



# Senate Bill 5052: Changes to Medical Marijuana

Kristi Weeks, Policy Counsel

**PUBLIC HEALTH**  
ALWAYS WORKING FOR A SAFER AND  
HEALTHIER COMMUNITY



# First comes “medical”

- Approved by voter Initiative 692 in 1998
- Granted:
  - Affirmative defense to criminal prosecution for
  - Qualifying patients and primary caregivers who
  - Possess no more than a “sixty-day supply”

# Medical, cont.

## Key events:

- 2007: Definition of sixty-day supply
- 2009: Change in federal government's enforcement policy
- 2010: Physician assistants, advanced registered nurse practitioners and naturopaths added as authorizers
- 2011: SB 5073 passes but is partially vetoed by Gov. Gregoire
- 2011: Change in City of Seattle's enforcement policy

# Medical, cont.

The medical law does not authorize:

- Commercial production or processing
- Sales or other transactions for consideration
- Regulation or any type of government oversight
- The “right” to use medical marijuana
- Legalization or arrest protection for patients

# Then comes “recreational”

- Approved by voter Initiative 502 in 2012
- Allows:
  - Adults age 21 and older to
  - Possess up to one ounce of marijuana
  - Obtained from a state licensed system of private producers, processors and retail stores

# Recreational, cont.

## Hallmarks of the legal marijuana market:

- Regulation and enforcement
- Seed to sale tracking
- Testing and labeling requirements
- Serving size limits
- Product restrictions
- Taxation

# And finally...alignment

2015 Legislative Session – Senate Bill 5052 and House Bill 2136 create:

- Regulation of the medical use of marijuana
- A single system of licensed production, processing and retail sales by July 1, 2016
- Consistent testing, labeling and product standards
- Specific requirements for patients under the age of 18

# SB 5052

As of July 1, 2016, requires for all marijuana:

- Quality assurance testing
  - Potency
  - Foreign matter inspection
  - Mold and fungus
  - Solvent residue
- Accurate and informative labeling
- Child resistant packaging
- Pesticide restrictions



# No more of these...



# Why still have medical at all?

Patients and designated providers entered into the new voluntary database can:

- Grow plants in their home or a cooperative grow
- Possess increased amounts of marijuana from their plants
- Purchase three times the statutory limits from retail stores
- Make purchases exempt from state and local sales tax
- Have protection from arrest and prosecution

# Effective dates – 4/24/15

- Department begins work to contract with a third party to create a confidential patient database
- Patients under age 21 cannot participate in a collective garden (designated provider age 21 or older may participate on behalf of patient)
- LCB may conduct controlled buys to ensure stores and collective gardens do not sell to minors

# Effective dates – 7/24/15

- Post-traumatic stress disorder and traumatic brain injury are added as qualifying conditions
- A qualifying condition must be severe enough to significantly interfere with the patient's activities of daily living and ability to function, which can be objectively assessed and evaluated
- Patient examinations and re-examinations must be performed in-person at the healthcare practitioner's permanent business location

# Effective dates, cont.

- Healthcare practitioners cannot have a practice that consists primarily of authorizing the medical use of marijuana
- All new authorizations must be written on a form developed by the department and printed on tamper-resistant paper
- Boards and commissions begin work to develop and/or approve continuing education related to authorizing the medical use of marijuana
- The department begins work on a recommendations to the legislature about potential creation of marijuana specialty clinics

# Effective dates, cont.

- No more than 15 plants may be grown in a single housing unit even if multiple patients or designated providers reside there
- Butane extraction is prohibited unless the person is a processor licensed by the LCB
- Department begins rulemaking on:
  - Inventory requirements for stores with a medical marijuana endorsement
  - Patient authorization database
  - Medical marijuana consultant certificate

# Effective dates – 7/1/16

- All marijuana producers, processors and retail stores must be licensed by the LCB.
- All marijuana and marijuana products must be tested for safety and THC/CBD levels, accurately labeled, and sold in child-resistant packaging.
- The database becomes operational.
- Possession amounts change depending on whether the patient is entered into the database.
- Licensed retail stores with a medical marijuana endorsement may sell to patients in the database.

# Effective dates, cont.

- Patients under 18 years of age must have permission from a parent or guardian, and must participate in treatment
- Up to four patients/designated providers may form a cooperative at the residence of one of the members and may grow the total authorized amount for the four members
  - Patients/designated providers must be entered into database
  - Cooperatives must be registered with the LCB
- Law regarding collective gardens is repealed





# Implementing Marijuana Regulation in Washington State

## A 2015 Update

Mary Segawa, MS

WA State Liquor and Cannabis Board



# Agency Objective

## Public Safety

- Create a tightly controlled and regulated marijuana market

## Agency Role and Responsibilities

- Create a 3-tier regulatory system for marijuana
- Create licenses for producer, processor and retailer
- Enforce laws and rules pertaining to licensees
  - Inspections
  - Compliance checks
- Collect and distribute taxes/fees



# Licensing Today (as of 10/28/2015)

Producer licenses issued	Producer/Processor licenses issued	Processor licenses issued	Retail licenses issued
172	519	69	210
Pending build out / applicant place on hold	Producer/Processor pending inspection	Retailer pending inspection	Retailers reporting sales
95	26	3	185 out of 210



# Sales

(as of 10/28/2015)

Average daily sales WTD	Total sales* (shelf price) FY 2015	Total tax obligation FY 2015
\$2,375,250	\$259,785,729	\$64,946,432
	Total sales* (shelf price) FY 2016	Total tax obligation FY 2016
	\$261,069,113	\$50,327,183



# Compliance Data (as of 10/28/2015)

Premise checks	Compliance checks MTD/FYTD	Violations issued
Sep 2015 = 229 FY 2016 = 694	Sep 2015 = 39 FY 2016 = 119	Sep 2015 = 29 FY 2016 = 102



# 2015 Key Legislative Changes

**2E2SHB 2136 Concerning comprehensive marijuana market reforms to ensure a well-regulated and taxed marijuana market in Washington state.**

Signed by the Governor 06-30-2015

- Consolidates taxes— Retailer only, 37 percent
- Allows 2 signs, removes display restrictions
- Changes revenue distribution
- Permits local ordinances to change buffer zones
- Clarifies public use restrictions
- Expands retail store limits
- Adds research and transportation licenses



# Revenue Allocations

- Healthy Youth and Young Adult Surveys
- Benefit-Cost Evaluation
- Web-Based Public Education
- Prevention and Treatment Services
- Media-Based Campaign
- Community Grants
- Marijuana Helpline



## Education Efforts

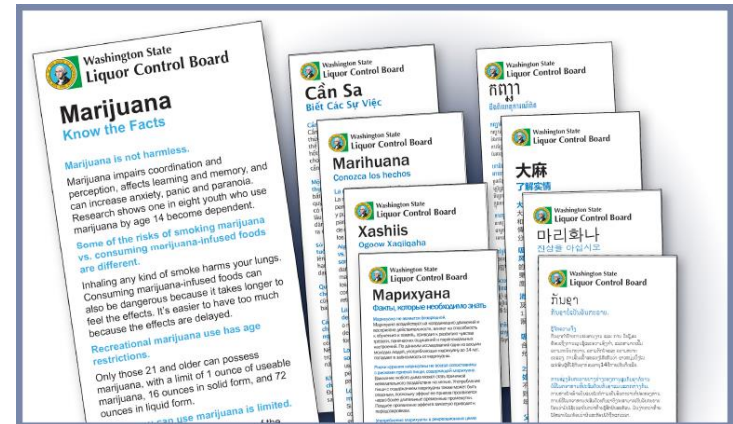
- **Websites**

- [www.LearnAboutMarijuanaWA.org](http://www.LearnAboutMarijuanaWA.org)
- [www.StartTalkingNow.org](http://www.StartTalkingNow.org)
- <http://lcb.wa.gov>



- **Parent Education materials**

- **Adult Consumer Guide**

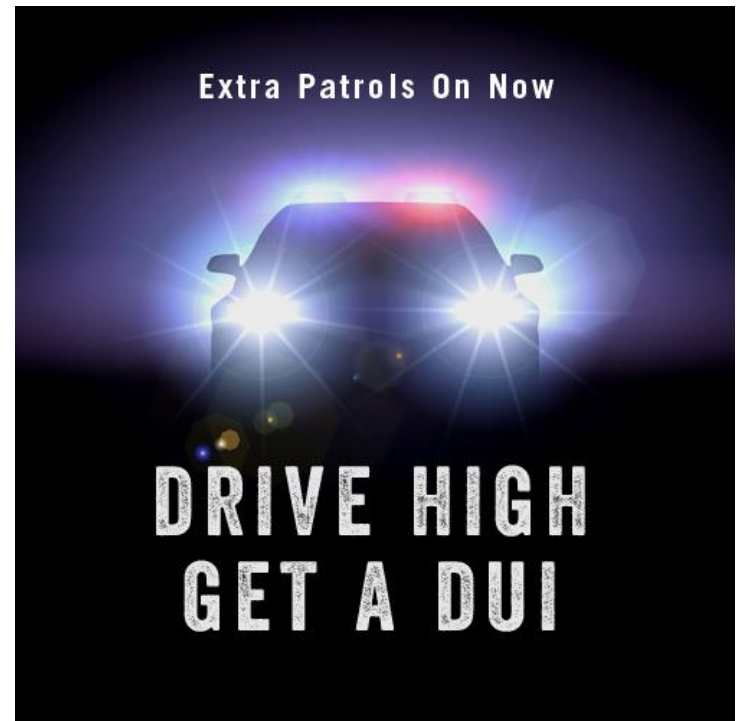






# Education Efforts

- **Media campaigns**
  - Radio
  - Social Media – Digital ads
  - Billboards
- **Forums**





# Evaluation Plans

**Washington State Institute for Public Policy - Examining impacts of I-502 on:**

- Public health
- Usage rates
- Public safety and criminal justice
- Economy
- State and local agencies

**Reports due to the legislature in September 2015, 2017, 2022, and 2032**



# Resources

- Visit the I-502 Webpage – <http://lcb.wa.gov>
  - Factsheets
  - FAQs
  - Timelines
- Sign up for the Listserv
- Public hearings on rules are posted on website and publicized on the listserv
- Follow the news coverage

# Quick Overview of State Marijuana Policy in the U.S.

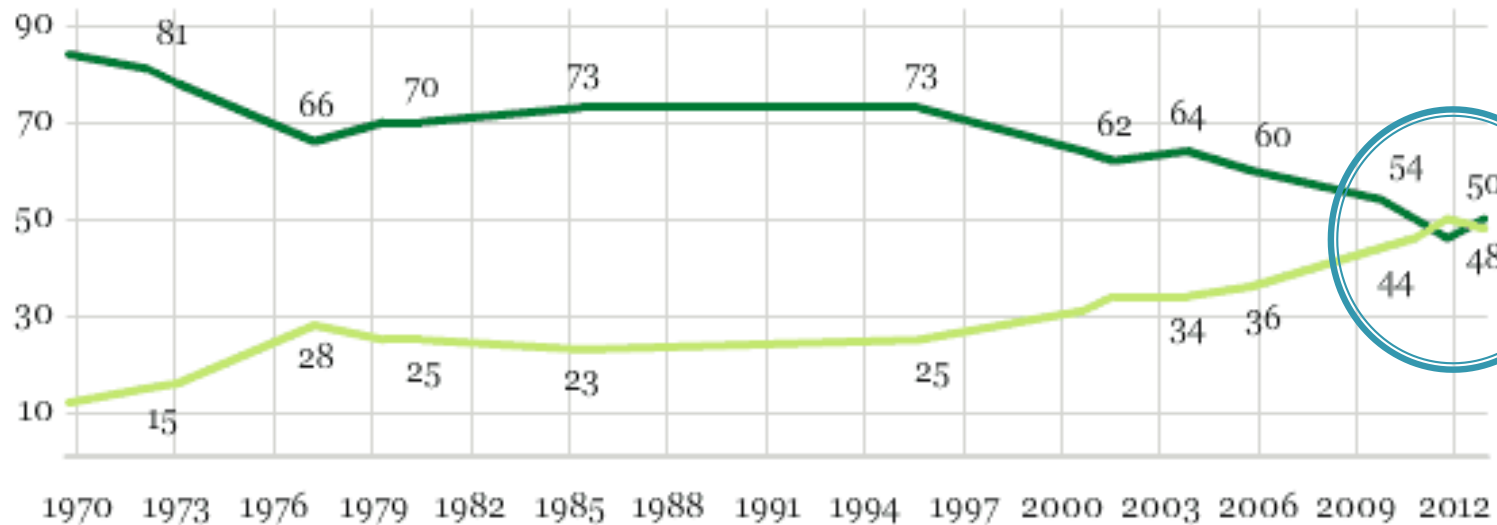
Gillian Schauer, PhD, MPH  
*Carter Consulting, Inc. Contractor to:*  
Office on Smoking and Health  
Centers for Disease Control and Prevention  
[gschauer@cdc.gov](mailto:gschauer@cdc.gov)

# Times are changing.....

## Support for Making Use of Marijuana Legal

Do you think the use of marijuana should be made legal, or not?

■ % No, not legal    ■ % Yes, legal

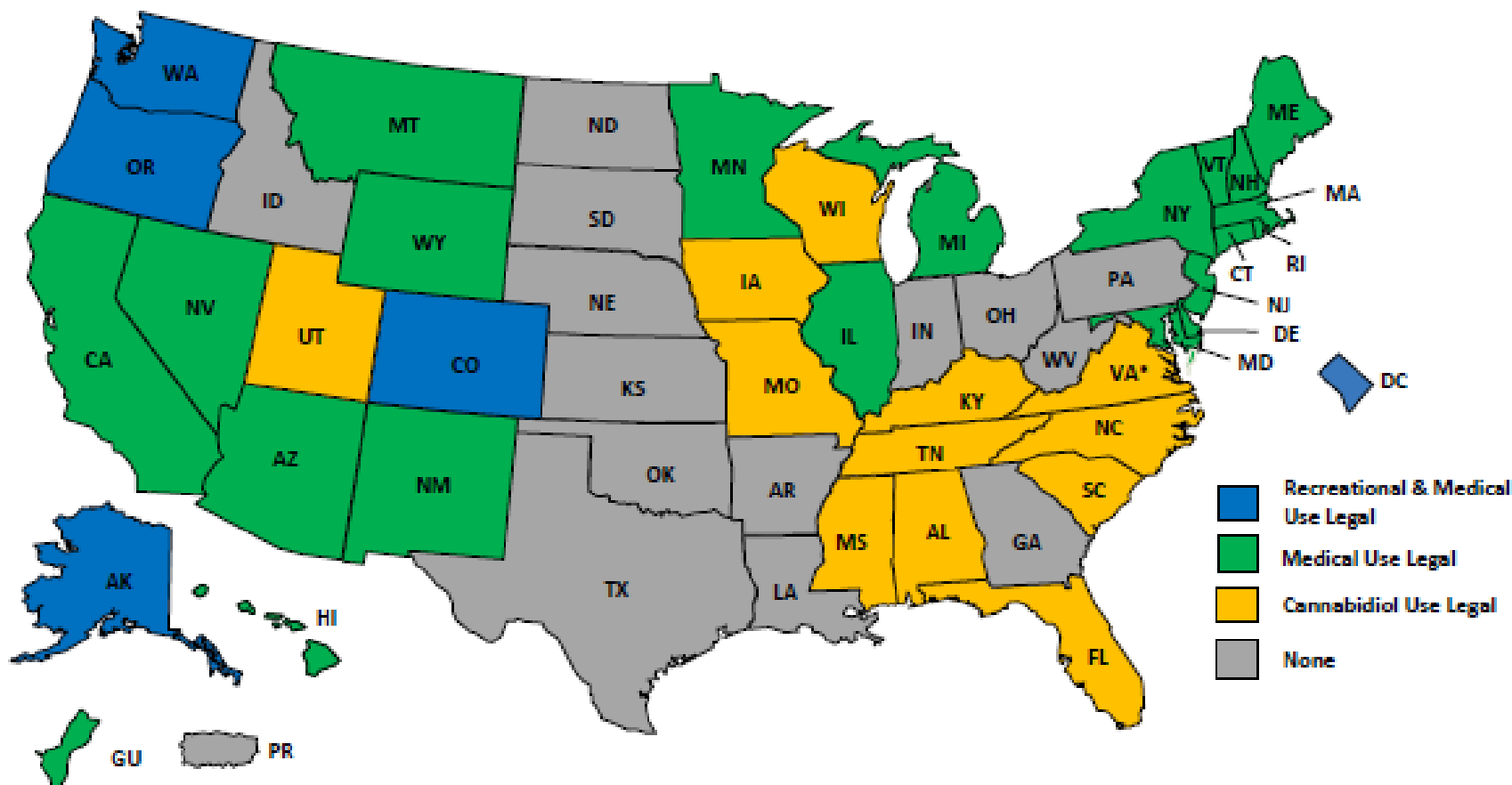


GALLUP®



# Legalization of Recreational/Medical Marijuana and Cannabidiol (CBD)

Current Status of State & Territorial Laws



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\* VA was the first state to pass a medical marijuana law in 1979. It exempts physicians and pharmacists from state prosecution for prescribing marijuana in the course of treatment for glaucoma or cancer. While still on the books, this law has had little practical effect.

Last updated: 3/4/2015

# Federal enforcement



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole  
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance concerning marijuana enforcement under the Controlled Substances Act. This memorandum updates that guidance in light of the Supreme Court's decision in *Howley* regarding the possession of small amounts of marijuana for personal use, production, processing, and sale. The guidance addresses enforcement activity, including civil enforcement and criminal prosecution, of marijuana in all states.

The Cole Memorandum provides guidance to United States Attorneys on the proper prioritization of marijuana enforcement in their districts given the number of states that have moved to legalize marijuana for medicinal, agricultural, or recreational use. Specifically, the Cole Memorandum lists eight federal law enforcement priorities where the Department will focus its limited investigative and prosecutorial resources in all states. These eight priorities are as follows:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as cover or pretext for the trafficking of other illegal drugs or illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

# How to state policies differ?



## LEGISLATIVE RESEARCH SERVICES

Alaska State Legislature  
Division of Legal and Research Services  
State Capitol, Juneau, AK 99801

(907) 465-3991 phone  
(907) 465-3908 fax  
[research@akleg.gov](mailto:research@akleg.gov)

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### Research Brief

TO: Senator Lesil McGuire  
FROM: Chuck Burnham, Legislative Analyst  
DATE: November 28, 2014  
RE: Establishing Mechanisms for the Regulation of Marijuana in Alaska  
*LRS Report 15.099*



**Table 1: Selected Provisions of Successful Recreational Marijuana Legalization Initiatives**

	Alaska	Colorado	Oregon	Washington State
<b>Legalization Vehicle</b>	Ballot Measure 2	Amendment 64	Measure 91	Initiative 502
<b>Primary Regulatory Agency</b>	Alcoholic Beverage Control Board or Marijuana Control Board, if established by the legislature.	Department of Revenue, Marijuana Enforcement Division (MED).	Liquor Control Commission (OLCC).	Liquor Control Board.
<b>Home Cultivation</b>	Up to 6 plants, with 3 flowering at any time.	Up to 6 plants, with 3 flowering at any time.	Up to 4 plants; limited to 8 ounces of useable marijuana at any given time.	None permitted.
<b>Driving Under the Influence</b>	No chemical limit specified; typically a court order is required to compel a blood sample.	THC content of 5 nanograms per milliliter of blood.	No chemical limit specified.	THC content of 5 nanograms per milliliter of blood.
<b>Tax Structure</b>	\$50 per ounce levied on initial wholesale transaction plus local sales taxes, if applicable.	15 percent excise tax on cultivator; 10 percent special sales tax; 2.9 percent standard sales tax; additional local taxes can be levied.	\$35 per ounce, paid by the producer.	25 percent excise tax on sales from grower to processor, processor to retailer, and retailer to customer; plus local sales taxes .
<b>Revenue Use</b>	None yet specified.	Marijuana Tax Cash Fund / Marijuana Cash Fund. Monies used to fund MED, school construction, expanded education and prevention efforts, and law enforcement. Revenue sharing with local governments that allow marijuana sales.	40% to Common School Fund; 20% to Mental Health, Alcoholism and Drug Services; 15% to State Police; 10% to Cities for enforcement of the measure; 10% to Counties for enforcement of the measure; 5% to Oregon Health Authority For Alcohol and Drug Abuse Prevention.	Complicated allocation: first money goes to fund administrative costs, various research projects and prevention or substance abuse programs; later money is split between more marijuana-specific programs, general healthcare spending, and the state's general fund. No municipal revenue sharing.
<b>Licensing Regime</b>	Measure contemplates retail establishments but doesn't delineate license types. Sets an upper limit of \$5,000 for fees, but allows adjustment to meet regulatory cost needs.	Vertical Integration for first 9 months (retailers had to grow 70 percent of their product until 10/1/14). Grower/processor/retailer licensed by MED. \$5,000 application fee plus licensing costs of \$2,200-\$8,000, depending on type of business. Renewal fees vary widely \$2,500-\$10,800.	License applications will be accepted beginning Jan. 4, 2016. Producer, processor, wholesaler, and retail licenses offered. Fees are preliminarily set at \$1,000 annually plus application costs of \$250.	Growers, processors, and retailers must be licensed. No vertical integration allowed: growers and processors cannot be retailers, though joint grower-processor licensed issued. Retail licenses capped at 334 for the state. Fees vary by type from \$3,000-\$6,500.

**Table 1: Selected Provisions of Successful Recreational Marijuana Legalization Initiatives** *(continued)*

	Alaska	Colorado	Oregon	Washington State
<b>Diversion Prevention</b>	No provisions in measure. May be addressed through development of regulations.	Seed to Sale Tracking System; limits on quantities purchased /possessed; education campaigns; video surveillance requirements.	No provisions in measure. May be addressed through regulation. Marijuana import / export for distribution is a Class C felony.	Same measures as Colorado. Tight control over licensing and deliberate roll-out to enhance prevention of interstate diversion.
<b>Local Control</b>	Municipalities may prohibit marijuana cultivation, processing, and sales by ordinance or voter initiative. Can govern the time, place, number, and manner of marijuana establishments and their operations. If the state fails to establish a licensing regime within 12 months, municipalities may implement the Act.	Counties, municipalities can opt out. Local governments can regulate the number of grow operations and dispensaries. Local governments can assess additional taxes. Local governments can issue zoning and other ordinances regulating production and consumption.	The measure preempts local ordinances. Municipal governments may not prohibit licenses except via general election. Measure 91 allows local governments to adopt time, place and manner restrictions to regulate public nuisance.	Preempts local drug laws, but some localities seeking to use zoning laws to effectively exclude stores were encouraged by non-binding state Attorney General opinion. Litigation is pending.
<b>Selected Regulatory Features</b>	Monthly cultivation and sales reports required to include identity of wholesale buyers.	Extensive criminal background checks for all licensees; scaling up of product and potency testing.	Product standards and testing to be developed through regulation. Labeling requirements imposed.	Extensive criminal background checks of all licensees; broad product safety testing.
<b>Official Analyses Required or Produced</b>	None.	State commissioned a survey of market demand. Separate revenue analyses/projections conducted by the Department of Revenue, Governor's Office of State Planning and Budgeting, and the Colorado Legislative Council.	OLCC required to compile research on marijuana DUI and report to legislature by January 2017.	Initiative mandates cost-benefit analysis conducted by Washington State Institute for Public Policy (WSIPP), with preliminary report in 2015 and subsequent reports in 2017, 2022, and 2032.

**Notes:** This table is not exhaustive of all of the legal provisions within the recreational marijuana initiatives in these four states.

**Source:** Websites of regulatory agencies; the Brookings Institution, <http://www.brookings.edu/blogs/fixgov/posts/2014/07/08-washington-colorado-legal-marijuana-comparison-wallach-hudak>; and text of ballot measures: Alaska-<http://www.elections.alaska.gov/petitions/13PSUM/13PSUM-Proposed-Law.pdf>; Colorado- <http://www.fcgov.com/mmj/pdf/amendment64.pdf>; Oregon-<http://www.oregon.gov/olcc/marijuana/Documents/Measure91.pdf>; Washington-[http://sos.wa.gov/\\_assets/elections/initiatives/i502.pdf](http://sos.wa.gov/_assets/elections/initiatives/i502.pdf).

## Resources for comparing state MJ laws

- ❑ Public Health Law Research – Law Atlas:  
<http://lawatlas.org/query?dataset=recreational-marijuana-laws>
- ❑ Tobacco Control Legal Consortium Report:  
[http://publichealthlawcenter.org/sites/default/files/resources/tclc-synopsis-marijuana-tobacco-2015\\_0.pdf](http://publichealthlawcenter.org/sites/default/files/resources/tclc-synopsis-marijuana-tobacco-2015_0.pdf)
- ❑ National Conference of State Legislators (medical policies)  
<http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>
- ❑ A number of partisan or advocacy group comparisons...