SENATE BILL 15-014

A BILL FOR AN ACT

CONCERNING MARIJUANA ISSUES THAT ARE NOT REGULATED BY THE DEPARTMENT OF REVENUE, AND, IN CONNECTION THERewith, MAKING APPROPRIATIONS.

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/billsummaries.)

Marijuana Revenues Interim Committee. The bill requires the Colorado medical board to adopt rules regarding guidelines for physicians who make medical marijuana recommendations for patients suffering from severe pain.

The bill requires the state health agency to adopt rules regarding...
guidelines for primary caregivers to give informed consent to patients that the products they cultivate or produce may contain contaminants and that the THC levels are not verified.

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 10 days of being informed of the duty to register. If a person fails to register after such 10 days, the state health agency and licensing authority shall prohibit the person from ever registering and acting as a primary caregiver.

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 bill permits moneys in the marijuana tax fund to be used to fund the implementation of any bills approved by the marijuana revenues interim committee.

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

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

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

   (b) The United States department of justice expects a state that has enacted laws regarding regulated marijuana use and sales to put measures in place to prevent the diversion of marijuana from the regulated system and prevent illicit marijuana trade that funds criminal enterprises;

   (c) If Colorado creates a robust regulatory environment that is strongly enforced, the federal government will not interfere except in those individual cases where the department of justice's enforcement priorities are at risk;

   (d) Large medical and recreational marijuana grows should be subject to enhanced oversight to augment health and safety and decrease trafficking;
(e) The sale and use of medical marijuana is limited to those Colorado residents who have a physician's recommendation that they have a debilitating medical condition that could benefit from the use of medical marijuana; and

(f) It is necessary to ensure that there is broad and appropriate access to medical marijuana while maintaining the safety and security of the regulated medical marijuana market.

(2) Now, therefore, the general assembly hereby enacts the following protections to ensure that access to the medical marijuana market is limited to Colorado residents who have a physician's recommendation that they have a debilitating medical condition that could benefit from the use of medical marijuana and to ensure that the medical marijuana that is grown, processed, and sold in the regulated market does not enter the retail market or cross state borders.

SECTION 2. In Colorado Revised Statutes, add 12-36-141 as follows:

12-36-141. Medical marijuana recommendations - guidelines.

The board, in consultation with the Department of Public Health and Environment and physicians specializing in medical marijuana, shall establish guidelines for physicians making medical marijuana recommendations.

SECTION 3. In Colorado Revised Statutes, 25-1.5-106, amend (2) (d.5), (3) (a) (VII), (3) (a) (VIII), (7) (a), (7) (c), (7) (e), (8) (a), and (18); repeal (3) (b) (I) and (13); and add (1) (c), (1) (d), (2) (e.5), (3) (a) (IX), (3.5), (7) (f), (8.5), (8.6), and (13.5) as follows:

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

(1) (c) The General Assembly hereby declares that it is necessary to implement rules to provide guidance for caregivers as defined in section 14 of article XVIII of the state constitution.

(d) The General Assembly hereby declares that it is imperative to prevent the diversion of medical marijuana to other states. In order to do this the General Assembly needs to provide clear guidance for law enforcement.

(2) Definitions. In addition to the definitions set forth in section 14 (1) of article XVIII of the state constitution, as used in this section, unless the context otherwise requires:

(d.5) "Primary caregiver" means a natural person, other than the patient or the patient's physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition. A PRIMARY CAREGIVER MAY HAVE ONE OR MORE OF THE FOLLOWING RELATIONSHIPS:

(I) A parent of a child as described by section (6) (e) of section 14 of article XVIII of the Colorado constitution and anyone who assists that parent with caregiver responsibilities, including cultivation and transportation;

(II) An advising caregiver who advises a patient on which medical marijuana products to use and how to dose them and does not possess, provide, cultivate, or transport marijuana on behalf of the patient;

(III) A transporting caregiver who purchases and transports marijuana to a patient who is homebound; and
(IV) A CULTIVATING CAREGIVER WHO GROWS MARIJUANA FOR A
PATIENT.

(e.5) "SIGNIFICANT RESPONSIBILITY FOR MANAGING THE
WELL-BEING OF A PATIENT" MEANS THAT THE CAREGIVER IS INVOLVED IN
BASIC OR INSTRUMENTAL ACTIVITIES OF DAILY LIVING. CULTIVATING OR
TRANSPORTING MARIJUANA AND THE ACT OF ADVISING A PATIENT ON
WHICH MEDICAL MARIJUANA PRODUCTS TO USE AND HOW TO DOSE THEM
CONSTITUTES A "SIGNIFICANT RESPONSIBILITY".

(3) Rule-making. (a) The state health agency shall, pursuant to
section 14 of article XVIII of the state constitution, promulgate rules of
administration concerning the implementation of the medical marijuana
program that specifically govern the following:

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

(VIII) A waiver process to allow a homebound patient who is on
the registry to have a primary caregiver transport the patient's medical
marijuana from a licensed medical marijuana center to the patient; AND

(IX) GUIDELINES FOR PRIMARY CAREGIVERS TO GIVE INFORMED
CONSENT TO PATIENTS THAT THE PRODUCTS THEY CULTIVATE OR PRODUCE
MAY CONTAIN CONTAMINANTS AND THAT THE CANNABINOID LEVELS MAY
NOT BE VERIFIED.

(b) The state health agency may promulgate rules regarding the
following:

(I) What constitutes "significant responsibility for managing the
well-being of a patient"; except that the act of supplying medical
marijuana or marijuana paraphernalia, by itself, is insufficient to constitute "significant responsibility for managing the well-being of a patient".

(3.5) THE STATE HEALTH AGENCY SHALL CONVENE A GROUP OF INTERESTED PARTIES INCLUDING REPRESENTATIVES FROM THE STATE LICENSING AUTHORITY, PRIMARY CAREGIVERS, PATIENTS, MARIJUANA TESTING LABORATORY LICENSEES, AND ANY OTHER INTERESTED PERSONS TO EXPLORE LABORATORY TESTING OPTIONS FOR MEDICAL MARIJUANA NOT PRODUCED BY SOMEONE LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S.

(7) Primary caregivers. (a) A primary caregiver may not delegate to any other person his or her authority to provide medical marijuana to a patient; nor may a primary caregiver engage others to assist in providing medical marijuana to a patient; EXCEPT THAT A PARENT PRIMARY CAREGIVER MAY USE THE SERVICES OF AN ASSISTANT FOR ADVISEMENT, CULTIVATION, OR TRANSPORTATION.

(c) Only a medical marijuana center with an optional premises cultivation license, a medical marijuana-infused products manufacturing operation with an optional premises cultivation license, or a primary caregiver for his or her patients or a patient for himself or herself may cultivate or provide MEDICAL marijuana, and only for medical use.

(e) (I) (A) IN ORDER TO BE a primary caregiver who cultivates medical marijuana for his or her patients OR TRANSPORTS MEDICAL MARIJUANA FOR HIS OR HER PATIENTS, HE OR SHE shall also register the location of his or her cultivation operation with the state medical marijuana licensing authority, and provide the registration identification number of each patient to the state licensing authority. A PERSON MAY
NOT REGISTER AS A PRIMARY CAREGIVER IF HE OR SHE IS LICENSED AS A MEDICAL MARIJUANA BUSINESS AS DESCRIBED IN PART 4 OF ARTICLE 43.3 OF TITLE 12, C.R.S., OR A RETAIL MARIJUANA BUSINESS AS DESCRIBED IN PART 4 OF ARTICLE 43.4 OF TITLE 12, C.R.S.

(B) A CULTIVATING PRIMARY CAREGIVER, WHEN REGISTERING, SHALL PROVIDE THE CULTIVATION OPERATION LOCATION, THE REGISTRATION NUMBER OF EACH PATIENT, AND ANY EXTENDED PLANT COUNT NUMBERS AND THEIR CORRESPONDING PATIENT REGISTRY NUMBERS.

(C) A TRANSPORTING PRIMARY CAREGIVER, WHEN REGISTERING, SHALL PROVIDE THE REGISTRATION NUMBER OF EACH HOMEBOUND PATIENT, THE TOTAL NUMBER OF PLANTS AND OUNCES THAT THE CAREGIVER IS AUTHORIZED TO TRANSPORT, IF APPLICABLE, AND THE LOCATION OF EACH PATIENT’S REGISTERED MEDICAL MARIJUANA CENTER OR CULTIVATING PRIMARY CAREGIVER, AS APPLICABLE. A TRANSPORTING CAREGIVER SHALL HAVE ON HIS OR HER PERSON A RECEIPT FROM THE MEDICAL MARIJUANA CENTER OR PRIMARY CAREGIVER WHEN TRANSPORTING MEDICAL MARIJUANA THAT SHOWS THE QUANTITY OF MEDICAL MARIJUANA PURCHASED BY OR PROVIDED TO THE TRANSPORTING CAREGIVER.

(D) THE STATE LICENSING AUTHORITY MAY VERIFY PATIENT REGISTRATION NUMBERS AND EXTENDED PLANT COUNT NUMBERS WITH THE STATE HEALTH AGENCY TO CONFIRM THAT A PATIENT DOES NOT HAVE MORE THAN ONE PRIMARY CAREGIVER, OR DOES NOT HAVE BOTH A DESIGNATED CAREGIVER AND MEDICAL MARIJUANA CENTER, CULTIVATING MEDICAL MARIJUANA ON HIS OR HER BEHALF AT ANY GIVEN TIME.

(E) IF A PEACE OFFICER MAKES A LAW ENFORCEMENT CONTACT
WITH A PRIMARY CAREGIVER WHO DOES NOT HAVE PROPER DOCUMENTATION SHOWING REGISTRATION WITH THE STATE LICENSING AUTHORITY, THE PEACE OFFICER MAY REPORT THAT INDIVIDUAL TO THE STATE LICENSING AUTHORITY OR MAY TAKE APPROPRIATE LAW ENFORCEMENT ACTION. THE PERSON MAY BE SUBJECT TO ANY CHARGEABLE CRIMINAL OFFENSES.

(II) The state licensing authority shall share the minimum necessary information in accordance with applicable federal and state laws such as patient and caregiver identification numbers, to verify that a patient has only one entity cultivating medical marijuana on his or her behalf at any given time.

(III) The information provided to the state medical marijuana licensing authority pursuant to this paragraph (e) shall not be provided to the public and shall be confidential. The state licensing authority shall verify the location of a primary caregiver cultivation operation to a local government or law enforcement agency upon receiving an address-specific request for verification. The location of the cultivation operation shall comply with all applicable local laws, rules, or regulations.

(f) A CULTIVATING PRIMARY CAREGIVER SHALL ONLY CULTIVATE PLANTS AT THE REGISTERED CULTIVATION LOCATION AS REQUIRED PURSUANT TO SECTION 25-1.5-106 (7) (e) AND AS PERMITTED PURSUANT TO SECTIONS 25-1.5-106 (8.6) (a) (I) AND 25-1.5-106 (8.6) (a) (II) (B).

NOTHING IN THIS PARAGRAPH (f) SHALL BE CONSTRUED TO LIMIT THE ABILITY OF THE CAREGIVER OR PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO MAKES PERMANENT RESIDENCE AT THE REGISTERED
CULTIVATION LOCATION FROM CULTIVATING OR POSSESSING UP TO SIX PLANTS PURSUANT TO ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION. NOTWITHSTANDING THESE PROVISIONS, ADDITIONAL CULTIVATION IS NOT LAWFUL AT THE PREMISES REGISTERED BY A CAREGIVER TO CULTIVATE ON BEHALF OF PATIENTS.

(8) Patient - primary caregiver relationship. (a) (I) A person shall be listed as a CULTIVATING OR TRANSPORTING primary caregiver for no more than five patients on the medical marijuana program registry at any given time; except that the state health agency may allow a primary caregiver to serve more than five patients in exceptional circumstances. In determining whether exceptional circumstances exist, the state health agency may consider the proximity of medical marijuana centers to the patient, AS WELL AS OTHER FACTORS.

(II) A CULTIVATING OR TRANSPORTING primary caregiver shall maintain a list of his or her patients including the registry identification card number of each patient AND A RECOMMENDED TOTAL PLANT COUNT at all times.

(8.5) Encourage patient voluntary registration. (a) (I) ALL PATIENTS CULTIVATING MORE THAN SIX MEDICAL MARIJUANA PLANTS FOR THEIR OWN MEDICAL USE ARE ENCOURAGED TO REGISTER WITH THE STATE LICENSING AUTHORITY’S REGISTRY CREATED PURSUANT TO SUBSECTION (7) OF THIS SECTION. A PATIENT WHO CHOOSES TO REGISTER SHALL UPDATE HIS OR HER REGISTRATION INFORMATION UPON RENEWAL OF HIS OR HER MEDICAL MARIJUANA REGISTRY CARD.

(II) A PATIENT WHO CHOOSES TO REGISTER SHALL REGISTER THE FOLLOWING INFORMATION WITH THE STATE LICENSING AUTHORITY: THE LOCATION OF HIS OR HER CULTIVATION OPERATION; HIS OR HER PATIENT
REGISTRATION IDENTIFICATION; AND THE TOTAL NUMBER OF PLANTS THAT
THE PATIENT IS AUTHORIZED TO CULTIVATE.

(b) A PATIENT SHALL NOT CULTIVATE MORE THAN NINETY-NINE
PLANTS. ONLY A MEDICAL MARIJUANA BUSINESS LICENSED AND PROPERLY
AUTHORIZED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., MAY
CULTIVATE MORE THAN NINETY-NINE PLANTS.

(c) THE INFORMATION PROVIDED TO THE STATE LICENSING
AUTHORITY PURSUANT TO THIS SUBSECTION (8.5) SHALL NOT BE PROVIDED
TO THE PUBLIC AND IS CONFIDENTIAL. THE STATE LICENSING AUTHORITY
SHALL VERIFY THE LOCATION OF A MEDICAL MARIJUANA CULTIVATION
SITE FOR PATIENT CULTIVATION OPERATIONS TO A LOCAL GOVERNMENT OR
LAW ENFORCEMENT AGENCY UPON RECEIVING A REQUEST FOR
VERIFICATION. THE LOCATION OF THE CULTIVATION OPERATION SHALL
COMPLY WITH ALL APPLICABLE LOCAL LAWS, RULES, OR REGULATIONS.

(d) THE STATE LICENSING AUTHORITY SHALL PROVIDE
CULTIVATION INFORMATION FOR PATIENTS WHO CHOOSE TO REGISTER TO
STATE AND LOCAL LAW ENFORCEMENT THROUGH THE COLORADO CRIME
INFORMATION CENTER. THE COLORADO BUREAU OF INVESTIGATION SHALL
INCLUDE PROPER USE OF MEDICAL MARIJUANA INFORMATION IN AUDITS OF
STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(8.6) **Primary caregivers plant limits - exceptional circumstances.** (a) (I) A PRIMARY CAREGIVER SHALL NOT CULTIVATE,
TRANSPORT, OR POSSESS MORE THAN THIRTY-SIX PLANTS UNLESS THE
PRIMARY CAREGIVER HAS ONE OR MORE PATIENTS WHO, BASED ON
MEDICAL NECESSITY, HAVE AN EXTENDED PLANT COUNT.

(II) (A) A PRIMARY CAREGIVER WHO CULTIVATES MORE THAN
THIRTY-SIX PLANTS SHALL REGISTER THE INFORMATION REQUIRED IN
(B) A PRIMARY CAREGIVER SUBJECT TO THE REGISTRY IN THIS SUBPARAGRAPH (II) SHALL REGISTER THE FOLLOWING INFORMATION WITH THE STATE LICENSING AUTHORITY: THE LOCATION OF HIS OR HER CULTIVATION OPERATION; THE PATIENT REGISTRATION IDENTIFICATION NUMBER FOR EACH OF THE PRIMARY CAREGIVER’S PATIENTS; AND ANY EXTENDED PLANT COUNT NUMBERS AND THEIR CORRESPONDING PATIENT REGISTRY NUMBERS.

(b) A PRIMARY CAREGIVER SHALL NOT CULTIVATE MORE THAN NINETY-NINE PLANTS. ONLY A MEDICAL MARIJUANA BUSINESS LICENSED AND PROPERLY AUTHORIZED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., MAY CULTIVATE MORE THAN NINETY-NINE PLANTS. THE PRIMARY CAREGIVER IS NOT ALLOWED TO GROW ADDITIONAL PLANTS UNTIL HE OR SHE IS LICENSED BY THE STATE LICENSING AUTHORITY.

(c) THE INFORMATION PROVIDED TO THE STATE LICENSING AUTHORITY PURSUANT TO THIS SUBSECTION (8.6) SHALL NOT BE PROVIDED TO THE PUBLIC AND IS CONFIDENTIAL. THE STATE LICENSING AUTHORITY SHALL VERIFY THE LOCATION OF EXTENDED PLANT COUNTS FOR PRIMARY CAREGIVER CULTIVATION OPERATIONS AND HOMEBOUND PATIENT REGISTRATION FOR TRANSPORTING CAREGIVERS TO A LOCAL GOVERNMENT OR LAW ENFORCEMENT AGENCY UPON RECEIVING A REQUEST FOR VERIFICATION. THE LOCATION OF THE CULTIVATION OPERATION SHALL COMPLY WITH ALL APPLICABLE LOCAL LAWS, RULES, OR REGULATIONS.
(d) The state licensing authority shall provide cultivation information for cultivating caregivers and transporting caregivers to state and local law enforcement through the Colorado Crime Information Center. The Colorado Bureau of Investigation shall include proper use of medical marijuana information in audits of state and local law enforcement agencies.

(13) Limit on cultivation of medical marijuana. Only registered patients, licensed primary caregivers, medical marijuana-infused products manufacturing operations with an optional premises cultivation license, and licensed medical marijuana centers with optional premises cultivation licenses may cultivate medical marijuana.

(13.5) Nothing herein shall reduce or eliminate the existing power of a statutory municipality or county through the "Local Government Land Use Control Enabling Act of 1974", Article 20 of Title 29, C.R.S., to regulate the growing of marijuana, commercially or otherwise.

(18) (a) This section is repealed, effective July 1, 2019.

(b) Prior to the repeal of this section, the department of regulatory agencies shall conduct a sunset review as described in section 24-34-104 (8), C.R.S.

SECTION 4. In Colorado Revised Statutes, 24-34-104, add (50.5) (m) as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.

(50.5) The following agencies, functions, or both, terminate on
September 1, 2019:

(m) The medical marijuana program created in section 25-1.5-106, C.R.S.

SECTION 5. In Colorado Revised Statutes, 39-28.8-501, amend

2 (2) (b) (XIV) and (2) (b) (XV); and add (2) (b) (XVI) as follows:


- repeal. (2) (b) Subject to the limitations in subsection (5) of this

section, any moneys in the fund that are not appropriated to the

department of revenue pursuant to paragraph (a) of this subsection (2) are

subject to annual appropriation by the general assembly for any fiscal year

following the fiscal year in which they were received by the state. The

general assembly shall initially appropriate moneys in the fund based on

the most recent estimate of revenue prepared by the staff of the legislative

council or the department of revenue for the applicable fiscal year. The

general assembly may appropriate moneys in the fund for the following

purposes:

(XIV) The industrial hemp grant research program created in

section 35-61-104.5, C.R.S.; and

(XV) For the start-up expenses of the division of financial

services related to the regulation of marijuana financial services

cooperatives pursuant to article 33 of title 11, C.R.S., and until the state

commissioner of financial services first collects assessments on such

cooperatives; and

(XVI) For auditing state and local law enforcement

agencies proper use of medical marijuana information.

SECTION 6. In Colorado Revised Statutes, 18-18-406.3, amend

(5) as follows:
18-18-406.3. Medical use of marijuana by persons diagnosed with debilitating medical conditions - unlawful acts - penalty - medical marijuana program cash fund. (5) Any person including, but not limited to, any officer, employee, or agent of the department, or any officer, employee, or agent of any state or local law enforcement agency, who releases or makes public any confidential record or any confidential information contained in any such record that is provided to or by the marijuana registry OR PRIMARY CAREGIVER REGISTRY of the department without the written authorization of the marijuana registry patient commits a class 1 misdemeanor.

SECTION 7. Appropriation. For the 2015-16 state fiscal year, $60,000 is appropriated to the department of public safety for use by the Colorado crime information center. This appropriation is from the marijuana tax cash fund created in section 39-28.8-501 (1), C.R.S. To implement this act, the department of public safety may use this appropriation for the collection of medical marijuana information.

SECTION 8. Appropriation. (1) For the 2015-16 state fiscal year, $1,068,560 is appropriated to the department of public health and environment. This appropriation is from the medical marijuana program cash fund created in section 25-1.5-106 (16) (a), C.R.S. To implement this act, the department of public health and environment may use this appropriation for the purchase of information technology services.

(2) For the 2015-16 state fiscal year, $1,068,560 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1) of this section. To implement this act, the office may use this
appropriation to provide information technology services for the
department of public health and environment.

SECTION 9. Appropriation. (1) For the 2015-16 state fiscal
year, $113,704 is appropriated to the department of revenue. This
appropriation is from the marijuana tax cash fund created in section
39-28.8-501 (1), C.R.S. To implement this act, the department may use
this appropriation as follows:

(a) $56,998 for use by marijuana enforcement division for
personal services and operating expenses, which amount is based on an
assumption that the department will require an additional 1.0 FTE; and

(b) $56,706 for the purchase of legal services.

(2) For the 2015-16 state fiscal year, $56,706 is appropriated to
the department of law. This appropriation is from reappropriated funds
received from the department of revenue under paragraph (b) of
subsection (1) of this section, and is based on an assumption that the
department will require an additional 0.3 FTE. To implement this act, the
department of law may use this appropriation to provide legal services for
the department of revenue.

SECTION 10. Effective date. This act takes effect upon passage;
except that sections 25-1.5-106 (7) (a), (7) (c), (7) (e), (7) (f), (8.5), and
(8.6) of section 3 take effect January 1, 2017.

SECTION 11. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, and safety.