

CHAPTER 401

GOVERNMENT - STATE

HOUSE BILL 17-1221

BY REPRESENTATIVE(S) Willett and Pabon, Carver, Arndt, Becker K., Garnett;
also SENATOR(S) Aguilar and Cooke, Baumgardner, Coram, Crowder, Gardner, Hill, Holbert, Kagan, Kefalas, Kerr, Lambert,
Lundberg, Martinez Humenik, Merrifield, Neville T., Priola, Scott, Smallwood, Tate, Todd, Williams A., Grantham.

AN ACT

CONCERNING GRAY AND BLACK MARKET MARIJUANA ENFORCEMENT EFFORTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Through citizen-initiated measures, Colorado provided its citizens protections for the cultivation and use of medical marijuana in 2000 and recreational marijuana in 2012;

(b) One of the reasons behind these citizen-initiated measures was to erode the black market for marijuana in Colorado;

(c) The constitutional provisions for both medical marijuana and recreational marijuana provide protections for personal marijuana cultivation, but are silent on the question of where marijuana plants may be grown or processed for medical or recreational use;

(d) Although the authority for marijuana cultivation for both medical and recreational marijuana is generally limited to six plants per person, there are some provisions that can allow individuals to grow more plants. Both the medical marijuana and recreational constitutional provisions allow a citizen to assist another citizen in the cultivation of marijuana.

(e) The assist provisions have created a situation in which individuals are cultivating large quantities of marijuana in residential properties;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(f) These large-scale cultivation sites in residential properties create a public safety issue and are a public nuisance. A site in a residential property can overburden the property's electrical system, resulting in excessive power use and creating a fire hazard that puts first responders at risk. A site can also cause water damage and mold in the residential property. A site in a residential property can produce a noxious smell that limits the ability of others who live in the area to enjoy the quiet of their homes. Often the site is a rental home, and the renters cause significant damage to the home by retrofitting the home to be used as a large-scale cultivation site. When a residential property is used for a large-scale cultivation site, it often lowers the property value of the property and thus the property value of the rest of the neighborhood. Finally, a site in a residential property can serve as a target for criminal activity, creating an untenable public safety hazard.

(g) Large-scale, multi-national crime organizations have exploited Colorado laws, rented multiple residential properties for large-scale cultivation sites, and caused an influx of human trafficking and large amounts of weapons as well as the potential for violent crimes in residential neighborhoods;

(h) These large-scale cultivation sites in residential properties have been used to divert marijuana out of state and to children; and

(i) In awarding grants under the gray and black market marijuana enforcement grant program, the department of local affairs shall give priority to local governments in rural areas that have limited law enforcement resources.

(2) Therefore, the general assembly determines that it is necessary to impose reasonable limits on residential marijuana cultivation that do not encroach on the protections afforded Colorado citizens in the Colorado constitution.

SECTION 2. In Colorado Revised Statutes, 18-18-406, **add** (3.5) as follows:

18-18-406. Offenses relating to marijuana and marijuana concentrate - definition. (3.5) A PERSON IS NOT IN COMPLIANCE WITH THE AUTHORITY TO ASSIST ANOTHER INDIVIDUAL GRANTED IN SECTION 14 (2)(b) OR SECTION 16 (3)(e) OF ARTICLE XVIII OF THE STATE CONSTITUTION AND IS SUBJECT TO THE OFFENSES AND PENALTIES OF SUBSECTION (3) OF THIS SECTION IF THE PERSON POSSESSES ANY MARIJUANA PLANT HE OR SHE IS GROWING ON BEHALF OF ANOTHER INDIVIDUAL, UNLESS HE OR SHE IS THE PRIMARY CAREGIVER FOR THE INDIVIDUAL AND IS IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 25-1.5-106.

SECTION 3. In Colorado Revised Statutes, **add** 24-32-119 as follows:

24-32-119. Gray and black market marijuana enforcement grant program - report - definition. (1) (a) THE GRAY AND BLACK MARKET MARIJUANA ENFORCEMENT GRANT PROGRAM IS CREATED IN THE DIVISION. THE DIVISION SHALL AWARD GRANTS TO LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS TO COVER, IN PART OR IN FULL, INVESTIGATION AND PROSECUTION COSTS ASSOCIATED WITH UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS CONDUCTED IN VIOLATION OF STATE LAW.

(b) THE DIVISION SHALL:

(I) SOLICIT AND REVIEW APPLICATIONS FOR GRANTS FROM LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS; AND

(II) SELECT LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS TO RECEIVE GRANTS TO COVER COSTS ASSOCIATED WITH THE INVESTIGATION AND PROSECUTION OF UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS CONDUCTED IN VIOLATION OF STATE LAW.

(c) GRANTS AWARDED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS PURSUANT TO THIS SUBSECTION (1) SHALL BE PRIORITIZED TO:

(I) PROVIDE NECESSARY FINANCIAL ASSISTANCE TO LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN RURAL AREAS TO ADDRESS UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS CONDUCTED IN VIOLATION OF STATE LAW;

(II) SUPPORT LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN INVESTIGATING AND PROSECUTING LARGE-SCALE UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS CONDUCTED IN VIOLATION OF STATE LAW;

(III) PROVIDE NECESSARY FINANCIAL ASSISTANCE TO LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN THE INVESTIGATION AND PROSECUTION OF ORGANIZED CRIME INVOLVED IN UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS CONDUCTED IN VIOLATION OF STATE LAW; OR

(IV) PROVIDE NECESSARY FINANCIAL ASSISTANCE TO LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN THE INVESTIGATION AND PROSECUTION OF UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS THAT DIVERT MARIJUANA OUTSIDE OF COLORADO.

(2) THE GENERAL ASSEMBLY MAY ANNUALLY APPROPRIATE MONEY FROM THE MARIJUANA TAX CASH FUND CREATED IN SECTION 39-28.8-501 OR THE PROPOSITION AA REFUND ACCOUNT CREATED IN SECTION 39-28.8-604 (1) TO THE DIVISION TO MAKE THE GRANTS DESCRIBED IN SUBSECTION (1) OF THIS SECTION AND FOR THE DIVISION'S REASONABLE ADMINISTRATIVE EXPENSES RELATED TO THE GRANTS. ANY UNEXPENDED AND UNENCUMBERED MONEY FROM AN APPROPRIATION MADE PURSUANT TO THIS SUBSECTION (2) REMAINS AVAILABLE FOR EXPENDITURE BY THE DIVISION IN THE NEXT FISCAL YEAR WITHOUT FURTHER APPROPRIATION.

(3) THE DIVISION SHALL ADOPT POLICIES AND PROCEDURES THAT ARE NECESSARY FOR THE ADMINISTRATION OF THE GRANT PROGRAM, INCLUDING THE APPLICATION PROCESS AND THE GRANT AWARD CRITERIA.

(4)(a) ON OR BEFORE NOVEMBER 1, 2019, AND ON OR BEFORE NOVEMBER 1 EACH YEAR THEREAFTER, THE DIVISION SHALL INCLUDE AN UPDATE REGARDING THE EFFECTIVENESS OF THE GRANT PROGRAM IN ITS REPORT TO THE MEMBERS OF THE APPLICABLE COMMITTEES OF REFERENCE IN THE SENATE AND HOUSE OF REPRESENTATIVES AS REQUIRED BY THE "STATE MEASUREMENT FOR

ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

(b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORTS REQUIRED IN SUBSECTION (4)(a) OF THIS SECTION CONTINUE INDEFINITELY.

(5) AS USED IN THIS SECTION, "RURAL AREA" MEANS:

(a) A COUNTY WITH A POPULATION OF LESS THAN TWO HUNDRED THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS; OR

(b) A MUNICIPALITY WITH A POPULATION OF LESS THAN THIRTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS, THAT IS LOCATED TEN MILES OR MORE FROM A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE.

SECTION 4. Appropriation. (1) For the 2017-18 state fiscal year, \$5,945,392 is appropriated to the department of local affairs. This appropriation is from the marijuana tax cash fund created in section 39-28.8-501 (1), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$5,919,036 for use by the division of local government for the gray and black market marijuana enforcement grant program, which amount is based on an assumption that the division will require an additional 1.3 FTE;

(b) \$21,603 for the purchase of information technology services; and

(c) \$4,753 for the purchase of legal services.

(2) For the 2017-18 state fiscal year, \$21,603 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of local affairs under subsection (1)(b) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of local affairs.

(3) For the 2017-18 state fiscal year, \$4,753 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of local affairs under subsection (1)(c) of this section. To implement this act, the department of law may use this appropriation to provide legal services for the department of local affairs.

SECTION 5. Effective date - applicability. This act takes effect July 1, 2017, and section 2 of this act applies to offenses committed on or after said date.

SECTION 6. 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.

Approved: June 8, 2017