

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0731.01 Michael Dohr x4347

HOUSE BILL 16-1214

HOUSE SPONSORSHIP

Conti,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES RELATED TO 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/billsummaries>.)

Under current law, a medical marijuana center may discount or donate medical marijuana or plants to indigent patients. The bill exempts any discounted or donated medical marijuana from production limits. The bill limits the damages that can be awarded when a person sues a law enforcement agency for destruction of medical marijuana plants to \$6,000 or the actual damages, whichever is less.

The bill requires the court to impose a fine of up to \$10,000 per day on a defendant convicted of illegal marijuana cultivation from the

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.

date the illegal marijuana cultivation operation was discovered by law enforcement until the date the illegal cultivation operation was no longer operational.

In 2015, the general assembly passed Senate Bill 15-014, which limited the total number of plants that a primary caregiver can grow to 36 plants, unless the primary caregiver has a patient with an extended plant count, in which case the limit is 99 plants. Senate Bill 15-014 made the limits effective January 1, 2017. The bill makes the limits effective July 1, 2016.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43.3-402, **amend**
3 (9) as follows:

4 **12-43.3-402. Medical marijuana center license.**

5 (9) (a) Notwithstanding the provisions of section 12-43.3-901 (4) (m), a
6 medical marijuana center may sell below cost or donate to a patient who
7 has been designated indigent by the state health agency or who is in
8 hospice care:

9 (a) (I) Medical marijuana; or

10 (b) (II) No more than six immature plants; except that a medical
11 marijuana center may sell or donate more than six immature plants, but
12 may not exceed half the recommended plant count, to a patient who has
13 been recommended an expanded plant count by his or her recommending
14 physician; or

15 (c) (III) Medical marijuana-infused products to patients.

16 (b) THE MEDICAL MARIJUANA DESIGNATED TO BE SOLD BELOW
17 COST OR DONATED PURSUANT TO THIS SUBSECTION (9) TO A PERSON WHO
18 IS DESIGNATED INDIGENT BY THE STATE HEALTH AGENCY OR WHO IS IN
19 HOSPICE CARE DOES NOT COUNT TOWARD THE OPTIONAL PREMISES
20 CULTIVATION LICENSEE'S PRODUCTION LIMIT.

1 **SECTION 2.** In Colorado Revised Statutes, **add** 13-21-129 as
2 follows:

3 **13-21-129. Damage limitation for medical marijuana injury.**
4 IN A CIVIL ACTION FOR HARM, NEGLIGENCE, INJURY, OR DESTRUCTION OF
5 MEDICAL MARIJUANA WHILE IN THE POSSESSION OF STATE OR LOCAL LAW
6 ENFORCEMENT OFFICIALS WHERE SUCH PROPERTY HAS BEEN SEIZED IN
7 CONNECTION WITH THE CLAIMED MEDICAL USE OF MARIJUANA PURSUANT
8 TO SECTION 14 (2) (e) OF ARTICLE XVIII OF THE STATE CONSTITUTION, A
9 SUCCESSFUL PLAINTIFF MAY RECOVER ACTUAL DAMAGES OR SIX
10 THOUSAND DOLLARS, WHICHEVER IS LESS. THIS SECTION DOES NOT WAIVE
11 IMMUNITY OR ANY DEFENSE TO A CLAIM FOR DAMAGES, NOR DOES IT
12 CREATE OR CONFER ANY RIGHT, PROPERTY RIGHT, OR OTHER INTEREST IN
13 MEDICAL MARIJUANA OR THE USE THEREOF.

14 **SECTION 3.** In Colorado Revised Statutes, 18-18-406, **add** (3)
15 (a.5) as follows:

16 **18-18-406. Offenses relating to marijuana and marijuana**
17 **concentrate.** (3) (a.5) NOTWITHSTANDING ANY OTHER PROVISION OF
18 LAW, THE COURT, IN ADDITION TO ANY OTHER SENTENCE IT IMPOSES,
19 SHALL FINE THE DEFENDANT UP TO TEN THOUSAND DOLLARS PER DAY
20 FROM THE DATE THAT LAW ENFORCEMENT DISCOVERED THE DEFENDANT'S
21 ILLEGAL MARIJUANA CULTIVATION OR GROW OPERATION UNTIL THE DATE
22 THAT THE DEFENDANT'S ILLEGAL MARIJUANA CULTIVATION OR GROW
23 OPERATION WAS NO LONGER IN OPERATION.

24 **SECTION 4.** In Colorado Revised Statutes, 25-1.5-106, **add** (8.7)
25 as follows:

26 **25-1.5-106. Medical marijuana program - powers and duties**
27 **of state health agency - rules - medical review board - medical**

1 **marijuana program cash fund - subaccount - created - repeal.**

2 **(8.7) Primary caregivers plant limits - exceptional circumstances.**

3 (a) A PRIMARY CAREGIVER SHALL NOT CULTIVATE, TRANSPORT, OR
4 POSSESS MORE THAN THIRTY-SIX PLANTS UNLESS THE PRIMARY CAREGIVER
5 HAS ONE OR MORE PATIENTS WHO, BASED ON MEDICAL NECESSITY, HAVE
6 AN EXTENDED PLANT COUNT.

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

13 (c) THIS SUBSECTION (8.7) IS REPEALED, EFFECTIVE JANUARY 1,
14 2017.

15 **SECTION 5. Effective date.** This act takes effect July 1, 2016.

16 **SECTION 6. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.