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FISCAL NOTE

Drafting Number:	LLS 18-0080	Date:	March 19, 2018
Prime Sponsors:	Rep. Singer; Melton Sen. Neville T.; Fenberg	Bill Status:	House Finance
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Bill Topic: MARIJUANA ACCESSORY CONSUMPTION ESTABLISHMENTS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

Conditional upon local approval, the bill allows the operation of marijuana accessory consumption establishments where medical marijuana patients and retail marijuana customers may consume, without smoking, one serving of marijuana. It will increase state and local government revenue and expenditures on an ongoing basis.

Appropriation Summary: The bill requires an appropriation of \$203,561 to the Department of Revenue in FY 2018-19.

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under HB 18-1258**

		FY 2018-19	FY 2019-20
Revenue	Cash Funds	\$75,000	\$225,000
	Total	\$75,000	\$225,000
Expenditures	Cash Funds	\$203,561	\$157,275
	Centrally Appropriated	\$22,127	\$23,948
	Total	\$225,688	\$181,223
	Total FTE	1.5 FTE	2.0 FTE
Transfers	Total	-	-

Summary of Legislation

As of January 1, 2019, this bill allows a medical marijuana center or retail marijuana store licensee to add an endorsement to its license to establish one accessory consumption establishment. The new endorsement is only available in jurisdictions that approve, through initiative or ordinance, of such establishments. Depending on the type of establishment, medical marijuana cardholders or retail customers 21 years and older may be served and partake up to 3.5 grams of flower, 1 gram of concentrate, or 10 milligrams of infused product. The facility can be adjacent to a center or store, but must have a separate entrance. A facility that is in a separate location must be located in the same local jurisdiction. Marijuana products must be packaged and labeled individually. Employees must be trained in intoxication assessment.

Data and Assumptions

There are currently 505 medical marijuana centers and 509 retail marijuana stores operating in Colorado. The fiscal note assumes that local jurisdictions will need time to adopt ordinances or approve ballot measures related to this license type. Therefore, FY 2019-20 will be the bill's first full implementation year. In this year, it is assumed that one percent of existing centers and stores will apply for a marijuana accessory consumption establishment endorsement for one of their locations. Licensing will begin January 1, 2019, and half the full implementation year amount of licenses is expected. Because centers and stores seeking the endorsement hold existing licenses, applicants will not be required to submit to a fingerprint-based criminal background check or due diligence investigations.

State Revenue

This bill is expected to increase state cash fund revenue by \$75,000 in FY 2018-19 and \$225,000 in FY 2019-20 to the Marijuana Cash Fund in the Department of Revenue.

Fee impact related to marijuana consumption establishment endorsements. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fee calculations will be set administratively by the Marijuana Enforcement Division in the Department of Revenue based on cash fund balance, estimated program costs, and the estimated number of applications and licenses subject to the fee. Table 2 below identifies the fee impact of this bill.

**Table 2
 Fee Impact Related to Marijuana Consumption Establishment Endorsements**

Fiscal Year	Type of Fee	Estimated Fee	Number Affected	Total Fee Impact
FY 2018-19	Application Fee	\$10,000	5	\$50,000
	Marijuana Consumption Endorsement	\$5,000	5	\$25,000
FY 2018-19 Total				\$75,000
FY 2019-20	Application Fee	\$10,000	15	\$150,000
	Marijuana Consumption Endorsement	\$5,000	10	\$50,000
	Endorsement Renewals	\$5,000	5	\$25,000
FY 2019-20 Total				\$225,000

TABOR Refund

The bill increases state revenue subject to TABOR. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. However, refunds in future years when the state next collects a TABOR surplus will be increased.

State Expenditures

This bill increases state cash fund expenditures by \$225,688 and 1.5 FTE in FY 2018-19, and \$181,223 and 2.0 FTE in FY 2019-20 and each year thereafter from the Marijuana Cash Fund in the Department of Revenue. These costs are shown in Table 3 and explained below.

**Table 3
 Expenditures Under HB 18-1258**

	FY 2018-19	FY 2019-20
Department of Revenue		
Personal Services	\$69,239	\$109,073
Operating Expenses and Capital Outlay Costs	\$10,546	\$1,710
Vehicle Lease and Mileage	\$7,706	\$10,463
Law Enforcement Expenses	\$5,777	\$987
Legal Services	\$50,616	\$34,632
Computer Programming and Licenses	\$59,677	\$410
Centrally Appropriated Costs*	\$22,127	\$23,948
FTE – Personal Services	1.2 FTE	1.8 FTE
FTE – Legal Services	0.3 FTE	0.2 FTE
Total Cost	\$225,688	\$181,223
Total FTE	1.5 FTE	2.0 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Personal services. Analysis staff will be hired on September 1, 2018, to develop the new endorsement program and train for the bill's January 1, 2019, effective date. The background investigation unit will add a criminal investigator beginning January 1, 2019. Ongoing staff duties will include accepting and processing applications; investigating and interviewing applicants; updating the MED licensing software and database; enforcement; and reporting.

Operating expenses and capital outlay costs. The fiscal note includes expenses for 1.8 FTE for office furniture, telephones, computers, and supplies, which represents the number of FTE in the first full implementation year of the bill.

Vehicles. Beginning FY 2018-19, the MED requires one vehicle for the criminal investigator working in field enforcement. The Department of Personnel and Administration, which will administer the vehicle lease, will be reappropriated \$4,950 in FY 2018-19. The remainder of the costs are for mileage, calculated based on 5,625 miles in FY 2018-19, and 11,250 miles in FY 2019-20 at a rate of \$0.49 per mile.

Law enforcement equipment. The criminal investigator in field enforcement will hold peace officer status. The MED will supply this investigator with appropriate police equipment for one-time capital equipment costs of \$5,777 and ongoing annual supply costs of \$987.

Legal services. The MED is expected to require 475 hours of legal services in FY 2018-19 and 300 hours in FY 2019-20 at a rate of \$106.56 per hour. This volume of work requires an allocation of 0.3 FTE in FY 2018-19 and 0.2 FTE in FY 2019-20 to the Department of Law. In FY 2018-19, the department will provide general counsel and rulemaking support. In FY 2019-20, the department will provide general counsel, regulatory representation in hearings, and counsel in licensing disputes.

Computer programming. The DOR will incur one-time programming costs of \$59,677 in FY 2018-19, which includes updates to GenTax at \$12,000; updates to MyLO at \$4,067; and updates to METRC at \$43,200. Ongoing software licensing costs will be \$410 beginning FY 2018-19.

Judicial Department. Current law provides for judicial review of decisions by both state and local licensing authorities regarding marijuana licenses. Under the bill, courts would have judicial review of decisions related to the new endorsement. No change in appropriations is required.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance, supplemental employee retirement payments, and leased space, are estimated to be \$22,127 in FY 2018-19 and \$23,948 in FY 2019-20.

Local Government

Local governments that approve marijuana consumption establishments will experience increases in enforcement workload and potentially increases in licensing and sales tax revenue. Local governments have discretion in allowing the licensing of marijuana consumption establishments within their jurisdictions.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State Appropriations

In FY 2018-19, the bill requires an appropriation of \$203,561 from the Marijuana Cash Fund to the Department of Revenue and an allocation of 1.2 FTE. Of this amount, \$50,616 should be reappropriated to the Department of Law with an allocation of 0.3 FTE, and \$4,950 should be reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

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