

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 15-0107.01 Nicole Myers x4326

HOUSE BILL 15-1007

HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF CERTAIN LOCAL GOVERNMENTS TO**
102 **IMPLEMENT AN EXCISE TAX ON RETAIL MARIJUANA SUBJECT TO**
103 **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/billsummaries>.)

Marijuana Revenues Interim Committee. Currently, any county or municipality that allows the sale of retail marijuana is authorized to levy the standard county or municipal sales tax on the sale of retail

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 27, 2015

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.

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 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  as
3 follows:

4 

5 **29-2-114. Retail marijuana excise tax - county - municipality**

6 **- election.** (1) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO

7 **SECTION 29-2-103** AND ARTICLES 26 AND 28.8 OF TITLE 39, C.R.S., AND IN

1 ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO ARTICLE 28.8 OF
2 TITLE 39, C.R.S., EACH COUNTY IN THE STATE IS AUTHORIZED TO LEVY,
3 COLLECT, AND ENFORCE A COUNTY EXCISE TAX ON THE FIRST SALE OR
4 TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA
5 CULTIVATION FACILITY AUTHORIZED BY THE COUNTY; EXCEPT THAT A
6 COUNTY IS NOT AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A COUNTY
7 EXCISE TAX ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL
8 MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY PURSUANT
9 TO THIS SUBSECTION (1) WITHIN ANY MUNICIPALITY THAT LEVIES SUCH AN
10 EXCISE TAX PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE TAX
11 SHALL BE IMPOSED AT THE TIME WHEN THE RETAIL MARIJUANA
12 CULTIVATION FACILITY FIRST SELLS OR TRANSFERS UNPROCESSED RETAIL
13 MARIJUANA FROM THE RETAIL MARIJUANA CULTIVATION FACILITY TO A
14 RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL
15 MARIJUANA STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION
16 FACILITY.

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

1 PROPOSAL MUST BE CONDUCTED BY THE COUNTY CLERK AND RECORDER
2 IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF 1992", ARTICLES
3 1 TO 13 OF TITLE 1, C.R.S.

4 (2) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
5 SECTION 29-2-102 AND ARTICLES 26 AND 28.8 OF TITLE 39, C.R.S., AND IN
6 ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO ARTICLE 28.8 OF
7 TITLE 39, C.R.S., EACH MUNICIPALITY IN THE STATE IS AUTHORIZED TO
8 LEVY, COLLECT, AND ENFORCE A MUNICIPAL EXCISE TAX ON THE FIRST
9 SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL
10 MARIJUANA CULTIVATION FACILITY. THE TAX SHALL BE IMPOSED AT THE
11 TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST SELLS
12 OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL
13 MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
14 MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER
15 RETAIL MARIJUANA CULTIVATION FACILITY.

16 (b) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE
17 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) UNTIL THE
18 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE
19 ELECTORS OF THE MUNICIPALITY IN ACCORDANCE WITH THE PROVISIONS
20 OF ARTICLE 10 OF TITLE 31, C.R.S. ANY PROPOSAL FOR THE LEVY OF AN
21 EXCISE TAX IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2)
22 MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY ON
23 THE DATE OF THE STATE GENERAL ELECTION, ON THE FIRST TUESDAY IN
24 NOVEMBER OF AN ODD-NUMBERED YEAR, OR ON THE DATE OF A
25 MUNICIPAL BIENNIAL ELECTION. ANY ELECTION ON THE PROPOSAL SHALL
26 BE CONDUCTED BY THE CLERK OF THE MUNICIPALITY IN ACCORDANCE
27 WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10

1 OF TITLE 31, C.R.S.

2 (3) ANY EXCISE TAX IMPOSED BY A COUNTY OR MUNICIPALITY
3 PURSUANT TO THIS SECTION SHALL NOT BE COLLECTED, ADMINISTERED, OR
4 ENFORCED BY THE DEPARTMENT OF REVENUE, BUT SHALL INSTEAD BE
5 COLLECTED, ADMINISTERED, AND ENFORCED BY THE COUNTY OR
6 MUNICIPALITY IMPOSING THE TAX.

7 (4) A COUNTY OR MUNICIPALITY IN WHICH THE ELIGIBLE ELECTORS
8 HAVE APPROVED AN EXCISE 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 EXCISE TAX IMPOSED ON THE FIRST SALE OR TRANSFER OF UNPROCESSED
19 RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY THAT
20 IS CONSISTENT WITH THIS SECTION AND THAT IS IN ADDITION TO ANY
21 EXCISE TAX IMPOSED PURSUANT TO ARTICLE 28.8 OF TITLE 39, C.R.S., AND
22 THAT WAS APPROVED BY THE ELIGIBLE ELECTORS OF THE COUNTY OR
23 MUNICIPALITY PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (5).

24 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT
25 COUNTIES AND MUNICIPALITIES FROM COOPERATING TO CREATE A
26 COUNTYWIDE UNIFORM EXCISE TAX ON THE FIRST SALE OR TRANSFER OF
27 UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION

1 FACILITY WITH VOLUNTARY ABANDONMENT OF MUNICIPAL EXCISE TAX
2 ORDINANCES.

3 **SECTION 2.** In Colorado Revised Statutes, 32-1-1004, **add** (10)
4 as follows:

5 **32-1-1004. Metropolitan districts - additional powers and**
6 **duties.** (10) (a) IN ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO
7 ARTICLE 28.8 OF TITLE 39, C.R.S., A METROPOLITAN DISTRICT WITH
8 BOUNDARIES ENTIRELY WITHIN THE UNINCORPORATED AREA OF A COUNTY
9 IS AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A METROPOLITAN
10 DISTRICT EXCISE TAX ON THE FIRST SALE OR TRANSFER OF UNPROCESSED
11 RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY. THE
12 TAX SHALL BE IMPOSED AT THE TIME WHEN THE RETAIL MARIJUANA
13 CULTIVATION FACILITY FIRST SELLS OR TRANSFERS UNPROCESSED RETAIL
14 MARIJUANA FROM THE RETAIL MARIJUANA CULTIVATION FACILITY TO A
15 RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL
16 MARIJUANA STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION
17 FACILITY.

18 (b) IF THE BOUNDARIES OF A METROPOLITAN DISTRICT ARE WITHIN
19 A COUNTY THAT IMPOSES AN ADDITIONAL EXCISE TAX ON THE FIRST SALE
20 OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL
21 MARIJUANA CULTIVATION FACILITY PURSUANT TO SECTION 29-2-114,
22 C.R.S., THE EXCISE TAX RATE IMPOSED BY THE METROPOLITAN DISTRICT
23 PURSUANT TO THIS SUBSECTION (10) SHALL NOT EXCEED SUCH TAX RATE
24 IMPOSED BY THE COUNTY.

25 (c) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE
26 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (10) UNTIL THE
27 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE

1 ELECTORS OF THE METROPOLITAN DISTRICT. ANY PROPOSAL FOR THE LEVY
2 OF AN EXCISE TAX IN ACCORDANCE WITH PARAGRAPH (a) OF THIS
3 SUBSECTION (10) MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE
4 DISTRICT AT A REGULAR SPECIAL DISTRICT ELECTION, ON THE DATE OF THE
5 STATE GENERAL ELECTION, OR ON THE FIRST TUESDAY IN NOVEMBER OF
6 AN ODD-NUMBERED YEAR, AND ANY ELECTION ON THE PROPOSAL MUST BE
7 CONDUCTED IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF
8 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S.

9 (d) ANY RETAIL MARIJUANA EXCISE TAX IMPOSED BY A
10 METROPOLITAN DISTRICT PURSUANT TO THIS SUBSECTION (10) SHALL NOT
11 BE COLLECTED, ADMINISTERED, OR ENFORCED BY THE DEPARTMENT OF
12 REVENUE, BUT SHALL INSTEAD BE COLLECTED, ADMINISTERED, AND
13 ENFORCED BY THE METROPOLITAN DISTRICT IMPOSING THE TAX OR
14 THROUGH AN INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY IN
15 WHICH THE METROPOLITAN DISTRICT IS LOCATED.

16 **SECTION 3. Applicability.** This act applies to retail marijuana
17 excise taxes levied by a county, municipality, or metropolitan district on
18 or after January 1, 2014.

19 **SECTION 4. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.