Smart Colorado’s recommendation to the HB 1366 Working Group is the only proposal submitted that satisfies the mandate contained in HB 1366, fulfills the General Assembly’s intent in enacting the bill, and provides a responsible and balanced approach to ensuring that marijuana-infused edible products are clearly identifiable. As set out in greater detail below, if implemented, Smart Colorado’s recommendation will provide parents the tools they need to teach their children to identify marijuana-infused products; help prevent accidental ingestions of marijuana-infused products; and assist healthcare professionals in treating patients harmed by marijuana ingestions.

I. Smart Colorado’s recommendation

Smart Colorado’s recommendation was crafted to protect the public from the dangers of harmful marijuana ingestions while also providing manufacturers flexibility in implementing the safety measures enacted in HB 1366. More specifically, Smart Colorado’s recommendation provides several options for applying a symbol to infused products, and allows manufacturers to select the options that are best suited to their products. These options include airbrushing the standard symbol onto edible products with an aqueous dye; use of molds to apply the standard symbol to edible products; use of a branding instrument to imprint the standard symbol into edible products; application of frosting or other decorations in the shape of the standard symbol; and symbolizing the presence of marijuana in infused products using a standard color.

We understand that some of these techniques will work for certain edible products and not for others. However, we are confident that a symbol can be applied to nearly all edible products using at least one of the marking techniques proposed in Smart Colorado’s recommendation. We know that to be true because marijuana product manufacturers are currently applying symbols to their products using these techniques.

Smart Colorado also understands that manufacturers will incur costs and challenges implementing these proposals. However, as the prime sponsors of HB 1366 stated in their October 20th letter to Director Kosak (see Attachment 1), the General Assembly “anticipated that the marijuana industry would incur costs and challenges marking their products with a symbol. However, [the General Assembly] expected and passed HB 1366 because the public safety threats posed by “look-a-like” marijuana edibles had to be addressed in spite of the costs and challenges the industry would incur.” Moreover, the fact that manufacturers will incur costs and challenges marking their products is not dispositive. The true measure of whether MED’s regulations are too onerous is whether the actions required to comply with the regulations are “unreasonably impracticable,” as that term is defined in Colorado’s Constitution. As set out in greater detail below, Smart Colorado’s proposal is not “unreasonably impracticable.”

A. Smart Colorado’s recommendations offer practicable methods for marking marijuana-infused edibles

There has been disagreement among Working Group members regarding the meaning of the term “practicable” as it is used in HB 1366. On several occasions, it has been mistakenly suggested that the term “practicable,” and the term “unreasonably impracticable,” share the same meaning. In actuality, these terms have very different meanings.

In crafting HB 1366, the General Assembly could have used the term “unreasonably impracticable” as the standard for determining when an infused product must bear the standard symbol (e.g. the General Assembly could have said “the state licensing authority shall promulgate rules requiring that edible retail marijuana products be clearly identifiable, unless unreasonably impracticable, with a standard symbol…”). Such legislative language would have aligned HB 1366’s standard with the constitutional standard. The fact that the General Assembly deliberately chose not to use the term “unreasonably impracticable” signals an intent to afford the term used, “practicable” in this instance, a different meaning. See Carlson v. Ferris, 85 P.3d 504 (Colo. 2003) (“use of different terms [within the same statute or code] signals an intent on the part of the General Assembly to afford those terms different meanings.”).

“Practicable” is neither defined in HB 1366 nor any other place in Colorado’s Retail Marijuana Code. When interpreting ambiguous statutory terms, it is imperative that common words be given their ordinary

"Practicable" is defined in Webster's Third New Dictionary as "possible to...perform; capable of being...done." *Webster's Third New International Dictionary* 1780 (2012). Importantly, during the October 20th Working Group meeting, Senator Michael Johnston testified that the bill drafters consulted the dictionary when selecting the term "practicable." Therefore, this definition represents the standard MED must use to determine whether applying a symbol to various edible products is "practicable," and therefore required under HB 1366. In essence, when it is possible, by any means, to apply a symbol to an edible product, manufacturers must do so.

This interpretation of the term "practicable" is consistent with the stated intent of the prime sponsors of HB 1366. Importantly, statements of a bill's sponsors concerning the bill's purpose and anticipated effect are powerful evidence of legislative intent. *Mesa County Land Conservancy, Inc. v. Allen*, 318 P.3d 46 (Colo App. 2012). In construing ambiguous statutory language, courts accord "substantial weight to the sponsors' statements concerning a bill's purpose." *People v. Miller*, 97 P.3d 171, 174 (Colo. App. 2003).

In their October 20th letter to Director Koski, Senator Johnston and Representatives Frank McNulty and Jonathan Singer said "In drafting and passing HB 1366, we intended that if it is possible, by any means, to apply a symbol to an edible product, manufacturers must do so." According to the sponsors, "the 'when practicable' language in HB 1366 was not included to serve as a wholesale exemption that would allow manufacturers to continue putting our children at risk by side-stepping the protections implemented in HB 1366."

In all instances, Smart Colorado has proposed methods of marking products that are possible to perform.

First, Smart Colorado proposed using an airbrushing system to apply a symbol to infused products. During the October 20th Working Group meeting, John Wisler, the group's food manufacturing expert who has over 40 years of experience in food product development with Kraft and General Foods, confirmed that with the correct dye, airbrushing could effectively apply a symbol to all baked goods, chocolates, hard candies and soft candies. Mr. Wisler also confirmed that airbrushing could effectively mark products as small as gummy bears, and could be utilized by manufacturers that produce their own products, and manufacturers that lace others' products. Because product manufacturers in Colorado are not automated, airbrushing is an inexpensive option. All that would be required is an airbrushing system, which are available online for as little as $69 per unit, dyes and labor costs. Of course the process may be tedious for larger manufacturers, but by no means would it be cost prohibitive, nor would it seize up manufacturers' operations.

Second, Smart Colorado proposed application of frosting or other decorative materials in the shape of the standard symbol. Attachments 2 and 3 demonstrate the practicability of utilizing this marking technique with baked goods. The products, "So Kind Cookies," bear a symbol that is affixed using a frosting. This process could be utilized for all baked goods.

Third, Smart Colorado proposed using a branding instrument to imprint the standard symbol into edible products. On several occasions during Working Group meetings, industry representatives have acknowledged the feasibility of imprinting various baked goods like cookies and brownies. For example, during the September 11th meeting, Jamie Lewis said a "brownie could most certainly be stamped" and "cookies definitely can be stamped."

Fourth, Smart Colorado proposed the use of molds to apply the standard symbol to edible products. During the October 20th Working Group meeting, Mr. Wisler informed the group that manufacturers can purchase molds for as little as $500 (Bob Eschino stated that he could not purchase molds for less than $20,000, which, even as a worst-case scenario, is not cost prohibitive). The molds are viable for years,
and can be made in any form. Mr. Wisler said that molds would be an effective method of marking baked goods, chocolates, hard candies and soft candies.

Attachments 4 through 3 provide examples of marijuana-infused chocolates that are molded to display a symbol. Some of these products are marketed by Colorado manufacturers. Furthermore, during the October 20th Working Group meeting, Mr. Eschino noted that using a mold to mark chocolates can be done "very easily," and that he is currently using molds to mark his chocolate bars (as evidenced in Attachment 4).

Attachments 10 through 12 provide examples of marijuana-infused hard candies that are molded into shapes (e.g., hearts and stars). We do not offer these examples to suggest that hard candies must be molded into the shape of the standard symbol (although that would not be outside the scope of HB 1366). Instead, we offer these examples to demonstrate that marijuana-infused hard candy can be molded into many forms, including a form that consists of the standard symbol. Furthermore, during the September 11th Working Group meeting, industry representatives acknowledged that hard candy can be marked with a symbol. See audio recording of September 11 Working Group meeting at 1:33:00.

Attachments 13 through 16 provide examples of marijuana-infused soft candies that are molded to bear a symbol. Each of these gummies was manufactured in Colorado. During the September 11th Working Group meeting, Mr. Eschino noted that he is currently using molds to mark his gummies (as evidenced in Attachment 14), and that doing so is accomplishable.

Finally, Smart Colorado proposed symbolizing the presence of marijuana in infused products using a standard color. Respectively, Attachments 17 and 18 provide examples of marijuana-infused pills and sodas that use a color to symbolize the presence of marijuana. Attachment 19 is not an infused product, but demonstrates how easily color can be used to symbolize the presence of marijuana in bulk items. The colored popcorn in Attachment 19 was made by simply pouring a dye into a large popcorn container, and mixing the dye into the popcorn. This process is extremely simple, and can be used for nuts, granola and many other bulk items.

Industry representatives have continuously argued that applying a symbol to their products is difficult and costly, and therefore not practicable. However, the industry is applying the wrong standard. The General Assembly did not say that a symbol must be applied to marijuana-infused products unless doing so is difficult or costly. The General Assembly said manufacturers must apply a symbol to their products when it is "practicable." Again, the term "practicable" means "possible to... perform; capable of being... done." This is the standard that must be used to determine whether applying a symbol to various edible products is required under HB 1366.

The producers of the commercially-manufactured infused products described above face the same challenges as manufacturers in Colorado (in fact many of the examples provided come from Colorado), and are capable of applying symbols to their products. If marijuana product manufacturers are capable of applying a symbol to their products, doing so is by definition "practicable." The attached examples and the testimony from industry representatives and the Working Group's food manufacturing expert clearly demonstrate that marijuana-infused product manufacturers are capable of applying a symbol to baked goods, chocolates, hard candies, soft candies, pills, liquids and bulk foods. As such, HB 1366 requires that a symbol be applied to these products.

B. Smart Colorado's recommendations do not rise to the level of being unreasonably impracticable

In this rulemaking, MED must fulfill the legislative mandate contained in HB 1366 (i.e. require that edible products bear a symbol) while honoring the constitutional prohibition on "unreasonably impracticable" regulations. Because a regulation is not "unreasonably impracticable" unless it renders operation of a marijuana establishment economically unsustainable, we are confident MED has plenty of room to operate.
Under the constitutional definition, a regulation is "unreasonably impracticable" when "the measures necessary to comply with the regulation[] require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson." Colo. Const. art. 18 § 16(2)(o) (emphasis added).

This constitutional definition sets a very high standard for establishing that a regulation is "unreasonably impracticable." A regulation is not "unreasonably impracticable" simply because it is costly or difficult to follow. A regulation is only "unreasonably impracticable" if it is so costly or difficult to follow that it renders operation of a marijuana establishment economically unsustainable.

In this context, MED’s regulations would only be considered "unreasonably impracticable" if they alone were so onerous as to force the "reasonably prudent businessperson" to forego operating a products manufacturing facility, and the economic opportunity inherent in doing so. Here, the "reasonably prudent businessperson" is not any one products manufacturer, it is an objective standard that contemplates a composite of shrewd business judgment in relation to challenges posed by MED’s regulations. See generally Freedom from Religion Foundation, Inc. v. Hickenlooper, 2012 WL 1638718 (Colo.App.).

Estimates from the Governor’s office suggest that marijuana sales in Colorado will exceed $1 billion this fiscal year. According to recent media reports, edibles sales make up 45 percent of the state’s marijuana market, or approximately $450 million. In light of the economic opportunities inherent in operating a products manufacturing facility, MED can safely assume that shrewd businesspeople will be eager to participate in Colorado’s edibles market in spite of the costs they would incur marking their products.

Moreover, the fact that many marijuana-infused product manufacturers are voluntarily applying symbols to their products is definitive proof that marking products would not render the operation of a retail marijuana products manufacturer "...[u]nworthy of being carried out in practice by a reasonably prudent business person" as contemplated in the constitution. Again, a regulation is not "unreasonably impracticable" unless it is so costly or burdensome that it would necessitate ceasing the operation of a retail marijuana establishment. Clearly, a regulation requiring application of a symbol to edible products does not rise to that level considering such practices are being voluntarily conducted by product manufacturers.

II. Implementation of Smart Colorado’s recommendation is critical to preventing harmful ingestions of marijuana-infused edibles

During previous Working Group meetings and in legislative hearings on HB 1366, various healthcare professionals have explained the public safety benefits that will result from marking infused products as recommended by Smart Colorado. Specifically, emergency room physicians and injury prevention experts have stated that marking infused products will provide parents the tools they need to teach their children to identify infused products once the products are removed from their packaging, help prevent accidental ingestions of marijuana-infused products; ensure that marijuana-infused products are readily identifiable; and assist healthcare professionals in treating patients harmed by marijuana ingestions. Each of these public safety outcomes alone justifies mandatory marking of marijuana-infused products.

A. Applying a symbol to marijuana-infused products provides parents and children a necessary tool that will help limit the number of harmful marijuana ingestions

Perhaps the most significant motivation behind the passage of HB 1366 was the desire to provide parents the tools they need to teach their children to identify and avoid marijuana-infused products. The attached photographs of marijuana-infused Swedish Fish and regular Swedish Fish (see Attachment 20) and marijuana-infused Rainbow Belts and regular Rainbow Belts (see Attachment 21) illustrate the need for MED to fulfill its obligation under HB 1366. The marijuana-infused candies and regular candies in the attached photographs look identical. Once these products are out of their packaging, parents are powerless. There is simply no way a parent can teach their child which of these items is safe to eat.
According to media reports (see Attachment 22) and public testimony provided during Working Group meetings, accidental ingestions among adolescents are a common occurrence. Ally Cunningham, a high school senior, testified during the October 20th Working Group meeting that at least four of her peers have accidentally ingested marijuana-infused products because they were unable to identify what they were eating.

It is these very circumstances that Smart Colorado seeks to prevent. But before parents can educate their children to avoid infused products, the products must be identifiable. It is imperative that MED require that infused products look different that regular food items so that parents and children can tell them apart.

Various healthcare professionals have said that requiring infused products to look different than regular food products will have the desired cautionary effect. During the House Health, Insurance and Environment Committee hearing on HB 1366, Dr. Michael Distefano, the medical director of Children's Hospital Colorado Emergency Department, said that "when law requires that a product look different because of its potential harm to children, the presumption of harm shifts in a... direction we want." Furthermore, Dwayne Smith, the Injury Prevention Manager at Children's Hospital Colorado testified during the Senate Health and Human Services Committee hearing on HB 1366 that "edible retail marijuana products that are manufactured to look different will enhance the ability of public health practitioners to increase awareness of potential product hazards among parents, caregivers and children."

There can be no question that a distinguishing mark on marijuana-infused edible products will better enable parents to teach their children how to identify and avoid infused products. This fact alone should be sufficient to justify a requirement that infused products bear a distinguishing symbol.

B. A distinguishing symbol on infused products will help prevent accidental ingestions

During the October 20th Working Group meeting, Dr. Bajaj stated that the total number of calls to poison control centers in Colorado related to children accidentally ingesting marijuana has increased by more than 400 percent in recent years. Dr. Bajaj also said that total number of poison control calls in Colorado in 2014 related to children accidentally ingesting marijuana is on pace to be nearly three times as high as the calls that occurred in 2013, the year before recreational-use edibles were available to the public. This is a problem.

On several occasions, healthcare professionals have said that applying a distinguishing symbol to infused products will help prevent accidental ingestions. Specifically, Dr. Bajaj stated during the Senate Health and Human Services Committee hearing on HB 1366 that marking products can be especially helpful in preventing accidental ingestions among adolescents.

"As we educate kids on making good choices we have to ensure that they’re able to make good choices with the information provided to them. When there is a [product] that’s clearly infused with marijuana... [based on] the way it’s stamped, it then puts the choice back to the consumer to say, 'no I’m going to avoid that because I know what I’m getting into...’. That’s very relevant in the discussions we have with adolescents [as we’re teaching them] to make good choices."

During the September 11th Working Group meeting, Dr. Bajaj reiterated his point about the deterrent effect marked products would have among adolescents. According to Dr. Bajaj, with the "older adolescent population, where ingestions tend to be intentional... knowing what you’re choosing to eat may help with the decision-making process to help prevent unintentional ingestions." Ally Cunningham substantiated Dr. Bajaj's belief when she told the Working Group that her peers unknowingly ingested marijuana because they could not identify what they were eating. Based on Dr. Bajaj's comment, such incidents could be avoided if marijuana-infused products were made to look different than regular food products.
Several written comments submitted to the Working Group by marijuana industry representatives suggest that the only effective methods of preventing accidental ingestions among children is preventing them from gaining access to products through precautionary storage and packaging. However, this argument has been refuted on several occasions. First, during the September 11th Working Group meeting, Dr. Bajaj said "there is no single strategy... to eliminate all harmful ingestions. It's a matter of trying to make things as safe as you can with as much common sense as you can." During the same meeting, Dr. Bajaj referred to marking products as a "common sense" approach to preventing harmful ingestions. Also during the September 11th meeting, Dr. Bajaj said "marking products is one of many interventions you can do collectively to help lower the risk of a harmful ingestion." Finally, during the October 20th meeting, Dr. Bajaj said that while childproof packaging may be the first line of defense, the deterrent effect of marking products cannot be "discounted."

So while industry has attempted to suggest that there is no value in marking products, healthcare professionals that work with young children and adolescents on a regular basis clearly believe that marking products will help prevent accidental ingestions.

C. **Smart Colorado's recommendation will ensure that marijuana-infused products are readily identifiable**

There is no question that many marijuana-infused products currently on the market are indistinguishable from regular food items. The General Assembly states explicitly that its intent in enacting HB 1366 was to "ensure that edible retail marijuana products are readily identifiable by the general public." The recommendations submitted by marijuana industry representatives do absolutely nothing to further that objective.

Industry recommendations may affect the public's ability to identify marijuana product packaging, but HB 1366 was enacted to ensure that edible retail marijuana products, not the products' packaging, are readily identifiable. This conclusion is supported by the bill sponsors who said, "it is imperative, and was our intent in enacting HB 1366, that the products themselves, and not the products' packaging, bear the symbol mandated in the bill."

Importantly, MED cannot interpret the term "edible retail marijuana product" to include the product's packaging. We need look no further than the constitutional definition of "marijuana products" to determine that a product's packaging is not considered part of the product itself. The constitution defines "marijuana products" as products that "are comprised of marijuana and other ingredients and are intended for use or consumption..." Colo Const. art. 18 § 16(2)(k). The definition contains no mention of packaging, and only contemplates items "comprised of marijuana." Of course marijuana packaging does not meet that criterion, and therefore cannot be considered a marijuana product.

Smart Colorado's recommendation provides sensible and practicable methods for applying a unique symbol to nearly all marijuana-infused products. Once infused products carry this unique symbol, consumers will have the ability to identify and avoid those products at their discretion.

D. **Smart Colorado's recommendation will assist healthcare professionals in treating patients harmed by marijuana ingestions**

Children's Hospital wrote in its recommendation to the Working Group that experience with unintentional ingestions in children has shown that the ability to rapidly identify the suspected agent (often from the labeling on pills or other medicines) can be very helpful in avoiding unnecessary tests, and providing the appropriate care for the ingestion. In other words, if the patient knows what he/she ingested, and can communicate that to the treating physician, it will help avoid invasive and unnecessary testing (such as CT scans and lumbar punctures), and enable the physician to provide more effective treatment.

Of course victims of accidental ingestions and/or the victim's parent or guardian must first be able to identify the ingested agent. Without a distinguishing marking on marijuana-infused products, a victim is unable to inform his/her treating physician of the marijuana ingestion. As a result, the efficiency and
effectiveness of the care provided may suffer. Requiring a distinguishing symbol on infused products will increase the likelihood that accidental ingestion victims receive the most effective treatment following a harmful ingestion.

In summary, various healthcare professionals have testified to the fact that marking infused products will provide parents the tools they need to teach their children to identify infused products once the products are removed from their packaging; help prevent accidental ingestions of marijuana-infused products; ensure that marijuana-infused products are readily identifiable; and assist healthcare professionals in treating patients harmed by marijuana ingestions. Each of these public safety outcomes alone justifies mandatory marking of marijuana-infused products.

III. The labeling/packaging recommendations offered by industry representatives violate the plain language of HB 1366, fail to satisfy the directive promulgated in the bill, and would be a clear violation of the General Assembly’s intent behind enacting the bill

The purpose of the HB 1366 Working Group was to facilitate a collaborative effort that would enable MED to better understand when it is practicable to render marijuana-infused products clearly identifiable through the application of a standard symbol. Of course the ultimate objectives to be accomplished through this process, as stated by the General Assembly, are to protect people from the unintentional ingestion of infused products, and to ensure that infused products are readily identifiable by the general public. Unfortunately, the industry has largely refused to contribute to these efforts. Instead, the industry has simply said “no” to every proposed marking technique, and failed to offer any suggestions of their own. These obstructionist tactics have devalued MED’s process and made it difficult for the Division to accomplish the public safety objectives promulgated by the General Assembly.

Each of the recommendations submitted by industry representatives can be divided into two categories. The first category of recommendations propose doing nothing to make infused products identifiable. The second category propose merely requiring that a symbol be placed on a product’s packaging, even in instances where it is possible to apply a symbol to the product itself. These recommendations ignore the plain language of HB 1366, fail to satisfy the directive promulgated in HB 1366, and violate the General Assembly’s intent behind enacting the bill. Again, the prime sponsors of HB 1366 said explicitly, “it is imperative, and was our intent in enacting HB 1366, that the products themselves, and not the products’ packaging, bear the symbol mandated in the bill.”

The labeling recommendations put forth by industry representatives are based on the often-stated argument that HB 1366 does not say the standard symbol must be on the product. However, in describing what must be “clearly identifiable...with a standard symbol,” the plain language of HB 1366 refers explicitly to “edible retail marijuana products.” The bill contains no reference to labeling or packaging, and to interpret these concepts into the bill would be a forced construction, which is disfavored. As set out above, based on the constitutional definition of “marijuana product,” MED cannot interpret the term “edible retail marijuana products” to include the product’s packaging (the Division’s own definition of edible retail marijuana product also would not allow such an interpretation). When the language of a statute is plain, it must be applied as written. People v. Nara, 964 P.2d 578 (Colo. App. 1998).

Additionally, the law already requires that marijuana packaging be marked with a symbol indicating the package contains marijuana. See Colo. Rev. Stat. § 12-43.4-202(3)(a)(vii)(O), 1 CCR 212-2 Rule 1004.5(C)(1)(h); 1 CCR 212-2 Rule 1006.5(C)(1)(f). If, in fulfilling the legislative directive handed down in HB 1366, MED merely requires that a symbol be placed on product packaging, even in instances where it is possible to apply a symbol to the product itself, the Division would reduce HB 1366 to a mere reiteration of the labeling/packaging requirement set forth in CRS § 12-43.4-202(3)(a)(vii)(O). The Colorado Supreme Court has repeatedly held that, "interpretations that render statutory provisions redundant and superfluous should be avoided." Colorado Compensation Ins. Authority v. Jorgensen, 992 P.2d 1156 (Colo. 2000); Leaffer v. Zarilengo, 44 P.3d 1072 (Colo. 2002); Wolford v. Pinnacol Assurance, 107 P.3d 947 (Colo. 2005). Furthermore, by adopting the industry’s proposals, MED would be taking the position that it satisfied HB 1366’s mandate when it promulgated Rule 1004.5(C)(1)(h) and Rule 1006.5(C)(1)(f).
Simply put, MED cannot adopt the industry’s recommendation that a symbol be placed on a product’s packaging in instances where it is possible to apply a symbol to the product itself. Doing so would fail to satisfy the directive promulgated in HB 1366, and would be a clear violation of the General Assembly’s intent behind enacting the bill. This is important, because in fulfilling its obligations under HB 1366, MED is “without power to act contrary to law or clear legislative intent or to exceed authority conferred upon [it] by statute.” *Colorado Div. of Employment and Training, Dept. of Labor and Employment v. Industrial Comm’n of State of Colo.* 865 P.2d 631 (Colo. App. 1983). In other words, MED may not substitute its judgment for that of the General Assembly. See generally CRCP 106(A)(4) (providing for a right of action when a governmental body exceeds its jurisdiction or abuses its discretion).

IV. Conclusion

Smart Colorado’s recommendation to the HB 1366 Working Group is the only proposal submitted that satisfies the mandate contained in HB 1366, fulfills the General Assembly’s intent in enacting the bill, and provides a responsible and balanced approach to ensuring that marijuana-infused edible products are clearly identifiable. If implemented, Smart Colorado’s recommendation will provide parents the tools they need to teach their children to identify marijuana-infused products; help prevent accidental ingestions of marijuana-infused products; ensure that marijuana-infused products are readily identifiable; and assist healthcare professionals in treating patients harmed by marijuana ingestions.

The labeling/packaging recommendations submitted by industry representatives violate the explicit language of HB 1366, fail to satisfy the bill’s directive, and by reducing the bill to a mere reiteration of existing law, violate the General Assembly’s intent behind enacting the bill.
Attachment 1
October 20, 2014

Mr. Lewis Koski  
Director, Marijuana Enforcement Division  
Colorado Department of Revenue  
455 Sherman Street, Suite 390  
Denver, Colorado 80223

Dear Director Koski:

Thank you for the leadership you have shown in advancing a slow, deliberate, safety-first direction for Colorado’s retail marijuana industry. We appreciate the difficult task you have at hand, and appreciate your work.

You and others are currently in the process of setting a framework to implement HB 14-1366—legislation aimed at curbing the development and sale of dangerous edible marijuana products. We write to you as the prime sponsors of HB 1366 to convey the intent behind the legislation and the outcomes we aimed to achieve.

The major impetus for HB 1366 continues to hold true—we want to protect children and unwitting adults from becoming victims of accidental marijuana ingestion.

The tools advanced in HB 1366 do not prohibit the industry from producing any type of product. The bill does require marijuana product manufacturers to mark their products so the products can be easily identified as containing marijuana. It is imperative, and was our intent in enacting HB 1366, that the products themselves, and not the products’ packaging, bear the symbol mandated in the bill. One year before enacting HB 1366, the General Assembly enacted HB 13-1317. Section 5 of HB 13-1317 requires that marijuana product packaging bear a symbol indicating that the package contains marijuana (this requirement is codified at Colo. Rev. Stat. § 12-43.4-202(3)(a)(vii)(O)). The General Assembly did not pass HB 1366 to simply repeat itself. HB 1366 was intended to require that the products themselves bear a symbol, not the products’ packaging.

Furthermore, in drafting and passing HB 1366, we intended that if it is possible, by any means, to apply a symbol to an edible product, manufacturers must do so. The “when practicable” language in HB 1366 was not included to serve as a wholesale exemption that would allow manufacturers to continue putting our children at risk by side-stepping the protections implemented in HB 1366. A common symbol, color, and shape were each contemplated in drafting and passing HB 1366. We anticipated that the marijuana industry would incur costs and challenges marking their products with a symbol. However, we conceived and passed HB 1366 because the public safety threats posed by “look-a-like” marijuana edibles had to be addressed in spite of the costs and challenges the industry would incur. In the end, we intended HB 1366 to require that product manufacturers apply a symbol to their products if doing so is possible by any means.

The objective behind HB 1366 was simple; let’s protect both children and adults from accidental marijuana ingestion. The Marijuana Enforcement Division’s charge is to follow the directive
promulgated in HB 1366, and require that product manufacturers apply a symbol to their products when doing so is at all possible.

Thank you for your time and consideration. Please share our thanks to those on the task force dedicating their time to this critical public safety endeavor. Please feel free to contact any of us should you have questions.

And thank you again for your work on behalf of the people of Colorado. It is noticed and appreciated.

Sincerely,

Frank McNulty  
State Representative  
House District 43

Jonathan Singer  
State Representative  
House District 11

Michael Johnston  
State Senator  
Senate District 33

CC:  Barbara Brohl, Executive Director, Colorado Department of Revenue.  
Ron Kammerzell, Senior Director of Enforcement, Colorado Department of Revenue.  
Andrew Freedman, Director of Marijuana Coordination, State of Colorado.  
Gina Carbone, Smart Colorado.
Attachment 2
#2) So Kind Cookie
Attachment 3
Attachment 4
NEW DEVELOPMENTS
MARIJUANA INDUSTRY CALLS BAN UNNECESSARY

HEALTH DEPT. PUSHES FOR EDIBLES BAN
Attachment 5
Attachment 6
Bhang "Ice" Peppermint Chocolate Bar by The Healing Leaf LLC
Attachment 8
Attachment 10
The availability of edible cannabis products like hard candy will probably increase in the coming
Attachment 11
HARD CANDIES
Attachment 12
Attachment 13
Attachment 14
Black Cherry Gum with 100mg THC and 100mg of Vitamin C.

Blue Raspberry Gum with 100mg THC and 100mg of Vitamin C.
Attachment 15
Cheeba Chews Green Hornet Gummy

If you tried them they sanel tasty. great horn
We w early extre poter ed wi was v would
Attachment 16
Cheeba Chews Green Hornet Gummy

Active Ingredient
THC 75mg

Inactive Ingredients:
Cannabis Sativa L (Hemp) Seed Oil, Sucrose, Sorbitol, Potassium Sorbate, Natural Flavors, Tocopherol, Water, Citric Acid, Natural Flavors, Color, FD&C Blue No. 1, FD&C Red No. 40, FD&C Yellow No. 5, FD&C Yellow No. 6.
Attachment 17
Attachment 18
Attachment 19
Attachment 20
Attachment 21
Attachment 22
Middle School Students Arrested For Pot Edibles

March 10, 2014 11:30 PM

Shaw Heights Middle School
Home of the Falcons


WESTMINSTER, Colo. (CBS4) – Three students were arrested and several others are facing suspensions after marijuana edibles were found at a middle school in Adams County.

A full investigation is underway at Shaw Heights Middle School, near Westminster, after several students ate marijuana candies and later appeared high in class.

A total of 15 students were involved according to officials. Four students are facing expulsions from the Adams 50Westminster School District and 11 others are facing suspensions.

It started when teachers noticed a few students acting strangely during class.

"At least one of the kids had brought these products to the school and began sharing them with friends," said district spokesman Steve Saunders.


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http://denver.cbslocal.com/2014/03/10/middle-school-students-arrested-for-pot-edibles/
Some students said they didn't know there were given marijuana. According to the district, he candies are the size of a Tootsie Roll.

Marijuana, especially the edibles, has been a big topic of conversation at schools since recreational pot became legal. Adams 50 even launched an awareness campaign for parents and students.

"That parents need to talk to their kids about what is out there and what they could be coming in contact with," said Saunders.

The district said the arrests and suspensions of the middle school students serve as a teachable moment for other kids and parents.

"You can't put your head in the sand. This is an issue out there. Kids are going to be exposed to this," said Saunders.

The Adams 50 School District says marijuana-related situations like this one are happening in many schools and that parents need to talk to their kids about it.