

Second 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. 16-0970.01 Thomas Morris x4218

HOUSE BILL 16-1266

HOUSE SPONSORSHIP

Becker K.,

SENATE SPONSORSHIP

Cooke,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE DEPARTMENT OF REVENUE'S AUTHORITY OVER**
102 **MARIJUANA THAT CONTAINS CHEMICAL CONTAMINANTS, AND,**
103 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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>.)

The bill allows the department of revenue to seize and destroy medical and retail marijuana that testing shows contains harmful contaminants, as determined by the department of public health and environment, or unauthorized pesticides.

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
March 21, 2016

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43.3-202, **amend**
3 **as it will become effective July 1, 2016,** (2.5) (a) as follows:

4 **12-43.3-202. Powers and duties of state licensing authority -**
5 **rules.** (2.5) (a) Rules promulgated pursuant to paragraph (b) of
6 subsection (1) of this section must include, but need not be limited to, ~~the~~
7 ~~following subjects:~~

8 ~~(I) (A)~~ establishing a medical marijuana and medical
9 marijuana-infused products independent testing and certification program
10 for medical marijuana licensees within an implementation time frame.
11 ~~and requiring~~ THE RULES MUST REQUIRE:

12 (I) Licensees to test medical marijuana to ensure, at a minimum,
13 that products sold for human consumption do not contain contaminants
14 that are injurious to health, AS DETERMINED BY THE DEPARTMENT OF
15 PUBLIC HEALTH AND ENVIRONMENT AND SET FORTH IN THE RULES,
16 INCLUDING PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO SECTION
17 24-20-112 (1), C.R.S., and to ensure correct labeling;

18 ~~(B)~~ (II) Testing ~~may~~ TO include analysis for microbial and residual
19 solvents, PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO SECTION
20 24-20-112 (1), C.R.S., and chemical and biological contaminants deemed
21 to be public health hazards by the ~~Colorado~~ department of public health
22 and environment based on medical reports and published scientific
23 literature;

24 ~~(C)~~ (III) ~~In the event~~ That IF test results indicate the presence of
25 quantities of any substance determined to be injurious to health AS
26 DETERMINED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

1 AND SET FORTH IN THE RULES, INCLUDING PESTICIDES THAT ARE NOT
2 AUTHORIZED PURSUANT TO SECTION 24-20-112 (1), C.R.S.:

3 (A) The licensee shall immediately quarantine the products, and
4 notify the state licensing authority, ~~The licensee shall~~ AND, ONCE THE
5 DEPARTMENT HAS PROMULGATED A RULE TO IMPLEMENT THIS
6 SUB-SUBPARAGRAPH (A) AND AFTER THE PROCEDURES OF
7 SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (III) HAVE BEEN
8 COMPLIED WITH, document and properly destroy the adulterated product;
9 AND

10 (B) THE STATE LICENSING AUTHORITY MAY IMMEDIATELY
11 QUARANTINE THE PRODUCTS AND DOCUMENT AND PROPERLY DESTROY
12 THE ADULTERATED PRODUCT;

13 (C) BEFORE EITHER THE DEPARTMENT MAY, OR THE LICENSEE
14 SHALL, DESTROY THE PRODUCTS, THE LICENSEE MAY CONTEST THE
15 RESULTS OF THE TEST BY FILING WRITTEN NOTICE WITH THE DEPARTMENT
16 WITHIN FIVE DAYS AFTER RECEIPT OF THE TEST RESULTS. THE
17 DEPARTMENT SHALL NOTIFY THE LICENSEE OF THIS OPPORTUNITY, SHALL
18 HOLD A HEARING ON THE MATTER WITHIN TWO WEEKS AFTER RECEIPT OF
19 THE NOTICE OF APPEAL, AND SHALL PROMPTLY DETERMINE THE MATTER
20 AND PROVIDE THE LICENSEE WITH WRITTEN NOTICE OF ITS
21 DETERMINATION.

22 ~~(D)~~ (IV) THAT testing shall also verify THC potency
23 representations and homogeneity for correct labeling and provide a
24 cannabinoid profile for the marijuana product;

25 ~~(E)~~ (V) The state licensing authority shall TO determine an
26 acceptable variance for potency representations and procedures to address
27 potency misrepresentations; AND

1 ~~(F)~~ (VI) The state licensing authority ~~shall~~ TO determine the
2 protocols and frequency of marijuana testing by licensees.

3 **SECTION 2.** In Colorado Revised Statutes, 12-43.4-202, **amend**
4 (3) (a) (IV) (A) and (3) (a) (IV) (C); and **add** (3) (a) (IV) (H) as follows:

5 **12-43.4-202. Powers and duties of state licensing authority -**
6 **rules.** (3) (a) Rules promulgated pursuant to paragraph (b) of subsection
7 (2) of this section must include, but need not be limited to, the following
8 subjects:

9 (IV) (A) Establishing a marijuana and marijuana products
10 independent testing and certification program, within an implementation
11 time frame established by the department, requiring licensees to test
12 marijuana to ensure at a minimum that products sold for human
13 consumption do not contain contaminants that are injurious to health, AS
14 DETERMINED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
15 AND SET FORTH IN THE RULES, INCLUDING PESTICIDES THAT ARE NOT
16 AUTHORIZED PURSUANT TO SECTION 24-20-112 (1), C.R.S., and to ensure
17 correct labeling.

18 (C) ~~In the event that~~ IF test results indicate the presence of
19 quantities of any substance determined BY THE DEPARTMENT OF PUBLIC
20 HEALTH AND ENVIRONMENT AND SET FORTH IN THE RULES to be injurious
21 to health, ~~such~~ INCLUDING PESTICIDES THAT ARE NOT AUTHORIZED
22 PURSUANT TO SECTION 24-20-112 (1), C.R.S., THE LICENSEE SHALL
23 IMMEDIATELY QUARANTINE THE products, ~~shall be immediately~~
24 ~~quarantined and immediate notification to the marijuana enforcement~~
25 ~~division shall be made. The adulterated product shall be documented and~~
26 ~~properly destroyed~~ NOTIFY THE STATE LICENSING AUTHORITY, AND, ONCE
27 THE DEPARTMENT HAS PROMULGATED A RULE TO IMPLEMENT THIS

1 SUB-SUBPARAGRAPH (C) AND AFTER THE PROCEDURES OF
2 SUB-SUBPARAGRAPH (H) OF THIS SUBPARAGRAPH (IV) HAVE BEEN
3 COMPLIED WITH, DOCUMENT AND PROPERLY DESTROY THE ADULTERATED
4 PRODUCTS, AND THE STATE LICENSING AUTHORITY MAY IMMEDIATELY
5 QUARANTINE THE PRODUCTS AND DOCUMENT AND PROPERLY DESTROY
6 THE ADULTERATED PRODUCTS.

7 (H) BEFORE EITHER THE DEPARTMENT MAY, OR THE LICENSE
8 SHALL, DESTROY THE PRODUCTS, THE LICENSEE MAY CONTEST THE
9 RESULTS OF THE TEST BY FILING WRITTEN NOTICE WITH THE DEPARTMENT
10 WITHIN FIVE DAYS AFTER RECEIPT OF THE TEST RESULTS. THE
11 DEPARTMENT SHALL NOTIFY THE LICENSEE OF THIS OPPORTUNITY, SHALL
12 HOLD A HEARING ON THE MATTER WITHIN TWO WEEKS AFTER RECEIPT OF
13 THE NOTICE OF APPEAL, AND SHALL PROMPTLY DETERMINE THE MATTER
14 AND PROVIDE THE LICENSEE WITH WRITTEN NOTICE OF ITS
15 DETERMINATION.

16

17 **SECTION 3. Appropriation.** (1) For the 2016-17 state fiscal
18 year, \$23,753 is appropriated to the department of revenue. This
19 appropriation is from the marijuana cash fund created in section
20 12-43.3-501 (1) (a), C.R.S. To implement this act, the department may
21 use this appropriation for the purchase of legal services.

22 (2) For the 2016-17 state fiscal year, \$23,753 is appropriated to
23 the department of law. This appropriation is from reappropriated funds
24 received from the department of revenue under subsection (1) of this
25 section and is based on an assumption that the department of law will
26 require an additional 0.1 FTE. To implement this act, the department of
27 law may use this appropriation to provide legal services for the

1 department of revenue.

2 **SECTION 4. Act subject to petition - effective date -**
3 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
4 the expiration of the ninety-day period after final adjournment of the
5 general assembly (August 10, 2016, if adjournment sine die is on May 11,
6 2016); except that, if a referendum petition is filed pursuant to section 1
7 (3) of article V of the state constitution against this act or an item, section,
8 or part of this act within such period, then the act, item, section, or part
9 will not take effect unless approved by the people at the general election
10 to be held in November 2016 and, in such case, will take effect on the
11 date of the official declaration of the vote thereon by the governor.
12 (2) This act applies to conduct occurring on or after the applicable
13 effective date of this act.