



State of Arizona

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Governor Brewer, Attorney General Horne Announce Suit Regarding Arizona Medical Marijuana Act

Court Action Needed to Determine Whether AMMA Violates Federal Law

PHOENIX – Governor Jan Brewer today announced that she has directed Arizona Attorney General Tom Horne to file suit by the end of the week seeking a declaratory judgment from a federal court regarding the legality of the Arizona Medical Marijuana Act (AMMA).

“For the state employees charged with administering the medical marijuana program or the Arizonans who intend to participate as consumers, it’s important that we receive court guidance as to whether they are at risk for federal prosecution,” said Governor Brewer. “As explained in a recent letter from the U.S. Attorney for Arizona, the federal government considers marijuana a controlled substance. Arizonans deserve clarity on an issue with such dire legal implications.”

The Arizona Department of Health Services had been diligently implementing voter-approved AMMA provisions until it received a letter, dated May 2, 2011, from U.S. Attorney Dennis Burke. Burke’s letter warned that marijuana remains a Schedule I Controlled Substance, meaning that “growing, distributing and possessing marijuana, in any capacity, other than as a federally authorized research program, is a violation of federal law regardless of state laws that purport to permit such activities.” Burke declared that his office would “vigorously prosecute individuals and organizations that participate in unlawful manufacturing, distribution and marketing activity involving marijuana, even if such activities are permitted under state law.”

The U.S. Attorney’s letter raises significant questions about the legality of both the AMMA and related Arizona Administrative Code provisions. In particular, Governor Brewer is concerned for the vulnerability of state employees charged with administering the AMMA, including, but not limited to, the issuance of dispensary licenses and qualified-patient registration cards. If a federal prosecutor were to decide that such activities are contrary to federal law, state employees may be subject to federal prosecution.

Medical marijuana also presents uncertainty for state law enforcement. The U.S. Attorney’s letter calls into question the ability of the Arizona Department of Public Safety (DPS) to maintain federal grant monies, the department’s enforcement activities and federal task force actions, and the employment status of DPS employees who could be in violation of federal law while participating as consumers in the AMMA.

For these reasons and others, a declaratory judgment action regarding medical marijuana in Arizona is necessary to determine whether AMMA violates federal law and, therefore, is void.

“The State of Arizona has worked to follow the wishes of voters,” said Governor Brewer. “But I won’t stand aside while state employees and average Arizonans acting in good faith are unwittingly put at risk. In light of the explicit warnings on this issue offered by Arizona’s U.S. Attorney, as well as many other federal prosecutors, clarity and judicial direction are in order.”

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