

# ARIZONA CAPITOL TIMES

non-daily  AP newspaper of the year

By: Evan Wyloge and Hank Stephenson January 2, 2014 , 6:31 pm



Customers wait in line, which was more than 300 deep by 10 a.m., on the first day of retail marijuana sales at LoDo Wellness in Denver Wednesday Jan. 1, 2014. Customers can legally purchase marijuana for recreation use in Colorado. (AP Photo/The Denver Post, Aaron Ontiveroz )

While the nation watches Colorado adults buy marijuana in retail stores for non-medical consumption, advocates of a similar arrangement in Arizona are working to follow the Centennial State's lead.

Two groups are looking at ballot initiatives — one for 2014 and another in 2016. And one Arizona lawmaker plans to introduce a bill that would make it possible for adults 21 or older to buy and consume marijuana without legal repercussions — at least from local law enforcement.

Colorado's law went into effect Jan. 1, allowing buyers to participate in the first legal sales of recreational marijuana in the United States.

Buying, selling, possessing and using marijuana remains illegal under federal law. But the Department of Justice has signaled over the past several years that as long as states establish robust regulatory schemes, enforcement of federal marijuana laws will take a back seat to states' more liberalized marijuana policies.

The increasingly lax attitude toward state-regulated marijuana use has played a key role in the defense of Arizona's medical marijuana program, narrowly approved by voters in 2010. And proponents of marijuana use for non-medical reasons hope the feds' more permissive stance will shield the system they want to install in Arizona.

Rep. Ruben Gallego, D-Phoenix, said in November that he plans to introduce a bill modeled after Colorado's system. He hasn't formally introduced the bill yet, but he has prepared an initial draft.

He admits it isn't likely the Republican-controlled Legislature will approve of legislation allowing retail marijuana. But he said the Legislature could ensure retail marijuana is sold in a controlled manner that wipes out the marijuana black market in the state.

"In my opinion, whether we pass it through the Legislature or not, it's going to get passed by a ballot initiative in 2016 or 2018, and we're going to be behind the eight ball, so to speak... We can actually do this in a controlled and predictable legislative manner instead of letting this go to the ballot box," he said.

He said he has already received support from legislative Democrats, who even a few years ago wouldn't have been on board with the idea. He hopes the proposal will take hold within parts of the Republican caucus as well.

## The activists' plan

But if Arizona's lawmakers won't adopt a system similar to Colorado's, citizen activists have another plan.

Last June, Dennis Bohlke, a 59-year-old computer programmer in Phoenix, filed an application for a citizen initiative in 2014 that would essentially mimic the Colorado program.

His committee, Safer Arizona, would need nearly 260,000 valid signatures of Arizona voters by July 3 to qualify for the 2014 ballot. The group is still far from the number of signatures needed, a reflection of the reality that successfully qualifying a citizen initiative for the ballot historically requires lots of money for paid signature gatherers. Bohlke's group is relying on volunteers. As of September, Bohlke said the group had gathered 7,000 to 8,000 signatures.

Before voting to allow any adult 21 or older to buy and consume marijuana in 2012, Coloradans voted in 2000 to allow a state-regulated medical marijuana system, similar to what Arizonans approved 10 years later.

At the center of Arizona's 2010 medical marijuana ballot measure and Colorado's 2012 "adult-use" initiative was the Washington D.C.-based Marijuana Policy Project. The well-funded activist organization has plans for marijuana law reform in several states, and has said that if Arizona doesn't institute a program similar to Colorado's during the next couple years — either by legislative action or ballot measure — the group will spearhead a 2016 initiative.

Mason Tvert, a spokesman for Marijuana Policy Project, said Colorado's medical marijuana industry was actively involved in crafting the adult-use initiative passed in 2012, and he hopes the same will happen in Arizona.

"That's absolutely our desire," Tvert said. "When we drafted the initiative in Colorado, we really made it a point to bring as many stakeholders to the table as possible — businesses, attorneys, tax specialists, the advocacy community. We even put ads in magazines asking the public for comment. We plan to have a similar process in Arizona."

### **Colorado's law**

The involvement of the medical marijuana industry can be seen in the details of Colorado's new law. Only established medical marijuana dispensaries will be allowed to apply for recreational sale applications until July. The supply chain must be tightly integrated, where growing marijuana and selling are done by single businesses.

All of that will change after July, however, when growing and selling marijuana will be uncoupled, and new businesses will be allowed to grow or sell without any medical marijuana facet.

Giving initial preference to established medical marijuana businesses makes for a smoother transition, advocates say. It will also mean the medical marijuana businesses won't see a huge drop-off in business, as medical marijuana patients will have the option to buy marijuana outside the medical program.

Another detail that helps prop up the medical marijuana industry is the avoidance of large taxes applied to non-medical marijuana. In Colorado, adults buying retail marijuana outside the medical marijuana program will have to pay about 30 percent more for marijuana than registered medical marijuana patients.

Tvert said he wouldn't characterize the difference in taxes assessed to medical versus non-medical marijuana users as an incentive to keep medical marijuana patients in the program. Rather, people whose doctors have recommended marijuana shouldn't have to pay excessive taxes on a medicine.

### **A serious risk**

Gallego's legislation doesn't include an increased sales tax, but does include a \$50 per ounce excise tax. Any additional taxes on the pot could potentially be part of final legislation that gets approved.

According to Gallego's draft legislation, the excise tax revenues would first cover enforcement of the new law's regulations. The remaining revenue would be directed to specific state funds. Thirty percent of the excise tax would go to the Department of Education. Twenty percent would go to the Department of Health Services, to be split between treatment and education. The remaining 50 percent would go to the general fund.

He said he believes a medical marijuana industry will remain viable even with retail marijuana available, because the product is taxed at a much lower rate than retail marijuana. But he admits the possibility that retail marijuana would kill the medicinal industry is a serious risk.

"I don't think dispensaries will go out of business, because I think they have a particular niche and expertise that I don't think can be filled by anybody else... Our goal, obviously, is not to put anybody out of business. That's never a

goal of any politician," Gallego said.

But unlike Colorado, which gave dispensaries the sole right to open retail marijuana stores for a limited time, Gallego said he doesn't anticipate giving dispensaries a monopoly, even a temporary one, on the new business.

"We're certainly not going to preclude dispensaries from applying," he said, adding that he doesn't think they should be the only people allowed to apply for licenses to sell retail marijuana.

He also worries that the taxes on retail marijuana in Colorado are too high, and if Arizona set up the same tax structure, the black market will persist.

"We have to be careful about how much we tax (retail marijuana), because you don't want to create a situation where it's (cheaper) for people to get the drug from local drug dealers instead of a local vendor," he said.

Gallego said he plans to lead a fact-finding tour to both Colorado and Washington state, which is slated to begin retail marijuana operations later this year, though he said he won't partake in any pot smoking himself.

"Just because you pass marijuana legalization doesn't mean everyone is going to be smoking marijuana," he said.

## Key provisions of Rep. Gallego's draft legislation

- Allows anyone older than 21 to
  - possess, consume or transport up to one ounce of marijuana,
  - grow up to five marijuana plants, in a secure location, not in plain sight,
  - transfer up to one ounce of marijuana or less, and up to six immature marijuana plants to anyone older than 21.
- Orders the state Department of Health Services to establish the general rules for the new law
- Allows municipalities to
  - enact zoning regulations and regulations on time, place and manner of marijuana retail sales
  - prohibit marijuana manufacturing or retail sales
  - establish operation, registration and application fees for marijuana establishments
- Establishes a \$50 per ounce excise tax between marijuana manufacturer and retailer. Any revenues in excess of the cost of the administration and enforcement of the legislation is allocated
  - 30 percent to the state Department of Education
  - 10 percent to the state Department of Health Services for alcohol, tobacco and marijuana abuse programs
  - 10 percent to the state Department of Health Services for public education about the safety and risks of alcohol, tobacco and marijuana
  - 50 percent to the state's general fund
- Prohibits
  - smoking marijuana in public,
  - state or political subdivision seizure of marijuana or marijuana accessories that comply with the legislation
  - any government tracking of individual purchases

To print the document, click the "Original Document" link to open the original PDF. At this time it is not possible to print the document with annotations.

---

Tweet { 12 }
Like { 81 }
g+1 0
Share

---



Clean Elections faces new legislative assault

January 6, 2014 , 8:00 am



Court to decide K-12 inflation funding fix estimated at \$1.6B

January 6, 2014 , 7:51 am



Failed bills of past being tried and tried again

January 6, 2014 , 7:42 am

