

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 17-0787.01 Nicole Myers x4326

HOUSE BILL 17-1203

HOUSE SPONSORSHIP

Lebsock,

SENATE SPONSORSHIP

Martinez Humenik and Crowder,

House Committees

Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF CERTAIN LOCAL GOVERNMENTS TO**
102 **LEVY A SPECIAL SALES TAX ON RETAIL MARIJUANA IN CERTAIN**
103 **CIRCUMSTANCES SUBJECT TO VOTER APPROVAL BY THE**
104 **ELIGIBLE ELECTORS OF THE LOCAL 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://leg.colorado.gov>.)

The Colorado court of appeals has held that current law does not authorize counties to levy and collect a sales tax on retail marijuana and retail marijuana products in addition to any sales tax imposed by the state

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 23, 2017

and the standard sales tax imposed by the county (special sales tax). Current law is also silent regarding the authority of a statutory municipality (municipality) to collect a special sales tax on retail marijuana and retail marijuana products. The bill authorizes counties and municipalities to levy, collect, and enforce a special sales tax on retail marijuana and retail marijuana products; except that a county may levy, collect, and enforce a special sales tax on retail marijuana and retail marijuana products only under the following circumstances:

- ! The county levies, collects, and enforces a special sales tax upon all sales of retail marijuana and retail marijuana products in the unincorporated areas of the county;
- ! The county levies, collects, and enforces a special sales tax upon all sales of retail marijuana and retail marijuana products in the municipalities within the county that do not levy a special sales tax on the sale of retail marijuana and retail marijuana products. The county special sales tax is authorized only until the municipality obtains voter approval for a special municipal tax on the sale of retail marijuana and retail marijuana products. After such time, any county special sales tax is invalid within the corporate boundaries of the municipality unless the county enters into an intergovernmental agreement with the municipality to allow the county to continue to levy, collect, and enforce the county's special sales tax.
- ! The governing body of any county and the governing body of any municipality within the boundaries of the county that levies a municipal special sales tax on the sale of retail marijuana and retail marijuana products enter into an intergovernmental agreement pertaining to the county's levy, collection, and enforcement of a special sales tax upon all sales of all retail marijuana and retail marijuana products. The intergovernmental agreement may include a provision for the apportionment of a specified percentage of the gross retail marijuana special sales tax revenue collected by the county to the municipality.

The bill specifies that a county or a municipality may not levy a special sales tax under any circumstance 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 must 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, in the case of a municipality, on the date of a municipal biennial election.

The bill specifies that if a county or municipality obtained voter approval prior to the effective date of the bill to levy, collect, and enforce a special sales tax upon the sale of retail marijuana and retail marijuana

products, the tax is valid; except that, for a county, the tax is valid only so long as the county complies with the conditions specified in the bill. If the county levies, collects, and enforces such tax in a municipality that has already obtained voter approval to levy a special sales tax on the sale of retail marijuana and retail marijuana products, the county's special sales tax is invalid unless the county enters into an intergovernmental agreement with the municipality.

Any special sales tax on retail marijuana and retail marijuana products 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 a special sales tax on the sale of retail marijuana and retail marijuana products may credit the revenues collected from the tax 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 tax for any purpose as determined by the governing body of the county or municipality.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 29-2-115 as
3 follows:

4 **29-2-115. Retail marijuana sales tax - county - municipality -**
5 **election - definition.** (1) FOR PURPOSES OF THIS SECTION, "SPECIAL SALES
6 TAX" MEANS A **SALES** TAX IMPOSED BY A LOCAL GOVERNMENT IN
7 ADDITION TO THE GENERAL SALES TAX IMPOSED PURSUANT TO SECTION
8 29-2-102 OR SECTION 29-2-103, AS APPLICABLE, AND IN ADDITION TO THE
9 TAXES IMPOSED PURSUANT TO ARTICLES 26 AND 28.8 OF TITLE 39.

10 (2) (a) EACH COUNTY IN THE STATE IS AUTHORIZED TO LEVY,
11 COLLECT, AND ENFORCE A COUNTY SPECIAL SALES TAX UPON ALL SALES
12 OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AS THOSE
13 TERMS ARE DEFINED IN SECTION 12-43.4-103, UNDER THE FOLLOWING
14 CIRCUMSTANCES:

1 (I) A COUNTY MAY LEVY, COLLECT, AND ENFORCE A COUNTY
2 SPECIAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL
3 MARIJUANA PRODUCTS PURSUANT TO THIS SUBSECTION (2) IN THE
4 UNINCORPORATED AREAS OF THE COUNTY;

5 (II) A COUNTY MAY LEVY, COLLECT, AND ENFORCE A COUNTY
6 SPECIAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL
7 MARIJUANA PRODUCTS PURSUANT TO THIS SUBSECTION (2) IN THE
8 MUNICIPALITIES WITHIN THE BOUNDARIES OF THE COUNTY, IN WHOLE OR
9 IN PART, THAT DO NOT LEVY A MUNICIPAL SPECIAL SALES TAX ON THE SALE
10 OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS. THE COUNTY
11 MAY LEVY A SPECIAL SALES TAX IN A MUNICIPALITY PURSUANT TO THIS
12 SUBSECTION (2)(a)(II) ONLY UNTIL THE MUNICIPALITY OBTAINS VOTER
13 APPROVAL TO LEVY A MUNICIPAL SPECIAL SALES TAX ON RETAIL
14 MARIJUANA AND RETAIL MARIJUANA PRODUCTS. IF THE MUNICIPALITY
15 OBTAINS SUCH VOTER APPROVAL, THE COUNTY SPECIAL SALES TAX
16 AUTHORIZED BY THIS SUBSECTION (2)(a)(II) IS INVALID WITHIN THE
17 CORPORATE LIMITS OF THE MUNICIPALITY UNLESS THE COUNTY ENTERS
18 INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE MUNICIPALITY
19 PURSUANT TO SUBSECTION (2)(a)(III) OF THIS SECTION THAT AUTHORIZES
20 THE COUNTY TO CONTINUE TO LEVY, COLLECT, AND ENFORCE THE SPECIAL
21 SALES TAX ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS
22 WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY.

23 (III) A COUNTY MAY LEVY, COLLECT, AND ENFORCE A COUNTY
24 SPECIAL SALES TAX UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL
25 MARIJUANA PRODUCTS PURSUANT TO THIS SUBSECTION (2) IN EACH
26 MUNICIPALITY WITHIN THE BOUNDARIES OF THE COUNTY, IN WHOLE OR IN
27 PART, THAT LEVIES A MUNICIPAL SPECIAL SALES TAX ON THE SALES OF

1 RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, IF THE GOVERNING
2 BODY OF THE COUNTY AND THE GOVERNING BODY OF THE MUNICIPALITY
3 ENTER INTO AN INTERGOVERNMENTAL AGREEMENT PERTAINING TO THE
4 COUNTY'S LEVY, COLLECTION, AND ENFORCEMENT OF A COUNTY SPECIAL
5 SALES TAX UPON ALL SALES OF ALL RETAIL MARIJUANA AND RETAIL
6 MARIJUANA PRODUCTS WITHIN THE CORPORATE LIMITS OF THE
7 MUNICIPALITY. AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO THIS
8 SUBSECTION (2)(a)(III) MAY INCLUDE A PROVISION FOR THE
9 APPORTIONMENT OF A SPECIFIED PERCENTAGE OF THE GROSS COUNTY
10 RETAIL MARIJUANA SPECIAL SALES TAX REVENUE COLLECTED BY THE
11 COUNTY TO THE MUNICIPALITY.

12 (b) NOTWITHSTANDING SECTION 29-2-103 (2), A COUNTY MAY
13 LEVY, COLLECT, AND ENFORCE A SPECIAL SALES TAX PURSUANT TO THIS
14 SUBSECTION (2) IN LESS THAN THE ENTIRE COUNTY WHEN THE COUNTY
15 SATISFIES ONE OR MORE OF THE CONDITIONS OF THIS SUBSECTION (2).

16 (c) NO SPECIAL SALES TAX SHALL BE LEVIED PURSUANT TO THIS
17 SUBSECTION (2) UNTIL THE PROPOSAL HAS BEEN REFERRED TO AND
18 APPROVED BY THE ELIGIBLE ELECTORS OF THE COUNTY IN ACCORDANCE
19 WITH THIS ARTICLE 2. ANY PROPOSAL FOR THE LEVY OF A SPECIAL SALES
20 TAX IN ACCORDANCE WITH THIS SUBSECTION (2) MAY BE SUBMITTED TO
21 THE ELIGIBLE ELECTORS OF THE COUNTY ONLY ON THE DATE OF THE STATE
22 GENERAL ELECTION OR ON THE FIRST TUESDAY IN NOVEMBER OF AN
23 ODD-NUMBERED YEAR. ANY ELECTION ON THE PROPOSAL MUST BE
24 CONDUCTED BY THE COUNTY CLERK AND RECORDER IN ACCORDANCE WITH
25 THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF TITLE 1.

26 (3)(a) EACH MUNICIPALITY IN THE STATE IS AUTHORIZED TO LEVY,
27 COLLECT, AND ENFORCE A MUNICIPAL SPECIAL SALES TAX UPON ALL SALES

1 OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AS THOSE
2 TERMS ARE DEFINED IN SECTION 12-43.4-103.

3 (b) NO SPECIAL SALES TAX SHALL BE LEVIED PURSUANT TO
4 SUBSECTION (3)(a) OF THIS SECTION UNTIL THE PROPOSAL HAS BEEN
5 REFERRED TO AND APPROVED BY THE ELIGIBLE ELECTORS OF THE
6 MUNICIPALITY IN ACCORDANCE WITH ARTICLE 10 OF TITLE 31. ANY
7 PROPOSAL FOR THE LEVY OF A SPECIAL SALES TAX IN ACCORDANCE WITH
8 SUBSECTION (3)(a) OF THIS SECTION MUST BE SUBMITTED TO THE ELIGIBLE
9 ELECTORS OF THE MUNICIPALITY ON THE DATE OF THE STATE GENERAL
10 ELECTION, ON THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED
11 YEAR, OR ON THE DATE OF A MUNICIPAL BIENNIAL ELECTION. ANY
12 ELECTION ON THE PROPOSAL MUST BE CONDUCTED BY THE CLERK OF THE
13 MUNICIPALITY IN ACCORDANCE WITH THE "COLORADO MUNICIPAL
14 ELECTION CODE OF 1965", ARTICLE 10 OF TITLE 31.

15 (4) IF A COUNTY OR MUNICIPALITY OBTAINED APPROVAL FROM THE
16 ELIGIBLE ELECTORS OF THE COUNTY OR MUNICIPALITY PRIOR TO THE
17 EFFECTIVE DATE OF THIS SECTION TO LEVY, COLLECT, AND ENFORCE A
18 SPECIAL SALES TAX ON THE SALE OF RETAIL MARIJUANA AND RETAIL
19 MARIJUANA PRODUCTS, THE SPECIAL SALES TAX IS VALID AND THE COUNTY
20 OR MUNICIPALITY IS AUTHORIZED TO CONTINUE TO LEVY, COLLECT, AND
21 ENFORCE THE SPECIAL SALES TAX; EXCEPT THAT, IN THE CASE OF A
22 COUNTY, THE COUNTY IS AUTHORIZED TO CONTINUE TO LEVY, COLLECT,
23 AND ENFORCE THE SPECIAL SALES TAX SO LONG AS THE COUNTY COMPLIES
24 WITH SUBSECTION (2) OF THIS SECTION. IF A COUNTY LEVIES, COLLECTS,
25 AND ENFORCES A SPECIAL SALES TAX IN A MUNICIPALITY THAT HAS
26 ALREADY OBTAINED VOTER APPROVAL TO LEVY A MUNICIPAL SPECIAL
27 SALES TAX ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA

1 PRODUCTS, THE COUNTY SPECIAL SALES TAX IS INVALID WITHIN THE
2 CORPORATE LIMITS OF THE MUNICIPALITY UNLESS THE COUNTY ENTERS
3 INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE MUNICIPALITY
4 PURSUANT TO SUBSECTION (2)(a)(III) OF THIS SECTION THAT AUTHORIZES
5 THE COUNTY TO CONTINUE TO LEVY, COLLECT, AND ENFORCE THE SPECIAL
6 SALES TAX ON RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS
7 WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY.

8 (5) (a) NOTWITHSTANDING THIS ARTICLE 2, ANY RETAIL
9 MARIJUANA SPECIAL SALES TAX IMPOSED BY A COUNTY OR MUNICIPALITY
10 PURSUANT TO THIS SECTION SHALL NOT BE COLLECTED, ADMINISTERED, OR
11 ENFORCED BY THE DEPARTMENT OF REVENUE, BUT SHALL INSTEAD BE
12 COLLECTED, ADMINISTERED, AND ENFORCED BY THE COUNTY OR
13 MUNICIPALITY IMPOSING THE SPECIAL SALES TAX.

14 (b) A COUNTY OR MUNICIPALITY IN WHICH A SPECIAL SALES TAX
15 IS IMPOSED PURSUANT TO THIS SECTION MAY AUTHORIZE A RETAIL
16 MARIJUANA STORE TO RETAIN A PERCENTAGE OF THE RETAIL MARIJUANA
17 SPECIAL SALES TAX COLLECTED PURSUANT TO THIS SECTION TO COVER THE
18 EXPENSES OF COLLECTING AND REMITTING THE SPECIAL SALES TAX TO THE
19 COUNTY OR MUNICIPALITY. THE COUNTY OR MUNICIPALITY SHALL
20 DETERMINE THE PERCENTAGE THAT A RETAIL MARIJUANA STORE MAY
21 RETAIN PURSUANT TO THIS SUBSECTION (5)(b).

22 (6) A COUNTY OR MUNICIPALITY IN WHICH THE ELIGIBLE ELECTORS
23 HAVE APPROVED A SPECIAL SALES TAX PURSUANT TO THIS SECTION MAY
24 CREDIT THE REVENUES COLLECTED FROM THE SPECIAL SALES TAX TO THE
25 GENERAL FUND OF THE COUNTY OR MUNICIPALITY OR TO ANY SPECIAL
26 FUND CREATED IN THE COUNTY OR MUNICIPALITY'S TREASURY. THE
27 GOVERNING BODY OF A COUNTY OR MUNICIPALITY MAY USE THE

1 REVENUES COLLECTED FROM THE SPECIAL SALES TAX IMPOSED PURSUANT
2 TO THIS SECTION FOR ANY PURPOSE AS DETERMINED BY THE GOVERNING
3 BODY OF THE COUNTY OR THE MUNICIPALITY.

4 **SECTION 2. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.