

Friday, August 3, 2012

Dear Attorney General Horne,

The below listed County Attorneys join in requesting the issuance of an Attorney General Opinion addressing concerns raised by Yavapai County Attorney Sheila Polk and those of State legislators seeking an Opinion regarding the implementation of Arizona's Medical Marijuana Act (AMMA). The clear preemption of the AMMA by the federal Controlled Substances Act mitigates any concerns associated with the Voter Protection Act or efforts to distinguish the possible versus actual threat of federal prosecution. The reality is that the initiative process is no less bound to abide by the Supremacy Clause than a measure passed by the Legislature. Likewise is the simple fact that state, county, and municipal employees are facilitating the violation of federal law each and every time they assist with each aspect of implementing the AMMA. Recent federal enforcement actions make clear the federal government's commitment to disregard any alleged cover provided by state statutes and a simple change in policy would needlessly subject government employees to immediate prosecution.

The specific request by the below named County Attorneys follows:

Attorney General Horne,

The below listed County Attorneys request that you issue a legal opinion addressing the inability for Arizona to implement Arizona's Medical Marijuana Act in light of preemption by the Federal Controlled Substances Act, a demonstrated commitment of enforcement by federal agencies in other states in operations against state authorized dispensaries, and awareness of similar planning by federal agencies in Arizona. Your immediate action is requested in light of the pending licensing of dispensaries beginning on August 7th.

Sincerely,

Michael Whiting Apache County Attorney
Ed Rheinheimer Cochise County Attorney
Daisy Flores Gila County Attorney
Ken Angle Graham County Attorney
Derek Rapier Greenlee County Attorney
Sam Vederman La Paz County Attorney
Bill Montgomery Maricopa County Attorney Matt Smith Mohave County Attorney Brad
Carlyon Navajo County Attorney Jim Walsh Pinal County Attorney George Silva Santa
Cruz County Attorney Sheila Polk Yavapai County Attorney Jon Smith Yuma County
Attorney