana for medical reasons.

Marijuana Use Information

Comparing Marijuana Use in Youth in Colorado in 2013 to 2015

Through the use of the HKCS and YRBSS, the authors compared the marijuana use by youth in 2013 (pre-legalization) and 2015 (post-legalization). The measurements were marijuana use, marijuana-related perceptions, other substance use, demographic characteristics, and school characteristics. The parameters for school characteristics were: "(1) level of family poverty among students, (2) racial composition of students, (3) urbanicity of the school's municipality, and (4) whether the school's municipality permitted retail marijuana sales in 2015."

The results were a lack of a statistically significant change in both lifetime and thirty-day use of marijuana when comparing 2013 to 2015 for the Colorado high school students. Conversely, there was a decrease in 2015 of frequent use, which is defined as using over twenty times in the past thirty days. The two other significant decreases in 2015 were cigarette smoking and perceived harmfulness of marijuana. There was no significant change based on the four school characteristics defined above. Finally, the authors found "local retail sales may reflect both local norms about marijuana use as well as the prevalence of use, unrelated to the policy change."

Source: Brooks-Russell, A., Ma, M., Levinson, A., Kattari, L., Kirchner, T., Anderson Goodell, E., and Johnson, R. (2018). *Adolescent Marijuana Use, Marijuana-Related Perceptions, and Use of Other Substances Before and After Initiation of Retail Marijuana Sales in Colorado (2013–2015).* Prevention Science, 20, 185-193.

Youth Use in the Three Types of Cannabis Markets in the United States

This study compared youth use in established non-medial cannabis markets (Colorado, Washington, Alaska, Oregon) with new non-medical cannabis markets (California, Maine, Massachusetts, Nevada) and prohibited non-medical cannabis markets (NCM). The results were:

- Cannabis use for youth in the last month was significantly less in the prohibited states.
- For modes of use in the past 30 days, youth in established states were more likely to use an e-cigarette to vape cannabis.
- Both new and established NCM youth were more likely to have eaten or drank cannabis and using cannabis extracts.
- Youth in prohibited NCM were significantly less likely to have easy access to cannabis.
- The perception of harm was not significantly different between the three groups.
- The youth in prohibited and established NCMs were more likely to have driven a car within two hours of cannabis used.

Source: Wadsworth, E., Hammond, D. (2018). *Differences in Patterns of Cannabis Use Among Youth: Prevalence, Perceptions of Harm and Driving Under the Influence in the USA where Non-Medical Cannabis Markets Have Been Established, Proposed and Prohibited.* Drug and Alcohol Review, 37(7), 903-911.

School Nurses Permitted to Give Medical Marijuana at School

In 2018, a new law was created in Colorado that allowed school nurses to administer medical marijuana to students, an expansion from a previous law which allowed only a primary caregiver to administer it. This law requires a written plan, the need for a locked storage container at the

school and restricts students from handling the medical marijuana. In 2019, individuals under the age of 18 with autism spectrum disorders were included in the law as well
Some nurses have expressed concern due to no federal mandate protecting them for distributing the drug. The event that prompted the new law was an elementary student in Eagle County, Colorado with epilepsy and Tourette's syndrome who needed a dose of CBD oil during the school day to minimize symptoms. While there is difficulty in finding updated statistics, it appears that Eagle County is the only school district that has adopted this law. Though Colorado approved the use of nurses administering medical marijuana, school districts have to vote whether to enact it.

Source: Brusie, Chaunie (2019). *New Law Allows School Nurse to Give Medical Marijuana to Students in Colorado.* Retrieved from https://nurse.org/articles/school-nurses-give-marijuana-cbd-to-kids-colorado/

Walton v. People Expands Probationer Permitted Use of Medical Marijuana

In 2019, the Colorado Supreme Court overturned a district court's ruling, placing a greater burden on the prosecution to prove individuals should not be permitted to use medical marijuana while on probation. This ruling resulted from a case in Colorado Springs where an individual was found guilty of driving under the influence of alcohol. Even though they presented a medical marijuana registry identification card, the individual did not "provide a medical professional [in court] to testify regarding her authorization to use medical marijuana," so as a result, they were prohibited from using medical marijuana while on probation.

The previous law did not acknowledge any supporting documentation for the authorization of medical marijuana and required a medical professional to present in court. The Colorado Supreme Court found emphasis on a medical professional was "misplaced" as it "imposed a burden greater than that created by the legislature." Additionally, the Colorado Supreme Court did not agree with a blanket policy regarding prohibiting medical marijuana as the original intention of the law was considering defendants' individual circumstances. The main outcome of this ruling "requires the court to make particularized findings, based on material evidence, that prohibiting this defendant's otherwise-authorized medical marijuana use is necessary and appropriate to promote statutory sentencing goals."

Source: *Walton v. People*, 2019 CO 95 (2019)

Relationship between E-Cigarette Users and Vaporizing Cannabis

The primary concerns regarding portable, battery powered cannabis vaporizers are an increased potency of combustible cannabis possibly by four to thirty times and the greater concealment methods with a less conspicuous odor. This study focused on the likelihood of nicotine e-cigarette users to transition to the cannabis vaporizers. The typical users of cannabis vaporizers are young males with an early age of onset of e-cigarette use.

The results showed half of the sample reported trying any form of cannabis and 17.8% had lifetime use of an e-cigarette or vape pen to vaporize cannabis. Additionally, "cannabis vapers reported that, relative to smoking cannabis, vaping tastes better, is healthier, is easier to conceal/hide, does not smell as strong, is more convenient, and produces a stronger/better high." Some of the qualities that resulted in a higher likelihood of vaping cannabis at some point were being male, impulsive,

and having poor self-control. Impulsivity was associated with lifetime use, past-month use, and frequency of using a cannabis vaporizer, while poor self-control was associated with lifetime and past-month use. Finally, the findings showed using e-cigarettes increases the likelihood to consume cannabis through vaporizers.

Source: Morean, M. Lipshie, N., Josephson, M., and Foster, D. (2017). *Predictors of Adult E-Cigarette Users Vaporizing Cannabis Using E-Cigarettes and Vape-Pens*. Substance Use and Misuse, 52(8), 974-981.

Impact of Cigarette Use on Increased Risk of COVID-19

Due to the concerns of preexisting conditions, particularly prior respiratory damage, this article examines the relationship of cigarette and e-cigarette use with the risk of contracting COVID-19. Early studies in China found "smokers were at elevated risk of COVID-19 progression compared with non-smokers." One particular focus of this relationship is if the risk for youth increases in contracting COVID-19 if they use e-cigarettes. This study focused on young adults from 13 to 24 years old for a week in May 2020 in an online survey.

The findings showed "past 30-day dual-users were 4.7 times more likely to experience COVID-19 related symptoms." This was compounded with a higher risk of COVID-19 for racial minorities (African Americans, Hispanic, multiracial/other), preexisting conditions (under or overweight), and LGBTQ. Additionally, not complying with stay-at-home/shelter-in-place resulted in a higher risk. "Surprisingly, exclusive ever-use of combustible cigarettes was only associated with COVID-19 related testing, whereas both past 30-day use and ever-use of e-cigarettes and dual use were associated with COVID-19 testing and positive diagnosis." Some of the suggested explanations for this increased risk of COVID-19 for cigarette and e-cigarette users was existing lung damage, sharing of devices with others, and repeating touching of one's hands to face. The authors suggested more education is needed in schools and communities of this increased risk.

Source: Gaiha, S., Cheng, J., and Halpern-Felsher, B. (2020). *Association Between Youth Smoking, Electronic Cigarette Use, and Coronavirus Disease*. Journal of Adolescent Health, 1-5. Retrieved from https://www.sciencedirect.com/science/article/pii/S1054139X20303992

Drug Testing Positivity in the Workplace in the United States

Quest Diagnostics, the world's leading provider of diagnostic information services, reported "the rate of workforce drug positivity hit a sixteen-year high in 2019" at 4.5% positivity rates from urine drug tests in the combined U.S. workforce. From 2010-2012, Quest Diagnostics reported a thirty-year low of 3.5% positive and the highest percentage in 1988 at 13.6%. The increase in drug positivity in 2019 aligned with a 5% increase in drug deaths in 2019, "largely driven by methamphetamine, cocaine, and fentanyl." Additionally, "during the first few months of 2020, drug deaths increased about 13% compared with last year, attributable partly to social isolation and other disruptions caused by COVID-19."

From 2015 to 2019, methamphetamine positivity increased 12%, particularly in the Midwest. Cocaine positivity in Colorado increased 58% in the same timeframe. Nationwide, opiates positivity decreased 49%, while marijuana positivity increased 29%. "Marijuana continues to top the list of the most commonly detected illicit substances across all workforce categories (general

U.S. workforce; federally mandated, safety-sensitive workforce; and combined U.S. workforce, which includes the prior two populations) and specimen types (urine, oral fluid, and hair)."

Source: Quest Diagnostics. (2020). *Workforce Drug Testing Positivity Climbed to Highest Rate in 16 Years, New Quest Diagnostics Drug Testing Index™ Analysis Finds.* Retrieved from https://www.questdiagnostics.com/home/physicians/health-trends/drug-testing/

Marijuana Use Associated with Suicidal Ideation and Behavior Among US Adolescents

Even though suicide is the second leading cause of death for adolescents (10 to 24-years-old), the problem lies not only in deaths but suicide attempts. In 2018, there were over 208,000 attempts by adolescents treated in emergency departments, likely lower than the actual amount since not all lead to emergency department visits. While tobacco, alcohol, and marijuana have been associated with adolescent suicides, few studies have been conducted to better understand the relationship.

Data used in this study was collected from the Youth Risk Behavior Surveillance Survey from 2011 to 2017. (*It should be noted that all states are not included in this survey unless they met the 60% participation rate and the results are only analyzed every other year.*) "The overall response rates for 2011, 2013, 2015, and 2017, respectively, were 71%, 68%, 60%, and 60%." The results showed an association between marijuana, tobacco, and alcohol use, all independent of each other, with suicide-related outcomes (ideation, plans, attempts, and attempts requiring medical attention). Additionally, "high levels of substance use were at greater risk of suicide attempts than classes with lower levels of use," similar to results found in other studies. Finally, recent data gathered on electronic vaping in 2015 and 2017 were associated with suicidal behaviors.

Source: Kahn, G. and Wilcox, H. (2020). *Marijuana Use Is Associated with Suicidal Ideation and Behavior Among US Adolescents at Rates Similar to Tobacco and Alcohol*, Archives of Suicide Research, DOI: 10.1080/13811118.2020.1804025

College Students' Perspectives on Marijuana Legalization

Over 7,000 college students across the country were surveyed to evaluate the impact of marijuana legalization on the "perception of risk, frequency, and formulations used". The focus was on undergraduates and the states were categorized as recreational, medical, and non-legal. Only 3% of these students were in recreational states (CO and WA), 35% of students were in medical states (18 states, including Washington DC), and 62% were in non-legal states (31 states).

No statistical difference was found for the risk to user's mental and physical health as well as financial well-being in all states. Students in recreational marijuana states endorsed marijuana use in the past three months at a higher rate. While consuming manufactured marijuana edibles was higher in students from recreational and medical states. There was not found to be a statistically significant difference in "the prevalence of smoking, vaporizing/e-cigarette, homemade edibles, or beverage consumption." Ultimately, the conclusion was college students in medical and recreational states reported using marijuana more frequently than non-legal states.

Source: Wang, G., Haynes, C., Besharat, A., Lait, M., Green, J., Dart, R., and Roosevelt, G. (2019). *Characterization of Marijuana Use in US College Students by State Marijuana Legalization Status as Reported to an Online Survey*. The American Journal on Addictions, 28(4), 266-269.

Section III: Public Health

Some Findings

- Marijuana *only* exposures more than **quadrupled** in the seven-year average (2013-2019) since recreational marijuana was legalized compared to the seven-year average (2006-2012) prior to legalization.
- Treatment for marijuana use for all ages **decreased 21%** from 2009 to 2019.
- The percent of suicide incidents in which toxicology results were positive for marijuana has **increased** from **14%** in 2013 to **23%** in 2018.

Definitions by Rocky Mountain HIDTA

Marijuana-Related: Also referred to as "marijuana mentions." Data could be obtained from lab tests, patient self-admission or some other form of validation obtained by the provider. Being marijuana-related does not necessarily prove marijuana was the cause of the emergency department admission or hospitalization.

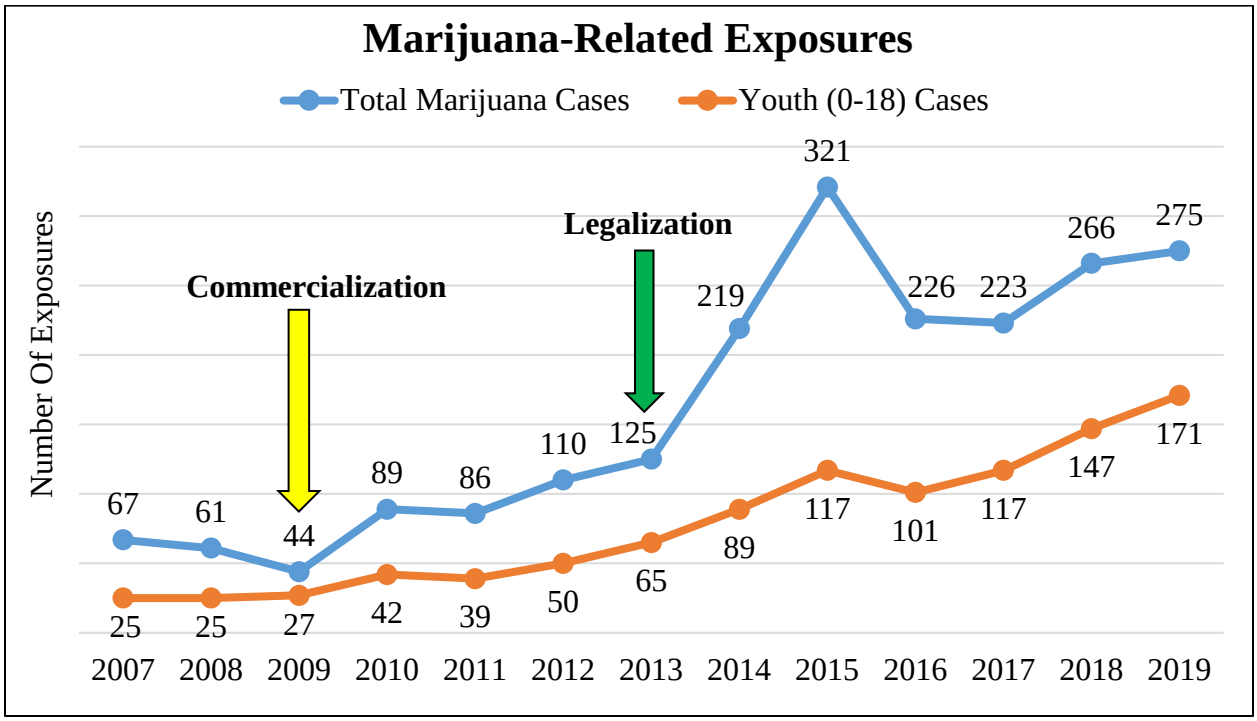
International Classification of Disease (ICD): A medical coding system used to classify diseases and related health problems.

**In 2015, ICD-10 (the tenth modification) was implemented in place of ICD-9. Although ICD-10 will allow for better analysis of disease patterns and treatment outcomes for the advancement of medical care, comparison of trends before and after the conversion can be made difficult and/or impossible. The number of codes increased from approximately 13,600 codes to approximately 69,000 codes. For the above reasons, hospitalization and emergency department data was only provided pre-conversion to ICD-10 for the 2017, Volume 5 report. However, some preliminary data for rates per 100,000 individuals was provided by the Colorado Department of Public Health and Environment (CDPHE) for this update.

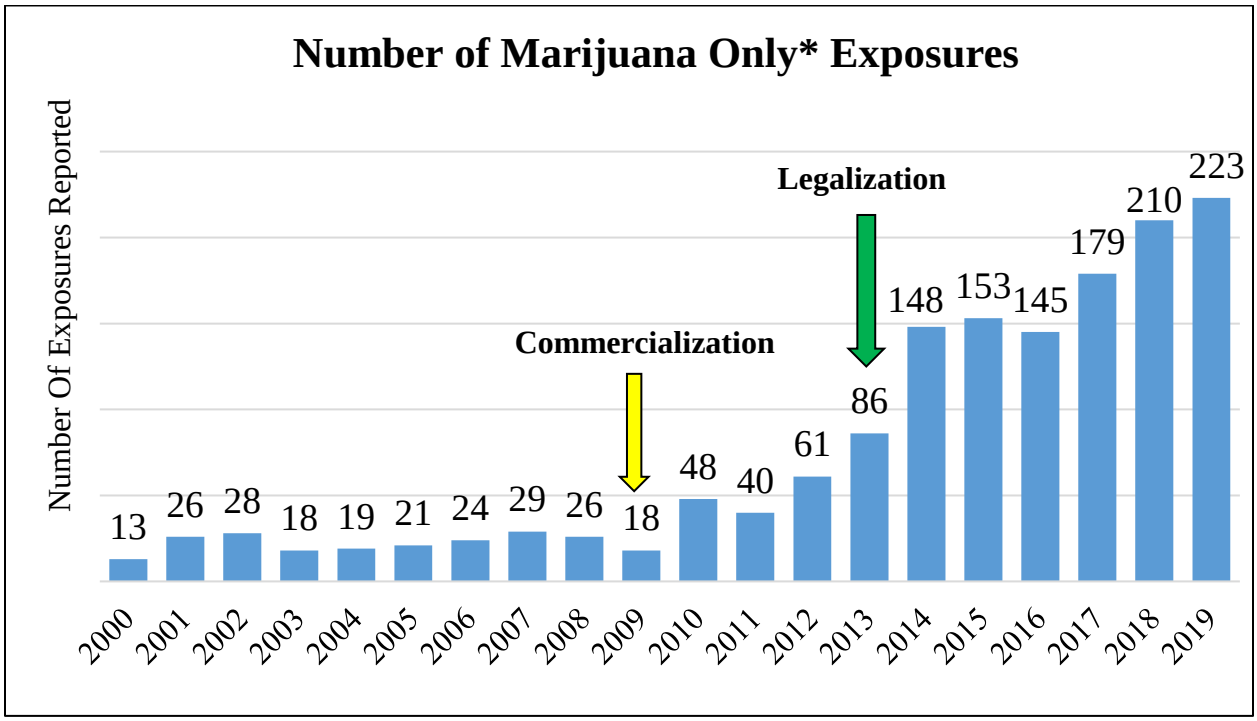
For more information regarding public health research gaps and data quality issues, please visit https://marijuanahealthinfo.colorado.gov/research-gaps.

2018 and 2019 Colorado Hospitalization Association data was unavailable at the time of publishing this report. Please refer to Volume 6 for the most recent numbers.

Poison Control/Marijuana Exposure Data

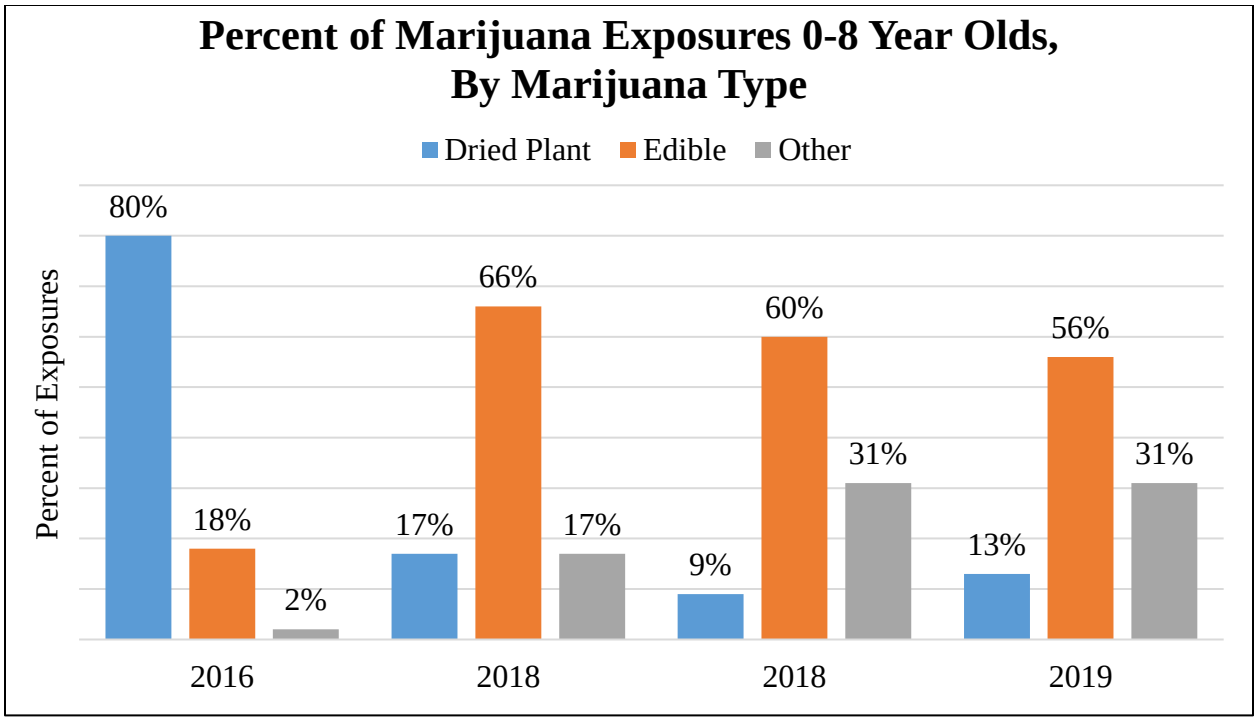


SOURCE: Rocky Mountain Poison and Drug Center



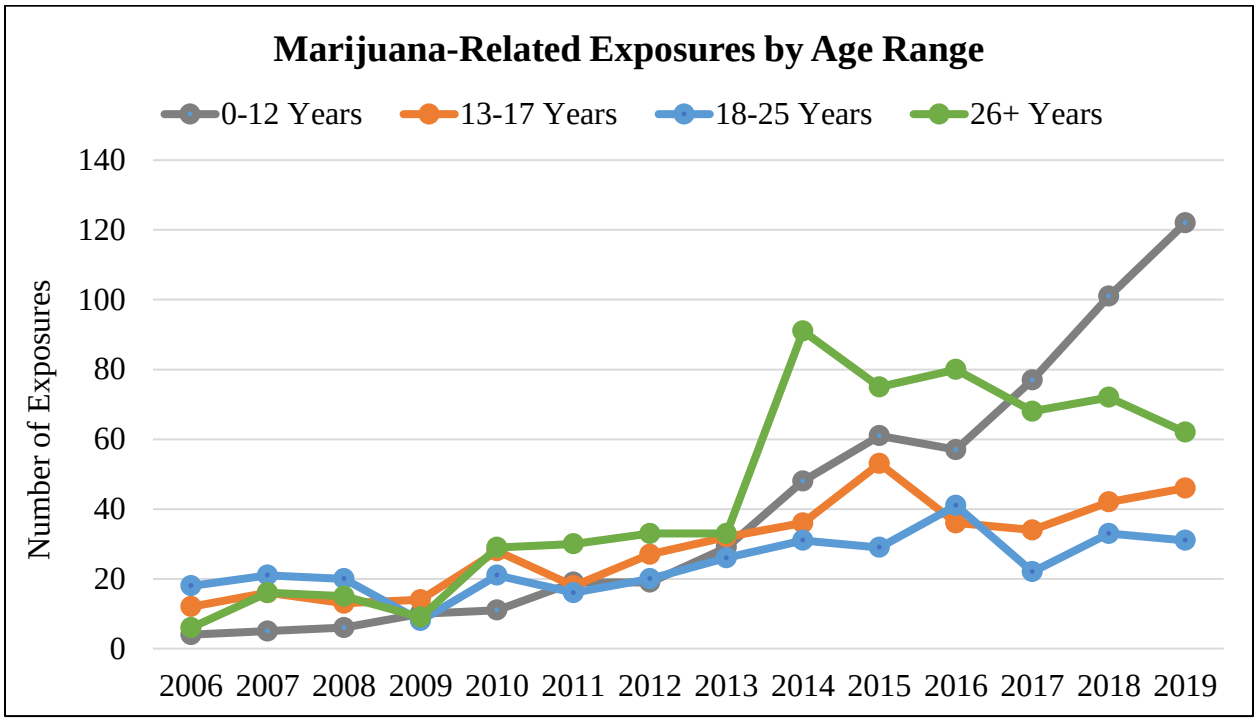
SOURCE: Rocky Mountain Poison and Drug Center

***NOTE:** Marijuana was the only substance referenced in the call to the poison and drug center.



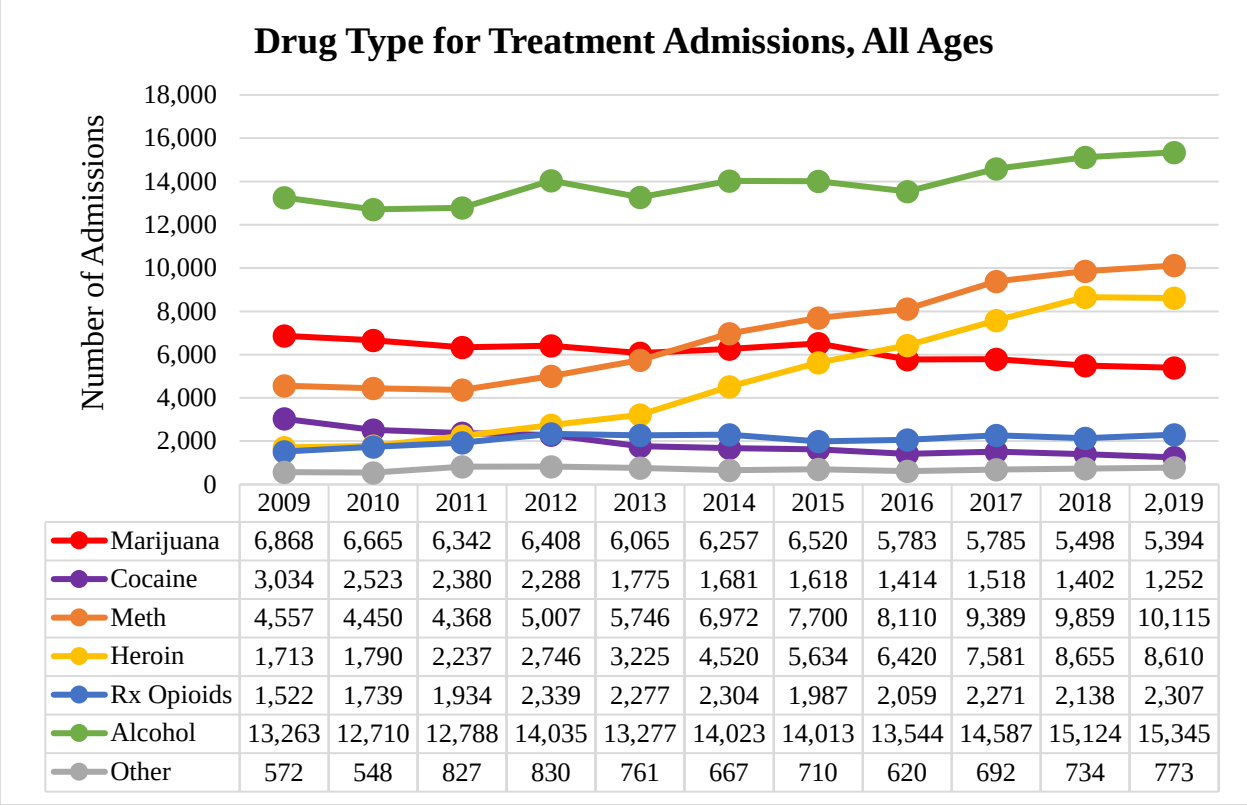
SOURCE: Rocky Mountain Poison and Drug Center

NOTE: The code for marijuana edibles did not go into effect until 2016. Therefore, any cases of edible marijuana exposure which occurred prior to 2016 were coded under "dry plant." Other marijuana includes oral pills/capsules, concentrated extracts (to include oils and tinctures), topical preparations, marijuana devices, and unknown/other forms of mariiuana.



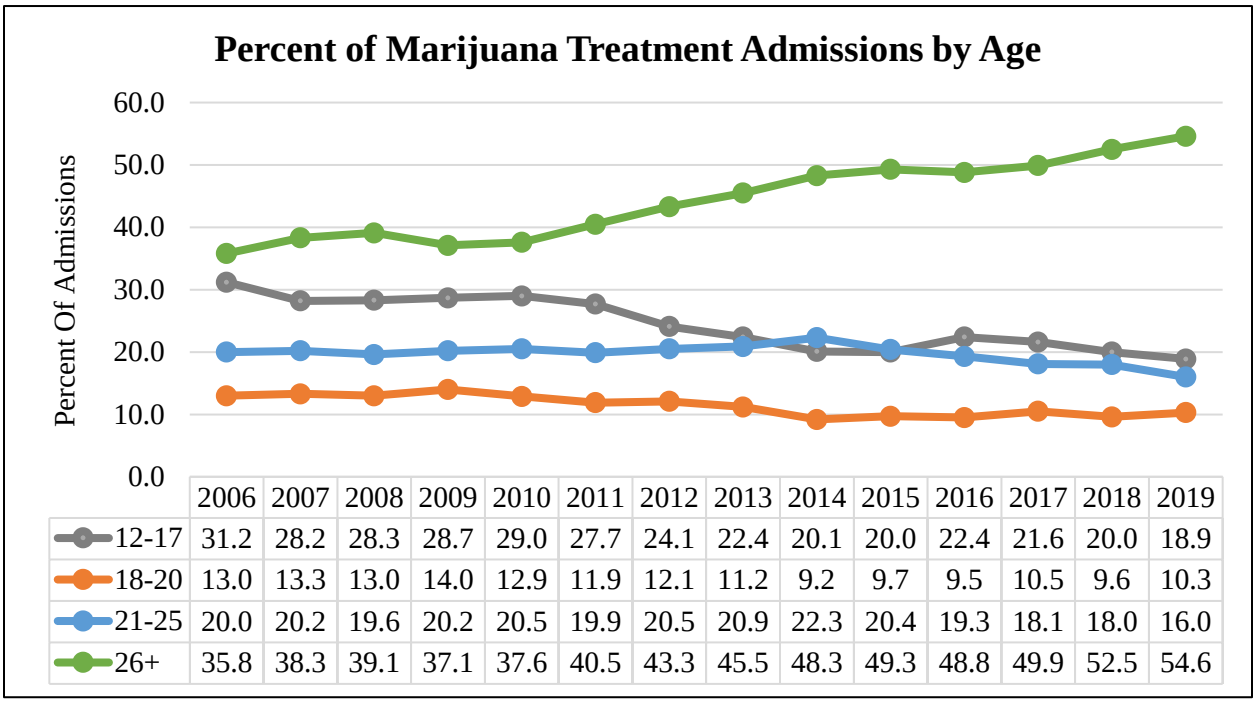
SOURCE: Rocky Mountain Poison and Drug Center

Treatment Data



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2,019
Marijuana	6,868	6,665	6,342	6,408	6,065	6,257	6,520	5,783	5,785	5,498	5,394
Cocaine	3,034	2,523	2,380	2,288	1,775	1,681	1,618	1,414	1,518	1,402	1,252
Meth	4,557	4,450	4,368	5,007	5,746	6,972	7,700	8,110	9,389	9,859	10,115
Heroin	1,713	1,790	2,237	2,746	3,225	4,520	5,634	6,420	7,581	8,655	8,610
Rx Opioids	1,522	1,739	1,934	2,339	2,277	2,304	1,987	2,059	2,271	2,138	2,307
Alcohol	13,263	12,710	12,788	14,035	13,277	14,023	14,013	13,544	14,587	15,124	15,345
Other	572	548	827	830	761	667	710	620	692	734	773

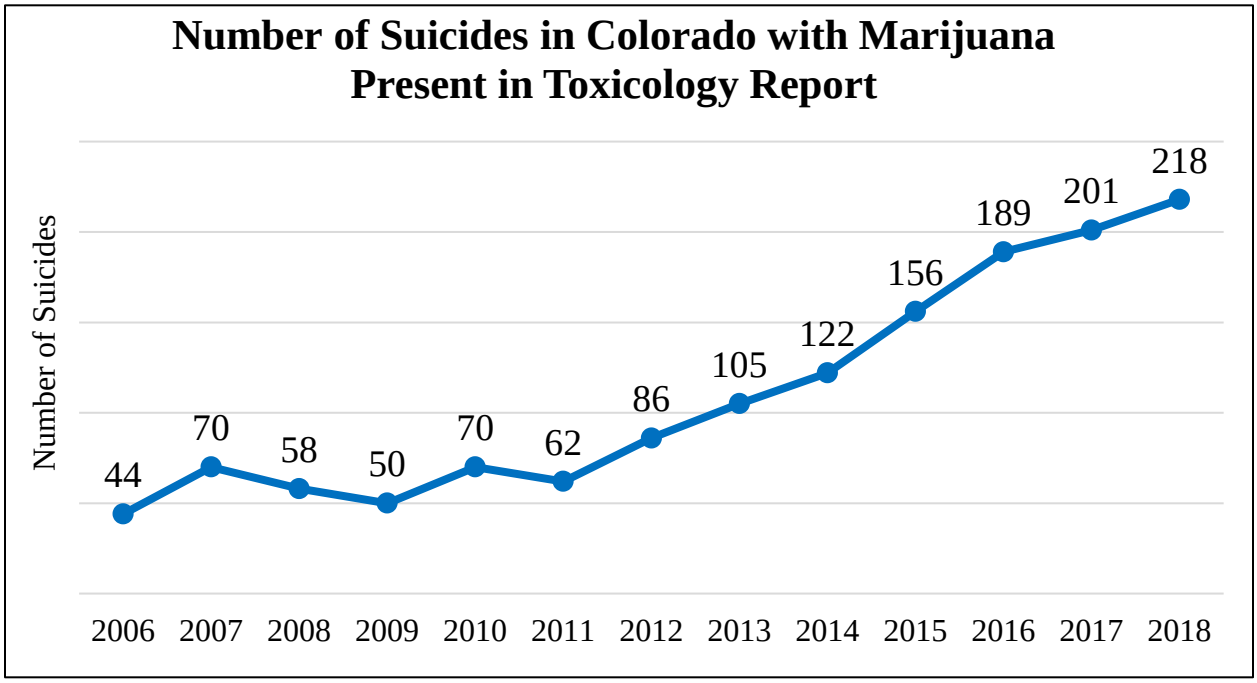
SOURCE: Colorado Department of Health Services, Office of Behavioral Health



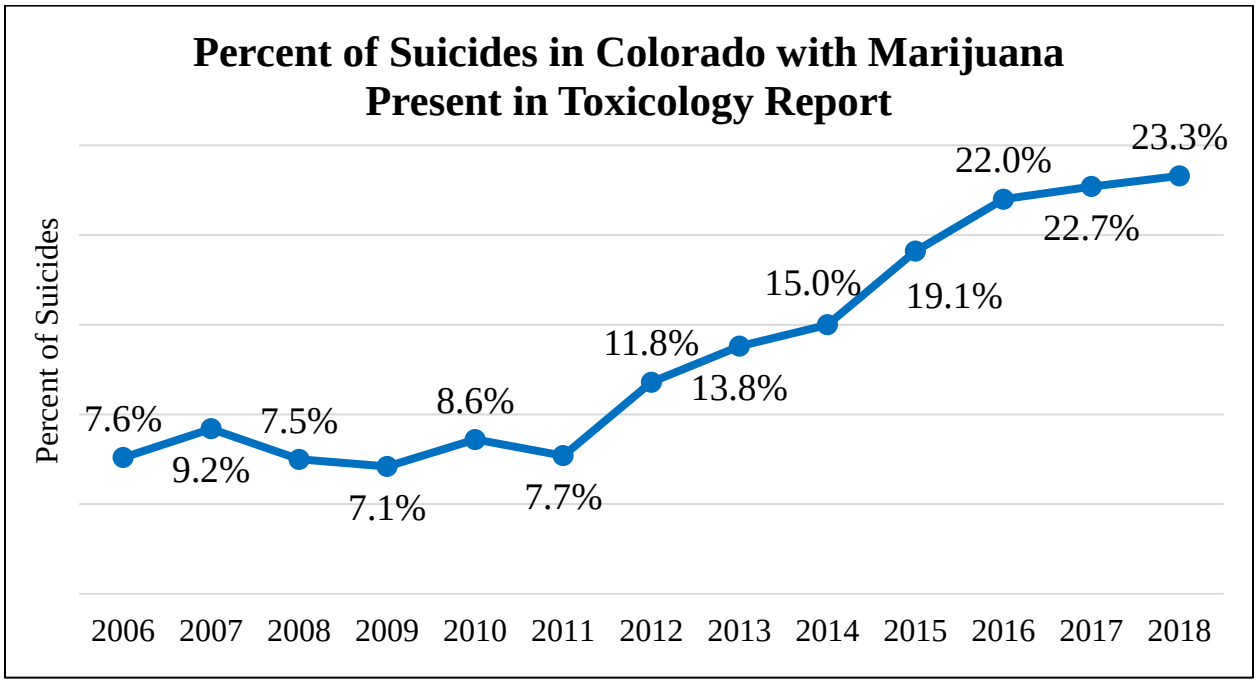
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
12-17	31.2	28.2	28.3	28.7	29.0	27.7	24.1	22.4	20.1	20.0	22.4	21.6	20.0	18.9
18-20	13.0	13.3	13.0	14.0	12.9	11.9	12.1	11.2	9.2	9.7	9.5	10.5	9.6	10.3
21-25	20.0	20.2	19.6	20.2	20.5	19.9	20.5	20.9	22.3	20.4	19.3	18.1	18.0	16.0
26+	35.8	38.3	39.1	37.1	37.6	40.5	43.3	45.5	48.3	49.3	48.8	49.9	52.5	54.6

SOURCE: Center for Behavioral Health Statistics and Quality, SAMHSA, Treatment Episode Data Set (TEDS). Based on administrative data reported by states to TEDS through April 1, 2020.

Suicide Data

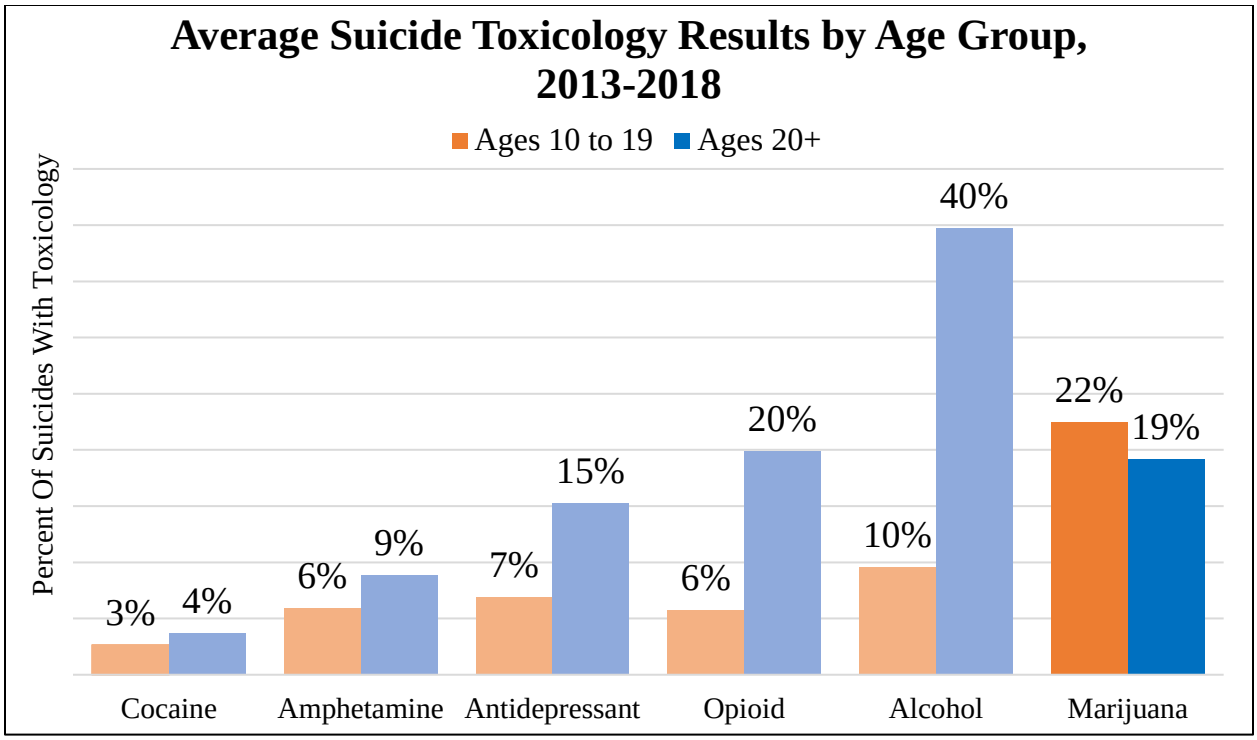


SOURCE: CDPHE, Colorado Violent Death Reporting System



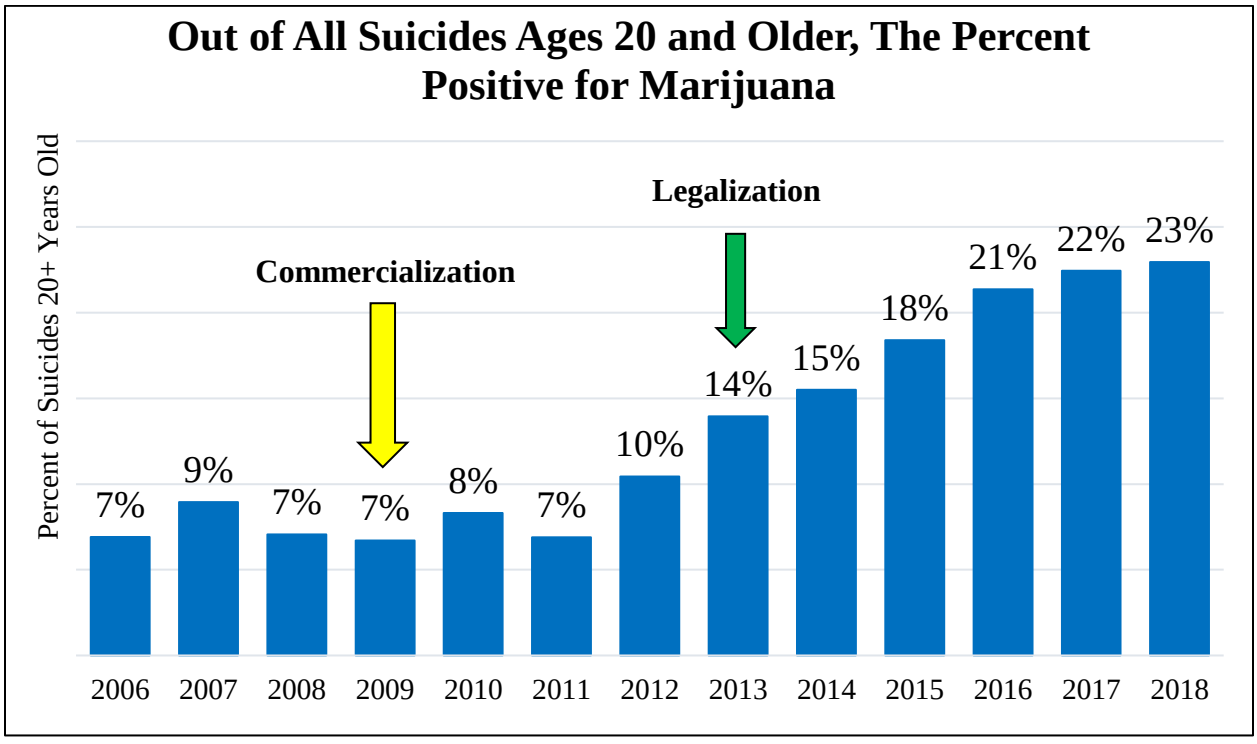
SOURCE: CDPHE, Colorado Violent Death Reporting System

NOTE: Toxicology is not available for every suicide. Only those suicides with toxicology available are represented above. Due to an 18-month lap in detailed suicide circumstances and toxicology information from coroner and law enforcement records, 2018 is the most recent year available.



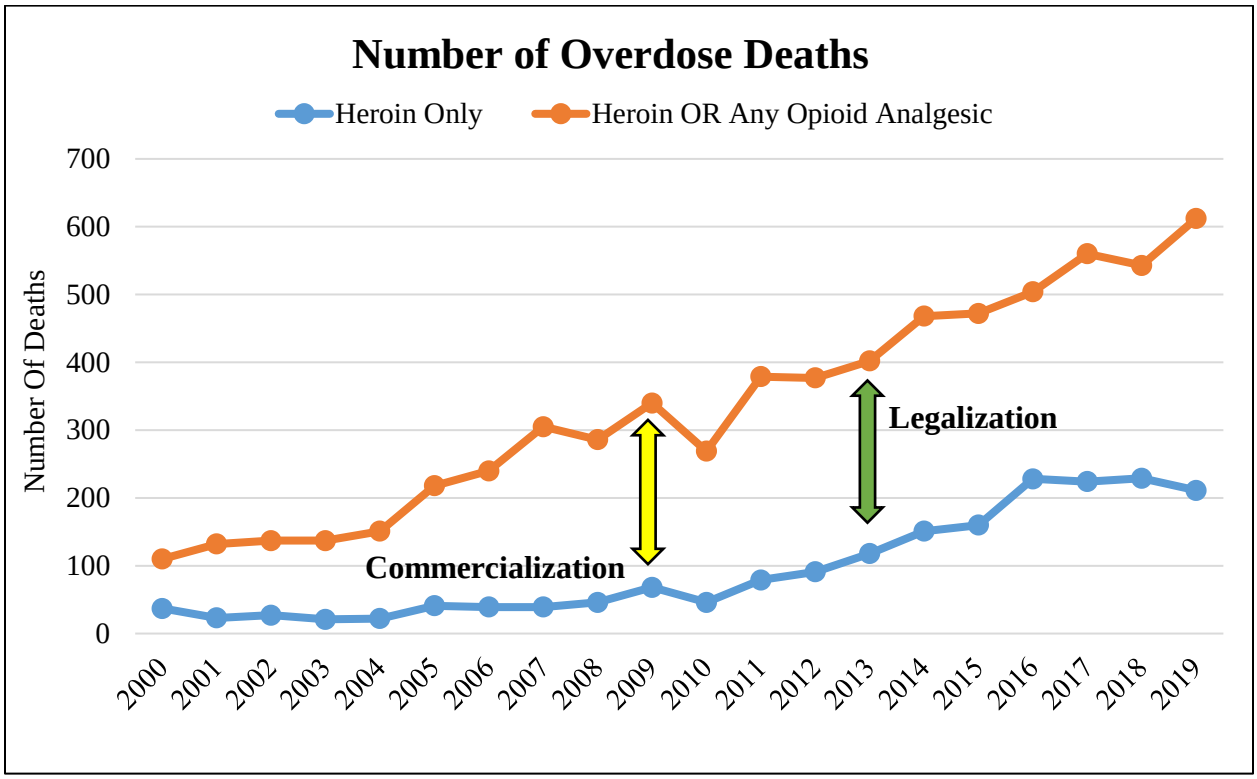
SOURCE: CDPHE, Colorado Violent Death Reporting System

NOTE: The average percent was taken out of all suicides with toxicology results. The average covers a six-year time span from 2013 – 2018.



SOURCE: CDPHE, Colorado Violent Death Reporting System

Colorado Opioid Overdose Deaths



Source: CDPHE, Vital Statistics Program

This data is included in response to reports of declining opioid overdose deaths post-marijuana legalization.

NOTE: Heroin cause of death codes include T40.1. Any Opioid Analgesic OR Heroin cause of death codes include T40.1-T40.4

Public Health Information

Relationship between Depression and Cannabis Use in the Past Month

Over 17 million adults in the United States experience depression and many believe marijuana is beneficial for some individuals for treating depression. Around 25% of adults with mood or anxiety disorders claimed to use marijuana to self-medicate. This study focused on analyzing both past month and near-daily marijuana use as well as probable depression. Over 16,000 US adults from 20 to 50 years old took the survey and most respondents were white, some college educated, middle class, and were married or living together.

The results were a statistically significant increase from 2005 to 2016 in the prevalence of any past month and daily or near-daily past month cannabis use. "Overall, there were 3 major findings, as follows: (1) the prevalence of any past-month cannabis use and daily or near daily cannabis use increased from 2005 to 2016, while the prevalence of depression remained stable; (2) individuals with depression had approximately double the odds of using cannabis compared with people without depression; and (3) the association between depression and cannabis use strengthened from 2005 to 2016." The authors highlighted that the results matched findings from the NSDUH while emphasizing the need to understand preexisting conditions before beginning cannabis use. "Individuals with depression who use cannabis may represent a high-risk group for cannabis-involved adverse consequences."

Source: Gorfinkel, L., Stohl, M., and Hasin, D. (2020). *Association of Depression with Past-Month Cannabis Use Among US Adults Aged 20 to 59 Years, 2005 to 2016*. JAMA Network Open, 3(8), 1-11. Retrieved from https://www.thenmi.org/wp-content/uploads/2020/08/JAMA_Association-of-Depression-With-Past-Month-Cannabis-Use-Among-US-Adults-Aged-20-to-59-Years-2005-to-2016.pdf

Impact of Marijuana on Hearts

The main concerns regarding smoking or vaping of any substance are harm to the heart, lungs, and blood vessels according to the deputy chief science and medical officer for the American Heart Association. Individuals are advised to talk with their doctor before using marijuana to understand their preexisting risk factors as well if marijuana would interfere with any medications. In some studies, "heart rhythm abnormalities, such as tachycardia and atrial fibrillation, could occur within the hour after weed containing THC is smoked." THC can have a physical impact on a user's body by causing "a faster heart rate, increase the heart's need for oxygen, disrupt the walls of arteries and contribute to higher blood pressure while prone." On the other hand, CBD has not been found to have the possibility of harm to the heart. The authors highlight the need for more long-term studies in order to confirm findings found in short-term studies similar to these findings.

Source: LaMotte, S. (2020). *Marijuana is not good for your heart, studies say*. The Mercury News. Retrieved from https://www.mercurynews.com/2020/08/05/marijuana-is-not-good-for-your-heart-studies-say/

THC Concentration in Colorado Marijuana

In 2019, the General Assembly of the Colorado Legislative session requested further research on "tetrahydrocannabinol (THC) potency," or more specifically the concentration of THC in marijuana, as well as any health effects. The roles of the state and local government regarding marijuana are:

- Colorado Department of Revenue's Marijuana Enforcement Division (MED)- authority over the production, distribution and sale of marijuana
- Marijuana Health Monitoring Program at Colorado Department of Public Health and Environment (CDPHE)- monitoring marijuana use trends across the state and the emerging scientific evidence of health effects related to marijuana use
- Local level- authority to require additional licenses and may enact laws that build upon rules and regulations set at the state level to protect public health and safety

In concentrate products, the average percentage of THC in 2017 was 69% with some stores advertising up to 95% THC. In terms of the public health, "THC, a component of marijuana, can cause acute psychotic symptoms such as hallucinations, paranoia, delusional beliefs, and feeling emotionally unresponsive during intoxication. These symptoms are worse with higher doses." Additionally, some studies suggest a high THC concentration in marijuana products can result in higher risk of mental health issues like psychotic experiences, depression, general anxiety disorder, and substance use as a result of adolescent and adult use.

Source: Colorado Department of Public Health and Environment (2020). *THC Concentration in Colorado Marijuana.* Retrieved from https://www.thenmi.org/wp-content/uploads/2020/08/THC-Concentration-in-Colorado-Marijuana-_CDPHE-8.3.2020.pdf

Trends in Opioid Misuse among Marijuana Users and Non-Users in the U.S. from 2007–2017

While the opioid crisis became a public health emergency, marijuana use continued to grow as more states legalized medical marijuana. The authors examined if there was any relationship between opioid misuse and medical marijuana use. Past studies have shown conflicting results with some claiming an increase in cannabis use resulted in fewer opioid related deaths while others have found no impact or have been unable to replicate these findings with a larger sample. The 2007 to 2017 NSDUH data was used with particular focus on prescription-opioid misuse and marijuana use. While marijuana use increased in ever use, past year use, and past month use, prescription-opioid misuse decreased in all three categories. The results are not necessarily correlated however as the perception of risk of marijuana use has decreased in the past ten years and great efforts have been placed to reducing opioid use by health officials. Despite this, "individuals who are addicted to marijuana are also three times more likely than non-users to be addicted to heroin, and almost 80% of heroin users started with prescription opioids."

Source: Azagba, S., Shan, L., Manizone, L., Qeadan, F., and Wolfson, M. (2019). *Trends in Opioid Misuse among Marijuana Users and Non-Users in the U.S. from 2007–2017*. International Journal of Environmental Research and Public Health, 16(22). doi: 10.3390/ijerph16224585

Adolescent Treatment Admissions for Marijuana Following Recreational Legalization in Colorado and Washington

Since the legalization of marijuana in Colorado and Washington, cannabis use disorder (CUD) has become a greater concern, especially with adolescents. The authors studied 2008 to 2017 SAMHSA's TED-Admissions to examine if there was a relationship with recreational marijuana legalization increasing CUD among youth and therefore adolescents seeking treatment. Colorado and Washington treatment admissions were compared to states that did not enact recreational marijuana legalization (RML) during this timeframe. Additionally, the data only included first time admissions "to calculate the annual admissions rates of unique new clients (per 10,000 adolescent population) for each state."

While the admission rate in Colorado/Washington was significantly higher than non-RML states in 2008, it was much lower than non-RML states in 2017 due to a rapid decline after legalization. The authors "speculate that the growing social acceptance and the decline in perceived risk of marijuana use nationally may have led to a marked decrease in youth treatment admissions in both Colorado/Washington and non-RML states, even if marijuana use remained stable or increased." While the decrease in treatment admissions is clear, the reasoning is not. "While it is possible that the decreasing level of social stigma associated with marijuana use may make it more socially acceptable to seek treatment, it may also make users less likely to hide their use from friends and family, and may reduce the perception that their marijuana use negatively affects their social and work life (consistent with the observed decline in perceived risk), thus reducing the perception that heavy use warrants treatment."

Source: Mennis, J. and Stahler, G. (2020). *Adolescent Treatment Admissions for Marijuana Following Recreational Legalization in Colorado and Washington.* Drug and Alcohol Dependence, 210.

Cannabis-Infused Edible Products in Colorado

Edibles have increasingly become a common method of cannabis use particularly "among those who use cannabis for medical purposes and older adult cannabis users who value the discretion [edibles] offer in addition to perceived lower rates of toxin exposure and other health risks." In Colorado, the most common edible products are "candies and beverages, followed by baked goods and pastries." Currently, the Denver Department of Public Health Environment "routinely inspects infused product manufactures consistently with other types of food facilities." However, "Denver is the only jurisdiction in Colorado that enforces food safety regulations with routine regulatory food safety inspections at all dispensaries and edible manufacturers every six months." Some examples of potential food hazards are not meeting a safe baking temperature that removes toxins to maintain THC levels as well as producing non-THC products with the same equipment as edibles. The authors highlight the largest issue lies in the need for further research regarding food safety interventions, public health risks, and how consumption differs among various populations. Currently, CDPHE, Colorado Integrated Food Safety Center of Excellence, DDPHE, and the National Environmental Health Association provide guidance on how to address this concern.

Source: White, A., Van Tubbergen, C., Raymes, B., Contreras, A., and Scallan Walter, E. (2020). *Cannabis Infused Edible Products in Colorado: Food Safety and Public Health Implications.* American Journal of Public Health, 110, 790-795, https://doi.org/10.2105/AJPH.2020.30560

U.S. Surgeon General Addresses Health Concerns Associated with Marijuana Use

The U.S. Surgeon General created an advisory "emphasizing the importance of protecting our Nation from the health risks of marijuana use in adolescence and during pregnancy." His first concern is the impact of cannabis binding to cannabinoid receptors in the endocannabinoid system, which affects "the formation of brain circuits important for decision making, mood, and responding to stress." The THC concentration has tripled to 12% from 1995 to 2014. "Higher doses of THC are more likely to produce anxiety, agitation, paranoia, and psychosis. Edible marijuana takes time to absorb and to produce its effects, increasing the risk of unintentional overdose, as well as accidental ingestion by children and adolescents. In addition, chronic users of marijuana with a high THC content are at risk for developing a condition known as cannabinoid hyperemesis syndrome, which is marked by severe cycles of nausea and vomiting."

Additionally, the U.S. Surgeon General raised concerns regarding marijuana use during pregnancy. From 2002 to 2017, marijuana use in the past month for pregnant women doubled to 7%. "Many retail dispensaries recommend marijuana to pregnant women for morning sickness." The concerns involving the developing fetus include:

- "THC [entering] the fetal brain from the mother's bloodstream"
- "disrupt[ing] the endocannabinoid system, which is important for a healthy pregnancy and fetal brain development"
- "Studies [showing] marijuana use in pregnancy is associated with adverse outcomes, including lower birth weight"

"The Colorado Pregnancy Risk Assessment Monitoring System reported that maternal marijuana use was associated with a 50% increased risk of low birth weight regardless of maternal age, race, ethnicity, education, and tobacco use." "THC has been found in breast milk for up to six days after the last recorded use. It may affect the newborn's brain development and result in hyperactivity, poor cognitive function, and other long-term consequences."

Finally, marijuana use by adolescents continues to be relatively common as it is only second to alcohol use. "In 2017, approximately 9.2 million youth aged 12 to 25 reported marijuana use in the past month and 29% more young adults aged 18-25 started using marijuana." "Frequent marijuana use during adolescence is associated with:

- Changes in the areas of the brain involved in attention, memory, decision-making, and motivation. Deficits in attention and memory have been detected in marijuana-using teens even after a month of abstinence.
- Impaired learning in adolescents. Chronic use is linked to declines in IQ, school performance that jeopardizes professional and social achievements, and life satisfaction.
- Increased rates of school absence and drop-out, as well as suicide attempts."

Mental health has also been a concern when considering adolescent use of marijuana as "the risk for psychotic disorders increases with frequency of use, potency of the marijuana product, and as the age at first use decreases."

Source: Surgen General VADM Jerome Adams (2020). *U.S. Surgeon General's Advisory: Marijuana Use and the Developing Brain.* Retrieved from https://www.hhs.gov/surgeongeneral/reports-and-publications/addiction-and-substance-misuse/advisory-on-marijuana-use-and-developing-brain/index.html

Section IV: Black-Market

Some Findings

- RMHIDTA Colorado Investigative Drug Task Forces (10) conducted **278 investigations** of black-market marijuana in Colorado resulting in:
    - **237** felony arrests
    - **7.49 tons** of marijuana seized
    - **68,600** marijuana plants seized
    - **29** different states the marijuana was destined
- Seizures of marijuana reported to the El Paso Intelligence Center (EPIC) in Colorado **increased 17%** from an average of 242 parcels (2009-2012) to an average of 283 parcels (2013-2019) during the time recreational marijuana has been commercialized.

Definitions by Rocky Mountain HIDTA

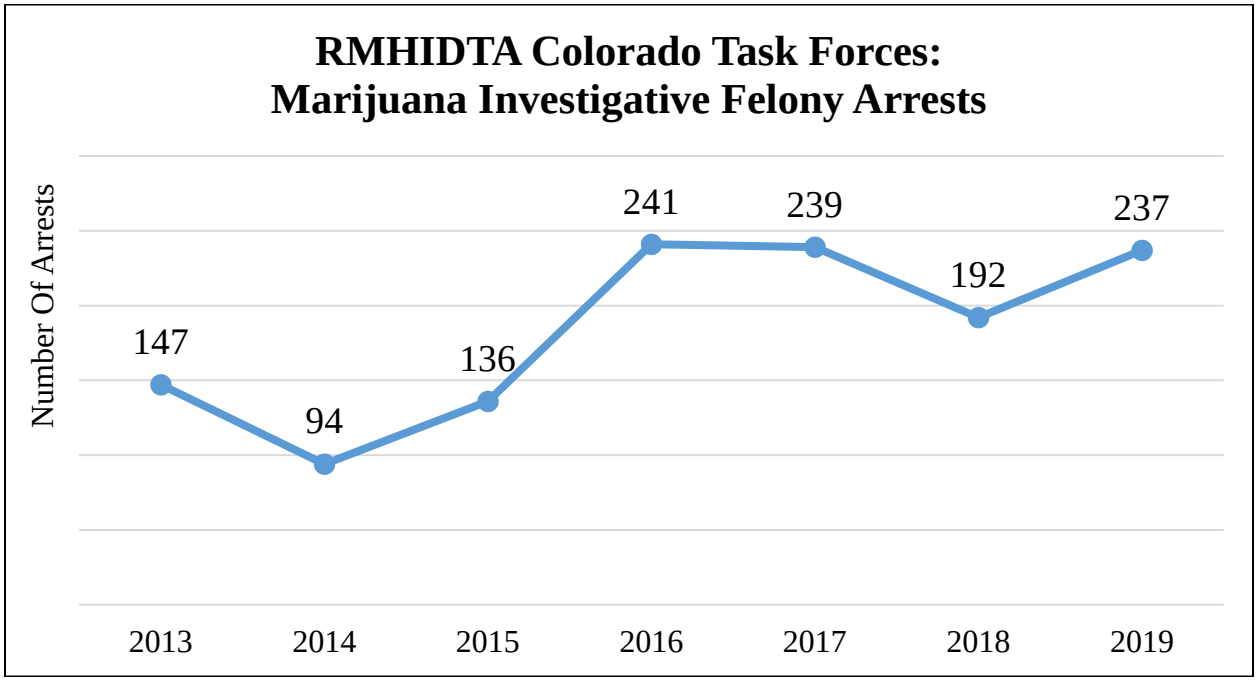
Colorado Marijuana Investigations: RMHIDTA Colorado drug task forces investigating individuals or organizations involved in illegally selling Colorado marijuana, both within and outside of the state. These investigations only include those reported by the ten RMHIDTA drug task forces.

Colorado Marijuana Interdictions: Interdictions include incidents where drugs are being transported, generally by vehicle or parcel, and the shipment is randomly seized by law enforcement. Interdictions are made by Colorado State Patrol.

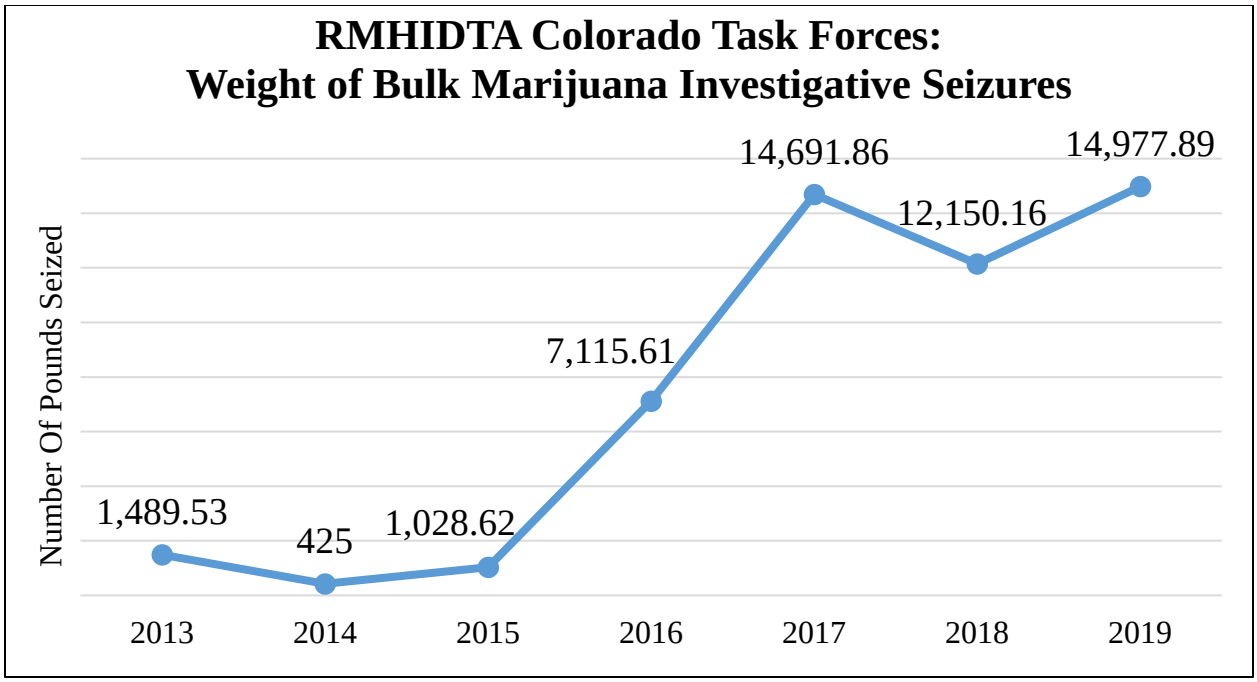
Task Force Investigations

Rocky Mountain HIDTA Colorado Task Forces			
	2017	**2018**	**2019**
Number of Completed Investigations	144	257	278
Number of Felony Arrests	239	192	237
Pounds of Bulk Marijuana Seized	14,692 (7.3 tons)	12,150 (6.1 tons)	14,978 (7.5 tons)
Number of Plants Seized	48,325	60,026	68,600
Number of Edibles Seized	6,462	2,894	15,025
Pounds of Concentrate Seized	102	319	86
Different States to Which Marijuana was Destined	24	25	29

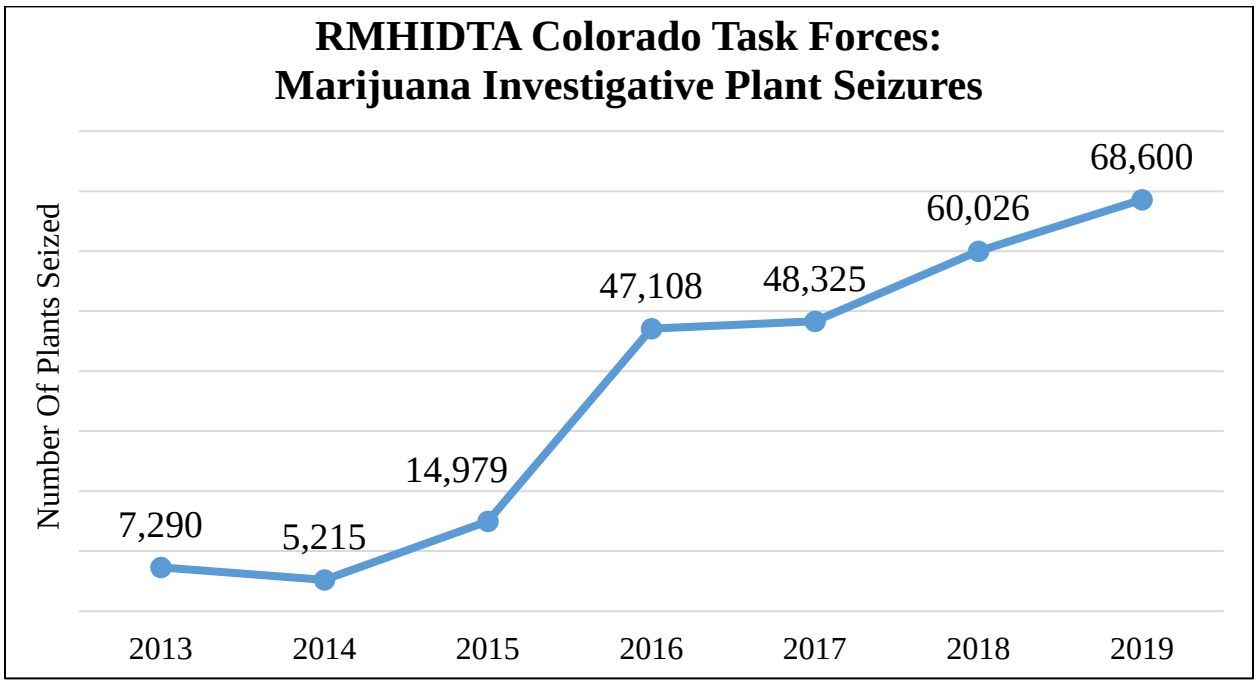
Task force data only includes completed investigations reported by the RMHIDTA Colorado Investigative Drug Task Forces. It is unknown how many of these types of investigations were completed by non-RMHIDTA Colorado drug units or task forces.



SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data



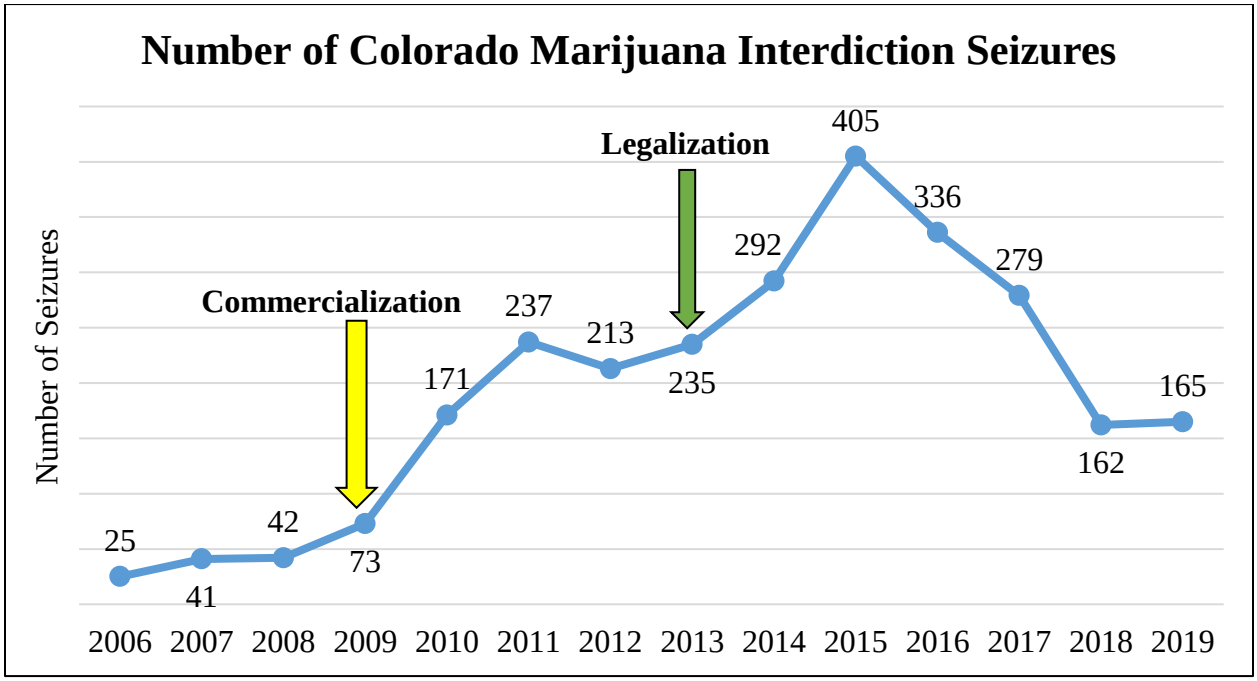
SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data



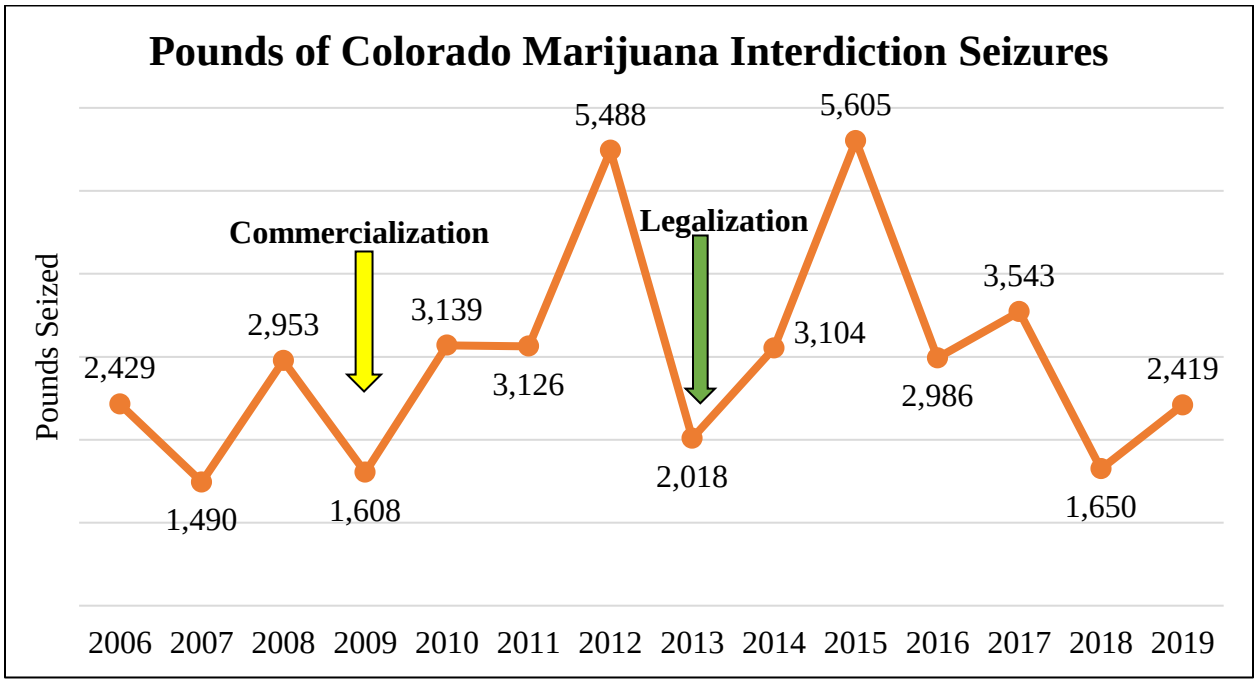
SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data

Highway Interdiction Data

NOTE: The charts below only include cases where Colorado marijuana was actually seized and reported. It is unknown how many Colorado marijuana loads were not detected or, if seized, were not reported. These are roadside interdictions voluntarily reported by state highway patrol to EPIC.



SOURCE: EPIC, National Seizure System, as of July 2020



SOURCE: EPIC, National Seizure System, as of July 2020

Black Market Information

Colorado's Continuing Black Marijuana Market Post-Legalization

Across the state, law enforcement agencies continue to investigate large-scale marijuana grow operations. In the spring of 2019, 420 marijuana plants, processed weed, weed concentrate, guns, and around $110,000 in cash were recovered in Fort Collins. The DEA has claimed to see a steady increase in the number of illegal marijuana plants seized since 2014 as well as Colorado's 18th Judicial District (Arapahoe, Douglas, Elbert, and Lincoln County). One of the largest busts occurred in the 18th Judicial District where 80,000 plants were seized across 41 homes. Many times, these illegal grow operations are intended to send to other states like Texas and Florida where there can be a greater profit. Some believe that a nationwide legalization of marijuana will decrease the black market as there is a decreased need to traffic marijuana to other states. Others feel that the legalization would not stop the black market due to past examples like "how cheap cigarettes are illegally trafficked into cities with high tobacco taxes, like New York."

Source: KUNC (2019). *Seven Years After Legalization, Colorado Battles an Illegal Marijuana Market*. Retrieved from https://www.kunc.org/news/2019-08-14/seven-years-after-legalization-colorado-battles-an-illegal-marijuana-market

6K Pot Plants Seized in Massive Southern Colorado Bust

In 2019, investigators from the Colorado Bureau of Investigations Black Market Marijuana Team and local law enforcement seized nearly $6 million worth of illegally grown marijuana across 40 grow sites in Las Animas County. Law enforcement confiscated and destroyed 5,904 marijuana plants during this investigation and identified multiple other grow sites containing anywhere between 5,000 and 15,000 black market marijuana plants. Suspects shot at a thirteen-year-old boy while rounding up cattle on a leased grazing property, which prompted the investigation. "Four suspects were arrested and charged with possession of more than 50 pounds of marijuana with intent to distribute, special offender, and cultivation of more than 30 marijuana plants." An additional suspect was arrested for cultivation of more than 30 marijuana plants.

Source: Hillstrom, Zach. (2019) *6K Pot Plants Seized in Massive Southern Colorado Bust.* Retrieved from https://www.chieftain.com/news/20190916/6k-pot-plants-seized-in-massive-s-colo-bust/

Marijuana Raids in Mesa, Teller, El Paso and Las Animas Counties

Authorities conducted two large raids in Colorado during the summer of 2020. In Teller, Las Animas, and El Paso County, 1500 plants and over $32,000 in cash were seized along with firearms and vehicles. The investigation began with tips of a three illegal marijuana grows near Divide, Trinidad, and Colorado Springs, resulting in three arrests. Additionally, there was an unrelated large marijuana grow operation on public lands in Mesa County in the Grand Mesa area. The investigation also included the Colorado Army National Guard with their helicopter.

Source: Phillips, Noelle (2020). *Marijuana raids ongoing in Mesa, Teller, El Paso and Las Animas counties*. Retrieved from https://www.denverpost.com/2020/07/08/colorado-marijuana-raids-mesa-teller-el-paso-las-animas/

Why Colorado's Black Market for Marijuana is Booming 4 Years After Legalization

Despite over 500 recreational marijuana dispensaries in Colorado, the black market has continued to be driven by the criminal organizations trafficking marijuana to other states. Not only is the focus on other states, but some Colorado marijuana users would prefer to stay loyal to a local grower compared to paying the higher dispensary prices. Other individuals buy from the black market as they are barred by their employment from using marijuana due to the federal laws. Additionally, not all jurisdictions outside the Denver Metro area permit dispensaries even though it is legal in the state. Some believe that state laws regarding growing marijuana are hard to enforce, resulting in this large black market.

One DEA supervisor claims "his team spends about 15 per cent of its time on marijuana trafficking cases --a threefold increase from before legalization." They have seen an increase drug trafficking organization in the state as well as large warehouses used to smuggle out of state. Rural communities have also been greatly impacted by the black market due to limited resources even with more restrictive laws introduced in 2018. Previously, an individual could grow up six plants and pool them together in a co-op while medical patients could grow up to 99 plants. As of 2018, the limit for recreational marijuana is 12 plants, which has led to an increase in enforcement.

Source: The Canadian Broadcasting Corporation (2018). *Why Colorado's Black Market for Marijuana is Booming 4 Years After Legalization.*

Colorado's Illegal Marijuana Grow Operations Are Straining Local Law Enforcement

Law enforcement investigated illegal growers looking to make an immense profit and avoid paying for costly state regulations, licensing and a 15% excise tax. The number of cannabis plants permitted in a private residence is 12 as of 2018. A large incentive to grow beyond this limit is in order to sell to states where recreational marijuana is illegal, such as Florida, where sales can be three or four times the amount in Colorado. Additionally, many of these grow operations take place in rural areas were law enforcement resources are limited. Most of the tips in these areas come from neighbors and then an investigation and surveillance can begin.

Some members of law enforcement have found that dispensaries have not been a large issue due to state regulations and instead the focus is on the illegal grows. The Colorado Bureau of Investigations estimated over 100,000 plants seized in Colorado in 2018 fiscal year. The Colorado Division of Criminal Justice found a 42% increase in charges for marijuana manufacturing from 2012 to 2017. As a result, there is a large financial strain on both state and local law enforcement to handle this increase in cases.

Source: KUNC (2019). *Colorado's Illegal Marijuana Grow Operations Are Straining Local Law Enforcement.* Retrieved from https://www.kunc.org/politics/2019-10-30/colorados-illegal-marijuana-grow-operations-are-straining-local-law-enforcement

The Impact of Marijuana Legalization on Law Enforcement in States Surrounding Colorado

Many of Colorado's surrounding states have not legalized medical or recreational marijuana, resulting in law enforcement agencies in these border states focusing on the impact since Colorado legalized. The states analyzed in this study were Kansas, Nebraska, and Wyoming with each state broken into three clusters based on proximity to Colorado. The three research questions were:

- How has legalization of recreational marijuana affected law enforcement duties in police departments in neighboring states?
- Do officers differ in their perceptions of favorability of marijuana legalization or the perceived impact Colorado's legalization has had on their jobs based on the state from which they work and proximity to Colorado?
- What factors impact officer's perceptions of the impact marijuana legalization in Colorado has had on enforcement in their area?

From June to September 2017, 427 survey were completed from 76 with 57% from Kansas, then 27% from Nebraska, and 14% from Wyoming. The first set of questions focused on "the potential impact that the legalization of recreational marijuana in Colorado has had on enforcement in their area. These items addressed topics such as increased marijuana trafficking, concern from citizens, calls for service, need of additional resources, and issues presented by the different types of cannabis." The second part pertained to "measuring the law enforcement officer's personal perceptions regarding the legalization of recreational marijuana. These items included views of marijuana as a gateway drug, belief that their state's marijuana laws are too strict or too lax, perceptions of the harm marijuana do to their state and the nation, and their support for decriminalization or legalization of recreational or medicinal marijuana."

While some respondents (17) felt there was little to no impact on law enforcement in their area, most of these participants were located in the third cluster, farthest away from the Colorado border. Those who felt the legalization of marijuana in Colorado affected their state had four main supporting reasoning: "overwhelmingly more plant and edible marijuana, strain on resources, trafficking concerns, and perceived increase of juveniles using the drug." Additionally, some felt that the potency of marijuana had increased.

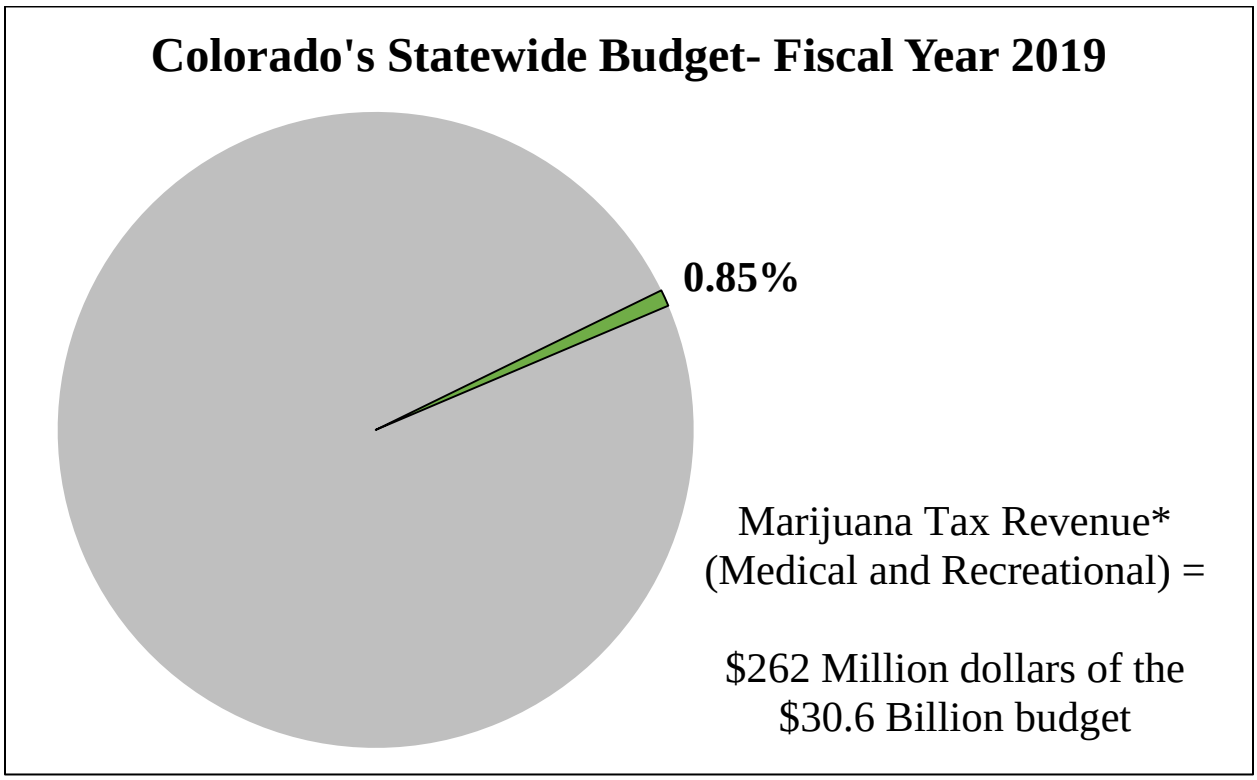
Source: Ward, K., Lucas, P., and Murphy, A. (2019). *The Impact of Marijuana Legalization on Law Enforcement in States Surrounding Colorado.* Police Quarterly 22(2), 217-242.

Section V: Societal Impact

Some Findings

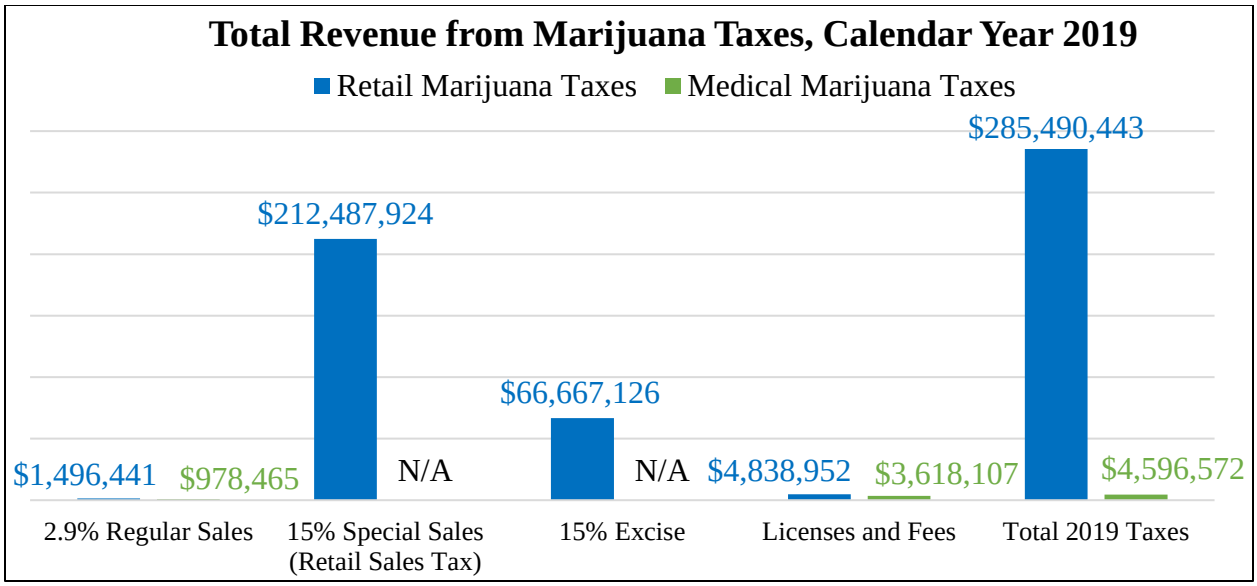
- Marijuana tax revenue represent approximately **0.85%** of Colorado's FY 2019 budget.
- **67%** of local jurisdictions in Colorado have banned medical and recreational marijuana businesses.

Tax Revenue



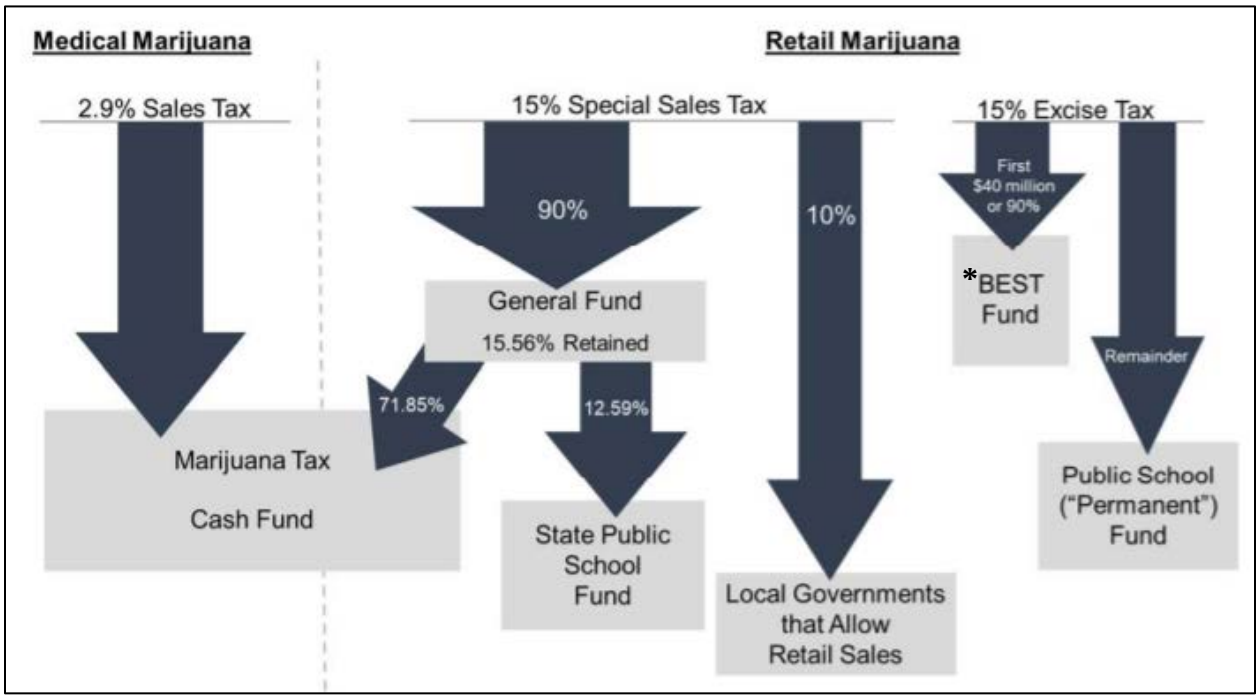
SOURCE: Governor's Office of State Planning and Budgeting

***NOTE:** Revenue from marijuana taxes as a portion of Colorado's total statewide budget.



SOURCE: Colorado Department of Revenue

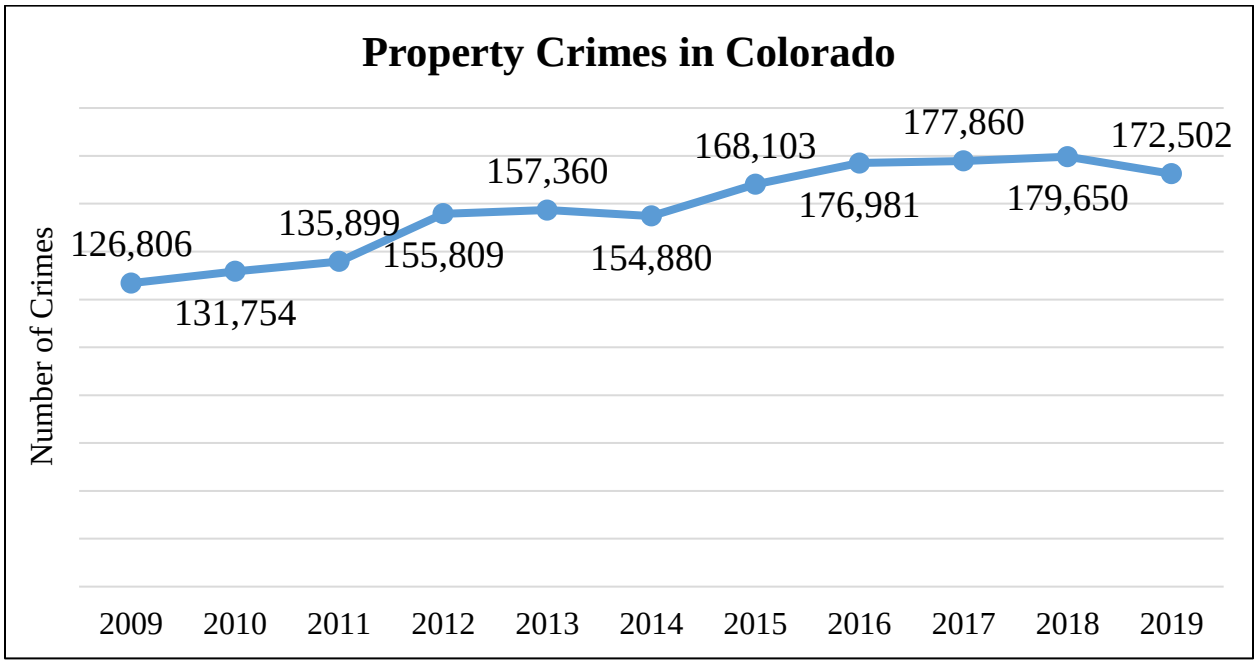
NOTE: Figures do not include any city taxes; the state does not assess or collect those taxes.
Per §39-26-729, C.R.S., retail marijuana, retail marijuana products, and retail marijuana concentrates are exempt from the 2.9% regular sales tax; however, products that do not contain marijuana (i.e., accessories) are still subject to the 2.9% regular sales tax. Licenses and fees include the following categories: retail marijuana, individual, others, and collections not yet allocated.



SOURCE: Joint Budget Committee Appropriations Report Fiscal Year 2019-2020

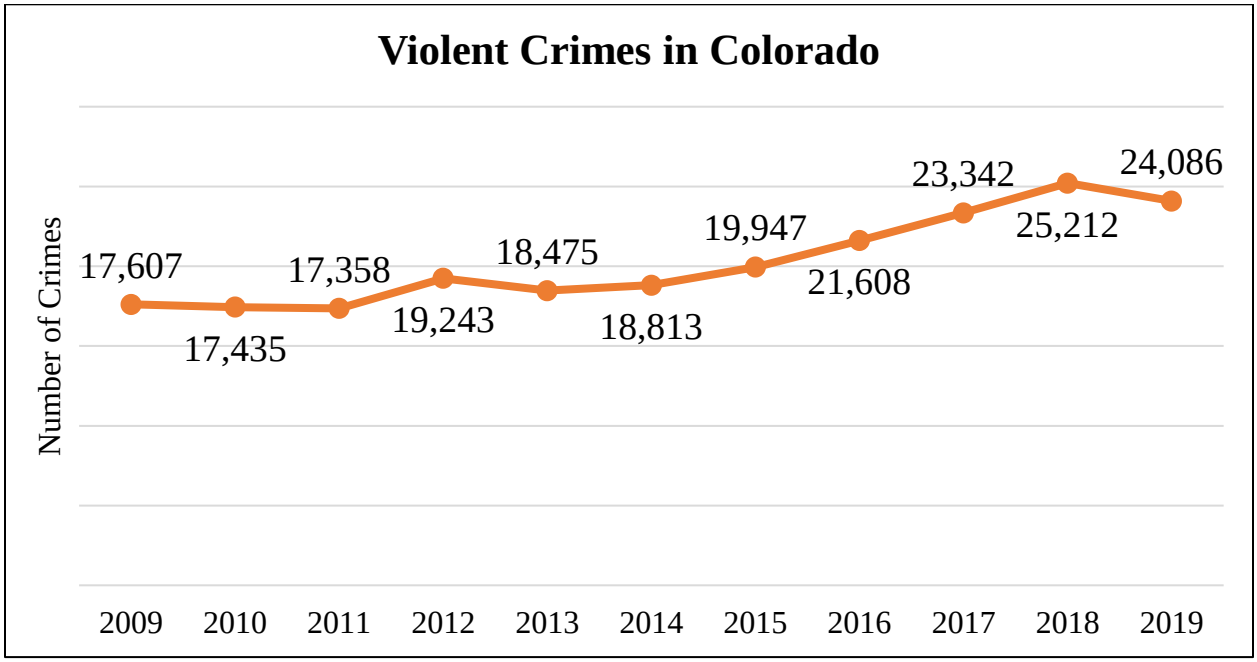
*BEST- Building Excellent Schools Today

Crime



SOURCE: Colorado Bureau of Investigation

NOTE: Data collection methods for reporting crimes changed in 2018 and therefore numbers reported in this volume may vary from those reported in previous volumes.



SOURCE: Colorado Bureau of Investigation

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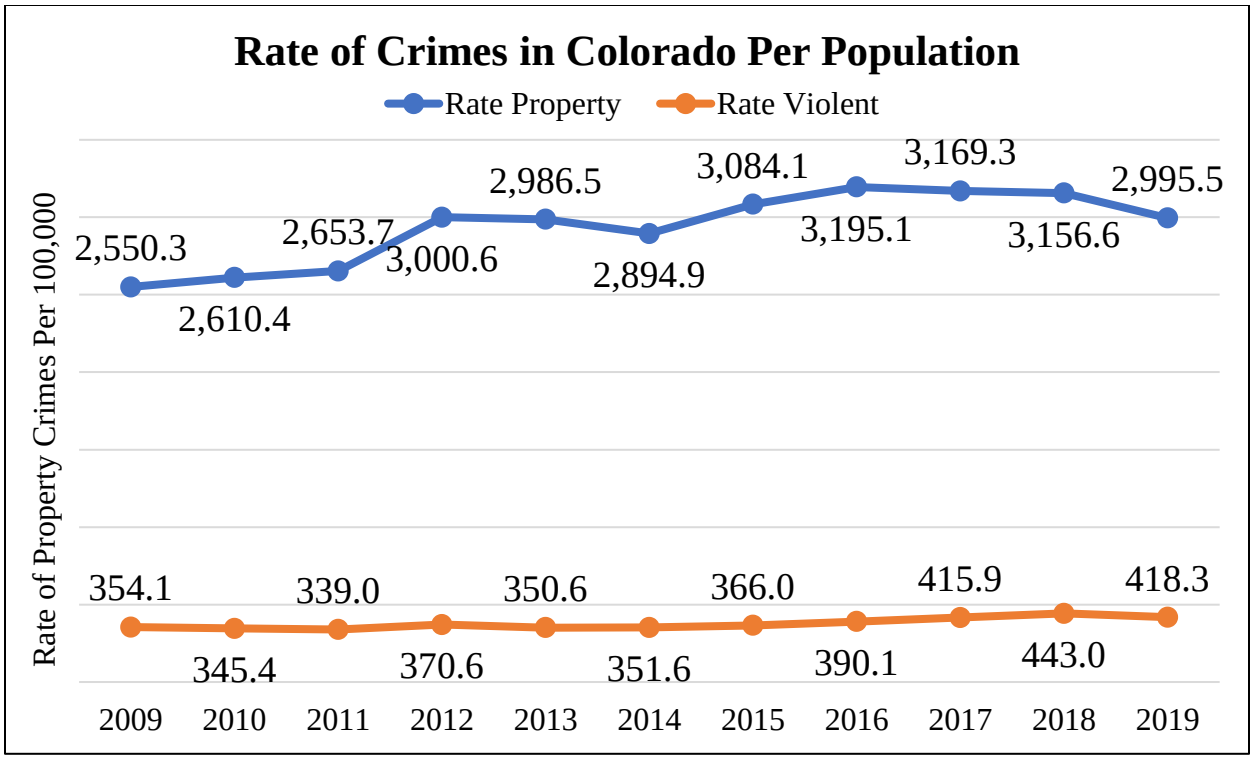
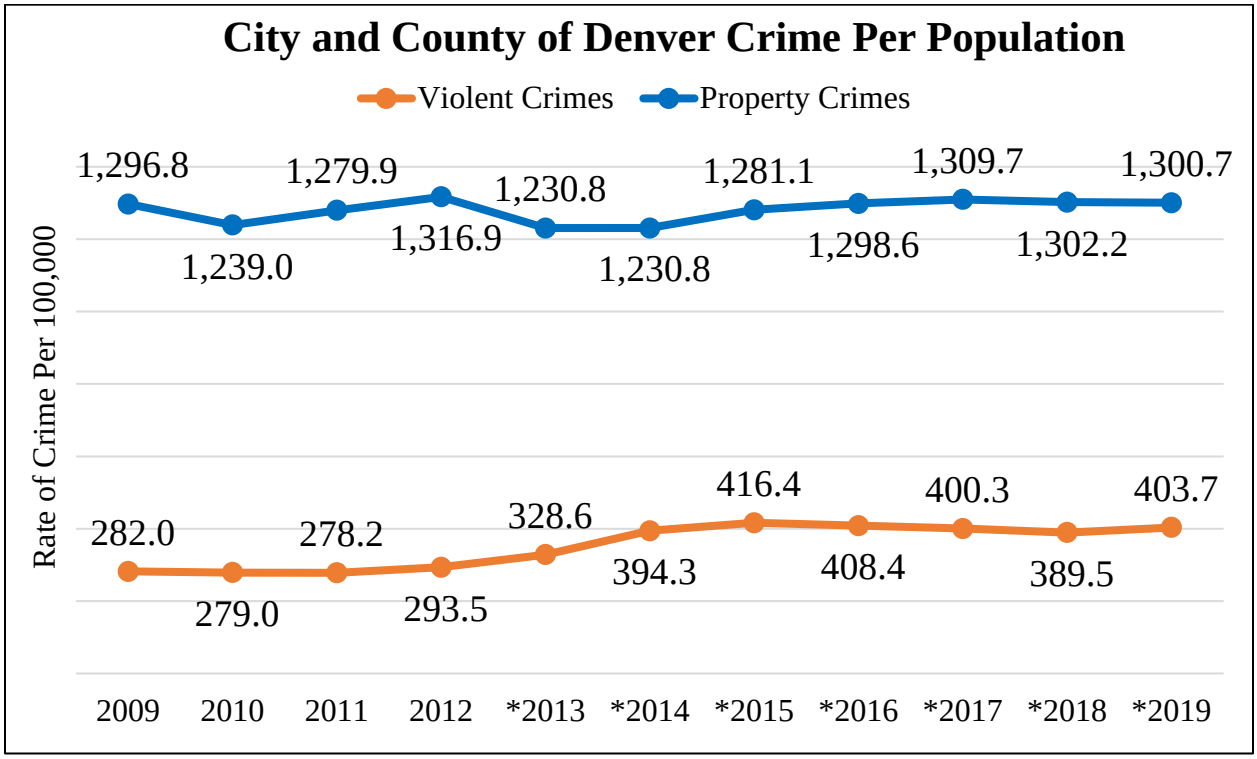
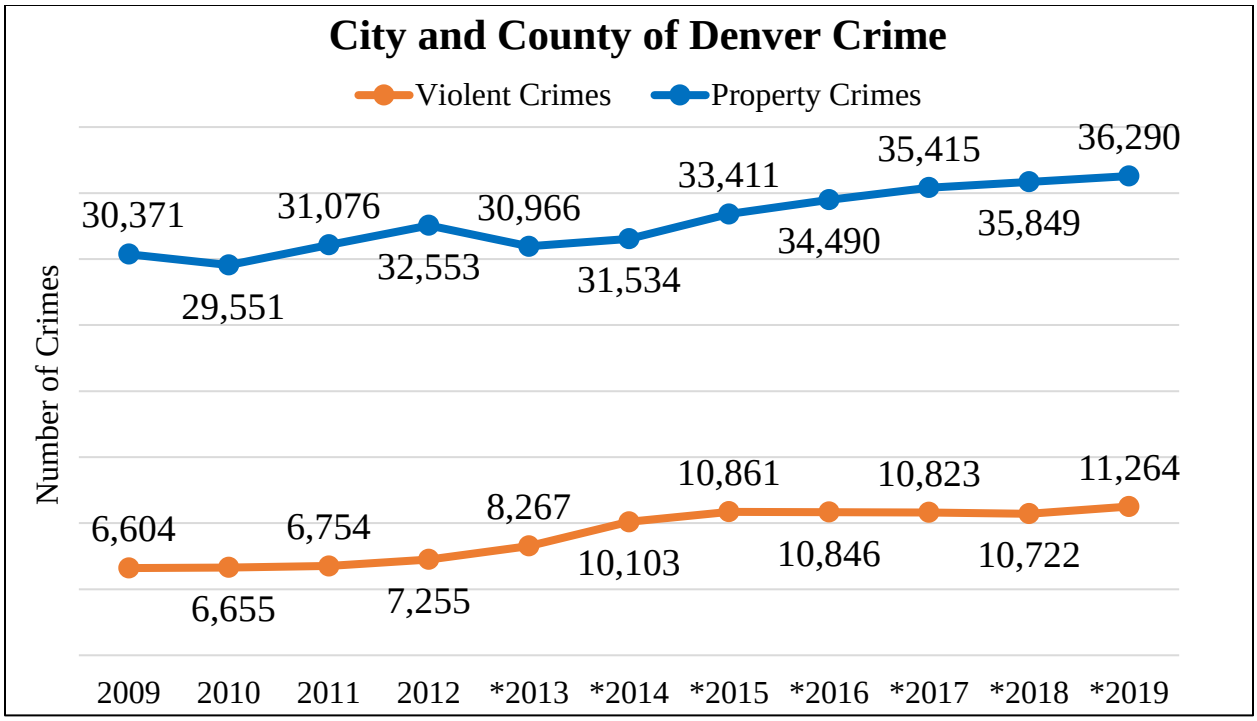


SOURCE: Colorado Bureau of Investigation

NOTE: Data collection methods for reporting crimes changed in 2018 and therefore numbers reported in this volume may vary from those reported in previous volumes.



SOURCE: City and County of Denver, Denver Police Department



SOURCE: City and County of Denver, Denver Police Department

***NOTE:** In May 2013, the Denver Police Department implemented the Unified Summons and Complaint (US&C) process. This process unifies multiple types of paper citations, excluding traffic tickets, into an electronic process. That information is transmitted to the Denver Sheriff, County Court, City Attorney and District Attorney through a data exchange platform as needed. As a result of this process a reported offense is generated which was previously not captured in National Incident Based Reporting System (NIBRS).

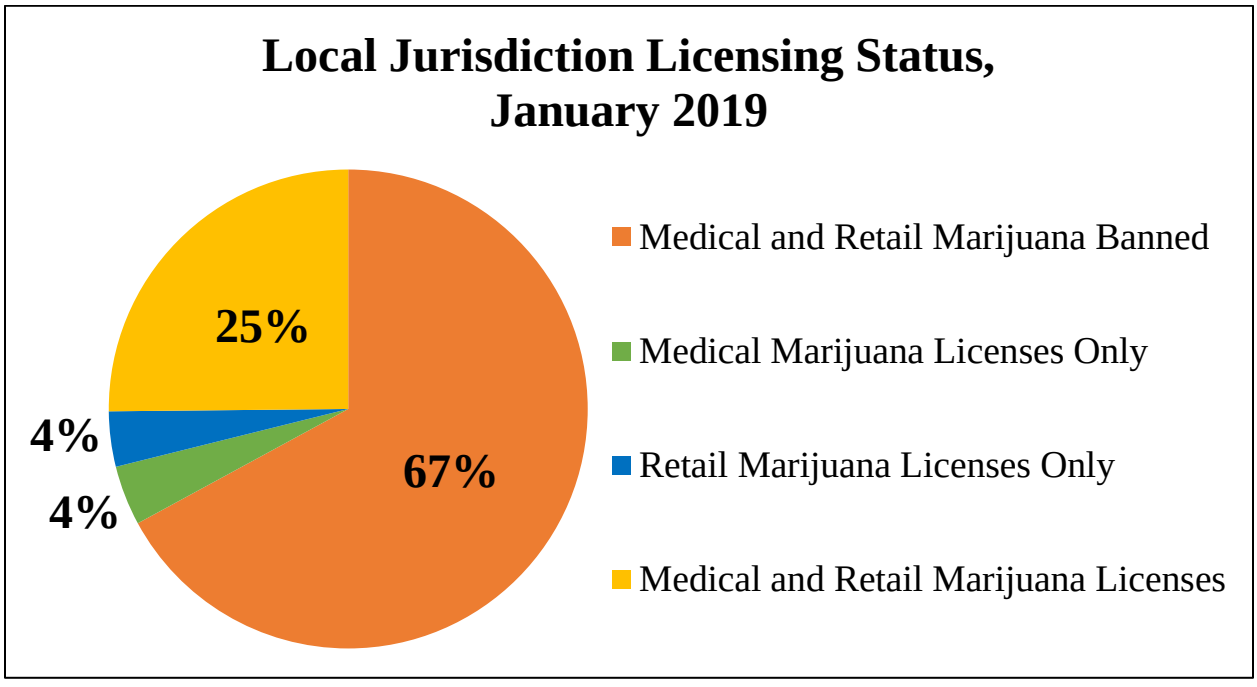
Denver Crime 2015-2019	Number of Crimes	Rate of Crimes (Per 100,000 People)
Crimes Against Persons	3.7% Increase	3.1% Decrease
Crimes Against Property	8.6% Increase	1.5% Increase
Crimes Against Society	12.5% Increase	5.2% Increase
All Other Offenses	16.7% Decrease	22.1% Decrease
All Denver Crimes	2.6% Increase	4.1% Decrease

SOURCE: City and County of Denver, Denver Police Department

Local Response

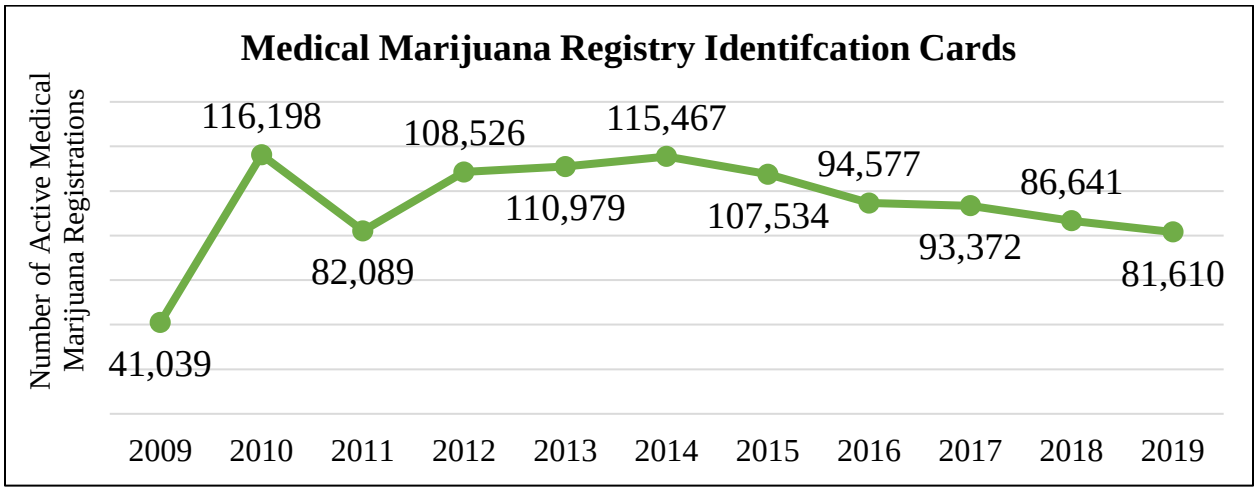
Status of Local Jurisdictions Reporting Marijuana Licensing as of January 10, 2019*	
	Number of Jurisdictions
Medical and Retail Marijuana Banned	216
Medical Marijuana Licenses Only	13
Retail Marijuana Licenses Only	12
Medical and Retail Marijuana Licenses	81
Total	322

SOURCE: Colorado Marijuana Enforcement Division



SOURCE: Colorado Marijuana Enforcement Division

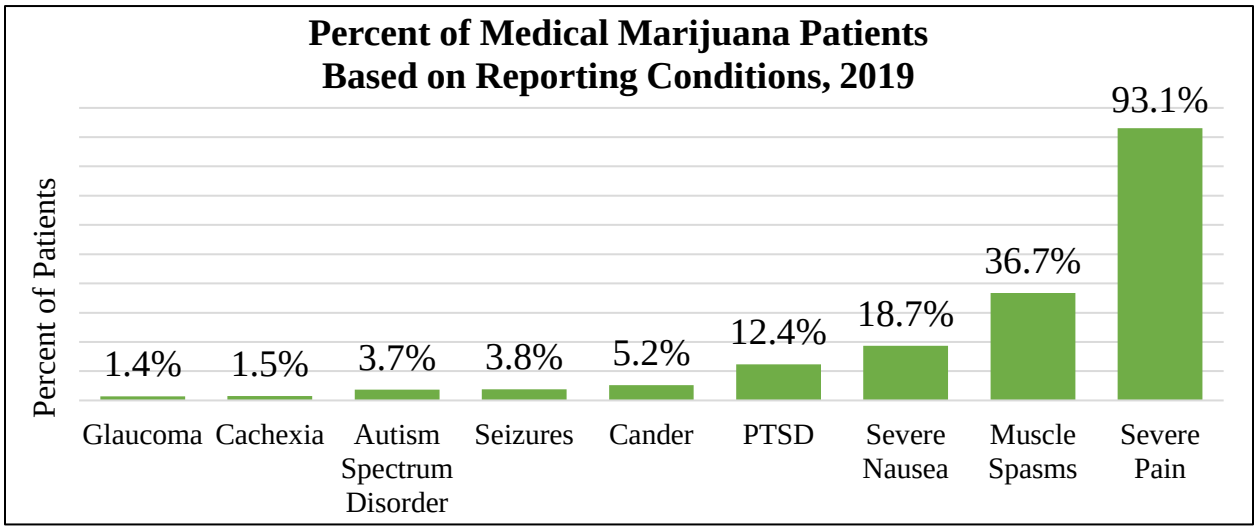
Medical Marijuana Statistics



SOURCE: Colorado Department of Public Health and Environment (CDPHE)

Profile of Colorado Medical Marijuana Cardholders:

- Demographics of cardholder:
  - 62% male with an average age of 42 years
  - 38% female with an average age of 46 years
  - 0.4% between the ages of 0 and 17
  - 48% between the ages of 18 and 40 and 21% between the ages of 21 and 30
- Top five counties in Colorado- 63.1% of total patients:
  - El Paso County- 26.3%
  - Denver County 13.1%
  - Jefferson County- 9.8%
  - Arapahoe County- 7.8%
  - Adams County- 6.1%

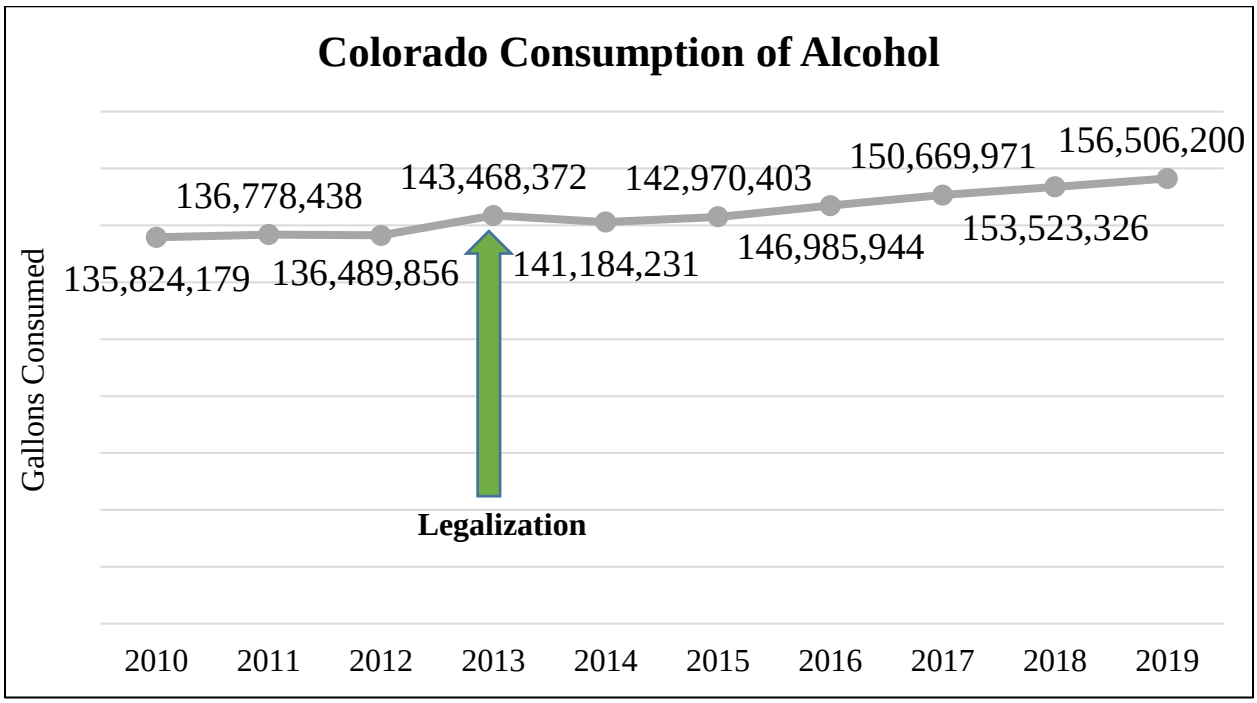


SOURCE: Colorado Department of Public Health and Environment (CDPHE)

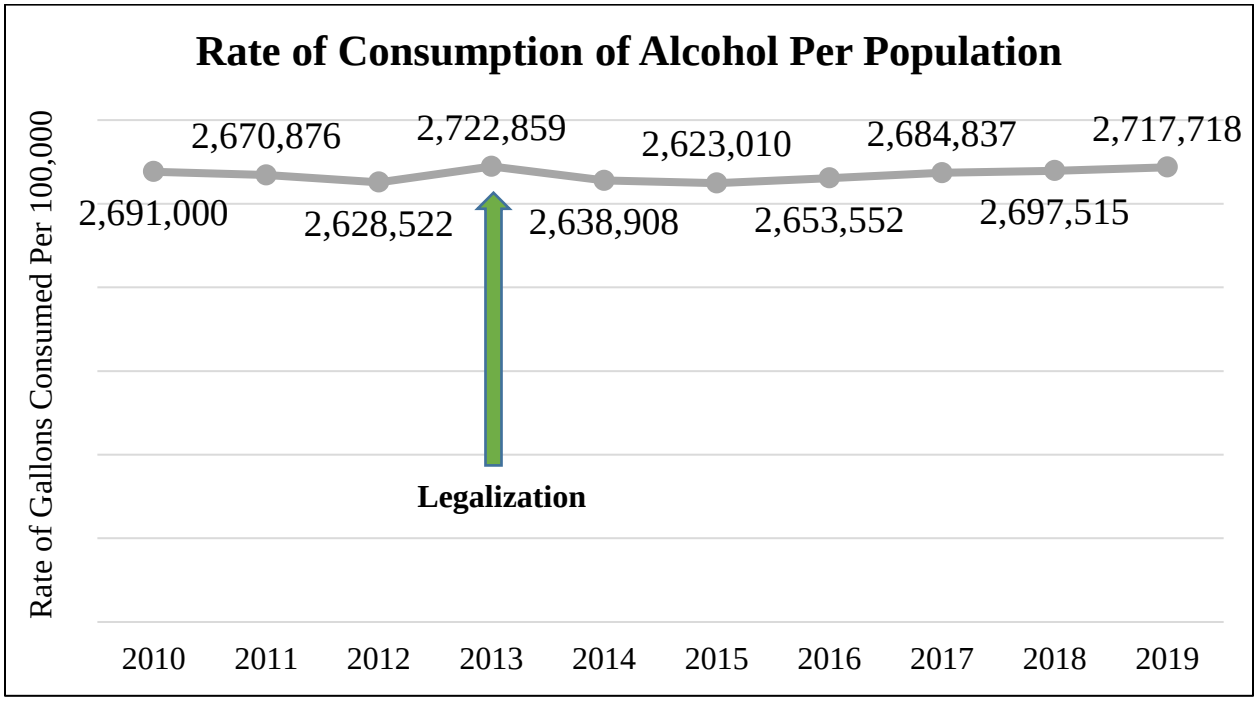
NOTE: Percentages do not add to 100% as some patients report more than one debilitating or disabling medical condition.

Alcohol Consumption

- It has been suggested that legalizing marijuana would reduce alcohol consumption. Thus far that theory is not supported by the data.



SOURCE: Colorado Department of Revenue, Colorado Liquor Excise Tax



SOURCE: Colorado Department of Revenue, Colorado Liquor Excise Tax

Societal Impact Information

Marijuana Dispensaries and Neighborhood Crime and Disorder in Denver, Colorado

Opponents of marijuana legalization in Colorado have claimed that marijuana dispensaries would result in greater crime and disorder particularly due to the cash-driven industry. A study was conducted to analyze crime rates in Denver from 2012 to 2015 to determine if there was a correlation with medical dispensary locations and "hot spots" for crime. A previous finding was that medical marijuana dispensaries in Denver were "more likely to be located in statistical neighborhoods with relatively high rates of crime and retail employment."

The results of the study supported that finding in that from 2012 to 2015, "the presence of at least one medical marijuana dispensary was associated with statistically significantly increased neighborhood crime and disorder, including the violent offenses of robbery and aggravated assault." There was not found to be a strong correlation between medical marijuana dispensaries and increased murder rates in Denver but as expected, there was an increased in drug and alcohol offenses. The authors' recommendation was that this relationship was not strong enough to imply that there would be major spikes in crime if other cities/states legalize marijuana. Instead, their focus was emphasizing the need to "develop and support secure and legal ways for dispensaries to engage in financial transactions" to decrease both violent and property.

Source: Hughes, L., Schaible, L., and Jimmerson, K. (2019). *Marijuana Dispensaries and Neighborhood Crime and Disorder in Denver, Colorado*. Justice Quarterly, 37(3), 461-485. DOI: 10.1080/07418825.2019.1567807

The Criminogenic Effect of Marijuana Dispensaries in Denver, Colorado: A Microsynthetic Control Quasi-Experiment and Cost-Benefit Analysis

These authors conducted a study in response to the Hughes et al. (2019) article that analyzed the correlation between marijuana dispensaries and neighborhood crime in Denver. This study slightly differed in measuring "changes in violent, property, disorder, and drug crime levels from the three-year period before recreational marijuana was legalized (2011-2013) against the three-year period (2014-2016)." The three primary focuses of the study were potential crime change at individual street segments by dispensary type, the spatial diffusion of crime at the street segments adjacent to dispensaries, and the cost-benefit analysis of crime and revenue.

The results supported some of the findings in the Hughes et al. (2019) but also challenged the notion that medical and recreational marijuana dispensaries had the same impact on crime. The authors found "street segments with a recreational marijuana dispensary experienced a statistically significant increase in the level of property crime relative to controls." Conversely, the results for medical marijuana dispensaries indicated that street segments not only "maintained crime levels that were almost identical to the corresponding pools of controls." In some areas there were fewer crimes, though the percent change was not significant. Drug crimes were more likely to occur near recreational dispensaries and at a lower, less significant level, disorder also appeared to increase from 2014-2016. These findings were not found near or at medical dispensaries in Denver. The results for violent crimes near or at both medical and recreational dispensaries were very similar across all six years.

The cost benefit analysis found that tax revenue alone was not enough to offset the cost of crime and instead sales volumes play a large role in countering crime expenses. While revenue from sales at recreational dispensaries appeared to outweigh the cost of an increase in local crime, the revenue was not sufficient to cover the added increase in drug crime and spatial disorder. "The sales revenue numbers reflect only $28 of revenue generation relative to every $1 cost of crime and the tax revenue results paint a bleaker picture, indicating that every $1 cost of crime is only offset by about a $1.18 gain in tax revenue."

Source: Connealy, N., Piza, E., and Hatten, E. (2020). *The Criminogenic Effect of Marijuana Dispensaries in Denver, Colorado: A Microsynthetic Control Quasi-Experiment and Cost-Benefit Analysis*. Justice Evaluation Journal, 3(1), 6993. DOI: 10.1080/24751979.2019.1691934

Increase in Marijuana Revenue in June and July Despite COVID-19

In June, recreational marijuana shops set a record of selling over $150 million of products, a 6% increase from May with the previous record of $149.2 million. However, the record of medical marijuana sales was set in May with almost $43 million in sales and in June, there was a slight dip to almost $41 million worth of products sold. The combined total for recreation and medical marijuana sold in June was almost $199 million, a 3.5% increase from May's total sales.

Research supports not only coronavirus contributing to this increase but a preexisting "maturation of the state's legal cannabis ecosystem." The per capita sales in Colorado doubled to $290 in 2019 compared to 2014, the first full year of legal recreation. The percent of users who consumed cannabis in the past six months in Colorado also increased to 42% in the third quarter of 2019 compared to 24% in the third quarter of 2017. The Colorado Department of Revenue (CDOR) reported a total of $203.3 million in state revenue collected as of July 2020, which by the end of the year will likely surpass the $302.5 million in annual cannabis-related revenue in 2019.

Source: Rubino, Joe. (2020). *June was Colorado's Biggest Marijuana Sales Month Ever. July Was Likely Bigger*. Retrieved from https://www.denverpost.com/2020/08/12/june-2020-colorado-marijuana-sales-record/

Potential Regional Air Quality Impacts of Cannabis Cultivation Facilities in Denver, Colorado

In March 2018, there were 1472 cannabis cultivation facilities (CCF) in Colorado. In Denver, there were 233 registered recreational and 375 medical facilities, 41% of Colorado's CCFs. Denver along with the Front Range area place a large focus reducing ozone emissions and precursors, resulting in a need to research the environmental impact of cannabis. The main focuses of the study were the emissions capacity, dry plant weight, and plant count of cannabis. Additionally, the total number of plants recorded by the CDOR is expected to double from 2018 to 2025 to a total of 2 million plants. The results showed Denver was much more at risk than three Colorado cities with a large concentration of CCFs (Colorado Springs, Pueblo, and Boulder). The increase is due to biogenic volatile organic compounds (BVOC), gaseous emissions from cannabis from both inside and outside growing. The authors generated seven scenarios due to changes in the three parameters and the range in BVOC was an increase between 36% and 326% in Denver.

Source: Wang, C., Wiedinmyer, C., Ashworth, K., Harley, P., Ortega, J., Rasool, Q., and Vizuete, W. (2019). *Potential Regional Air Quality Impacts of Cannabis Cultivation Facilities in Denver, Colorado.* Atmospheric Chemistry and Physics, 19, 13973-13987.

Madam Chairman, Members of the Committee—my name is ShaunAnne Tangney; I am a retired college professor and I live in Minot. Thank you for the opportunity to speak to you today. I am here to recommend a do pass vote on HB 1420.

Currently, 68% of Americans support the legalization of marijuana for recreational adult use.

To date, fifteen states and three territories have legalized marijuana for recreational adult use.

Marijuana is safe for responsible adult use, it is widely available and commonly used, and it's not going anywhere anytime soon. As such, its production and distribution should be regulated and controlled, not left to the illegal market.

There are four clear opportunities for the state of North Dakota in legalizing marijuana for adult use.

I. Unburden Law Enforcement

Legalization has not corresponded with increased crime rates.
Virtually all crime associated with marijuana is a direct result of its prohibition, not it's legalization. Multiple studies, the FBI's Uniform Crime Report, and the anecdotal evidence of countless law enforcement personnel and agencies, show that legalizing marijuana reduces crime by displacing black markets and illicit distributors.

II. Generate Tax Revenue

The sale of marijuana for adult recreational use has generated significant tax revenue in states where it has been legalized.
Tax revenue data from 2019:
Massachusetts: $6.7 million
Alaska: $22.1 million
Nevada: $99.2 million
Oregon: $102.1 million
Colorado: $302.4 million
Washington: $395.5 million
California: $629.3 million

III. Promote Consumer Safety and Allow for State Regulation

This is a new industry, and we have the opportunity and the responsibility to create sensible and reasonable regulations. State and local governments can and should create broad rules covering advertising, labeling, testing, serving sizes, additives, permissible financial interests, production caps, licensing classes, etc.

Marijuana businesses are overall good partners with government and law enforcement and advocate for strong and sensible regulations because they are needed in order to establish and maintain a legitimate marijuana industry.

Furthermore, it is, I think, an opportune moment for the state of North Dakota to legalize the recreational adult use of marijuana by legislative process rather than voter referendum. I support the initiative of the deliberative body that is the North Dakota State Legislature to craft clear, concise, efficient, and sensible regulations of an industry that can bring our state economic, law enforcement, and consumer safety benefit.

IV. Personal Choice and Freedom

In a recent Gallup poll (2019) 60% of responders said that marijuana should be legal because its use is a matter of personal choice and freedom. In North Dakota, we see ourselves as strong, self-reliant, independent, nice, no-nonsense people, who respect personal choice and freedom.
Whether or not you choose to use marijuana, I trust you want to respect the personal freedom and choices of those who do. As a state legislature, I encourage you to license, tax and control the sale of marijuana. After that, let adults decide if they want to use it.

In short, I urge a do pass on HB 1420 because legalization of marijuana for adult recreational use:

- Unburdens law enforcement
- Generates tax revenue
- Promotes consumer safety, and allows for safe and sane state regulation of a burgeoning and profitable industry
- Personal Choice and Freedom

I'm happy to answer any questions you might have for me.

Hearing none, I thank you again for your time.

Hugh Grindberg, Jamestown
Testimony in opposition to First Engrossment of HB 1420, version 21.0683.04000

I oppose HB 1420, as the bill fails to address North Dakota's DUI statute. As a result, people can be wrongly charged with Driving Impaired While Under the Influence of Marijuana, or DUI-THC. Additionally, depending on how the bill is further amended, HB 1420 may have the unintended consequence of denying citizens their Sixth Amendment rights under the U.S. Constitution, and their Article 1, Section 12 rights under the North Dakota Constitution.

NORTH DAKOTA'S DUI STATUTE

North Dakota's DUI statute is NDCC § 39-08-01. This law states, in 1(a), that if a driver has a blood alcohol level of at least 0.08%, that driver is guilty of a DUI. The law also states, in part 1(c), that if, "that person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving," that driver is guilty of a DUI. In 1(c), there is no listed level of any drug, THC or otherwise, that could quantify a person as legally impaired. All that is required in 1(c) is the presence of THC. Alcohol has the listed 0.08% level, in 1(a), but *any* amount of THC, in 1(c), renders a defendant automatically guilty of DUI-THC, leaving an accused driver no ability to present a defense in court.

Testing for DUI-Alcohol is commonplace in North Dakota: blood, oral fluid, or urine is tested to determine if a driver was impaired at the time law enforcement stopped the vehicle. Most commonly, a driver is taken to a police station and blows into the intoxilyzer machine where the blood alcohol level is measured, and proof is provided to law enforcement on a printout.

HB 1420 does not provide North Dakota law enforcement guidance on how to test for possible impaired driving from use of THC. Are there testing machines available to buy that can determine the level of impairment from THC in a required amount of time? Is there funding provided so all the police stations in North Dakota can purchase the approved machine(s) to test for levels of THC? Is there funding provided for proper training to all law enforcement personnel to properly operate THC testing machines?

None of these questions are addressed by HB 1420. Companies make breathalyzers to test whether or not a person has smoked marijuana within the past two hours, but the breathalyzers do not test if the person ate or drank THC. Should North Dakota wait to legalize recreational marijuana until THC levels can be measured from all forms of ingestion?

THC does not break down in the body as does alcohol. With alcohol, we drink, our blood alcohol level rises, our body processes the alcohol, and we finally get sober. Our level of drunkenness is detectable through tests of blood, oral fluid, or urine, and the oral fluid is measurable by an intoxilyzer machine. Alcohol processed by our bodies is a constant. The level of how drunk a person is now, combined with the knowledge of when that person stopped drinking, allows a trained technician to accurately state what the blood alcohol level was at any given hour from the moment of the time of the test, back to the time when the person stopped drinking. That's because the breakdown of alcohol in our bodies is a constant and takes hours. When a person stops drinking, after some hours, an amount of time that depends on how much a person drinks, an amount of time measured in hours, not in days, the alcohol is processed from a person's body and there is no test that will find measurable amounts of alcohol.

This is not the same with THC. In direct contrast with alcohol, and depending on how much THC a person uses, measurable and detectable inert THC can be found in a person's body for up to a month. When we drink, we get drunk, and when we use marijuana, that feeling of being drunk, the 'high' from THC use, feels, to humans, the same as alcohol use. I believe this similarity of the chemically induced 'high' makes people believe that those chemicals that give us that euphoric feeling are processed equally by our bodies. They are not. With THC, this feeling of euphoria lasts for a few hours, about four hours, and then the feeling fades as the THC becomes inert, and that person is then no longer 'high.' In fact, impairment to drive by THC happens within the first two

hours of ingestion. But THC, after it stops making a person 'high,' can stay in the body, in its inert form, for up to a month. THC is measurable even though its ability to get a person 'high' is no longer possible. A testable amount of THC in a person's body needs to be determinable whether it is inert THC, and therefore non-punishable, or is active THC, which could render a driver impaired.

Also, the State Legislature should enumerate penalties for DUI-THC in Century Code. Testing for THC is necessary, because without a scientific test, the judicial system across the State will vary wildly on punishment, fluctuating among all fifty-three counties. How a sheriff's deputy in western North Dakota 'feels' about a DUI-THC vehicle stop may vary with how a sheriff's deputy in eastern North Dakota 'feels' about a DUI-THC stop. And how does the locally elected State's Attorney in a northern county 'feel' about the use of recreational marijuana as compared to a State's Attorney in a southern county? In court, how is a judge to decide on punishment, if the legislature has not qualified and quantified the penalty phase of the trial with or without an amount of THC present at the time of the arrest? With all these feelings by North Dakota employees about THC, how is a citizen able to get a fair hearing, and one consistent across the State? Citizens can't.

THE CONSTITUTIONAL PROBLEM

The Sixth Amendment of the U.S. Constitution, and Article 1, Section 12 of the North Dakota Constitution, state that defendants have the right to confront their accuser in court. In a DUI trial, the arresting law enforcement official testifies to what he or she observed. Also in the courtroom is the printout from the Intoxilyzer 8000 of the defendant's oral fluid test. (Or the printout of another machine of science that tested either blood or urine.) The printout from the intoxilyzer machine is needed, because the law states that the defendant's blood alcohol level must be at least 0.08%, tested within two hours of the traffic stop, and the printout is that proof. With this information, a defendant can mount a defense against the charge. Without a machine printout, all that the court and the defendant have is the word of the arresting law enforcement official, a 'feeling' from which a defendant cannot mount a legal defense.

Without a printout from a scientific device that determines the level of impairment of THC at the time that a law enforcement official stopped the vehicle, there is no proof of impairment that satisfies any requirement of the DUI statute. If a provision is not added to the DUI statute that measures the THC level in a manner that can determine a legal level of impairment, then defendants will not be able to make a defense against the charge by the State. There is no way for a defendant to be able to put together a defense against how the law enforcement official was 'feeling' at the time of the arrest. Without a scientific tool for law enforcement to use and present to a State's Attorney, there is no way for a citizen to fully confront his or her accuser as they currently do in a DUI-Alcohol trial. When charges are filed by the State's Attorney, with no way to confront an accuser, the constitutional rights of citizens are denied by the State.

ADDITIONAL NORTH DAKOTA CENTURY CODE SECTIONS

Once the DUI statute has been amended to accommodate DUI-THC, the Legislature will need to address other affected statutes in Century Code. One example is NDCC § 39-20-01.1; chemical test of driver in serious bodily injury or fatal crashes. Part 2, in its final lines, states that, "a law enforcement officer shall request the driver to submit to a test or tests of the driver's blood, breath, or urine to determine … the presence of other drugs or substances, or both." In its current form, this section of Century Code does not require a level of THC concentration, only its presence, to render a defendant guilty of DUI-THC. There will be additional sections of Century Code that will also need to be amended to reflect legal THC use. HB 1420 needs many more amendments before passage, to protect citizens and visitors living in, and those passing through, North Dakota.

Thank you for your time and attention.

HB 1420 - Adult Use Cannabis
Senate Human Services - Judy Lee, Chair

I'm Jonah Lantto, a Minot business owner.

The results of prohibition are a failure. Our current position regarding marijuana is a detriment to North Dakota prosperity, opportunity, and gainful citizenship. There is no evidence prohibition has benefited the people of North Dakota. There is however, plenty of evidence to show prohibition has stood in the way of success. It has created criminals out of otherwise good people. I ask this chamber: Would you call the cops on your kids or grandchildren if you discovered them with marijuana? I don't imagine you would, the idea is incredulous. Of course you wouldn't turn in someone you love because they use or possess marijuana so why support the status quo against them or anyone else? By regulating drug use rather than criminalizing it, per capita recreational drug use in the United States would be the same or even lower than it currently is, safer for consumers, and far less costly to society in terms of socioeconomic harm

This isn't about being pro marijuana, this is about being anti-prohibition. This is about being pro business. It's about being pro North Dakota citizen. The economic opportunities associated with regulating marijuana are vast. Ending prohibition in North Dakota would release a great burden on our judicial system while simultaneously preventing our citizens from being penalized for the use of a plant. When we arrest our own people we're unncessarily complicating their lives, ruining their potential for jobs, loans, and general advancement in their lives. Meanwhile - in other free states jobs are being created while we imprison and fine our people. It doesn't make sense.

All around us recreational cannabis is happening: Montana and South Dakota voters have approved it, Minnesota legislators are anticipated to pass legislation as well. If we don't act now, as an elected body of leadership, to enable our citizens, our investors, our business leaders to sensibly prosper from cannabis then we risk losing those investments to our neighboring states. Border towns in other legal states have shown it.

I'd prefer to give our citizens a job in a developing industry full of opportunity and upward mobility. Right now we're upset at the idea of lazy stoners, occupying basements, eating munchies, and not contributing to society, but the reality is - Prohibition is what creates that: because of the record that comes with getting arrested with a pipe or some weed. The fact is: more revenue is generated by people who don't have criminal records for pot possession. While we may not raise the billions of dollars that states like Colorado get - at least we can keep whats ours. At least we can keep this money in our state, with our investors - small and large.

Right now, in the United States, there are more than 240,000 full time jobs in the marijuana industry - there's no reason we shouldn't be adding a few thousand more in North Dakota. Prohibition is a roadblock to freedom and opportunity. Let's stand together against ruining people's lives and join forces in creating laws for the future prosperity of North Dakota and our citizens...that would really BE LEGENDARY.

Thank you.

Sources:

Jobs:
https://internationalcbc.com/how-many-people-work-in-the-legal-u-s-cannabis-industry/

Prohibition is a failure:
https://www.sciencedirect.com/science/article/pii/S1870355016300039

Access to cannabis reduces opioid use:
https://www.sciencedaily.com/releases/2019/08/190807092350.htm

Economic benefits of legalizing cannabis:
https://www.investopedia.com/articles/insights/110916/economic-benefits-legalizing-weed.asp

Prohibition creates criminals:
https://observer.com/2017/06/drug-prohibition-violent-crime-rates/

Madam Chair & Members of the Human Services Committee

Good Morning:

My name is Valerie Jundt – by way of background I am a proud – and life-long native of Bismarck ND.

I have worked in a professional career for the past 35 years as an unclaimed property specialist. 15 years as a former state employee, 5 years as the Executive Director of the National Association of Unclaimed Property Administrators (NAUPA); and for the next 20 years served in leadership roles as Subject Matter Expert/Consultant. I was recruited in 2000 to serve as the State & Government Relations Manager with a big 4 accounting firm (Deloitte & Touche LLP) and when they dissolved this service line, was recruited to serve as the National Practice Leader for the Unclaimed Property Services Group at Keane (a nationally recognized unclaimed property services practice based in NY). During my entire career, I was committed to living and raising my family in North Dakota. I had the privilege of working with and for every state; as well as working to serve as a subject matter expert for some of the largest Fortune 50 companies in the United States—in some cases; the world.

For the same reasons that all of you have committed to living in ND and agreed to work as a public servant, my family loves the CULTURE, CHARACTER and COMMUNITY of this state. It is no secret that North Dakotan's are recognized throughout the country as UNIQUE because of our hard work ethic, strong character, integrity and honesty.

HB 1420

Trying to understand why there would be support for this bill, I sought out the feedback from several legislators. I was told this was an attempt to proactively pre-empt and provide rules & regulations for the sale of marijuana in our state-and to attach a tax initiative along with it. Also, it was likely inevitable that we would be forced to follow suit since surrounding states and Canada had passed similar laws.

Many concurred they personally didn't agree with this bill, but the impression I was given was that they had been convinced that if this were placed on the ballot for a vote it would likely pass; which would be of greater consequence.

I couldn't reconcile this in my mind and continue to question how our communities, children and state would be impacted compared to the CONSEQUENCES of legalizing an illegal drug. No one has effectively answered that question.

What do we stand to gain – ***compared to what we stand to lose?***

My husband is a nationally certified and K-12 school counselor (having served in the Bismarck School District for over 30 years) – many of those years at the middle school level. I also have a daughter and son-in-law serving as teachers in the middle/high school level. I consider them HERO's; along with all of the other teachers in this state who are committed to working tirelessly to model, groom and educate our children into formidable young adults.

For his entire career, he has been instilling in young adults the benefits of "positive behaviors" vs the risks & severe (sometimes life changing) consequences of drugs & alcohol. All which go beyond just "using" (i.e. the types of individuals that you begin to associate yourself with; the dangers to your health, family and future).

By passing this law, does that now somehow REFUTE all of the efforts and hard work by our teachers, law enforcement, parents and community leaders to reinforce the dangers of drugs (and legitimize) its use? What has magically changed?

Indisputable Facts:

- Marijuana is and has been recognized as a GATEWAY drug leading to even more harmful and dangerous drugs.
- There has been a significant increase in gang related activity, crime and drug use (overdose deaths and suicidal activity); much of which involved illegal drugs.
- For all of its positive qualities, our fine state holds the less than desirable reputation of being in the top 5 states in the nation for underage drinking – and we have held that distinction for many years.
- The legal drinking age in our state is 21...this bill also creates a legal age to purchase, use and be in possession of marijuana at 21.
    - Is there anyone that believes by passing this law and making marijuana even more accessible to purchase it that the underage use and risk for obtaining this drug under the age of 21 won't also skyrocket?
- Has anyone researched the statistics relating to the number of drug related crimes, accidents, educational data in those states that have passed the legalization of marijuana?
    - Don't we want to know this before we make such a critical and irreversible decision?
    - Let me tell you what we witnessed when visiting the state of Oregon not so long ago. The BILLBOARDS offering FREE cannabis (the run down and dangerous environment surrounding the distribution centers)
    - The number of homelessness – crime rates and children negatively impacted by making these drugs more accessible was heartbreaking
    - Couple at the rest area...there is nothing that law enforcement can do about it
    - Are you aware – that Oregon has passed an initiated measure that decriminalizes ALL DRUGS (heroin, cocaine, meth)...the citizens and community there have become complacent and surrendered to the attitude that there's nothing they can do about it anyway...yet how many lives will be affected by this action?

If you don't stand for something – you'll fall for anything. IF WE DON'T TAKE A STAND to reinforce the ND values & commitment to our families & youth – who will?

One of the most effective tools that I was introduced to during my formidable years as a leader included the process of team building a MISSION STATEMENT, GOALS and VALUES model. I'm sure all of you have done this as well. If the services we were offering or the method in which we were billing or performing our work didn't complement any of these KEY principals –

as the leader of our team, this gave me/us the "Meter" by which we would move forward or walk away. *Not always an easy decision – but always the right decision!*

What is our Mission – What do we Value – What are our Goals? Does this bill coincide with those principals – and if not, then why are we considering it?

Why have we GIVEN UP without a fight to EDUCATE – REAFFIRM and COMMIT to healthy behaviors for the citizens in our state?! Once we open this door, the opportunity to reverse course becomes nearly impossible.

I can't help but think of the negative impact this bill would create to an already overworked team in the professional world of Healthcare, Education, Law Enforcement, Social Services & Counselors, much less the negative impact in our communities.

A Colorado representative shared stories at a health conference not that long ago reinforcing the consequences their state has experienced due to legalizing marijuana (increase in crimes, rehab, hospitalizations, overdoses, etc...) far exceeding the income they raised from taxes.

SUMMARY

Unfortunately, no matter which way this bill goes, we are at the crossroads where it is critical to proactively INVEST dollars and resources.

If you agree that this bill does not meet the standards to coincide with our Mission, Values & Goals, then please stand in opposition of this bill. Let's utilize some of our hard earned dollars to proactively communicate to our citizens. Delegate a task force (Critical members in affected state agencies & from our community) to coordinate the marketing and messaging that reinforces the truth and consequences of risky behavior.

If you support the passage of this bill, then at a minimum, I urge you to delegate a significant portion of those dollars generated from the taxes assessed toward activities promoting HEALTHY BEHAVIOR, EDUCATION & PREVENTION.

Our State, Our Community and Our Future depend on the outcome of this decision.

I want to sincerely thank you for your service to our state and for making the time to consider my heartfelt remarks.

Respectfully Submitted on this 15th Day of March, 2021

Valerie M. Jundt

Oregon becomes the first state to decriminalize small amounts of heroin and other street drugs

By Allen Kim, CNN
Updated 8:13 AM ET, Mon November 9, 2020

Oregon voters passed Measure 110, which decriminalizes possession of small amounts of drugs.

(CNN) Oregon has become the first state in the nation to decriminalize the possession and personal use of all drugs.

Voters in the state approved Measure 110 on Wednesday, CNN projected, and the initiative also expands access to addiction assistance and other health services, offering aid to those who need it instead of arresting and jailing people for drugs.

Measure 110 passed with 55.8% of the vote.

Possession of drugs such as heroin, cocaine and methamphetamine will no longer be punishable by jail time, but instead amount to something similar to a traffic ticket.

"Today's victory is a landmark declaration that the time has come to stop criminalizing people for drug use," said Drug Policy Alliance executive director Kassandra Frederique.

"Measure 110 is arguably the biggest blow to the war on drugs to date. It shifts the focus where it belongs -- on people and public health -- and removes one of the most common justifications for law enforcement to harass, arrest, prosecute, incarcerate, and deport people."

While possession of small amounts of drugs is decriminalized, possession of larger amounts could result in a misdemeanor charge.

The move to decriminalize drugs in Oregon comes after voters in New Jersey, Arizona and South Dakota approved ballot measures to legalize recreational marijuana.

To the North Dakota Senate Human Services Committee

My name is Dustin Peyer. I live in district 28. I am a sponsor of the Freedom of Cannabis ACT. I am asking you to amend 1420 , 1391, 1359, to include the right to grow cannabis for adult use. We must allow people to grow their own cannabis if they choose. This will create a free market balance and system of quality regulation created by the people themselves, not the government. 20 states have allowed and aded home cultivation to their programs and there is no reason why North Dakota cannot do the same. This will provide patients and those who want adult use the Freedom to create and use cannabis as they see fit. A free society is not hampered down by unnecessary regulation and government overreach. How long do you think the 216,000 who voted for measure 5 will continue to accept prohibition lite and a legal state run cartel. A monopoly is taking over the North Dakota cannabis industry. While I support cannabis reform I strongly urge a do not pass until home cultivation is added. Is freedom still at the core of enough members to actually give it to the people. The Freedom of Cannabis ACT has a solid infrastructure and continues to grow every time cannabis rights are denied. Patients are paying some of the highest prices in the nation and deserve better. We all deserve better.

Cannabis Caucus amendment compromise
19 - 24.1 - 08.1. Qualifying patients and designated caregivers - Producing.
A North Dakota resident and qualifying medical marijuana patient may produce up to eight marijuana plants, at any stage beyond a non germinated seed, in an enclosed, locked facility.

The enclosed, locked facility may not be within one thousand feet [304.80 meters] of a property line of a public or private school.

The registered qualifying patient or designated caregiver shall give the medical marijuana advisory board a notice of intent to produce marijuana in an enclosed, locked facility out of sight from the public. The notice must include the qualifying patient's name, a copy of the written certification, and the address of the location where the marijuana will be produced. No fee may be charged.

What other states do.

Alaska– Alaska allows for at-home cultivation. Adults aged 21 and older can grow up to six marijuana plants. Used for either adult-use or medical purposes, growers must keep in mind that only three mature and flowering plants are permitted at any given time. Additionally, all plants must be grown out of public view and properly secured from unauthorized access.

Arizona– Arizona allows for at-home cultivation, but only if a registered patient lives more than 25 miles from their closest dispensary. State-approved patients can grow up to 12 plants.

California– California allows for at-home cultivation. Adults aged 21 and over each can grow up to six plants for recreational use, with only six plants allowed per residence at a given time. Registered medical cannabis patients, however, are allowed to grow the amount of cannabis required for their medical treatment. However, individual counties are able to set further home cultivation restrictions. It is best to check with your local jurisdiction before starting a home grow.

Colorado– Colorado allows for at-home cultivation. Recreational users can grow up to six plants, with three allowed to mature and flower at any time. Caregivers can grow additional plants, as they can be assigned to up to five patients. They are permitted to cultivate up to 36 plants. Medical patients are allowed to cultivate six plants as well, though they are also allowed to petition for, “greater amounts [when] medically necessary to address the patient’s debilitating medical condition.”

Hawaii– Hawaii allows for at-home cultivation. Before growing, medical patients must register as a cultivator with the state. Once approved, they can produce up to ten plants at a time.

Illinois– Illinois allows for at-home cultivation. Medical patients are permitted to grow their own cannabis, with up to five plants per household regardless of the number of patients living there.

Maine– Maine allows for at-home cultivation. Adults aged 21 and over can grow their own plants, each home can contain up to six mature and twelve immature plants. The state differentiates between medical and adult-use home grows, but the limits for cultivation are the same.

Massachusetts– Massachusetts allows for at-home cultivation. Both medical patients and recreational users aged 21 and over can grow up to six plants. If two adults live in one home, they can collectively produce twelve plants.

Michigan– Michigan allows for at-home cannabis cultivation. Recreational users are permitted to grow up to 12 plants at home. Medical patients can be permitted to cultivate if they are unable to access a medical dispensary due to financial hardship, physical incapability, or lives too far to access a dispensary reasonably. There is no set number of plants a medical patient can cultivate, but the grow is limited to “an amount needed to harvest a 60-day supply,” totaling ten ounces. Caregivers can provide support for up to five patients. They can grow for their patients once the caregiver registers with the state and they can grow up to 60 plants if taking care of five patients.

Missouri– Missouri allows for at-home cannabis cultivation. Medical cannabis patients can grow up to six plants in an enclosed and secured space at their homes. Home cultivators must pay an additional licensing fee to be approved.

Montana– Montana allows for at-home cannabis cultivation. Home growing is permitted to medical patients, who can grow up to four mature plants or 12 seedlings at any time. Two adults living together can grow up to eight mature plants and eight seedlings.

Nevada– Nevada allows for at-home cannabis cultivation. Adult-use growing is allowed if a person lives 25 miles or more away from the closest dispensary with a max of six plants per person or 12 in one household. A property owner or landlord can prohibit growing on their site, while the state requires all activities to occur in an enclosed, secure space. Medical cannabis patients CAN'T home cultivation if a dispensary opens in their county of residence. They are expected from this rule and can cultivate at home only if:

A dispensary is more than 25 miles from their residence
The cardholder is unable reasonably to travel to a medical marijuana dispensary
A strain or amount needed is not provided by a dispensary in their county
Or was already cultivating at home before July 1, 2013.

New Hampshire– New Hampshire allows for at-home cannabis cultivation. Medical patients and caregivers can grow up to three mature plants, as well as three immature plants and 12 seedlings. All plants must be stored in a secure location undetectable from the street or public view.

New Mexico– New Mexico allows for at-home cannabis cultivation. Medical patients and their caregivers have been allowed to cultivate up to 16 plants, with four allowed to be mature.

Oklahoma– Oklahoma allows for at-home cannabis cultivation. Medical patients can grow up to six mature plants and six seedlings.

Oregon– Oregon allows for at-home cannabis cultivation. Adults 21 and over have been allowed to grow up to four plants at home for their own personal use. Medical caregivers can grow up to eight plants but are capped at six adult plants at any time.

Rhode Island– Rhode Island allows for at-home cannabis cultivation. Qualified medical patients or caregivers are permitted to grow up to 12 plants and 12 seedlings on their property inside their home.

Vermont– Vermont allows for at-home cannabis cultivation. Adult residents are allowed to grow up to two mature plants at a time, with a max total of nine.

Washington– Washington allows for at-home cannabis cultivation. Medical patients are allowed to grow up to six plants at home, but they could grow more if they appeal to the state. If the appeal is successful, a person can grow up to 15 plants at a time. Adult-use recreational cultivation is still illegal.

Washington D.C.- Washington D.C. allows for at-home cannabis cultivation. Recreational users aged 21 years or older are allowed to cultivate and possess up to six plants at a time, with three being mature and three being seedlings. Home cultivation for medical purposes is not allowed in the nation's capital.

#8997

Addiction Providers On HB 1420

NORTH DAKOTA NDATPC ADDICTION TREATMENT PROVIDERS COALITION

NDATPC
3201 Fiechtner Dr. S
Fargo, ND 58103
ndatpcboard@gmail.com

Ty Hegland
Chair

Sherrice Schalesky
Vice Chair

Randi Berglund
Secretary

Kristie Spooner
Treasurer

Megan Busch
Member At Large

Candis Mock
Member At Large

Chairman Lee & Members of the Committee,

Addiction providers recognize the North Dakota Legislature is debating the legalization of recreational marijuana. It is the hope of providers that an open discussion on how legalized marijuana will impact our state and its citizens is included in this debate. Marijuana legalization is not without significant consequences.

As we discuss the merits of potential legalization, there are a few points we hope legislatures will take into consideration as they debate HB 1420,

1. Addictive Substance: A study published by The Journal of the American Medical Association (JAMA) in 2019 indicates that states that enact Recreational Marijuana Laws result in increased use and diagnosis of Cannabis Use Disorder. The National Institute on Drug Abuse (NIDA) reports that approximately 30% of cannabis users have a Cannabis Use Disorder.

2. Investing In Addiction Services: Any discussion on marijuana legalization should coincide with discussion on significant investments and funding of or Substance Use Disorder treatment services. Currently, 56% of addiction services in North Dakota are provided for a legal substance, alcohol. By making it legal we will see an increase demand for services and ask for a portion of the state's revenue from marijuana be redirected to combat the problems that are sure to arise.

3. Workforce Issues: Legalization will likely result in employers having an even greater difficulty in hiring and maintaining an adequate workforce due to testing and safety requirements. We need be thoughtful with this issue as it will effect every industry across North Dakota.

4. Cannabis Use and Mental Health Issues: There are over 20,000 peer-reviewed research articles linking cannabis use to severe mental health conditions that range from depression and anxiety to psychosis. The National Institute of Health states that regular use can change one's brain in significant ways that impact one's learning and memory. This is especially true for those whose brains are still developing, which can continue until age 30.

Thank you for your time,

Ty Hegland
President/CEO
ShareHouse

SHAREHOUSE · PRAIRIE ST. JOHN'S · Summit Prairie Recovery Center · FIRST STEP Recovery village · GOOD ROAD Recovery Center · Heart River · DRAKE Counseling Services, Inc · Growing Together Minot, ND · A.D.A.P.T. Inc. Changing Lifestyles · Agassiz Associates · Community · Advance In Recovery Carrington, ND

I am Gail Pederson, Special Practice RN, Cannabis nurse educator and consultant. I reside in Valley City, District 24.

Even though HB 1420 is dismal for consumer safety, I will have to speak for it. It is time to end prohibition and the stigma that surrounds this plant. The only thing I see for product safety is the self reporting of pesticides. The American Nurses Association, The American Cannabis Nurses Association, Patients out of Time, Patients for Safe Access and Doctors for Cannabis Regulation all call for a safe consumer product. This includes testing for mycotoxins, bacteria and heavy metals along with pesticides. This needs to be the same as the medical program, which is minimal already. That is testing for THC/CBD components. Heavy metals, mycotoxins and bacteria must be included. Standards must not be less for an adult use product.

The limits are unnecessarily low. The worry of “selling on the illicit market” is a moot point if it is legal and it is done right. But, that market will continue under this law as written. The half month allotment is unreasonable for those who need to travel. The limits of 1.5 ounces in HB 1420 is not adequate and will again continue to drive the illicit market. Even with the increased number of dispensaries, people will continue to have to travel to purchase. There are many medical patients who are waiting for legalization because they are unable to find a provider or have to drive hundreds of miles to see one. For some, their provider will not certify because of the expense of the product. The Medical Cannabis program is failing its patients in many ways. I would hope the price would drop with legalization. It hasn’t with the number of patients we have in the program now. Many patients are priced out of participating and the compassionate care aspect of the program is not there.

This bill continues to criminalize the person using a legal product. Let’s be above board and make 1420 a better bill by adding quality controlled lab results and a more reasonable dispensing guideline for the adult user.

Thank you for your attention to these overlooked items. I stand for questions.

North Dakota Catholic Conference

Representing the Diocese of Fargo and the Diocese of Bismarck

103 South Third Street
Suite 10
Bismarck ND 58501
701-223-2519
ndcatholic.org
ndcatholic@ndcatholic.org

To: Senate Human Services Committee
From: Christopher Dodson, Executive Director
Subject: House Bill 1420 — Legalization of Recreational Marijuana
Date: March 15, 2021

The conference opposes House Bill 1420.

The question before you is not whether HB 1420 is a good legislation *if* marijuana was legalized. The drafters have, admittedly, done a fine job in that respect. The question before you is not whether this legislation is better than a ballot measure drafted with no legislative input. It probably is. The question before you is whether the state of North Dakota should legalize recreational marijuana.

More specifically, the question before you is whether House Bill 1420 advances the common good in North Dakota or poses a threat to families, children, and the community, especially the most vulnerable. If the answer to this question is the latter, then no amount of claims of inevitability, "better this way than the alternative" arguments, pleas for "personal freedom," or lobbying by invested interests can justify its passage.

The problems with recreational marijuana are well-documented. States with recreational legalization have the highest teen usage rates.[1] When recreational use for adults is legalized, youth increasingly believe that marijuana is not harmful, despite medical evidence that marijuana has a greater negative impact on youth than adults.[2] [3] Colorado has seen increased addiction and suicide.[4] THC, not alcohol, is now the number one drug found in teens who die by suicide in Colorado.[5] From 2016 to 2019, the rate of teen suicide in Colorado increased by 58 percent, making it the cause of one in five adolescent deaths.[6]

Marijuana can contribute to the breakdown of the family. There is substantial evidence that when marijuana use begins before adulthood, drug dependence arises more quickly.[7] As these individuals become parents, dependence issues can produce chaotic and stress-filled homes, which harms child well-being.[8] Many children have been introduced to the foster care system because they were harmfully exposed to marijuana during pregnancy or childhood, or because they were exposed to dangerous living conditions while their parents were growing marijuana. During pregnancy, emerging evidence suggests "an association between marijuana and fetal growth restriction, stillbirth, and preterm birth."[9]

Research shows the negative impact of recreational marijuana use on health outcomes. Regular marijuana use has been connected to respiratory problems; mental health issues (schizophrenia, bipolar disorder, suicidal thoughts, and social anxiety disorder), and learning, memory and attention loss.[10] Additionally, marijuana-related hospitalizations, emergency room visits and poison control calls—including for those under age eight—have increased in Colorado since legalization.[11]

Companies in states with legalized recreational marijuana have struggled to find employees who can pass drug tests, especially for federal jobs, industries that require operation of heavy machinery, or jobs requiring truck driving.[12] Research shows employees who tested positive for marijuana in pre-employment drug tests have higher rates of industrial accidents, injuries, and absenteeism.[13]

Other than strained and ultimately vacuous personal freedom claims, the only argument for House Bill 1420 is that it is better than what may come through a ballot measure. It is very tempting to fall into the inevitability and consequentialist error that it is better to accept something that is wrong or harmful to prevent a presumably greater wrong or harm. Such thinking, however, is always erroneous and always unacceptable. No one, including a legislative body, can knowingly approve a harm, even to prevent a greater harm.

HB 1420 does not advance the common good and poses harms to families, children, our most vulnerable, and the community. Instead, it signals that marijuana is safe, without regard for those families and communities it leaves behind.

We urge a **Do Not Pass** recommendation on House Bill 1420.

[1] Arthur Hughes, MS, Rachel N. Lipari, PhD, and Matthew Williams, PhD, The CBHSQ Report: State Estimates of Adolescent Marijuana Use and Perceptions of Risk of Harm From Marijuana Use: 2013 and 2014, SAMHSA, 12/17/15: https://bit.ly/2wVozVm

[2] "Marijuana Legalization in Colorado: Early Findings," Colorado Department of Public Safety, March 2016, https://bit.ly/1Vecjap

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[13] "How does marijuana use affect school, work, and social life?" National Institute on Drug Abuse, updated June 2018: https://bit.ly/1olZI1v

Madam Chair, Senate Human Services Committee,

I am Jody Vetter from District 32. I am the chair for the ND for Freedom of Cannabis Act. Our measure has been approved for circulation and we have 600 petitions spread across the state. We are a North Dakotan grassroots patient driven movement. We have no out of state interests or money. I am neutral on Bill 1420 as written.

I am of course for legalization but there are areas of concern with this bill.

We really need to move passed the thought that somehow possessing cannabis is a criminal act based on amounts of possession.

Why are there still criminal charges for possession? How is possessing one ounce of cannabis not a crime but possessing 2 ounces of cannabis is a class B misdemeanor? The federal government is talking seriously of finally moving forward with not just decriminalizing cannabis but ending federal prohibition of the plant.

I urge you to amend the criminal charges for possession of cannabis to civil penalties.

I believe criminal charges for cannabis possession is morally wrong. I have provided an essay from the Indiana law journal at Indiana University titled Liberty Lost: The Moral Case for Marijuana Law Reform.

This essay addresses whether cannabis criminal laws diminish fundamental individual rights, and whether there are grounds that justify doing so.

The authors present two arguments corresponding to two distinct liberty concerns implicated by laws that both ban cannabis use and punish its users.

The first argument opposes criminalization and demonstrates that cannabis use does not establish the kind of wrongful conduct that is a requirement for just punishment. The second argument demonstrates that even without criminal penalties, prohibition of cannabis violates a moral right to exercise autonomy in personal matters.

This is where home cultivation rights come up. I was told there is very little appetite for home cultivation from legislators, but I can tell you, having traveled across the state and spoke with several thousand people there is a large appetite for home cultivation from North Dakotans.

North Dakotans love freedom, personal growing of cannabis included.

I find it very hypocritical that there is no problem with me running around with a concealed gun but it's dangerous to grow a medicinal plant with no possibility of death by over consumption.

I urge you add an amendment for some type of home cultivation. One plant per private residence at the very least. Home grow helps with keeping commercial prices reasonable and shown it does not lead to more crime. Eighteen states allow home cultivation, not one state has ever introduced legislation to repeal or scale back on home growing.

To think you can control the amount a grown adult consumes over a two-week period is illogical. These types of restrictions only fuel black-market sales.

There is concern for pricing. We know medical cannabis is very expensive at $440.00 an ounce plus tax. I can't see how people are going to pay prices like that. That pricing is four times higher than other states. We know high prices also lead to more black-market sales. That is the very thing we want to avoid.

Lastly, I leave you with an excerpt from the essay Liberty Lost: A Moral Case for Marijuana Reform. "Whatever the political dynamics, we should remember that moral rights are also at stake-the rights to a sphere of liberty in personal matters, to prosecutions based on the principles of just punishment, and most fundamentally, to a state that respects the individuality and autonomy of its people. These civil libertarian concerns, well recognized in other contexts, should also inform legislators and policy makers as marijuana law reform efforts move forward."

Thank you,

Jody Vetter

PETITION TITLE

This initiated measure would add a new section to article I of the North Dakota constitution, which would provide that it is not unlawful for a person to possess, grow, process, or transport not more than 12 cannabis plants for personal use. It would provide that it is lawful to consume cannabis, as long as the cannabis is not consumed openly in public other than as provided by law, and would provide that it is lawful to transfer cannabis to another person without receiving payment in return. It would authorize the legislature to enact laws to license and regulate the commercial sale of cannabis and would provide that it is unlawful to cultivate, harvest, process, package, transport, possess, or sell cannabis for commercial purposes without such a license. It would provide that it is unlawful to sell or transfer cannabis to any person under the age of 21 unless for medical purposes as prescribed by law.

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. An amendment to the North Dakota Constitution is proposed to the people. If the amendment is adopted, a section shall be added to Article I of the North Dakota Constitution to read as follows:

Section 26. (a) It is hereby declared that it is not unlawful, and it shall not be an offense under law or be a basis for seizure or forfeiture of assets under law for a person who is 21 years of age or older to:

(1) possess, use, purchase, or transport cannabis, cannabis accessories, or cannabis infused products, as described in this section;

(2) possess, grow, process, or transport for personal use no more than 12 cannabis plants, with six or fewer being mature, flowering cannabis plants, provided that the cannabis produced from the plant is not made for sale;

(3) consume cannabis, provided that the cannabis is not consumed openly in public except in a manner provided by law; and

(4) transfer an amount of cannabis as prescribed by law without remuneration to a person who is 21 years of age or older.

(b) The legislature may prescribe by law a manner to license and regulate cultivation, manufacturing, harvesting, processing, packaging, transporting, displaying, possessing, and selling of cannabis and cannabis infused products for commercial purposes.

(c) It is unlawful to cultivate, manufacture, harvest, process, package, transport, display, possess or sell cannabis or cannabis infused products for commercial purposes without having first obtained a valid license as prescribed by law.

(d) It is unlawful to sell or transfer cannabis, a cannabis infused product, or a cannabis accessory to any person who is under the age of 21 years, except that medical cannabis may be sold or transferred to a person under 21 years, as prescribed by law.

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Liberty Lost: The Moral Case for Marijuana Law Reform

Eric Blumenson
Suffolk University, eblumens@suffolk.edu

Eva Nilsen
Boston University

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Liberty Lost: The Moral Case for Marijuana Law Reform†

ERIC BLUMENSON & EVA NILSEN*

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Marijuana policy analyses typically focus on the relative costs and benefits of present policy and its feasible alternatives. This Essay addresses a prior, threshold issue: whether marijuana criminal laws abridge fundamental individual rights, and if so, whether there are grounds that justify doing so. Over 700,000 people are arrested annually for simple marijuana possession, a small but significant proportion of the 100 million Americans who have committed the same crime. In this Essay, we present a civil libertarian case for repealing marijuana possession laws. We put forward two arguments corresponding to the two distinct liberty concerns implicated by laws that both ban marijuana use and punish its users. The first argument opposes criminalization and demonstrates that marijuana use does not constitute the kind of wrongful conduct that is a prerequisite for just punishment. The second argument demonstrates that even in the absence of criminal penalties, prohibition of marijuana use violates a moral right to exercise autonomy in personal matters—a corollary to John Stuart Mill's harm principle in the utilitarian tradition, or, in the nonconsequentialist tradition, to the respect for personhood that was well described by the Supreme Court in its Lawrence v. Texas *opinion. Both arguments are based on principles of justice that are uncontroversial in other contexts.*

INTRODUCTION

The federal government and thirty-seven states make possession of marijuana a criminal offense punishable by imprisonment.[1] Federal law categorizes marijuana with

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* Eric Blumenson, Professor of Law, Suffolk University. J.D., Harvard Law School. Eva S. Nilsen, Associate Clinical Professor of Law, Boston University. J.D., University of Virginia; LL.M., Georgetown Law Center. We thank Patrick Shin for comments on the manuscript, as well as Andrew Capone, Grace Guisewhite, Michael S. Hammer, and Kristina Mastropasqua for expert research assistance, and the students in Professor Nilsen's War on Drugs seminar for their insights.

1. 21 U.S.C. § 844(a) (2006) (stating that possession of a controlled substance is unlawful); *see also id.* § 812(c) sched. I(c)(10) (2006) (listing marijuana as a Schedule I controlled substance). Under federal law, marijuana possession is punishable by one year in prison and a minimum fine of $1000. *Id.* § 844(a). For a compilation of state marijuana laws and their penalties, see Nat'l Org. for the Reform of Marijuana Laws, State by State Laws, http://www.natlnorml.org/index.cfm?Group_ID=4516.

the most dangerous of illicit drugs,[2] and the White House Office of National Drug Control Policy (ONDCP) has generally treated marijuana control as a top priority.[3] In recent years, federal and state laws have resulted in the arrest of more than 700,000 Americans annually for marijuana possession,[4] a crime that almost 100 million Americans have committed.[5]

There are good reasons to believe that these laws have been counterproductive, as many critics have charged. Arguably, marijuana prohibition diverts resources from more pressing drug- or crime-control agendas; encourages discriminatory enforcement; stymies ameliorative regulation; and consigns users to deal with criminal drug traffickers, if not lawyers, courts, and jails.[6] There are many who dispute these claims;

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2. Under the federal drug laws, marijuana is designated a Schedule I controlled substance, a status reserved for drugs with the most serious potential for abuse, no medical benefit, and no safe method of use. 21 U.S.C. § 812(b)(1) (2006). For a detailed description of why marijuana does not satisfy the three tenets of § 812(b)(1), see *infra* note 78. This status places marijuana on a par with heroin, and in a graver category than cocaine and OxyContin, which are both included in Schedule II. 21 U.S.C. § 812(c) sched. II(a).

3. *See* Sally Satel, Commentary, *A Whiff of "Reefer Madness" in U.S. Drug Policy*, N.Y. TIMES, Aug. 16, 2005, at F6 (commenting that ONDCP places more emphasis on controlling marijuana than methamphetamine, heroin, or cocaine because marijuana is a gateway to more dangerous drugs); *see also* Ryan S. King & Marc Mauer, *The War on Marijuana: The Transformation of the War on Drugs in the 1990s*, HARM REDUCTION J., Feb. 9, 2006, http://www.harmreductionjournal.com/contents/3/1/6 (stating that "since 1990, the primary focus of the war on drugs has shifted to low-level marijuana offenses"). Barry McCaffrey, drug czar under Bill Clinton, and John Walters, drug czar under George W. Bush, both invested heavily in advertising against marijuana, which they saw as the key to winning the War on Drugs. Ben Wallace-Wells & Eric Magnuson, *How America Lost the War on Drugs*, ROLLING STONE, Dec. 13, 2007, at 107, 110. Whether this policy continues under the Obama administration remains to be seen.

4. In 2006, there were approximately 742,900 arrests for possession of marijuana, constituting 39.1% of the roughly 1.9 million drug arrests. CRIMINAL JUSTICE INFO. SERVS. DIV., FED. BUREAU OF INVESTIGATION, PERSONS ARRESTED: CRIME IN THE UNITED STATES 2006 (2007), http://www.fbi.gov/ucr/cius2006//arrests/index.html [hereinafter CRIME IN THE UNITED STATES 2006]. In 2005, there were almost 767,000 marijuana arrests, and nearly 680,000 of them were for marijuana possession. CRIMINAL JUSTICE INFO. SERVS. DIV., FED. BUREAU OF INVESTIGATION, PERSONS ARRESTED: CRIME IN THE UNITED STATES 2005 (2006), http://www.fbi.gov/ucr/05cius/arrests/index.html; *see also* JIM LEITZEL, REGULATING VICE: MISGUIDED PROHIBITIONS AND REALISTIC CONTROLS 274 tbl.A.2 (2008) (finding that 81% of all 2005 drug arrests and 88% of all marijuana arrests were for possession rather than sale or manufacture).

5. Citing the *2007 National Survey on Drug Use and Health*, the ONDCP reports that "an estimated 100 million Americans aged 12 or older have tried marijuana at least once in their lifetimes, representing 40.6% of the U.S. population in that age group." Office of Nat'l Drug Control Policy, Marijuana Facts & Figures, http://www.whitehousedrugpolicy.gov/drugfact/marijuana/marijuana_ff.html#extentofuse. In 2002, a poll conducted by Time and CNN found that as many as 47% of Americans had tried the drug. Joel Stein, *The New Politics of Pot: Can It Go Legit?: How the People Who Brought You Medical Marijuana Have Set Their Sights on Lifting the Ban for Everyone*, TIME, Oct. 27, 2002, at 56.

6. *See* Eric Blumenson & Eva Nilsen, *No Rational Basis: The Pragmatic Case for Marijuana Law Reform*, 17 VA. J. SOC. POL'Y & L. 43 (2009). For other criticism of marijuana criminalization, see generally CANADIAN SENATE SPECIAL COMM. ON ILLEGAL DRUGS, CANNABIS:

but, both proponents and opponents of marijuana prohibition generally argue in pragmatic terms: their focus is on what will work best to achieve either "a drug-free America" (in the government's rendition) or a reduction of harm to users (in the reformer's rendition).[7]

Such debates are crucial elements in any examination of marijuana law and policy, but they ignore the deeper level of justification that may be required for restraints on individual liberty, of which marijuana criminalization is arguably an instance. Restraints on religious practice, for example, cannot properly be evaluated by merely calculating the utilitarian costs and benefits; something of greater moral weight is required to override the fundamental right to free exercise of religion. A key threshold issue regarding the prohibition and criminalization of marijuana use is whether such laws implicate fundamental individual rights, and, if so, what grounds are required to justify doing so.

In this Essay, we argue that these laws do unjustifiably infringe upon fundamental moral rights. We present a nonconsequentialist, civil libertarian case against marijuana prohibition and criminalization based on the requirements of liberty and just punishment. Our focus is on an individual's *moral* rights—the kind of human rights that *should* be reflected in law, whether they are or not. We recognize that courts are unlikely to revisit precedents generally upholding marijuana crimes against constitutional challenges, at least in the near term.[8] Our concern here, however, is *what*

OUR POSITION FOR A CANADIAN PUBLIC POLICY (2002), *available at* http://www.parl.gc.ca/common/Committee_SenRep.asp?Language=E&Parl=37&Ses=1&comm_id=85 (concluding that criminalization of cannabis is not supported by scientific data and criminalization policies have been ineffective); ROBERT J. MACCOUN & PETER REUTER, DRUG WAR HERESIES: LEARNING FROM OTHER VICES, TIMES & PLACES (2001) (analyzing the legitimacy and effectiveness of American drug policy); NAT'L COMM'N ON MARIHUANA AND DRUG ABUSE, MARIHUANA: A SIGNAL OF MISUNDERSTANDING (1972), *available at* http://www.druglibrary.org/Schaffer/Library/studies/nc/ncmenu.htm (arguing that discouraging the use of cannabis may be desirable but that criminalization of possession for personal use is a socially self-defeating means to that objective); Duncan Campbell, *Ex-Drugs Policy Director Calls for Legalisation*, GUARDIAN (London), Aug. 13, 2008, at 6, *available at* http://www.guardian.co.uk/politics/2008/aug/13/drugs.legislation.

7. For two prominent exceptions that assess exclusively the moral rights at stake in the drug war generally, see DOUGLAS N. HUSAK, DRUGS AND RIGHTS (1992); Michael Moore, *Liberty and Drugs*, *in* DRUGS AND THE LIMITS OF LIBERALISM 61 (Pablo De Greiff ed., 1999).

8. Many courts have rejected constitutional challenges to marijuana possession laws. *See, e.g.*, John C. Williams, Annotation, *Constitutionality of State Legislation Imposing Criminal Penalties for Personal Possession or Use of Marijuana*, 96 A.L.R.3d. 225 (1979) (providing a long list of state court decisions upholding marijuana-possession convictions). Specifically, courts have rejected claims that marijuana use is protected by the Free Exercise Clause and state analogs. *E.g.*, United States v. Rush, 738 F.2d 497, 511–13 (1st Cir. 1984); United States v. Middleton, 690 F.2d 820, 824–26 (11th Cir. 1982); State v. Hardesty, 204 P.3d 407, 413, 418 (Ariz. Ct. App. 2008), *vacated*, 214 P.3d 1004 (Ariz. 2009); State v. Balzer, 954 P.2d 931, 942 (Wash. Ct. App. 1998). Most courts have also rejected claims that personal marijuana use is a fundamental right protected by the Due Process Clauses of the Fifth and Fourteenth Amendments. *See, e.g.*, United States v. Fogarty, 692 F.2d 542, 547 (8th Cir. 1982) (upholding the classification of marijuana as a Schedule I substance on a rational-basis test, and rejecting strict-scrutiny analysis because "there is no constitutional right to import, sell, or possess marijuana"); Nat'l Org. for Reform of Marijuana Laws v. Bell, 488 F. Supp. 123, 130–34 (D.D.C. 1980) (holding that personal use of marijuana is not a fundamental right). *But see* Ravin

the law should be, not whether existing law satisfies the constitutional minimum, and in making that determination, legislators, no less than judges, should attend to the claims of liberty and human rights that may be at stake.

Prevailing marijuana-possession laws contain two components: the ban on marijuana use ("prohibition"), and the criminal punishment imposed on its users. Prohibition need not include criminal penalties for possession; alcohol prohibition did not,[9] and the decriminalization movement seeks the same for marijuana.

These two measures—prohibiting use and punishing users—each implicate individual liberty, but they do so in different ways that raise very different concerns. Prohibition only targets access to the drug (and the freedoms that are lost by its unavailability), and it raises the question of whether individuals have a moral right to use marijuana. By contrast, criminally punishing a user may confiscate her freedom altogether and always inflicts moral censure. Such punishment is justifiable only if the defendant deserves it. It is not enough that the citizenry will benefit from punishing marijuana users, for example, by deterring the drug trade; the offender must have engaged in some blameworthy, wrongful conduct that can justify moral and legal guilt.[10] As C.S. Lewis wrote, "Desert is the only connecting link between punishment

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v. State, 537 P.2d 494 (Alaska 1975) (holding marijuana use and possession in one's home are protected under a state constitutional privacy right). We can, however, envision a different result in the future if attitudes toward marijuana change, or if the Supreme Court's recent libertarian interpretation of the right to privacy takes root. *See infra* Part II.

9. U.S. CONST. amend. XVIII, *repealed by* U.S. CONST. amend. XXI. The Eighteenth Amendment prohibited the manufacture, sale, and transportation of alcohol, but the possession and consumption of alcohol remained legal during prohibition. Lloyd C. Anderson, *Direct Shipment of Wine, the Commerce Clause and the Twenty-First Amendment: A Call for Legislative Reform*, 37 AKRON L. REV. 1, 12 (2004).

10. Under the retributive principle, punishment may not be inflicted on the innocent or on the guilty beyond their desert, even if doing so would achieve a greater good for others. Desert is usually taken to be a function of the gravity of the crime and the blameworthiness of the criminal. Accordingly, it is not acceptable to punish the mother of a suicide bomber, even if it is the *only* way to deter future bombings. Nor can desert be based on the mere fact that the defendant freely chose to violate a duly passed law. Otherwise, any criminal law regime would be self-justifying, so that criminalizing singing would justify punishing a yodeler. What is missing from both of these examples is blameworthy conduct that underwrites moral guilt.

The retributive principle most centrally embodies respect for the right of autonomous individuals to determine their futures. For extended treatment of the principle as applied to criminal law, see JOEL FEINBERG, DOING AND DESERVING: ESSAYS IN THE THEORY OF RESPONSIBILITY (1970); IMMANUEL KANT, THE METAPHYSICAL ELEMENTS OF JUSTICE (John Ladd trans., Bobbs-Merrill Co. 1965) (1797) (propounding the "formula of humanity"); JOHN KLEINIG, PUNISHMENT AND DESERT (1973); HERBERT L. PACKER, THE LIMITS OF THE CRIMINAL SANCTION (1968); Sanford H. Kadish, *Why Substantive Criminal Law—A Dialogue*, 29 CLEV. ST. L. REV. 1, 10 (1980) ("It is deeply rooted in our moral sense of fitness that punishment entails blame and that, therefore, punishment may not justly be imposed where the person is not blameworthy."); Herbert Morris, *Persons and Punishment*, 52 MONIST 475 (1968).

There are a few theorists, however, who defend punishing the innocent if sufficient benefits would result. *See, e.g.*, Mirko Bagaric & Kumar Amarasekara, *The Errors of Retributivism*, 24 MELB. U. L. REV. 124 (2000); J.J.C. Smart, *An Outline of a System of Utilitarian Ethics*, *in* UTILITARIANISM 3, 69–72 (John Jamieson Carswell ed., 1973). That theory underlies strict-liability laws in some states that arguably punish blameless conduct for utilitarian reasons. But even utilitarians who are willing to trade fairness for utility would still have great difficulty

and justice."[11]

Are these necessary conditions satisfied in the case of American marijuana laws? We first consider whether criminal sanctions can be justified and then turn to prohibition laws that simply put marijuana beyond reach.

I. PUNISHING USERS

A. Grounds Purported to Justify Criminalization

Is marijuana possession—or the marijuana use for which possession is a proxy—the kind of wrongful conduct that is a prerequisite for criminal punishment of its users? At its most expansive, the indictment against marijuana use puts forth four types of putative moral wrongs inflicted by marijuana use to justify criminally punishing its users. Marijuana use is alleged to inflict harm on others; inflict harm on users; make users unproductive members of society; and be immoral in itself.

But two questions must be asked of each claim: Does marijuana use actually perpetrate the wrong alleged? And is this type of wrong sufficient to justify criminal penalties? We consider each claim in turn.

1. Harm to Others

Undeniably, acts that seriously and wrongfully injure others, or seriously risk injury to others, can be criminalized. Such an act, coupled with mens rea, is the paradigmatic case warranting criminal penalties. Thus, the question here is not one of principle but one of fact: does marijuana use wrongfully injure others?

No one can reasonably claim that the private use of marijuana at home inflicts direct harm on others the way a battery does. The claim must be that marijuana use has further effects that do inflict harm. One way this might be so is if marijuana regularly lead users to engage in subsequent criminal activity. If marijuana stimulated aggression or was addictive and expensive enough to lead users to engage in crime to finance their habits, the state might treat marijuana possession as an inchoate crime akin to reckless driving, possession of burglarious implements, or other acts that threaten imminent and

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defending marijuana criminalization on that basis. Because each person's happiness (or alternative utility measure) counts equally, the harms inflicted on the defendant by his loss of liberty must count in the balance along with the costs involved in fostering criminal enterprises dependent upon a black market; devoting large amounts of police, court, and prison resources to marijuana law enforcement; and/or the harms that result from diverting resources away from more destructive crimes. *See* JEREMY BENTHAM, THE THEORY OF LEGISLATION (C.K. Ogden ed., Richard Hildreth trans., Morrison & Gibb, Ltd. 1931) (1802); 1 JOEL FEINBERG, THE MORAL LIMITS OF THE CRIMINAL LAW: HARM TO OTHERS 10 (1984) [hereinafter 1 FEINBERG, HARM TO OTHERS] (listing practical costs resulting from any penal statute and concluding that "merely to show that there is a morally relevant reason for a particular penal statute is not yet to show that it is sufficient or conclusive reason in the case at hand").

11. C.S. Lewis, *The Humanitarian Theory of Punishment*, *in* PHILOSOPHY AND CONTEMPORARY ISSUES 71, 72 (John R. Burr & Milton Goldinger eds., 1972). Lewis adds that when the focus of criminal punishment becomes deterrence or rehabilitation rather than desert, "instead of a person, a subject of rights, we now have a mere object, a patient, a 'case.'" *Id.*

serious harm. But no one can reasonably argue that marijuana generally causes its users to engage in crime, and ample research shows that it does not.[12]

The alternative that drug-war proponents invoke is downstream, noncriminal harm allegedly caused by marijuana use. James Q. Wilson justifies criminalization of some drugs because they result in "more accidents, higher insurance premiums, bigger welfare costs, and less effective classrooms."[13] We accept that marijuana use cannot be described as wholly self-regarding because, like almost everything else we do, it has an impact on others. But such downstream effects, even bad ones, cannot alone justify criminal punishment, or we would be punishing people for eating fatty foods and drinking alcohol.

There are at least two reasons why such indirect harms are neither wrongful nor blameworthy in the way just punishment requires. First, the chain of causation from an individual's marijuana use to Wilson's litany of harms is so distended, and so dependent on volitional acts by others, that no concept of proximate causation used in criminal law could connect the two. And second, causing damage to another—even with intent to do so—is not enough to justify the criminal sanction; the harm must

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12. *See, e.g.*, BRITISH ADVISORY COUNCIL ON THE MISUSE OF DRUGS, THE CLASSIFICATION OF CANNABIS UNDER THE MISUSE OF DRUGS ACT 1971 (2002), *available at* http://drugs.homeoffice.gov.uk/publication-search/acmd/cannabis-class-misuse-drugs-ct?view=Binary; NAT'L COMM'N ON MARIHUANA AND DRUG ABUSE, *supra* note 6, at 68–76; Peter N.S. Hoaken & Sherry H. Stewart, *Drugs of Abuse and the Elicitation of Human Aggressive Behavior*, 28 ADDICTIVE BEHAVS. 1533 (2003).

Faced with a similarly tenuous assertion, the Supreme Court stated, "[g]iven the present state of knowledge, the State may no more prohibit mere possession of obscene matter on the ground that it may lead to antisocial conduct than it may prohibit possession of chemistry books on the ground that they may lead to the manufacture of homemade spirits." Stanley v. Georgia, 394 U.S. 557, 567 (1969). The inchoate-crime argument comes closer to the mark when applied to heroin or crack cocaine, but even use of these drugs would be difficult to fit into existing doctrine. Cases holding that commission of an inchoate act is sufficient to constitute a criminal attempt do so on the basis that it is a "substantial step" toward the commission of a crime (or in some states, has sufficient proximity to it) and was done with specific intent to commit it. *See* WAYNE R. LAFAVE, CRIMINAL LAW § 6.2(c), (d) (4th ed. 2003). But even in the case of heroin or cocaine, use will not constitute a substantial step or proximate act most of the time, so it would be hard to justify punishing all who use the drug rather than only those who commit subsequent criminal acts. In an earlier era, John Stuart Mill took this position regarding laws against drunkenness: if an intoxicated person assaults another, punish him for assault, not for intoxication, he argued. JOHN STUART MILL, ON LIBERTY 159 (David Bromwich & George Kateb eds., Yale Univ. Press 2003) (1859).

13. James Q. Wilson, *Drugs and Crime*, *in* DRUGS AND CRIME 521, 524 (Michael Tonry & James Q. Wilson eds., 1990). The ONDCP, under drug czar William Bennett, shared Wilson's view, stating that "[d]rug users make inattentive parents, bad neighbors, poor students, and unreliable employees—quite apart from their common involvement in criminal activity." OFFICE OF NAT'L DRUG CONTROL POLICY, NATIONAL DRUG CONTROL STRATEGY 7 (1989). Nancy Reagan conveyed the same idea in more hyperbolic form when she described all casual drug users as "accomplice[s] to murder." Stephen Chapman, *Nancy Reagan and the Real Villains in the Drug War*, *in* THE CRISIS IN DRUG PROHIBITION 119, 119 (David Boaz ed., 1991). Of course, the prohibition law that leaves drug production to organized crime would make the government an "accomplice to murder" by the same theory.

result from a wrongful act that invades some moral right of another.[14] John F. Kennedy may have destroyed the haberdashery industry by refusing to wear a hat throughout his presidency, but he did not do so by invading any right. Similarly, the student who Wilson thinks will perform poorly in school invades no one's rights by doing so.

If marijuana criminalization cannot be justified on grounds of harm to others, the case for criminalization is severely weakened. The consensus that supports criminal penalties for acts that inflict harm on others breaks down in the absence of such victimization. A great number of Americans probably would subscribe to Mill's "harm principle," which holds that "the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is . . . to prevent harm to others . . . . Over himself, over his own body and mind, the individual is sovereign."[15] Nevertheless, the ONDCP and other criminalization proponents believe criminal punishment is warranted on one or more other grounds that we explore next.

2. Sins of Omission

Someone who fails a friend in need or contributes nothing to the community might be said to damage others by her absence. On this view, if marijuana users are constantly in a haze, or fall prey to the so-called "amotivational syndrome," they may damage society by inaction—by failing to contribute to it.

Some people may describe such contributions as morally virtuous but not morally required.[16] Others might deem them moral duties and the failure to perform them morally wrong.[17] But few would argue that failing to contribute to society is a sufficient ground for criminal punishment. As every law student is taught, criminalizing omissions is alien to the American criminal law tradition absent a legal duty between the actor and the person in need. A parent may be convicted of criminal homicide for failing to rescue his child if he can, but even Heimlich would bear no criminal liability for failing to save a stranger choking at the next table.[18] And there are good reasons for

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14. *See* 1 FEINBERG, HARM TO OTHERS, *supra* note 10; MILL, *supra* note 12. Mill argued, on social contract grounds, that we each must "observe a certain line of conduct towards the rest." MILL, *supra* note 12, at 139. On one side of the line, subject to state compulsion, are (1) the burdens required for mutual protection and (2) not injuring certain interests of others, "which, either by express legal provision or tacit understanding, ought to be considered as rights." *Id.* On the other side of the line, and exempt from state compulsion, are "[t]he acts of an individual [that] may be hurtful to others, or wanting in due consideration for their welfare, without going the length of violating any of their constituted rights." *Id.*

15. MILL, *supra* note 12, at 80. For modern elaborations of the harm principle, see 1 FEINBERG, HARM TO OTHERS, *supra* note 10; H.L.A. HART, LAW, LIBERTY, AND MORALITY (1963); Dennis J. Baker, *Constitutionalizing the Harm Principle*, 27 CRIM. JUST. ETHICS 3 (2008) (arguing that wrongful harm to others provides the only moral justification for sending people to jail).

16. *See* JAN NARVESON, THE LIBERTARIAN IDEA 39–40 (Broadview Press 2001) (1988).

17. *See, e.g.*, Peter Singer, *Famine, Affluence, and Morality*, 1 PHIL. & PUB. AFFAIRS 229 (1972) (arguing that the failure of people in affluent nations to help others in need is morally unjustifiable).

18. Criminal law casebooks continue to use the famous case of *Jones v. United States*, 308 F.2d 307 (D.C. Cir. 1962) (reversing involuntary manslaughter conviction based on failure to

generally limiting an individual's responsibility to acts of commission, and excluding sins of omission, having to do with respect for a rational, self-directing person's right to control the essential shape of her own life.[19]

If one's failure to rescue a stranger in dire straits is properly beyond the reach of criminal sanctions, one's failure to contribute to society must be as well, a fortiorari; and if these failures are not crimes, how can it be a crime to use a drug, which, by hypothesis, merely makes such a failure somewhat more likely?

The other, alternative ground for rejecting this claim is that its application to marijuana use is not empirically well supported. Recent research casts doubt on the amotivational-syndrome claim,[20] and numerous other activities, including video gaming and television watching, may well have a greater immobilizing influence than marijuana use. There are too many counterexamples of cultural icons who used marijuana regularly during highly fertile periods—for example, Robert Altman, Charles Baudelaire, the Beatles, Francis Crick, Ken Kesey, Richard Feynman, Steven Jay Gould, Allen Ginsberg, Aldous Huxley, Jack Kerouac, Robert Parish, Diego Rivera, Carl Sagan, and Rick Steves[21]—and too many political candidates for high office who have admitted using marijuana[22] for anyone to be confident that the typical marijuana user is destined to lead an unproductive existence.

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feed baby because no instruction requiring finding of legal duty), and/or *Pace v. State*, 224 N.E.2d 312 (Ind. 1967) (reversing a robbery conviction because defendant was merely present in the car in which a robbery took place), to illustrate this principle. *See, e.g.*, JOSHUA DRESSLER, CASES AND MATIERIALS ON CRIMINAL LAW 137, 883 (4th ed. 2007).

19. If duties extended beyond that point, there would be no end to one's obligations regarding strangers and no space for the special responsibilities one should feel toward family, friends, community, and one's own life. The deontological distinctions that limit the scope of our obligations—between acts and omissions and between intended and unintended consequences—place us in control of our own lives, and, most of the time, correspond to our everyday intuitions about moral requirements.

20. *See* Peter L. Nelson, *Cannabis Amotivational Syndrome and Personality Trait Absorption: A Review and Reconceptualization*, 14 IMAGINATION COGNITION & PERSONALITY 43 (1994).

21. *See, e.g.*, MARTIN BOOTH, CANNABIS: A HISTORY 267–68 (2003) (Huxley); LESTER GRINSPOON & JAMES B. BAKALAR, MARIHUANA, THE FORBIDDEN MEDICINE 141 (1993) (Gould); MARTIN H. LEVINSON, THE DRUG PROBLEM: A NEW VIEW USING THE GENERAL SEMANTICS APPROACH 85 (2002) (Baudelaire); PATRICK MCGILLIGAN, ROBERT ALTMAN: JUMPING OFF THE CLIFF 245–47 (1989) (Altman); BARRY MILES, JACK KEROUAC: KING OF THE BEATS 141 (1998) (Kerouac); BARRY MILES, PAUL MCCARTNEY: MANY YEARS FROM NOW 184–93 (1997) (Beatles); PAUL PERRY, ON THE BUS: THE COMPLETE GUIDE TO THE LEGENDARY TRIP OF KEN KESEY AND THE MERRY PRANKSTERS AND THE BIRTH OF THE COUNTERCULTURE 113 (1990) (Kesey); MATT RIDLEY, FRANCIS CRICK: DISCOVERER OF THE GENETIC CODE 156 (2006) (Crick); ANDREW WEIL & WINIFRED ROSEN, FROM CHOCOLATE TO MORPHINE: EVERYTHING YOU NEED TO KNOW ABOUT MIND-ALTERING DRUGS 19 (1998) (Rivera); Nicole Brodeur, *Rick Steves Is Just a NORML Guy*, SEATTLE TIMES, Mar. 14, 2006, at B1 (Steves); Allen Ginsberg, *The Great Marijuana Hoax: First Manifesto to End the Bringdown*, ATLANTIC MONTHLY, Nov. 1966, at 104, 107–11 (Ginsberg); *Parish Admits Validity of Marijuana Charge*, N.Y. TIMES, Feb. 26, 1993, at B8 (Parish); Lester Grinspoon, *To Smoke or Not to Smoke: A Cannabis Odyssey*, MARIJUANA USES, Apr. 20, 2009, http://marijuana-uses.com/essays/001.html [hereinafter Grinspoon, *To Smoke*] (Feynman); Carl Sagan, *Mr. X*, MARIJUANA USES, http://www.marijuana-uses.com/essays/002.html (Sagan).

22. Katherine Q. Seelye, *Obama Offers More Variations from the Norm*, N.Y. TIMES, Oct.

3. Morality Alone

How one lives one's life raises fundamental questions of value; what constitutes a life worth living has been a central ethical question for millennia. But answering that question for oneself is one thing; jailing those whose answers differ from the government's, as Bush administration drug czar John Walters suggested, is a far different one. Walters argued that marijuana "destroys the soul" and that the extreme "moral poverty" of its users requires "stiff and certain punishment."[23]

Can incarceration of marijuana users be justified on this basis? Or on the perceived immorality of living a self-indulgent life, or substituting an artificial paradise for one's natural, God-given lot? The criminal law has sometimes been used to enforce morality for morality's sake, as with the criminalization of homosexual acts, but rarely anymore. There are two problems. First, too many people now doubt that conduct can be immoral if it neither risks nor produces harmful effects; the views of earlier natural law theorists that entirely private conduct such as masturbation is immoral mystifies them. Second, multicultural societies now see too clearly the illegitimacy of enforcing the moral code of some upon others who disagree with it in the absence of harm to others.[24] They know that one era's condemnation of certain victimless behavior as

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24, 2006, at A21 (reporting on Barack Obama's marijuana-use admission and contrasting it with former President Bill Clinton's admission); *see also* JOSEPH R. BLANEY & WILLIAM L. BENOIT, THE CLINTON SCANDALS AND THE POLITICS OF IMAGE RESTORATION 59–62 (2001) (discussing how political figures such as Bill Clinton and Clarence Thomas restored their images after admissions of marijuana use).

23. RUDOLPH J. GERBER, LEGALIZING MARIJUANA: DRUG POLICY REFORM AND PROHIBITION POLITICS 57 (2004) (quoting WILLIAM J. BENNETT, JOHN J. DIIULIO & JOHN P. WALTERS, BODY COUNT: MORAL POVERTY AND HOW TO WIN AMERICA'S WAR AGAINST CRIME AND DRUGS (1996)).

24. Joel Feinberg takes this position in his seminal work. 4 JOEL FEINBERG, THE MORAL LIMITS OF THE CRIMINAL LAW: HARMLESS WRONGDOING (1988). He subscribes to a modified version of Mill's harm principle, in which "harm" refers to "those states of set-back interest that are the consequence of wrongful acts or omissions by others." 1 FEINBERG, HARM TO OTHERS, *supra* note 10, at 215.

Two who famously disagree, and argue that private consensual conduct not affecting others that is deemed immoral may be criminalized, are Justice Antonin Scalia and Lord Devlin. Justice Scalia dissented in the *Lawrence v. Texas* antisodomy case, arguing that the majority's ruling "effectively decrees the end of all morals legislation," explicitly including laws against masturbation. Lawrence v. Texas, 539 U.S. 558, 590, 599 (2003) (Scalia, J., dissenting). For Scalia, immorality is a sufficient and constitutional ground for criminalization.

Lord Devlin's argument is quite different. In response to Britain's *Wolfenden Report*, which recommended eliminating criminalization of homosexuality, Lord Devlin wrote a celebrated essay justifying the continued criminalization of conduct deemed immoral, not for morality's sake, but because if the criminal system looks the other way in the face of popular outrage, a social breakdown will ensue. PATRICK DEVLIN, THE ENFORCEMENT OF MORALS 1–26 (1965). As such, his argument was a peculiar species of the harm-to-others argument, and perhaps was a precursor to theories propounded in recent years by "broken windows" social scientists and others who view law as a way for felicitous norms that control populations to be created or maintained. *See also* James Q. Wilson, *Against the Legalization of Drugs*, COMMENTARY, Feb. 1990, at 21, 26. Wilson argues against decriminalization of *cocaine* on the grounds that "dependency on certain mind-altering drugs is a moral issue and that their illegality rests in part on their immorality." We treat cocaine differently than nicotine, he writes, because "nicotine

immoral often looks like sheer prejudice in a later one. Perhaps that is why the Supreme Court overruled its decision upholding the criminalization of homosexual sex a mere sixteen years after handing it down. Finding homosexual sex constitutionally protected in *Lawrence v. Texas*, the Supreme Court wrote, "the fact that a State's governing majority has traditionally viewed a particular practice as immoral is not a sufficient reason for upholding a law prohibiting the practice."[25]

4. Harming One's Own Welfare

Is the case for criminalization any stronger if the supposed immorality has the effect of harming one's own welfare? (Whether marijuana in fact does harm its users is disputed.)[26] Harms to oneself may warrant state intervention and sometimes even civil laws prohibiting use—we take up that question momentarily—but even in those cases,

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does not destroy the user's essential humanity. Tobacco shortens one's life; cocaine debases it. Nicotine alters one's habits, cocaine alters one's soul . . . ." *Id.* But he notes that marijuana presents a different problem from cocaine or heroin and takes no position on its decriminalization. *Id.* at 23.

25. 539 U.S. at 577 (quoting Bowers v. Hardwick, 478 U.S. 186, 216 (1986) (Stevens, J., dissenting)). Invalidating a law criminalizing homosexual sodomy, the Court observed that "'[o]ur obligation is to define the liberty of all, not to mandate our own moral code.'" *Id.* at 571 (quoting Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 850 (1992)). In his dissent, Justice Scalia proclaimed that *Lawrence* "effectively decrees the end of all morals legislation." *Id.* at 599.

26. Most research studies have concluded that the casual use of marijuana is not harmful to most users, or at least not as harmful as cigarettes, alcohol, and most other recreational drugs. *See, e.g.*, ADVISORY COMM. ON DRUG DEPENDENCE, CANNABIS (1968), *available at* http://www.ukcia.org/research/wootton/index.htm; BRITISH ADVISORY COUNCIL ON THE MISUSE OF DRUGS, *supra* note 12, at 11 (finding that even heavy use of marijuana "is not associated with major health problems for the individual or society"); COMM. ON SUBSTANCE ABUSE AND HABITUAL BEHAVIOR, NAT'L RESEARCH COUNCIL, AN ANALYSIS OF MARIJUANA POLICY (1982), *available at* http://www.nap.edu/openbook.php?record_id=662; INT'L INFO. & COMMC'N DIV., NETH. MINISTRY OF FOREIGN AFFAIRS, Q & A: DRUGS: A GUIDE TO DUTCH POLICY (2002); DAVID MCDONALD, RHONDA MOORE, JENIFER NORBERRY, GRANT WARDFLAW & NICILA BALLENDEN, NAT'L TASK FORCE ON CANNABIS, LEGISLATIVE OPTIONS FOR CANNABIS IN AUSTRALIA (1994); NAT'L COMM'N ON MARIHUANA AND DRUG ABUSE, *supra* note 6 at 130–31 (recommending decriminalization, finding that "experimental" or "intermittent use" resulted in little danger of physical and psychological harm); Editorial, *Dangerous Habits*, 352 THE LANCET 1565 (1998) (summarizing study finding cannabis less of a threat than alcohol or tobacco and also that moderate indulgence in cannabis has little ill effect on health); *cf.* ROBIN ROOM, BENEDIKT FISCHER, WAYNE HALL, SIMON LENTON & PETER REUTER, THE BECKLEY FOUND., CANNABIS POLICY: MOVING BEYOND THE STALEMATE (2008), http://www.beckleyfoundation.org/pdf/Conclusions_and_Recommendations.pdf (concluding that the "probability and scale of harm among heavy cannabis users is modest compared with that caused by many other psychoactive substances, both legal and illegal, in common use, namely, alcohol, tobacco, amphetamines, cocaine and heroin"). Other studies have found marijuana detrimental to physical and mental health. *See, e.g.*, George C. Patton, Carolyn Coffey, John B. Carlin, Louisa Degenhardt, Micheal Lynskey & Wayne Hall, *Cannabis Use and Mental Health in Young People: Cohort Study*, 325 BRIT. MED. J. 1195, 1195–98 (2002) (finding a possible link between marijuana use and increased risk for depression and anxiety); *see also* NAT'L INST. ON DRUG ABUSE, INFOFACTS: MARIJUANA (2009), http://www.drugabuse.gov/PDF/InfoFacts/Marijuana09.pdf (citing studies).

harm to oneself cannot be seen as the type of moral wrong that should be criminally punished. An act harmful to self-interest may reflect a weak will rather than a bad one, or poor judgment rather than criminal intent. It is difficult to fit self-inflicted harms into the idea of desert, which ethicist James Rachels defines as the principle that "[p]eople deserve to be treated in the same way that they have (voluntarily) treated others."[27]

The other problem concerns the equal respect the government owes to all its citizens. Few people believe that marijuana is more harmful to users than presently legal (but regulated) substances such as nicotine or alcohol.[28] If marijuana is not more harmful, then throwing only some people into the maw of the criminal justice system while leaving others free to indulge their no-more-important pleasures cannot be justified on grounds of danger to the user alone.

None of the four putative grounds for punishing marijuana users successfully establishes that they committed the kind of wrongful, blameworthy conduct that deserves criminal punishment. To quote C.S. Lewis once more: "take away desert and the whole morality of the punishment disappears."[29]

B. Disproportionate Punishments

Defenders of the present marijuana laws must argue not only that criminalization is justifiable but also that the punishment fits the crime. That too, is a difficult case to make. It is true that only a small minority of first offenders receive sentences of incarceration.[30] But those who are not imprisoned are still likely to experience disproportionate suffering if arrested for marijuana use.[31] These other unlucky users, annually numbering between 700,000 and 800,000,[32] will still lose their liberty through arrest and/or pretrial detention for some period of time and have their lives centered around lawyers, trial courts, legal fees, and probation officers for the following year or more. Those who are convicted will be handicapped by legally imposed civil disabilities, including ineligibility for government grants and contracts,[33] public

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27. James Rachels, *Punishment and Desert*, *in* ETHICS IN PRACTICE: AN ANTHOLOGY 470, 473 (Hugh LaFollette ed., 1997).

28. *See, e.g.*, *Dangerous Habits*, *supra* note 26, at 1565.

29. Lewis, *supra* note 11, at 74.

30. *See* MACCOUN & REUTER, *supra* note 6, at 344 (reporting that annually between 1990 and 1995, about 4000 people received federal prison sentences for marijuana offenses and approximately 11,000 people received state sentences; the proportion of offenders convicted of offenses involving sale is not reported).

31. We describe this suffering, and the inhumane outlook that has produced it, in more detail in our companion article, *No Rational Basis*, from which these two paragraphs are adapted. Blumenson & Nilsen, *supra* note 6, at 59–62.

32. In 2006, 43.9% of the 1,889,810 total arrests for drug-abuse violations were for marijuana—a total of 829,627. *See* CRIME IN THE UNITED STATES 2006, *supra* note 4.

33. Grants, licenses, contracts, and some other federal benefits are restricted as to drug offenders. 21 U.S.C. § 862 (2006). At the court's discretion, first offenders convicted of a federal or state drug *possession* offense may be rendered ineligible for all federal benefits for up to one year, and second offenders may remain ineligible for up to five years. *Id.* § 862(b). The sanctions may be waived if offenders declare themselves to be addicts and undergo treatment or are declared rehabilitated. *Id.* § 862(b)(2).

housing,[34] and, depending on the state, driver's licenses,[35] occupational licenses,[36] and voting.[37] Offenders may even forfeit their land, house, or bank account under laws that transfer most of the drug "instrumentalities" or "proceeds" to the budget of the law-enforcement agency that seized them.[38] Another law strips college students of their federal student loans for a single marijuana-possession offense.[39] A high school student

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34. The Supreme Court has even upheld the eviction of a drug user's *parents* on the basis of their child's drug use, even if the drug use took place outside of the home and the parents knew nothing about it. Dep't of Hous. & Urban Dev. v. Rucker, 535 U.S. 125 (2002) (interpreting 42 U.S.C. § 1437d(*l*)(6) (2000)); *see also* 42 U.S.C. § 13661(a) (2006) (providing that a person previously evicted from federally assisted housing by reason of drug-related criminal activity is ineligible for admission to any federally assisted housing for three years).

35. Offenders may forfeit their licenses even when the marijuana arrest had nothing to do with driving or being in a car. *E.g.*, FLA. STAT. ANN. § 322.055 (West 2005); GA. CODE ANN. § 40-5-75 (2007); VA. CODE ANN. § 18.2-259.1 (2004); *see also* 23 U.S.C. § 159 (2006) (denying portion of highway funds to states that do not suspend the driver's license of drug felons).

36. 18 U.S.C. §§ 3563(b)(5), 3583(d) (2006); 21 U.S.C. § 862(a)–(d) (2006); U.S. SENTENCING GUIDELINES MANUAL §§ 5F1.5(a), 5F1.6 (2008) (authorizing sentencing court to place occupational restrictions as conditions of probation and setting limitations on federal benefits, including professional licenses, commercial licenses, grants, contracts, and loans); *see also* 29 U.S.C. § 1111 (2006) (setting forth rules of ineligibility for listed positions involving employee-benefit plans); Kathleen M. Olivares, Velmer S. Burton & Francis T. Cullen, *The Collateral Consequences of a Felony Conviction: A National Study of State Legal Codes 10 Years Later*, FED. PROBATION, Sept. 1996, at 10 (noting six states permanently restrict felons from public office, ten states leave the discretion to hire with the employer, twelve states apply a test to determine if the conviction bears on the offender's ability to handle the job, and only seventeen states allow public employment after the completion of the prison sentence).

37. As of 2003, thirty-six states and the District of Columbia permitted all felons to vote after prison release or sentence completion; another seven states permitted some felons to vote after sentence completion; in the other seven states, the right to vote can be restored only after executive or legislative clemency. ABA STANDARDS FOR CRIMINAL JUSTICE: COLLATERAL SANCTIONS AND DISCRETIONARY DISQUALIFICATION OF CONVICTED PERSONS STANDARD 37 n.47 (3d ed. 2004).

38. 21 U.S.C. § 881(a) (2006). Seizures accomplished exclusively by state or local agencies may be "adopted" by the federal government whenever the conduct giving rise to the seizure is in violation of federal law. OFFICE OF THE ATT'Y GEN., U.S. DEP'T OF JUSTICE, THE ATTORNEY GENERAL'S GUIDELINES ON SEIZED AND FORFEITED PROPERTY (1990), *available at* http://www.usdoj.gov/ag/readingroom/seized.htm#federal. When the federal government has "adopted" a state forfeiture case, 80% of judicially or administratively forfeited assets are allocated to the state or local agency for law-enforcement purposes, and the remaining 20% goes to the federal government. ASSET FORFEITURE AND MONEY LAUNDERING SECTION, U.S. DEP'T OF JUSTICE, GUIDE TO EQUITABLE SHARING FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES 12 (2009), *available at* http://www.usdoj.gov/criminal/afmls/pubs/ pdf/guidetoeq09.pdf. In joint seizures, the share is allocated on a case-by-case determination based on the amount of work each agency performed. § 881(e)(3); *see also* Eric Blumenson & Eva Nilsen, *Policing for Profit: The Drug War's Hidden Economic Agenda*, 65 U. CHI. L. REV. 35, 44–55 (1998).

39. 20 U.S.C. § 1091(r) (2006). This 1998 law suspends or forever terminates a drug offender's eligibility for federal college loans and grants. Initially, the law applied to anyone with a conviction at any time, but a recent amendment excludes convictions prior to college. *See* Deficit Reduction Act of 2005, Pub. L. No. 109-171, § 8021(c), 120 Stat. 4, 178 (2006). The periods of ineligibility vary depending upon the number of convictions and whether they

risks mandatory expulsion under zero-tolerance drug policies in an estimated eighty-eight percent of public schools;[40] an immigrant may face deportation;[41] a parent risks losing child custody to protection agencies or the other parent; the unemployed confront job application forms eliciting their criminal records; and all offenders remain at serious risk of incarceration for a probation violation or a second arrest. And apart from such consequences there is the criminal conviction, a public mark of societal condemnation that in itself is no small thing.[42]

One must juxtapose lives turned upside down in these ways with the nature of the offense, no different than the activities of millions of other Americans who use other intoxicating substances for similar reasons. Such grossly disproportional punishments can hardly be said to fit the offender's crime.

II. PREVENTING USE

As we noted, even in the absence of criminal penalties, outlawing the use of marijuana raises separate liberty concerns. How that putative liberty should be described is a significant and consequential question; recall that the Supreme Court found no "right to engage in homosexual sodomy" in *Bowers v. Hardwick*[43] but later overruled that case because the Constitution guarantees a "right to autonomy in intimate relations."[44] Similarly, some people may dismiss the issue here as merely a

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resulted from possession or distribution of drugs—from a year of ineligibility for a single possession conviction to permanent ineligibility for a second distribution or third possession conviction. § 1091(r)(1). For a discussion of the constitutional and legal infirmities of this law, see Eric Blumenson & Eva Nilsen, *How to Construct an Underclass, or How the War on Drugs Became a War on Education*, 6 J. GENDER RACE & JUST. 61, 68–71 (2002).

Tom Angell, a spokesman for Students for Sensible Drug Policy, reports that "more than 200,000 college students have lost financial aid in the past 10 years because of drug convictions." Matthew Huisman & Jason Millman, *As Frank Prepares Marijuana Bill, States Make Own Efforts*, S. COAST TODAY.COM, Apr. 6, 2008, http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20080406/NEWS/804060373.

40. PHILLIP KAUFMAN, XIANGLLEI CHEN, SUSAN P. CHOY, SALLY A. RUDDY, AMANDA K. MILLER, KATHRYN A. CHANDLER, CHRISTOPHER D. CHAPMAN, MICHAEL R. RAND & PATSY KLAUS, U.S. DEP'T OF EDUC. & U.S. DEP'T OF JUST., INDICATORS OF SCHOOL CRIME AND SAFETY, 1999, at 119 tbl.A1 (1999), *available at* http://nces.ed.gov/pubs99/1999057.pdf; *see also* Anne Davis, *Zero Tolerance Is Too Severe, Father Says Policy Is Subject of Meeting*, MILWAUKEE J. SENTINEL, Nov. 17, 1999, at 1 (reporting on a two-year expulsion applied to a first offender caught with marijuana in a Milwaukee school). *See generally* Eric Blumenson & Eva Nilsen, *One Strike and You're Out? Constitutional Constraints on Zero Tolerance in Public Education*, 81 WASH. U. L. REV. 65 (2003) (providing an overview of zero-tolerance expulsions).

41. 8 U.S.C. § 1227(a)(2)(B)(i) (2006). Because this provision also authorizes deportation of anyone who is a "drug abuser or addict" even absent a conviction, *id.* § 1227(a)(2)(B)(ii), state decriminalization does not necessarily provide protection from deportation. Only deletion of marijuana from the federal Controlled Substances Act, 21 U.S.C. § 812 (2006), would do so. 42 C.F.R. § 34.2(g), (h) (2008).

42. *Cf.* Lawrence v. Texas, 539 U.S. 558, 575 (2003) ("The stigma this criminal statute imposes . . . is not trivial. . . . [I]t remains a criminal offense with all that imports for the dignity of the persons charged.").

43. 478 U.S. 186, 191 (1986), *overruled by Lawrence*, 539 U.S. 558.

44. *Lawrence*, 539 U.S. at 578. The Court noted in *Lawrence* that it had previously misapprehended the issue as "simply the right to engage in certain sexual conduct," which

question of whether there exists a fundamental "right to smoke marijuana," while others might describe the right at issue, with Justice Brandeis, as the right to be let alone absent good reason,[45] or with Kant, as the right to self-rule.[46] Other moral rights are arguably at stake, including the rights to control one's body, to freedom of thought, to privacy in one's home, and to the pursuit of happiness. If any such individual rights are involved, preventing marijuana use needs more justification than a collective cost-benefit analysis alone.

The idea common to all these descriptions is that each person has certain fundamental interests that must be under the individual's exclusive control and immune from state interference. The Supreme Court has expressed this idea using the rubric of a constitutional right to privacy[47] (and the Alaska Supreme Court has found private marijuana use in one's home protected under its state version of the right).[48] In *Lawrence v. Texas*, the case that overturned *Bowers*, the Court described that right in the following terms:

> Liberty protects the person from unwarranted government intrusions into a dwelling or other private places. . . . And there are other spheres of our lives and existence, outside the home, where the State should not be a dominant presence. . . . Liberty presumes an autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct.
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demeaned "the claim the individual put forward, just as it would demean a married couple were it to be said marriage is simply about the right to have sexual intercourse." *Id.* at 567.

45. Olmstead v. United States, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting) ("[The Founders] sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.").

46. In Kant's philosophy, we are rational and moral agents who can each discern right and wrong for ourselves; if the state does that for us, it denies us the respect due our autonomy, and it also destroys our capacity to act morally, which can only come from the autonomous exercise of one's own reason. *See* IMMANUEL KANT, GROUNDWORK FOR THE METAPHYSICS OF MORALS, 199–201 (Arnulf Zweig trans. & ed., Thomas E. Hill, Jr. ed., Oxford Univ. Press 2002) (1785).

47. The constitutional right to privacy stems from the Supreme Court's recognition that the Due Process Clause encompasses not only procedural due process but substantive due process as well; a state infringement on fundamental rights is unconstitutional, however fair the procedure. Collins v. Harker Heights, 503 U.S. 115, 125 (1992). The Court has rejected the idea that the Due Process Clause protects any generalized autonomy right, however. Washington v. Glucksberg, 521 U.S. 702, 727 (1997). Instead, the Court will recognize as constitutionally protected only those rights that are (1) "'deeply rooted in this Nation's history and tradition,' and 'implicit in the concept of ordered liberty,' such that 'neither liberty nor justice would exist if they were sacrificed,'" *id.* at 721 (quoting Moore v. City of E. Cleveland, 431 U.S. 494, 503 (1977) (plurality opinion); Palko v. Connecticut, 302 U.S. 319, 325, 326 (1937)), and (2) "carefully" defined and described, *id.* at 722. Given the Court's distinction between liberty, broadly understood, and the individual liberties recognized as constitutional guarantees—assuming *Lawrence* does not portend a doctrinal shift—the moral rights argument we put forward here should not be read as a prediction that the Supreme Court would find such a moral right contained in the Constitution as a legal guarantee.

48. Ravin v. State, 537 P.2d 494 (Alaska 1975).

> . . . "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State. . . .The petitioners are entitled to respect for their private lives."[49]

Obviously, one's right to privacy, or what we might more affirmatively describe as a right to self-ownership or self-rule, is limited. According to Mill, the right is limited only by the harm principle: we must be free to choose for ourselves up to the point we would harm or risk harm to others.[50] Justice Kennedy's opinion in *Lawrence* can be read as adding a second limitation on the right of self-rule, one that would permit paternalism in some areas that are removed from the reasons for respecting individual autonomy. In Kennedy's opinion for the Court, the right to self-rule apparently protects only the realm most closely related to the essential attributes of personhood.[51] Requiring drivers to use seatbelts may not interfere with these attributes, but denying individuals freedom of thought and expression, or the freedom to choose their intimate relations, clearly does.

In assessing where marijuana use falls on this spectrum, one must attend to the reasons individuals offer for using it. These reasons are almost completely absent from drug policy analyses.[52] Here is naturalist Michael Pollan's description:

> All those who write about cannabis's effect on consciousness speak of the changes in perception they experience . . . . [T]hese people invariably report seeing, and hearing, and tasting things with a new keenness, as if with fresh eyes and ears and taste buds.
>
> . . . .
>
> It is by temporarily mislaying much of what we already know (or think we know) that cannabis restores a kind of innocence to our perceptions of the world
> . . . .
>
> There is another word for this extremist noticing—this sense of first sight unencumbered by knowingness, by the already-been-theres and seen-thats of the adult mind—and that word, of course, is *wonder*.[53]

Pollan finds using marijuana edifying because it opens the door to thoughts, insights, and experiences he finds valuable. Rick Steves, the Public Broadcasting Service travel guru, says that his outlook and writing have been sharpened by using

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49. *Lawrence*, 539 U.S. at 562, 574 (quoting Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 851 (1992)).

50. MILL, *supra* note 12, at 9.

51. *Lawrence*, 539 U.S. at 574.

52. *See* MACCOUN & REUTER, *supra* note 6, at 70 (citing R.S. Gable, *Opportunity Costs of Drug Prohibition*, 92 ADDICTION 1179 (1997)).

53. MICHAEL POLLAN, THE BOTANY OF DESIRE: A PLANT'S-EYE VIEW OF THE WORLD 166–68 (2001) (emphasis in original).

marijuana.[54] Some other users say that temporarily changing the way they perceive and experience the world increases their self-awareness, or frees up some creative potential within them, or opens them up to more spiritual feelings.[55] In the past year, the Italian Court of Cassation reversed a marijuana conviction on such grounds, accepting the Rastafarian defendant's contention that marijuana helped him achieve a "psychophysical state connected to contemplative prayer."[56] On the other hand, many former users and other critics would find these self-assessments to be delusional. Law professor Michael Moore considers most such claims to be "grandiose descriptions of what in fact is a pretty pathetic condition" and writes that "[o]ne has to be high on [drugs] already in order to be able to judge the states induced as any kind of path to profundity or 'authenticity.'"[57]

One need not resolve this dispute concerning marijuana's value to recognize that at least for its users, banning marijuana *does* implicate their freedom of thought and sometimes even the "right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life."[58] That is one reason why a ban on marijuana cuts so close to core aspects of personhood—to the freedom of thought and religion that are necessary to respect an autonomous being's ability to choose what to think and what kind of person to be. That such thoughts, and such an identity, are not esteemed by a majority of Americans and their government is really beside the point: the very idea of this liberty is to protect each individual's sovereignty in this realm (as the Supreme Court long ago recognized).[59] Yet according to President Nixon's

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54. Kevin Berger, *The Other Side of Rick Steves*, SALON.COM, Mar. 20, 2009, http://www.salon.com/mwt/feature/2009/03/20/rick_steves/print.html.

55. *See, e.g.*, ANDREW WEIL, THE NATURAL MIND: AN INVESTIGATION OF DRUGS AND THE HIGHER CONSCIOUSNESS 149–87 (rev. ed. 1986) (describing the expanded thinking that results from marijuana use); Lester Grinspoon, *Learn*, MARIJUANA USES, http://www.marijuana-uses.com/learn.html (describing "marijuana's capacity to catalyze ideas and insights, heighten the appreciation of music and art, or deepen emotional and sexual intimacy"); Grinspoon, *To Smoke*, *supra* note 21 (describing "such disparate uses as the magnification of pleasure in a host of activities ranging from dining to sex, the increased ability to hear music and see works of art, and the ways in which it appears to catalyze new ideas, insights and creativity").

56. Peter Popham, *Rastas Can Use Cannabis, Italian Court Rules*, INDEPENDENT (United Kingdom), July 12, 2008, at 32. In a second possession case, the court reversed the conviction of a shepherd, finding the defendant justified in using it to help him endure a "long and solitary period . . . in the countryside and the mountains." Peter Popham, *Silence of Lambs Justifies a Joint for Lonely Shepherd*, INDEPENDENT (United Kingdom), Mar. 21, 2009, at 32.

57. Moore, *supra* note 7, at 101.

58. Lawrence v. Texas, 539 U.S. 558, 574 (2003) (quoting Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 851 (1992)).

59. *See, e.g.*, Abood v. Detroit Bd. of Educ., 431 U.S. 209, 235 (1977) ("[I]n a free society one's beliefs should be shaped by his mind and his conscience rather than coerced by the State."); Stanley v. Georgia, 394 U.S. 557, 565–66 (1969) ("Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds. . . . [The idea that] the State has the right to control the moral content of a person's thoughts. . . . is wholly inconsistent with the philosophy of the First Amendment. . . . [Government] cannot constitutionally premise legislation on the desirability of controlling a person's private thoughts."); Palko v. Connecticut, 302 U.S. 319, 327 (1937) ("[Freedom of thought] is the matrix, the indispensable condition, of nearly every other form of freedom. . . . [T]he domain of

National Commission on Marijuana, the war against marijuana, then beginning in earnest, was fueled by fear that the drug caused users to reject the "established value system."[60]

A more quotidian moral right, perhaps less exalted but no less important, is recognized in the Declaration of Independence as an inalienable right to the pursuit of happiness.[61] This right should protect those who seek affective rather than cognitive benefits from marijuana—users for whom it serves as a relaxant, a social lubricant, an antidepressant, or a palliative.[62] The right to pursue happiness in one's own way is worthy of respect, and many Americans disdain the Iranian government because it affords none. There, the government bans certain dress and music that it deems decadent.[63] Here, the default position is that people should be free to pursue their individual and idiosyncratic tastes in recreation, including even such risky ones as boxing and mountain climbing.[64] Only in a few cases does the majority presume to control the personal pleasures of a minority; marijuana use, even privately at home, is one of them.[65]

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liberty . . . include[s] liberty of the mind as well as liberty of action."); Whitney v. California, 274 U.S. 357, 375 (1927) (Brandeis, J., concurring) ("Those who won our independence believed that the final end of the State was to make men free to develop their faculties. . . . They believed that freedom to think as you will and speak as you think are means indispensible to the discovery and spread of political truth . . . .").

60. NAT'L COMM'N ON MARIHUANA AND DRUG ABUSE, *supra* note 6, at 8–9.

61. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776). Although the pursuit of happiness appears in the Declaration of Independence rather than the Constitution, members of the Supreme Court have found that the "right to life, liberty, and the pursuit of happiness, is inalienable." *Ex parte* Garland, 71 U.S. (4 Wall.) 333, 384 (1866) (Miller, J. dissenting). These rights are fundamental and can only be removed by due process of law. *See* Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 89 (1872). The Court has cited the pursuit of happiness when assessing the voting rights of African-Americans, *see* United States v. Reese, 92 U.S. 214, 248 (1875) (Hunt, J. dissenting), the right to contraception, *see* Griswold v. Connecticut, 381 U.S. 479, 494 (1965) (Goldberg J., concurring) (citing Olmstead v. United States, 277 U.S. 438, 478 (1927) (Brandeis, J. dissenting)), and the freedom to marry, *see* Loving v. Virginia, 388 U.S. 1, 12 (1967). More recently, the Supreme Court has neglected to find that the pursuit of happiness permits a prisoner to refuse antipsychotic drugs, *see* Washington v. Harper, 494 U.S. 210, 238 (1990) (Stevens J., concurring in part, dissenting in part) (citing Olmstead v. United States, 277 U.S. 438, 478 (1927) (Brandeis, J. dissenting)), or grants prisoners the right to DNA testing, *see* Dist. Attorney's Office for Third Judicial Dist. v. Osborne, 129 S. Ct. 2308, 2333 (2009) (Stevens, J., dissenting).

62. *See, e.g.*, WEIL & ROSEN, *supra* note 21, at 116 ("Regular users may find that pot makes them relaxed or more sociable without greatly affecting their perceptions or moods.").

63. Ali Akbar Dareini, *Crackdown Issued on Dress Code*, VIRGINIAN PILOT, Apr. 24, 2007, at A10; Nasser Karimi, *Iran Revives Broadcast Ban on Western Music*, WASH. POST, Dec. 20, 2005, at A25.

64. Justice Brandeis's "right to be let alone," Olmstead v. United States, 277 U.S. 438, 478 (1928) (Branseis J., dissenting), formulation eventually was adopted by the Court in *Stanley v. Georgia*. 394 U.S. at 564 ("[The] makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. . . . They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations.").

65. That marijuana use often takes place in the privacy of one's home greatly compounds the violation. As the Alaska Supreme Court stated in finding that the state constitutional right to privacy should be extended to the marijuana use in one's home, "[i]f there is any area of human

This is not to say that the state should be unconcerned with marijuana use, because it does present risks to health and safety, and both state and federal governments have important roles to play in eliminating or reducing those risks. In liberal societies such as ours, where the presumption is that individuals have the right to decide how to live their lives for themselves, the government safeguards us not by making the decisions for us but by helping us to make wise decisions with full knowledge. Thus the government does not legislate your weight or dictate your diet, but it labels food and advises on its health effects. Political philosopher William Talbott argues that the *fundamental idea* underlying human rights is that people "should be guaranteed what is necessary to be able to make their own judgments about what is good for them [and] to be able to give effect to those judgments in living their lives."[66]

Certainly, there are exceptions to this principle where the government properly places something beyond the reach of its citizens for good reason. Many would include among them instances where: (1) the dangers of a trivial activity are very great; (2) a safer alternative can equally satisfy the consumer; (3) the individual is a child or lacks rationality; (4) collective action is able to accomplish things impossible by individual choice; or (5) the activity would result in an addiction so powerfully destructive of autonomy as to amount to a form of slavery, which may be true of certain drugs.[67] Liberty rights can be overcome by sufficiently compelling grounds.[68] But marijuana does not present any such reason. As Pollan writes, "The war on drugs is in [reality] a war on *some* drugs, their enemy status the result of historical accident, cultural prejudice, and institutional imperative."[69]

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activity to which a right to privacy pertains more than any other, it is the home." Ravin v. State, 537 P.2d 494, 503 (Alaska 1975). The court also noted the special rights afforded to conduct at home in the United States Supreme Court's privacy jurisprudence. *Id.* at 502–03; *see also Stanley*, 534 U.S. at 565 (stating that the defendant was merely "asserting the right to read or observe what he pleases—the right to satisfy his intellectual and emotional needs in the privacy of his own home").

66. WILLIAM J. TALBOTT, WHICH RIGHTS SHOULD BE UNIVERSAL? 11 (2005).

67. Mill's view is that "[t]he principle of freedom cannot require that [a person] should be free not to be free." MILL, *supra* note 12, at 164. Even if the activity had the effect of reducing autonomy in a minority of people, it is a further question whether we should sacrifice the freedom of many because of the abuse of a few—as we recognize in the case of alcohol.

68. The case we make for marijuana legalization neither precludes nor supports similar arguments about other drugs. We may indeed have reason to reform laws governing other substances, but any such reform must be predicated on careful study of the real harms, costs, and benefits of the particular drug at issue and whether they constitute the kind of exception listed above.

69. Michael Pollan, *Opium, Made Easy: One Gardener's Encounter with the War on Drugs*, HARPER'S MAG., Apr. 1997, at 35. Bakalar and Grinspoon agree that drug prohibition has been generated by history, not reason. JAMES BAKALAR & LESTER GRINSPOON, DRUG CONTROL IN A FREE SOCIETY 68 (1984). They argue that Prohibition was repealed not because of "scandals, inefficiencies and nasty side effects (these were never considered good reasons to repeal other drug laws)," but because the middle class became less puritanical and wanted to drink alcohol. *Id.* at 86.

> [U]nlike opium and cocaine, alcohol was not an exotic substance with powers that were frightening because mysterious. It was too familiar to be branded with the narcotic stigma and too closely associated with innocent fun in too many respectable people's minds to be purely a drug menace. Penalties for purchase and possession of alcohol were never imposed, much less enforced. Alcohol use was

CONCLUSION

The case for revisiting marijuana laws has special salience today because, for the first time in decades, serious marijuana law reform appears to be achievable. Reform bills or ballot initiatives have recently been approved in a number of jurisdictions,[70] President Obama and his new drug czar have suggested treating rather than jailing nonviolent drug offenders,[71] and Attorney General Holder has ordered a stop to federal

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never reduced to the categories of medicine and vice.

Id. at 87–88.

70. Marijuana Policy Project, 2008 Ballot Initiatives (2009), http://www.mpp.org/library/2008-ballot-initiatives.html. The Marijuana Policy Project reports that in Massachusetts, voters decriminalized possession of less than one ounce of marijuana, substituting a $100 civil fine, by a margin of 65% to 35%, MASS. ANN. LAWS ch. 94C, § 32L (LexisNexis Supp. 2009); that in Michigan, voters changed the law to allow for medicinal use of marijuana on a doctor's recommendation by a margin of 63% to 37%, MICH. COMP. LAWS ANN. § 333.26424 (West Supp. 2009); and that in Hawaii County, Hawaii; Fayetteville, Arkansas; and several Massachusetts towns, voters approved local ballot initiatives making enforcement of adult marijuana-possession laws the lowest law-enforcement priority, by substantial majorities in each case. Marijuana Policy Project, *supra*. However, California's Proposition 5, which would have substituted treatment for incarceration for many nonviolent offenders and made marijuana possession a civil infraction, was defeated 60% to 40%. *Id.* More than a dozen legislatures have taken up measures to either reduce penalties for marijuana use or allow its use for treatment purposes. Jesse McKinley, *For Marijuana Advocates, Not-So-Secret Holiday Hints at Change*, N.Y. TIMES, Apr. 20, 2009, at A13.

Recent polls also show substantial public support for marijuana law reform. For instance, a 2008 poll showed an extraordinary 72% of Massachusetts voters supported decriminalization over current criminal penalties. Voters Say Yes to Decriminalizing Marijuana (Aug. 13, 2008), http://www.suffolk.edu/30284.html. A 2009 California poll showed 56% of voters in favor of legalizing and taxing marijuana. Rebecca Cathcart, *Schwarzenegger Urges a Study on Legalizing Marijuana Use*, N.Y. TIMES, May 7, 2009, at A21. Point-blank questions in nationwide polls show a sentiment that may be surprising given the ONDCP's massive antimarijuana advertising budget. For example, a 2002 CNN-Time poll found 72% of people supported eliminating incarceration as a penalty for recreational marijuana use and 80% supported legalized medical marijuana. Stein, *supra* note 5, at 57. A 2005 Gallup poll showed 36% of people favored outright legalization (and in the Western states, 47% for, versus 49% against). Joseph Carroll, *Who Supports Marijuana Legalization?*, GALLUP, Nov. 1, 2005, http://www.gallup.com/poll/19561/Who-Supports-Marijuana-Legalization.aspx?. A November 2004 American Association of Retired Persons (AARP) poll showed 72% of people middle aged or older approved legalizing marijuana when a physician recommends it. *AARP Poll Shows Most Support Legalizing Medicinal Marijuana*, N.Y. TIMES, Dec. 19, 2004, at A36. Regarding drug policy generally, a September 2008 Zogby poll reported 76% of likely voters deemed the drug war a failure. *Public Views Clash with U.S. Policy on Cuba, Immigration, and Drugs*, INTER-AMERICAN DIALOGUE (2008), http://www.thedialogue.org/page.cfm?pageID=403.

71. Gary Fields, *White House Drug Czar Calls for End to "War on Drugs,"* WALL ST. J., May 14, 2009, at A3 (reporting that Obama's new drug czar, Gil Kerlikowske, says the administration "is likely to deal with drugs as a matter of public health rather than criminal justice alone, with treatment's role growing relative to incarceration"); Carrie Johnson & Amy Goldstein, *Choice of Drug Czar Indicates Focus on Treatment, Not Jail*, WASH. POST, Mar. 12, 2009, at A04 (discussing White House announcement about policy favoring treatment rather than jail for drug offenders); Kurt Schmoke, *Obama Not Completely Silent on the Drug War*, HUFFINGTON POST.COM, May 22, 2008, http://www.huffingtonpost.com/kurt-schmoke/obama-

prosecutions of medical-marijuana use in states that permit it.[72] Governor Schwarzenegger has proposed consideration of the legalization and taxation of marijuana,[73] and Rep. Barney Frank has introduced a decriminalization bill for the first time in Congress because, he said, the public is now ready to support it.[74] Elsewhere in the world, marijuana use is increasingly seen as a personal matter, with decriminalization gaining ground in many countries[75] and the Argentine high court finding marijuana prohibition unconstitutional as a violation of personal autonomy.[76]

Given the destructive and inhumane consequences of marijuana laws and policies (which we have catalogued elsewhere),[77] any ameliorative reform effort should be embraced. Worthy reform proposals include the removal of marijuana from federal Schedule I into an appropriate lesser category, which would foster both scientific study

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not-completely-sile_b_103122.html (detailing then-Senator Obama's remarks about drug treatment on the campaign trail). In another sign that the Obama administration is rethinking drug policy, the Justice Department has urged Congress to lower sentences for sale and possession of crack cocaine so that they no longer exceed (by a factor of 100 to 1) those for powdered cocaine. *See* Solomon Moore, *Justice Dept. Seeks Equity in Sentencing for Cocaine*, N.Y. TIMES, Apr. 30, 2009, at A17. President Obama's first budget, however, did not match his rhetoric, proposing an increase in interdiction and law-enforcement funding (and a decrease for drug education) compared with the last Bush levels; and, drug czar Kerlikowske says legalization of marijuana is "not in the president's agenda under any circumstances." Tim Dickinson, *A Drug War Truce?*, ROLLING STONE, June 25, 2009, at 45, 47.

72. David Johnston & Neil A. Lewis, *Ending Raids of Dispensers of Marijuana for Patients*, N.Y. TIMES, Mar. 19, 2009, at A20; McKinley, *supra* note 70 (citing remarks by Attorney General Holder suggesting "federal law enforcement resources would not be used to pursue legitimate medical marijuana users").

73. Cathcart, *supra* note 70 (also reporting that 56% of California voters support legalizing and taxing marijuana for recreational use). Governor David Patterson of New York says that he too would be open to a conversation about the legalization of marijuana. Dickinson, *supra* note 71, at 48.

74. Act to Remove Federal Penalties for the Personal Use of Marijuana by Responsible Adults, H.R. 5843, 110th Cong. (2008). Rep. Frank's bill would decriminalize possession of up to 100 grams (or 3.5 ounces) of marijuana and also remove criminal penalties from users who share marijuana with others so long as they do not sell it. *Id.* § 2. Frank announced his intention to file the bill on Bill Maher's television program, stating that caution had prevented his doing so for decades but that it was now time for politicians to "catch up to the public." Posting of CitizenSugar to TrèsSugar, http://www.tressugar.com/1138194 (Mar. 22, 2008, 10:00 EST).

75. The decriminalization movement has gained significant traction abroad in countries that still criminalize possession. For example, the former presidents of Mexico, Colombia, and Brazil recently summarized their report for The Latin-American Commission on Drugs and Democracy in an Op-Ed in *The Wall Street Journal*. Fernando Henrique Cardoso, César Gaviria & Ernesto Zedillo, Op-Ed, *The War on Drugs Is a Failure*, WALL ST. J., Feb. 23, 2009, at A15. That report concludes that prohibition and criminalization have not yielded expected results and that Latin America is "farther than ever from the announced goal of eradicating drugs." *Id.* As a possible correction for the drug problem, the report proposes "the careful evaluation, from a public-health standpoint, of the possibility of decriminalizing the possession of cannabis for personal use." *Id.*

76. Alexei Barrionuevo, *Latin America Weighs Less Punitive Path to Curb Drug Use*, N.Y. TIMES, Aug. 27, 2009, at A8.

77. Blumenson & Nilsen, *supra* note 6, at 59–62.

of the drug and its medicinal use where appropriate;[78] state and federal laws permitting the medical use of marijuana;[79] decriminalization of use and possession (as currently exists in thirteen states),[80] which would put an end to some of the worst excesses afflicting users; and legalization, which would most fully respect individual liberty while also allowing the government to control and regulate the marijuana market in harm-reducing ways. If there is to be progress, reformers should welcome whatever incremental steps may be possible, notwithstanding the stronger deontological requirements associated with liberty claims. But whatever the political dynamics, we should remember that moral rights are also at stake—the rights to a sphere of liberty in personal matters, to prosecutions based on the principles of just punishment, and most fundamentally, to a state that respects the individuality and autonomy of its people. These civil libertarian concerns, well recognized in other contexts, should also inform legislators and policy makers as marijuana law reform efforts move forward.

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78. According to current knowledge, marijuana satisfies none of the three Schedule I requirements: (1) it has a low potential for harm and abuse, *see supra* note 26; (2) it appears to have therapeutic benefits, as the government itself claimed in its successful patent application, *see infra* note 79; and (3) the American College of Physicians (ACP) suggests it may be used safely under appropriate conditions, AM. COLL. OF PHYSICIANS, POSITION PAPER: SUPPORTING RESEARCH INTO THE THERAPEUTIC ROLE OF MARIJUANA 4 (2008), *available at* http://www.acponline.org/advocacy/ where_we_stand/other_issues/medmarijuana.pdf. In its position paper, the ACP "urges review of marijuana['s] status as a Schedule I controlled substance and reclassification into a more appropriate schedule, given the scientific evidence regarding marijuana's safety and efficacy in some clinical conditions." *Id.* at 15.

79. As of December 2008, the United States government continued to oppose medical marijuana as useless, despite having patented the medicinal benefits of marijuana in an application asserting cannabinoids' usefulness in preventing or treating diseases, including stroke, trauma, autoimmune disorders, Parkinson's Disease, Alzheimer's Disease, and HIV dementia. U.S. Patent No. 6,630,507 (filed Apr. 21, 1999).

80. States that have decriminalized at least some kinds of marijuana-possession offenses are Alaska, *see* ALASKA STAT. §§ 11.71.010, .71.160 (2008); California, *see* CAL. HEALTH & SAFETY CODE § 11357 (West 2007 & Supp. 2009); Colorado, *see* COLO. REV. STAT. ANN. § 18-18-406 (West 2004 & Supp. 2008); Maine, *see* ME. REV. STAT. ANN. tit. 17-A, §§ 1102, 1107-A (2006 & Supp. 2008); Massachusetts, *see* MASS. ANN. LAWS ch. 94C, § 32L (LexisNexis Supp. 2009); Minnesota, *see* MINN. STAT. ANN. §§ 152.02, 152.027 (West 2005 & Supp. 2009); Mississippi, *see* MISS. CODE ANN. §§ 41-29-113, -139 (West 2007 & Supp. 2008); Nebraska, *see* NEB. REV. STAT. ANN. §§ 28-405, -416 (LexisNexis 2003 & Supp. 2008); Nevada, *see* NEV. REV. STAT. ANN. § 453.336 (2005); New York, *see* N.Y. PENAL LAW § 221.05 (McKinney 2008); *see also* N.Y. PUB. HEALTH LAW § 3306 (McKinney 2000 & Supp. 2009); North Carolina, *see* N.C. GEN. STAT. ANN. §§ 90-94, -95 (West 2008); Ohio, *see* OHIO REV. CODE ANN. §§ 3719.41 (LexisNexis 2005 & Supp. 2009); and Oregon, *see* OR. REV. STAT. § 475.864 (2007).

Dear Judy Lee,

The ND Cannabis Caucus is very agreeable to work with the legislature on cannabis legalization. We would withdrawal the constitutional measure completely if people would be able to grow their own plants, even if it restricted. We would like to see some type of micro specialty growers, usually based on a tiered system. Small personal home grows and micro growers keep big corporate growers in check with pricing and quality. This actually decreases black market sales and growing. Price and quality issues, we are having in the medical program now. If the Legislature adds home grow they would be able to control plant counts limits, where it can be grown such as a locked, enclosed facility unseen by the public & 1000 feet from a school. An intent to grow registered with local law enforcement could also be required, as well as possession limits from those plants all can be controlled. We would much rather have this done through legislation vs constitutional measure. Please call me if you have a chance, Jody Vetter (701) 400-8078. Please consider allowing people to have small regulated home grow and we can withdrawal the measure and work with the legislature.

Thank you for your time,

Jody Vetter

Good day, Human Services committee of the Senate of North Dakota!

My name is Joseph M. Dura, and I write this testimony as a citizen of the state of North Dakota, and I do not write this with the support, nor allegiance to any organization which may hold some vested interest for this bill. My hope in writing this testimony is that I may be able too give some kind of insight on what your average middle-class individual thinks regarding this bill. Before I start, I would like too apologize if I come across as rather crass or inconsiderate! The nature of HB 1420, at least in current form, as was accepted by the North Dakota House of Representatives, is for lack of better words... Restrictive.

Upon reading the bill, I find myself agreeing with the idea of legalizing marijuana statewide, but I do not agree at all with the current methods being outlined. The current restrictions such as the individual adult user not being allowed to grow their own marijuana plants seems almost comical in a state with such a great deal of it's economy being based in agriculture. Furthermore, the financial burden on the consumers with astronomical prices which do not even include taxes leads me to question if the legalization process is doomed to fail.

These issues that I mention have in fact been also noted in testimonies by other individuals. Jason Wahl made mention of the current restrictions being heavy handed in comparison too medical marijuana in Document No. 6683. Jody Vetter made note of the lack of home cultivation in No. 5208. Carl E. Young also did the same in No. 5097.

It should be clear that North Dakotans desire change within this bill. Many of us wish for the ability to grow what we ingest, in order to ensure the best quality. Another thing which is of vested economic interest is opening the market in such a way where growing operations can remain competitive in the free-market. As it stands, most grow operations will likely crash and burn. The black-market will shift into a grey-market, and will in turn draw more criminal activities too the state of North Dakota. The only way of preventing this or even fight against it, would be allowing grow operations to create high quality product, at a large enough quantity, that it'll out pace the current domestic black-market for marijuana. The average street cost of marijuana in the state of North Dakota is roughly $10 ~ $15 USD/per gram. If the legal markets within North Dakota cannot dip into or below street value, it's likely we'll see a collapse of financial incentives too even start up grow operations and dispensary locations.

With these things in mind, I would like to ask that we see new amendments too HB 1420, which will see it become less restrictive, and more open for the individual consumer.

With best regards,

Joseph M. Dura

Testimony on Senate Bill 1420
Senate Appropriations Committee
Human Services Division
March 15, 2021

Chairperson Lee and members of the Committee:
My name is Patti Senn and I am a Licensed Master Addiction Counselor in North Dakota. I am providing written testimony in opposition to Senate Bill 1420, which provides for the legalization of recreational marijuana. I urge this committee to have an honest discussion on how legalized marijuana will impact our state and its citizens. Marijuana legalization is not without significant consequences.

Three main points I wish to highlight:

1. Marijuana (Cannabis) is an addictive substance. A study published by The Journal of the American Medical Association (JAMA) in 2019 indicates that states that enact Recreational Marijuana Laws result in increased use and diagnosis of Cannabis Use Disorder. The National Institute on Drug Abuse (NIDA) reports that approximately 30% of cannabis users have a Cannabis Use Disorder.
2. Workforce Issues: Legalization will likely result in employers having an even greater difficulty in hiring and maintaining an adequate workforce.
3. Cannabis Use and Mental Health Issues: there are over 20,000 peer-reviewed research articles linking cannabis use to severe mental health conditions that range from depression and anxiety to psychosis. In an era where significant emphasis is being placed on improving the behavioral health of our state, I find this legislation counterproductive. The National Institute of Health states that regular use can change one's brain in significant ways that impact one's learning and memory. This is especially true for those whose brains are still developing, which continues into a person's late 20's.

Finally, any discussion on marijuana legalization should coincide with a discussion on a significant investment and funding for substance use disorder education, prevention and treatment services.

Respectfully,

Patti L. Senn, MS/LMAC/LPCC/MAC
patti@soulsolutions.org
701.730.5206

NDMCA
NORTH DAKOTA MOTOR CARRIERS ASSOCIATION

March 15, 2021

SENATE HUMAN SERVICES COMMITTEE
House Bill 1420 - Opposition

Chair Lee and Senate Human Services Committee Members,

I, Amanda Remynse, is writing on behalf of the North Dakota Motor Carriers Association. NDMCA wants to express opposition to HB 1420. NDMCA represents the trucking and transportation industry in North Dakota and has been in existence since 1937.

The federal government regulates interstate commerce. Because most freight moved by truckers and trucking companies crosses state lines at some point, the vast majority of North Dakota's trucking industry is subject to the regulatory authority of the U.S. Department of Transportation.

The U.S. Department of Transportation's Drug and Alcohol Testing Regulation (49 CFR Part 40) requires commercial drivers license holders (CDL) to take a pre-employment drug test, post-accident drug tests (for most accidents), and random drug tests throughout their employment. Further, these federal regulations don't recognize marijuana use deemed legal under state law to be a valid explanation for an employee's positive drug test because marijuana remains an illegal drug listed in Schedule I of the Controlled Substances Act. A positive drug test will prevent a driver from gaining or maintaining employment regardless of their reason for use.

In states that have legalized recreational marijuana, the trucking industry has seen a marked increase in drivers that fail a pre-employment or random drug test. This compounds the existing shortage of truck drivers that the American Trucking Association estimates to be as large as 80,000 drivers nationwide.

Further, as an organization whose mission is to promote highway safety, NDMCA has concerns about the potential for a rise in the number of impaired drivers on the road, which increases the likelihood of passenger vehicle – large truck accidents. These impacts are contrary to North Dakota's Vision Zero initiative and North Dakota voters' wishes who rejected a 2018 recreational marijuana initiated measure by nearly 60%.

NDMCA
NORTH DAKOTA MOTOR CARRIERS ASSOCIATION

I thank you for the opportunity to provide testimony opposing this legislation. NDMCA appreciates your committees' consideration and urges a **do not pass** recommendation.

Thank you.

AMANDA REMYNSE
NORTH DAKOTA MOTOR CARRIERS ASSOCIATION

SMART CO Marijuana Edibles Available in Colorado #9103

PROTECTING YOUTH FROM MARIJUANA

Brownies, Cakes & Pastries	Raspberry Chocolate Heath Brownie, Cheesecake Graham Cracker Brownie, Chocolate Brownie, Chocolate Chip Brownie, Dark Chocolate Fudge Brownie, Fudge Brownie, Mint & Fudge Brownie, Walnut & Dark Fudge Brownie, Fruit Cheesecake, Key Lime Tart, Mini Astro Cake, Peanut Butter & Jelly Crumble, Chocolate Baklava, Chocolate Haze Baklava, Traditional Baklava, Peanut Butter Baklava
Cookies	Chocolate Chip, Chocolate Chunk, Chocolate Cookie Bar With Chocolate Chips, Chocolate Cookie Crème Sandwich, Cream-Filled Carrot Cake Cookie Sandwich, Gingersnaps, Gluten-Free Peanut Butter, Oatmeal Butterscotch, Oatmeal Raisin, Oatmeal Dark Chocolate & Cranberries, Orange Peel & Chocolate Butterscotch Chip, Peanut Butter M&Ms, Peanut Butter Sandwich, Salted White Chocolate Macadamia Nut
Cereal	PB Crisps (iced peanut butter cereal), Rice Crispies (marshmallows and crunch berry cereal), Marshmallow & Chocolate Cereal, Marshmallow & Fruit Cereal, Marshmallow & Large Fudge Cereal, Powdered Sugar-Coated Rice Cereal
Snacks	Almond Granola Bar, Blueberry Pie Granola Bar, Cherry Chocolate Kola Granola Bar, Chia Seed Orange & Cranberry Granola Bar, Cranberry Orange Zest White Chocolate Chip Granola Bar, Ginger & Cashew Granola Bar, Honey Nut Gluten-Free Granola Bar, Spiced Pumpkin White Chocolate Chips & Sprinkles Granola Bar, Mixed Nut Clusters, Pecans & Caramel Nuts, Rosemary Parmesan Crackers, Soup Crackers, Loose Granola, Microwave Popcorn, Balsamic Peppercorn Cashews, Balsamic Peppercorn Walnuts, Trail Mix, Pumpkin Seeds, Hazelnuts, Oats, Brazil Nuts, Hemp Seeds, Pecans, Almonds, Sunflower Seeds, Cashews, Walnuts
Chocolate	Blueberries Flax & White Chocolate Bar, Dark Chocolate Bar, Dark Chocolate and Coffee Bar, Dark Chocolate and Espresso Beans Bar, Dark Salted Chocolate Bar, Dark Chocolate with Cinnamon Bar, Milk & White Chocolate with Coconut Oil, Walnuts, & Bananas Bar; Milk Chocolate Bar, Milk Chocolate & Orange Bar, Milk Chocolate & Peanut Butter Bar, Milk Chocolate & Peppermint Bar, Milk Chocolate & Rice Crispies Bar, Milk Chocolate & Spearmint Bar, Milk Chocolate Bar with Toffee and Almonds, Mint and Milk Chocolate Dabbas Bar, White & Milk Chocolate & Toffee Bar, White Chocolate and Fudge Cookies Bar, White Chocolate and Peaches Bar, White Chocolate and Pop Rocks Bar, White Chocolate & Pretzel Bar, White Chocolate & Raspberry Bar, White Chocolate & Strawberries with Flax Bar, White Chocolate, Pretzels, Noughat, Marshmellows & Caramel Bar; Milk Chocolate Dipped Pretzels, White Chocolate Rabbit Candy, Coin Shaped Milk Chocolate, Blueberries & Cranberries Dipped in White Chocolate Truffle, Cake & Almond Cookie Dipped in Milk Chocolate Truffle, Cake & Frosting Dipped in Milk Chocolate Truffle, Caramel Truffle, Chocolate Caramel Truffle, Chocolate Dipped Almond & Marshmallow Truffle, Chocolate Mousse & Cake Dipped in Milk Chocolate Truffle, Coconut & Walnuts Dipped in Milk Chocolate Truffle, D'z Nuts Truffle (Milk Chocolate Dipped Crunchy Peanut Butter), Fruit-Filled Chocolate Dipped Grahms Truffle, Milk Chocolate Dipped Grahms Truffle, Peanut Butter & Coffee Bean dipped in Milk Chocolate Truffle, Raspberry-Filled Jabanero Dipped in Dark Chocolate Truffle, Sugar Cone Filled with Peanut Butter & Dipped in Milk Chocolate Truffle, Sunflower Butter Dipped in White & Milk Chocolate Truffle
Hard Candy	Lollipops, Suckers, Rock Candy Suckers, Sugar-Free Suckers, Cherry Drops, Cinnamon Drops, Cougher Drops, Fruit-Flavored Throat Lozenges, Green Apple Drops, Lemon Drops, Peach Champagne Lozenges, Sour Drops, Strawberry Lemonade Lozenges, Sugar Free Lozenges, Trics Lozenges
Soft Candy	Cheeba Chews, Chocolate Chews, Fruit-Flavored Chews, Flavored Cream Chews, Wana Rolls Chews, Bubbly Cherry Cola Gummies, Green Hornet Gummies, Apple Tart Gummies, Blueberry Belts, Cherry Bomb Gummies, Cherry Tart Gummies, Swedish Fish Gummies, Giant Claudie Bear Gummies, Gourmet Tropical Tart Gummies, Grapefruit Gummies, Gummies, Peach Banana Ring Gummies, Rainbow Belts, Raspberry Blackberry Gummies, Sour Gummy Bears, Strawberry Belts, Strawberry Crème Gummies, Sweet and Sours, Watermelon Tarts, Licorice, Salted Caramels
Beverages	Canna Cappuccino, Canna Cappuccino Vanilla, Caramel Crème de High Coffee, Black Tea, Blueberry Juice, Fruit Punch Juice, Lemon Lime Juice, Lemonade, Mandarin Juice, Orange Juice, Orange Cream Juice, Peach Juice, Pomegranate Juice, Red Current Juice, Watermelon Crème Juice, Wildberry Juice, Cherry Cola, Energy Drinks, Orange Soda, Raspberry Soda, Root Beer, Sarsaparilla, Apple Pie High Tea, Chai High Tea, Green Tea, Mint Green Tea, Pumpkin Pie High Tea, Yerba Mate Tea, Army Intelligence Coffee Blend, Freudian Couch Coffee Blend, Humming Taosian Coffee Blend, Rothko Pomegranate Coffee Blend, Tibetan Tater Tot Coffee Blend, Twyla Lite Coffee Blend, Grapefruit Coffee Blend, Powdered Beverage Mix (Grape, Cherry, Lemonade, and Fruit Punch), Chai Tea Mix, Green Tea Mix, Herbal Tea Mix, Tea Bags
Sauces & Meals	Pizza, Marinara Sauce, Tapenade, Wing Sauce, Cannabutter Cooking Oil, Whipped Honey Cream Butter
Pills, Tinctures & Dissolvables	Cannabis Tears Capsules, Clarinol in Veggies Capsules, Incredipils Capsules, Infused Coconut Oil in Veggie Capsules, Kush Kaps Capsules, Script Capsules, Lemon Chill Pills, Med a Mints, Spearmint Chill Pills, 9ml Sub-Lingual spray, Cannabis Syrup, Mouth Strips, 30ml Sub-lingual Tincture, Dew Drops Tincture, Liquid THC Tincture ***Current as of 9/9/14**

For more information visit www.smartcolorado.org

#9104

LESSONS LEARNED AFTER 4 YEARS OF MARIJUANA LEGALIZATION

OCTOBER 2016

Reviewed by researchers from:
University of Colorado at Denver
Johns Hopkins University
Harvard Medical School
Children's Hospital Boston
University of Kansas

SAM Smart Approaches to Marijuana
preventing another big tobacco
www.learnaboutsam.org

COLORADO & WASHINGTON STATE SINCE LEGALIZATION

In the wake of multimillion-dollar political campaigns funded with out-of-state money, Colorado and Washington voted to legalize marijuana in November 2012. Though it would take more than a year to set up retail stores, personal use (in Colorado and Washington) and home cultivation (in Colorado, which includes giving away of up to six plants) were almost immediately legalized after the vote.

Using marijuana in public, which remains illegal under these new laws, has increased conspicuously in both states. Also, a brand-new marijuana industry selling candies, cookies, waxes, sodas, and other marijuana items has exploded—and with it a powerful lobby to fight any sensible regulation.

Though it is still early—the full effects on mental health and educational outcomes, for example, will take many more years to fully develop—these "experiments" in legalization and commercialization are not succeeding by any measure.

Colorado now leads the country in past-month marijuana use by youth, with Washington not much further behind. Other states that have since legalized marijuana occupy 4th place (District of Columbia) and 5th place (Oregon). States with lax "medical marijuana" laws occupy 2nd and 3rd place (Vermont and Rhode Island, respectively).

Additionally, as explained in greater detail below, the laws have had significant negative impacts on public health and safety, such as:

- Rising rates of pot use by minors
- Increasing arrest rates of minors, especially black and Hispanic children
- Higher rates of traffic deaths from driving while high
- More marijuana-related poisonings and hospitalizations
- A persistent black market that may now involve increased Mexican cartel activity in Colorado

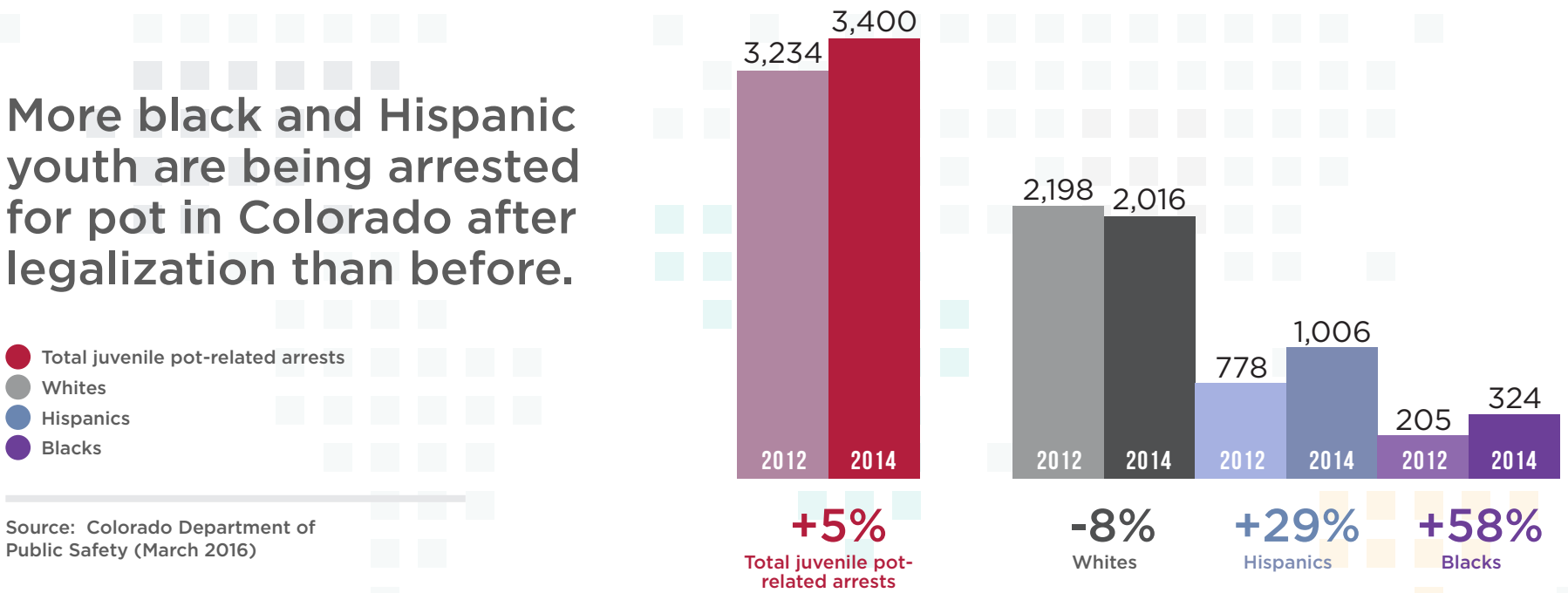
The federal government, through the Department of Justice (DOJ), announced it would initially take a hands-off approach

to state implementation of legalization, instead promising to track eight specific consequences—from youth marijuana use to use on public lands—and determine action later. So far, however, neither the federal nor state authorities have implemented a robust public tracking system for these criteria. This failure led the U.S. Government Accountability Office (GAO) to criticize DOJ in 2016 for not appropriately monitoring and documenting legalization outcomes. As of the date of this publication, there has been no word from the Department of Justice about state marijuana program compliance with any of the eight criteria it identified. Quietly, however, state agencies such as the Colorado Department of Public Safety, have released very negative updates on marijuana data and other indicators.

In the meantime, the promises of tax revenue windfalls and decreased crime have not materialized. Pot tax revenue comprises a tiny fraction of the Colorado state budget—less than one percent—and after costs of enforcement are subtracted, the remaining revenue is very limited. Some Colorado school districts, such as Denver's, have not seen a single dollar of new funding from state pot taxes. And in Washington, half of the marijuana tax money legalization advocates promised for prevention and schools has been siphoned off into the state's general fund.

THOUGH IT IS STILL EARLY, THESE "EXPERIMENTS" IN LEGALIZATION ARE NOT SUCCEEDING.

More black and Hispanic youth are being arrested for pot in Colorado after legalization than before.



Source: Colorado Department of Public Safety (March 2016)

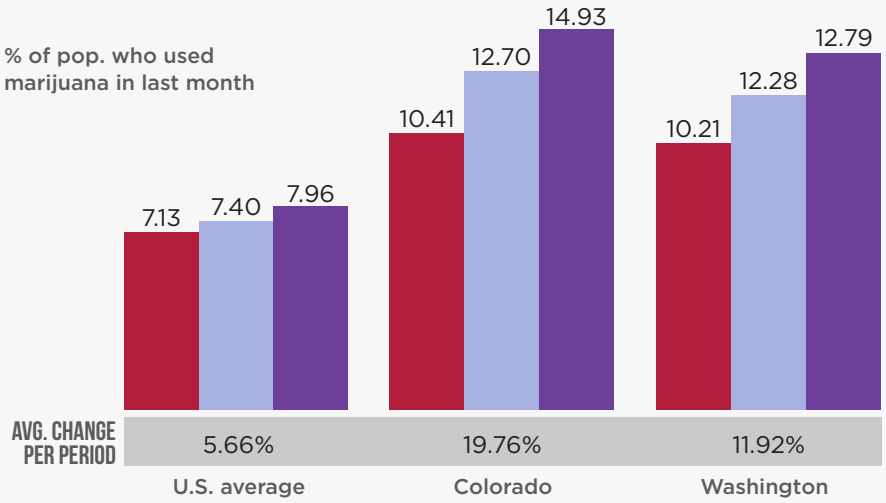
YOUTH MARIJUANA USE SINCE LEGALIZATION

Since Colorado and Washington legalized marijuana, regular use of the drug among children aged 12-17 has been both above the national average and rising faster than the national average.

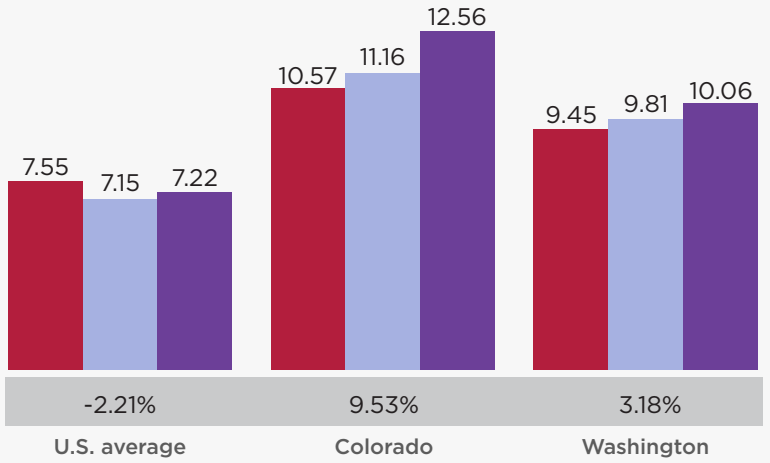
Moreover, Colorado now leads the nation among 12 to 17-year-olds in (A) last-year marijuana use, (B) last-month marijuana use, and (C) the percentage of people who try marijuana for the first time during that period ("first use").

Washington, for its part, now ranks sixth place for last-month and last-year use by the same age cohort, up from 12th and 14th place, respectively, before legalization. It also now ranks 10th in the nation for "first use" among 12 to 17-year-olds, up from 16th place in 2011-2012.

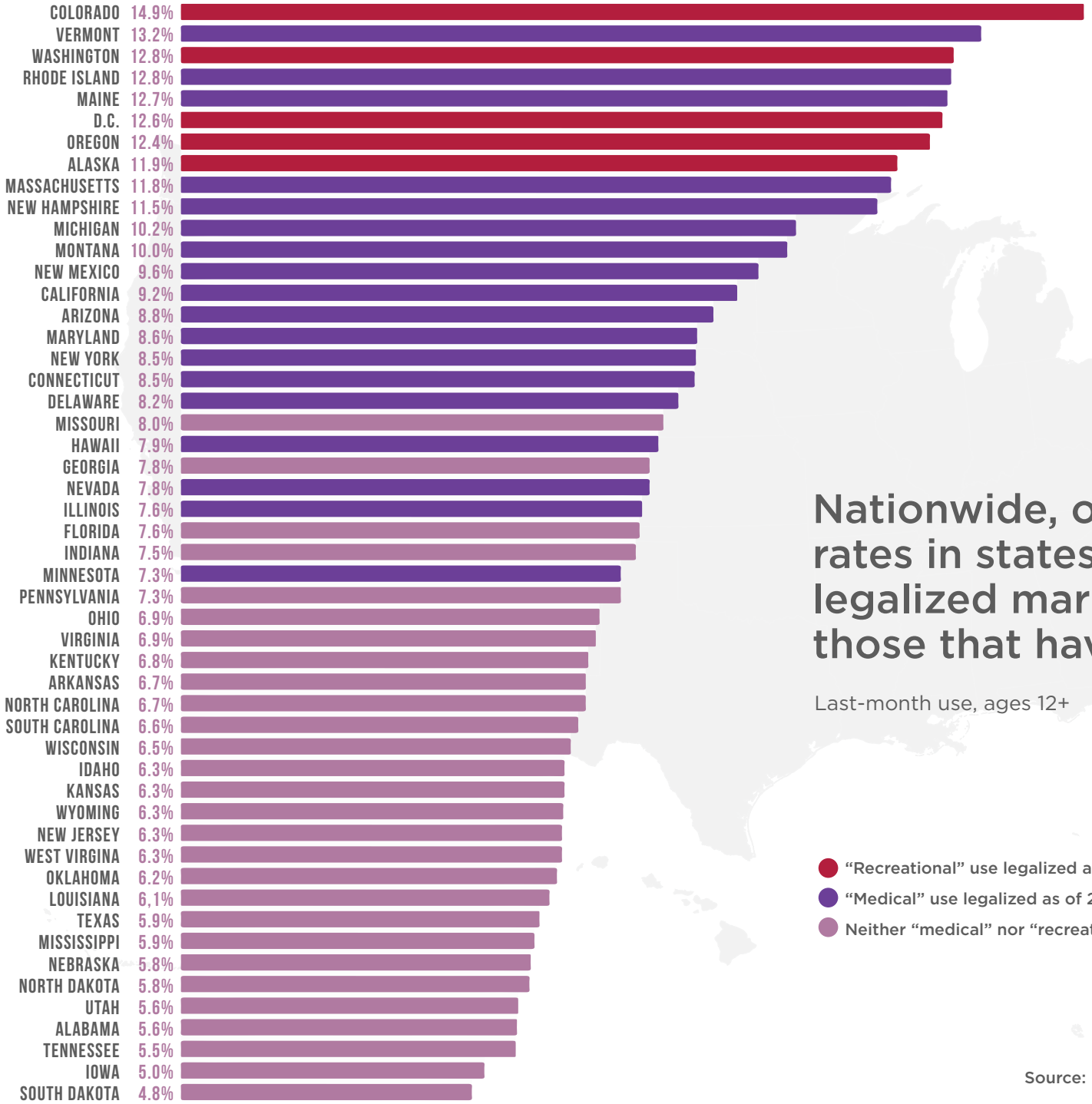
Overall use in CO and WA is both higher than and rising faster than the national average



The same trend is seen among minors (ages 12-17)



Source: NSDUH state estimates

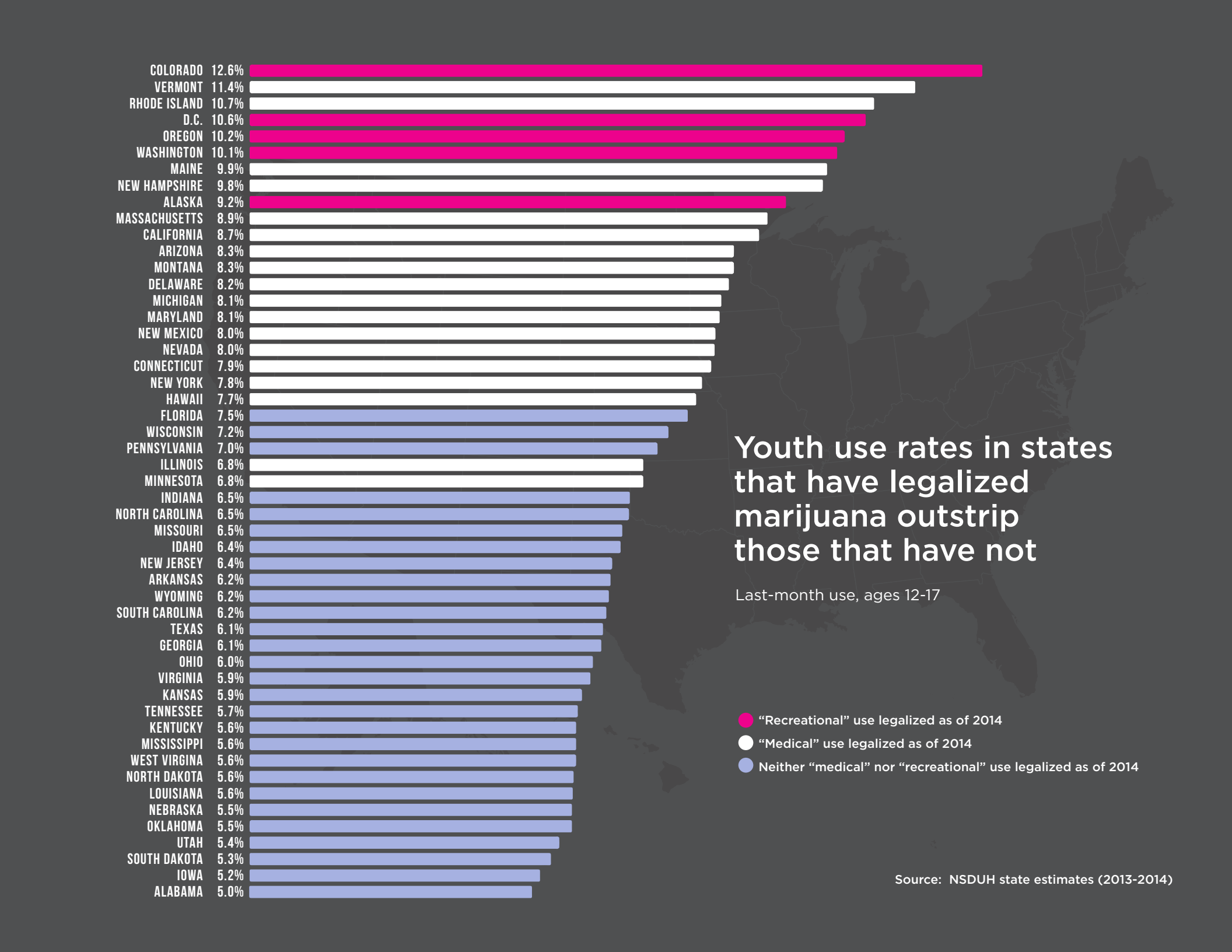


Nationwide, overall use rates in states that have legalized marijuana outstrip those that have not

Last-month use, ages 12+

- “Recreational” use legalized as of 2014
- “Medical” use legalized as of 2014
- Neither “medical” nor “recreational” use legalized as of 2014

Source: NSDUH state estimates (2013-2014)



Youth use rates in states that have legalized marijuana outstrip those that have not

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- "Recreational" use legalized as of 2014
- "Medical" use legalized as of 2014
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Source: NSDUH state estimates (2013-2014)

COLORADO NOW RANKS #1 IN MARIJUANA USE BY MINORS

The only nationally representative survey looking at drug use prevalence among U.S. households is the National Survey on Drug Use and Health (NSDUH). According to NSDUH—the decades-old gold standard for information on a wide range of substance abuse topics—marijuana use in Colorado and Washington has increased over the past decade.

In contrast, recent headlines claiming that use has not gone up in Colorado derive from an analysis of results from a state study, the Healthy Kids Colorado Survey (HKCS). State studies like HKCS often feed into the Centers for Disease Control Youth Behavior Risk Survey (YRBS). The HKCS, however, has been excluded from the CDC's YRBS survey because of its unreliability, for two reasons.

First, it suffers from serious methodological flaws. It is not a representative sample of Colorado schools, and excludes both the second-most-populous and third-most-populous counties altogether (Jefferson and Douglas Counties, respectively). It also omits schools in El Paso County, home to Colorado Springs, and excludes kids across the state who are not in school (*e.g.*, dropouts). Also, the survey designers decided, without explanation, to set the threshold for statistical significance far higher, meaning that differences that would usually be statistically significant would not appear to be so under the new standard. Thus, the HKCS methodology is so flawed that the CDC does not use it for its YRBS survey.

Second, a deeper dig of the HKCS results reveals distressing news. Youth use has actually risen statewide since legalization according the survey, at about the same rate tobacco use has fallen in that same timeframe. Moreover, this increase since 2013 halted a four-year trend of declining marijuana use—the turning point occurred exactly when the state legalized pot. Nonetheless, most press coverage has glossed over this point.

Additionally, swings in youth use per the HKCS are quite large in some counties where pot shops are prevalent. For

Colorado ranking among 50 states & DC

(REGULAR USE, KIDS 12-17 YRS. OLD)

Retail stores open	2013-2014	1st
Recreational marijuana passes	2012-2013	3rd
	2011-2012	4th
	2010-2011	5th
	2009-2010	4th
Medical marijuana commercialized	2008-2009	1st
	2007-2008	4th
	2006-2007	8th
	2005-2006	14th
	2004-2005	8th
	2003-2004	9th
	2002-2003	10th

Source: NSDUH state estimates

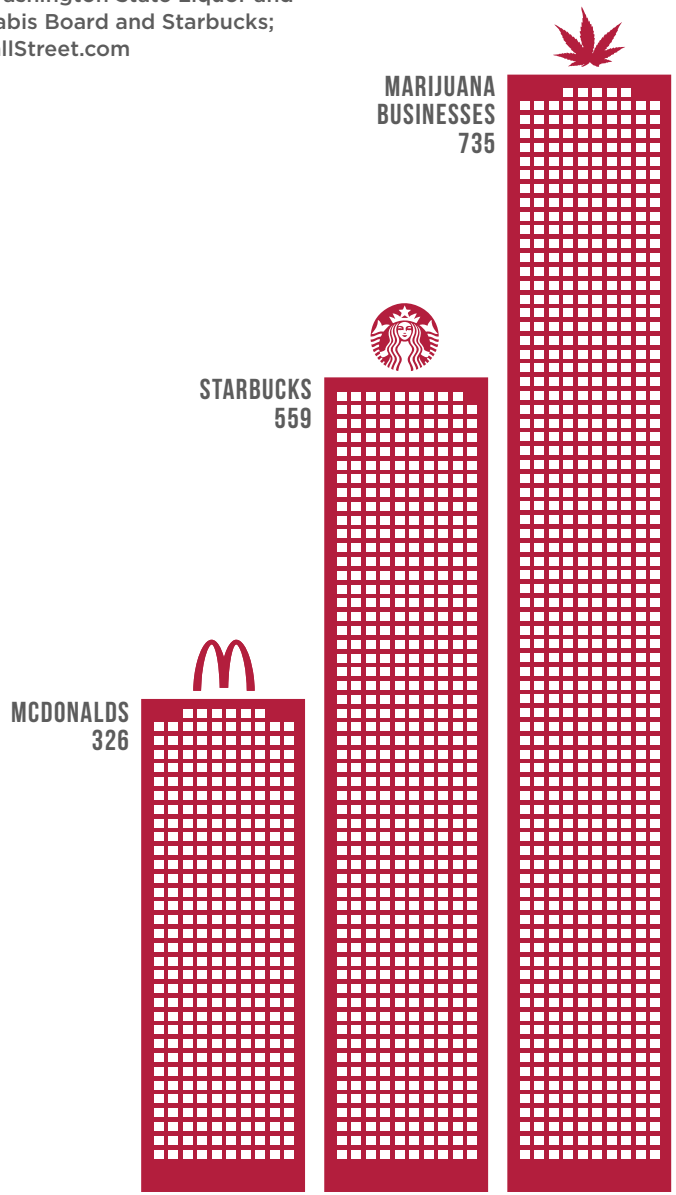
instance, the Summit/Eagle/Vail area reported a 90% increase in use among high school seniors in the last two years, and NW Steamboat/Craig showed a 58% increase in the same timeframe. Not only does this suggest serious problems in those areas, such wild swings in short periods of time also call into question the robustness of the data set. (In fact, other areas show large swings in the other direction; another area just two regions over from NW Steamboat/Craig showed a 34% decrease in use among seniors in the same timeframe—a very sharp and unusual contrast.)

Regular pot use has gone up among 18-24 yr olds in Washington since legalization.

Source: NW HIDTA Report, citing the Forecasting and Research Division of the Washington State Office of Financial Management

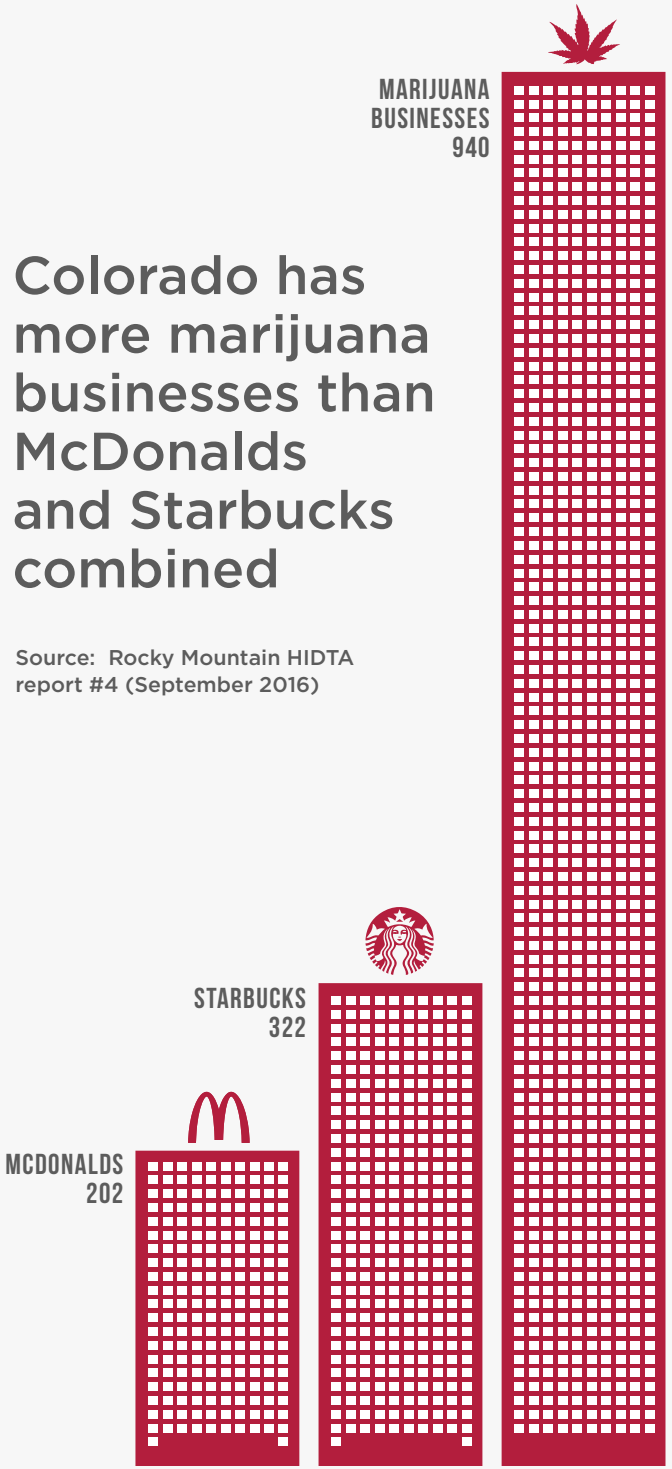
Washington State has more marijuana businesses than Starbucks or McDonalds

Source: NW HIDTA Report, citing the Washington State Liquor and Cannabis Board and Starbucks; 24WallStreet.com



Colorado has more marijuana businesses than McDonalds and Starbucks combined

Source: Rocky Mountain HIDTA report #4 (September 2016)



BLACK MARKET ACTIVITY SINCE LEGALIZATION

Despite claims to the contrary, legalization has not reduced black market marijuana activity in Colorado. In February 2015, Colorado Attorney General Cynthia Coffman told reporters: "The criminals are still selling on the black market. ... We have plenty of cartel activity in Colorado (and) plenty of illegal activity that has not decreased at all."

Indeed, organized crime filings have skyrocketed in Colorado. The state had one such filing in 2007 and by 2015, it had 40. That surge coincides precisely with the state's commercialization of medical marijuana in 2008, and legalization of non-medical marijuana in 2012.

Lt. Mark Comte of the Colorado Springs Police Vice and Narcotics Unit similarly commented that legalization "has done nothing more than enhance the opportunity for the black market." Indeed, a federal law enforcement official characterized Colorado as "the black market for the rest of the country," a statement supported by the sharp increase in seizures of marijuana mailed out of Colorado since legalization.

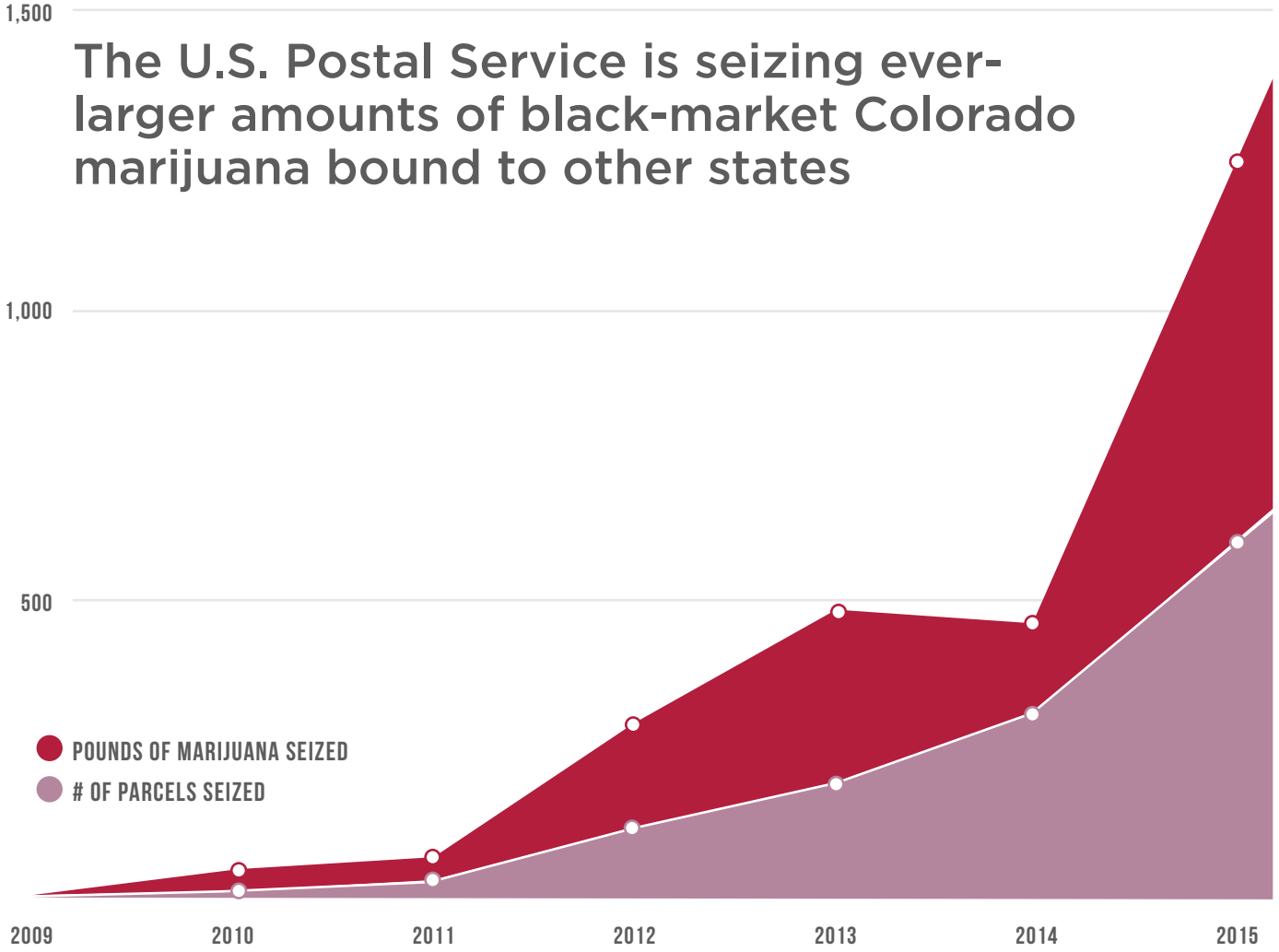
Moreover, the legalization of pot in Colorado appears to have opened the door for Mexican cartel operations in the heart of the United States. A representative of the Colorado Attorney General's office noted in 2016 that legalization "has inadvertently helped fuel the business of Mexican drug cartels...cartels are now trading drugs like heroin for marijuana, and the trade has since opened the door to drug and human trafficking."

"THE CRIMINALS ARE STILL SELLING ON THE BLACK MARKET. ...WE HAVE PLENTY OF CARTEL ACTIVITY IN COLORADO (AND) PLENTY OF ILLEGAL ACTIVITY THAT HAS NOT DECREASED AT ALL."

—Colorado Attorney General Cynthia Coffman

Similarly, the Drug Enforcement Administration reported that "since 2014, there has been a noticeable increase in organized networks of sophisticated residential [marijuana] grows in Colorado that are orchestrated and operated by drug trafficking organizations." The mayor of Colorado Springs, John Suthers, agreed, stating that "Mexican cartels are no longer sending marijuana into Colorado, they're now growing it in Colorado and sending it back to Mexico and every place else," hiding in plain sight among legal operations.

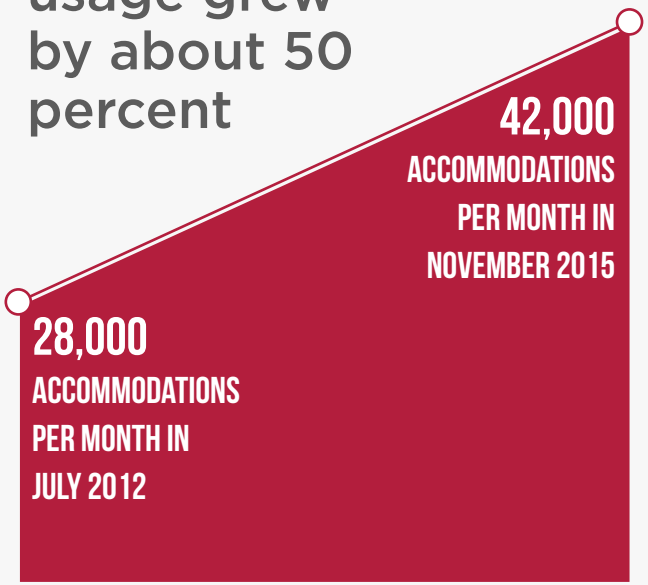
Most recently, in October 2016 a high-ranking member of California's tax authority, which was studying rates of legal compliance and tax evasion of marijuana businesses in legalized states, concluded that 'the rate of noncompliance has surged, with Colorado reporting a [non-compliance] rate of more than thirty percent.'



Source: U.S. Postal Inspection Service, as reported by Rocky Mountain HITDA report #4 (September 2016)

A POSSIBLE LINK TO HOMELESSNESS

Denver shelter usage grew by about 50 percent



The easy availability of marijuana post-legalization also appears to have swelled the ranks of Colorado's homeless population. While overall U.S. homelessness decreased between 2013 and 2014 as the country moved out of the recession, Colorado was one of 17 states that saw homeless numbers increase during that time. Perhaps not coincidentally, it was also when Colorado legalized "recreational-use" marijuana and allowed retail sales to begin. In the Denver metropolitan area, where over half of the state's homeless live, shelter usage grew by about 50 percent, from around 28,000 accommodations per month in July 2012 to 42,000 per month in November 2015. Surveys at Denver shelters estimate that about 20 to 30 percent of the newcomers are there for the easy access to pot.

A shelter for younger people placed that number even higher, with a spokesman indicating that "at least one in three [residents] ... said they were here in Denver because of the legalization of marijuana ... [t]hat has become our new normal."

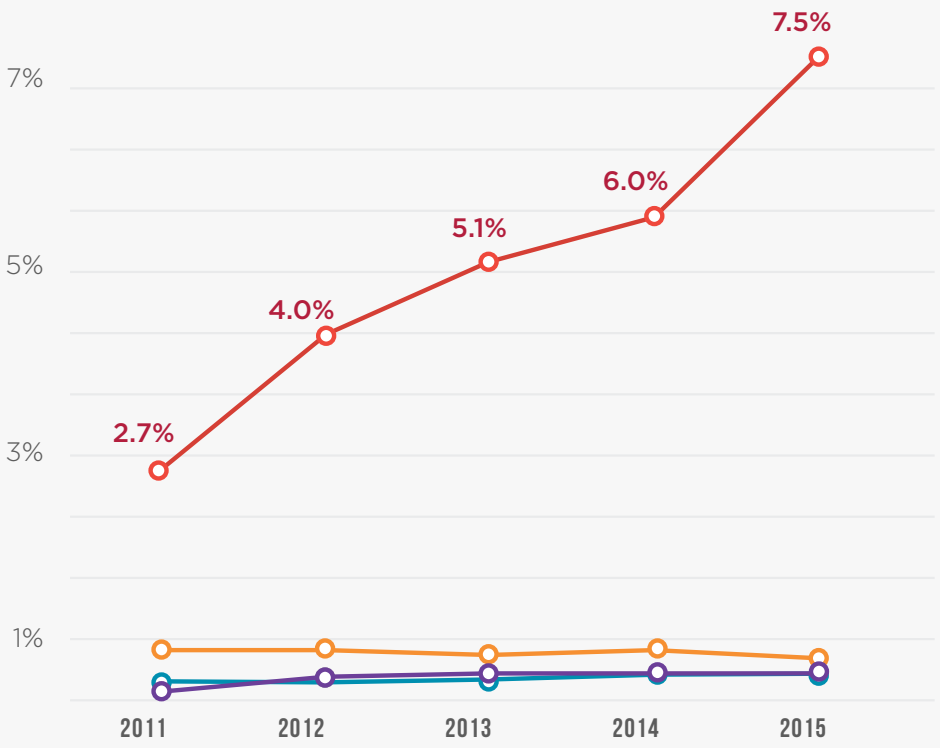
IMPACT ON BUSINESSES AND THE WORKFORCE

Marijuana legalization also involves significant downsides to existing businesses. As marijuana use has increased in states that have legalized its use, so has use by employees, both on and off the job. Large businesses in Colorado now state that after legalization they have had to hire out-of-state residents in order to find employees that can pass a pre-employment drug screen.

The CEO of large Colorado construction company GE Johnson has said that his company "has encountered so many job candidates who have failed pre-employment drug tests because of their THC use that it is actively recruiting construction workers from other states." And the owner of Colorado Springs construction company Avalanche Roofing & Exteriors told *The New York Times* that in Colorado, "to find a roofer or a painter that can pass a drug test is unheard-of."

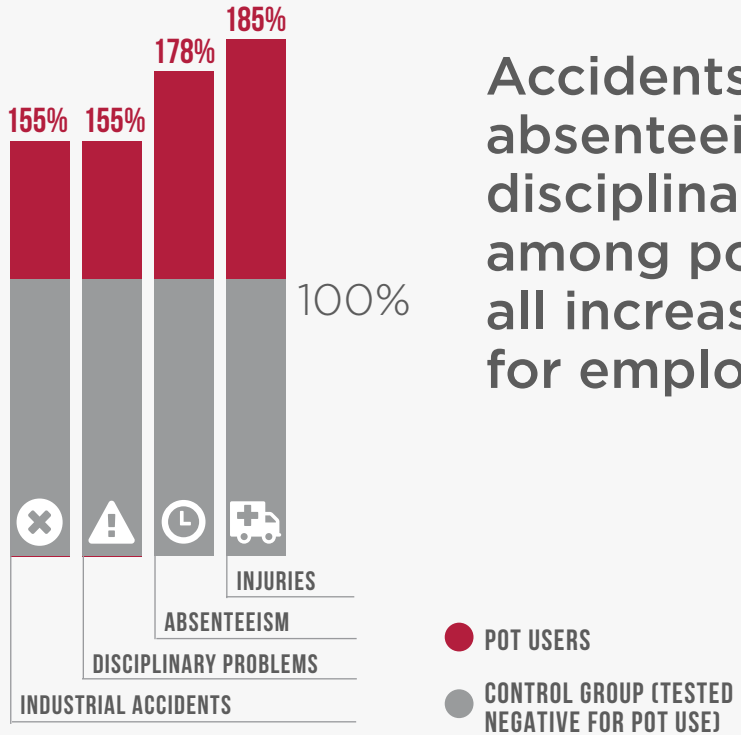
The data from major drug testing firm Quest Diagnostics, which analyzes the results millions of workplace drug tests each year, recently reported a 47% spike in the rate of positive

POSITIVE WORKPLACE ORAL DRUG TEST RESULTS



	MARIJUANA	OPIATES	COCAINE/ METABOLITE	AMPHETAMINE
AVG ANNUAL CHG 2011-15	29.1%	-5.3%	2.9%	22.3%
% CHANGE 2011-15	177.8%	-19.6%	12.2%	124.0%

Source: Quest Diagnostics, 2015 data from over 900k tests from Jan to Dec 2015.

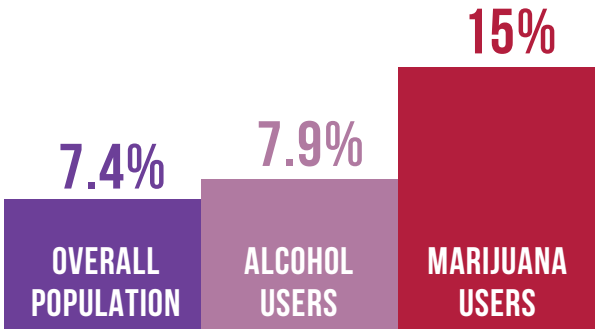


Source: Zwerling et al.

Accidents, injuries, absenteeism, and disciplinary problems among pot users all increase costs for employers

oral marijuana test results in U.S. workplaces from 2013 to 2015 — and more detailed data shows an incredible 178% rise in that rate from 2011 to 2015. The same study also indicates that after years of declining drug use in the workplace, the percentage of employees in the combined U.S. workforce testing positive for drugs has steadily risen over the last three years to a reach 10-year high.

PERCENTAGE OF PEOPLE WHO MISSED WORK DURING THE PAST 30 DAYS "BECAUSE [THEY] JUST DIDN'T WANT TO BE THERE"



Source: NSDUH tables

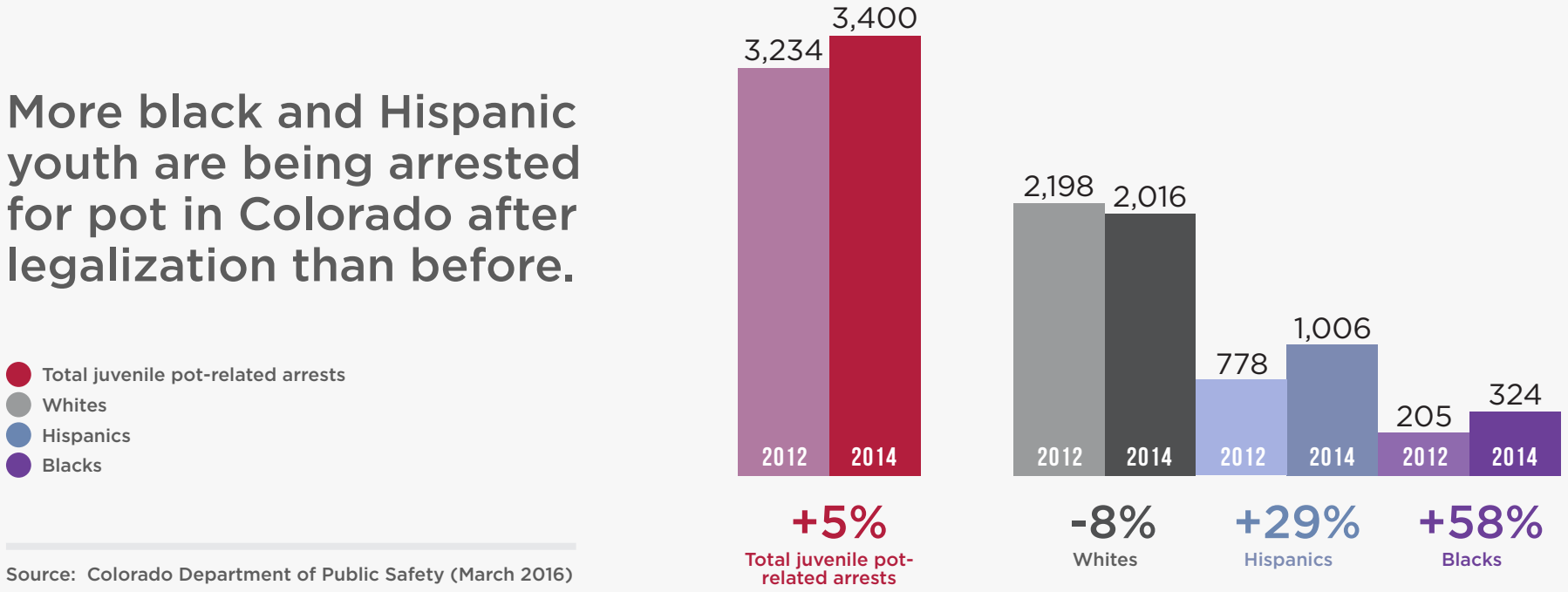
IMPACT ON COMMUNITIES OF COLOR

A 2016 investigation by *The Denver Post* revealed that a "disproportionate share" of marijuana businesses are now located in lower-income and minority communities in Denver, communities that often suffer disparate impacts of drug use. One of Denver's lower-income neighborhoods has one marijuana business for every 47 residents.

Such a dynamic is similar to a Johns Hopkins study that showed that predominantly black, low-income neighborhoods in Baltimore were eight times more likely to have carry-out liquor stores than white or racially integrated neighborhoods.

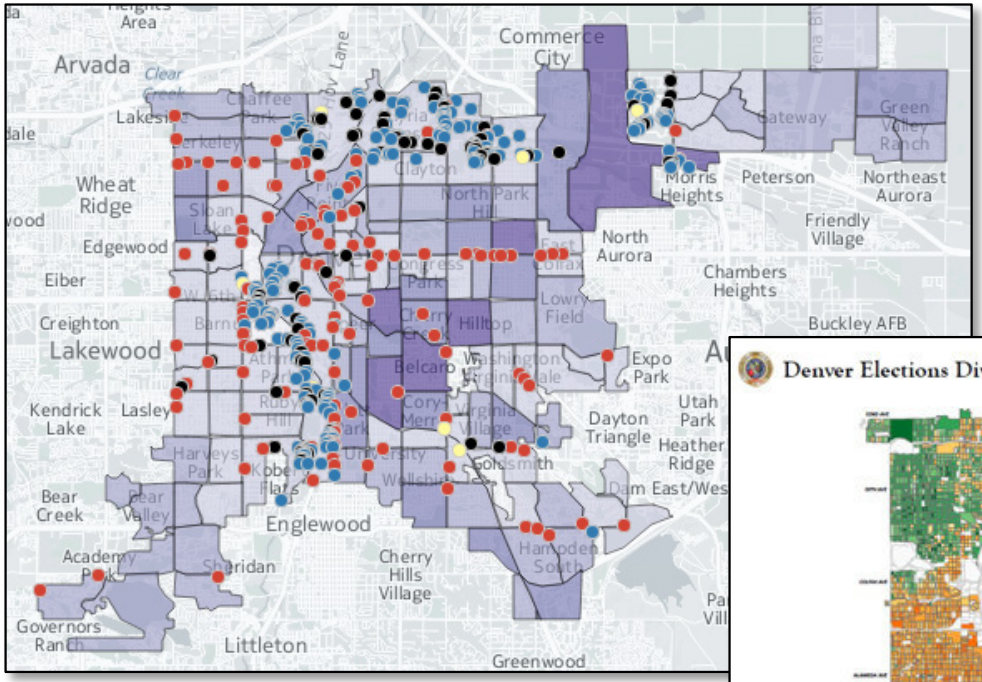
And in Colorado, ironically, more Hispanic and black kids are being arrested for marijuana after the state legalized pot in 2012 than before. Between 2012 and 2014, the number of Hispanic and black kids under 18 years old arrested for marijuana-related offenses rose 29 percent and 58 percent, respectively. At the same time, the number of white kids arrested for the same crimes fell eight percent.

More black and Hispanic youth are being arrested for pot in Colorado after legalization than before.

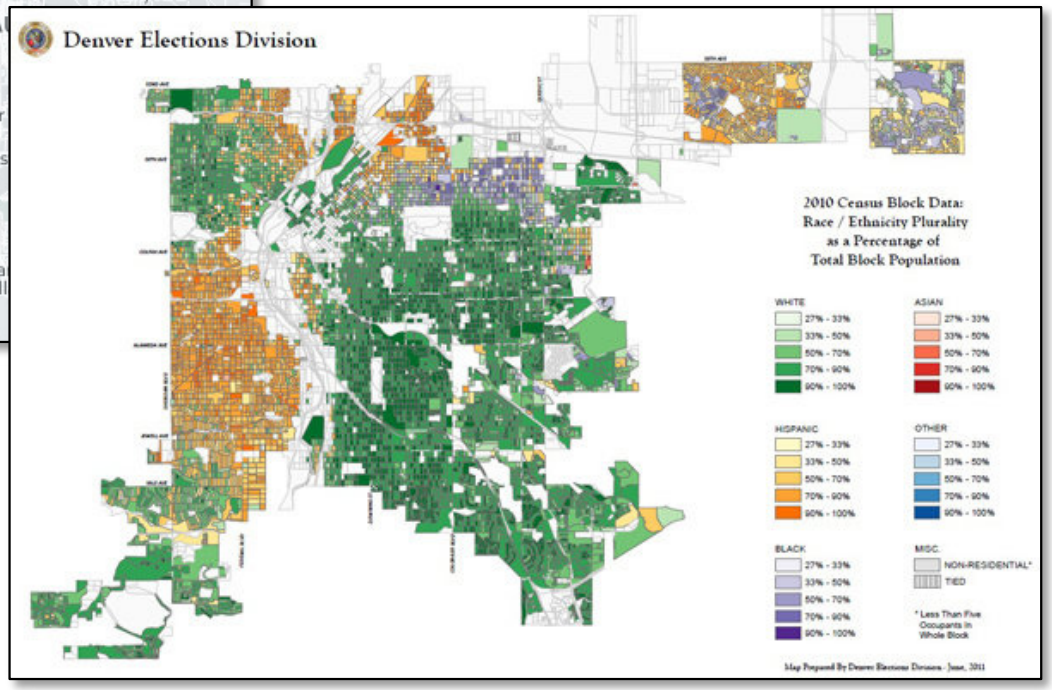


Source: Colorado Department of Public Safety (March 2016)

MARIJUANA BUSINESSES IN DENVER ARE CONCENTRATED IN NEIGHBORHOODS OF COLOR



Locations of pot businesses (dots represent businesses; neighborhoods shaded by income; lighter = lower-income)

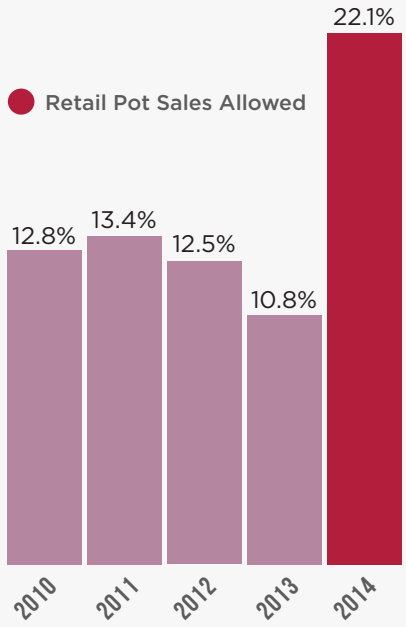


Denver neighborhoods colored by race/ethnicity: green = White; orange = Latino; purple = Black; red = Asian; blue = Other

DRIVING WHILE HIGH: A SERIOUS AND GROWING PROBLEM IN LEGALIZED STATES

Driving while high is increasingly responsible for traffic fatalities in Colorado and Washington since pot legalization. The percentage of traffic deaths related to marijuana doubled in Washington State the year retail marijuana sales were allowed. In Colorado, marijuana is now involved in more than one of every five deaths on the road, and that number is rising.

Moreover, since the average wrongful death verdict exceeds $1 million, the rising rate of pot-related traffic deaths necessarily implies costs that can quickly exceed any tax revenues earned.

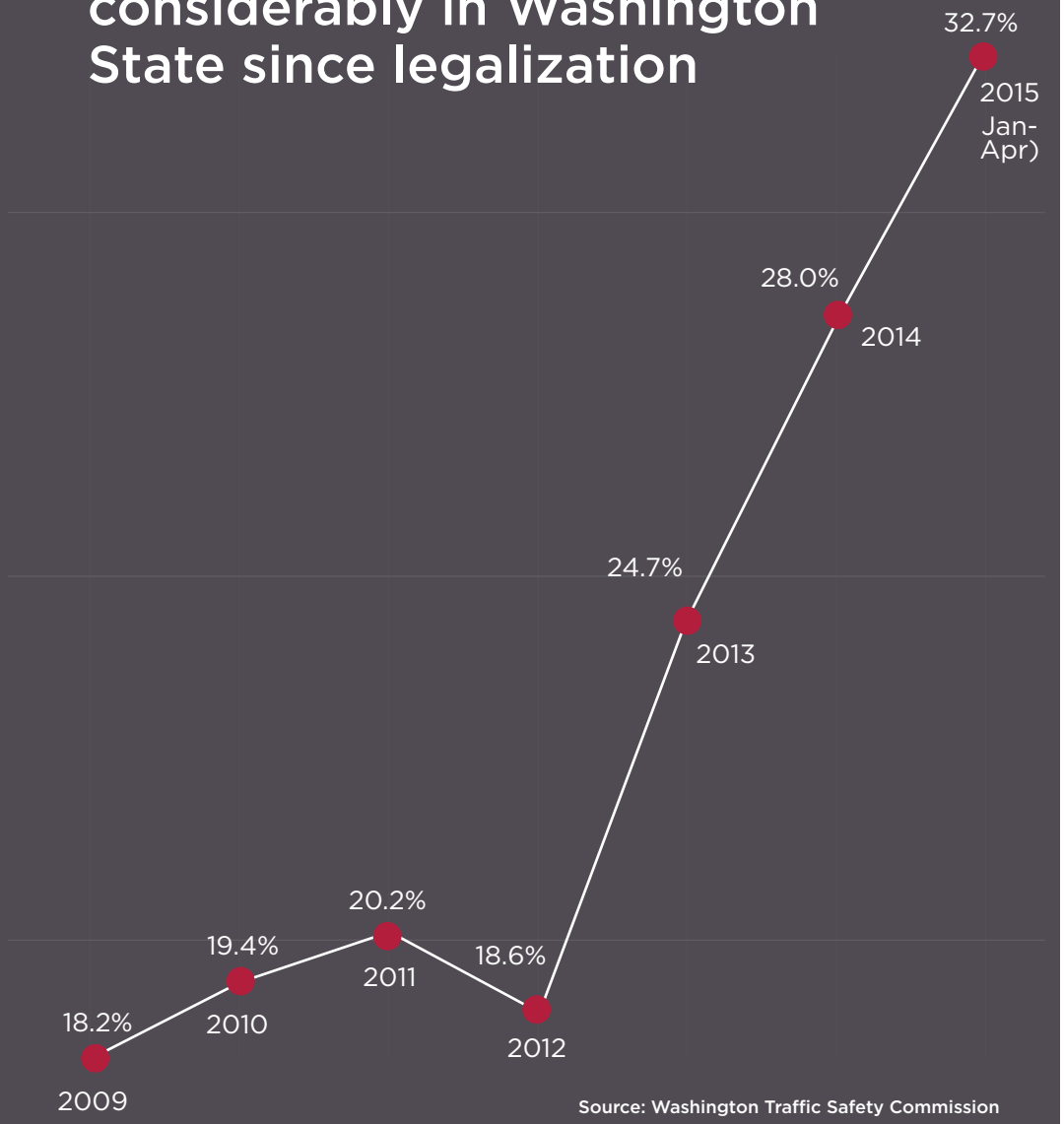


Percentage of WA traffic fatalities where driver tested positive for recent marijuana use

more than doubled the year recreational marijuana sales began.

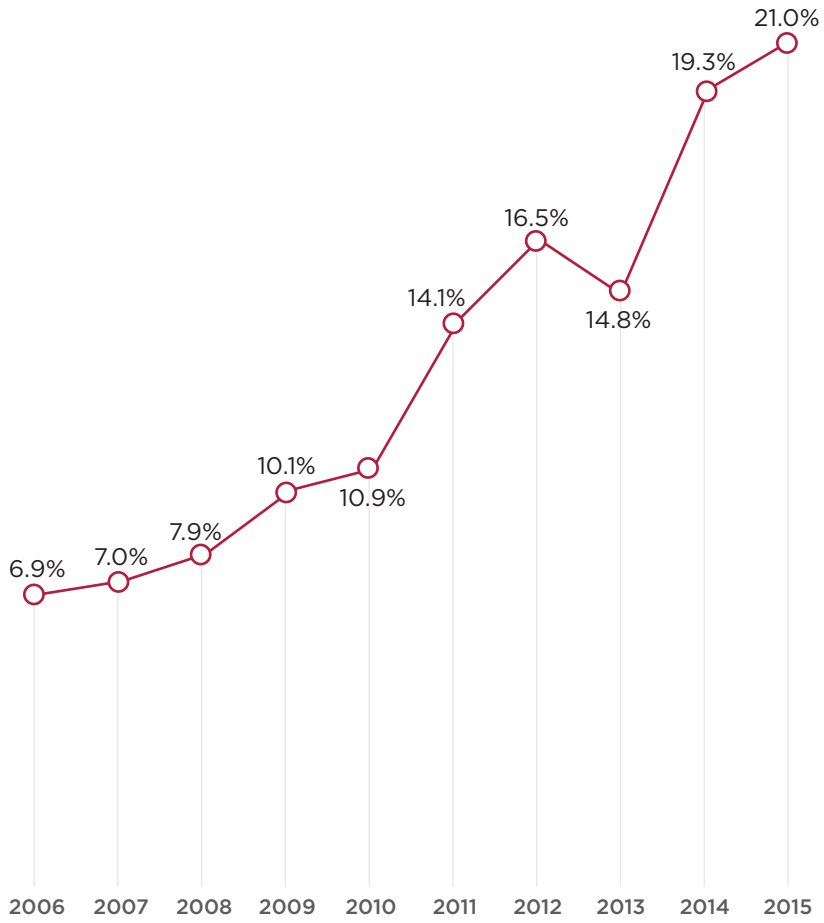
Source: AAA Foundation for Traffic Safety

The percentage of DUI cases relating to driving while high has risen considerably in Washington State since legalization



Source: Washington Traffic Safety Commission

Percentage of all traffic fatalities in CO where the operator tested positive for marijuana

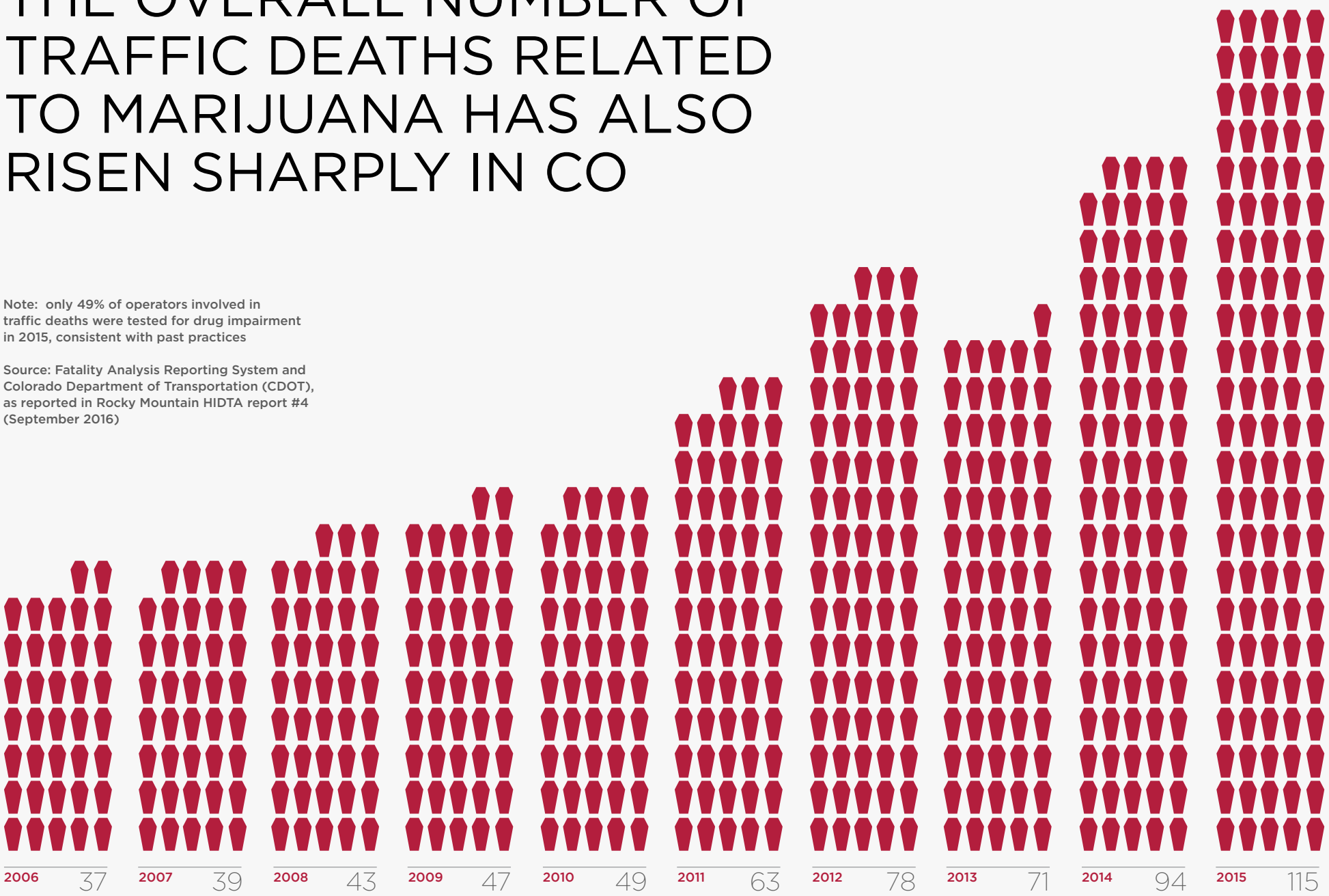


Source: Fatality Analysis Reporting System and Colorado Department of Transportation (CDOT), as reported in Rocky Mountain HIDTA report #4 (September 2016)

THE OVERALL NUMBER OF TRAFFIC DEATHS RELATED TO MARIJUANA HAS ALSO RISEN SHARPLY IN CO

Note: only 49% of operators involved in traffic deaths were tested for drug impairment in 2015, consistent with past practices

Source: Fatality Analysis Reporting System and Colorado Department of Transportation (CDOT), as reported in Rocky Mountain HIDTA report #4 (September 2016)

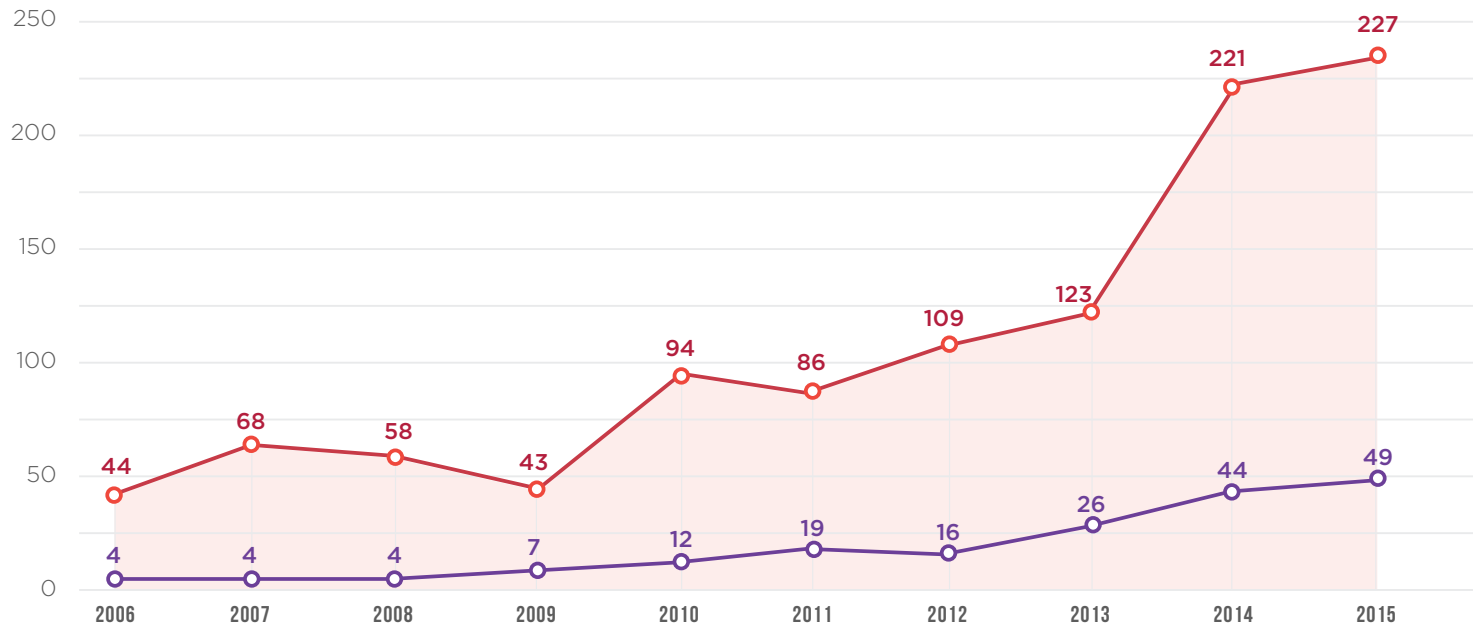


EMERGENCY MARIJUANA-RELATED POISON CONTROL CALLS IN CO

Another serious consequence of legalization is the spike in poison control center calls and hospital/ER visits related to marijuana.

Calls to poison control centers in Washington State surged 68 percent from 2012 (pre-legalization) to 2015, and 109 percent in Colorado over the same timeframe. Even more concerning, calls in Colorado related to children zero to eight years of age rose over 200 percent.

Similarly, hospitalizations related to marijuana in Colorado have increased over 70 percent since legalization, an average of over 30 percent per year. Emergency room visits also spiked, especially for out-of-state visitors. Out-of-state visits to the emergency room for marijuana-related symptoms accounted for 78 of every 10,000 emergency room visits in 2012, compared to 163 for every 10,000 visits in 2014—an increase of 109 percent. Among Colorado residents, the number of marijuana-related visits was 70 for every 10,000 in 2012 compared to 101 for every 10,000 in 2014, a 44 percent increase.



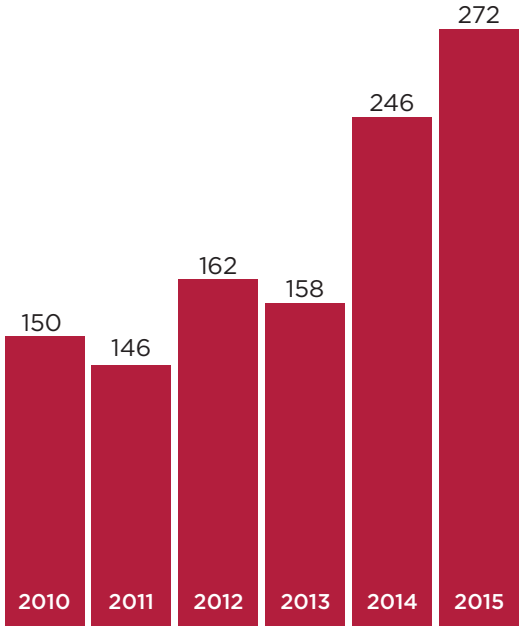
	Increase post-legalization (2012-2015):	Avg. annual chg. 2008-2015:
ALL AGES	108%	22%
AGES 0-8	206%	43%

Source: Rocky Mountain Poison and Drug Center

COLORADO'S POWERFUL POT LOBBY PUSHES BACK AGAINST ATTEMPTS TO REGULATE IT

Colorado's pot lobby has been hard at work stacking the deck since legalization passed in 2012, including:

- Blocking legislation to deter use of illegal pesticides that promote marijuana production
- Suing over restrictions on marijuana advertising targeting children
- Proposing legislation to move regulatory authority from Department of Revenue/Colorado Department of Public Health and Environment to a special committee packed with industry representatives
- Making it more difficult for local initiatives restricting marijuana businesses to be represented on the ballot by raising the threshold for signature collection, from 5% to 15% of the voting electorate
- Sponsoring an initiative in Denver to allow pot smoking in restaurants and cafés



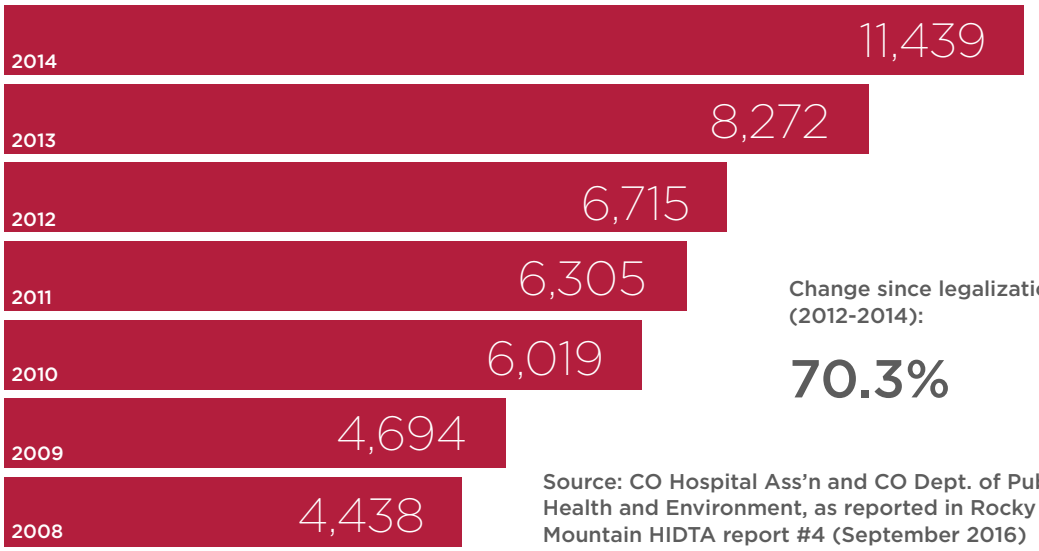
Poison Control Center Calls in Washington State have increased since legalization

Change since legalization (2012-2015):

67.9%

Source: Washington Poison Center

Hospitalizations related to marijuana in CO have increased over 70% since legalization, an average of over 30% per year



Change since legalization (2012-2014):

70.3%

Source: CO Hospital Ass'n and CO Dept. of Public Health and Environment, as reported in Rocky Mountain HIDTA report #4 (September 2016)

EDIBLES: A GROWING PUBLIC HEALTH PROBLEM

Edibles, which now comprise at least half of the Colorado marijuana market, often contain 3 to 20 times the THC concentration recommended for intoxication.

At least three deaths related to marijuana edibles were registered through 2015.

While Colorado is looking at how to control this industry, the marijuana industry marches on—defending gummis, cupcakes, lollipops, and sodas—similar to how Big Tobacco defended their practices for a century.

Starting in late 2016, Colorado will require edible marijuana products to be stamped with a symbol indicating they contain THC, ostensibly to prevent children from eating them accidentally. But the symbol itself, a diamond with the letters "THC" inside, will do little to deter young children who are unaware of what THC is. Moreover, the marijuana industry successfully defeated an earlier plan to make the label look like an octagonal "Stop" sign, claiming that it implied their products were dangerous. As the photo below suggests, the presence of the stamp on attractive pot candies is certainly does not diminish their attractiveness to kids.

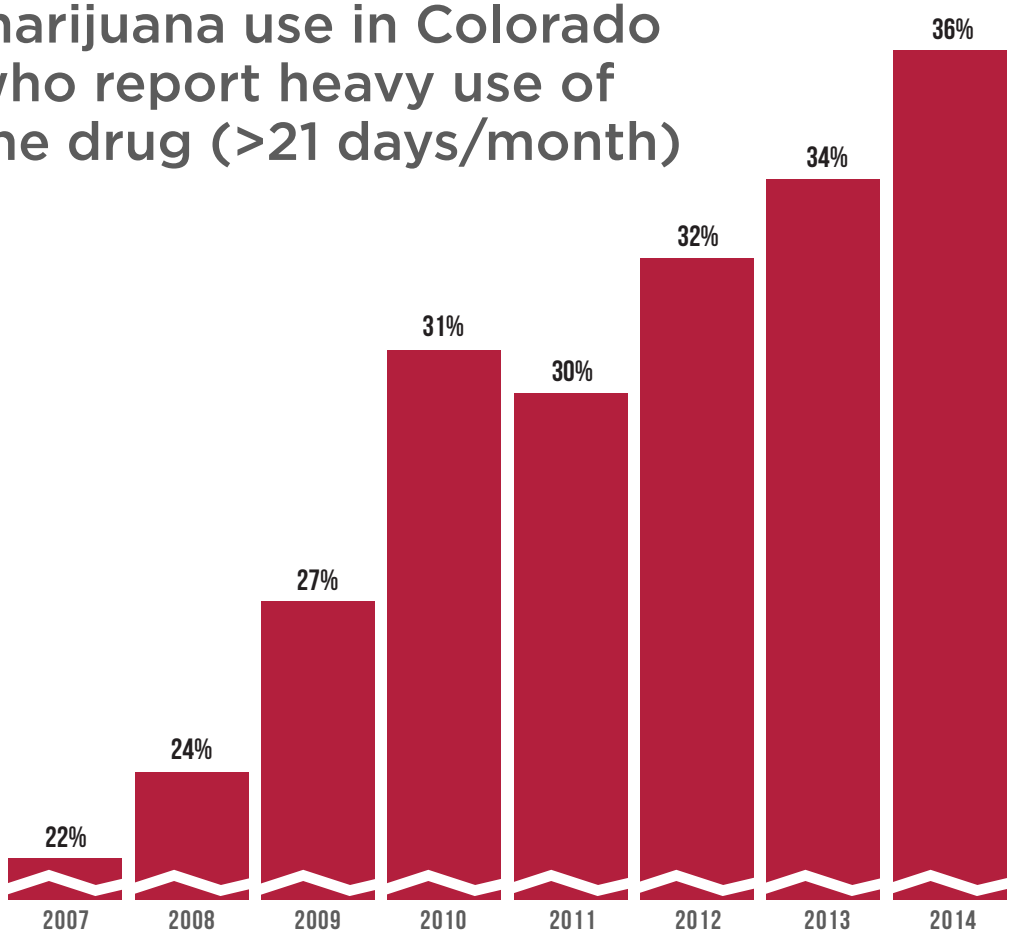
PRIVATE EQUITY AND INSTITUTIONAL CAPITAL ARE POURING INTO THE MARIJUANA BUSINESS

The marijuana-focused private equity firm, Privateer Holdings, in partnership with the descendants of Bob Marley, have created a multinational cannabis brand called Marley Natural. Investors have already raised $50 million to launch Marley Natural and other branded marijuana businesses. The political campaigns to legalize marijuana do not mention these branded marijuana products, candies, or advertising practices.

MARIJUANA & DRUG TREATMENT

More people in treatment are self-reporting heavy use of marijuana than ever before. In 2007, 22% of people in treatment in CO reported using the drug heavily. That number has increased every year since, and now 36% of people in treatment for marijuana are heavy marijuana users.

People in treatment for marijuana use in Colorado who report heavy use of the drug (>21 days/month)



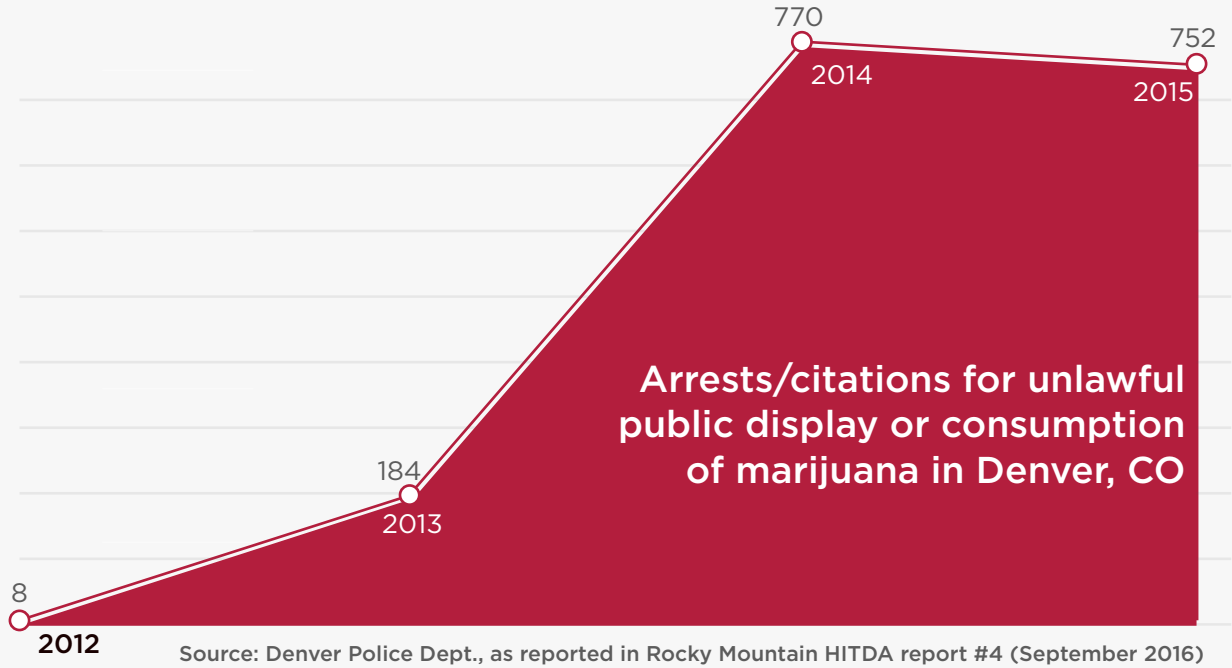
Source: Colorado Department of Human Services, Office of Behavioral Health, Drug/Alcohol Coordinated Data System

CRIME & MARIJUANA

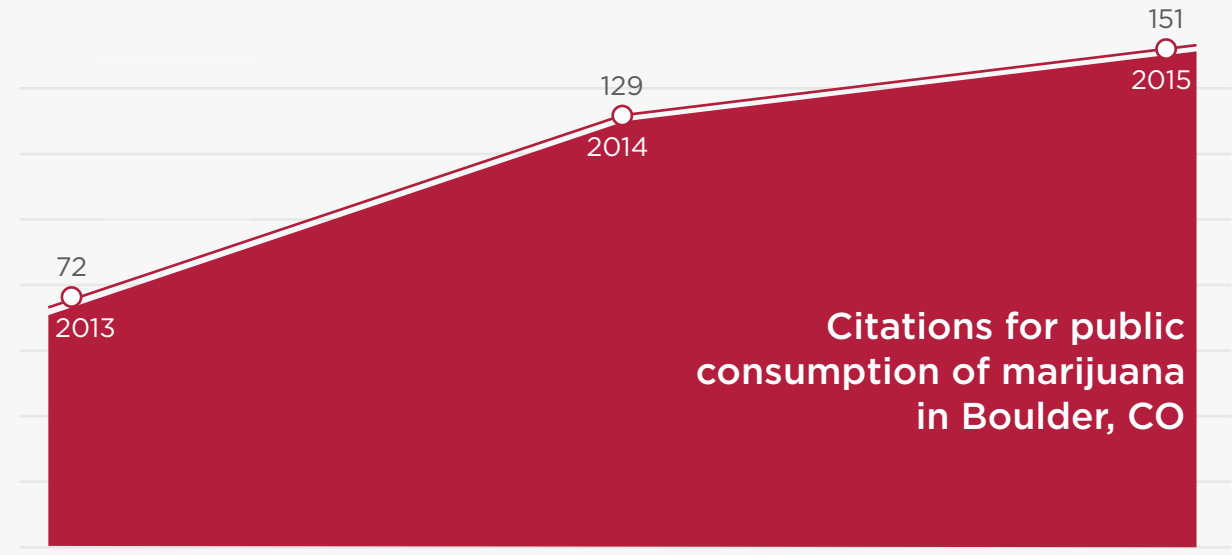
Drug and narcotics crime in Denver has increased at about 11% per year since marijuana legalization. While it is unclear if legalization has caused this increase, it does contradict promises of pro-legalization advocates that legalization would reduce such crime rates.

Indeed, Denver's overall crime rate has risen, as well as rates of serious crimes like murder, motor vehicle theft, aggravated assault, and burglaries. Many marijuana-related offenses, such as public marijuana consumption, have also increased as use has trended up.

Among juveniles, trends suggest that marijuana legalization is associated with a higher incidence of marijuana related offenses in elementary and high schools. More juveniles on probation are testing positive for marijuana than ever before. The rate has increased from 28% to 39% among the youngest cohort (10-14 years old) in just three years.

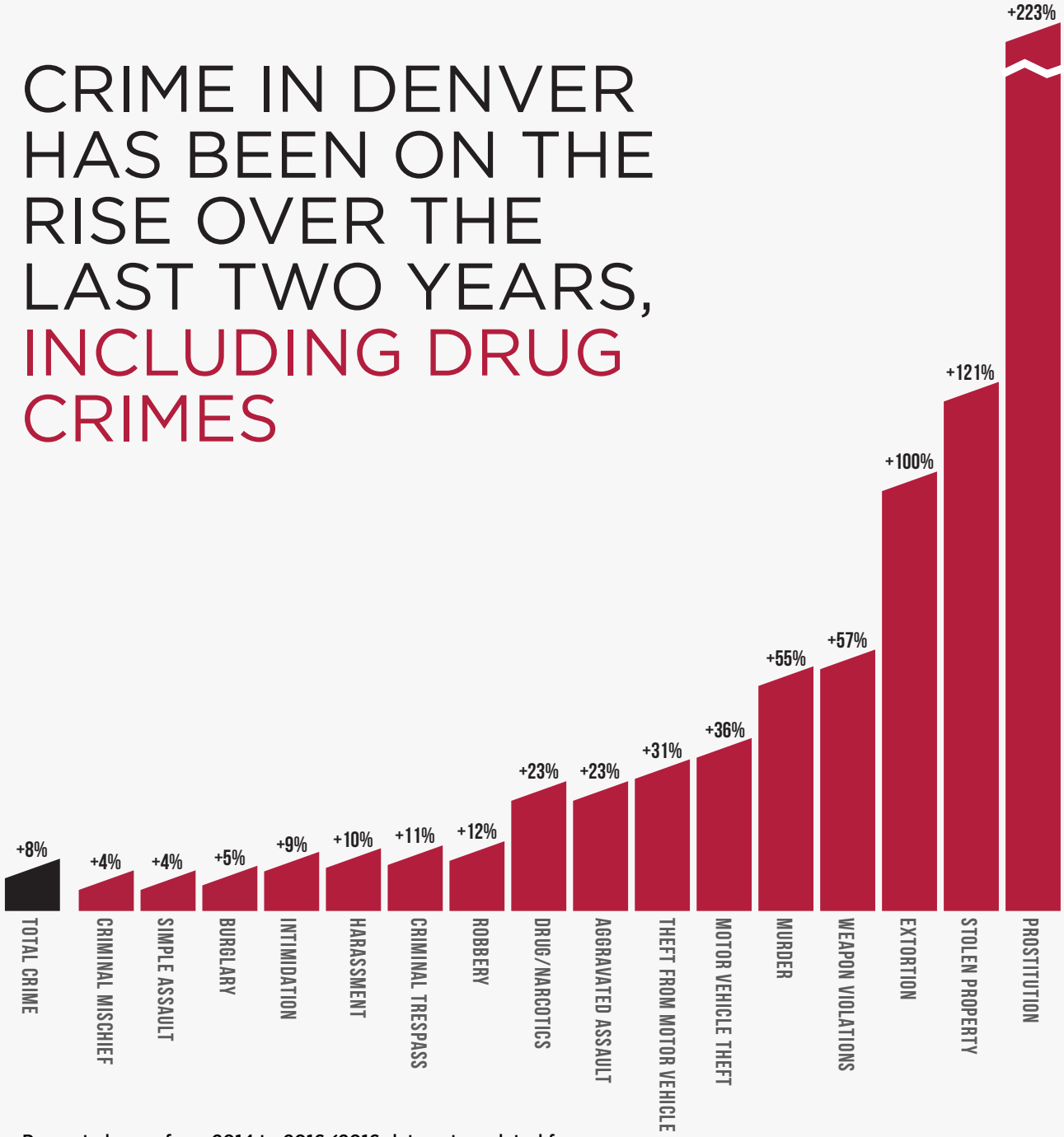


Source: Denver Police Dept., as reported in Rocky Mountain HITDA report #4 (September 2016)



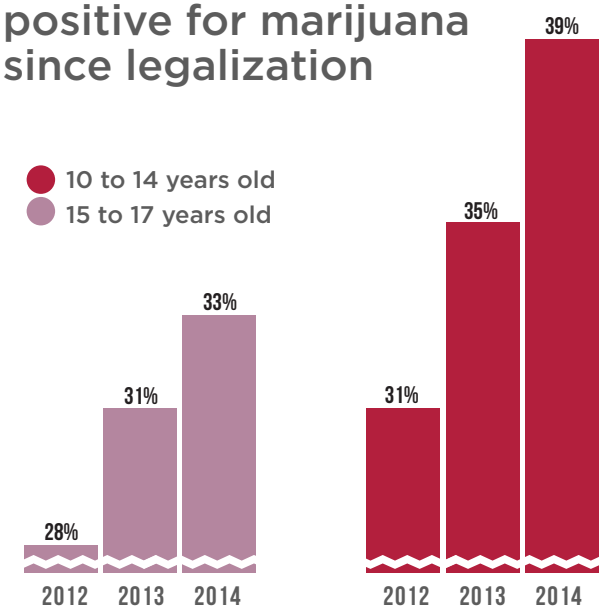
Source: Boulder Police Dept., as reported in Rocky Mountain HITDA report #4 (September 2016)

CRIME IN DENVER HAS BEEN ON THE RISE OVER THE LAST TWO YEARS, INCLUDING DRUG CRIMES



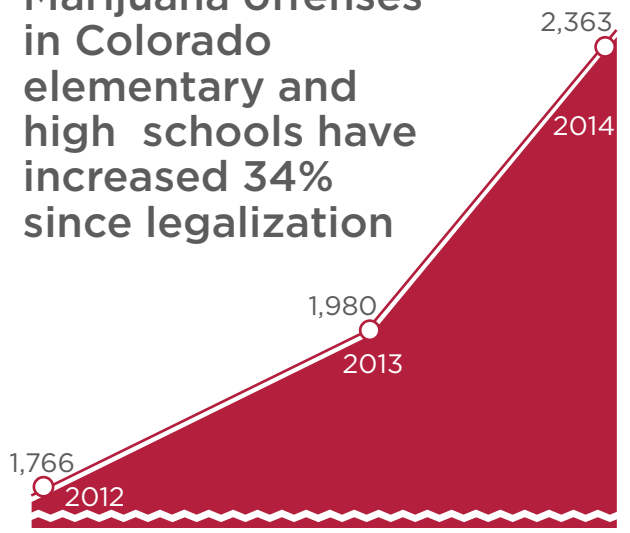
Percent change from 2014 to 2016 (2016 data extrapolated from NIBRS reports from Jan to Sep). Source: Denver Police Department

More CO youth on probation are testing positive for marijuana since legalization



Source: Colorado State Judicial Branch

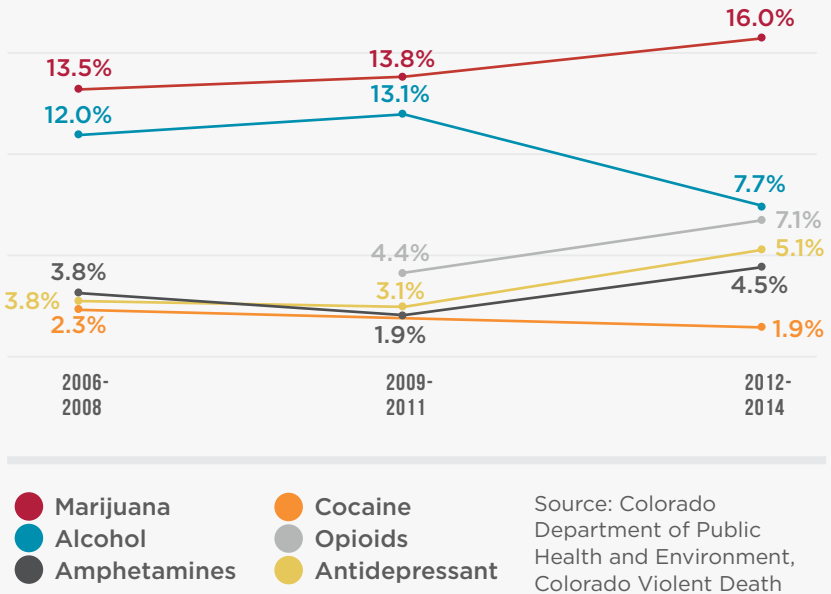
Marijuana offenses in Colorado elementary and high schools have increased 34% since legalization



Source: Colorado Bureau of Investigation

MARIJUANA, ALONG WITH OPIOIDS, IS INCREASINGLY FOUND IN ADOLESCENT SUICIDE VICTIMS IN COLORADO

Percentage of CO adolescent suicide victims testing positive for intoxicants



Source: Colorado Department of Public Health and Environment, Colorado Violent Death Reporting System (reported by Rocky Mountain HIDTA)

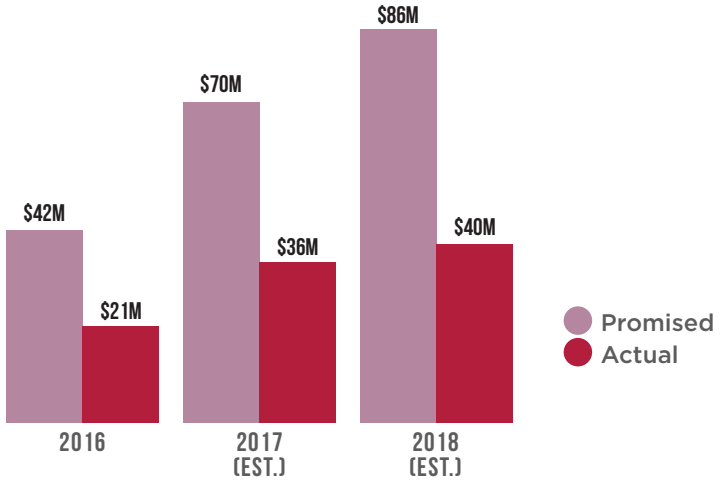
ALCOHOL CONSUMPTION HAS RISEN IN COLORADO POST-LEGALIZATION

Many legalization advocates suggest that marijuana use will displace alcohol use after legalization. Unfortunately, the opposite trend has occurred in Colorado, with per capita alcohol consumption up slightly since 2012, mirroring studies indicating that marijuana use often accompanies alcohol use instead of replacing it. Moreover, marijuana-laced beers and wines are already being developed that would mix both addictive substances together.

The trend towards use of both substances simultaneously raises additional risks to public safety. Studies show that simultaneous use has an additive effect with respect to roadway impairment.

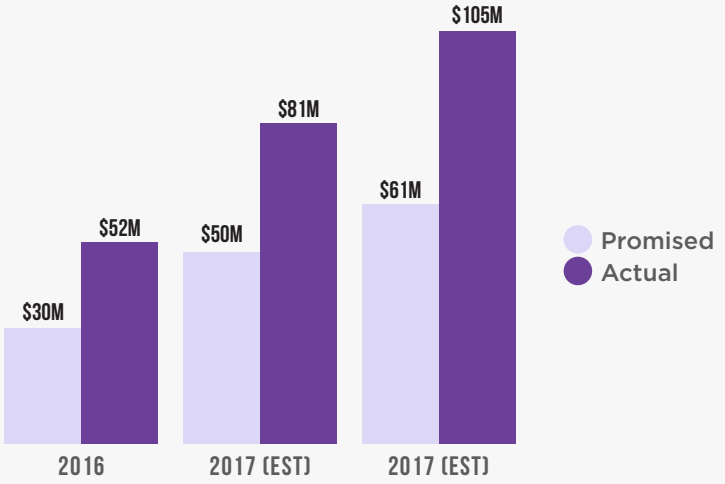
TAX REVENUES: EMPTY PROMISES?

Over half the pot money promised for drug prevention, education & treatment in Washington never materialized...



WA pot tax revenues for prevention, education & treatment (millions)

...Instead, much of it was diverted to the general fund



WA pot tax revenues for general fund (millions)

Source: Initiative 502; Washington State Economic and Revenue Forecast Council (as reported by The Seattle Times)

MORE DATA IS NEEDED.

More sophisticated data are sorely lacking with respect to marijuana in Colorado and Washington. Real-time data are needed on both the consequences of legalization and the economic costs of such a policy, such as:

- Emergency room and hospital admissions related to marijuana
- Marijuana potency and price trends in the legal and illegal markets
- School incidents related to marijuana, including representative data sets
- Extent of marijuana advertising toward youth and its impact
- Marijuana-related car crashes, including THC levels even when BAC is over 0.08
- Mental health effects of marijuana
- Marijuana brief intervention and treatment admissions
- Cost of implementing legalization from law enforcement to regulators
- Cost of mental health and addiction treatment related to increased marijuana use
- Cost of needing but not receiving treatment
- Effect on the market for alcohol and other drugs
- Cost to workplace and employers
- Impact on employee productivity

ADDITIONALLY, OF PARTICULAR CONCERN ARE RECENT FINDINGS BY THE INDEPENDENT, NON-PARTISAN GOVERNMENT ACCOUNTABILITY OFFICE (GAO) THAT THE DEPARTMENT OF JUSTICE HAD NOT "DOCUMENTED THEIR MONITORING PROCESS [OF MARIJUANA LEGALIZATION] OR PROVIDED SPECIFICITY ABOUT KEY ASPECTS OF IT[.]"

The report detailed statements by DOJ officials that "they did not see a benefit in DOJ documenting how it would monitor the effects of state marijuana legalization," and its author GAO found that "DOJ has not documented its plan for monitoring the effects of the state marijuana legalization."

ABOUT SMART APPROACHES TO MARIJUANA (SAM)

Comprising the top scientists and thinkers in the marijuana research and practice space, SAM works to bridge the gap between the public's understanding of marijuana and what science tells us about the drug. At the local, state, tribal, and federal levels, SAM seeks to align marijuana policy and attitudes about the drug with 21st-century science, which continues to show how marijuana use harms the mind and body. SAM argues against extremes in marijuana policy, and opposes both incarceration for low-level use and blanket legalization, favoring instead a health-based approach to marijuana. Learn more at www.learnaboutsam.org.

SAM SCIENCE ADVISORS:

- **Hoover Adger**, MD, Professor of Pediatrics and Director of Adolescent Medicine, Johns Hopkins University
- **Judge Arthur Burnett**, National Executive Director, National African American Drug Policy Coalition
- **Eden Evins**, MD, MPH, Associate Professor of Psychiatry, Harvard Medical School
- **Stuart Gitlow**, MD, MPH, MBA, President, American Society of Addiction Medicine
- **Sion Harris**, PhD, Center for Adolescent Substance Abuse Research, Children's Hospital Boston
- **Sharon Levy**, MD, MPH, Assistant Professor of Pediatrics, Harvard Medical School
- **Kimber Richter**, MD, PhD, Professor of Preventive Medicine and Public Health, University of Kansas.
- **Paula Riggs**, MD, Associate Professor of Psychiatry, University of Colorado at Denver
- **Christian Thurstone**, MD, Associate Professor of Psychiatry, University of Colorado
- **Kathryn Wells**, MD, Associate Professor of Pediatrics, University of Colorado at Denver
- **Krishna Upadhya**, MD, MPH, Assistant Professor of Pediatrics, Johns Hopkins School of Medicine

APPENDIX

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Family Policy ALLIANCE of North Dakota

Testimony in Opposition to HB1420

Mark Jorritsma, Executive Director
Family Policy Alliance of North Dakota
March 15, 2021

Madam Chair Lee and honorable members of the Senate Human Services Committee. My name is Mark Jorritsma and I am the Executive Director of Family Policy Alliance of North Dakota. I am testifying in opposition to House Bill 1420.

Family Policy Alliance of North Dakota is opposed to recreational marijuana on multiple grounds, but they all find their nexus in the health and welfare of North Dakota families. The family is the foundation for our communities, society, and state. Fundamentally, legalized recreational marijuana will not further help our state's families thrive, but frankly, do just the opposite – further contribute to the disintegration and devaluation of the family.

I know that you have probably already heard from those in favor of recreational marijuana in our state. However, rather than scrutinize language to try and *mitigate* impacts of potential recreational marijuana, I would like to focus on the *effects*. I want to make sure that we don't lose sight of what is at stake.

The best information to evaluate the effects of legalized recreational marijuana on a state are clearly from the experiences of other states. There are 14 states and the District of Columbia that currently have legalized recreational marijuana. I will be using their experiences, particularly those of the states with the most history, such as Colorado, Washington, and Oregon. I have organized my remarks in broad categories of impacts, consistent with my presentation to the 2019-2020 Interim Judiciary Committee on this issue.

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1. State's economy, including unemployment and homelessness rates, potential tax revenues and job opportunities, spending on public health and safety programs, including law enforcement agencies and drug treatment programs; and tourism, real estate, construction, and banking.

"Five years of retail pot coincide with five years of a homelessness growth rate that ranks among the highest rates in the country." [Colorado]

"Directors of homeless shelters, and people who live on the streets, tell us homeless substance abusers migrate here for easy access to pot." [Colorado]

"Washington State has more marijuana businesses than Starbucks or McDonalds. Colorado has more marijuana businesses than McDonalds and Starbucks combined."

"A January 2018 paper in the *American Journal of Psychiatry* showed that people who used cannabis in 2001 were almost three times as likely to use opiates three years later, even after adjusting for other potential risks."

"Over half the pot money promised for drug prevention, education & treatment in Washington never materialized…"

2. Minors, including the rate of drug usage, the effects of marijuana on developing brains, and high school dropout rates.

" An investigation by Education News Colorado, Solutions and the I-News Network shows drug violations reported by Colorado's K-12 schools have increased 45 percent in the past four years, even as the combined number of all other violations has fallen," explains an expose on escalating pot use in schools by Rocky Mountain PBS in late 2016. The investigation found an increase in high school drug violations of 71 percent since legalization. School suspensions for drugs increased 45 percent. The National Survey on Drug Use and Health found Colorado ranks first in the country for marijuana use among teens, scoring well above the national average.."

"Overall use [of marijuana] in CO and WA among minors (ages 12-17) is both higher than and rising faster than the national average."

"Colorado toxicology reports show the percentage of adolescent suicide victims testing positive for marijuana has increased (Colorado Department of Public Health & Environment [CDPHE], 2017)."

3. The legal system, including crime rates, the prison population, and rates of usage of other drugs.

"A Swiss study of 265 psychotic patients published in *Frontiers of Forensic Psychiatry* last June found that over a three-year period, young men with psychosis who used cannabis had a 50 percent chance of becoming violent. That risk was four times higher than for those with psychosis who didn't use, even after adjusting for factors such as alcohol use. Other researchers have produced similar findings."

A 2013 paper in an Italian psychiatric journal examined almost 1,600 psychiatric patients in southern Italy and found that cannabis use was associated with a ten-fold increase in violence."

"The criminals are still selling on the black market. ...we have plenty of cartel activity in Colorado (and) plenty of illegal activity that has not decreased at all." —Colorado Attorney General Cynthia Coffman

4. Workers' compensation and work-related accidents.

"Accidents, injuries, absenteeism, and disciplinary problems among pot users all increased after legalization by amounts ranging from 55-85%." [Colorado]

The Greater North Dakota Chamber, the state's largest business advocacy organization, opposed ballot Measure 3 (legalizing recreational marijuana).

5. Public health and safety.

"Five years of Big Marijuana ushered in a doubling in the number of drivers involved in fatal crashes who tested positive for marijuana, based on research by the pro-legalization Denver Post."

"[The] percentage of WA traffic fatalities where [the] driver tested positive for recent marijuana use more than doubled the year recreational marijuana sales began."

"National Academy of Medicine found in 2017 that 'cannabis use is likely to increase the risk of developing schizophrenia and other psychoses; the higher the use, the greater the risk.'"

There are hundreds of Marijuana Edibles available in Colorado, including almost 130 at one dispensary site alone, including things such as cereal, microwave popcorn, cough drops, and marinara sauce.

As is quickly evident from this limited review of the impacts of legalized recreational marijuana, the list of negative impacts is significant. For these reasons and the aforementioned potential destructive impact on North Dakota families, Family Policy Alliance of North Dakota opposes any legalization of recreational marijuana in our state, including HB1420.

Thank you for the opportunity to testify and I am happy to answer any questions you may have via the contact information I have provided.

Sources

The Sad Anniversary of Big Commercial Pot, Gazette Editorial Board, The Colorado Springs Gazette, Nov 9, 2017, Updated Feb 1, 2019

Marijuana, Mental Illness, and Violence, Alex Berenson, Imprimis, January 2019, Volume 48, Number 1

SAM Educational Briefs & Data on Marijuana Policy, February 2017

LESSONS LEARNED AFTER 4 YEARS OF MARIJUANA LEGALIZATION, Smart Approaches to Marijuana, October 2016.

LESSONS LEARNED FROM MARIJUANA LEGALIZATION IN FOUR U.S. STATES AND D.C., Smart Approaches to Marijuana, MARCH 2018

How do employees using marijuana affect your business?, James P Randisi, RANDISI & ASSOCIATES, INC., October 1, 2015.

Fatal crashes involving drivers who test positive for marijuana have doubled in states where recreational use is legal, report says, Dave Herndon, MediaNews Group Inc., Jan 30, 2020, Updated Jan 30, 2020.

The Kind Room, Marijuana Dispensary menu of edibles, https://www.leafly.com/dispensary-info/the-kind-roomf0f7/menu?product_category[]=Edible

The Legalization of Marijuana in Colorado: The Impact, Rocky Mountain High Intensity Drug Trafficking Area, Oct 2017, Volume 5

Economic and Social Costs of Legalized Marijuana, Centennial Institute at Colorado Christian University, Nov 15.

WA_CO Marijuana analysis.pdf (attached)

Top-ten-myths.pdf (attached)

Edibles-List.pdf (attached)

The *new* face of Big Tobacco

Say NO to Big Marijuana in New Zealand

Same corporates.
Same objectives.
Same addiction.
New product.

TOP 10 MYTHS

MYTH #1
SMOKING MARIJUANA DOES NOT CAUSE CANCER

FACT

Smoking marijuana increases your risk of lung cancer by **200%**

MYTH #2
SMOKING MARIJUANA DOES NOT CAUSE LUNG DISEASE

FACT

On average, marijuana smokers develop CHRONIC BRONCHITIS AND OTHER RESPIRATORY PROBLEMS at the age of 41 – more than 20 years sooner than tobacco smokers.

MYTH #3
MARIJUANA CONSUMPTION DOES NOT AFFECT YOUR MENTAL HEALTH

FACT

Persistent marijuana use before adulthood can cause permanent mental health impairment, such as SCHIZOPHRENIA AND MEMORY LOSS.
Teens are vulnerable while their brains are still forming.

MYTH #4
SMOKING MARIJUANA IS SAFER THAN SMOKING TOBACCO

FACT

Marijuana smoke contains higher concentrations of dangerous chemicals than tobacco, including ammonia, hydrogen cyanide and nitric oxide.

Marijuana smokers can suffer airway injuries, coughing, phlegm production, and wheezing - similar to tobacco smokers.

MYTH #5:

MARIJUANA IS NOT ADDICTIVE

FACT

Cannabis can be addictive.

1 IN 6 PEOPLE who use marijuana during adolescence will develop an addiction.

MYTH #6

ANY MENTAL HEALTH IMPACTS FROM MARIJUANA ARE TEMPORARY

FACT

Adolescent exposure to marijuana causes long-term mental health problems. Teens who used cannabis over a long term suffered decreases in their working memory, processing speed and reasoning.

MYTH #7

LEGALIZING MARIJUANA MAKES IT LESS ATTRACTIVE TO YOUTH

FACT

Legalization has made marijuana more popular among young people in some U.S. states.
More teens now smoke marijuana than cigarettes, according to the U.S. Center for Disease Control.

MYTH #8

LEGALIZING MARIJUANA WILL REDUCE ORGANIZED CRIME

FACT

Multiple studies have shown that organized crime has a low involvement in Canada's marijuana industry.
The current cannabis market is actually dominated by otherwise law-abiding citizens – not by organized crime.

MYTH #9

LEGALIZING MARIJUANA WILL NOT IMPACT CHILDREN

FACT

The frequency of calls about children poisoning themselves by accidentally eating marijuana tripled in states that decriminalized pot before 2005, poison hotlines report.

MYTH #10

MARIJUANA CONSUMPTION DOES NOT IMPAIR YOUR DRIVING ABILITY

FACT

Marijuana use DOUBLES THE RISK of a car crash because users have slower reaction times. It's the most common drug involved in drugged driving.

Source: citizengo.ca

For additional information, including source references:
SayNopeToDope.org.nz/top-ten-myths

Correct as at time of printing. We welcome any documented corrections.

HB1420 Testimony

Veronica Michael,

Resident of Fargo ND and CEO of Prairie Products LLC, we use cold ethanol to extract agricultural hemp in Fargo, ND to make a variety of extracts and retail CBD products..

Mr. Chairman, Members of the Committee. I am writing this testimony on behalf of myself and as a member of the Dakota Resource Council. DRC is an organization that supports sustainable agriculture and new industries; DRC has supported the hemp industry since the late 1990s. I would like to make it clear to the committee that hemp and recreational cannabis are not the same thing and this law does have implications for both industries. Thank you for taking time to consider how HB1420 can benefit North Dakota farmers and ranchers and how a one size fits all form of regulation does not serve agriculture.

In North Dakota, we have approximately 70 licensed hemp farmers growing approximately 4,000 acres. Hemp farming regulation was standardized by the federal government through the 2018 US Farm Bill allowing for the growth of agricultural hemp with a THC level of .3%. North Dakota has historically always been a national leader in agricultural innovation and now participates in the federal agricultural hemp production program for the growth and research of hemp for seed, fiber, and cannabinoids.

Because THC is considered a Schedule 1 Drug that is present in industrial hemp, the crop is monitored by the North Dakota Department of Agriculture and various other federal agencies. The rules are simple; a licensed grower of hemp needs to undergo an extensive criminal background check to apply for a license. When the process is approved, hemp farmers have to monitor and test their crop for THC potency to ensure compliance. Fifteen days before harvest the farmer is required to notify the state and a state employee randomly samples the hemp, testing by a third party to confirm that the farmer has not to exceed .3%THC concentration.

***If the hemp crop fails to meet compliance even by .1%, growers must destroy their crops.**

Several North Dakota farmers have been impacted by these slight percentage changes that in some cases are beyond their control. It is important to note agricultural hemp is not just grown for extraction of its compounds. Hemp can be grown for fiber and grain production. Some research suggests North Dakota is an ideal location for this type of hemp production. Does hemp grown for fiber or grain warrant the same regulations? Putting this burden of regulation on the producer and not before the product reaches the consumer is not reasonable.

If HB1420 is passed, the federal government has made it a policy not to intervene in regulating THC levels in states that have legalized recreational use. This bill, if passed alongside HB1045, would give our Ag commissioner the ability to set the THC levels in hemp to whatever levels he deems necessary and we could effectively start industrial hemp facilities in the state without need for over-regulation. We would then be free to create classes of licenses that could properly regulate our industry without this cumbersome one size fits all policy. When we describe industrial hemp, we are talking about making fiber for clothing, composite materials, and high strength fiber materials similar to fiberglass, paper, and building materials. I'd also like to remind the committee once again that you are required to have a criminal background check to grow hemp in the state of North Dakota. These people are not aspiring criminals but just farmers and ranchers that want to diversify their agricultural portfolio and bring economic growth to North Dakota. And not only are they screened before they are even allowed to plant a single seed, they are watched by the state from planting to harvest. No other crop is regulated at this level. How does this serve our North Dakota farm economy?

I would urge you to support HB1420 not just for the people of North Dakota, but the farmers and ranchers. I stand for questions.

2021 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Sakakawea Room, State Capitol

HB 1420
3/22/2021

A BILL for an Act to create and enact chapter 19-24.3 of the North Dakota Century Code, relating to the personal use of marijuana; to amend and reenact subsection 1 of section 19-03.1-22.2, subsection 7 of section 19-03.1-23, subsection 4 of section 19-03.4-03, subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of the North Dakota Century Code, relating to the legalization of marijuana; to provide a statement of legislative intent; to provide for a legislative management report; and to provide a penalty.

Madam Chair Lee opened the discussion on HB 1420 at 9:02 a.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

Discussion Topics:

- Proposed amendment
- States Attorney input and knowledge of HB 1420
- Criminal charges
- Possession amount

[9:14] Tara Bradner, Assistant Attorney General, Counsel for NDDoH. Provided clarification to the committee on proposed amendment 21.0683.04004 (testimony #9807).

[9:25] Recess

[9:28] Tara Bradner continues clarification on amendment 21.0683.04004

[9:58] Representative Jason Dockter, District 7. Provided clarification on the proposed amendment 21.0683.04004.

[10:05] Tara Bradner, Assistant Attorney General, Counsel for NDDoH. Provided clarification on allowing in-home growing on marijuana.

Senator Anderson moves to **ADOPT AMENDMENT** 21.0683.04004
Senator Hogan seconded.

Senators	Vote
Senator Judy Lee	Y
Senator Kristin Roers	N
Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Oley Larsen	Y

The motion passed 5-1-0

Senator K. Roers moves **DO PASS, AS AMENDED, REREFER TO APPROPRIATIONS.**

Senator Hogan seconded.

Senators	Vote
Senator Judy Lee	Y
Senator Kristin Roers	Y
Senator Howard C. Anderson, Jr.	N
Senator David A. Clemens	N
Senator Kathy Hogan	Y
Senator Oley Larsen	N

The motion failed 3-3-0

Senator Anderson moves **DO NOT PASS, AS AMENDED.**
Senator Clemens seconded.

Senators	Vote
Senator Judy Lee	N
Senator Kristin Roers	N
Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	N
Senator Oley Larsen	Y

The motion failed 3-3-0

Senator K. Roers moves **WITHOUT COMMITTEE RECOMMENDATION, AS AMENDED.**
Senator Hogan seconded.

Senators	Vote
Senator Judy Lee	Y
Senator Kristin Roers	Y
Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Oley Larsen	N

The motion passed 5-1-0

Additional written testimony: N/A

Madam Chair Lee closed the hearing on HB 1420 at 10:42 a.m.

Justin Velez, Committee Clerk

SK 1206
3/22

21.0683.04004
Title.05000

Prepared by the Legislative Council staff for
Representative Dockter
March 17, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1420

Page 4, line 18, after "plant" insert "of the genus"

Page 4, line 18, overstrike "sativa L."

Page 4, line 18, overstrike the semicolon and insert immediately thereafter ", and"

Page 4, line 19, overstrike "; the resin extracted from any part of the plant; and every compound,"

Page 4, line 20, overstrike "manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin"

Page 4, line 22, after "a." insert "The tetrahydrocannabinol extracted or isolated from the plant, or any compound, manufacture, salt, derivative, mixture, or preparation from the resin of oil, including natural or synthetic tetrahydrocannabinol;

b."

Page 4, line 27, replace "b." with "c."

Page 4, line 28, replace "c." with "d."

Page 5, line 1, replace "d." with "e."

Page 7, line 7, after the period insert "Other names: Delta-8-tetrahydrocannabinol."

Page 7, line 12, replace "does" with "do"

Page 7, line 13, replace "Tetrahydrocannabinols" with "The allowable amount of total tetrahydrocannabinol"

Page 7, line 15, after "(b)" insert "A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

(c)"

Page 7, line 27, remove the overstrike over "~~, except the term does not include less than~~"

Page 7, line 27, after "~~one-half~~" insert "one"

Page 7, line 27, remove the overstrike over "~~ounce~~" and insert immediately thereafter "[28.35 grams]"

Page 7, line 27, remove the overstrike over "~~of~~"

Page 7, line 28, remove the overstrike over "~~marijuana~~" and insert immediately thereafter "or an amount up to the applicable maximum possession amount of tetrahydrocannabinol"

Page 8, line 10, remove the overstrike over "~~This subsection does not apply to ingesting, inhaling,~~"

Page 8, line 11, remove the overstrike over "~~injecting, or otherwise taking into the body marijuana~~" and insert immediately thereafter "or tetrahydrocannabinol"

Page 8, line 11, remove the overstrike over the overstruck period

Page 11, line 6, replace "two" with "eight and eighty-two hundredths"

Page 11, line 7, replace "56.70" with "250"

Page 11, line 8, replace "two" with "eight and eighty-two hundredths"

Page 11, line 8, replace "56.70" with "250"

Page 11, line 8, replace "500" with "seventeen and sixty-four hundredths ounces [500"

Page 11, line 8, after the second "grams" insert an underscored closing bracket

Page 11, after line 9, insert:

"(d) More than seventeen and sixty-four hundredths ounces [500 grams] is guilty of a class C felony."

Page 11, line 11, after "maximum" insert "possession"

Page 11, line 13, after "maximum" insert "possession"

Page 11, line 14, replace "two" with "four"

Page 11, line 14, after "maximum" insert "possession"

Page 11, line 14, after "amount" insert "of tetrahydrocannabinol"

Page 11, line 16, replace "two" with "four"

Page 11, line 16, after "maximum" insert "possession"

Page 11, line 17, after "19-24.2" insert "but less than eight times the applicable maximum possession amount of tetrahydrocannabinol authorized by chapter 19-24.2"

Page 11, after line 17, insert:

"(d) More than eight times the applicable maximum possession amount of tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a class C felony."

Page 11, line 19, after "(1)" insert "Marijuana:

(a)"

Page 11, line 19, remove "of marijuana"

Page 11, line 19, replace "two" with "eight and eighty-two hundredths"

Page 11, line 20, replace "56.70" with "250"

Page 11, line 20, remove "of marijuana"

Page 11, line 21, replace "(2)" with "(b)"

Page 11, line 21, replace "two" with "eight and eighty-two hundredths"

Page 11, line 21, replace "56.70" with "250"

Page 11, line 21, after the second "than" insert "seventeen and sixty-four hundredths ounces ["

Page 11, line 21, after the second "grams" insert an underscored closing bracket

Page 11, after line 22, insert:

"(c) More than seventeen and sixty-four hundredths ounces [500 grams] is guilty of a class C felony.

(2) Tetrahydrocannabinol:"

Page 11, line 23, replace "(3)" with "(a)"

Page 11, line 23, after "maximum" insert "possession"

Page 11, line 24, replace "two" with "four"

Page 11, line 25, after "maximum" insert "possession"

Page 11, line 27, replace "(4)" with "(b)"

Page 11, line 27, replace "two" with "four"

Page 11, line 27, after "maximum" insert "possession"

Page 11, line 28, after "19-24.2" insert "but less than eight times the applicable maximum possession amount of tetrahydrocannabinol authorized by chapter 19-24.2"

Page 11, after line 28, insert:

"(c) More than eight times the applicable maximum possession amount of tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a class C felony."

Page 12, line 25, after "maximum" insert "possession"

Page 14, line 20, after the semicolon insert "or"

Page 14, line 22, remove the overstrike over "~~or~~"

Page 14, line 23, overstrike "(11) Five hundred grams or more of marijuana;"

Page 14, line 23, remove "or"

Page 14, remove line 24

Page 14, remove line 25 remove "maximum amount authorized by chapter 19-24.2;"

Page 14, line 25, overstrike "or"

Page 21, line 21, after "30." insert ""Tetrahydrocannabinol" means tetrahydrocannabinols naturally contained in a plant of the genus Cannabis, and synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of the plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, including:

a. Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

b. Delta-6 or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-8 tetrahydrocannabinol.

c. Delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not intentionally

standardized, compounds of these structures, regardless of numerical designation or atomic positions covered.) Tetrahydrocannabinol does not include:

(1) The allowable amount of total tetrahydrocannabinol found in hemp as defined in chapter 4.1-18.1; or

(2) A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

31. "Total tetrahydrocannabinol" means the sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by eight hundred seventy-seven thousandths plus the percentage of weight of tetrahydrocannabinol.

32."

Page 35, line 26, replace "adult use" with "adult-use"

Page 35, line 29, after "maximum" insert "possession"

Page 39, after line 6, insert:

"1."

Page 39, after line 13, insert:

"2. At least once every two years, an adult-use cannabis business must undergo an audit performed by a private certified public accountant or a private licensed public accountant. In lieu of an audit, the department may authorize an adult-use cannabis business to engage a private certified public accountant or a private licensed public accountant to perform an agreed upon procedures engagement. The department must approve the agreed upon procedures engagement."

Page 42, line 2, after "consumer" insert "only"

Page 42, line 8, remove "This chapter does not authorize an adult-use cannabis consumer to engage in, and"

Page 42, remove lines 9 through 31

Page 43, replace lines 1 through 14 with:

"a. An adult-use cannabis consumer is prohibited from using or consuming adult-use cannabis products:

(1) In any public place, including an indoor or outdoor area used by, or open to, the general public, or on any form of public transportation.

(2) On the grounds of any adult-use cannabis business; or

(3) In a motor vehicle as defined by chapter 39-01.

b. Unless a greater penalty is otherwise provided by law, an adult-use cannabis consumer who violates this subsection is guilty of an infraction."

Page 43, line 15, after "3." insert "An adult-use cannabis consumer may not undertake an activity under the influence of cannabis if doing so would constitute negligence or professional malpractice. An adult-use cannabis consumer who violates this subsection may be subject to civil liability, criminal liability, or any other penalty as otherwise provided by law.

4. a. An adult-use cannabis consumer may not possess, use, or consume adult-use cannabis products:

(1) On a schoolbus or school van used for school purposes.

(2) On the grounds of any public or private school, including all facilities, whether owned, rented, or leased, and all vehicles owned, leased, rented, contracted for, or controlled by a public or private school.

(3) At any location while a public or private school-sanctioned event is occurring.

(4) On state or federal property, including all facilities whether owned, rented, or leased, and all vehicles leased, rented, contracted for, or controlled by the state or federal government.

(5) On the grounds of a correctional facility.

(6) On the grounds of a child care facility or licensed home day care unless authorized under the rules adopted by the department of human services.

b. Unless a greater penalty is otherwise provided by law, an adult-use cannabis consumer who violates this subsection is guilty of an infraction.

5. An adult-use cannabis consumer may not use or consume an adult-use cannabis product if the smoke or vapor of an adult-use cannabis product would be inhaled by an individual who is under twenty-one years of age. Unless a greater penalty is otherwise provided by law, an adult-use cannabis consumer who violates this subsection is guilty of an infraction.

6. An adult-use cannabis consumer is prohibited from operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat while under the influence of cannabis. An adult-use cannabis consumer may not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment. An adult-use cannabis consumer who violates this subsection may be subject to civil liability, criminal liability, or any other penalty as otherwise provided by law.

7."

Page 43, line 21, replace "4." with "8."

Page 44, line 1, replace "5." with "9."

Page 44, line 13, replace "6." with "10."

Page 44, line 29, replace "7." with "11."

Page 45, line 24, replace "Date" with "Data"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1420, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1420 was placed on the Sixth order on the calendar.

Page 4, line 18, after "plant" insert "of the genus"

Page 4, line 18, overstrike "sativa L."

Page 4, line 18, overstrike the semicolon and insert immediately thereafter ", and"

Page 4, line 19, overstrike "; the resin extracted from any part of the plant; and every compound,"

Page 4, line 20, overstrike "manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin"

Page 4, line 22, after "a." insert "The tetrahydrocannabinol extracted or isolated from the plant, or any compound, manufacture, salt, derivative, mixture, or preparation from the resin of oil, including natural or synthetic tetrahydrocannabinol;

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Page 11, line 6, replace "two" with "eight and eighty-two hundredths"

Page 11, line 7, replace "56.70" with "250"

Page 11, line 8, replace "two" with "eight and eighty-two hundredths"

Page 11, line 8, replace "56.70" with "250"

Page 11, line 8, replace "500" with "seventeen and sixty-four hundredths ounces [500"

Page 11, line 8, after the second "grams" insert an underscored closing bracket

Page 11, after line 9, insert:

"(d) More than seventeen and sixty-four hundredths ounces [500 grams] is guilty of a class C felony."

Page 11, line 11, after "maximum" insert "possession"

Page 11, line 13, after "maximum" insert "possession"

Page 11, line 14, replace "two" with "four"

Page 11, line 14, after "maximum" insert "possession"

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Page 11, after line 22, insert:

"(c) More than seventeen and sixty-four hundredths ounces [500 grams] is guilty of a class C felony.

(2) Tetrahydrocannabinol:"

Page 11, line 23, replace "(3)" with "(a)"

Page 11, line 23, after "maximum" insert "possession"

Page 11, line 24, replace "two" with "four"

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Page 11, line 27, replace "(4)" with "(b)"

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Page 14, line 23, overstrike "(11) Five hundred grams or more of marijuana;"

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Page 21, line 21, after "30." insert ""Tetrahydrocannabinol" means tetrahydrocannabinols naturally contained in a plant of the genus Cannabis, and synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of the plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, including:

a. Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

b. Delta-6 or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-8 tetrahydrocannabinol.

c. Delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not intentionally standardized, compounds of these structures, regardless of numerical designation or atomic positions covered.) Tetrahydrocannabinol does not include:

(1) The allowable amount of total tetrahydrocannabinol found in hemp as defined in chapter 4.1-18.1; or

(2) A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

31. "Total tetrahydrocannabinol" means the sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by eight hundred seventy-seven thousandths plus the percentage of weight of tetrahydrocannabinol.

32."

Page 35, line 26, replace "adult use" with "adult-use"

Page 35, line 29, after "maximum" insert "possession"

Page 39, after line 6, insert:

"1."

Page 39, after line 13, insert:

"2. At least once every two years, an adult-use cannabis business must undergo an audit performed by a private certified public accountant or a private licensed public accountant. In lieu of an audit, the department may authorize an adult-use cannabis business to engage a private certified public accountant or a private licensed public accountant to perform an agreed upon procedures engagement. The department must approve the agreed upon procedures engagement."

Page 42, line 2, after "consumer" insert "only"

Page 42, line 8, remove "This chapter does not authorize an adult-use cannabis consumer to engage in, and"

Page 42, remove lines 9 through 31

Page 43, replace lines 1 through 14 with:

"a. An adult-use cannabis consumer is prohibited from using or consuming adult-use cannabis products:

(1) In any public place, including an indoor or outdoor area used by, or open to, the general public, or on any form of public transportation.

(2) On the grounds of any adult-use cannabis business; or

(3) In a motor vehicle as defined by chapter 39-01.

b. Unless a greater penalty is otherwise provided by law, an adult-use cannabis consumer who violates this subsection is guilty of an infraction."

Page 43, line 15, after "3." insert "An adult-use cannabis consumer may not undertake an activity under the influence of cannabis if doing so would constitute negligence or professional malpractice. An adult-use cannabis consumer who violates this subsection may be subject to civil liability, criminal liability, or any other penalty as otherwise provided by law.

4. a. An adult-use cannabis consumer may not possess, use, or consume adult-use cannabis products:

(1) On a schoolbus or school van used for school purposes.

(2) On the grounds of any public or private school, including all facilities, whether owned, rented, or leased, and all vehicles owned, leased, rented, contracted for, or controlled by a public or private school.

(3) At any location while a public or private school-sanctioned event is occurring.

(4) On state or federal property, including all facilities whether owned, rented, or leased, and all vehicles leased, rented, contracted for, or controlled by the state or federal government.

(5) On the grounds of a correctional facility.

(6) On the grounds of a child care facility or licensed home day care unless authorized under the rules adopted by the department of human services.

b. Unless a greater penalty is otherwise provided by law, an adult-use cannabis consumer who violates this subsection is guilty of an infraction.

5. An adult-use cannabis consumer may not use or consume an adult-use cannabis product if the smoke or vapor of an adult-use cannabis product would be inhaled by an individual who is under twenty-one years of age. Unless a greater penalty is otherwise provided by law, an adult-use cannabis consumer who violates this subsection is guilty of an infraction.

6. An adult-use cannabis consumer is prohibited from operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat while under the influence of cannabis. An adult-use cannabis consumer may not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment. An adult-use cannabis consumer who violates this subsection may be subject to civil liability, criminal liability, or any other penalty as otherwise provided by law.

7."

Page 43, line 21, replace "4." with "8."

Page 44, line 1, replace "5." with "9."

Page 44, line 13, replace "6." with "10."

Page 44, line 29, replace "7." with "11."

Page 45, line 24, replace "Date" with "Data"

Renumber accordingly

21.0683.04004
Title.

Prepared by the Legislative Council staff for
Representative Dockter
March 17, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1420

Page 4, line 18, after "plant" insert "of the genus"

Page 4, line 18, overstrike "sativa L."

Page 4, line 18, overstrike the semicolon and insert immediately thereafter ", and"

Page 4, line 19, overstrike "; the resin extracted from any part of the plant; and every compound,"

Page 4, line 20, overstrike "manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin"

Page 4, line 22, after "a." insert "The tetrahydrocannabinol extracted or isolated from the plant, or any compound, manufacture, salt, derivative, mixture, or preparation from the resin of oil, including natural or synthetic tetrahydrocannabinol;

b."

Page 4, line 27, replace "b." with "c."

Page 4, line 28, replace "c." with "d."

Page 5, line 1, replace "d." with "e."

Page 7, line 7, after the period insert "Other names: Delta-8-tetrahydrocannabinol."

Page 7, line 12, replace "does" with "do"

Page 7, line 13, replace "Tetrahydrocannabinols" with "The allowable amount of total tetrahydrocannabinol"

Page 7, line 15, after "(b)" insert "A prescription drug approved by the United States food and drug administration under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].

(c)"

Page 7, line 27, remove the overstrike over "~~, except the term does not include less than~~"

Page 7, line 27, after "~~one-half~~" insert "one"

Page 7, line 27, remove the overstrike over "~~ounce of~~"

Page 7, line 28, remove the overstrike over "~~marijuana~~" and insert immediately thereafter "or an amount up to the applicable maximum possession amount of tetrahydrocannabinol"

Page 8, line 10, remove the overstrike over "~~This subsection does not apply to ingesting, inhaling,~~"

Page 8, line 11, remove the overstrike over "~~injecting, or otherwise taking into the body marijuana~~" and insert immediately thereafter "or tetrahydrocannabinol"

Page 8, line 11, remove the overstrike over the overstruck period

Page 11, line 6, replace "two" with "eight and eighty-two hundredths"

Page 11, line 7, replace "56.70" with "250"

Page 11, line 8, replace "two" with "eight and eighty-two hundredths"

Page 11, line 8, replace "56.70" with "250"

Page 11, line 8, replace "500" with "seventeen and sixty-four hundredths ounces [500"

Page 11, line 8, after "grams" insert an underscored closing bracket

Page 11, after line 9, insert:

"(d) More than seventeen and sixty-four hundredths ounces [500 grams] is guilty of a class C felony."

Page 11, line 11, after "maximum" insert "possession"

Page 11, line 13, after "maximum" insert "possession"

Page 11, line 14, replace "two" with "four"

Page 11, line 14, after "maximum" insert "possession"

Page 11, line 14, after "amount" insert "of tetrahydrocannabinol"

Page 11, line 16, replace "two" with "four"

Page 11, line 16, after "maximum" insert "possession"

Page 11, line 17, after "19-24.2" insert "but less than eight times the applicable maximum possession amount of tetrahydrocannabinol authorized by chapter 19-24.2"

Page 11, after line 17, insert:

"(d) More than eight times the applicable maximum possession amount of tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a class C felony."

Page 11, line 19, after "(1)" insert "Marijuana:

(a)"

Page 11, line 19, remove "of marijuana"

Page 11, line 19, replace "two" with "eight and eighty-two hundredths"

Page 11, line 20, replace "56.70" with "250"

Page 11, line 20, remove "of marijuana"

Page 11, line 21, replace "(2)" with "(b)"

Page 11, line 21, replace "two" with "eight and eighty-two hundredths"

Page 11, line 21, replace "56.70" with "250"

Page 11, line 21, after the second "than" insert "seventeen and sixty-four hundredths ounces ["

Page 11, line 21, after "grams" insert an underscored closing bracket

Page 11, after line 22, insert:

"(c) More than seventeen and sixty-four hundredths ounces [500 grams] is guilty of a class C felony.

(2) Tetrahydrocannabinol:"

Page 11, line 23, replace "(3)" with "(a)"

Page 11, line 23, after "maximum" insert "possession"

Page 11, line 24, replace "two" with "four"

Page 11, line 25, after "maximum" insert "possession"

Page 11, line 27, replace "(4)" with "(b)"

Page 11, line 27, replace "two" with "four"

Page 11, line 27, after "maximum" insert "possession"

Page 11, line 28, after "19-24.2" insert "but less than eight times the applicable maximum possession amount of tetrahydrocannabinol authorized by chapter 19-24.2"

Page 11, after line 28, insert:

"(c) More than eight times the applicable maximum possession amount of tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a class C felony."

Page 12, line 25, after "maximum" insert "possession"

Page 14, line 20, after the semicolon insert "or"

Page 14, line 22, remove the overstrike over "~~or~~"

Page 14, line 23, overstrike "(11) Five hundred grams or more of marijuana;"

Page 14, line 23, remove "or"

Page 14, remove line 24

Page 14, remove line 25 remove "maximum amount authorized by chapter 19-24.2;"

Page 14, line 25, overstrike "or"

Page 21, line 21, after "30." insert ""Tetrahydrocannabinol" means tetrahydrocannabinols naturally contained in a plant of the genus Cannabis, and synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of the plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, including:

a. Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.

b. Delta-6 or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-8 tetrahydrocannabinol.

c. Delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not intentionally standardized, compounds of these structures, regardless of numerical

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