

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

BILL B

LLS NO. 15-0107.01 Nicole Myers x4326

HOUSE BILL

HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

(None),

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF CERTAIN LOCAL GOVERNMENTS TO**
102 **IMPLEMENT SPECIFIED TAXES ON RETAIL MARIJUANA SUBJECT**
103 **TO 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

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.

levy the standard county or municipal sales tax on the sale of retail 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 and
3 29-2-115 as follows:

4 **29-2-114. Retail marijuana sales tax - county - municipality -**
5 **election.** (1) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
6 SECTION 29-2-103 AND ARTICLES 26 AND 28.8 OF TITLE 39, C.R.S., AND

1 NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), EACH
2 COUNTY IN THE STATE IS AUTHORIZED TO LEVY, COLLECT, AND ENFORCE
3 A COUNTY SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL
4 MARIJUANA PRODUCTS BY A RETAILER. A COUNTY MAY LEVY, COLLECT,
5 AND ENFORCE A SALES TAX PURSUANT TO THIS SUBSECTION (1), IN WHOLE
6 OR IN PART, IN LESS THAN THE ENTIRE COUNTY WHEN THE CONDITIONS
7 SPECIFIED IN SECTION 29-2-103 (2) (b) AND (2) (c) ARE SATISFIED.

8 (b) NO SALES TAX SHALL BE LEVIED PURSUANT TO THE PROVISIONS
9 OF PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL THE PROPOSAL HAS BEEN
10 REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE COUNTY
11 IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE. ANY PROPOSAL
12 FOR THE LEVY OF A SALES TAX IN ACCORDANCE WITH PARAGRAPH (a) OF
13 THIS SUBSECTION (1) MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF
14 THE COUNTY ONLY ON THE DATE OF THE STATE GENERAL ELECTION OR ON
15 THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR, AND ANY
16 ELECTION ON THE PROPOSAL MUST BE CONDUCTED BY THE COUNTY CLERK
17 AND RECORDER IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF
18 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S.

19 (2) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
20 SECTION 29-2-102 AND ARTICLES 26 AND 28.8 OF TITLE 39, C.R.S., AND
21 NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), EACH
22 MUNICIPALITY IN THE STATE IS AUTHORIZED TO LEVY, COLLECT, AND
23 ENFORCE A MUNICIPAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA
24 AND RETAIL MARIJUANA PRODUCTS BY A RETAILER.

25 (b) NO SALES TAX SHALL BE LEVIED PURSUANT TO THE PROVISIONS
26 OF PARAGRAPH (a) OF THIS SUBSECTION (2) UNTIL THE PROPOSAL HAS BEEN
27 REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE

1 MUNICIPALITY IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 10 OF
2 TITLE 31, C.R.S. ANY PROPOSAL FOR THE LEVY OF A SALES TAX IN
3 ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) MAY BE
4 SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY ON THE
5 DATE OF THE STATE GENERAL ELECTION, ON THE FIRST TUESDAY IN
6 NOVEMBER OF AN ODD-NUMBERED YEAR, OR ON THE DATE OF A
7 MUNICIPAL BIENNIAL ELECTION. ANY ELECTION ON THE PROPOSAL MUST
8 BE CONDUCTED BY THE CLERK OF THE MUNICIPALITY IN ACCORDANCE
9 WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10
10 OF TITLE 31, C.R.S.

11 (3) (a) NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE, ANY
12 RETAIL MARIJUANA SALES TAX IMPOSED BY A COUNTY OR MUNICIPALITY
13 PURSUANT TO THIS SECTION SHALL NOT BE COLLECTED, ADMINISTERED, OR
14 ENFORCED BY THE DEPARTMENT OF REVENUE, BUT SHALL INSTEAD BE
15 COLLECTED, ADMINISTERED, AND ENFORCED BY THE COUNTY OR
16 MUNICIPALITY IMPOSING THE TAX.

17 (b) A COUNTY OR MUNICIPALITY IN WHICH A TAX IS IMPOSED
18 PURSUANT TO THIS SECTION MAY AUTHORIZE A RETAIL MARIJUANA STORE
19 TO RETAIN A PERCENTAGE, TO BE DETERMINED BY THE COUNTY OR
20 MUNICIPALITY, OF THE RETAIL MARIJUANA SALES TAX COLLECTED
21 PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION TO COVER THE
22 EXPENSES OF COLLECTING AND REMITTING THE TAX TO THE COUNTY OR
23 MUNICIPALITY.

24 (4) A COUNTY OR MUNICIPALITY IN WHICH THE ELIGIBLE ELECTORS
25 HAVE APPROVED A SALES TAX PURSUANT TO THIS SECTION MAY CREDIT
26 THE REVENUES COLLECTED FROM THE TAX TO THE GENERAL FUND OF THE
27 COUNTY OR MUNICIPALITY OR TO ANY SPECIAL FUND CREATED IN THE

1 COUNTY OR MUNICIPALITY'S TREASURY. THE GOVERNING BODY OF A
2 COUNTY OR MUNICIPALITY MAY USE THE REVENUES COLLECTED FROM THE
3 TAX IMPOSED PURSUANT TO THIS SECTION FOR ANY PURPOSE AS
4 DETERMINED BY THE GOVERNING BODY OR THE ELECTORS OF THE COUNTY
5 OR MUNICIPALITY, AS APPLICABLE.

6 (5) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED
7 TO INVALIDATE THE PRESUMED LEGALITY OF ANY COUNTY OR MUNICIPAL
8 SALES TAX IMPOSED ON THE SALE OF RETAIL OR MEDICAL MARIJUANA,
9 RETAIL OR MEDICAL MARIJUANA PRODUCTS, OR RETAIL OR MEDICAL
10 MARIJUANA PARAPHERNALIA THAT IS IN ADDITION TO ANY SALES TAX
11 IMPOSED PURSUANT TO SECTION 29-2-103 AND ARTICLES 26 AND 28.8 OF
12 TITLE 39, C.R.S., AND THAT WAS APPROVED BY THE ELIGIBLE ELECTORS
13 OF THE COUNTY OR MUNICIPALITY PRIOR TO THE EFFECTIVE DATE OF THIS
14 SUBSECTION (5).

15 **29-2-115. Retail marijuana excise tax - county - municipality**
16 **- election.** (1) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
17 SECTIONS 29-2-103 AND 29-2-114 (1) AND ARTICLES 26 AND 28.8 OF TITLE
18 39, C.R.S., AND IN ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO
19 ARTICLE 28.8 OF TITLE 39, C.R.S., EACH COUNTY IN THE STATE IS
20 AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A COUNTY EXCISE TAX ON
21 THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A
22 RETAIL MARIJUANA CULTIVATION FACILITY. THE TAX SHALL BE IMPOSED
23 AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST
24 SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL
25 MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
26 MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER
27 RETAIL MARIJUANA CULTIVATION FACILITY.

1 (b) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE
2 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL THE
3 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE
4 ELECTORS OF THE COUNTY. THE ADOPTION PROCEDURES FOR A
5 COUNTYWIDE SALES TAX, USE TAX, OR BOTH, AS SPECIFIED IN THIS
6 ARTICLE, SHALL APPLY TO THE REFERRAL AND APPROVAL OF AN EXCISE
7 TAX PURSUANT TO THIS SUBSECTION (1). ANY PROPOSAL FOR THE LEVY OF
8 AN EXCISE TAX IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION
9 (1) MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE COUNTY ONLY
10 ON THE DATE OF THE STATE GENERAL ELECTION OR ON THE FIRST TUESDAY
11 IN NOVEMBER OF AN ODD-NUMBERED YEAR, AND ANY ELECTION ON THE
12 PROPOSAL MUST BE CONDUCTED BY THE COUNTY CLERK AND RECORDER
13 IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF 1992", ARTICLES
14 1 TO 13 OF TITLE 1, C.R.S.

15 (2) (a) IN ADDITION TO ANY SALES TAX IMPOSED PURSUANT TO
16 SECTIONS 29-2-102 AND 29-2-114 (2) AND ARTICLES 26 AND 28.8 OF TITLE
17 39, C.R.S., AND IN ADDITION TO THE EXCISE TAX IMPOSED PURSUANT TO
18 ARTICLE 28.8 OF TITLE 39, C.R.S., EACH MUNICIPALITY IN THE STATE IS
19 AUTHORIZED TO LEVY, COLLECT, AND ENFORCE A MUNICIPAL EXCISE TAX
20 ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY
21 A RETAIL MARIJUANA CULTIVATION FACILITY. THE TAX SHALL BE IMPOSED
22 AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST
23 SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL
24 MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT
25 MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER
26 RETAIL MARIJUANA CULTIVATION FACILITY.

27 (b) NO EXCISE TAX SHALL BE LEVIED PURSUANT TO THE

1 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) UNTIL THE
2 PROPOSAL HAS BEEN REFERRED TO AND APPROVED BY THE ELIGIBLE
3 ELECTORS OF THE MUNICIPALITY IN ACCORDANCE WITH THE PROVISIONS
4 OF ARTICLE 10 OF TITLE 31, C.R.S. ANY PROPOSAL FOR THE LEVY OF AN
5 EXCISE TAX IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2)
6 MAY BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY ON
7 THE DATE OF THE STATE GENERAL ELECTION, ON THE FIRST TUESDAY IN
8 NOVEMBER OF AN ODD-NUMBERED YEAR, OR ON THE DATE OF A
9 MUNICIPAL BIENNIAL ELECTION. ANY ELECTION ON THE PROPOSAL SHALL
10 BE CONDUCTED BY THE CLERK OF THE MUNICIPALITY IN ACCORDANCE
11 WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10
12 OF TITLE 31, C.R.S.

13 (3) ANY EXCISE TAX IMPOSED BY A COUNTY OR MUNICIPALITY
14 PURSUANT TO THIS SECTION SHALL NOT BE COLLECTED, ADMINISTERED, OR
15 ENFORCED BY THE DEPARTMENT OF REVENUE, BUT SHALL INSTEAD BE
16 COLLECTED, ADMINISTERED, AND ENFORCED BY THE COUNTY OR
17 MUNICIPALITY IMPOSING THE TAX.

18 (4) A COUNTY OR MUNICIPALITY IN WHICH THE ELIGIBLE ELECTORS
19 HAVE APPROVED AN EXCISE TAX PURSUANT TO THIS SECTION MAY CREDIT
20 THE REVENUES COLLECTED FROM THE TAX TO THE GENERAL FUND OF THE
21 COUNTY OR MUNICIPALITY OR TO ANY SPECIAL FUND CREATED IN THE
22 COUNTY OR MUNICIPALITY'S TREASURY. THE GOVERNING BODY OF A
23 COUNTY OR MUNICIPALITY MAY USE THE REVENUES COLLECTED FROM THE
24 TAX IMPOSED PURSUANT TO THIS SECTION FOR ANY PURPOSE AS
25 DETERMINED BY THE GOVERNING BODY OR THE ELECTORS OF THE COUNTY
26 OR MUNICIPALITY, AS APPLICABLE.

27 (5) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED

1 TO INVALIDATE THE PRESUMED LEGALITY OF ANY COUNTY OR MUNICIPAL
2 EXCISE TAX IMPOSED ON THE FIRST SALE OR TRANSFER OF UNPROCESSED
3 RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY THAT
4 IS IN ADDITION TO ANY EXCISE TAX IMPOSED PURSUANT TO ARTICLE 28.8
5 OF TITLE 39, C.R.S., AND THAT WAS APPROVED BY THE ELIGIBLE ELECTORS
6 OF THE COUNTY OR MUNICIPALITY PRIOR TO THE EFFECTIVE DATE OF THIS
7 SUBSECTION (5).

8 **SECTION 2. Applicability.** This act applies to retail marijuana
9 sales and excise taxes levied by a county or municipality on or after
10 January 1, 2014.

11 **SECTION 3. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.