



August 24, 2011

Speaker Andy Tobin
Arizona House of Representatives
Capitol Complex
1700 West Washington
Phoenix, AZ 85007-2890

Dear Speaker Tobin,

MATFORCE is a coalition of hundreds of volunteers with the vision of “working together to reduce substance abuse in Yavapai County”. Prior to the November 2010 election, MATFORCE worked to educate voters about the risks of Prop 203, the Medical Marijuana Initiative. In Yavapai County, the “no” votes against this proposition outweighed the “yes” votes by more than 9000 votes. As you may know, the initiative passed by just over 4000 votes statewide – less than one tenth of 1%.

As of July 28, 2011, 8670 medical marijuana cards have been issued. Of this number, 85% list chronic pain as the reason for obtaining the card in contrast to 5.1% listing cancer; 75.1% of the cards have been issued to males and 24.9% to females. Arizona’s statistics are similar to other states with medical marijuana laws where “medical” use has given way to “recreational” use. Arizona’s numbers would indicate that a significant percentage of the medical marijuana cards are being issued for recreational purposes.

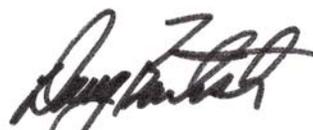
In order to limit the risks associated with recreational marijuana usage, MATFORCE recommends the introduction of seven bills at the upcoming legislative session. Included with this correspondence you will find a document outlining our recommendations. The recommendations include:

- Setting a presumptive THC metabolite level to define impairment.
- Enhanced penalties for violations regarding the transport, selling or possession of marijuana outside the authority granted by the Medical Marijuana Law.
- Criminal penalties for smoking “medical” marijuana in public.
- Criminal penalties for smoking “medical” marijuana in front of children.
- Legislative regulations regarding marijuana “clubs”.
- Laws banning the use of marijuana in schools.
- Laws prohibiting the return of marijuana seized pursuant to a legal seizure.

We greatly appreciate your consideration of our recommendations. We also would appreciate the opportunity to meet with you in person to discuss the benefits of our proposals.

Sincerely,


Sheila Polk
Yavapai County Attorney
MATFORCE Co-Chair


Doug Bartosh
Cottonwood City Manager
MATFORCE Co-Chair



Six Legislative Proposals for 2012 “Medical Marijuana” Law, ARS 36-2801 et seq.

Legislative proposal #1:

The legislature should set a presumptive level of marijuana impairment at a concentration of 2.0 ng/ml of blood THC for purposes of operating automobiles or other machinery, and for purposes of employment.

Rationale:

The medical marijuana law, A.R.S. section 36-2801 et seq., authorizes the use of marijuana for medical purposes, but does not allow a user to be impaired while employed or operating automobiles or other machinery. Use of marijuana impairs a person’s ability to operate automobiles and other machinery, and to properly perform their job. Impairment is difficult to determine without presumptive standards. Marijuana impairment can be compared to use of alcohol, which is legal but impairment is not allowed when a person is operating automobiles or other machinery or by most employers. Levels of presumptive alcohol impairment are codified in law so employers and law enforcement may more easily determine if a person is impaired.

Scientific tests are available to determine the level of Tetrahydrocannabinol (THC) the active ingredient in marijuana, and standards exist that prove a person is impaired at blood levels of THC of 2.0 nanograms per milliliter (ng/ml) or greater. Presumptive levels of marijuana impairment for both employment and operation of automobiles and other machinery must be adopted by the legislature in order to allow employers and law enforcement to quickly and easily determine if probable cause exists that a person is impaired, and to take appropriate action to protect the person, the employer, and the public.

Legislative proposal #2:

The legislature should clarify that any use by cardholders, caregivers, and dispensary agents in the production, transportation, sale, use or possession marijuana outside of the terms of their authority granted by the medical marijuana law removes the protections of the law, and the person may be prosecuted pursuant to the Arizona Revised Statutes as a non-medical marijuana cardholder. Any activity beyond that permitted in the medical marijuana law should also result in the permanent loss of the medical marijuana card.

Rationale:

Arizona has a strong public policy against marijuana. The medical marijuana law has carved out a narrow exception to that policy for medical use. To uphold Arizona’s prohibition

against marijuana, it is imperative that those individuals granted access to marijuana through the medical marijuana law be strongly discouraged from using their access to marijuana to add to the supply of illicit marijuana in the state, or to supply it to those without authorization to possess marijuana. One of the best ways this may be accomplished is for the legislature to specify and clarify that any activity beyond that permitted in the medical marijuana law results in the forfeiture of the protections of the law and the individual is subject to prosecution as if he/she is not a cardholder. Any activity beyond that permitted in the medical marijuana law should also result in the permanent loss of the medical marijuana card.

Legislative proposal #3:

The legislature should pass legislation to impose criminal penalties for smoking marijuana in public. The law should clarify that smoking in public is prosecutable pursuant to Arizona Revised Statutes as if the violator is not a cardholder. Any activity beyond that permitted in the medical marijuana law should also result in the permanent loss of the medical marijuana card.

Rationale:

The medical marijuana law forbids smoking marijuana in public, but provides no penalty. Smoking of marijuana in public encourages its illicit use, and exposes marijuana to children. Since marijuana use in public is not authorized by the medical marijuana law and is a criminal activity in Arizona, smoking of marijuana in public by a cardholder should be made a serious criminal act.

Legislative proposal #4:

The legislature should impose criminal penalties for smoking marijuana in the presence of children under the age of 18. The law should clarify that smoking in the presence of children is prosecutable pursuant to Arizona Revised Statutes as if the violator is not a cardholder. Any activity beyond that permitted in the medical marijuana law should also result in the permanent loss of the medical marijuana card.

Rationale:

Children exposed to marijuana use are desensitized to the hazards of marijuana use, and are more likely to use marijuana illegally in the future. Children exposed to marijuana smoke will suffer the same health hazards as exposure to tobacco smoke. Smoking marijuana in the presence of children should be made a serious criminal act.

Legislative proposal #5:

The legislature should impose a presumption that the exchange of marijuana at any location where fees are paid is an exchange for value.

Proposed language:

“There is a conclusive presumption that a transfer of marijuana to a person is a transfer of marijuana for value where the transferee must pay anything of value to be a member of an organization, or to participate in an activity, in order to be eligible to receive such transfer.”

Rationale:

Arizona Revised Statutes section 36-2811(B)(3) allows patients and caregivers to transfer marijuana to other patients or caregivers as long as nothing of value is transferred in return. In recent days, “marijuana clubs” have appeared. The clubs require the person to pay a fee to join an “educational club,” and a participation fee each time they visit the club. For each visit, the participant is given 3-5 grams of marijuana for “free” by another cardholder, who just happens to be the person that runs the club and collects the fees.

The proposed legislation creates a conclusive presumption that if you have to pay to gain status as a member or participant to a club that gives you the right to “free” marijuana, the payment is the transfer for value. Dispensaries are allowed to sell, so the proposed legislation would not affect them.

Legislative proposal #6:

The legislature should pass legislation to maintain all school campuses as drug-free zones.

Rationale:

Students, faculty, employees and visitors who are medical marijuana cardholders should be prohibited from the use of marijuana on all school campuses, both public and private, including day-care centers, pre-schools, kindergarten – 12th grade, and colleges and universities.

Legislative proposal #7:

The legislature should pass legislation prohibiting law enforcement agencies from returning any marijuana seized pursuant to a lawful seizure, regardless of whether criminal prosecution results.

Rationale:

There are many reasons why a lawful seizure of marijuana may not result in a successful prosecution of the possessor, including a decision by the prosecuting agency that there is not sufficient evidence to charge, or the production after-the-fact of a duly issued medical marijuana card. Law enforcement should not be in the position of preserving or otherwise cultivating marijuana in the event of the dropping of charges. The legislature should clarify that any marijuana lawfully seized shall not be returned to the individual.