

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

June 5, 2018

Gov. John Hickenlooper
Colorado State Capitol
200 E. Colfax, Ste. 136
Denver, CO 80203
VIA EMAIL AND HAND DELIVERY

RE: House Bill 18-1011

Dear Gov. Hickenlooper:

After a thorough review of House Bill 18-1011 (H.B. 1011), entitled “Concerning Measures to Allow Greater Investment Flexibility in Marijuana Businesses, and, in Connection Therewith, Making an Appropriation,” I respectfully request a veto. I was closely monitoring H.B. 1011 as it moved through the legislative process this past session, and I have significant concerns regarding the unintended consequences of allowing publicly traded companies to be licensed marijuana businesses or invest in licensed marijuana businesses in Colorado.

H.B. 1011 would not require disclosure of publicly traded companies that own less than five percent of a Colorado marijuana business. There is no similar exception from the disclosure requirements for privately held companies and there is no sound policy basis for such an exemption. By not requiring disclosure or a finding of suitability for publicly traded companies that own less than five percent of a Colorado marijuana business, H.B. 1011 creates a significant loophole in the law that could allow criminal drug cartels to profit from Colorado’s regulated marijuana businesses. Our office has worked with local and state law enforcement to investigate the grey and black marijuana markets in Colorado, and these criminal drug traffickers will exploit any loophole in the law to their benefit. Illegal marijuana trafficking has historically been used to fund and thereby facilitate other criminal activities; therefore, allowing ownership to go unchecked in Colorado raises serious public safety concerns. For these reasons, the federal government has been very clear that one of its priorities is to prevent “revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels.”¹

¹See James M. Cole, Deputy Att’y Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement (Aug. 29, 2013) (“Cole Memo”). Although the Cole Memo was rescinded by U.S. Attorney General Jeff Sessions, prosecutors are still required to follow “well-established principles that govern all federal prosecutions.” See Jefferson B. Sessions, III, Memorandum for All United States Attorneys: Marijuana Enforcement (Jan. 4, 2018).

It is in Colorado's best interest to ensure that ownership of marijuana businesses is fully transparent, not only to prevent criminals from profiting from these businesses, but also to ensure that all owners are held accountable for the actions of the business, particularly when those actions are unlawful or cause other harm to our state and local communities.

H.B. 1011 represents a significant expansion of current law, since it would remove all limitations on out-of-state ownership and thereby allow out-of-state ownership of a Colorado marijuana business without limitation. This is a significant departure from the limited out-of-state ownership previously authorized by Senate Bill 16-040 that you signed into law a few years ago. Thus, H.B. 1011 could result in individuals who have no stake in Colorado's well-being, seeking to maximize profits without regard to any negative consequences to the public's health, safety or welfare. In my opinion H.B. 1011 is not what Colorado voters envisioned when they passed Amendments 20 and 64, as it represents a departure from what has historically been a locally owned, fully transparent and tightly regulated marijuana market.

Thank you in advance for your consideration of my concerns. Please do not hesitate to contact me if you have any questions or would like to discuss this matter further.

Sincerely,



Cynthia H. Coffman
ATTORNEY GENERAL