

# U.S. Federal and State Cases, Codes, and Articles

Select a tab to search United States Cases, Codes, or Articles

Cases

Codes

Articles

Search by keyword or citation

\* Indicates required field

Keyword or Citation \*

Enter Keyword or Citation

View results >

## Colorado Revised Statutes Constitution of 1876 Art. XVIII, § 16. Personal use and regulation of marijuana

Current as of January 01, 2022 | Updated by [FindLaw Staff](#)

- (1) **Purpose and findings.**
- (a) In the interest of the efficient use of law enforcement resources, enhancing revenue for public purposes, and individual freedom, the people of the state of Colorado find and declare that the use of marijuana should be legal for persons twenty-one years of age or older and taxed in a manner similar to alcohol.
- (b) In the interest of the health and public safety of our citizenry, the people of the state of Colorado further find and declare that marijuana should be regulated in a manner similar to alcohol so that:
- (i) Individuals will have to show proof of age before purchasing marijuana;
- (ii) Selling, distributing, or transferring marijuana to minors and other individuals under the age of twenty-one shall remain illegal;
- (iii) Driving under the influence of marijuana shall remain illegal;
- (iv) Legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana; and
- (v) Marijuana sold in this state will be labeled and subject to additional regulations to ensure that consumers are informed and protected.
- (c) In the interest of enacting rational policies for the treatment of all variations of the cannabis plant, the people of Colorado further find and declare that industrial hemp should be regulated separately from strains of cannabis with higher delta-9 tetrahydrocannabinol (THC) concentrations.
- (d) The people of the state of Colorado further find and declare that it is necessary to ensure consistency and fairness in the application of this section throughout the state and that, therefore, the matters addressed by this section are, except as specified herein, matters of statewide concern.
- (2) **Definitions.** As used in this section, unless the context otherwise requires,

- (a) "Colorado Medical Marijuana Code" means article 43.3 of title 12, Colorado Revised Statutes.
- (b) "Consumer" means a person twenty-one years of age or older who purchases marijuana or marijuana products for personal use by persons twenty-one years of age or older, but not for resale to others.
- (c) "Department" means the department of revenue or its successor agency.
- (d) "Industrial hemp" has the same meaning as it is defined in federal law or as the term is defined in Colorado statute.
- (e) "Locality" means a county, municipality, or city and county.
- (f) "Marijuana" or "marihuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" or "marihuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.
- (g) "Marijuana accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.
- (h) "Marijuana cultivation facility" means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.
- (i) "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.
- (j) "Marijuana product manufacturing facility" means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.
- (k) "Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
- (l) "Marijuana testing facility" means an entity licensed to analyze and certify the safety and potency of marijuana.
- (m) "Medical marijuana center" means an entity licensed by a state agency to sell marijuana and marijuana products pursuant to section 14 of this article and the Colorado Medical Marijuana Code.
- (n) "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.
- (o) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

(3) **Personal use of marijuana.** Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense under Colorado law or the law of any locality within Colorado or be a basis for seizure or forfeiture of assets under Colorado law for persons twenty-one years of age or older:

- (a) Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana.
- (b) Possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale.
- (c) Transfer of one ounce or less of marijuana without remuneration to a person who is twenty-one years of age or older.
- (d) Consumption of marijuana, provided that nothing in this section shall permit consumption that is conducted openly and publicly or in a manner that endangers others.
- (e) Assisting another person who is twenty-one years of age or older in any of the acts described in paragraphs (a) through (d) of this subsection.
- (4) **Lawful operation of marijuana-related facilities.** Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense under Colorado law or be a basis for seizure or forfeiture of assets under Colorado law for persons twenty-one years of age or older:

- (a) Manufacture, possession, or purchase of marijuana accessories or the sale of marijuana accessories to a person who is twenty-one years of age or older.
- (b) Possessing, displaying, or transporting marijuana or marijuana products; purchase of marijuana from a marijuana cultivation facility; purchase of marijuana or marijuana products from a marijuana product manufacturing facility; or sale of marijuana or marijuana products to consumers, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a retail marijuana store or is acting in his or her capacity as an owner, employee or agent of a licensed retail marijuana store.
- (c) Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing marijuana; delivery or transfer of marijuana to a marijuana testing facility; selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store; or the purchase of marijuana from a marijuana cultivation facility, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a marijuana cultivation facility or is acting in his or her capacity as an owner, employee, or agent of a licensed marijuana cultivation facility.
- (d) Packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana products; delivery or transfer of marijuana or marijuana products to a marijuana testing facility; selling marijuana or marijuana products to a retail marijuana store or a marijuana product manufacturing facility; the purchase of marijuana from a marijuana cultivation facility; or the purchase of marijuana or marijuana products from a marijuana product manufacturing facility, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a marijuana product manufacturing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed marijuana product manufacturing facility.
- (e) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring or delivering marijuana or marijuana products if the person has obtained a current, valid license to operate a marijuana testing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed marijuana testing facility.
- (f) Leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (e) of this subsection.

(5) **Regulation of marijuana.**

- (a) Not later than July 1, 2013, the department shall adopt regulations necessary for implementation of this section. Such regulations shall not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include:
- (i) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment, with such procedures subject to all requirements of article 4 of title 24 of the Colorado Administrative Procedure Act or any successor provision;
- (ii) A schedule of application, licensing and renewal fees, provided, application fees shall not exceed five thousand dollars, with this upper limit adjusted annually for inflation, unless the department determines a greater fee is necessary to carry out its responsibilities under this section, and provided further, an entity that is licensed under the Colorado Medical Marijuana Code to cultivate or sell marijuana or to manufacture marijuana products at the time this section takes effect and that chooses to apply for a separate marijuana establishment license shall not be required to pay an application fee greater than five hundred dollars to apply for a license to operate a marijuana establishment in accordance with the provisions of this section;
- (iii) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment;
- (iv) Security requirements for marijuana establishments;
- (v) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the age of twenty-one;
- (vi) Labeling requirements for marijuana and marijuana products sold or distributed by a marijuana establishment;
- (vii) Health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;
- (viii) Restrictions on the advertising and display of marijuana and marijuana products; and
- (ix) Civil penalties for the failure to comply with regulations made pursuant to this section.
- (b) In order to ensure the most secure, reliable, and accountable system for the production and distribution of marijuana and marijuana products in accordance with this subsection, in any competitive application process the department shall have as a primary consideration whether an applicant:
- (i) Has prior experience producing or distributing marijuana or marijuana products pursuant to section 14 of this article and the Colorado Medical Marijuana Code in the locality in which the applicant seeks to operate a marijuana establishment; and
- (ii) Has, during the experience described in subparagraph (i), complied consistently with section 14 of this article, the provisions of the Colorado Medical Marijuana Code and conforming regulations.
- (c) In order to ensure that individual privacy is protected, notwithstanding paragraph (a), the department shall not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.
- (d) The general assembly shall enact an excise tax to be levied upon marijuana sold or otherwise transferred by a marijuana cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store at a rate not to exceed fifteen percent prior to January 1, 2017 and at a rate to be determined by the general assembly thereafter, and shall direct the department to establish procedures for the collection of all taxes levied. Provided, the first forty million dollars in revenue raised annually from any such excise tax shall be credited to the Public School Capital Construction Assistance Fund created by article 43.7 of title 22, C.R.S., or any successor fund dedicated to a similar purpose. Provided further, no such excise tax shall be levied upon marijuana intended for sale at medical marijuana centers pursuant to section 14 of this article and the Colorado Medical Marijuana Code.
- (e) Not later than October 1, 2013, each locality shall enact an ordinance or regulation specifying the entity within the locality that is responsible for processing applications submitted for a license to operate a marijuana establishment within the boundaries of the locality and for the issuance of such licenses should the issuance by the locality become necessary because of a failure by the department to adopt regulations pursuant to paragraph (a) or because of a failure by the department to process and issue licenses as required by paragraph (g).
- (f) A locality may enact ordinances or regulations, not in conflict with this section or with regulations or legislation enacted pursuant to this section, governing the time, place, manner and number of marijuana establishment operations; establishing procedures for the issuance, suspension, and revocation of a license issued by the locality in accordance with paragraph (h) or (i), such procedures to be subject to all requirements of article 4 of title 24 of the Colorado Administrative Procedure Act or any successor provision; establishing a schedule of annual operating, licensing, and application fees for marijuana establishments, provided, the application fee shall only be due if an application is submitted to a locality in accordance with paragraph (i) and a licensing fee shall only be due if a license is issued by the locality in accordance with paragraph (h) or (i); and establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such locality. A locality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an initiated or referred measure; provided, any initiated or referred measure to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores must appear on a general election ballot during an even numbered year.
- (g) Each application for an annual license to operate a marijuana establishment shall be submitted to the department. The department shall:
- (i) Begin accepting and processing applications on October 1, 2013;
- (ii) Immediately forward a copy of each application and half of the license application fee to the locality in which the applicant desires to operate the marijuana establishment;
- (iii) Issue an annual license to the applicant between forty-five and ninety days after receipt of an application unless the department finds the applicant is not in compliance with regulations enacted pursuant to paragraph (a) or the department is notified by the relevant locality that the applicant is not in compliance with ordinances and regulations made pursuant to paragraph (f) and in effect at the time of application, provided, where a locality has enacted a numerical limit on the number of marijuana establishments and a greater number of applicants seek licenses, the department shall solicit and consider input from the locality as to the locality's preference or preferences for licensure; and
- (iv) Upon denial of an application, notify the applicant in writing of the specific reason for its denial.

- (h) If the department does not issue a license to an applicant within ninety days of receipt of the application filed in accordance with paragraph (g) and does not notify the applicant of the specific reason for its denial, in writing and within such time period, or if the department has adopted regulations pursuant to paragraph (a) and has accepted applications pursuant to paragraph (g) but has not issued any licenses by January 1, 2014, the applicant may resubmit its application directly to the locality, pursuant to paragraph (e), and the locality may issue an annual license to the applicant. A locality issuing a license to an applicant shall do so within ninety days of receipt of the resubmitted application unless the locality finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to paragraph (f) in effect at the time the application is resubmitted and the locality shall notify the department if an annual license has been issued to the applicant. If an application is submitted to a locality under this paragraph, the department shall forward to the locality the application fee paid by the applicant to the department upon request by the locality. A license issued by a locality in accordance with this paragraph shall have the same force and effect as a license issued by the department in accordance with paragraph (g) and the holder of such license shall not be subject to regulation or enforcement by the department during the term of that license. A subsequent or renewed license may be issued under this paragraph on an annual basis only upon resubmission to the locality of a new application submitted to the department pursuant to paragraph (g). Nothing in this paragraph shall limit such relief as may be available to an aggrieved party under [section 24-4-104, C.R.S.](#), of the Colorado Administrative Procedure Act or any successor provision.
- (i) If the department does not adopt regulations required by paragraph (a), an applicant may submit an application directly to a locality after October 1, 2013 and the locality may issue an annual license to the applicant. A locality issuing a license to an applicant shall do so within ninety days of receipt of the application unless it finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to paragraph (f) in effect at the time of application and shall notify the department if an annual license has been issued to the applicant. A license issued by a locality in accordance with this paragraph shall have the same force and effect as a license issued by the department in accordance with paragraph (g) and the holder of such license shall not be subject to regulation or enforcement by the department during the term of that license. A subsequent or renewed license may be issued under this paragraph on an annual basis if the department has not adopted regulations required by paragraph (a) at least ninety days prior to the date upon which such subsequent or renewed license would be effective or if the department has adopted regulations pursuant to paragraph (a) but has not, at least ninety days after the adoption of such regulations, issued licenses pursuant to paragraph (g).
- (j) Not later than July 1, 2014, the general assembly shall enact legislation governing the cultivation, processing and sale of industrial hemp.

(6) **Employers, driving, minors and control of property.**

- (a) Nothing in this section is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.
- (b) Nothing in this section is intended to allow driving under the influence of marijuana or driving while impaired by marijuana or to supersede statutory laws related to driving under the influence of marijuana or driving while impaired by marijuana, nor shall this section prevent the state from enacting and imposing penalties for driving under the influence of or while impaired by marijuana.
- (c) Nothing in this section is intended to permit the transfer of marijuana, with or without remuneration, to a person under the age of twenty-one or to allow a person under the age of twenty-one to purchase, possess, use, transport, grow, or consume marijuana.
- (d) Nothing in this section shall prohibit a person, employer, school, hospital, detention facility, corporation or any other entity who occupies, owns or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.
- (7) **Medical marijuana provisions unaffected.** Nothing in this section shall be construed:
- (a) To limit any privileges or rights of a medical marijuana patient, primary caregiver, or licensed entity as provided in section 14 of this article and the Colorado Medical Marijuana Code;
- (b) To permit a medical marijuana center to distribute marijuana to a person who is not a medical marijuana patient;
- (c) To permit a medical marijuana center to purchase marijuana or marijuana products in a manner or from a source not authorized under the Colorado Medical Marijuana Code;
- (d) To permit any medical marijuana center licensed pursuant to section 14 of this article and the Colorado Medical Marijuana Code to operate on the same premises as a retail marijuana store; or
- (e) To discharge the department, the Colorado Board of Health, or the Colorado Department of Public Health and Environment from their statutory and constitutional duties to regulate medical marijuana pursuant to section 14 of this article and the Colorado Medical Marijuana Code.
- (8) **Self-executing, severability, conflicting provisions.** All provisions of this section are self-executing except as stated herein, are severable, and, except where otherwise indicated in the text, shall supersede conflicting state statutory, local charter, ordinance, or resolution, and other state and local provisions.
- (9) **Effective date.** Unless otherwise provided by this section, all provisions of this section shall become effective upon official declaration of the vote hereon by proclamation of the governor, pursuant to section 1(4) of article V.

< [Back to chapter list](#)

< [Previous part of code](#)

[Next part of code](#) >

Cite this article: FindLaw.com - Colorado Revised Statutes Constitution of 1876 Art. XVIII, § 16. Personal use and regulation of marijuana - last updated January 01, 2022 | <https://codes.findlaw.com/co/colorado-constitution-of-1876/co-const-art-xviii-sect-16.html>

Copy

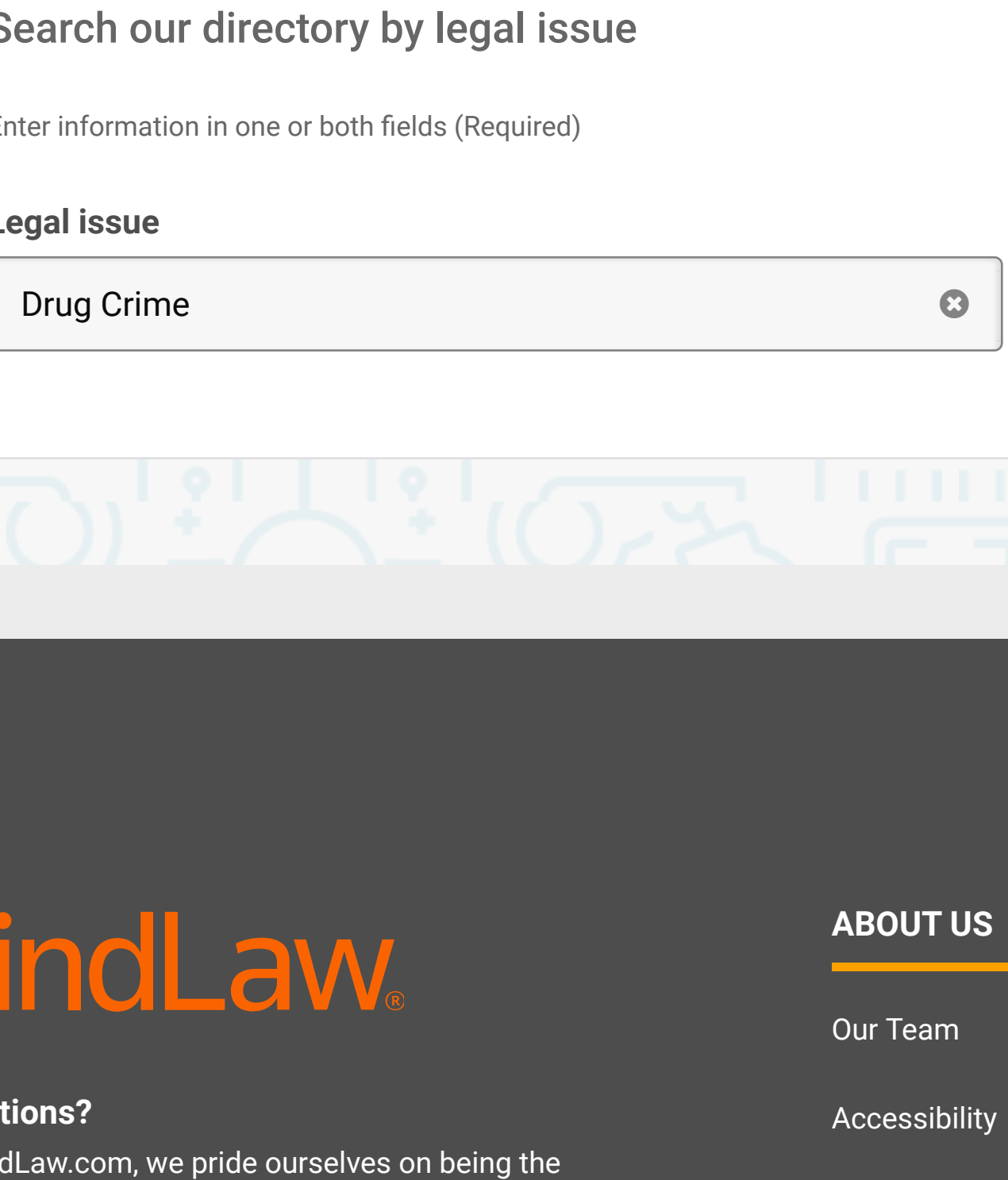
Read this complete [Colorado Revised Statutes Constitution of 1876 Art. XVIII, § 16. Personal use and regulation of marijuana on Westlaw](#)

FindLaw Codes may not reflect the most recent version of the law in your jurisdiction. Please verify the status of the code you are researching with the state legislature or via Westlaw before relying on it for your legal needs.

Was this helpful?

Yes

No



## Learn About the Law

Get help with your legal needs

FindLaw's Learn About the Law features thousands of informational articles to help you understand your options. And if you're ready to hire an attorney, [find one in your area](#) who can help.

Go to Learn About the Law >

Need to find an attorney?

Search our directory by legal issue

Enter information in one or both fields (Required)

Legal issue

Drug Crime





I need help near (city, ZIP code or country)

Hempstead, New York

Find a lawyer >

BACK TO TOP

Follow Us:



FindLaw®

ABOUT US >

Our Team

Accessibility

Contact Us

FIND A LAWYER >

By Location

By Legal Issue

By Lawyer Profiles

By Name

SELF-HELP RESOURCES

Legal Forms & Services

LEGAL RESEARCH

Learn About the Law

State Laws

U.S. Caselaw

U.S. Codes

LEGAL NETWORK

FindLaw.com Free, trusted legal information for consumers and legal professionals

SuperLawyers.com Directory of U.S. attorneys with the exclusive Super Lawyers rating

Abogado.com The #1 Spanish-language legal website for consumers

LawInfo.com Nationwide attorney directory and legal consumer resources

Questions? FindLaw.com, we pride ourselves on being the number one source of free legal information and resources on the web. [Contact us.](#)


Stay up-to-date with how the law affects your life. Sign up for our consumer newsletter.

ENTER YOUR EMAIL ADDRESS

>

Copyright © 2024 Thomson Reuters. All rights reserved.

Terms of Use | Privacy Policy | Disclaimer | Cookies | Do Not Sell My Information >

 THOMSON REUTERS®





# U.S. Federal and State Cases, Codes, and Articles

Select a tab to search United States Cases, Codes, or Articles

Cases

Codes

Articles

Search by keyword or citation

\* Indicates required field

Keyword or Citation \*

Enter Keyword or Citation

View results >

[FINDLAW](#) / [CODES](#) / [COLORADO](#) / [TITLE 18: CRIMINAL CODE](#) / § 18-18-406

## Colorado Revised Statutes Title 18. Criminal Code § 18-18-406. Offenses relating to marijuana and marijuana concentrate—definitions

Current as of January 01, 2022. | Updated by [FindLaw Staff](#)

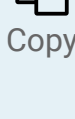
- (1)(a) The sale, transfer, or dispensing of more than two and one-half pounds of marijuana or more than one pound of marijuana concentrate to a minor if the person is an adult and two years older than the minor is a level 1 drug felony subject to the mandatory sentencing provision in [section 18-1-3-401.5\(7\)](#).
- (b) The sale, transfer, or dispensing of more than six ounces, but not more than two and one-half pounds of marijuana or more than three ounces, but not more than one pound of marijuana concentrate to a minor if the person is an adult and two years older than the minor is a level 2 drug felony.
- (c) The sale, transfer, or dispensing of more than one ounce, but not more than six ounces of marijuana or more than one-half ounce, but not more than three ounces, of marijuana concentrate to a minor if the person is an adult and two years older than the minor is a level 3 drug felony.
- (d) The sale, transfer, or dispensing of not more than one ounce of marijuana or not more than one-half ounce of marijuana concentrate to a minor if the person is an adult and two years older than the minor is a level 4 drug felony.
- (2)(a)(I) It is unlawful for a person to knowingly process or manufacture any marijuana or marijuana concentrate or knowingly allow to be processed or manufactured on land owned, occupied, or controlled by him or her any marijuana or marijuana concentrate except as authorized pursuant to part 1 of article 280 of title 12 or part 2 of article 80 of title 27.
- (II) A person who violates the provisions of subparagraph (I) of this paragraph (a) commits a level 3 drug felony.
- (b)(I) Except as otherwise provided in subsection (7) of this section and except as authorized by part 1 of article 280 of title 12, part 2 of article 80 of title 27, or part 2 or 3 of this article 18, it is unlawful for a person to knowingly dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marijuana or marijuana concentrate; or attempt, induce, attempt to induce, or conspire with one or more other persons, to dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marijuana or marijuana concentrate.
- (II) As used in subsection (2)(b)(I) of this section, "dispense" does not include labeling, as defined in [section 12-280-103\(23\)](#).
- (III) A person who violates any of the provisions of subparagraph (I) of this paragraph (b) commits:
- (A) A level 1 drug felony and is subject to the mandatory sentencing provision in [section 18-1-3-401.5\(7\)](#) if the amount of marijuana is more than fifty pounds or the amount of marijuana concentrate is more than twenty-five pounds;
- (B) A level 2 drug felony if the amount of marijuana is more than five pounds but not more than fifty pounds or the amount of marijuana concentrate is more than two and one-half pounds but not more than twenty-five pounds;
- (C) A level 3 drug felony if the amount is more than twelve ounces but not more than five pounds of marijuana or more than six ounces but not more than two and one-half pounds of marijuana concentrate;
- (D) A level 4 drug felony if the amount is more than four ounces, but not more than twelve ounces of marijuana or more than two ounces but not more than six ounces of marijuana concentrate; or
- (E) A level 1 drug misdemeanor if the amount is not more than four ounces of marijuana or not more than two ounces of marijuana concentrate.
- (3)(a)(I) It is unlawful for a person to knowingly cultivate, grow, or produce a marijuana plant or knowingly allow a marijuana plant to be cultivated, grown, or produced on land that the person owns, occupies, or controls.
- (II)(A) Regardless of whether the plants are for medical or recreational use, it is unlawful for a person to knowingly cultivate, grow, or produce more than twelve marijuana plants on or in a residential property; or to knowingly allow more than twelve marijuana plants to be cultivated, grown, or produced on or in a residential property.
- (B) Except as provided in [section 25-1.5-106\(8.5\)\(a.5\)\(I\)](#) or [section 25-1.5-106\(8.6\)\(a\)\(I.5\)](#) for a medical marijuana patient or a primary caregiver with a twenty-four-marijuana-plant-count exception to subsection (3)(a)(II)(A) of this section, it is not a violation of subsection (3)(a)(II)(A) of this section if a county, municipality, or city and county law expressly permits the cultivation, growth, or production of more than twelve marijuana plants on or in a residential property and the person is cultivating, growing, or producing the plants in an enclosed and locked space and within the limit set by the county, municipality, or city and county where the plants are located.
- (III) A person who violates the provisions of subsection (3)(a)(I) of this section commits:
- (A) A level 3 drug felony if the offense involves more than thirty plants;
- (B) A level 4 drug felony if the offense involves more than six but not more than thirty plants; or
- (C) A level 1 drug misdemeanor if the offense involves not more than six plants.
- (IV) A person who violates the provisions of subsection (3)(a)(II)(A) of this section commits:
- (A) A level 1 drug petty offense for a first offense if the offense involves more than twelve plants, and, upon conviction, shall be punished by a fine of up to one thousand dollars;
- (B) A level 1 drug misdemeanor for a second or subsequent offense if the offense involves more than twelve but not more than twenty-four plants; or
- (C) A level 3 drug felony for a second or subsequent offense if the offense involves more than twenty-four plants.
- (V) Prosecution under subsection (3)(a)(II)(A) of this section does not prohibit prosecution under any other section of law.
- (b) It is not a violation of this subsection (3) if:
- (I) The person is lawfully cultivating medical marijuana pursuant to the authority granted in [section 14 of article XVIII of the state constitution](#) in an enclosed and locked space;
- (II) The person is lawfully cultivating marijuana in an enclosed and locked space pursuant to the authority granted in [section 16 of article XVIII of the state constitution](#); except that, if the cultivation area is located in a residence and:
- (A) A person under twenty-one years of age lives at the residence, the cultivation area itself must be enclosed and locked; and
- (B) If no person under twenty-one years of age lives at the residence, the external locks of the residence constitutes an enclosed and locked space. If a person under twenty-one years of age enters the residence, the person must ensure that access to the cultivation site is reasonably restricted for the duration of that person's presence in the residence.
- (c) For purposes of this subsection (3):
- (I) "Flowering" means the reproductive state of the cannabis plant in which there are physical signs of flower budding out of the nodes in the stem.
- (II) "Plant" means any cannabis plant in a cultivating medium which plant is more than four inches wide or four inches high or a flowering cannabis plant regardless of the plant's size.
- (III) "Residential property" means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. "Residential property" also includes the real property surrounding a structure, owned in common with the structure, that includes one or more single units providing complete independent living facilities.
- (3.5) A person is not in compliance with the authority to assist another individual granted in section 14(2) (b) or [section 16\(3\)\(e\) of article XVIII of the state constitution](#) and is subject to the offenses and penalties of subsection (3) of this section if the person possesses any marijuana plant he or she is growing on behalf of another individual, unless he or she is the primary caregiver for the individual and is in compliance with the requirements of [section 25-1.5-106](#).
- (4) On or after March 1, 2020:
- (a) Repealed by [Laws 2019, Ch. 291 \(H.B. 19-1263\), § 2, eff. Mar. 1, 2020](#).
- (b) A person who possesses more than six ounces of marijuana or more than three ounces of marijuana concentrate commits a level 1 drug misdemeanor.
- (c) A person who possesses more than two ounces of marijuana but not more than six ounces of marijuana or not more than three ounces of marijuana concentrate commits a level 2 drug misdemeanor.
- (5)(a) Repealed by [Laws 2021, Ch. 157, \(H.B. 21-1090\), § 3, eff. May 20, 2021](#).
- (b)(I) Except as described in [section 18-1-711](#), a person who openly and publicly displays, consumes, or uses two ounces or less of marijuana commits a drug petty offense and, upon conviction thereof, shall be punished by a fine of up to one hundred dollars and up to twenty-four hours of community service.
- (II) Open and public display, consumption, or use of more than two ounces of marijuana or any amount of marijuana concentrate is deemed possession thereof, and violations shall be punished as provided for in subsection (4) of this section.
- (III) Except as otherwise provided for in subsection (5)(b)(I) of this section, consumption or use of marijuana or marijuana concentrate is deemed possession thereof, and violations must be punished as provided for in subsection (4) of this section.
- (IV) Public display, consumption, or use of marijuana or marijuana concentrate pursuant to the provisions of [section 44-10-609](#), when such display, consumption, or use is within the licensed premises of a marijuana hospitality business licensed pursuant to [section 44-10-609](#), is not a violation of this subsection (5).
- (V) Public display, consumption, or use of retail marijuana or retail marijuana concentrate pursuant to the provisions of [section 44-10-610](#), when such display, consumption, or use is within the licensed premises of a retail marijuana hospitality and sales business licensed pursuant to [section 44-10-610](#) and when an individual's display, consumption, or use does not exceed the sales limit established by the state licensing authority by rule pursuant to [section 44-10-203\(2\)\(ff\)\(II\)](#), is not a violation of this subsection (5).
- (c) Transferring or dispensing not more than two ounces of marijuana from one person to another for no consideration is a drug petty offense and is not deemed dispensing or sale thereof.
- (5.5)(a) It is unlawful for a person to transfer marijuana or marijuana concentrate at no cost to a person if the transfer is in any way related to remuneration for any other service or product.
- (b) A violation of this subsection (5.5) is a level 1 drug misdemeanor.
- (6) The provisions of this section do not apply to any person who possesses, uses, prescribes, dispenses, or administers any drug classified under group C guidelines of the national cancer institute, as amended, approved by the federal food and drug administration.
- (7) The provisions of this section do not apply to any person who possesses, uses, prescribes, dispenses, or administers dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a federal food and drug administration approved drug product, pursuant to part 1 of article 280 of title 12 or part 2 of article 80 of title 27.

< [Back to chapter list](#)

< [Previous part of code](#)

[Next part of code](#) >

Cite this article: FindLaw.com - Colorado Revised Statutes Title 18. Criminal Code § 18-18-406. Offenses relating to marijuana and marijuana concentrate—definitions - *last updated January 01, 2022* | <https://codes.findlaw.com/co/title-18-criminal-code/co-rev-st-sect-18-18-406.html>



Copy

[Read this complete Colorado Revised Statutes Title 18. Criminal Code § 18-18-406. Offenses relating to marijuana and marijuana concentrate—definitions on Westlaw](#)

FindLaw Codes may not reflect the most recent version of the law in your jurisdiction. Please verify the status of the code you are researching with the state legislature or via Westlaw before relying on it for your legal needs.

Was this helpful?

Yes

No



## Learn About the Law

Get help with your legal needs

FindLaw's Learn About the Law features thousands of informational articles to help you understand your options. And if you're ready to hire an attorney, [find one in your area](#) who can help.

[Go to Learn About the Law >](#)

## Need to find an attorney?

Search our directory by legal issue

Enter information in one or both fields (Required)

Legal issue

Drug Crime

I need help near (city, ZIP code or country)

Hempstead, New York

[Find a lawyer >](#)

[BACK TO TOP](#)

## FindLaw

### Questions?

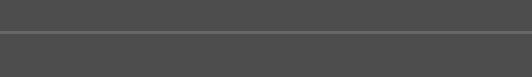
At FindLaw.com, we pride ourselves on being the number one source of free legal information and resources on the web. [Contact Us](#).

**Stay up-to-date with how the law affects your life.** Sign up for our consumer newsletter.

ENTER YOUR EMAIL ADDRESS

>

FOLLOW US:



### ABOUT US >

[Our Team](#)

[Accessibility](#)

[Contact Us](#)

### FIND A LAWYER >

[By Location](#)

[By Legal Issue](#)

[By Lawyer Profiles](#)

[By Name](#)

### SELF-HELP RESOURCES

[Legal Forms & Services](#)

### LEGAL RESEARCH

[Learn About the Law](#)

[State Laws](#)

[U.S. Caselaw](#)

[U.S. Codes](#)

### LEGAL NETWORK

[FindLaw.com](#) Free, trusted legal information for consumers and legal professionals

[SuperLawyers.com](#) Directory of U.S. attorneys with the exclusive Super Lawyers rating

[Abogado.com](#) The #1 Spanish-language legal website for consumers

[LawInfo.com](#) Nationwide attorney directory and legal consumer resources