

## Colorado: Law requiring \$5,000 surety bond for marijuana sellers repealed



David M. Kall | Monday, March 28, 2016

Two weeks ago, Gov. John Hickenlooper signed [HB 16-1041](#) into law, thus eliminating the requirement that medical and retail marijuana establishments post a \$5,000 surety bond before receiving or renewing their state-issued and mandated licenses. The reason for the repeal is that lawmakers thought the bond requirement was an “impracticable financial requirement.”

In addition, the bill recognizes that bonds for marijuana businesses are simply unavailable, perhaps due to the fact that marijuana is illegal pursuant to federal law. This made the repealed law a violation of the Colorado Constitution prohibiting the imposition of regulations on retail marijuana establishments that make their operations unreasonably impracticable. Now, the remaining prohibition on the issuance of marijuana licenses is for the licensee’s failure to file any tax return with a taxing agency related to a medical marijuana business or retail marijuana establishment.

Retail marijuana cultivation facilities were also required to post a surety bond, in an amount equal to two months of their anticipated tax liability, as determined by the facility itself.

Last October, [The Denver Post](#) reported that the Denver City Council voted, unanimously, to repeal the capital city’s surety bond requirement. The bond requirement gave the city the right to seize and sell a marijuana business’s assets if it failed to pay its taxes, but the Office of Marijuana Policy noted that “[w]e’re not going to seize a bunch of marijuana...That’s not something we can liquefy.” Indeed, not once in the six years since medical marijuana has been legal has the Department of Treasury “tapped a single pot shop

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surety bond to recoup unpaid taxes.”

In addition, the office conceded that the surety market had dried up for marijuana businesses. Last July, [The Denver Post](#) reported that marijuana opponents had lodged two federal racketeering lawsuits against not only the pot shops themselves, but businesses that worked with them, like the landlord, and an accountant for the Iowa-based company that sold the bonds.

[Safe Streets Alliance](#), the plaintiff in those cases, is a Washington-based anti-crime group, and brought the suits to combat what it considers to be “the inevitable result” of marijuana legalization: “easy youth access to marijuana, the deterioration of neighborhoods where the marijuana industry openly operates, and the rise of the drug culture everywhere.” Safe Streets is hoping that the courts will force Colorado officials to comply with federal law, and “stop issuing state licenses to deal illegal drugs.”

The publication [Colorado Springs Independent](#) is keeping an eye on other pot laws that lawmakers may address in 2016. These include the following:

- [House Bill 16-1108](#), requiring the Colorado real estate commission to adopt rules for the disclosure of whether the property was used for the cultivation of seven or more plants of specified size using any amount of pesticides or fertilizers. If the property is inspected and certified safe by a qualified inspector, an exemption would apply;
- [House Bill 16-1092](#), which would allow rec shops to host street festivals, pop-up shops or other special events, subject to certain conditions;
- [House Bill 16-1079](#), pertaining to a certification program for pesticide-free cannabis; and
- [Senate Bill 16-042](#), which amends immunity provisions when one or more people report emergency drug or alcohol overdoses, and protects those reporters from arrest.

Other legislation that Colorado lawmakers are considering concerns marijuana grown in enclosed spaces, data collection and reporting obligations, pot shop ownership requirements, and permissible pesticide usage.



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