

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

DRAFT  
9.30.14

**BILL 1**

LLS NO. 15-0106.02 Michael Dohr x4347

**INTERIM COMMITTEE BILL**

**Marijuana Revenues Interim Committee**

**BILL TOPIC: "Medical Marijuana"**

**A BILL FOR AN ACT**

101 **CONCERNING MEDICAL 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>.)*

**Marijuana Revenues Interim Committee.** The bill prohibits an existing medical marijuana licensee from transferring his or her marijuana inventory to a new retail marijuana license on and after July 1, 2016.

The bill requires the attorney general to appoint an attorney in the criminal enforcement section to serve as a special prosecutor for all medical marijuana crimes and gives the attorney general concurrent jurisdiction with the appropriate district attorney over those crimes.

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

The bill requires the state health agency to promulgate rules regarding testing medical marijuana and medical marijuana products cultivated or produced by primary caregivers.

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 7 days of being informed of the duty to register. Failure to register is a strict liability offense and is a level 2 or 3 drug felony or a level 1 drug misdemeanor depending on the number of plants.

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 state health agency and the licensing authority shall provide information concerning each primary caregiver, including the number of plants the primary caregiver is authorized to cultivate, to the Colorado crime information center.

The bill allows local government to regulate medical marijuana cultivation by primary caregivers.

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

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

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

6 (b) The sale and use of medical marijuana is limited to those  
7 Colorado residents who have a physician's recommendation that they  
8 have a debilitating medical condition that could benefit from the use of  
9 medical marijuana; and

10 (c) The state imposes a higher tax rate on retail marijuana than on  
11 medical marijuana, as well as an additional excise tax.

12 (2) Therefore, it is important for the state to ensure that those  
13 people who are accessing and engaging in the medical marijuana system  
14 are qualified to do so. Otherwise, the state and local governments will be

1 deprived of valuable tax revenue.

2 (3) Now then, the general assembly hereby enacts the following  
3 protections to ensure that access to the medical marijuana market is  
4 limited to Colorado residents who have a physician's recommendation  
5 that they have a debilitating medical condition that could benefit from the  
6 use of medical marijuana.

7 **SECTION 2.** In Colorado Revised Statutes, 12-43.4-104, **add** (1)  
8 (d) as follows:

9 **12-43.4-104. Applicability - retail marijuana - repeal.**

10 (1) (d) ON AND AFTER JULY 1, 2016, AN APPLICANT WITH AN EXISTING  
11 MEDICAL MARIJUANA LICENSE APPLYING PURSUANT TO THIS SUBSECTION  
12 (1) FOR A RETAIL MARIJUANA LICENSE SHALL NOT TRANSFER THE  
13 APPLICANT'S MEDICAL MARIJUANA INVENTORY TO A NEW RETAIL  
14 MARIJUANA LICENSE.

15 **SECTION 3.** In Colorado Revised Statutes, **amend** 24-31-105 as  
16 follows:

17 **24-31-105. Criminal enforcement section.** (1) There is hereby  
18 established, within the department of law and under the control of the  
19 attorney general, a criminal enforcement section. The criminal  
20 enforcement section or any attorney in the department of law authorized  
21 by the attorney general shall prosecute all criminal cases for the attorney  
22 general and shall perform other functions as may be required by the  
23 attorney general. The attorney general is hereby authorized to appoint a  
24 deputy attorney general as chief of the criminal enforcement section. The  
25 chief of said section shall be a licensed attorney with a minimum of two  
26 years of criminal experience as a trial or appellate prosecutor.

27 (2) THE ATTORNEY GENERAL SHALL APPOINT AN ATTORNEY

1 WITHIN THE CRIMINAL ENFORCEMENT SECTION TO SERVE AS A SPECIAL  
2 PROSECUTOR FOR CRIMES RELATED TO MEDICAL MARIJUANA. THE  
3 ATTORNEY GENERAL HAS CONCURRENT JURISDICTION WITH THE  
4 RELEVANT DISTRICT ATTORNEY OVER ANY CRIMES RELATED TO MEDICAL  
5 MARIJUANA.

6 **SECTION 4.** In Colorado Revised Statutes, 25-1.5-106, **amend**  
7 (3) (a) (VII), (3) (a) (VIII), and (7) (e); and **add** (3) (a) (IX) as follows:

8 **25-1.5-106. Medical marijuana program - powers and duties**  
9 **of state health agency - rules - medical review board - medical**  
10 **marijuana program cash fund - subaccount - created - repeal.** (3)

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

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

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

22 (IX) (A) ESTABLISHING A MEDICAL MARIJUANA AND MEDICAL  
23 MARIJUANA PRODUCTS INDEPENDENT TESTING AND CERTIFICATION  
24 PROGRAM FOR MEDICAL MARIJUANA CULTIVATED OR MEDICAL  
25 MARIJUANA PRODUCTS PRODUCED BY PRIMARY CAREGIVERS WHO SERVE  
26 AT LEAST TWO PATIENTS, WITHIN AN IMPLEMENTATION TIME FRAME  
27 ESTABLISHED BY THE STATE HEALTH AGENCY, WHICH PROGRAM REQUIRES

1 PRIMARY CAREGIVERS TO TEST MARIJUANA TO ENSURE, AT A MINIMUM,  
2 THAT PRODUCTS PRODUCED FOR HUMAN CONSUMPTION DO NOT CONTAIN  
3 CONTAMINANTS THAT ARE INJURIOUS TO HEALTH AND TO ENSURE  
4 CORRECT LABELING.

5 (B) TESTING SHALL INCLUDE, BUT NOT BE LIMITED TO, ANALYSIS  
6 FOR RESIDUAL SOLVENTS OR POISONS, OR TOXINS; HARMFUL CHEMICALS  
7 SUCH AS PESTICIDES; DANGEROUS MOLDS OR MILDEW; FILTH; AND  
8 HARMFUL MICROBIALS SUCH AS E. COLI OR SALMONELLA.

9 (C) IN THE EVENT THAT TEST RESULTS INDICATE THE PRESENCE OF  
10 QUANTITIES OF ANY SUBSTANCE DETERMINED TO BE INJURIOUS TO  
11 HEALTH, THE PRIMARY CAREGIVER SHALL IMMEDIATELY QUARANTINE  
12 SUCH PRODUCTS AND NOTIFY THE STATE HEALTH AGENCY. THE  
13 ADULTERATED PRODUCT SHALL BE DOCUMENTED AND PROPERLY  
14 DESTROYED.

15 (D) TESTING SHALL ALSO VERIFY THC POTENCY  
16 REPRESENTATIONS AND CANNABINOID PROFILES FOR CORRECT LABELING.

17 (E) THE STATE HEALTH AGENCY SHALL DETERMINE AN  
18 ACCEPTABLE VARIANCE FOR POTENCY REPRESENTATIONS AND  
19 PROCEDURES TO ADDRESS POTENCY MISREPRESENTATIONS.

20 (F) THE STATE HEALTH AGENCY SHALL DETERMINE THE  
21 REQUIREMENTS FOR AND FREQUENCY OF MARIJUANA TESTING BY PRIMARY  
22 CAREGIVERS.

23 (7) **Primary caregivers.** (e) (I) (A) A primary caregiver ~~who~~  
24 ~~cultivates medical marijuana for his or her patients~~ shall register the  
25 ~~location of his or her cultivation operation~~ with THE STATE HEALTH  
26 AGENCY AND THE state medical marijuana licensing authority; ~~and~~ SHALL  
27 provide THE LOCATION OF ANY CULTIVATION OPERATION, the registration

1 identification number of each patient, AND THE NUMBER OF PLANTS THAT  
2 THE CAREGIVER IS AUTHORIZED TO CULTIVATE TO THE STATE HEALTH  
3 AGENCY AND the state licensing authority; AND SHALL UPDATE THE  
4 REGISTRATION INFORMATION WITHIN TEN DAYS AFTER ANY OF THE  
5 INFORMATION CHANGES. THE STATE HEALTH AGENCY SHALL ISSUE A  
6 PRIMARY CAREGIVER REGISTRY CARD TO EACH PRIMARY CAREGIVER WHO  
7 REGISTERS. A PERSON MAY NOT REGISTER AS A PRIMARY CAREGIVER IF HE  
8 OR SHE IS LICENSED AS A MEDICAL MARIJUANA BUSINESS AS DESCRIBED  
9 IN PART 4 OF ARTICLE 43.3 OF TITLE 12, C.R.S., OR A RETAIL MARIJUANA  
10 BUSINESS AS DESCRIBED IN PART 4 OF ARTICLE 43.4 OF TITLE 12, C.R.S.

11 (B) A PRIMARY CAREGIVER WHO FAILS TO REGISTER WITH THE  
12 STATE HEALTH AGENCY OR THE STATE LICENSING AUTHORITY SHALL  
13 REGISTER WITH THE APPROPRIATE AGENCY WITHIN SEVEN DAYS OF BEING  
14 INFORMED OF THE DUTY TO REGISTER BY LAW ENFORCEMENT, THE STATE  
15 HEALTH AGENCY, OR THE STATE LICENSING AUTHORITY.

16 (C) FAILURE TO REGISTER PURSUANT TO SUB-SUBPARAGRAPHS (A)  
17 AND (B) OF THIS SUBPARAGRAPH (I) IS A STRICT LIABILITY OFFENSE.  
18 FAILURE TO REGISTER IS A LEVEL 3 DRUG FELONY IF THE OFFENSE  
19 INVOLVES MORE THAN THIRTY PLANTS; A LEVEL 4 DRUG FELONY IF THE  
20 OFFENSE INVOLVES MORE THAN SIX BUT NOT MORE THAN THIRTY PLANTS;  
21 OR A LEVEL 1 DRUG MISDEMEANOR IF THE OFFENSE INVOLVES NOT MORE  
22 THAN SIX PLANTS.

23 (D) IF A PRIMARY CAREGIVER IS CHARGED WITH FAILURE TO  
24 REGISTER, A LAW ENFORCEMENT AGENCY SHALL NOT BE CIVILLY LIABLE  
25 FOR THE LOSS OR DESTRUCTION OF THE PRIMARY CAREGIVER'S MEDICAL  
26 MARIJUANA PLANTS.

27 (II) THE STATE HEALTH AGENCY AND THE STATE MEDICAL

1 MARIJUANA LICENSING AUTHORITY SHALL SHARE THE MINIMUM  
2 NECESSARY INFORMATION, SUCH AS PATIENT AND CAREGIVER  
3 IDENTIFICATION NUMBERS, TO ENSURE THAT A PATIENT DOES NOT HAVE  
4 MORE THAN ONE PRIMARY CAREGIVER, OR HAVE BOTH A CAREGIVER AND  
5 A MEDICAL MARIJUANA CENTER, CULTIVATING MEDICAL MARIJUANA ON  
6 HIS OR HER BEHALF AT ANY GIVEN TIME.

7 (III) THE STATE HEALTH AGENCY, THE MEDICAL MARIJUANA  
8 LICENSING AUTHORITY, AND THE COLORADO DEPARTMENT OF PUBLIC  
9 SAFETY SHALL PROVIDE PRIMARY CAREGIVER INFORMATION TO THE  
10 COLORADO CRIME INFORMATION CENTER, INCLUDING THE NUMBER OF  
11 PLANTS EACH PRIMARY CAREGIVER IS AUTHORIZED TO CULTIVATE.

12 (IV) The information provided to the state medical marijuana  
13 licensing authority AND THE COLORADO DEPARTMENT OF PUBLIC SAFETY  
14 pursuant to this paragraph (e) shall not be provided to the public and ~~shall~~  
15 ~~be~~ IS confidential. The state licensing authority shall verify the location  
16 of a primary caregiver cultivation operation to a local government or law  
17 enforcement agency upon receiving an address-specific request for  
18 verification. The location of the cultivation operation ~~shall~~ MUST comply  
19 with all applicable local laws, rules, or regulations.

20 **SECTION 5.** In Colorado Revised Statutes, 29-20-104, **amend**  
21 (1) (g) and (1) (h); and **add** (1) (i) as follows:

22 **29-20-104. Powers of local governments.** (1) Except as  
23 expressly provided in section 29-20-104.5, the power and authority  
24 granted by this section shall not limit any power or authority presently  
25 exercised or previously granted. Each local government within its  
26 respective jurisdiction has the authority to plan for and regulate the use  
27 of land by:

1 (g) Regulating the use of land on the basis of the impact thereof  
2 on the community or surrounding areas; and

3 (h) Otherwise planning for and regulating the use of land so as to  
4 provide planned and orderly use of land and protection of the  
5 environment in a manner consistent with constitutional rights; AND

6 (i) REGULATING MEDICAL MARIJUANA CULTIVATION BY PRIMARY  
7 CAREGIVERS.

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