A BILL FOR AN ACT

CONCERNING MARIJUANA, AND, IN CONNECTION THEREWITH,

AUTHORIZING RESEARCH REGARDING THE SAFETY AND

EFFICACY OF MEDICAL MARIJUANA AND THE SAFE AND

EFFECTIVE USE OF PESTICIDES AND ESTABLISHING INTERIM

STANDARDS FOR THE USE OF PESTICIDES.

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
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.

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

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

(b) A PERSON WHO HOLDS AN OPTIONAL PREMISES CULTIVATION LICENSE OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE ISSUED PURSUANT TO PART 4 OF ARTICLE 43.3 OF TITLE 12 OR A RETAIL MARIJUANA CULTIVATION FACILITY LICENSE OR A RETAIL MARIJUANA PRODUCTS MANUFACTURING LICENSE ISSUED PURSUANT TO
PART 4 OF ARTICLE 43.4 OF TITLE 12 MAY TRANSFER MARIJUANA TO A MEDICAL RESEARCH FACILITY, INCLUDING AT AN INSTITUTION OF HIGHER EDUCATION, FOR USE IN RESEARCH STUDIES FUNDED PURSUANT TO THIS SECTION. FOR THE FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2017, THE GENERAL ASSEMBLY MAY ANNUALLY APPROPRIATE UP TO ONE PERCENT OF THE AVAILABLE MONEY IN THE MARIJUANA TAX CASH FUND CREATED IN SECTION 39-28.8-501 TO THE DEPARTMENT TO BE USED TO CONDUCT THE RESEARCH AUTHORIZED PURSUANT TO THIS SUBSECTION (5)(b) FOR:

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

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

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

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

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

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

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

(III) USED IN LIMITED QUANTITIES BY A PESTICIDE MANUFACTURER
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 MARIJUANA.

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

12-43.4-202. Powers and duties of state licensing authority -
rules. (1) To ensure that no marijuana grown or processed by a
retail marijuana establishment is sold or otherwise transferred
except by a retail marijuana store or as authorized by law, the
state licensing authority shall develop and maintain a seed-to-sale
tracking system that tracks retail marijuana from either seed or immature
plant stage until the marijuana or retail marijuana product is:

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

(b) Transferred to a medical research facility pursuant
to section 25-1.5-106.5 (5)(b); or

(c) Used in limited quantities by a pesticide manufacturer
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 retail marijuana.

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

12-43.3-403. Optional premises cultivation license.

(4) (a) Notwithstanding article 10 of title 35, a medical
MARIJUANA OPTIONAL PREMISES CULTIVATION FACILITY MAY USE A
PESTICIDE IN THE CULTIVATION AND PRODUCTION OF MARIJUANA IF THE
PESTICIDE:

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

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

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

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

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

(c) (I) IF THE RESULTS FROM A TEST CONDUCTED PURSUANT TO THE
PROGRAM ESTABLISHED IN SECTION 12-43.3-202 (2.5)(a)(I) INDICATE THE
PRESENCE OF QUANTITIES OF PESTICIDES THAT ARE NOT AUTHORIZED
PURSUANT TO THIS SUBSECTION (4), THE STATE LICENSING AUTHORITY
SHALL ALLOW THE LICENSEE TO PROVIDE A SAMPLE FOR FURTHER TESTING
BY A MEDICAL MARIJUANA TESTING FACILITY THAT IS LICENSED AND CERTIFIED TO TEST FOR PESTICIDES. IF FURTHER TESTING DOES NOT OCCUR OR IF THE SECOND TEST RESULTS INDICATE THE PRESENCE OF QUANTITIES OF PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO THIS SUBSECTION (4), THE STATE LICENSING AUTHORITY MAY DEEM THE PRODUCT CONTAMINATED, AND THE LICENSEE SHALL DESTROY THE PRODUCT.

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

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

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

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

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

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

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

SECTION 5. In Colorado Revised Statutes, 12-43.4-403, add (7)
as follows:

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

(7) (a) Notwithstanding Article 10 of Title 35, a retail marijuana cultivation facility may use a pesticide in the cultivation and production of marijuana if the pesticide:

(I) (A) is exempt from registration pursuant to 40 CFR 152.25; is allowed to be used on crop group 19, as defined in 40 CFR 180.41 (c)(24), hops, or unspecified crops or plants; or has been listed by the Organic Materials Review Institute or an analogous successor organization as determined by the Department of Agriculture;

(B) has affixed to it a label that allows the pesticide to be used at the intended site of application; and

(C) has affixed to it a label that allows the pesticide to be used on crops and plants intended for human consumption; or

(II) appears on the Department of Agriculture’s list of approved pesticides as described in subsection (7)(b) of this section and is used within any limits prescribed by the Department of Agriculture.

(b) A retail marijuana cultivation facility may submit to the state licensing authority a comprehensive list of pesticides that are authorized by law that the facility wishes to use at the facility, and a change in use by the facility among the pesticides on the facility’s list is not a material change for purposes of process validation.

(c) (I) If the test results from a test conducted pursuant to the program established in section 12-43.4-202 (3)(a)(IV)
INDICATE THE PRESENCE OF QUANTITIES OF PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO THIS SUBSECTION (7), THE STATE LICENSING AUTHORITY SHALL ALLOW THE LICENSEE TO PROVIDE A SAMPLE FOR FURTHER TESTING BY A RETAIL MARIJUANA TESTING FACILITY THAT IS LICENSED AND CERTIFIED TO TEST FOR PESTICIDES. IF FURTHER TESTING DOES NOT OCCUR OR IF THE SECOND TEST RESULTS INDICATE THE PRESENCE OF QUANTITIES OF PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO THIS SUBSECTION (7), THE STATE LICENSING AUTHORITY MAY DEEM THE PRODUCT CONTAMINATED, AND THE LICENSEE SHALL DESTROY THE PRODUCT.

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

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

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

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

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

(IV) WHETHER THE RETAIL MARIJUANA CULTIVATOR ACTUALLY
APPLIED PESTICIDES NOT APPROVED BY THIS SUBSECTION (7); AND

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

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

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