

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

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Preamend showing changes with amendment #9

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LLS NO. 15-0106.02 Michael Dohr x4347

INTERIM COMMITTEE BILL

Marijuana Revenues Interim Committee

BILL TOPIC: "Medical Marijuana"

A BILL FOR AN ACT

101 CONCERNING MEDICAL MARIJUANA.

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 Revenues Interim Committee. The bill prohibits an existing medical marijuana licensee from transferring his or her marijuana inventory to a new retail marijuana license on and after July 1, 2016.

The bill requires the attorney general to appoint an attorney in the criminal enforcement section to serve as a special prosecutor for all medical marijuana crimes and gives the attorney general concurrent

jurisdiction with the appropriate district attorney over those crimes.

The bill requires the state health agency to promulgate rules regarding testing medical marijuana and medical marijuana products cultivated or produced by primary caregivers.

The bill requires all primary caregivers to register with the state health agency and the state medical marijuana licensing authority (licensing authority). Any primary caregiver who is not registered shall register within 7 days of being informed of the duty to register. Failure to register is a strict liability offense and is a level 2 or 3 drug felony or a level 1 drug misdemeanor depending on the number of plants.

The bill requires the licensing authority and the state health agency to share the minimum amount of information necessary to ensure that a medical marijuana patient has only one caregiver and is not using a primary caregiver and a medical marijuana center.

The state health agency and the licensing authority shall provide information concerning each primary caregiver, including the number of plants the primary caregiver is authorized to cultivate, to the Colorado crime information center.

The bill allows local government to regulate medical marijuana cultivation by primary caregivers.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Colorado authorizes the sale and use of small amounts of
5 medical and retail marijuana;

6 (b) The sale and use of medical marijuana is limited to those
7 Colorado residents who have a physician's recommendation that they
8 have a debilitating medical condition that could benefit from the use of
9 medical marijuana; and

10 (c) The state imposes a higher tax rate on retail marijuana than on
11 medical marijuana, as well as an additional excise tax.

12 (2) Therefore, it is important for the state to ensure that those
13 people who are accessing and engaging in the medical marijuana system
14 are qualified to do so. Otherwise, the state and local governments will be

1 deprived of valuable tax revenue.

2 (3) Now then, the general assembly hereby enacts the following
3 protections to ensure that access to the medical marijuana market is
4 limited to Colorado residents who have a physician's recommendation
5 that they have a debilitating medical condition that could benefit from the
6 use of medical marijuana.

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9 SECTION 2. In Colorado Revised Statutes, 25-1.5-106, amend
10 (3) (a) (VII); and add (3) (a) (IX) and (3) (a) (X) as follows:

11 25-1.5-106. Medical marijuana program - powers and duties
12 of state health agency - rules - medical review board - medical
13 marijuana program cash fund - subaccount - created - repeal. (3)
14 Rule-making. (a) The state health agency shall, pursuant to section 14
15 of article XVIII of the state constitution, promulgate rules of
16 administration concerning the implementation of the medical marijuana
17 program that specifically govern the following:

18 (VII) The manner in which the state health agency may consider
19 adding debilitating medical conditions to the list of debilitating medical
20 conditions contained in section 14 of article XVIII of the state
21 constitution; and

22 (IX) RECOMMENDATIONS TO THE COLORADO MEDICAL BOARD
23 REGARDING GUIDELINES ON MEDICAL MARIJUANA RECOMMENDATIONS FOR
24 NONMALIGNANT PAIN; AND

25 (X) GUIDELINES FOR PRIMARY CAREGIVERS TO GIVE INFORMED
26 CONSENT TO PATIENTS THAT PRODUCTS THEY CULTIVATE OR PRODUCE
27 MAY CONTAIN CONTAINMENTS AND THE THC LEVELS ARE NOT VERIFIED.

1 SECTION 3. In Colorado Revised Statutes, 25-1.5-106, amend
2 (7) (e) as follows:

3 **25-1.5-106. Medical marijuana program - powers and duties**
4 **of state health agency - rules - medical review board - medical**
5 **marijuana program cash fund - subaccount - created - repeal.**

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7 (7) **Primary caregivers.** (e) (I) (A) A primary caregiver who
8 ~~cultivates medical marijuana for his or her patients shall register the~~
9 ~~location of his or her cultivation operation with THE STATE HEALTH~~
10 ~~AGENCY AND THE state medical marijuana licensing authority; and SHALL~~
11 ~~provide THE LOCATION OF ANY CULTIVATION OPERATION, the registration~~
12 ~~identification number of each patient, AND THE NUMBER OF PLANTS THAT~~
13 ~~THE CAREGIVER IS AUTHORIZED TO CULTIVATE TO THE STATE HEALTH~~
14 ~~AGENCY AND the state licensing authority; AND SHALL UPDATE THE~~
15 ~~REGISTRATION INFORMATION WITHIN THIRTY DAYS AFTER ANY OF THE~~
16 ~~INFORMATION CHANGES. THE STATE HEALTH AGENCY SHALL ISSUE A~~
17 ~~PRIMARY CAREGIVER REGISTRY CARD TO EACH PRIMARY CAREGIVER WHO~~
18 ~~REGISTERS. A PERSON MAY NOT REGISTER AS A PRIMARY CAREGIVER IF HE~~
19 ~~OR SHE IS LICENSED AS A MEDICAL MARIJUANA BUSINESS AS DESCRIBED IN~~
20 ~~PART 4 OF ARTICLE 43.3 OF TITLE 12, C.R.S., OR A RETAIL MARIJUANA~~
21 ~~BUSINESS AS DESCRIBED IN PART 4 OF ARTICLE 43.4 OF TITLE 12, C.R.S.~~

22 (B) A PRIMARY CAREGIVER WHO FAILS TO REGISTER WITH THE
23 STATE HEALTH AGENCY OR THE STATE LICENSING AUTHORITY SHALL
24 REGISTER WITH THE APPROPRIATE AGENCY WITHIN THIRTY DAYS OF BEING
25 INFORMED OF THE DUTY TO REGISTER BY LAW ENFORCEMENT, THE STATE
26 HEALTH AGENCY, OR THE STATE LICENSING AUTHORITY.

27 (C) IF A PERSON FAILS TO REGISTER PURSUANT TO SUB-

1 SUBPARAGRAPHS (A) AND (B) OF THIS SUBPARAGRAPH (I), THE STATE
2 HEALTH AGENCY AND THE STATE MEDICAL MARIJUANA LICENSING
3 AUTHORITY SHALL PROHIBIT THE PERSON FROM EVER REGISTERING AND
4 ACTING AS A PRIMARY CAREGIVER. THE PERSON SHALL BE SUBJECT TO ANY
5 CHARGEABLE CRIMINAL OFFENSES.

6 (D) IF A PRIMARY CAREGIVER IS CHARGED WITH FAILURE TO
7 REGISTER, A LAW ENFORCEMENT AGENCY SHALL NOT BE CIVILLY LIABLE
8 FOR THE LOSS OR DESTRUCTION OF THE PRIMARY CAREGIVER'S MEDICAL
9 MARIJUANA PLANTS.

10 (II) THE STATE HEALTH AGENCY AND THE STATE MEDICAL
11 MARIJUANA LICENSING AUTHORITY SHALL SHARE THE MINIMUM
12 NECESSARY INFORMATION, SUCH AS PATIENT AND CAREGIVER
13 IDENTIFICATION NUMBERS, TO ENSURE THAT A PATIENT DOES NOT HAVE
14 MORE THAN ONE PRIMARY CAREGIVER, OR HAVE BOTH A CAREGIVER AND
15 A MEDICAL MARIJUANA CENTER, CULTIVATING MEDICAL MARIJUANA ON
16 HIS OR HER BEHALF AT ANY GIVEN TIME.

17 (III) The information provided to the state medical marijuana
18 licensing authority AND THE COLORADO DEPARTMENT OF PUBLIC SAFETY
19 pursuant to this paragraph (e) shall not be provided to the public and shall
20 be IS confidential. The state licensing authority shall verify the location
21 of a primary caregiver cultivation operation to a local government or law
22 enforcement agency upon receiving an address-specific request for
23 verification. The location of the cultivation operation shall MUST comply
24 with all applicable local laws, rules, or regulations.

25 SECTION 2. In Colorado Revised Statutes, 29-20-104, amend
26 (1) (g) and (1) (h); and add (1) (i) as follows:

27 29-20-104. Powers of local governments. (1) Except as

1 expressly provided in section 29-20-104.5, the power and authority
2 granted by this section shall not limit any power or authority presently
3 exercised or previously granted. Each local government within its
4 respective jurisdiction has the authority to plan for and regulate the use
5 of land by:

6 (g) Regulating the use of land on the basis of the impact thereof
7 on the community or surrounding areas; and

8 (h) Otherwise planning for and regulating the use of land so as to
9 provide planned and orderly use of land and protection of the
10 environment in a manner consistent with constitutional rights; AND

11 (i) REGULATING MEDICAL MARIJUANA CULTIVATION BY PRIMARY
12 CAREGIVERS.

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