

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

BILL A

LLS NO. 15-0106.02 Michael Dohr x4347

SENATE BILL

SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Singer,

Senate Committees

House Committees

A BILL FOR AN ACT

101 CONCERNING MARIJUANA ISSUES THAT ARE NOT REGULATED BY THE
102 DEPARTMENT OF REVENUE.

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.

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.

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.

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
15 deprived of valuable tax revenue.

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

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

8 **12-36-141. Medical marijuana recommendations - rules.** THE
9 BOARD SHALL ADOPT RULES ESTABLISHING GUIDELINES FOR PHYSICIANS
10 MAKING MEDICAL MARIJUANA RECOMMENDATIONS FOR PATIENTS WHO
11 SUFFER FROM SEVERE PAIN.

12 **SECTION 3.** In Colorado Revised Statutes, 25-1.5-106, **amend**
13 (3) (a) (VII), (3) (a) (VIII), (7) (e), and (8) (a); and **add** (3) (a) (IX) as
14 follows:

15 **25-1.5-106. Medical marijuana program - powers and duties**
16 **of state health agency - rules - medical review board - medical**
17 **marijuana program cash fund - subaccount - created - repeal.**

18 (3) **Rule-making.** (a) The state health agency shall, pursuant to section
19 14 of article XVIII of the state constitution, promulgate rules of
20 administration concerning the implementation of the medical marijuana
21 program that specifically govern the following:

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

26 (VIII) A waiver process to allow a homebound patient who is on
27 the registry to have a primary caregiver transport the patient's medical

1 marijuana from a licensed medical marijuana center to the patient; AND
2 (IX) GUIDELINES FOR PRIMARY CAREGIVERS TO GIVE INFORMED
3 CONSENT TO PATIENTS THAT THE PRODUCTS THEY CULTIVATE OR PRODUCE
4 MAY CONTAIN CONTAMINANTS AND THAT THE THC LEVELS ARE NOT
5 VERIFIED.

6 (7) **Primary caregivers.** (e) (I) (A) A primary caregiver ~~who~~
7 ~~cultivates medical marijuana for his or her patients~~ shall register the
8 ~~location of his or her cultivation operation~~ with THE STATE HEALTH
9 AGENCY AND THE state medical marijuana licensing authority; ~~and~~ SHALL
10 provide THE LOCATION OF ANY CULTIVATION OPERATION, the registration
11 identification number of each patient, AND THE NUMBER OF PLANTS THAT
12 THE CAREGIVER IS AUTHORIZED TO CULTIVATE TO THE STATE HEALTH
13 AGENCY AND the state licensing authority; AND SHALL UPDATE THE
14 REGISTRATION INFORMATION WITHIN TEN DAYS AFTER ANY OF THE
15 INFORMATION CHANGES. THE STATE HEALTH AGENCY SHALL ISSUE A
16 PRIMARY CAREGIVER REGISTRY CARD TO EACH PRIMARY CAREGIVER WHO
17 REGISTERS. A PERSON MAY NOT REGISTER AS A PRIMARY CAREGIVER IF HE
18 OR SHE IS LICENSED AS A MEDICAL MARIJUANA BUSINESS AS DESCRIBED IN
19 PART 4 OF ARTICLE 43.3 OF TITLE 12, C.R.S., OR A RETAIL MARIJUANA
20 BUSINESS AS DESCRIBED IN PART 4 OF ARTICLE 43.4 OF TITLE 12, C.R.S.

21 (B) A PRIMARY CAREGIVER WHO FAILS TO REGISTER WITH THE
22 STATE HEALTH AGENCY OR THE STATE MEDICAL MARIJUANA LICENSING
23 AUTHORITY SHALL REGISTER WITH THE APPROPRIATE AGENCY WITHIN TEN
24 DAYS OF BEING INFORMED OF THE DUTY TO REGISTER BY LAW
25 ENFORCEMENT, THE STATE HEALTH AGENCY, OR THE STATE LICENSING
26 AUTHORITY.

27 (C) IF A PERSON FAILS TO REGISTER PURSUANT TO

1 SUB-SUBPARAGRAPHS (A) AND (B) OF THIS SUBPARAGRAPH (I), THE STATE
2 HEALTH AGENCY AND THE STATE MEDICAL MARIJUANA LICENSING
3 AUTHORITY SHALL PROHIBIT THE PERSON FROM EVER REGISTERING AND
4 ACTING AS A PRIMARY CAREGIVER. THE PERSON SHALL BE SUBJECT TO ANY
5 CHARGEABLE CRIMINAL OFFENSES.

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

10 (II) THE STATE HEALTH AGENCY AND THE STATE MEDICAL
11 MARIJUANA LICENSING AUTHORITY SHALL SHARE THE MINIMUM
12 NECESSARY INFORMATION AS ALLOWED BY THE FEDERAL "HEALTH
13 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB. L.
14 104-191, AS AMENDED, SUCH AS PATIENT AND CAREGIVER IDENTIFICATION
15 NUMBERS, TO ENSURE THAT A PATIENT DOES NOT HAVE MORE THAN ONE
16 PRIMARY CAREGIVER, OR HAVE BOTH A CAREGIVER AND A MEDICAL
17 MARIJUANA CENTER, CULTIVATING MEDICAL MARIJUANA ON HIS OR HER
18 BEHALF AT ANY GIVEN TIME.

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

27 (8) **Patient - primary caregiver relationship.** (a) (I) A person

1 shall be listed as a primary caregiver for no more than five patients on the
2 medical marijuana program registry at any given time; except that the
3 state health agency may allow a primary caregiver to serve more than five
4 patients in exceptional circumstances. In determining whether exceptional
5 circumstances exist, the state health agency may consider the proximity
6 of medical marijuana centers to the patient.

7 (II) A PRIMARY CAREGIVER MAY NOT CULTIVATE MORE THAN SIX
8 PLANTS FOR EACH PATIENT REGISTERED TO THE CAREGIVER AT ANY GIVEN
9 TIME. THE STATE HEALTH AGENCY SHALL VERIFY THROUGH THE
10 EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE ALL MEDICALLY
11 NECESSARY EXTENDED PLANT COUNTS. A primary caregiver shall maintain
12 a list of his or her patients including the registry identification card
13 number of each patient at all times.

14 **SECTION 4.** In Colorado Revised Statutes, 39-28.8-501, **amend**
15 (2) (b) (XIV) and (2) (b) (XV); and **add** (2) (b) (XVI) as follows:

16 **39-28.8-501. Marijuana tax cash fund - creation - distribution**
17 **- repeal.** (2) (b) Subject to the limitations in subsection (5) of this
18 section, any moneys in the fund that are not appropriated to the
19 department of revenue pursuant to paragraph (a) of this subsection (2) are
20 subject to annual appropriation by the general assembly for any fiscal year
21 following the fiscal year in which they were received by the state. The
22 general assembly shall initially appropriate moneys in the fund based on
23 the most recent estimate of revenue prepared by the staff of the legislative
24 council or the department of revenue for the applicable fiscal year. The
25 general assembly may appropriate moneys in the fund for the following
26 purposes:

27 (XIV) The industrial hemp grant research program created in

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

2 (XV) For the start-up expenses of the division of financial
3 services related to the regulation of marijuana financial services
4 cooperatives pursuant to article 33 of title 11, C.R.S., and until the state
5 commissioner of financial services first collects assessments on such
6 cooperatives; AND

7 (XVI) FOR THE IMPLEMENTATION OF LEGISLATION APPROVED BY
8 THE MARIJUANA REVENUES INTERIM COMMITTEE DURING THE 2014
9 INTERIM.

10 **SECTION 5. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.