

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REDRAFT

9.30.14

Double underlining
denotes changes from
prior draft

BILL 2

LLS NO. 15-0107.01 Nicole Myers x4326

INTERIM COMMITTEE BILL

Marijuana Tax Revenues Committee

BILL TOPIC: "Local Government Retail Marijuana Taxes"

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF CERTAIN LOCAL GOVERNMENTS TO**
102 **IMPLEMENT SPECIFIED TAXES ON RETAIL MARIJUANA SUBJECT**
103 **TO APPROVAL BY THE ELIGIBLE ELECTORS OF THE LOCAL**
104 **GOVERNMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Marijuana Tax Revenues Committee. Currently, any county or municipality that allows the sale of retail marijuana is authorized to levy

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*



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the standard county or municipal sales tax on the sale of retail marijuana in addition to the state retail marijuana sales tax and the state retail marijuana excise tax.

The bill clarifies that counties and municipalities are authorized, subject to voter approval, to levy, collect, and enforce a sales tax on all sales of retail marijuana and retail marijuana products by retailer, in addition to any sales tax imposed by the state or by the county or municipality as applicable. Beginning January 1, 2016, the tax rate that a county or a municipality may impose is capped at 5% of the amount of the sale.

In addition, the bill authorizes, subject to voter approval, any county and any municipality to levy, collect, and enforce an excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility, in addition to any sales tax imposed by the state or by the county or municipality, as applicable, and in addition to the state excise tax imposed on retail marijuana. The excise tax rate that a county or a municipality may impose is capped at 7.5% of the average market rate of the unprocessed retail marijuana.

The bill specifies that an additional sales tax or excise tax may not be levied until the proposed tax has been referred to and approved by the eligible electors of the county or municipality, as applicable. A county or municipality may refer the proposed tax to the eligible electors only on the date of the state general election, _____ on the first Tuesday in November of an odd-numbered year, or on the date of a municipal biennial election.

Any retail marijuana sales tax or excise tax imposed by a county or municipality shall not be collected, administered, or enforced by the department of revenue. Instead, such tax shall be collected, administered, and enforced by the county or municipality imposing the tax.

A county or municipality in which the eligible electors have approved an additional sales tax on the sale of retail marijuana or excise tax on the first transfer of unprocessed retail marijuana may credit the revenues collected from the taxes to the general fund of the county or municipality or to any special fund created in the county or municipality's treasury. The governing body of a county or municipality may use the revenues collected from the taxes for any purpose as determined by the governing body or the electors of the county or municipality, as applicable.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 29-2-114 and
3 29-2-115 as follows:

1 **29-2-114. Retail marijuana sales tax - county - municipality -**
2 **election.** (1) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
3 SECTION 29-2-103 AND ARTICLES 26 AND 28.8 OF TITLE 39, C.R.S., AND
4 NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), EACH
5 COUNTY IN THE STATE IS AUTHORIZED TO LEVY, COLLECT, AND ENFORCE
6 A COUNTY SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL
7 MARIJUANA PRODUCTS BY A RETAILER. A COUNTY MAY LEVY, COLLECT,
8 AND ENFORCE A SALES TAX PURSUANT TO THIS SUBSECTION (1), IN WHOLE
9 OR IN PART, IN LESS THAN THE ENTIRE COUNTY WHEN THE CONDITIONS
10 SPECIFIED IN SECTION 29-2-103 (2) (b) AND (2) (c) ARE SATISFIED. FOR A
11 SALES TAX THAT IS FIRST LEVIED PURSUANT TO THIS PARAGRAPH (a) ON OR
12 AFTER JANUARY 1, 2016, THE TAX RATE IMPOSED SHALL NOT EXCEED FIVE
13 PERCENT OF THE AMOUNT OF THE SALE. <{*Committee members, please*
14 *discuss whether you would like to include the caps for the sales tax.*}>
15 (b) NO SALES TAX SHALL BE LEVIED PURSUANT TO THE PROVISIONS
16 OF PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL THE PROPOSAL HAS BEEN
17 REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE COUNTY
18 IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE. ANY PROPOSAL
19 FOR THE LEVY OF A SALES TAX IN ACCORDANCE WITH PARAGRAPH (a) OF
20 THIS SUBSECTION (1) MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF
21 THE COUNTY ONLY ON THE DATE OF THE STATE GENERAL ELECTION OR ON
22 THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR, AND ANY
23 ELECTION ON THE PROPOSAL MUST BE CONDUCTED BY THE COUNTY CLERK
24 AND RECORDER IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF
25 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S.
26 (2) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
27 SECTION 29-2-102 AND ARTICLES 26 AND 28.8 OF TITLE 39, C.R.S., AND

1 NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), EACH
2 MUNICIPALITY IN THE STATE IS AUTHORIZED TO LEVY, COLLECT, AND
3 ENFORCE A MUNICIPAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA
4 AND RETAIL MARIJUANA PRODUCTS BY A RETAILER. FOR A SALES TAX
5 THAT IS FIRST LEVIED PURSUANT TO THIS PARAGRAPH (a) ON OR AFTER
6 JANUARY 1, 2016, THE TAX RATE IMPOSED SHALL NOT EXCEED FIVE
7 PERCENT OF THE AMOUNT OF THE SALE.

8 (b) NO SALES TAX SHALL BE LEVIED PURSUANT TO THE PROVISIONS
9 OF PARAGRAPH (a) OF THIS SUBSECTION (2) UNTIL THE PROPOSAL HAS BEEN
10 REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE
11 MUNICIPALITY IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 10 OF
12 TITLE 31, C.R.S. ANY PROPOSAL FOR THE LEVY OF A SALES TAX IN
13 ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) MAY BE
14 SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY ___ ON THE
15 DATE OF THE STATE GENERAL ELECTION, _____ ON THE FIRST TUESDAY IN
16 NOVEMBER OF AN ODD-NUMBERED YEAR, OR ON THE DATE OF A
17 MUNICIPAL BIENNIAL ELECTION. ANY ELECTION ON THE PROPOSAL MUST
18 BE CONDUCTED BY THE CLERK OF THE MUNICIPALITY IN ACCORDANCE
19 WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10
20 OF TITLE 31, C.R.S.

21 (3) (a) NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE, ANY
22 RETAIL MARIJUANA SALES TAX IMPOSED BY A COUNTY OR MUNICIPALITY
23 PURSUANT TO THIS SECTION SHALL NOT BE COLLECTED, ADMINISTERED, OR
24 ENFORCED BY THE DEPARTMENT OF REVENUE, BUT SHALL INSTEAD BE
25 COLLECTED, ADMINISTERED, AND ENFORCED BY THE COUNTY OR
26 MUNICIPALITY IMPOSING THE TAX.

27 (b) A COUNTY OR MUNICIPALITY IN WHICH A TAX IS IMPOSED

1 PURSUANT TO THIS SECTION MAY AUTHORIZE A RETAIL MARIJUANA STORE
2 TO RETAIN A PERCENTAGE, TO BE DETERMINED BY THE COUNTY OR
3 MUNICIPALITY, OF THE RETAIL MARIJUANA SALES TAX COLLECTED
4 PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION TO COVER THE
5 EXPENSES OF COLLECTING AND REMITTING THE TAX TO THE COUNTY OR
6 MUNICIPALITY.

7 (4) A COUNTY OR MUNICIPALITY IN WHICH THE ELIGIBLE ELECTORS
8 HAVE APPROVED A SALES TAX PURSUANT TO THIS SECTION MAY CREDIT
9 THE REVENUES COLLECTED FROM THE TAX TO THE GENERAL FUND OF THE
10 COUNTY OR MUNICIPALITY OR TO ANY SPECIAL FUND CREATED IN THE
11 COUNTY OR MUNICIPALITY'S TREASURY. THE GOVERNING BODY OF A
12 COUNTY OR MUNICIPALITY MAY USE THE REVENUES COLLECTED FROM THE
13 TAX IMPOSED PURSUANT TO THIS SECTION FOR ANY PURPOSE AS
14 DETERMINED BY THE GOVERNING BODY OR THE ELECTORS OF THE COUNTY
15 OR MUNICIPALITY, AS APPLICABLE.

16 (5) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED
17 TO INVALIDATE THE PRESUMED LEGALITY OF ANY COUNTY OR MUNICIPAL
18 SALES TAX IMPOSED ON THE SALE OF RETAIL OR MEDICAL MARIJUANA,
19 RETAIL OR MEDICAL MARIJUANA PRODUCTS, OR RETAIL OR MEDICAL
20 MARIJUANA PARAPHERNALIA THAT IS IN ADDITION TO ANY SALES TAX
21 IMPOSED PURSUANT TO SECTION 29-2-103 AND ARTICLES 26 AND 28.8 OF
22 TITLE 39, C.R.S., AND THAT WAS APPROVED BY THE ELIGIBLE ELECTORS
23 OF THE COUNTY OR MUNICIPALITY PRIOR TO THE EFFECTIVE DATE OF THIS
24 SUBSECTION (5).

25 **29-2-115. Retail marijuana excise tax - county - municipality**
26 **- election.** (1) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
27 SECTIONS 29-2-103 AND 29-2-114 (1) AND ARTICLES 26 AND 28.8 OF TITLE

1 39, C.R.S., AND IN ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO
2 ARTICLE 28.8 OF TITLE 39, C.R.S., EACH COUNTY IN THE STATE IS
3 AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A COUNTY EXCISE TAX ON
4 THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A
5 RETAIL MARIJUANA CULTIVATION FACILITY. THE TAX SHALL BE IMPOSED
6 AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST
7 SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL
8 MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
9 MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER
10 RETAIL MARIJUANA CULTIVATION FACILITY. THE EXCISE TAX RATE
11 IMPOSED PURSUANT TO THIS PARAGRAPH (a) SHALL NOT EXCEED SEVEN
12 AND ONE-HALF PERCENT OF THE AVERAGE MARKET RATE OF THE
13 UNPROCESSED RETAIL MARIJUANA. <*Committee members, please*
14 *discuss whether you would like to include the caps for the excise tax.*>

15 (b) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE
16 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL THE
17 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE
18 ELECTORS OF THE COUNTY. THE ADOPTION PROCEDURES FOR A
19 COUNTYWIDE SALES TAX, USE TAX, OR BOTH, AS SPECIFIED IN THIS
20 ARTICLE, SHALL APPLY TO THE REFERRAL AND APPROVAL OF AN EXCISE
21 TAX PURSUANT TO THIS SUBSECTION (1). ANY PROPOSAL FOR THE LEVY OF
22 AN EXCISE TAX IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION
23 (1) MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE COUNTY ONLY
24 ON THE DATE OF THE STATE GENERAL ELECTION OR ON THE FIRST TUESDAY
25 IN NOVEMBER OF AN ODD-NUMBERED YEAR, AND ANY ELECTION ON THE
26 PROPOSAL MUST BE CONDUCTED BY THE COUNTY CLERK AND RECORDER
27 IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF 1992", ARTICLES

1 1 TO 13 OF TITLE 1, C.R.S.

2 (2) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
3 SECTIONS 29-2-102 AND 29-2-114(2) AND ARTICLES 26 AND 28.8 OF TITLE
4 39, C.R.S., AND IN ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO
5 ARTICLE 28.8 OF TITLE 39, C.R.S., EACH MUNICIPALITY IN THE STATE IS
6 AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A MUNICIPAL EXCISE TAX
7 ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY
8 A RETAIL MARIJUANA CULTIVATION FACILITY. THE TAX SHALL BE IMPOSED
9 AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST
10 SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL
11 MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
12 MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER
13 RETAIL MARIJUANA CULTIVATION FACILITY. THE EXCISE TAX RATE
14 IMPOSED PURSUANT TO THIS PARAGRAPH (a) SHALL NOT EXCEED SEVEN
15 AND ONE-HALF PERCENT OF THE AVERAGE MARKET RATE OF THE
16 UNPROCESSED RETAIL MARIJUANA.

17 (b) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE
18 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) UNTIL THE
19 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE
20 ELECTORS OF THE MUNICIPALITY IN ACCORDANCE WITH THE PROVISIONS
21 OF ARTICLE 10 OF TITLE 31, C.R.S. ANY PROPOSAL FOR THE LEVY OF AN
22 EXCISE TAX IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2)
23 MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY ____
24 ____ ON THE DATE OF THE STATE GENERAL ELECTION, _____ ON THE FIRST
25 TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR, OR ON THE DATE OF
26 A MUNICIPAL BIENNIAL ELECTION. ANY ELECTION ON THE PROPOSAL SHALL
27 BE CONDUCTED BY THE CLERK OF THE MUNICIPALITY IN ACCORDANCE

1 WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10
2 OF TITLE 31, C.R.S.

3 (3) FOR THE PURPOSES OF THIS SECTION, THE "AVERAGE MARKET
4 RATE" OF UNPROCESSED RETAIL MARIJUANA SHALL HAVE THE SAME
5 MEANING AS "AVERAGE MARKET RATE" DEFINED IN SECTION 39-28.8-101
6 (1), C.R.S.

7 (4) ANY EXCISE TAX IMPOSED BY A COUNTY OR MUNICIPALITY
8 PURSUANT TO THIS SECTION SHALL NOT BE COLLECTED, ADMINISTERED, OR
9 ENFORCED BY THE DEPARTMENT OF REVENUE, BUT SHALL INSTEAD BE
10 COLLECTED, ADMINISTERED, AND ENFORCED BY THE COUNTY OR
11 MUNICIPALITY IMPOSING THE TAX.

12 (5) A COUNTY OR MUNICIPALITY IN WHICH THE ELIGIBLE ELECTORS
13 HAVE APPROVED AN EXCISE TAX PURSUANT TO THIS SECTION MAY CREDIT
14 THE REVENUES COLLECTED FROM THE TAX TO THE GENERAL FUND OF THE
15 COUNTY OR MUNICIPALITY OR TO ANY SPECIAL FUND CREATED IN THE
16 COUNTY OR MUNICIPALITY'S TREASURY. THE GOVERNING BODY OF A
17 COUNTY OR MUNICIPALITY MAY USE THE REVENUES COLLECTED FROM THE
18 TAX IMPOSED PURSUANT TO THIS SECTION FOR ANY PURPOSE AS
19 DETERMINED BY THE GOVERNING BODY OR THE ELECTORS OF THE COUNTY
20 OR MUNICIPALITY, AS APPLICABLE.

21 (6) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED
22 TO INVALIDATE THE PRESUMED LEGALITY OF ANY COUNTY OR MUNICIPAL
23 EXCISE TAX IMPOSED ON THE FIRST SALE OR TRANSFER OF UNPROCESSED
24 RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY THAT
25 IS IN ADDITION TO ANY EXCISE TAX IMPOSED PURSUANT TO ARTICLE 28.8
26 OF TITLE 39, C.R.S., AND THAT WAS APPROVED BY THE ELIGIBLE ELECTORS
27 OF THE COUNTY OR MUNICIPALITY PRIOR TO THE EFFECTIVE DATE OF THIS

1 SUBSECTION (6).

2 <{Additional Question - Are there other provisions of article 2
3 of title 29 that the bill needs to specifically state either do or do not
4 apply to these taxes?}>

5 SECTION 2. Applicability. This act applies to retail marijuana
6 sales and excise taxes levied by a county or municipality on or after
7 January 1, 2014.

8 SECTION 3. Safety clause. The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.

