

The Limited Social Marijuana Consumption Initiative – Full Text of Measure

Be it enacted by the City and County of Denver:

Section 1: Denver, Colorado Code of Ordinances, Title II, Chapter 38, Article V, Sec. 38-175 is amended to read in relevant part:

Sec. 38-175. Possession or consumption of marijuana.

(b) It shall be unlawful for any person to openly and publicly display or consume one (1) ounce or less of marijuana.

(1) The term "openly" means occurring or existing in a manner that is unconcealed, undisguised, or obvious.

(2) The term "publicly" means:

a. Occurring or existing in a public place; or

b. Occurring or existing in any outdoor location where the consumption of marijuana is clearly observable from a public place.

(3) The term "public place" means a place to which the public or a substantial number of the public have access, and includes, but is not limited to, streets and highways, transportation facilities, schools, places of amusement, parks, playgrounds, and the common areas of public and private buildings or facilities-, *provided that any portion of a premises that has limited public access in accordance with section 6-206(e) or section 6-206(f) shall not be considered a "public place" for purposes of this section 38-175.*

(e) It shall not be an offense under subsection (b) of this section if:

(1) the consumption of marijuana is occurring on private residential property and the person consuming the marijuana is:

~~(1) a.~~ An owner of the property; or

~~(2) b.~~ A person who has a leasehold interest in the property; or

~~(3) c.~~ Any other person who has been granted express or implied permission to consume marijuana on the property by the owner or the lessee of the property.

(2) the consumption of marijuana occurs at a premises that is not private residential property, and:

a. the individual consuming marijuana is twenty-one years of age or older;

b. the individual does not smoke marijuana indoors in violation of the Colorado Clean Indoor Air Act; and

c. the individual is located in a premises or an area designated within a premises where marijuana may be consumed pursuant to section 6-206(e) or section 6-206(f).

Section 2: Denver, Colorado Code of Ordinances, Title II, Chapter 6, Article V, Sec. 6-206 is amended to read:

Sec. 6-206. Unlawful acts

(c) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, or distribution ~~or consumption~~ of marijuana other than those forms of businesses and commerce that are expressly contemplated by section 16 of

Article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code, or the Colorado Medical Marijuana Code.

(e) It shall be unlawful for any person to knowingly permit the consumption of marijuana at a premises or any part of a premises where a current license or permit permitting the sale of alcohol for consumption on the premises has been issued unless:

- (1) individuals under the age of twenty-one are excluded from any portion of the premises where the consumption of marijuana is permitted;
- (2) proof that a person is twenty-one years of age or older is verified in the same manner as required for the purchase and sale of alcohol prior to allowing the person access to the portion of the premises where marijuana may be consumed;
- (3) the owner, operator, or individual in control of the premises has authorized the consumption of marijuana;
- (4) any premises or area within the premises where marijuana may be consumed is clearly designated with conspicuous signage;
- (5) the consumption of marijuana does not occur in a location on the premises where the consumption of marijuana is clearly visible from a public place located within twenty-five (25) feet measured in a straight line from such public place to any part of the location where marijuana may be consumed;
- (6) the consumption of marijuana does not violate the Colorado Clean Indoor Air Act; and
- (7) the operator of the premises complies with all sign, marketing, and advertising ordinances, including, but not limited to, any sign, marketing, and advertising ordinances related to the consumption of marijuana.

(f) It shall be unlawful for any person to knowingly permit the consumption of marijuana at any premises that is not private residential property and is not described in section 6-206(e) unless:

- (1) individuals under the age of twenty-one, including employees, are excluded from the entire premises;
- (2) proof that a person is twenty-one years of age or older is verified in the same manner as required for the purchase and sale of alcohol prior to allowing the person access to the premises;
- (3) the owner, operator, or individual in control of the premises has authorized the consumption of marijuana;
- (4) the premises is clearly designated with conspicuous signage indicating that marijuana may be consumed;
- (5) the consumption of marijuana does not occur in a location on the premises where the consumption of marijuana is clearly visible from a public place located within twenty-five (25) feet, measured in a straight line from such public place to any part of the location where marijuana may be consumed;
- (6) the consumption of marijuana does not violate the Colorado Clean Indoor Air Act;
- (7) the operator of the premises complies with all sign, marketing, and advertising ordinances, including, but not limited to, any sign, marketing, and advertising ordinances related to the consumption of marijuana; and
- (8) the operator of the premises complies with ordinances intended to establish hours of operation, create district restrictions from other types of facilities or uses, or limit the smoking of marijuana outside at any premises described in this section 6-206(f), provided that any

ordinance or rule that establishes hours of operation or creates a distance restriction from other types of facilities or uses shall be no more restrictive than the most restrictive hours of operation or distance restriction in this Code or any rule promulgated by the Denver Department of Excise and Licenses placed upon new applicants for a license permitting the sale of alcoholic beverages for onsite consumption.

(g) Notwithstanding anything contained in section 6-206(e) or section 6-206(f), it shall be unlawful for any person to knowingly permit the consumption of marijuana at a premises or any part of a premises that is included in any Club License that includes the principal campus of a college, university, or seminary, Arts Liquor License that includes the campus of a college, university, or seminary, 3.2 Percent Beer License (Off Premises), Liquor Licensed Drug Store License, Retail Liquor Store License, or any other state or local license that permits the sale of alcohol for offsite consumption only.

(h) Nothing contained in this Section 6-206 is intended to limit any adjoining property owner or resident from seeking relief pursuant to a private nuisance action under applicable law or limit the applicability of Chapter 4 of this Code.

(i) Subject to the limitation described in section 6-206(g), it shall not be considered a public nuisance under section 37-50(c)(3) or any other section of the Code for a person to regulate the consumption of marijuana on a premises pursuant to section 6-206(e) or section 6-206(f).

Section 3: Denver, Colorado Code of Ordinances, Title II, Chapter 32, Article I, Sec. 32-22 is amended to read:

Sec. 32-22. Revocation.

In addition to any other penalties prescribed by the Revised Municipal Code, the director may, on his own motion or on complaint, and after investigation and a show-cause hearing at which the licensee shall be afforded an opportunity to be heard, suspend or revoke any license previously issued by him for any violation of any of the following provisions, requirements, or conditions:

- (8) The licensee, or any of the agents, servants or employees of the licensee, have violated any ordinance of the city or any state or federal law on the premises or have permitted such a violation on the premises by any other person, provided, this paragraph does not apply to the possession, consumption, or use of marijuana in compliance with section 6-206(e), section 6-206(f), and section 6-206(g).