

SJ 31: INCONSISTENCY IN DEFINITIONS ANALYSIS

BACKGROUND

At its April meeting, the Economic Affairs Interim Committee (EAIC) requested additional analysis on the inconsistency in definitions of "purchaser" and "consumer."

Title 15, chapter 64, governs the taxation of drugs and provides a definition for a "purchaser" as:

15-64-101. Definitions. As used in this part, the following definitions apply:

(9) "Purchaser" means a person to whom a sale of marijuana or a marijuana product is made.

The Marijuana Regulation and Taxation Act provides a definition for a "consumer" as:

16-12-102. Definitions. As used in this chapter, the following definitions apply:

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.

In other words, a consumer purchases marijuana from a licensed dispensary. Section 15-64-101, MCA, references definitions in 16-12-102, MCA, for several terms, including "adult-use dispensary," "marijuana," "marijuana product," and "medical marijuana dispensary."

ANALYSIS

The Department of Revenue expressed concerns with amending the definitions in 15-64-101, MCA, from "purchaser" to "consumer." A consumer is defined as "a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale."¹ In other words, a consumer is someone that purchases adult use marijuana, not a registered cardholder making a medical marijuana purchase. Consumers and cardholders are treated distinctly in Title 16.

The clearest example is in 16-12-224(5), MCA, which provides "[a]n adult use dispensary is authorized to sell marijuana, marijuana products, and live marijuana plants to consumers or registered cardholders."

So, if the definition for "purchaser" in 15-64-101, MCA, is changed to the definition for "consumer," it will only speak to adult use sales and could create additional confusion. The department recommends either leaving the definitions as they are now or changing "purchaser" to "customer."

The department has defined "customer" in ARM 42.39.102(11) to mean "collectively, adult use consumers and registered cardholders" and then references "customer" throughout the rule when referring to both adult use and medical sales.

RECOMMENDATION

The original committee options were to amend either 15-64-101, MCA, or 16-12-102, MCA, amend both statutes, or leave them as they are now. The committee requested additional research, and based on the department's analysis, the recommendation is to either:

- Change "purchaser" to "customer" in 15-64-101, MCA; or
- Leave as is.

COMMITTEE OPTIONS

Option A: Change "purchaser" to "customer" in 15-64-101, MCA.

Option B: Leave as is.