

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-1025.01 Thomas Morris x4218

SENATE BILL 17-275

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SENATE SPONSORSHIP

Baumgardner and Jahn,

HOUSE SPONSORSHIP

(None),

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Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

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A BILL FOR AN ACT

101 CONCERNING MARIJUANA, AND, IN CONNECTION THEREWITH,  
102 AUTHORIZING RESEARCH REGARDING THE SAFETY AND  
103 EFFICACY OF MEDICAL MARIJUANA AND THE SAFE AND  
104 EFFECTIVE USE OF PESTICIDES AND ESTABLISHING INTERIM  
105 STANDARDS FOR THE USE OF PESTICIDES.

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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>.)*

**Section 1** of the bill directs the department of public health and environment to use marijuana taxes to make research grants regarding 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.*

medical efficacy of Colorado-grown strains of medical marijuana and requires the person appointed to the scientific advisory council who represents medical marijuana patient interests to have scientific expertise. **Sections 2 and 3** allow a licensed medical or retail marijuana facility to transfer marijuana to a research facility for purposes of the medical research.

Sections 2 and 3 also allow the use of medical or retail marijuana by a pesticide manufacturer in limited quantities as specified in rules promulgated by the state licensing authority that authorize a pesticide manufacturer to conduct research to establish safe and effective protocols for the use of pesticides on medical or retail marijuana.

**Sections 4 and 5** allow medical and retail marijuana cultivators to use a pesticide in the cultivation and production of marijuana if the pesticide:

- ! Is exempt from registration pursuant to federal law; can be used on crop group 19, hops, or unspecified crops or plants; or has been listed by the Organic Materials Review Institute;
- ! Has affixed to it a label that allows the pesticide to be used at the intended site of application; and
- ! Has affixed to it a label that allows the pesticide to be used on crops and plants intended for human consumption.

Once the department has certified marijuana test laboratories, if a test result indicates the presence of unauthorized pesticides, the state licensing authority shall allow the licensee to provide a sample for further testing. If no further testing occurs or if the second test indicates the presence of unauthorized pesticides, the licensee shall destroy the product. In determining whether the marijuana is contaminated with pesticides, the state licensing authority shall reasonably consider:

- ! The analytical variability and sensitivity in testing results;
- ! How the marijuana was grown or produced;
- ! Whether the cultivator actually applied unauthorized pesticides; and
- ! Whether the amount of pesticide falls within a reasonable tolerance based on scientific research.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-1.5-106.5, **amend**  
3 (3)(a)(I) introductory portion and (5) as follows:

4 **25-1.5-106.5. Medical marijuana health research grant**  
5 **program. (3) Review of applications. (a) (I) Scientific advisory**

1 **council.** In order to ensure objectivity in evaluating research proposals,  
2 the grant program shall establish a scientific advisory council, referred to  
3 in this section as the "council", to provide a peer review process that  
4 guards against funding research that is biased in favor of or against  
5 particular outcomes. The executive director of the department shall  
6 appoint at least six members and no more than thirteen members to the  
7 council to provide policy guidance in the creation and implementation of  
8 the grant program and in scientific oversight and review. The chief  
9 medical officer of the department, or his or her designee, is also a  
10 member of the council and is chair of the council. ~~Except for the~~  
11 ~~representative specified in sub-subparagraph (L) of this subparagraph (I),~~  
12 The executive director shall choose members on the basis of their  
13 expertise in the scientific substance and methods of the proposed research  
14 and for their lack of bias or conflict of interest regarding the applicants  
15 or the topic of an approach taken in the proposed research and may  
16 choose members from around the country. Members of the council must  
17 include the following types of experts:

18 (5) **Sources of marijuana.** (a) The attorney general shall seek  
19 authority from the federal government to permit Colorado institutions of  
20 higher education to contract with the national institute of drug abuse to  
21 cultivate marijuana and its component parts for use in research studies  
22 funded pursuant to this section.

23 (b) A PERSON WHO HOLDS AN OPTIONAL PREMISES CULTIVATION  
24 LICENSE OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING  
25 LICENSE ISSUED PURSUANT TO PART 4 OF ARTICLE 43.3 OF TITLE 12 OR A  
26 RETAIL MARIJUANA CULTIVATION FACILITY LICENSE OR A RETAIL  
27 MARIJUANA PRODUCTS MANUFACTURING LICENSE ISSUED PURSUANT TO

1 PART 4 OF ARTICLE 43.4 OF TITLE 12 MAY TRANSFER MARIJUANA TO A  
2 MEDICAL RESEARCH FACILITY, INCLUDING AT AN INSTITUTION OF HIGHER  
3 EDUCATION, FOR USE IN RESEARCH STUDIES FUNDED PURSUANT TO THIS  
4 SECTION. FOR THE FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2017,  
5 THE GENERAL ASSEMBLY MAY ANNUALLY APPROPRIATE UP TO ONE  
6 PERCENT OF THE AVAILABLE MONEY IN THE MARIJUANA TAX CASH FUND  
7 CREATED IN SECTION 39-28.8-501 TO THE DEPARTMENT TO BE USED TO  
8 CONDUCT THE RESEARCH AUTHORIZED PURSUANT TO THIS SUBSECTION  
9 (5)(b) FOR:

10 (I) THE PURCHASE OF MARIJUANA FROM A LICENSEE SPECIFIED IN  
11 THIS SUBSECTION (5)(b) THAT WILL BE USED IN THE RESEARCH; AND

12 (II) AWARDING GRANTS PURSUANT TO THIS SECTION TO CONDUCT  
13 MEDICAL RESEARCH.

14 **SECTION 2.** In Colorado Revised Statutes, 12-43.3-202, **amend**  
15 (1)(h) as follows:

16 **12-43.3-202. Powers and duties of state licensing authority -**  
17 **rules.** (1) The state licensing authority shall:

18 (h) Develop and maintain a seed-to-sale tracking system that  
19 tracks medical marijuana from either the seed or immature plant stage  
20 until the medical marijuana or medical marijuana-infused product is:

21 (I) Sold to a customer at a medical marijuana center to ensure that  
22 no medical marijuana grown or processed by a medical marijuana  
23 establishment is sold or otherwise transferred except by a medical  
24 marijuana center;

25 (II) TRANSFERRED TO A MEDICAL RESEARCH FACILITY PURSUANT  
26 TO SECTION 25-1.5-106.5 (5)(b); OR

27 (III) USED IN LIMITED QUANTITIES BY A PESTICIDE MANUFACTURER

1 AS SPECIFIED IN RULES PROMULGATED BY THE STATE LICENSING  
2 AUTHORITY THAT AUTHORIZE A PESTICIDE MANUFACTURER TO CONDUCT  
3 RESEARCH TO ESTABLISH SAFE AND EFFECTIVE PROTOCOLS FOR THE USE  
4 OF PESTICIDES ON MEDICAL MARIJUANA.

5 **SECTION 3.** In Colorado Revised Statutes, 12-43.4-202, **amend**  
6 (1) as follows:

7 **12-43.4-202. Powers and duties of state licensing authority -**  
8 **rules.** (1) TO ENSURE THAT NO MARIJUANA GROWN OR PROCESSED BY A  
9 RETAIL MARIJUANA ESTABLISHMENT IS SOLD OR OTHERWISE TRANSFERRED  
10 EXCEPT BY A RETAIL MARIJUANA STORE OR AS AUTHORIZED BY LAW, the  
11 state licensing authority shall develop and maintain a seed-to-sale  
12 tracking system that tracks retail marijuana from either seed or immature  
13 plant stage until the marijuana or retail marijuana product is:

14 (a) Sold to a customer at a retail marijuana store; ~~to ensure that no~~  
15 ~~marijuana grown or processed by a retail marijuana establishment is sold~~  
16 ~~or otherwise transferred except by a retail marijuana store~~

17 (b) TRANSFERRED TO A MEDICAL RESEARCH FACILITY PURSUANT  
18 TO SECTION 25-1.5-106.5 (5)(b); OR

19 (c) USED IN LIMITED QUANTITIES BY A PESTICIDE MANUFACTURER  
20 AS SPECIFIED IN RULES PROMULGATED BY THE STATE LICENSING  
21 AUTHORITY THAT AUTHORIZE A PESTICIDE MANUFACTURER TO CONDUCT  
22 RESEARCH TO ESTABLISH SAFE AND EFFECTIVE PROTOCOLS FOR THE USE  
23 OF PESTICIDES ON RETAIL MARIJUANA.

24 **SECTION 4.** In Colorado Revised Statutes, 12-43.3-403, **add** (4)  
25 as follows:

26 **12-43.3-403. Optional premises cultivation license.**

27 (4) (a) NOTWITHSTANDING ARTICLE 10 OF TITLE 35, A MEDICAL

1 MARIJUANA OPTIONAL PREMISES CULTIVATION FACILITY MAY USE A  
2 PESTICIDE IN THE CULTIVATION AND PRODUCTION OF MARIJUANA IF THE  
3 PESTICIDE:

4 (I) (A) IS EXEMPT FROM REGISTRATION PURSUANT TO 40 CFR  
5 152.25; IS ALLOWED TO BE USED ON CROP GROUP 19, AS DEFINED IN 40  
6 CFR 180.41, HOPS, OR UNSPECIFIED CROPS OR PLANTS; OR HAS BEEN  
7 LISTED BY THE ORGANIC MATERIALS REVIEW INSTITUTE OR AN  
8 ANALOGOUS SUCCESSOR ORGANIZATION AS DETERMINED BY THE  
9 DEPARTMENT OF AGRICULTURE;

10 (B) HAS AFFIXED TO IT A LABEL THAT ALLOWS THE PESTICIDE TO  
11 BE USED AT THE INTENDED SITE OF APPLICATION; AND

12 (C) HAS AFFIXED TO IT A LABEL THAT ALLOWS THE PESTICIDE TO  
13 BE USED ON CROPS AND PLANTS INTENDED FOR HUMAN CONSUMPTION; OR

14 (II) APPEARS ON THE DEPARTMENT OF AGRICULTURE'S LIST OF  
15 APPROVED PESTICIDES AND IS USED WITHIN ANY LIMITS PRESCRIBED BY  
16 THE DEPARTMENT OF AGRICULTURE.

17 (b) A MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION  
18 FACILITY MAY SUBMIT TO THE STATE LICENSING AUTHORITY A  
19 COMPREHENSIVE LIST OF PESTICIDES THAT ARE AUTHORIZED BY LAW THAT  
20 THE FACILITY WISHES TO USE AT THE FACILITY, AND A CHANGE IN USE BY  
21 THE FACILITY AMONG THE PESTICIDES ON THE FACILITY'S LIST IS NOT A  
22 MATERIAL CHANGE FOR PURPOSES OF PROCESS VALIDATION.

23 (c) (I) IF THE RESULTS FROM A TEST CONDUCTED PURSUANT TO THE  
24 PROGRAM ESTABLISHED IN SECTION 12-43.3-202 (2.5)(a)(I) INDICATE THE  
25 PRESENCE OF QUANTITIES OF PESTICIDES THAT ARE NOT AUTHORIZED  
26 PURSUANT TO THIS SUBSECTION (4), THE STATE LICENSING AUTHORITY  
27 SHALL ALLOW THE LICENSEE TO PROVIDE A SAMPLE FOR FURTHER TESTING

1 BY A MEDICAL MARIJUANA TESTING FACILITY THAT IS LICENSED AND  
2 CERTIFIED TO TEST FOR PESTICIDES. IF FURTHER TESTING DOES NOT OCCUR  
3 OR IF THE SECOND TEST RESULTS INDICATE THE PRESENCE OF QUANTITIES  
4 OF PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO THIS SUBSECTION  
5 (4), THE STATE LICENSING AUTHORITY MAY DEEM THE PRODUCT  
6 CONTAMINATED, AND THE LICENSEE SHALL DESTROY THE PRODUCT.

7 (II) ENFORCEMENT ACTIONS UNDER THIS SUBSECTION (4) MAY  
8 INCLUDE ANY ACTION AUTHORIZED BY LAW, SUCH AS A DISCIPLINARY  
9 ACTION PURSUANT TO ARTICLE 4 OF TITLE 24 AND THE FILING OF A  
10 PETITION IN DISTRICT COURT FOR AN ADMINISTRATIVE WARRANT AND  
11 ORDER OF DESTRUCTION OF CONTAMINATED MEDICAL MARIJUANA OR  
12 MEDICAL MARIJUANA-INFUSED PRODUCT.

13 (d) IN DETERMINING WHETHER THE MEDICAL MARIJUANA OR THE  
14 MEDICAL MARIJUANA-INFUSED PRODUCT IS CONTAMINATED WITH  
15 PESTICIDES PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION, THE STATE  
16 LICENSING AUTHORITY SHALL REASONABLY CONSIDER:

17 (I) THE ANALYTICAL VARIABILITY AND SENSITIVITY IN TESTING  
18 RESULTS;

19 (II) THE ENVIRONMENT WHERE THE MEDICAL MARIJUANA WAS  
20 GROWN;

21 (III) THE MANNER IN WHICH THE MEDICAL MARIJUANA-INFUSED  
22 PRODUCT WAS PRODUCED;

23 (IV) WHETHER THE MEDICAL MARIJUANA CULTIVATOR ACTUALLY  
24 APPLIED PESTICIDES NOT APPROVED BY THIS SUBSECTION (4); AND

25 (V) WHETHER THE AMOUNT OF PESTICIDE FALLS WITHIN A  
26 REASONABLE TOLERANCE BASED ON SCIENTIFIC RESEARCH.

27 **SECTION 5.** In Colorado Revised Statutes, 12-43.4-403, **add** (7)

1 as follows:

2 **12-43.4-403. Retail marijuana cultivation facility license.**

3 (7) (a) NOTWITHSTANDING ARTICLE 10 OF TITLE 35, A RETAIL MARIJUANA  
4 CULTIVATION FACILITY MAY USE A PESTICIDE IN THE CULTIVATION AND  
5 PRODUCTION OF MARIJUANA IF THE PESTICIDE:

6 (I) (A) IS EXEMPT FROM REGISTRATION PURSUANT TO 40 CFR  
7 152.25; IS ALLOWED TO BE USED ON CROP GROUP 19, AS DEFINED IN 40  
8 CFR 180.41 (c)(24), HOPS, OR UNSPECIFIED CROPS OR PLANTS; OR HAS  
9 BEEN LISTED BY THE ORGANIC MATERIALS REVIEW INSTITUTE OR AN  
10 ANALOGOUS SUCCESSOR ORGANIZATION AS DETERMINED BY THE  
11 DEPARTMENT OF AGRICULTURE;

12 (B) HAS AFFIXED TO IT A LABEL THAT ALLOWS THE PESTICIDE TO  
13 BE USED AT THE INTENDED SITE OF APPLICATION; AND

14 (C) HAS AFFIXED TO IT A LABEL THAT ALLOWS THE PESTICIDE TO  
15 BE USED ON CROPS AND PLANTS INTENDED FOR HUMAN CONSUMPTION; OR

16 (II) APPEARS ON THE DEPARTMENT OF AGRICULTURE'S LIST OF  
17 APPROVED PESTICIDES AS DESCRIBED IN SUBSECTION (7)(b) OF THIS  
18 SECTION AND IS USED WITHIN ANY LIMITS PRESCRIBED BY THE  
19 DEPARTMENT OF AGRICULTURE.

20 (b) A RETAIL MARIJUANA CULTIVATION FACILITY MAY SUBMIT TO  
21 THE STATE LICENSING AUTHORITY A COMPREHENSIVE LIST OF PESTICIDES  
22 THAT ARE AUTHORIZED BY LAW THAT THE FACILITY WISHES TO USE AT THE  
23 FACILITY, AND A CHANGE IN USE BY THE FACILITY AMONG THE PESTICIDES  
24 ON THE FACILITY'S LIST IS NOT A MATERIAL CHANGE FOR PURPOSES OF  
25 PROCESS VALIDATION.

26 (c) (I) IF THE TEST RESULTS FROM A TEST CONDUCTED PURSUANT  
27 TO THE PROGRAM ESTABLISHED IN SECTION 12-43.4-202 (3)(a)(IV)

1 INDICATE THE PRESENCE OF QUANTITIES OF PESTICIDES THAT ARE NOT  
2 AUTHORIZED PURSUANT TO THIS SUBSECTION (7), THE STATE LICENSING  
3 AUTHORITY SHALL ALLOW THE LICENSEE TO PROVIDE A SAMPLE FOR  
4 FURTHER TESTING BY A RETAIL MARIJUANA TESTING FACILITY THAT IS  
5 LICENSED AND CERTIFIED TO TEST FOR PESTICIDES. IF FURTHER TESTING  
6 DOES NOT OCCUR OR IF THE SECOND TEST RESULTS INDICATE THE  
7 PRESENCE OF QUANTITIES OF PESTICIDES THAT ARE NOT AUTHORIZED  
8 PURSUANT TO THIS SUBSECTION (7), THE STATE LICENSING AUTHORITY  
9 MAY DEEM THE PRODUCT CONTAMINATED, AND THE LICENSEE SHALL  
10 DESTROY THE PRODUCT.

11 (II) ENFORCEMENT ACTIONS UNDER THIS SUBSECTION (7) MAY  
12 INCLUDE ANY ACTION AUTHORIZED BY LAW, SUCH AS A DISCIPLINARY  
13 ACTION PURSUANT TO ARTICLE 4 OF TITLE 24 AND THE FILING IN DISTRICT  
14 COURT OF A PETITION FOR AN ADMINISTRATIVE WARRANT AND ORDER OF  
15 DESTRUCTION OF CONTAMINATED RETAIL MARIJUANA OR RETAIL  
16 MARIJUANA PRODUCT.

17 (d) IN DETERMINING WHETHER THE RETAIL MARIJUANA OR THE  
18 RETAIL MARIJUANA PRODUCT IS CONTAMINATED WITH PESTICIDES  
19 PURSUANT TO SUBSECTION (7)(c) OF THIS SECTION, THE STATE LICENSING  
20 AUTHORITY SHALL REASONABLY CONSIDER:

21 (I) THE ANALYTICAL VARIABILITY AND SENSITIVITY IN TESTING  
22 RESULTS;

23 (II) THE ENVIRONMENT WHERE THE RETAIL MARIJUANA WAS  
24 GROWN;

25 (III) THE MANNER IN WHICH THE RETAIL MARIJUANA PRODUCT WAS  
26 PRODUCED;

27 (IV) WHETHER THE RETAIL MARIJUANA CULTIVATOR ACTUALLY

1 APPLIED PESTICIDES NOT APPROVED BY THIS SUBSECTION (7); AND  
2 (V) WHETHER THE AMOUNT OF PESTICIDE FALLS WITHIN A  
3 REASONABLE TOLERANCE BASED ON SCIENTIFIC RESEARCH.

4 **SECTION 6. Applicability.** This act applies to conduct occurring  
5 on or after the effective date of this act.

6 **SECTION 7. Safety clause.** The general assembly hereby finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.