

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1096.01 Michael Dohr x4347

SENATE BILL 18-211

SENATE SPONSORSHIP

Marble, Fenberg, Neville T.

HOUSE SPONSORSHIP

Melton,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING LICENSING MARIJUANA CONSUMPTION CLUBS.

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>.)

The bill creates a marijuana consumption club (club) license. The license is subject to the same licensing requirements as other retail marijuana licenses. The license may be issued to a person who operates an establishment where retail marijuana or retail marijuana products may be sold and consumed. The club's sales are limited to the same limits as a retail marijuana store. The club may not serve food prepared on site or alcohol. Entry to the club is restricted to those persons at least 21 years of age. A club shall purchase its retail marijuana or retail marijuana products

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

from a licensed marijuana business or get a cultivation license and sell its own marijuana. A club may not permit outside marijuana or marijuana products. All retail marijuana or retail marijuana products must be consumed or disposed of on site. A club and its employees shall successfully complete a responsible vendor program annually. A club has the same immunity to a lawsuit for an injury caused by a club patron that a bar enjoys.

The bill allows a local government to permit clubs in its jurisdiction. If a local government permits clubs, it shall adopt an approval or licensing requirement. In order to operate as a club, the club must comply with the local and state licensing regulations. A club is exempt from the "Colorado Clean Indoor Air Act" for marijuana consumption purposes if it is fully ventilated. Public display, consumption, or use of marijuana in a club is not a criminal offense.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43.4-103, **amend**
3 (17); and **add** (9.7) as follows:

4 **12-43.4-103. Definitions.** As used in this article 43.4, unless the
5 context otherwise requires:

6 (9.7) "MARIJUANA CONSUMPTION CLUB" MEANS AN ENTITY OR
7 PERSON THAT IS LICENSED PURSUANT TO SECTION 12-43.4-408.

8 (17) "Retail marijuana establishment" means a retail marijuana
9 store, a retail marijuana cultivation facility, a retail marijuana products
10 manufacturer, ~~or~~ a retail marijuana testing facility, OR A MARIJUANA
11 CONSUMPTION CLUB.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 12-43.4-313 as
13 follows:

14 **12-43.4-313. Local authority to regulate marijuana**
15 **consumption clubs.** (1) THE PROVISIONS OF THIS SECTION ONLY APPLY
16 WITHIN A MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY IF THE
17 OPERATION OF MARIJUANA CONSUMPTION CLUBS IS APPROVED BY EITHER:

1 (a) A MAJORITY OF THE REGISTERED ELECTORS OF THE
2 MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY VOTING AT A
3 REGULAR ELECTION OR SPECIAL ELECTION CALLED IN ACCORDANCE WITH
4 THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10 OF
5 TITLE 31, OR THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13
6 OF TITLE 1, AS APPLICABLE; OR

7 (b) A MAJORITY OF THE MEMBERS OF THE GOVERNING BOARD FOR
8 THE MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY.

9 (2) IF A MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY
10 AUTHORIZES THE OPERATION OF A MARIJUANA CONSUMPTION CLUB, IT
11 SHALL ADOPT AN APPROVAL REQUIREMENT OR LICENSING REQUIREMENT
12 THAT COMPLIES WITH THE REQUIREMENTS OF THIS ARTICLE 43.4. THE
13 MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY MAY REQUIRE
14 ADDITIONAL OR MORE STRINGENT REQUIREMENTS THAN THIS SECTION.

15 (3) A MARIJUANA CONSUMPTION CLUB SHALL NOT OPERATE UNTIL
16 IT HAS SATISFIED THE STATE AND LOCAL REQUIREMENTS FOR LICENSURE
17 OR APPROVAL; EXCEPT THAT A MARIJUANA CONSUMPTION CLUB IN
18 OPERATION ON THE EFFECTIVE DATE OF THIS SECTION MAY CONTINUE TO
19 OPERATE AS LONG AS IT HAS FILED AN APPLICATION FOR LICENSURE OR
20 APPROVAL WITH THE STATE LICENSING AUTHORITY AND LOCAL
21 GOVERNMENT AND HAS NOT BEEN DENIED LICENSURE OR APPROVAL BY
22 THE STATE LICENSING AUTHORITY OR LOCAL GOVERNMENT.

23 **SECTION 3.** In Colorado Revised Statutes, 12-43.4-401, **amend**
24 (1)(f) and (1)(g); and **add** (1)(h) as follows:

25 **12-43.4-401. Classes of licenses.** (1) For the purpose of
26 regulating the cultivation, manufacture, distribution, sale, and testing of
27 retail marijuana and retail marijuana products, the state licensing

1 authority in its discretion, upon receipt of an application in the prescribed
2 form, may issue and grant to the applicant a license from any of the
3 following classes, subject to the provisions and restrictions provided by
4 this article 43.4:

- 5 (f) Retail marijuana transporter license; ~~and~~
- 6 (g) Retail marijuana business operator license; AND
- 7 (h) MARIJUANA CONSUMPTION CLUB LICENSE.

8 **SECTION 4.** In Colorado Revised Statutes, **add** 12-43.4-408 as
9 follows:

10 **12-43.4-408. Marijuana consumption club license.** (1) (a) A
11 MARIJUANA CONSUMPTION CLUB LICENSE MAY BE ISSUED TO A PERSON TO
12 OPERATE AN ESTABLISHMENT THAT ALLOWS PERSONS TO PURCHASE AND
13 CONSUME RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS ON SITE
14 PURSUANT TO THE PROVISIONS OF THIS SECTION.

15 (b) A MARIJUANA CONSUMPTION CLUB MAY SELL NO MORE RETAIL
16 MARIJUANA OR RETAIL MARIJUANA PRODUCTS AT A TIME THAN IS
17 PERMITTED FOR SALE BY A RETAIL MARIJUANA STORE.

18 (c) ALL RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS
19 MUST BE CONSUMED, STORED, OR DISPOSED OF ON SITE. A MARIJUANA
20 CONSUMPTION CLUB MAY OFFER STORAGE TO PERSONS TO STORE RETAIL
21 MARIJUANA OR RETAIL MARIJUANA PRODUCTS PURCHASED ON SITE OR
22 MARIJUANA ACCESSORIES. A PATRON SHALL NOT BRING RETAIL
23 MARIJUANA OR RETAIL MARIJUANA PRODUCTS INTO THE MARIJUANA
24 CONSUMPTION CLUB.

25 (d) A MARIJUANA CONSUMPTION CLUB SHALL PURCHASE THE
26 RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS THAT IT SELLS ON
27 SITE FROM A BUSINESS LICENSED PURSUANT TO THIS ARTICLE 43.4 OR

1 SHALL ACQUIRE A RETAIL MARIJUANA CULTIVATION FACILITY LICENSE
2 PURSUANT TO SECTION 12-43.4-403 OR A RETAIL MARIJUANA PRODUCTS
3 MANUFACTURING LICENSE PURSUANT TO SECTION 12-43.4-404 AND SELL
4 ON SITE THE RETAIL MARIJUANA IT CULTIVATES OR RETAIL MARIJUANA
5 PRODUCTS IT MANUFACTURES.

6 (e) A MARIJUANA CONSUMPTION CLUB MAY BE INSPECTED BY
7 LOCAL LAW ENFORCEMENT.

8 (2) A MARIJUANA CONSUMPTION CLUB MAY NOT SELL:

9 (a) ALCOHOL, INCLUDING MALT, VINOUS, OR SPIRITUOUS LIQUOR;
10 OR

11 (b) FOOD PREPARED ON SITE, EXCLUDING LIGHT SNACKS WITHOUT
12 MARIJUANA INGREDIENTS OR RETAIL MARIJUANA PRODUCTS, FOR
13 CONSUMPTION ON THE PREMISES. A PATRON MAY BRING FOOD FOR
14 CONSUMPTION INTO THE MARIJUANA CONSUMPTION CLUB.

15 (3) A MARIJUANA CONSUMPTION CLUB MAY ONLY ADMIT PERSONS
16 WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE.

17 (4) A MARIJUANA CONSUMPTION CLUB AND ITS EMPLOYEES SHALL
18 NOT SELL, SERVE, GIVE AWAY, DISPOSE OF, EXCHANGE, OR DELIVER, OR
19 PERMIT THE SALE, SERVING, GIVING, OR PROCURING OF, ANY RETAIL
20 MARIJUANA OR RETAIL MARIJUANA PRODUCT TO A PERSON WHO IS VISIBLY
21 INTOXICATED OR UNDER THE INFLUENCE OF MARIJUANA OR ANOTHER
22 DRUG.

23 (5) A MARIJUANA CONSUMPTION CLUB SHALL NOT ALLOW THE USE
24 OF A BUTANE TORCH OR SIMILAR DEVICE ON THE PREMISES OF THE CLUB.

25 (6) A MARIJUANA CONSUMPTION CLUB AND ITS EMPLOYEES SHALL
26 ANNUALLY SUCCESSFULLY COMPLETE A RESPONSIBLE VENDOR PROGRAM
27 AUTHORIZED PURSUANT TO SECTION 12-43.3-1102.

1 (7) (a) A MARIJUANA CONSUMPTION CLUB IS NOT CIVILLY LIABLE
2 TO ANY INJURED INDIVIDUAL OR HIS OR HER ESTATE FOR ANY INJURY TO
3 SUCH INDIVIDUAL OR DAMAGE TO ANY PROPERTY SUFFERED BECAUSE OF
4 THE INTOXICATION OF ANY PERSON DUE TO THE SALE OR SERVICE OF
5 RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCT TO SUCH PERSON,
6 EXCEPT WHEN:

7 (I) IT IS PROVEN THAT THE MARIJUANA CONSUMPTION CLUB
8 WILLFULLY AND KNOWINGLY SOLD OR SERVED RETAIL MARIJUANA OR
9 RETAIL MARIJUANA PRODUCT TO SUCH PERSON WHO WAS UNDER
10 TWENTY-ONE YEARS OF AGE OR WHO WAS VISIBLY UNDER THE INFLUENCE
11 OF MARIJUANA OR ANOTHER DRUG; AND

12 (II) THE CIVIL ACTION IS COMMENCED WITHIN ONE YEAR AFTER
13 SUCH SALE OR SERVICE.

14 (b) A CIVIL ACTION SHALL NOT BE BROUGHT PURSUANT TO THIS
15 SUBSECTION (7) BY THE PERSON TO WHOM THE RETAIL MARIJUANA OR
16 RETAIL MARIJUANA PRODUCT WAS SOLD OR SERVED OR BY HIS OR HER
17 ESTATE, LEGAL GUARDIAN, OR DEPENDENT.

18 (c) IN ANY CIVIL ACTION BROUGHT PURSUANT TO THIS SUBSECTION
19 (7), THE TOTAL LIABILITY IN ANY SUCH ACTION SHALL NOT EXCEED THE
20 LIMIT ON DAMAGES ESTABLISHED PURSUANT TO SECTION 12-47-801,
21 INCLUDING CONTINUING ADJUSTMENTS FOR INFLATION.

22 (8) A MARIJUANA CONSUMPTION CLUB SHALL TRACK ITS RETAIL
23 MARIJUANA AND RETAIL MARIJUANA PRODUCTS FROM THE POINT THEY
24 ARE TRANSFERRED FROM A RETAIL MARIJUANA STORE, A RETAIL
25 MARIJUANA CULTIVATION FACILITY, OR A RETAIL MARIJUANA PRODUCTS
26 MANUFACTURING FACILITY TO THE POINT OF SALE.

27 (9) (a) PRIOR TO ADMITTING A PERSON OR INITIATING A SALE, AN

1 EMPLOYEE OF THE MARIJUANA CONSUMPTION CLUB SHALL VERIFY THAT
2 THE PURCHASER HAS A VALID IDENTIFICATION CARD SHOWING THAT THE
3 PURCHASER IS TWENTY-ONE YEARS OF AGE OR OLDER. IF A PERSON UNDER
4 TWENTY-ONE YEARS OF AGE PRESENTS A FRAUDULENT PROOF OF AGE, ANY
5 ACTION RELYING ON THE FRAUDULENT PROOF OF AGE SHALL NOT BE
6 GROUNDS FOR THE REVOCATION OR SUSPENSION OF ANY LICENSE ISSUED
7 UNDER THIS ARTICLE 43.4.

8 (b) (I) IF A MARIJUANA CONSUMPTION CLUB LICENSEE OR
9 EMPLOYEE HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON IS UNDER
10 TWENTY-ONE YEARS OF AGE AND IS EXHIBITING FRAUDULENT PROOF OF
11 AGE IN AN ATTEMPT TO OBTAIN ENTRY OR PURCHASE ANY RETAIL
12 MARIJUANA OR RETAIL MARIJUANA PRODUCT, THE LICENSEE OR EMPLOYEE
13 IS AUTHORIZED TO CONFISCATE SUCH FRAUDULENT PROOF OF AGE, IF
14 POSSIBLE, AND SHALL, WITHIN SEVENTY-TWO HOURS AFTER THE
15 CONFISCATION, REMIT THE FRAUDULENT PROOF OF AGE TO A STATE OR
16 LOCAL LAW ENFORCEMENT AGENCY. THE FAILURE TO CONFISCATE SUCH
17 FRAUDULENT PROOF OF AGE OR TO REMIT THE FRAUDULENT PROOF OF AGE
18 TO A STATE OR LOCAL LAW ENFORCEMENT AGENCY WITHIN SEVENTY-TWO
19 HOURS AFTER THE CONFISCATION DOES NOT CONSTITUTE A CRIMINAL
20 OFFENSE.

21 (II) IF A MARIJUANA CONSUMPTION CLUB LICENSEE OR EMPLOYEE
22 BELIEVES THAT A PERSON IS UNDER TWENTY-ONE YEARS OF AGE AND IS
23 EXHIBITING FRAUDULENT PROOF OF AGE IN AN ATTEMPT TO OBTAIN ENTRY
24 OR PURCHASE ANY RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCT,
25 THE LICENSEE OR EMPLOYEE OR ANY PEACE OFFICER OR POLICE OFFICER,
26 ACTING IN GOOD FAITH AND UPON PROBABLE CAUSE BASED UPON
27 REASONABLE GROUNDS THEREFOR, MAY DETAIN AND QUESTION SUCH

1 PERSON IN A REASONABLE MANNER FOR THE PURPOSE OF ASCERTAINING
2 WHETHER THE PERSON IS GUILTY OF ANY UNLAWFUL ACT. THE
3 QUESTIONING OF A PERSON BY A LICENSEE OR EMPLOYEE OR A PEACE
4 OFFICER OR POLICE OFFICER DOES NOT RENDER THE LICENSEE, EMPLOYEE,
5 PEACE OFFICER, OR POLICE OFFICER CIVILLY OR CRIMINALLY LIABLE FOR
6 SLANDER, FALSE ARREST, FALSE IMPRISONMENT, MALICIOUS PROSECUTION,
7 OR UNLAWFUL DETENTION.

8 (10) ALL RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS
9 SOLD AT A LICENSED MARIJUANA CONSUMPTION CLUB SHALL BE
10 PACKAGED AND LABELED AS REQUIRED BY RULES OF THE STATE LICENSING
11 AUTHORITY PURSUANT TO SECTION 12-43.4-202.

12 (11) A MARIJUANA CONSUMPTION CLUB SHALL COMPLY WITH ALL
13 PROVISIONS OF ARTICLE 34 OF TITLE 24, AS THE PROVISIONS RELATE TO
14 PERSONS WITH DISABILITIES.

15 (12)(a) A MARIJUANA CONSUMPTION CLUB MAY ONLY SELL RETAIL
16 MARIJUANA, RETAIL MARIJUANA PRODUCTS, MARIJUANA ACCESSORIES,
17 NONCONSUMABLE PRODUCTS SUCH AS APPAREL, AND
18 MARIJUANA-RELATED PRODUCTS SUCH AS CHILDPROOF PACKAGING
19 CONTAINERS, BUT IS PROHIBITED FROM SELLING OR GIVING AWAY ANY
20 CONSUMABLE PRODUCT, INCLUDING BUT NOT LIMITED TO CIGARETTES OR
21 ALCOHOL, OR EDIBLE PRODUCT THAT DOES NOT CONTAIN MARIJUANA,
22 EXCEPT FOR LIGHT SNACKS.

23 (b) A MARIJUANA CONSUMPTION CLUB MAY NOT SELL ANY RETAIL
24 MARIJUANA OR RETAIL MARIJUANA PRODUCTS THAT CONTAIN NICOTINE OR
25 ALCOHOL, IF THE SALE OF THE ALCOHOL WOULD REQUIRE A LICENSE
26 PURSUANT TO ARTICLE 46 OR 47 OF THIS TITLE 12.

27 (c) A MARIJUANA CONSUMPTION CLUB SHALL NOT SELL RETAIL

1 MARIJUANA OR RETAIL MARIJUANA PRODUCTS OVER THE INTERNET OR
2 DELIVER RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS TO A
3 PERSON NOT PHYSICALLY PRESENT IN THE MARIJUANA CONSUMPTION
4 CLUB'S LICENSED PREMISES.

5 (13) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW,
6 SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS ARE NOT
7 EXEMPT FROM STATE OR LOCAL SALES TAX.

8 (14) A DISPLAY CASE CONTAINING A MARIJUANA PRODUCT MUST
9 INCLUDE THE POTENCY OF THE MARIJUANA PRODUCT NEXT TO THE NAME
10 OF THE PRODUCT.

11 **SECTION 5.** In Colorado Revised Statutes, 12-43.4-402, **add**
12 (1)(f) as follows:

13 **12-43.4-402. Retail marijuana store license - definitions.**

14 (1) (f) A RETAIL MARIJUANA STORE MAY SELL ITS RETAIL MARIJUANA TO
15 A MARIJUANA CONSUMPTION CLUB LICENSED PURSUANT TO SECTION
16 12-43.4-408.

17 **SECTION 6.** In Colorado Revised Statutes, 12-43.4-403, **amend**
18 (1) as follows:

19 **12-43.4-403. Retail marijuana cultivation facility license.** (1) A
20 retail marijuana cultivation facility license may be issued only to a person
21 who cultivates retail marijuana for sale and distribution to licensed retail
22 marijuana stores, retail marijuana products manufacturing licensees, or
23 other retail marijuana cultivation facilities. A RETAIL MARIJUANA
24 CULTIVATION FACILITY MAY SELL ITS RETAIL MARIJUANA TO A MARIJUANA
25 CONSUMPTION CLUB LICENSED PURSUANT TO SECTION 12-43.4-408.

26 **SECTION 7.** In Colorado Revised Statutes, 12-43.4-404, **add**
27 (1)(f) as follows:

1 **12-43.4-404. Retail marijuana products manufacturing**
2 **license.** (1) (f) A RETAIL MARIJUANA PRODUCTS MANUFACTURING
3 LICENSEE MAY SELL ITS RETAIL MARIJUANA PRODUCTS TO A MARIJUANA
4 CONSUMPTION CLUB LICENSED PURSUANT TO SECTION 12-43.4-408.

5 **SECTION 8.** In Colorado Revised Statutes, 12-43.4-901, **amend**
6 (4) introductory portion and (4)(c) as follows:

7 **12-43.4-901. Unlawful acts - exceptions.** (4) It is unlawful for
8 any person licensed to sell retail marijuana or retail marijuana products
9 pursuant to this ~~article~~ ARTICLE 43.4:

10 (c) EXCEPT FOR MARIJUANA CONSUMPTION CLUBS, to provide
11 public premises, or any portion thereof, for the purpose of consumption
12 of retail marijuana or retail marijuana products in any form;

13 **SECTION 9.** In Colorado Revised Statutes, 18-18-406, **add**
14 (5)(b)(IV) as follows:

15 **18-18-406. Offenses relating to marijuana and marijuana**
16 **concentrate.** (5) (b) (IV) PUBLIC DISPLAY, CONSUMPTION, OR USE OF UP
17 TO ONE OUNCE OF MARIJUANA OR ITS EQUIVALENT IN MARIJUANA
18 CONCENTRATE IN A BUSINESS LICENSED PURSUANT TO SECTION
19 12-43.4-408 THAT ALLOWS THE CONSUMPTION OF MARIJUANA OR
20 MARIJUANA CONCENTRATE IS NOT A VIOLATION OF THIS SUBSECTION
21 (5)(b).

22 **SECTION 10.** In Colorado Revised Statutes, 25-14-205, **amend**
23 (1) introductory portion; and **add** (1)(l) as follows:

24 **25-14-205. Exceptions to smoking restrictions.** (1) This part 2
25 ~~shall~~ DOES not apply to:

26 (l) A MARIJUANA CONSUMPTION CLUB AS DESCRIBED IN SECTION
27 12-43.4-408, LIMITED TO ONLY THE PURPOSE OF SMOKING MARIJUANA,

1 THAT IS IN COMPLIANCE WITH SECTION 12-43.4-313 (3) AND IS FULLY
2 VENTILATED AS REQUIRED BY ALL LAWS APPLICABLE TO SMOKING AND
3 CLEAN AIR.

4 **SECTION 11.** In Colorado Revised Statutes, 11-33-103, **amend**
5 the introductory portion and (4) as follows:

6 **11-33-103. Definitions.** As used in this ~~article~~ ARTICLE 33, unless
7 the context otherwise requires:

8 (4) "Licensed marijuana business" means an entity licensed
9 pursuant to section 12-43.3-402, 12-43.3-403, 12-43.3-404, 12-43.4-402,
10 12-43.4-403, 12-43.4-404, ~~or~~ 12-43.4-405, OR **12-43.4-408. C.R.S.**

11 **SECTION 12. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2018 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.