

# Legalized It.

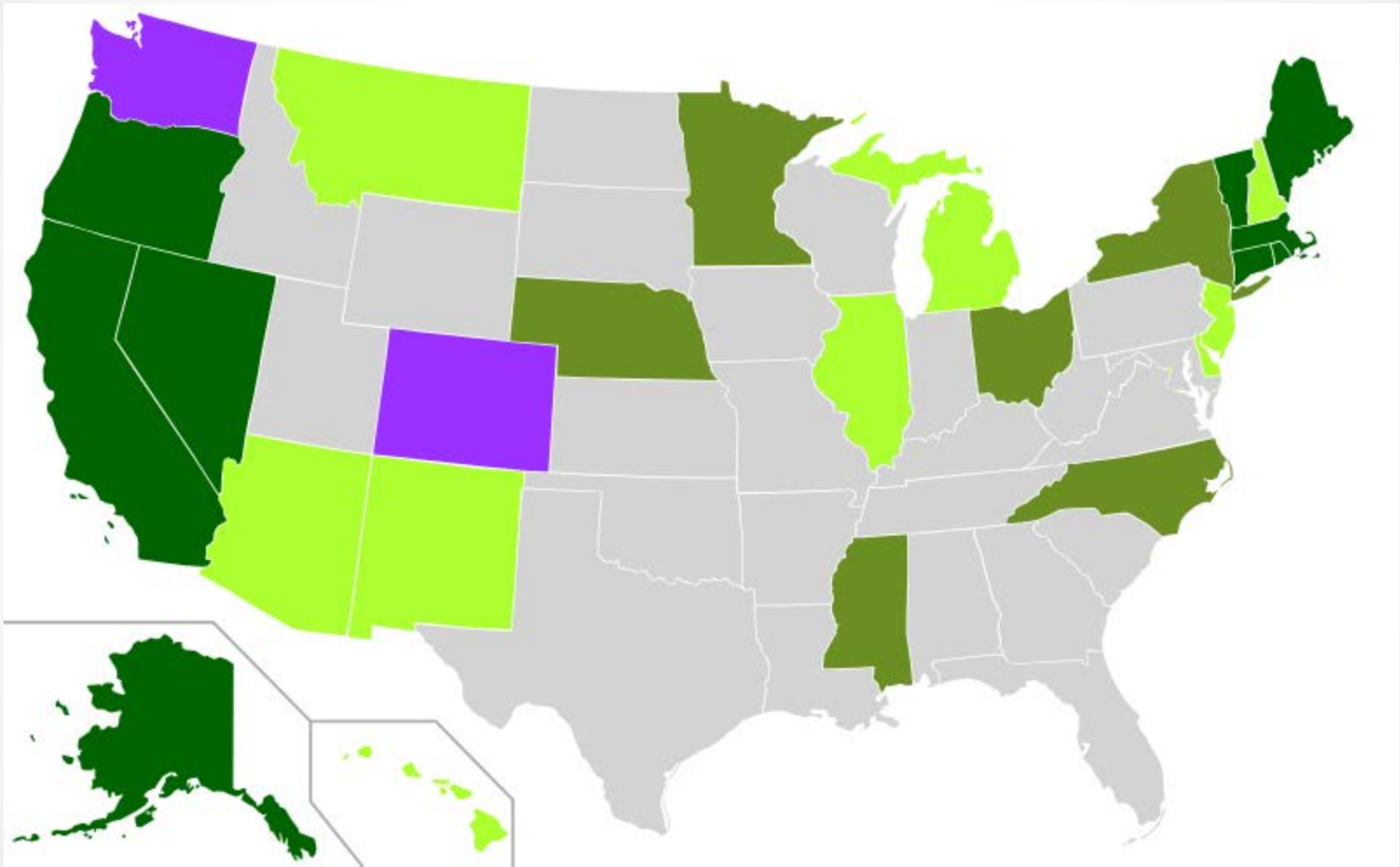
## Marijuana and Local Governments in Post-Prohibition Colorado (USA?)



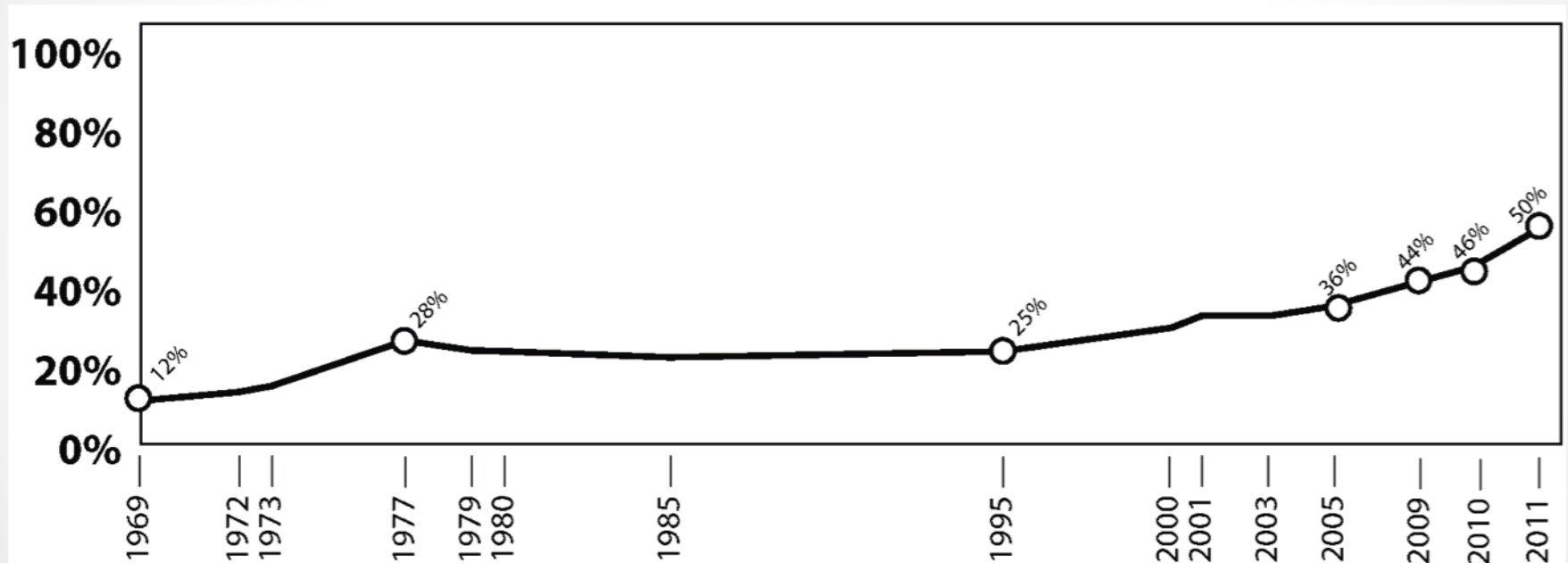
**Colorado and Washington State are the only two places in the world where marijuana is legal.**



## 20 states and the District of Columbia have medical marijuana laws



# National support for making marijuana legal has been increasing by 1.5% annually since 1995.



# Marijuana Reform in Colorado

2000 – Amendment 20

2009 – Obama, the Ogden Memo and the first Local Regulations

2010 – State Regulations (Round 1) and the Local Option

2011 – State Regulations (Round 2)

2012 – Amendment 64

2013 – State Regulations (Round 3) and the first Local Regulations

# **November 2000: Amendment 20 is passed first authorizing medical marijuana use**

- Authorizes doctors to recommend medical marijuana for a debilitating medical condition
- A patient and their caregiver can collectively possess up to two ounces of marijuana and six plants
- Allows patients or caregivers to establish an affirmative defense to Colorado's criminal laws related to marijuana use

# June 2010: Colorado Medical Marijuana Code containing strict regulations is enacted

- SB10-109: Regulates doctors who certify medical marijuana for their patients
- HB10-1284: regulates the three types of licensed facilities and gives a new statutory option for localities to ban of medical marijuana facilities.
  - Allows local governments to “opt-out” of retail marijuana licensing

## Lessons Learned.



Advertising Bans





# Lessons Learned.

[http://www.denverpost.com/ci\\_22872574/colorado-audit-adequate-medical-marijuana-oversight-doesnt-exist](http://www.denverpost.com/ci_22872574/colorado-audit-adequate-medical-marijuana-oversight-doesnt-exist)

## **Audit: Serious flaws in Colorado's regulation of medical marijuana**

*By Eric Gorski The Denver Post The Denver Post*

*Posted:*

DenverPost.com

State regulators charged with watching over Colorado's medical marijuana industry have fallen short on everything from tracking inventory and managing their budget to keeping potential bad actors out of the business, [a state audit released Tuesday found](#).

Often lauded as a national model, [Colorado's so-called seed-to-sale system of regulating medical marijuana does not exist](#), auditors found.

The findings are a blow to the state Medical Marijuana Enforcement Division as it prepares to take on the additional task of regulating recreational marijuana legalized by Amendment 64.

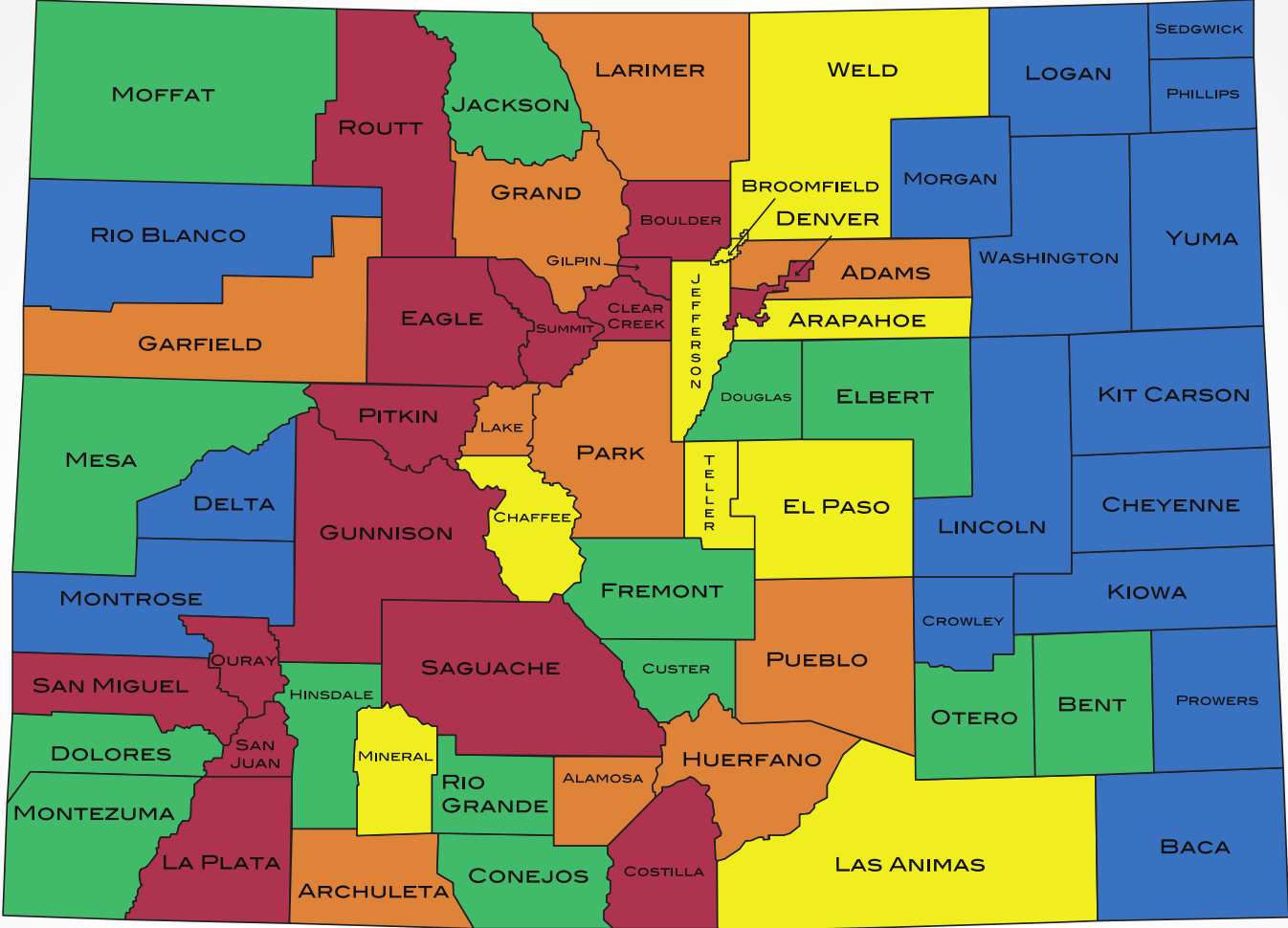
The division, part of the Department of Revenue, has agreed to several steps to improve oversight of Colorado's 1,440 dispensaries, grow centers and marijuana infused-product businesses.

Audits find regulatory problems.

# November 2012: Amendment 64 passes allowing the adult-use of marijuana

- Makes the private use, limited possession and home-growing of marijuana legal under Colorado law for adults 21 years of age and older
- Establishes a system in which marijuana is regulated, taxed, and distributed similarly to alcohol
- Requires the state legislature to permit the cultivation, processing, and sale of industrial hemp

# Colorado A64 Voter Map by County



LESS THAN 45% YES



45-49% YES



50-54% YES



55-59% YES



60% OR MORE YES

# Possession and Home Cultivation

## **Article XVIII, Sec. 16(3): Personal use of marijuana**

It is not unlawful for those 21 years of age and older to:

- a. Possess, use, display, purchase or transport marijuana accessories or an ounce or less of marijuana;
- b. Possess, grow, process or transport no more than 6 marijuana plants with three or fewer being mature, flowering plants as well as possess all of the marijuana produced by those plants, so long as the plants are grown in an enclosed, locked space;

# Possession and Home Cultivation

- c. Transfer one ounce or less of marijuana without remuneration to a person who is 21 years of age or older;
- d. Consume marijuana, provided that it is not conducted openly and publicly or in a manner that endangers others; and
- e. Assist another person who is 21 years of age or older in any of the acts described in paragraphs (a)-(d).

# Regulated Retail Marijuana Sales

## Types of Retail Marijuana Establishments (RMEs):

1. Retail Marijuana Store
2. Marijuana Cultivation Facility
3. Marijuana Product Manufacturing Facility
4. Marijuana Testing Facility

# Hemp

- Not later than July 1, 2014, the general assembly shall enact legislation governing the cultivation, processing and sale of industrial hemp.
- *See Article XVIII Sec. 16(5)(j)*



# Timeline

November 6<sup>th</sup>, 2012 - Passed

December 10<sup>th</sup>, 2012 – Effective Date, Governor’s Task Force

January/February 2013 – Governors' Task Force

April/May 2013 - State Legislature

July 2013 – First State Regulations

September 9<sup>th</sup>, 2013 – Final Regulations

October 1<sup>st</sup>, 2013 – Applications Open

January 1<sup>st</sup>, 2013 – First Retail Businesses Open

# 2013 Colorado Marijuana Bills

- HB13-1317—A64 “Non Consensus” Regulatory Bill
- SB13-283—A64 “Consensus” Bill
- HB13-1318—Tax Bill
- SB13-250—Changes Colorado’s Criminal Law
- HB13-1238—Decoupling & Drug Treatment
- HB13-1061—Responsible Vendor Bill
- HB13-1042—State 280E Deductions
- HB13-1325—Permissible Inference DUID
- SB13-278—Child Endangerment Study

# State Regulations: A New Public Health Approach

- Owner Qualifications
  - Good moral character
  - No Felonies
  - No Government Debt
- Security
  - Seed to sale
  - Video
  - MITS tracking system
  - Waste
  - Transportation
- Diversion and Misuse
  - ID required
  - Limits out of state purchases
  - Limits hours of operation
  - Undercover program
- Testing and Sanitation
  - Batching
  - Strengths
  - Mildews
- Labeling and Packaging
  - Tested?
  - Childproof
- Advertising
  - Appeals to minors
  - Mass marketing campaigns
  - T.V. Radio Banned
- DUID
  - Permissible Inference
  - Open Container
- Clean Indoor Air Act
  - Marijuana Smoke = Tobacco Smoke

# Local Government Issues

- Opt-in or Opt-out
  - All, sum, or none
  - Transition Periods
- Taxes
  - State and/or local
  - Self-funding regulatory
- Time, Place, Manner, Number
  - Main street or warehouse
  - Use by right or special-use
  - Form and character
  - Licensing v. zoning
  - Operational Standards
- Additional Restrictions
  - Public Hearings
  - Qualifications
  - Enforcement Officers
  - Undercover program
  - Edibles
  - Solar Off-Sets
  - Advertising

# Local Government Issues Cont.

- Medical and Recreational
- Public Consumption
- Home Cultivation
- Government Employees
- Underage Use

# Colorado Case Law:

## *Beinor v. Industrial Claim Appeals Office* (2011)

- 262 P.3d 970 (Colo. App. 2011)
- Holding: a recommendation for medical marijuana does not constitute as “medically prescribed controlled substances” under Colorado statute governing disqualification of unemployment compensation.

# Colorado Case Law:

## *Coats v. Dish Network, LLC*

(2013)

- Colorado Court of Appeals—Not yet published
- WestLaw Cite: 2013 WL 1767846
- Holding: employee’s state-licensed use of medical marijuana is not “lawful activity” within meaning of the Lawful Activities Statute because activities conducted in Colorado are subject to both state and federal law and therefore the activity must conform with both state and federal laws.

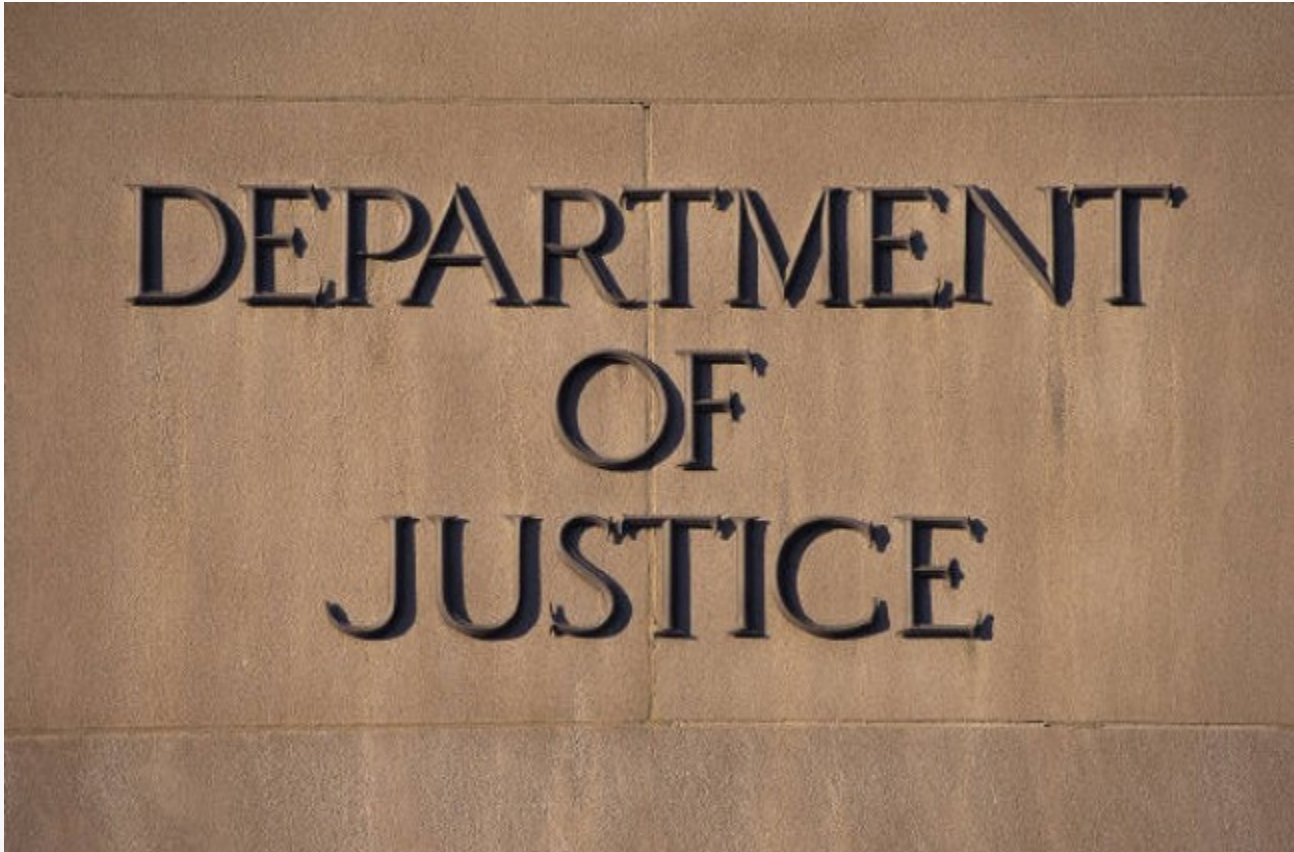
# Colorado Case Law:

## *In re Marriage of Parr & Lyman* (2010)

- 240 P.3d 509 (Colo. App. 2010)
- Holding: father's use of medical marijuana could not support restriction on his parenting time because the record did not show that father's use of medical marijuana represented threat to physical and emotional health and safety of child, or otherwise suggested any risk of harm.

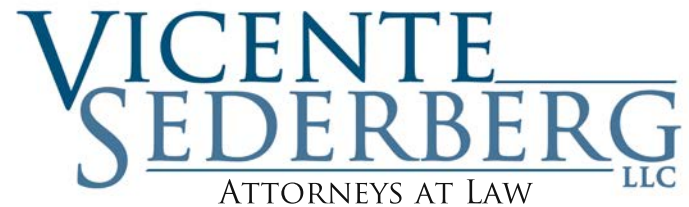


# Federal Government



# Thank you.

For more information, please visit:  
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