

October 14, 2013

Dear Amendment 64 Committee Chair Charlie Brown and Committee Members,

I am writing to the Amendment 64 Committee on behalf of my organization's medical marijuana patient-members who reside in the City of Denver. Under consideration by the Committee is BR13-0736, which, among other things, would significantly and harmfully expand the definition of openly using marijuana under Sec. 38-175 of the Denver Municipal Code. The penalty for violations include "up to \$999 in fines or a year in jail." Passage of this law would mean that medical marijuana patients in Denver could be criminally prosecuted and sent to jail for using marijuana for medical purposes in their own residence in accordance with the rights guaranteed to them by Article XVIII of the Colorado Constitution. Moreover, the goals of the proposed ordinance could be achieved by less restrictive and already existing means. Because of this fact, we respectfully request the Committee to reject BR13-0736 in its entirety.

The citizens of Colorado voted to guarantee access and use of marijuana for therapeutic purposes when Amendment 20 was passed in 2001. Amendment 20 already put into law *reasonable* restrictions on where patients may use their medicine on their own property.¹ The limitations in Amendment 20 are completely consistent with the Denver Municipal Code on air quality nuisance.² While the proponent's fact sheet for BR13-0736 makes that claim that the ordinance clarifies issues with public use, the reality is that the proposed law would confuse the existing test for nuisance odors set forth in Section 4-10 of the Denver Municipal Code.³ Because BR13-0736 would expanded "public" use to include use on private property in Denver if it is "unconcealed, undisguised, or obvious, and is observable or perceptible through sight or smell to the public or to persons on neighboring properties," it imposes a vague standard, meaning one could be in violation of BR13-0736 without creating an actual legally defined nuisance. Section 4-10 of the Denver Municipal Code already imposes a clear test for what constitutes an odor nuisance. Passage of BR13-0736 would mean that medical marijuana patients could be sent to jail for up to year without any finding of odorous nuisance simply for following

- 1 Patients may not use marijuana for medical purposes "in a way that endangers the health or well-being of any person" or "in plain view of, or in a place open to, the general public." CO CONST Art. 18, § 14(i)(5).
- 2 "It shall be an unlawful nuisance for any person to cause or permit the emission of odorous air contaminants from any source so as to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of property." (emphasis added). Denver, Colo. Municipal Code § 4-10(b).
- 3 "Council Bill 736 – Concerning Possession and Consumption of Marijuana," available at <http://www.denvergov.org/sirepub/cache/2/5keo0y55pschmez1euyd1hvx/45429810142013115955215>. PDF (last accessed October 14, 2013).

Headquarters

1300 Clay Street, Suite 600, Oakland CA 94612
PHONE: 510.251.1856

National Office

1806 Vernon St. NW, Suite 100, Washington DC 20009
PHONE: 202.857.4272 FAX: 202.857.4273

General Information

WEB: www.AmericansForSafeAccess.org
TOLL FREE: 1.888.939.4367

their physician's recommendation. Yet for certain patients, for example, those living with severe nausea, the rapid onset of inhaled marijuana may be the necessary method for them to use.

It is unacceptable that medical marijuana patients in Denver could face jail time simply for using their medicine in accordance with their doctor's recommendation, as the city law would frustrate the purpose and intent of Amendment 20. Passage of this law would almost certainly create a host of lawsuits from patients who have their state Constitutional rights violated by enforcement of BR13-0736. We respectfully request the Committee to honor the rights of Denver medical marijuana patients by rejecting BR13-0736 in its entirety.

Sincerely,

Michael Liszewski
Policy Director

Headquarters

1300 Clay Street, Suite 600, Oakland CA 94612
PHONE: 510.251.1856

National Office

1806 Vernon St. NW, Suite 100, Washington DC 20009
PHONE: 202.857.4272 FAX: 202.857.4273

General Information

WEB: www.AmericansForSafeAccess.org
TOLL FREE: 1.888.939.4367

Williams, Gretchen - City Council

From: Velez, Kelly - City Council
Sent: Monday, October 14, 2013 8:50 AM
To: Brooks, Albus - City Council District 8; Brown, Charlie - City Council District #6; Faatz, Jeanne R. - City Council Dist #2; Herndon, Christopher J. - City Council District 11; Kniech, Robin L. - City Council; Lehmann, Peggy A. - City Council Dist #4; Lopez, Paul D. - City Council Dist #3; Montero, Judy H. - City Council District #9; Nevitt, Chris - City Council Dist #7; Ortega, Deborah L. - City Council; Robb, Jeanne - City Council Dist. #10; Shepherd, Susan K. - City Council District 1; Susman, Mary Beth - City Council
Cc: Bartleson, Debra - City Council; Smith, Shelley - City Council; Williams, Gretchen - City Council
Subject: FW: Pot ordinance

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: Ebraun03@gmail.com [<mailto:Ebraun03@gmail.com>]
Sent: Monday, October 14, 2013 8:31 AM
To: dence - City Council
Subject: Pot ordinance

Dear city council

Please pass the pot smoke ordinance. My life had been made miserable due to pot smoke at the last two apartments I lived in. I now rent a house in order to try to control my airspace which is an expense I can barely afford and many others cannot. Exposing others to psychoactive smoke against their wills should be illegal. Please help me and everyone else who is negatively affected by pot smoke exposure by protecting our right to clean air and right to be drug free.

Sincerely

M Elizabeth Braun
Sent from my iPhone

October 14, 2013

RE: Amendment 64

TO: Denver City Council #6, Et al.

I voted 'YES' in support of Amendment 64 based on fundamental principles of liberty rather than as a potential consumer, supplier, retailer, etc., for which I am none of. However, I do wish to bring certain issues to the attention of those in favor of minimal regulation as it pertains to the relevant legislation.

As a long-time resident of Capitol Hill, we have raised a family in a dense urban environment and understand the ramifications associated with our choice. In terms of Amendment 64, we have three distinct experiences to share:

- 1) We have a medical marijuana dispensary within a block of our home: as far as we know, there were never any public hearings on granting a license for this establishment unlike what occurs on a regular basis for those businesses wishing to sell liquor. There is no question that this has a negative impact on the neighborhood.
- 2) I walk downtown on a daily basis to my office and since the Amendment passed, I encounter casual marijuana use between Capitol Hill and downtown as well as downtown itself at least four (4) times per week. Not sure if this was an envisioned benefit of the legislation but it is analogous to having the public walking around with open containers of liquor which is not a desirable city attribute from my perspective.
- 3) We live in a condominium and recently had someone new move into our building (courtesy of their parents) who is a consistent user and unfortunately, the exhaust (i.e. second hand smoke) from this recreational use has its outlet into our child's bedroom. As a result, we very are concerned about our child's health and are interested in what right's our homeowner's association has in this context.

In summation, I am very sensitive to issues around civil liberties but believe legislators need to be sensitive to the needs of community and diligent in regulating both the consumer usage and commercial production, distribution, and sales of marijuana.

Sincerely,

Paul Wuethrich
836 East 17th Avenue
#2E
Denver, CO 80218

Williams, Gretchen - City Council

From: Velez, Kelly - City Council
Sent: Monday, October 14, 2013 12:27 PM
To: Brooks, Albus - City Council District 8; Brown, Charlie - City Council District #6; Faatz, Jeanne R. - City Council Dist #2; Herndon, Christopher J. - City Council District 11; Kniech, Robin L. - City Council; Lehmann, Peggy A. - City Council Dist #4; Lopez, Paul D. - City Council Dist #3; Montero, Judy H. - City Council District #9; Nevitt, Chris - City Council Dist #7; Ortega, Deborah L. - City Council; Robb, Jeanne - City Council Dist. #10; Shepherd, Susan K. - City Council District 1; Susman, Mary Beth - City Council
Cc: Bartleson, Debra - City Council; Smith, Shelley - City Council; Williams, Gretchen - City Council
Subject: FW: smell hysteria

-----Original Message-----

From: David [<mailto:david@accessamericaat.com>]
Sent: Monday, October 14, 2013 12:06 PM
To: dencc - City Council
Subject: smell hysteria

I don't like my neighbors. Can't wait to turn them in. I think I smelled ... something !!! Evil marijuana smokers need to be locked up !!! Keep the police and the courts busy and prisons and jails full. Good for business ;-)

--

David Cerullo, Sales Manager

Please visit: <http://accessamerica.acndirect.com/default.asp>

voicemail: (303) 430-2900

davcer2900@yahoo.com (alternate)

E-MAIL CONFIDENTIALITY NOTICE: The contents of this e-mail message and any attachments are intended solely for the addressee(s) and may contain confidential and/or legally privileged information.

If you are not the intended recipient of this message or if this message has been addressed to you in error, please immediately alert the sender by reply e-mail and then delete this message and any attachments and any use, dissemination, distribution, copying, or storage of this message or any attachment is strictly prohibited.

Williams, Gretchen - City Council

From: Velez, Kelly - City Council
Sent: Tuesday, October 15, 2013 8:47 AM
To: Brooks, Albus - City Council District 8; Brown, Charlie - City Council District #6; Faatz, Jeanne R. - City Council Dist #2; Herndon, Christopher J. - City Council District 11; Kniech, Robin L. - City Council; Lehmann, Peggy A. - City Council Dist #4; Lopez, Paul D. - City Council Dist #3; Montero, Judy H. - City Council District #9; Nevitt, Chris - City Council Dist #7; Ortega, Deborah L. - City Council; Robb, Jeanne - City Council Dist. #10; Shepherd, Susan K. - City Council District 1; Susman, Mary Beth - City Council
Cc: Bartleson, Debra - City Council; Smith, Shelley - City Council; Williams, Gretchen - City Council
Subject: FW: Smoking Marijuana

From: John Schneider [<mailto:jschneider999@hotmail.com>]
Sent: Tuesday, October 15, 2013 8:35 AM
To: dencc - City Council
Subject: re: Smoking Marijuana

Smoking Marijuana on your back porch is illegal? Are you serious?

Is it illegal to smoke cigarettes on your back porch?

Smoking Marijuana in public places is illegal? Are you serious?

Is it illegal to smoke cigarettes in public places?

Cigarette smoking currently is far more common and has been proven over hundreds and hundreds of tests that the second hand smoke is more harmful than actually smoking

If you're going to make it illegal for Marijuana smoking in certain locations you'd better do the same for cigarettes as well.

I am so tired of walking down the street, waiting at the train station or walking out of a building and choking on someone's foul cigarette smoke.

I rather smell Marijuana smoke than cigarette smoke any day of the week

Williams, Gretchen - City Council

From: Velez, Kelly - City Council
Sent: Monday, October 14, 2013 8:43 AM
To: Brooks, Albus - City Council District 8; Brown, Charlie - City Council District #6; Faatz, Jeanne R. - City Council Dist #2; Herndon, Christopher J. - City Council District 11; Kniech, Robin L. - City Council; Lehmann, Peggy A. - City Council Dist #4; Lopez, Paul D. - City Council Dist #3; Montero, Judy H. - City Council District #9; Nevitt, Chris - City Council Dist #7; Ortega, Deborah L. - City Council; Robb, Jeanne - City Council Dist. #10; Shepherd, Susan K. - City Council District 1; Susman, Mary Beth - City Council
Cc: Bartleson, Debra - City Council; Smith, Shelley - City Council; Williams, Gretchen - City Council
Subject: FW: We All Want An Answer Before We Begin Another Recall

From: Ryan C.F. [<mailto:ryancfoli@gmail.com>]
Sent: Friday, October 11, 2013 11:28 PM
To: denc - City Council
Subject: We All Want An Answer Before We Begin Another Recall

Dear Denver City Council:

I voted for many of you, and now you want to put me or my wife in jail because a few odors are traveling in the winds to my neighbors?! You want police to waste time responding to those kinds of calls?!! Really?!! Are you all stupid or something, or are you just being obtuse when it comes to the Constitutional rights of Coloradoans?

Below is a nice quote from the Post commenting in response to the story with this nonsensical idea:

"Making it illegal to have your windows open in your own house while smoking?? You have got to be kidding me! I love when people expound "Live Free or Die!" and those very same people want volumes of laws, ordinances and covenants to restrict everybody around them.

I have not nor ever intend on smoking pot or tobacco, and I sure don't want my kids to smoke either. But I voted for Amdt 64. I am a fiscal conservative, but unlike the vast majority of people that call themselves Republicans, I actually believe in the ideals of liberty and will back up my libertarian views, even for things I don't personally like."

This is a joke, and if you all think this is going to stand for long, you have another thing coming. We (myself - with my own personal savings - and other Amendment 64 supporters) will take you all to court, and then we will work together to vote you out of office. This is going too far!!! You cannot tell a person what they can and cannot legally do on their own property, in their own home!!! It's unconstitutional and just damn Un-American!!!

WE WILL SEE YOU AT THE VOTING BOOTH!!!! Good day