

Marijuana Review

Cutting Through the Haze of Nearly Two Years of Legal Marijuana

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Types of Regulations

- Ban
 - Based on State Constitutional and Statutory Authority
 - Based on Federal Preemption?
- Various levels of new direct regulations
 - Zoning
 - Buffering
 - Building/fire/other codes?
- Use of existing regulations (comparable uses)
- Moratorium

Moratorium

- Temporary Regulation
 - Cannot use to effectively ban (continual roll-overs)
- Where are you headed?
 - Point is to give you time to develop appropriate regulations
- Procedural issues?
 - Public hearings
 - Emergency declaration
 - Factual basis

Current Legal Challenges

- City of Fife (ban)
 - Trial Court decision – already appealed
 - Affirmed ban based upon State Constitution and Statutory authority (tracked AGO Opinion)
 - Plaintiffs argued State law preempts City banning authority
 - What about reasonable regulations?
- City of Wenatchee (ban – reliance on Federal law?)
- City of Centralia (initially a moratorium, appears to now be a ban)
- City of Gig Harbor (moratorium)

Medical marijuana

- RCW 69.51A *et seq.*
 - Completely separate regulatory system – no Liquor Control Board regulation
 - Illegal – medical card allows affirmative defense (confirmed in City of Kent case)
- Types of Uses
 - Collective Gardens
 - Designated Provider
 - Delivery
- City of Kent (ban)
 - Appellate decision – Appealed to State Supreme Court
 - Affirmed City authority to regulate (up to complete bans)

Legislative Changes?

- Busy Session
 - Primary guiding issue will be *McCleary* decision and need for State to find funding for education
- Main issues
 - State preemption?
 - Revenue
 - Medical marijuana
- Stay tuned!

Industry Perspectives

- Compliance is key (Cole Memo 2, August 2013)
- Only well-capitalized groups are really getting to participate; there is already a lot of failure across the state
- Most industry participants want an open dialogue with their cities and counties to promote industry education and collaboration
- LCB – issues with licensing
 - Local authority notices
 - Local objections to licensees
 - Inconsistent application of stated policies/rules

Grey Areas

- Consumption Facilities
 - “Private” clubs
 - Smoking versus vaping
 - Other uses in conjunction (such as liquor sales/adult entertainment/gambling)
 - Policy issues – do you want to regulate?
- Transportation
- Tourism
- Nuisances

Questions?