

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2014

COUNCIL BILL NO. BR14-0711
COMMITTEE OF REFERENCE:

A BILL

For an Ordinance amending Article V of Chapter 38, Offenses Relating to Drugs and Intoxicants, by adding certain provisions concerning the extraction of marijuana concentrate.

WHEREAS, the possession of any quantity of marijuana concentrate has historically been treated as completely unlawful in Colorado; and

WHEREAS, because possession of marijuana concentrate has historically been treated as completely unlawful, state and city laws have never been necessary to address how and where marijuana concentrate may be extracted from marijuana plants; and

WHEREAS, the adoption of Amendment 20 adding Section 14 to Article XVIII of the Colorado Constitution, created an affirmative defense and a limited exception to state criminal laws for patients and primary caregivers who possess or produce a limited amount of marijuana concentrate for medical use to treat a debilitating medical condition; and

WHEREAS, Amendment 20 prohibits both patients and primary caregivers from acquiring or producing marijuana concentrate in a way that endangers the health or well-being of any person; and

WHEREAS, the adoption of Amendment 64 adding a new Section 16 to Article XVIII of the Colorado Constitution, allows persons over the age of 21 in Colorado now to claim immunity from prosecution under state or city laws for possessing or processing marijuana concentrate in a quantity of one ounce or less for personal use or for distribution to others without compensation; and

WHEREAS, Amendment 64 provides that, in the interest of the health and public safety of our citizenry, marijuana sold in Colorado will be subject to additional regulations to ensure that consumers are protected; and

WHEREAS, both Amendment 20 and Amendment 64 are silent on the question of how and where marijuana concentrate may be processed or manufactured for medical or personal use; and

WHEREAS, this state of affairs has resulted in a gap in the law in terms of regulating the appropriate methods and locations where marijuana concentrate may be extracted from marijuana plants, which has led to numerous examples of persons using highly dangerous methods of extracting marijuana concentrate in inappropriate, unregulated settings, including residential locations.

WHEREAS, the purpose of this ordinance is not to prohibit all forms of marijuana concentrate extraction, but instead to limit the more dangerous methods of extraction to licensed and regulated locations.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

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Section 1. Section 38-177 (Extraction of Marijuana Concentrate Prohibited) of the Denver Revised Municipal Code shall be amended by adding the language underlined, and deleting the language stricken, to read as follows:

Sec. 38-177. Extraction of Marijuana Concentrate Prohibited.

(a) It shall be unlawful for any person to process or manufacture marijuana concentrate in the city by any means other than water-based or food-based extraction, except in a licensed medical marijuana-infused products manufacturing facility or in a licensed retail marijuana products manufacturing facility and in compliance with all applicable state and city laws, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, and all rules and regulations promulgated thereunder.

(b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises in the city to allow marijuana concentrate to be processed or manufactured on the premises by any means other than water-based or food-based extraction, except in a licensed medical marijuana-infused products manufacturing facility or in a licensed retail marijuana products manufacturing facility and in compliance with all applicable state and city laws, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, and all rules and regulations promulgated thereunder.

(c) For purposes of this section:

1. “Food-based extraction” means producing marijuana concentrate by extracting cannabinoids from marijuana through the use propylene glycol, glycerin, butter, olive oil, or other typical cooking fats. “Flammable liquids” may not be used in food-based extractions.
2. “Flammable liquid” means a liquid that has a flash point below 100° Fahrenheit, which includes all forms of alcohol and ethanol.
3. “Marijuana concentrate” means hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinols.
4. “Water-based extraction” means producing marijuana concentrate by extracting cannabinoids from marijuana through the use of only water, ice or dry ice.
5. The definitions of “medical marijuana-infused products manufacturer” and “retail marijuana products manufacturing facility” as set forth in the Colorado Medical Marijuana Code, §12-43.3-104, C.R.S., as amended, and the Colorado Retail Marijuana Code, §12-43.4-103, C.R.S., as amended, shall apply equally to this article V.

1 COMMITTEE APPROVAL DATE:
2 MAYOR-COUNCIL DATE:
3 PASSED BY THE COUNCIL: _____, 2014
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____, 2014
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

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10 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2014; _____, 2014

11 PREPARED BY: Marley Bordovsky and David Broadwell, Assistant City Attorneys

12 DATE: _____, 2014

13 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
14 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
15 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
16 3.2.6 of the Charter.

17 D. Scott Martinez, Denver City Attorney

18 BY: _____, Assistant City Attorney DATE: _____, 2014