

# Marijuana Legalization Laws and Regulations:<sup>1</sup> Colorado and Washington



© 2014 Research is current for Colorado through January 31, 2014 and Washington through February 15, 2014. This chart is intended for educational purposes only; you should not act or rely upon the information contained herein without first seeking the advice of an attorney licensed in your jurisdiction. The categories listed on this chart are limited so as to provide a comparative perspective of legislation from various jurisdictions. Please note that the listed provisions may have features that are not summarized in this chart. Pending bills may also seek to amend, repeal or supersede these provisions – such information is not included in this comparison. In order to ensure that the information contained herein is as current as possible, research is conducted using both nationwide legal database software and individual state legislative websites. Please contact Susan Weinstein at 703-836-6100, ext. 101 with any additional updates or information that may be relevant to this document. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS, 215 Lincoln Ave., Suite 201, Santa Fe, NM, 87501.

	<b>Colorado</b>	<b>Washington</b>
	Colo. Const. art. XVIII, § 16; Colo. Rev. Stat. §§ 12-43.4-101 to 12-43.4-1101; §§ 18-3-106, 18-3-205, 42-4-1301; 1 Colo. Admin. Code 212-2.102 to 212-2.1401	Wash. Rev. Code Ann. §§ 46.04.586, 46.04.5055, 46.20.308, 46.61.502 to 506; §§ 69.50.101 to 69.50.609 Wash. Admin. Code R. 314-55-005 to 314-55-540
Requires an oversight agency to regulate and control the licensing of retail marijuana	X (the State Licensing Authority (SLA))	X (the Liquor Control Board (LCB))
Maintains a seed-to-sale tracking system	X	Responsibility of the licensee
Local jurisdiction may object or impose separate local licensing requirement	X	X (may only object)
Must provide a copy of an application for a retail marijuana establishment to others	X (SLA must provide to the local jurisdiction within 7 days, unless the local jurisdiction has prohibited the operation of any retail marijuana establishments)	X (LCB must provide 90 days written notice to cities, counties, tribal governments or port authorities of applicants for marijuana licensing applications)
Local jurisdiction must notify the oversight agency that it approves or denies each application that the oversight agency forwards to it	X (within 1 year of SLA approval)	X
Local jurisdiction may restrict time, place, manner and number of retail marijuana centers established	X	
Limits the number of licenses held		X (no more than 3 retail licensees with no multiple location licensee allowed more than 33% of the allowed licenses in any city or county)
<b>Required Information for Application for Retail Marijuana Establishment</b>	<b>See note<sup>2</sup></b>	
Payment of Fee	X	X
Must surrender medical marijuana license		X
Name and address of applicant	X	X (officers and directors)
Name and address of officers, directors and manager	X	

	Colorado	Washington
<b>Required Information for Application for Retail Marijuana Establishment (continued)</b>		
Applicant must be verified by oath	X	
Criminal background check of applicant	X	X
Fingerprints of applicant	X	X
Applicant, officers, directors, managers and employees must be residents of state	X (for at least 2 years)	X
Applicant, officers, directors and manager must all be at least 21 years of age	X	X
Must disclose all individuals having a direct financial interest (and extent of that interest)	X	X
Proof of insurance coverage		X
If applicant is a corporation or LLC, must submit:		
Names, mailing addresses and background information of all officers, directors and owners	X	
Copy of the Articles of Incorporation	X	
Proof of authority to do business in the state	X	
Names of anyone with stock or membership interest in the company	X	
If applicant is a partnership, it must submit:		
Names, mailing addresses and owners' background information of all partners	X	
Copy of the partnership agreement	X	
Proof of tax payments	X	
Floor plans of premises	X	
Deed, lease or contract of premises	X	
Requirement that licensee will adhere to and independent testing and certification program to ensure safety and correct labeling of marijuana sold	X	
<b>Persons Prohibited as Licensees</b>		
Anyone not paying the annual fee	X	X
Has a criminal history or has associates with criminal histories	X	
Is under 21 years old	X	X

	<b>Colorado</b>	<b>Washington</b>
<b>Persons Prohibited as Licensees (continued)</b>		
Has not filed a surety bond or tax return related to a retail marijuana establishment	X	
Has failed to pay taxes, interest or penalties due to the Dept. of Revenue related to a retail marijuana establishment	X	
Has a felony conviction	X (any felony within the last 5 years or a controlled substance felony within the last 10 years)	
Employs someone at the retail marijuana establishment who has not submitted fingerprints for a criminal background check or whose background check indicates that the employee is ineligible for employment	X	
A law enforcement officer, prosecuting attorney or an employee of the state oversight agency or local licensing authority	X	X (no one from LCB)
Person doing business as a sole proprietor who has not lawfully resided in the state		X (for at least 3 months prior to applying for a license)
Partnership, cooperative, association, not-for-profit or corporation unless formed under the laws of the state		X
Anyone not compliant with an order of support		X
<b>Reasons an Application May Be Denied</b>		
False information or purposeful misstatements or omissions in application	X	
Location is within 1,000 feet of a location that within 2 years immediately preceding the application date was denied	X	
For good cause	X	
Failure to file a report to the oversight agency		X
Failure to pay licensing tax		X
<b>Types of Licenses</b>		
<b>RETAIL MARIJUANA STORE LICENSE</b>		
May cultivate its own marijuana	X	

	<b>Colorado</b>	<b>Washington</b>
<b>Types of Licenses (continued)</b>		
May purchase marijuana from another retail marijuana establishment	X (may not purchase more than 30% of its on-hand inventory from an establishment not owned by the store)	
May sell retail marijuana products	X (as long as they are pre-packaged and labeled)	X
Maximum amount may sell to someone 21 or older	1 ounce (to someone with a valid Colorado ID)	1 ounce of usable marijuana, 16 ounces of marijuana-infused produce in solid form, 7 grams of marijuana-infused extract for inhalation and 72 ounces of marijuana-infused product in liquid form
Maximum amount may sell to someone 21 or older from another state	¼ ounce (with a valid ID card)	
May sell other consumable products, such as cigarettes and alcohol)		
May sell other edible products (that do not contain marijuana), such as soda or candy		
Must be present to purchase marijuana or marijuana product from store	X	
Patrons may open or consume marijuana on premises		
Must post current, valid license on premises		X
<b>RETAIL MARIJUANA CULTIVATION FACILITY LICENSE / PRODUCER'S LICENSE</b>		
May not have a direct or indirect financial interest in a licensed marijuana retail store		X
Issued only to a person who cultivates retail marijuana for the sale and distribution to licensed retail marijuana stores and other cultivation facilities	X	X

	<b>Colorado</b>	<b>Washington</b>
<b>Types of Licenses (continued)</b>		
May purchase for another licensed marijuana producer	X (may sell no more than 30% of the marijuana it cultivates to another center or retail marijuana store not owned by the owner of the retail marijuana cultivation facility)	X
Must make test results available		X
Must track the marijuana	X (from seed to wholesale purchase)	X (and must have at least 1 scale on premises for tracking and inventorying of products)
May consume marijuana on premises		
<b>RETAIL MARIJUANA PRODUCTS MANUFACTURING LICENSE / PROCESSOR'S LICENSE</b>		
May not have a direct or indirect financial interest in a licensed marijuana retail store		X
May cultivate own marijuana or purchase retail marijuana from a licensed retail marijuana cultivation facility	X	
Must track all marijuana	X	X (and must have at least 1 scale on premises for tracking and inventorying of products)
Must not add marijuana to a food product that is trademarked	X	
Must prepare all products on a licensed premises that is used for the manufacturing and preparation of marijuana on equipment for such purpose	X	
May consume marijuana on premises		
<b>Requirements for Operation</b>		
Licensee must manage the premise him/herself or employ a separate manager on the premises	X	X

	<b>Colorado</b>	<b>Washington</b>
<b>Requirements for Operation (continued)</b>		
Must not display usable marijuana or marijuana-infused products that are visible to the general public	X	X
Must submit representative samples of marijuana, usable marijuana and marijuana-infused products to an independent testing lab and submit results to oversight agency		X
Must notify the oversight agency of a new officer or manager of a retail establishment	X (must notify SLA within 7 days, and any new person must pass a criminal history and fingerprint check)	
Must keep a complete set of business records	X (which must be open for inspection)	X
Must maintain detailed record-keeping documents	X (must retain for the current year and the 3 preceding calendar years)	X (must retain for a 3-year period)
All areas of the premises, including storage and cultivation facilities, must remain open for inspection by state and local law enforcement	X	X (and allow stock to be inventoried)
Must have security system and lock standards	X (includes video surveillance)	X (includes ID badges, alarm and surveillance system and traceability)
Must maintain secure facility list	X	X
Signage and badges are required for all limited access areas	X	X
Must keep a visitor's log for all access areas	X	
Must maintain employee records	X (current list of employees only)	X (all records, including training)
Employees all must be at least 21 years old	X	X
Must not allow anyone under 21 years old to enter or remain on the premises		X
Restricts hours of operation	X	X (may sell between 8am and 12am)
Must have procedures for storing, securing and disposing of waste	X	X

	<b>Colorado</b>	<b>Washington</b>
<b>Requirements for Operation (continued)</b>		
Must maintain current diagram of premises	X	
Must maintain records of inventory	X (must use the state's MITS tracking system)	X
Restricts marketing and advertising	X (and also must maintain marketing and advertising data)	X <sup>3</sup>
Restricts transportation of marijuana or marijuana products	X <sup>4</sup>	X <sup>5</sup>
Restricts off-premises storage of marijuana or marijuana products	X <sup>6</sup>	
<b>RESTRICTS LABELING OF MARIJUANA TO INCLUDE:</b>		
Retail marijuana cultivation center / producer / processor license number	X	X
Retail marijuana store number	X	X
Batch or lot number	X	X
Net weight	X	X
THC potency and potency of other cannabinoids or chemicals, such as CBD	X	X
Use of fertilizer, pesticides or other crop aids	X (must include a list of non-organic pesticides, fungicides, herbicides and solvents used during cultivation or production)	X (may only use and list those registered as safe by the state)
May not be labeled organic unless allowed by USDA		X
A statement that marijuana may pose health risks / Warning labels	X	X <sup>7</sup>
Warning that product has intoxicating effects and may be habit forming		X
Packaging may not appeal to children	X	X
Must be in a child-resistant container	X	X

	<b>Colorado</b>	<b>Washington</b>
<b>Requirements for Operation (continued)</b>		
Amount of THC per serving and the number of servings per package for marijuana products / nutritional panel	X	X
A list of ingredients and possible allergens for retail marijuana products	X	X
A “use by” or expiration date for retail marijuana products	X	X
A universal symbol that indicates that the package contains marijuana	X	X (LCB may create symbol)
Statement that product may be unlawful outside of state		X
Must have point-of-sale signage that reads “no one under 21 allowed”	X	X
Ownership of a retail marijuana establishment is transferable	X (must be approved by the SLA)	X (must file new license application for sole proprietorship, general partnership, limited partnership and limited liability partnership)
Length of time a retail marijuana establishment license is valid	1 year	1 year
Must maintain sales records		X
May also operate a medical marijuana center	X	
Medical and retail marijuana centers may operate from same location	X <sup>8</sup> (only if the local jurisdiction allows)	
<b>Miscellaneous Matters</b>		
Allows employers to restrict the use, consumption, possession, transfer, display, sale or cultivation of marijuana in the workplace	X	
Allows entities that includes schools, hospitals and corporations that own property to prohibit and regulate the use, consumption, possession, transfer, sale or cultivation of marijuana on the property	X	

	Colorado	Washington
<b>Miscellaneous Matters (continued)</b>		
Must conduct a cost/benefit analysis evaluation of the implementation of the legalization of marijuana		X (with report to public health costs, public safety costs, marijuana usage rates, economic impact and state and local administrative costs and revenues)
Minimum amount in drivers blood to infer driving under the influence	5 ng/ml	5 ng/ml
Severability	X	X

<sup>1</sup>In November of 2013, Portland, ME voters passed “Question 1,” a municipal ballot measure that legalized possession of up to 2½ ounces of marijuana for adults 21 and older. The measure does not permit the recreational purchase or sale of marijuana, making it a mostly symbolic referendum. Moreover, state law imposes a civil fine of between \$350 and \$600 for up to 1¼ ounces of marijuana and between \$700 and \$1,000 for up to 2½ ounces.

<sup>2</sup>On or after July 1, 2014, those who previously have not operated a medical marijuana center may apply for a retail marijuana license, which will become effective on October 1, 2014.

<sup>3</sup>Pursuant to Wash. Admin. Code R. 314-55-155, (1) the LCB “limits each retail licensed premises to one sign identifying the retail outlet by the licensee’s business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the sign is limited to sixteen hundred square inches.” Moreover, (2) “All marijuana advertising and labels of useable marijuana and marijuana-infused products sold in the state of Washington may not contain any statement, or illustration that: (a) Is false or misleading; (b) Promotes over consumption; (c) Represents the use of marijuana has curative or therapeutic effects; (d) Depicts a child or other person under legal age to consume marijuana, or includes: (i) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or (ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age. (3) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, usable marijuana, or a marijuana-infused product in any form or through any medium whatsoever: (a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older; (b) On or in a public transit vehicle or public transit shelter; or (c) On or in a publicly owned or operated property. (4) Giveaways, coupons, and distribution of branded merchandise are banned. (5) All advertising must contain the following warnings: (a) ‘This product has intoxicating effects and may be habit forming.’ (b) ‘Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.’ (c) ‘There may be health risks associated with consumption of this product.’ and (d) ‘For use only by adults twenty-one and older. Keep out of the reach of children.’” See, Wash. Rev. Code Ann. § 69.50.369.

<sup>4</sup>Pursuant to 1 Colo. Admin. Code 212-2.801, only those licensed by the SLA may transport marijuana or marijuana products. Such transport shall only be transported between licensed premises and between licensed premises and a permitted off-premises storage facility; the licensee may only transport the marijuana or marijuana product if he or she has a hard copy of a MITS-generated transport manifest; the transport shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the licensee; shall be accompanied by a copy of the originating retail marijuana establishment’s business license, the driver’s valid owner or occupational license, the driver’s valid motor vehicle operator’s license and all required vehicle registration information; shall be weighed and packaged according to the regulations; shall be appropriately inventoried, recorded and tracked and the establishment must provide adequate refrigeration for perishable retail marijuana product during transport.

<sup>5</sup>Wash. Admin. Code R. 314-55-085 sets forth the following transportation requirements for marijuana licensees: “(1) Notification of shipment. Upon transporting any marijuana or marijuana product, a producer, processor or retailer shall notify the board of the type and amount and/or weight of marijuana and/or marijuana products being transported, the name of transporter, times of departure and expected delivery; (2) Receipt of shipment. Upon receiving the shipment, the licensee receiving the product shall report the amount and/or weight of marijuana and/or marijuana products received in the traceability system; (3) Transportation manifest. A complete transport manifest containing all information required by the board must be kept with the product at all time; (4) Records of transportation. Records of all transportation must be kept for a minimum of three years at the licensee’s location; (5) Transportation of product. Marijuana or marijuana products that are being

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transported must meet the following requirements: (a) Only the marijuana licensee or an employee of the licensee may transport product; (b) Marijuana or marijuana products must be in a sealed package or container; (c) Sealed packages or containers cannot be opened during transport; (d) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the marijuana or marijuana products; (e) Any vehicle transporting marijuana or marijuana products must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other facilities receiving product.

<sup>6</sup>Pursuant to 1 Colo. Admin. Code 212-2.802, a retail marijuana establishment may only store retail marijuana or retail marijuana product in its licensed premises or in its one permitted off-premises storage facility. The licensee must apply for an off-premises storage facility permit, and such permit shall constitute an extension of the retail marijuana establishment's licensed premises. Moreover, the retail marijuana establishment may only have upon the permitted off-premises storage facility retail marijuana or retail marijuana product that are part of its finished goods inventory, and the licensee may not share the premises with, or store inventory belonging to, a medical marijuana business or another retail marijuana establishment that is not commonly-owned. The off-premises storage facility permit and a copy of the retail marijuana establishment's license must be displayed in a prominent place within the permitted off-premises storage facility. The retail marijuana establishment must obtain approval or acknowledgement from the relevant local jurisdiction, must meet all video, security, and lock requirements, adhere to all transport and inventory regulations, have adequate refrigeration for perishable retail marijuana products, and prohibit the consumption of marijuana or marijuana product on the premises of its permitted off-premises storage facility.

<sup>7</sup>Wash. Admin. Code R. 314-55-105 requires the following labeling requirements “(11) All usable marijuana when sold at retail must include accompanying material that contains the following warnings that state: (a) ‘Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health’; (b) ‘There may be health risks associated with consumption of this product’; (c) ‘Should not be used by women that are pregnant or breast feeding’; (d) ‘For use only by adults twenty-one and older. Keep out of reach of children’; (e) ‘Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug’; (f) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing. (12) All marijuana-infused products sold at retail must include accompanying material that contains the following warnings that state: (a) ‘There may be health risks associated with consumption of this product’; (b) ‘This product is infused with marijuana or active compounds of marijuana’; (c) ‘Should not be used by women that are pregnant or breast feeding’; (d) ‘For use only by adults twenty-one and older. Keep out of reach of children’; (e) ‘Products containing marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug’; (f) ‘Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours’; (g) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to the infused product; and (h) Statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.

<sup>8</sup>If the local jurisdiction allows the two to operate from the same location, the retail establishment’s application must identify the medical marijuana’s inventory that will become the retail marijuana’s inventory. Additionally, the two establishments must maintain physical separation from one another (such as separate sales, storage areas, entrances and exits, points of sales and records) and may only sell medical marijuana to anyone 21 or older. For details, *see* 1 Colo. Admin. Code 212-2.304.