

First Extraordinary Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17B-0001.02 Jason Gelender x4330 and Ed DeCecco x4216 **HOUSE BILL 17B-1001**

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A BILL FOR AN ACT

101 **CONCERNING CLARIFICATION THAT RETAIL MARIJUANA SALES ARE**
102 **SUBJECT TO SALES TAXES LEVIED BY CERTAIN LIMITED PURPOSE**
103 **GOVERNMENTAL ENTITIES.**

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>.)

Senate Bill 17-267 exempted retail marijuana sales from the 2.9% general state sales tax and, as previously authorized by voter approval, increased the rate of the state retail marijuana sales tax, a special sales tax that is levied only on retail marijuana sales, from 10% to 15%, effective July 1, 2017. Under current state law, certain limited purpose

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.

governmental entities that either currently levy sales tax, are authorized by statute to levy sales tax but do not currently do so, or will be authorized to levy sales tax if they are established in the future as authorized by current law (affected entities) may levy sales tax only on transactions on which the state levies the general state sales tax. By exempting retail marijuana sales from the general state sales tax, effective July 1, 2017, Senate Bill 17-267 thus also inadvertently exempted such sales from both sales taxes currently levied by affected entities and sales taxes that either existing affected entities that do not currently levy sales tax or not yet established affected entities might levy in the future.

Affected entities that currently levy sales tax include the regional transportation district, the scientific and cultural facilities district, 5 metropolitan districts, 5 regional transportation authorities, one health services district, and one multijurisdictional housing authority. The bill clarifies that notwithstanding the exemption of retail marijuana sales from the general state sales tax, all affected entities that levy sales tax shall tax retail marijuana sales.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) In enacting Senate Bill 17-267, the general assembly exempted
5 retail marijuana sales from the general state sales tax and increased the
6 rate of the retail marijuana sales tax so that, without reducing total state
7 sales tax revenue attributable to retail marijuana sales, only one state sales
8 tax would be levied on such sales;

9 (b) In exempting retail marijuana sales from the general state sales
10 tax, the general assembly inadvertently exempted such sales from both:

11 (I) Sales taxes currently levied by certain limited purpose
12 governmental entities, including the regional transportation district, the
13 scientific and cultural facilities district, and certain regional transportation
14 authorities, multijurisdictional housing authorities, metropolitan districts,
15 and health services districts; and

16 (II) Sales taxes that could be levied in the future by other limited

1 purpose governmental entities that have statutory authority, subject to
2 voter approval, to levy sales tax but do not currently do so;

3 (c) The inadvertent exemption of retail marijuana sales from
4 certain limited purpose governmental entities' sales taxes creates
5 inconsistency and complexity and undermines a state policy of
6 simplification in the administration and collection of sales taxes by
7 exempting from the governmental entities' sales taxes retail marijuana
8 sales that continue to be subject to the state retail marijuana sales tax.

9 (2) The general assembly further finds and declares that it is
10 necessary, appropriate, in the best interest of the state, and consistent with
11 existing state tax policy to clarify that retail marijuana sales are subject to
12 sales taxes levied by any limited purpose governmental entity that is
13 authorized to levy sales tax upon all transactions or other incidents upon
14 which the state levies sales tax.

15 **SECTION 2.** In Colorado Revised Statutes, **amend** 39-26-729 as
16 follows:

17 **39-26-729. Retail sales of marijuana.** (1) On and after July 1,
18 2017, all retail sales of marijuana upon which the retail marijuana sales
19 tax is imposed pursuant to section 39-28.8-202 are exempt from taxation
20 under part 1 of this article 26.

21 (2) NOTWITHSTANDING THE EXEMPTION PROVIDED FOR IN
22 SUBSECTION (1) OF THIS SECTION, ANY SPECIAL DISTRICT OR OTHER
23 LIMITED PURPOSE GOVERNMENTAL ENTITY THAT IS AUTHORIZED BY LAW
24 TO LEVY SALES TAX UPON ALL TRANSACTIONS OR INCIDENTS WITH
25 RESPECT TO WHICH THE STATE LEVIES SALES TAX, REGARDLESS OF
26 WHETHER THE AUTHORIZATION SPECIFICALLY REFERENCES THIS ARTICLE
27 26, SHALL, IF IT LEVIES SALES TAX, LEVY THE TAX UPON RETAIL SALES OF

1 MARIJUANA.

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