



# Marijuana Legalization

## Implementing Initiative 502 in Washington State

Washington State Liquor and Cannabis Board (WSLCB)

September 2016



# I-502 Key Elements...

**1 of 2 of the world's pioneering systems of growing, processing and retailing marijuana.**

- Legalized system of producing, processing and retailing marijuana for adults age 21 and older
- Decriminalizes possession of one ounce of marijuana
  - 1 ounce of useable marijuana for smoking
  - 16 ounces in solid form
  - 72 ounces in liquid form
- Creates three-tier system of licensing, regulation and taxation similar to alcohol
  - Producer license (grower)
  - Processor license (prepares for retail)
  - Retail license (operates marijuana only stores)



## ... Key Elements

- Taxation
  - Imposes excise tax rate of 37 percent on final marijuana sales
- Public Safety and Education
  - Establishes a THC bloodstream threshold for marijuana DUI's
  - Limits on store locations, advertising and number of outlets
  - Earmarks revenue for healthcare, research and education



# Agency Objective

## Public Safety

- Create a tightly controlled and regulated marijuana market

## Agency Role and Responsibilities:

- Created a 3-tier regulatory system for marijuana
- Created licenses for producer, processor and retailer
- Enforcing laws and rules pertaining to licensees
- Collecting and distributing taxes/fees



# Federal Enforcement Guidelines

In addition to Washington's laws and rules, the Department of Justice issued eight enforcement guidelines for marijuana businesses. These guidelines are separate from Washington's and are enforced at the discretion of the US Department of Justice.

## **Eight Guidelines**

1. Preventing distribution to minors.
2. Preventing the revenue from going to criminal enterprises, gangs and cartels.
3. Preventing the diversion of marijuana from states where it is legal to other states.
4. Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity.
5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana.
6. Preventing drugged driving and other adverse public health consequences associated with marijuana use.
7. Preventing the growing of marijuana on public lands and the environmental dangers posed by marijuana production on public lands.
8. Preventing marijuana possession or use on federal property.



# Marijuana Consultant

## BOTEC

- Contract with BOTEC Analysis Corporation to provide technical expertise
  - Project Leader is Dr. Mark Kleiman, CEO BOTEC, Ph.D. Public Policy, Harvard Kennedy School
  - Dr. Kleiman teaches public policy at UCLA.
  - Expert in many aspects of criminal and drug policy, including probation and parole, incarceration, and marijuana policy.
  - Co-author of the book *Marijuana Legalization: What Everybody Needs to Know*.

## BOTEC Team Leads

1. Product and Industry Knowledge  
*Matthew Cohen, Founder and CEO, Trichome Intelligence*
2. Product Quality Standards and Testing  
*David Lampach, President, Steep Hill Lab.*
3. Product Usage and Consumption Validation  
*Dr. Beau Kilmer, Ph.D., Senior Researcher, RAND Corp.*

## Comparing Notes with Colorado

- Ongoing dialog with Colorado and other states



# Licensing Requirements

## Licensing Requirements

- Criminal history investigation
  - All parties, including spouses
  - FBI background checks
- Financial background investigation
  - Identifies source of funds
- Six-month residency requirement
  - Entity must be formed in Washington State
  - Demonstrate at time of application
- Property must be more than 1,000' from: schools, child care centers, transit centers, game arcades, libraries, playgrounds, public parks.

## Traceability System

- A robust and comprehensive software system that traces product from start to sale. Licensees must report significant milestones and changes to the LCB's traceability system which allows the LCB to monitor and track any plant or product at any time.



# Consumer Safety

## Strict Packaging and Labeling Requirements

- Limited servings and concentration per package
  - Servings are individually wrapped
  - Homogenized to ensure uniform THC concentration
- Warning labels
- Net weight
- Usage warnings (specific warning for ingestible foods and/or liquids about effect delays)
- Upon request
  - Third party lab that tested lot and results
  - All pesticides, herbicides, fungicides found in product





# Consumer Safety

## Lab Tested and Approved

- All lots tested by independent accredited labs
- Established and uniform testing standards

## Store Signage and Product Warnings

- No minors allowed in stores
- Required product and usage signs within stores



# Licenses

Issued as of September 8, 2016...

- **Producer/Processor – 1,162 total licenses**
  - 865 Producer/Processor
  - 170 Producer only
  - 127 Processor only
- **Retail – 428 total licenses statewide**



# Licensed Locations

Producer licenses issued	Producer/Processor licenses issued	Processor licenses issued	Retail licenses issued
170	865	127	428

## Locations



[View larger map](#)  
Retail locations



[View larger map](#)  
Producer/Processor locations



# Sales/Tax Activity

## Sales Activity

- Total Sales to Date (since July 8, 2014) \$1.51 billion
  - Total Sales FY 2015: \$259.7 million
  - Total Sales FY 2016: \$972.7 million
  - Total Sales FY 2017: \$279.3 million
- Average Daily Sales
  - \$4.5 million average daily sales

## Excise Tax Revenue\*

- Total Tax to Date (since July 8, 2014): \$ 304 million
  - Total Excise Tax FY 2015: \$64.9 million
  - Total Excise Tax FY 2016: \$185.7 million
  - Total Excise Tax FY 2017: \$53.4 million

\*In addition, DOR collects Retail Sales and Business and Occupation taxes



# Revenue Projections

## Initial excise tax forecast projections (2013)

FY 2015	\$36.3 million
FY 2016	\$80.0 million
FY 2017	\$119.8 million
FY 2018	\$160.2 million
FY 2019	\$193.5 million

## Current excise tax forecast projections\* (June 2016)

FY 2015	\$64.9 million
FY 2016	\$164.0 million
FY 2017	\$272.0 million
FY 2018	\$330.4 million
FY 2019	\$363.1 million



# Funding Disbursements

Estimated Net to Distribute			\$155,882,285	\$260,209,170
Agency	For	I-502*	FY 16	FY 17
Dept. of Social and Health Svcs.	Prevention and reduction of substance abuse	15 percent	\$12,814,000 (8.2 percent)	\$27,786,000 (10.7 percent)
Dept. of Health	Marijuana education and public health program	10 percent	\$7,500,000 (4.8 percent)	\$7,500,000 (2.9 percent)
University of Washington	Research on short- and long-term effects	.6 percent	\$207,000 (.13 percent)	\$207,000 (.08 percent)
Washington State University	Research on short- and long-term effects	.4 percent	\$138,000 (.09 percent)	\$138,000 (.05 percent)
	Basic Health Trust Fund Account	50 percent	\$77,941,000 (50 percent)	\$130,105,000 (50 percent)
WA Health Care Authority	Contracts with community health centers	5 percent	\$5,351,000 (3.4 percent)	\$12,520,000 (4.8 percent)
Supt. of Public Instruction	Drop-out prevention	.3 percent	\$251,000 (.16 percent)	\$511,000 (.2 percent)
General Fund		18.7 percent	\$51,680,285 (33 percent)	\$81,442,170 (31 percent)

\*Modified by Legislature in 2015, 2E2SSB 2136



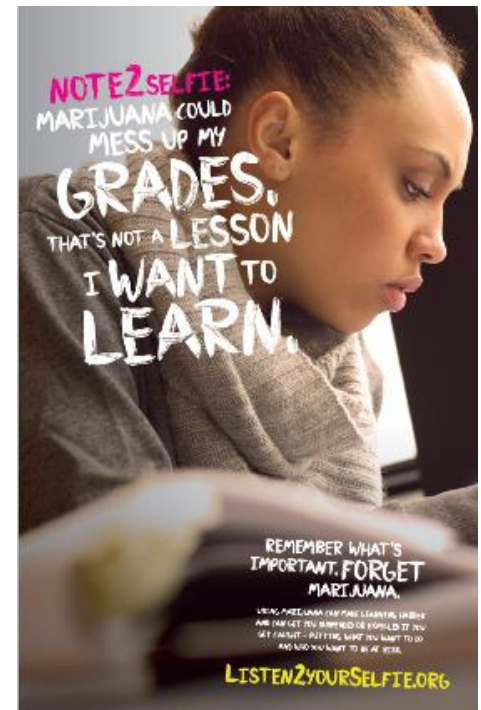
# Examples of Funded Activities

## DSHS – Substance abuse prevention and treatment

- Increase in youth treatment services
- Increased support for and expansion of community- and school-based services
- Grants for community-based services for prevention
- Training in Life Skills and other prevention and treatment programs
- Tribal Prevention and Treatment grants

## DOH

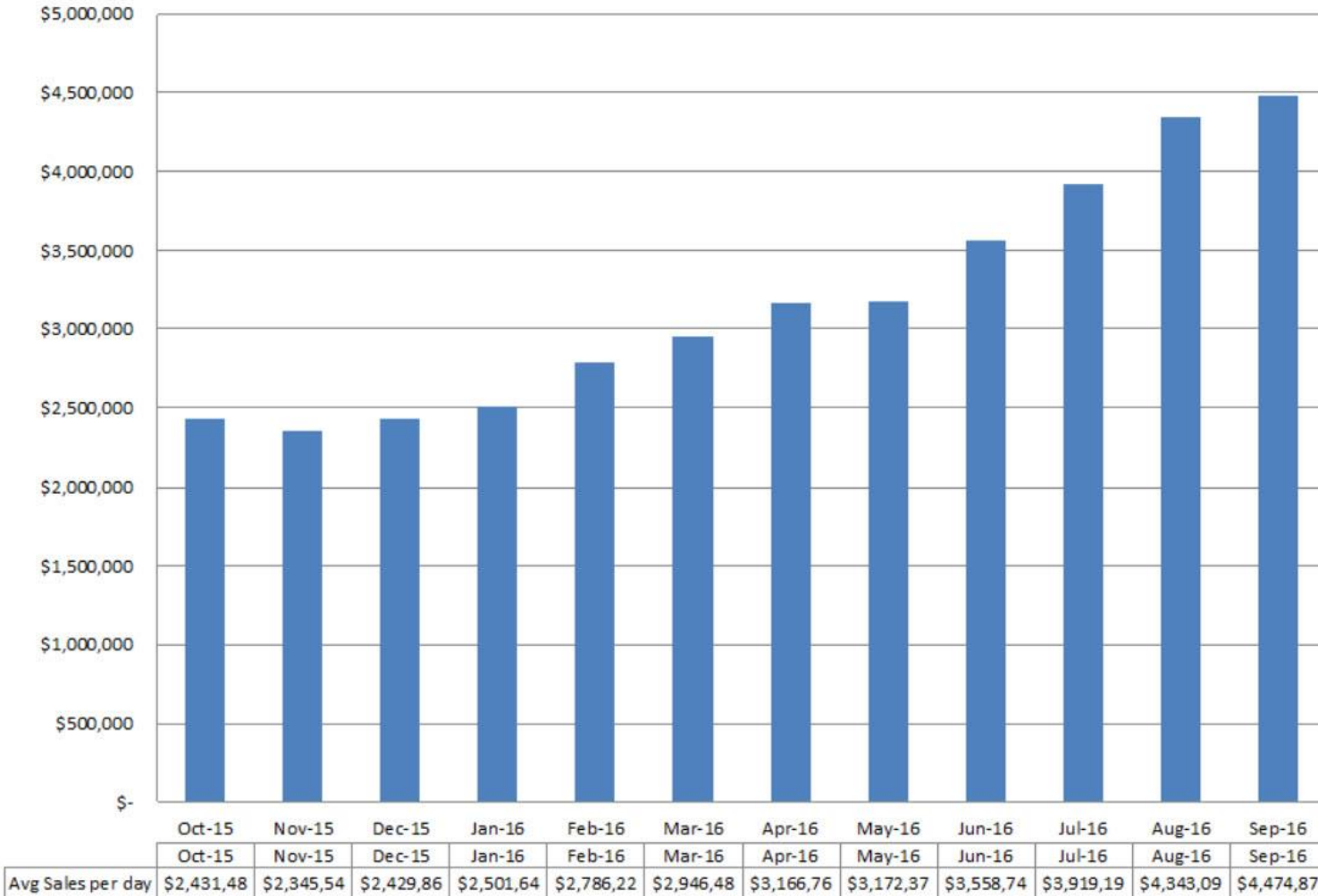
- Media-based educational campaigns
  - Parents and other adult influencers
  - Youth
- Marijuana and Tobacco community grants
  - General population
  - Priority populations (African American, Latino/Hispanic, Asian/Pacific Islander, American Indian/Alaska Native, and LGBTQT)
- Marijuana Hotline
- Tobacco cessation services





## Average Daily Sales Growth

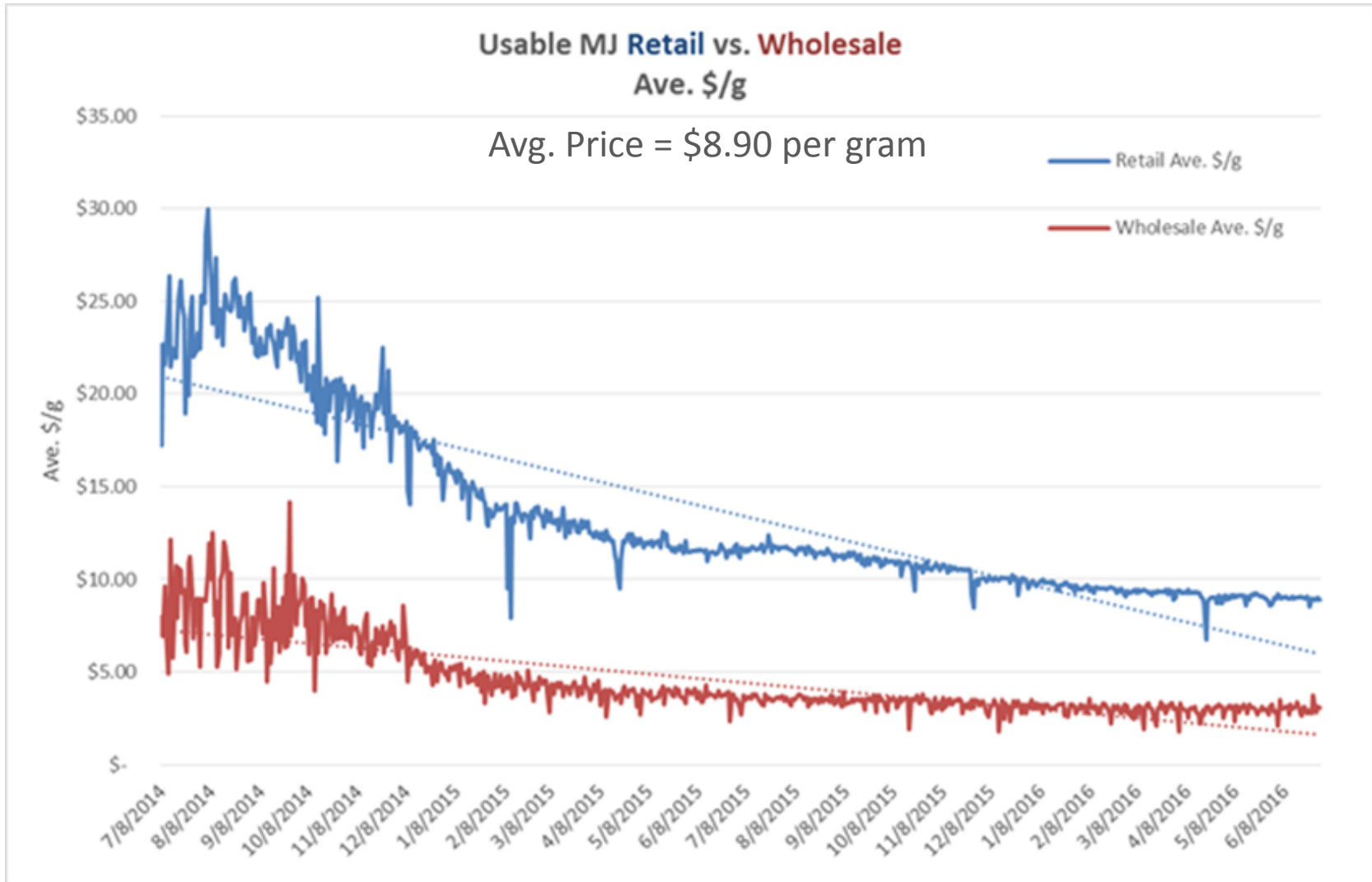
Average Daily Marijuana Sales (Shelf Price)\*





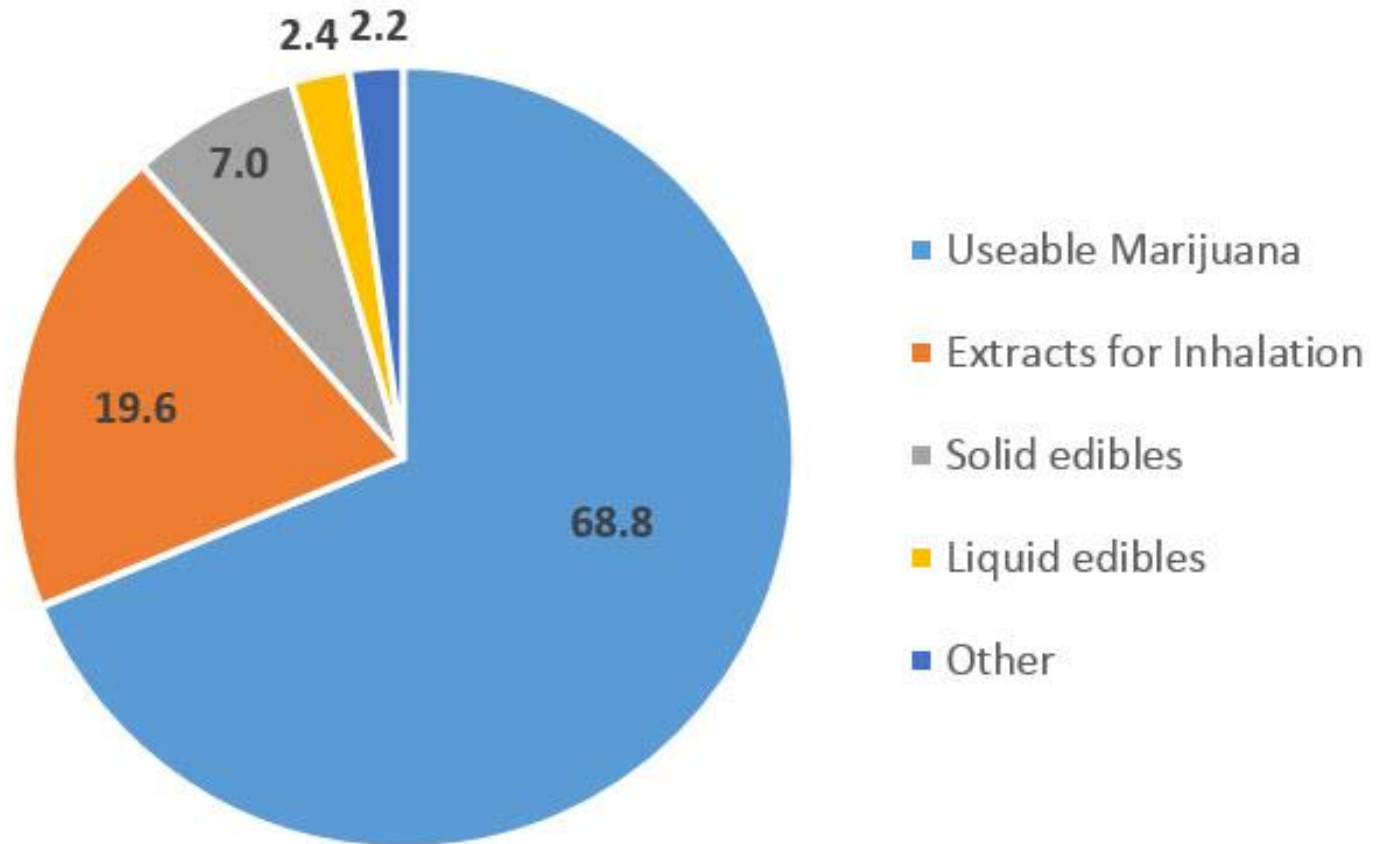


# Average Price per gram Sold





## Sales by Product Type (%)





# Current Challenges

## Conflicts with Federal Law

- Doesn't change federal law
- Schedule 1 Controlled Substance
- Research and development is suppressed

## Bans and Moratoria

- Court ruled that because I-502 was silent on bans/moratoria that cities/counties can ban marijuana businesses

## Public Health

- EPA and federally regulated pesticides

## Banking

- Dept. of the Treasury allows banks to do business with marijuana licensees



# Looking Ahead

- **Medical Marijuana Transition**
  - 8,818 medical cards issued
  - 85 percent of stores have medical endorsements
  - 477 medical consultants with 726 applications in process
- **Benefit – Cost Impact of Legalized Marijuana**
  - Benefit-cost analysis performed by Washington State Institute for Public Policy
  - Broad impact of policy change in Washington State
  - Reports due: 2015, 2017, 2022, 2032



# Looking Ahead

- **State Research License**
  - DEA recently announced it won't de-schedule marijuana. Status quo.
  - Working with WSU and UW to vet research applications
  - Accepting applications in January 2017
- **Partnership with WA State Dept. of Agriculture**
  - Agreement to purchase equipment and FTEs to test for pesticides
  - First in nation to randomly test for pesticides
- **Tribal Compacting**
  - 3 Current: Suquamish, Squaxin Island, and Puyallup
  - 6 Underway: Muckleshoot, Tulalip, Stillaguamish, Samish, Hoh, and Sauk-Suiattle



## Lesson 1

**There are many challenges of implementing a state law that is illegal federally.**

- Cole Memo (DOJ issued Aug. 29, 2013) is not yet enough.
  - Banks are reluctant
  - Guns are not allowed by DOJ
  - Public agencies are reluctant to help
  - Federal land, water and airspace complicate transport.
  - Etc.



## Lesson 2

**It takes time to develop up a comprehensive system of growing, processing, and retailing recreational marijuana.**

- Public testimony
- Rulemaking
- Licensing process: In-depth criminal, financial and residential investigations required.



## Lesson 3

**The impact on agency and state resources is heavy. This is not normal business.**

- Every WSLCB employee affected significantly
- Board adopted rules governing new industry
- Licensing staff processing 7,000+ new licenses
- Enforcement staff enforcing new locations
- Communications fielding over 3,000 media contacts within a year.
- Etc.





## Lesson 4

### **Lab testing is important to help further public and consumer safety.**

- All marijuana and marijuana products are tested.
- Without testing, retailers may misrepresent or not be aware of what they are actually selling.
- Washington's THC content is posted on the label with more information available on request.



## Lesson 5

### **Product and label approval on edible marijuana products protects kids and consumers.**

- Instituted as emergency rules following early reports out of Colorado causing growing concerns in Washington State
- Subjective but the rules use the key word “especially” appealing to kids
- 48 hour turnaround on label approval



## Lesson 6

### **Serving sizes and scoring promote consumer and public safety.**

- Scoring clearly identifies the serving size and prevents overconsumption
- Homogenization ensures uniform distribution of THC in edible products



## Lesson 7

**Having a public education campaign in advance of store opening is critical.**

- Media campaign
- Consumer guide
- Parent information card and toolkit
- [LearnAboutMarijuanaWA.org](http://LearnAboutMarijuanaWA.org)



## Lesson 8

### Expecting the unexpected

- Countless circumstances beyond our control affected implementation.
- Remaining flexible is key



# Brookings Institute Study

**B** | Center for  
Effective Public Management  
at BROOKINGS

August 2014

Washington's Marijuana Legalization Grows Knowledge, Not Just Pot:  
A Report on the State's Strategy to Assess Reform

Philip Wallach

## INTRODUCTION AND SUMMARY



Philip Wallach

**O**n November 6, 2012, voters in Washington and Colorado made the momentous and almost entirely novel choice to legalize and regulate recreational marijuana. While many places around the world have tried out forms of marijuana decriminalization or legalized medical uses, none had ventured to make the production, distribution and recreational use of the drug legal, let alone erect a comprehensive, state-directed regulatory system to supervise the market. In spite of the lack of experience, and in spite of a clear conflict with federal drug law, solid



# Brookings Institute

## Impact on Youth

“A portion of the excise tax revenues from marijuana sales will fund research on the reform’s effects and how its social costs can be effectively mitigated.”

Excerpt from Aug. 2014 Study



# Brookings Institute

## Research on Prevention and Treatment

“Coordination of research efforts is taking place across multiple state agencies, including the Department of Social and Health Services, the Department of Health and the Liquor Control Board.”

Excerpt from Aug. 2014 Study





# Brookings Institute

## Cost-Benefit Analysis

“As the battle lines harden in the information wars between legalization’s champions and critics, the state’s knowledge-building efforts offer its officials the chance to transcend the breathless rhythms of the news cycle and set their sights on more consequential time horizons. Reformers across the country – in marijuana policy and beyond – would do well to learn from this second experiment (WA) as from the first (CO).”

Excerpt from Aug. 2014 Study



# Brookings Institute

## On Washington's Law and Implementation

“But while Colorado created the sizzle for pot legalization by acting quickly, Washington may end up providing the steak, merely by sticking to a meticulous and cautious approach that in the long run will make it easier for the public to track outcomes.”

Quote from McClatchy News Services on Brookings Study



## Staying Connected

- Visit the Marijuana 2016 webpage -- [lcb.wa.gov](http://lcb.wa.gov)
  - Interactive dashboard (maps, relevant data, updated weekly)
  - Factsheets
  - FAQs
  - Timelines
- Listserv with approximately 13,500 subscribers
- Public hearings on rules are posted on website and publicized on the listserv
- Media attention -- AP Top 5 story of 2012, 2013, 2014