



October 15, 2018

Denver City Council
Attn.: Social Consumption Area Task Force
VIA Email: socialconsumptiontf@denvergov.org

Dear Members of the Social Consumption Area Task Force:

The Colorado Departments of Public Health and Environment, Public Safety, Revenue, Transportation, and Human Services appreciate the opportunity to provide feedback regarding the recent discussions held by the members of the Social Consumption Area Task Force. The executive agencies are submitting the following written comments on three issues noted in the "SCAT Draft Report" dated September 2018:

1. ***"For clarity in developing policy and rules, the state needs to define 'open and public.'"***
Amendment 64 of the Colorado Constitution, approved by voters in 2014, prohibits "consumption that is conducted openly and publicly or in a manner that endangers others." In establishing a regulatory framework for medical and adult-use marijuana in Colorado, the will of the voters as reflected in Colorado's Constitution will continue to guide future policy changes at the state-level. Amendment 64 does not further define "open and public", nor has the General Assembly established the meaning of the phrase. Therefore, we recognize the uncertainty this may create for local communities and law enforcement agencies. However, a more precise definition of the phrase is likely to require legislation at the state level or developments in case law.
2. ***"Should there be any exemptions from the Colorado Clean Indoor Air Act for private clubs?"***
As noted above, Amendment 64 prohibits the consumption of marijuana "in a manner that endangers others." The suggestion of exemptions to the Colorado Clean Indoor Air Act (CCIAA) for private clubs raises concerns about risks to public health and safety. Specifically, any such exemption risks compromising the protection of all Coloradans from the noxious effects of indoor air pollution.

This administration supports the CCIAA in ensuring that all Coloradans can breathe clean air in public spaces and in workplaces, and that means protecting Coloradans from secondhand smoke as a result of tobacco, vape and marijuana. Comprehensive smoke-free workplace policies reduce secondhand smoke exposure, reduce the number of people who smoke and improve health outcomes.

In 2016 the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) released a position document reaffirming the only means of eliminating health risks associated with indoor exposure is to ban all smoking activity, including tobacco, marijuana and electronic smoking devices. Since 2015, ASHRAE has included cannabis (marijuana) smoke and electronic smoking devices in the definition of environmental tobacco smoke.

We encourage the task force to proceed cautiously in enacting future policy recommendations with regard to the CCIAA. Research on the health effects of marijuana - positive and negative - is just emerging and it will be years before we know the full health effects. We expect it will be even longer before we fully understand the short-term and long-term health effects of secondhand marijuana smoke exposure. As the state continues to prioritize comprehensive data collection and analysis on the impacts of marijuana legalization, including the health effects of use and second-hand exposure, we ask the task force and other stakeholders to not rely on a lack of evidence to determine proof of safety. Therefore, we recommend precautionary measures that prioritize and protect employee health.

Consideration of exemptions to the CCIAA also risks normalizing consumption for youth. According to tobacco literature, broad workplace clean indoor air laws (e.g. affecting restaurants) have been shown to influence youth smoking behavior by influencing antismoking norms. Limiting where marijuana can be consumed reduces the likelihood of youth exposure to marijuana, consequently making it less normative and preventing or delaying youth initiation.

3. *“Should the state reconsider the Liquor Enforcement Division rule prohibiting marijuana use in business [sic] with a liquor license?”* Finally, this administration is concerned that allowing marijuana and alcohol in licensed premises will result in an increase in impaired roadway users. The Retail Marijuana Public Health Advisory Committee found substantial evidence that the combined use of marijuana and alcohol increases impairment and motor vehicle crash risk more than use of either substance alone.

In 2017, 648 people lost their lives on Colorado’s roadways due to traffic crashes. Of these fatalities, 26% involved alcohol (171 deaths) and 5% (35 deaths) involved marijuana. Although the number of marijuana-related fatalities (in which the driver tested positive for Delta-9 THC at or above 5 ng/ml of blood) decreased in 2017, fatalities in which marijuana cannabinoids were present in the driver’s blood increased 153% from 2013-2017 (this includes inactive and active cannabinoids at any levels) . In addition, alcohol-involved fatalities increased in 2017.

According to state data on DUI citations, marijuana alone accounted for 7% of DUI citations in 2017, up from 6% in 2014. Further, marijuana alone and marijuana in combination with alcohol or other drugs accounted for 15% of DUI citations in 2017, up from 12% in 2014. Although the number of marijuana-related DUI citations is significantly smaller than alcohol DUI citations, the increased impairment and motor vehicle crash risks associated with combined use of alcohol and marijuana supports maintaining prohibitions on marijuana use in businesses with a liquor license. As the state continues to engage in robust high visibility awareness campaigns on impaired driving and increase the number of law enforcement officers trained as Drug Recognition Experts, eliminating impaired driving and the exacerbation of other adverse public health and safety consequences associated with marijuana use remains a statewide priority. Therefore, we strongly encourage the Liquor Enforcement Division to uphold its rule prohibiting marijuana use in businesses with a liquor license.

Thank you for your thoughtful consideration of these concerns. We look forward to continuing our work together to ensure public health and safety remain at the forefront of our collective efforts to implement the will of the voters.

Sincerely,

Department of Public Health and Environment
Department of Public Safety
Department of Revenue
Department of Transportation
Department of Human Services

