

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 6, 2017
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB17-1221 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and
2 substitute:
- 3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds and declares that:
- 5 (a) Through citizen-initiated measures, Colorado provided its
6 citizens protections for the cultivation and use of medical marijuana in
7 2000 and recreational marijuana in 2012;
- 8 (b) One of the reasons behind these citizen-initiated measures was
9 to erode the black market for marijuana in Colorado;
- 10 (c) The constitutional provisions for both medical marijuana and
11 recreational marijuana provide protections for personal marijuana
12 cultivation, but are silent on the question of where marijuana plants may
13 be grown or processed for medical or recreational use;
- 14 (d) Although the authority for marijuana cultivation for both
15 medical and recreational marijuana is generally limited to six plants per
16 person, there are some provisions that can allow individuals to grow more
17 plants. Both the medical marijuana and recreational constitutional
18 provisions allow a citizen to assist another citizen in the cultivation of
19 marijuana.
- 20 (e) The assist provisions have created a situation in which
21 individuals are cultivating large quantities of marijuana in residential
22 properties;
- 23 (f) These large-scale cultivation sites in residential properties
24 create a public safety issue and are a public nuisance. A site in a

1 residential property can overburden the property's electrical system,
2 resulting in excessive power use and creating a fire hazard that puts first
3 responders at risk. A site can also cause water damage and mold in the
4 residential property. A site in a residential property can produce a noxious
5 smell that limits the ability of others who live in the area to enjoy the
6 quiet of their homes. Often the site is a rental home, and the renters cause
7 significant damage to the home by retrofitting the home to be used as a
8 large-scale cultivation site. When a residential property is used for a
9 large-scale cultivation site, it often lowers the property value of the
10 property and thus the property value of the rest of the neighborhood.
11 Finally, a site in a residential property can serve as a target for criminal
12 activity, creating an untenable public safety hazard.

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

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

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

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

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

30 **18-18-406. Offenses relating to marijuana and marijuana**
31 **concentrate - definition.** (3.5) A PERSON IS NOT IN COMPLIANCE WITH
32 THE AUTHORITY TO ASSIST ANOTHER INDIVIDUAL GRANTED IN SECTION 14
33 (2)(b) OR SECTION 16 (3)(e) OF ARTICLE XVIII OF THE STATE
34 CONSTITUTION AND IS SUBJECT TO THE OFFENSES AND PENALTIES OF THIS
35 SUBSECTION (3) OF THIS SECTION IF THE PERSON POSSESSES ANY
36 MARIJUANA PLANT HE OR SHE IS GROWING ON BEHALF OF ANOTHER
37 INDIVIDUAL, UNLESS HE OR SHE IS THE PRIMARY CAREGIVER FOR THE
38 INDIVIDUAL AND IS IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION
39 25-1.5-106.

40 **SECTION 3.** In Colorado Revised Statutes, **add** 24-32-118 as
41 follows:

1 **24-32-118. Gray and black market marijuana enforcement**
2 **grant program - report - definition.** (1) (a) THE GRAY AND BLACK
3 MARKET MARIJUANA ENFORCEMENT GRANT PROGRAM IS CREATED IN THE
4 DIVISION. THE DIVISION SHALL AWARD GRANTS TO LOCAL LAW
5 ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS TO COVER, IN PART OR
6 IN FULL, INVESTIGATION AND PROSECUTION COSTS ASSOCIATED WITH
7 UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS
8 CONDUCTED IN VIOLATION OF STATE LAW.
9 (b) THE DIVISION SHALL:
10 (I) SOLICIT AND REVIEW APPLICATIONS FOR GRANTS FROM LOCAL
11 LAW ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS; AND
12 (II) SELECT LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT
13 ATTORNEYS TO RECEIVE GRANTS TO COVER COSTS ASSOCIATED WITH THE
14 INVESTIGATION AND PROSECUTION OF UNLICENSED MARIJUANA
15 CULTIVATION OR DISTRIBUTION OPERATIONS CONDUCTED IN VIOLATION OF
16 STATE LAW.
17 (c) GRANTS AWARDED BY THE EXECUTIVE DIRECTOR OF THE
18 DEPARTMENT OF LOCAL AFFAIRS PURSUANT TO THIS SUBSECTION (1) SHALL
19 BE PRIORITIZED TO:
20 (I) PROVIDE NECESSARY FINANCIAL ASSISTANCE TO LOCAL LAW
21 ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN RURAL AREAS TO
22 ADDRESS UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION
23 OPERATIONS CONDUCTED IN VIOLATION OF STATE LAW;
24 (II) SUPPORT LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT
25 ATTORNEYS IN INVESTIGATING AND PROSECUTING LARGE-SCALE
26 UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS
27 CONDUCTED IN VIOLATION OF STATE LAW;
28 (III) PROVIDE NECESSARY FINANCIAL ASSISTANCE TO LOCAL LAW
29 ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN THE
30 INVESTIGATION AND PROSECUTION OF ORGANIZED CRIME INVOLVED IN
31 UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS
32 CONDUCTED IN VIOLATION OF STATE LAW; OR
33 (IV) PROVIDE NECESSARY FINANCIAL ASSISTANCE TO LOCAL LAW
34 ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN THE
35 INVESTIGATION AND PROSECUTION OF UNLICENSED MARIJUANA
36 CULTIVATION OR DISTRIBUTION OPERATIONS THAT DIVERT MARIJUANA
37 OUTSIDE OF COLORADO.
38 (2) THE GENERAL ASSEMBLY MAY ANNUALLY APPROPRIATE
39 MONEY FROM THE MARIJUANA TAX CASH FUND CREATED IN SECTION
40 39-28.8-501 OR THE PROPOSITION AA REFUND ACCOUNT CREATED IN
41 SECTION 39-28.8-604 (1) TO THE DIVISION TO MAKE THE GRANTS

1 DESCRIBED IN SUBSECTION (1) OF THIS SECTION AND FOR THE DIVISION'S
2 REASONABLE ADMINISTRATIVE EXPENSES RELATED TO THE GRANTS. ANY
3 UNEXPENDED AND UNENCUMBERED MONEY FROM AN APPROPRIATION
4 MADE PURSUANT TO THIS SUBSECTION (2) REMAINS AVAILABLE FOR
5 EXPENDITURE BY THE DIVISION IN THE NEXT FISCAL YEAR WITHOUT
6 FURTHER APPROPRIATION.

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

10 (4) (a) ON OR BEFORE NOVEMBER 1, 2019, AND ON OR BEFORE
11 NOVEMBER 1 EACH YEAR THEREAFTER, THE DIVISION SHALL INCLUDE AN
12 UPDATE REGARDING THE EFFECTIVENESS OF THE GRANT PROGRAM IN ITS
13 REPORT TO THE MEMBERS OF THE APPLICABLE COMMITTEES OF REFERENCE
14 IN THE SENATE AND HOUSE OF REPRESENTATIVES AS REQUIRED BY THE
15 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
16 TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF
17 TITLE 2.

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

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

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

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

30 **SECTION 4. Effective date - applicability.** This act takes effect
31 July 1, 2017, and section 2 of this act applies to offenses committed on or
32 after said date.

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

36 Page 1, line 101, strike "GREY" and substitute "GRAY".

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