

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 14-0541	Date: July 11, 2014
Prime Sponsor(s): Rep. Kagan Sen. Newell	Bill Status: Signed into Law
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SHORT TITLE: KEEP LEGAL MARIJUANA FROM THOSE UNDER 21

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue	<\$1,000	<1,000
Fines Collection Cash Fund	<1,000	<1,000
State Expenditures		
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

The bill requires that medical marijuana be sold in a package or container meeting requirements established by the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR) similar to the federal "Poison Prevention Packaging Act of 1970." Alternately the medical marijuana can be placed in an opaque and resealable package or container at the point of sale prior to exiting the store.

It gives a retail marijuana store owner or employee the ability to confiscate proof of age suspected to be fraudulent from a person under 21 years of age who is attempting to purchase retail marijuana. The licensee or employee or a member of law enforcement may also detain and question the person. The bill changes the classification of the crime for selling, or permitting the sale of, retail marijuana to a person under 21 from a class 2 to a class 1 misdemeanor. Finally, the bill specifies the enclosure and locked space requirements for cultivation of marijuana in a residence where a person under 21 years of age lives or visits.

State Revenue

Beginning in FY 2014-15, the bill is anticipated to increase state cash fund revenue by less than \$1,000 per year, credited to the Fines Collection Cash Fund in the Judicial Branch. The penalty for a class 1 misdemeanor is a fine of up to \$5,000, incarceration in a county jail for up to 18 months, or both. The penalty for this offense under current law (class 2 misdemeanor) is a fine of up to \$1,000, incarceration in a county jail for up to 12 months, or both, so convictions may result in higher fines being levied. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

Assumptions. The fiscal note assumes that the owners and employees of licensed retail marijuana establishments have a strong incentive to sell only to people 21 years of age and up.

State Expenditures

Because the bill references packaging and container requirements that are already included in MED rules, this bill is not expected to impact the workload or expenditures of the MED.

Local Government Impact

This bill impacts local governments by changing the classification of the crime for selling retail marijuana to a person under 21 from a class 2 to a class 1 misdemeanor. The penalty for a class 1 misdemeanor is a fine of up to \$5,000, incarceration in a county jail for up to 18 months, or both. Because the courts have the discretion of incarceration, imposing a fine, or both, the fiscal impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$51.45 to house state inmates.

Comparable Crime Section

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill changes the classification of the crime for selling retail marijuana to a person under 21 from a class 2 to a class 1 misdemeanor. Because this offense has only been effective since January 1, 2014, the crime for selling medical marijuana to a person without a valid medical marijuana registry card by a medical marijuana licensee is used as a proxy. One person has been found guilty of selling medical marijuana to a person without a valid registry card in the past 5 years, indicating that the penalty under this will be a strong deterrent and not create a significant increase in offenses.

Effective Date

The bill was signed into law by the Governor and took effect on March 17, 2014.

State and Local Government Contacts

Judicial
Municipalities

Revenue
Counties

Public Safety
Sheriffs

Corrections
Public Health