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HOUSE BILL 26-1077

BY REPRESENTATIVE(S) Gonzalez R. and Willford, Phillips, Ricks, Titone, Carter;
also SENATOR(S) Lindstedt and Marchman, Snyder, Gonzales J.

CONCERNING THE AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA.

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

SECTION 1. In Colorado Revised Statutes, 39-28.8-101, **amend** (1.5); and **add** (4.5), (6.5) and (6.7) as follows:

39-28.8-101. Definitions.

Unless the context otherwise requires, any terms not defined in this article 28.8 have the meanings set forth in article 26 of this title 39. As used in this article 28.8, unless the context otherwise requires:

(1.5) "Average market rate" means the average price, as determined by the department on a quarterly basis, of all unprocessed retail marijuana that is sold or transferred from retail marijuana cultivation facilities in the state to retail marijuana product manufacturing facilities or retail marijuana stores, less taxes paid on the sales or transfers. An "average market rate"

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

may be based on the purchaser or transferee of unprocessed retail marijuana or on the nature of the unprocessed retail marijuana that is sold or transferred. The "average market rate" must include one or more rates that cover unprocessed marijuana that is allocated to extractions, ~~and the initial rates for these product types must be lower than the rate for unprocessed marijuana that is allocated for direct sale to consumers.~~ INCLUDING FRESH FROZEN INDOOR UNPROCESSED RETAIL MARIJUANA AND FRESH FROZEN OUTDOOR UNPROCESSED RETAIL MARIJUANA. THE INITIAL RATES FOR UNPROCESSED MARIJUANA THAT ARE ALLOCATED TO EXTRACTIONS MUST BE LOWER THAN THE RATE FOR UNPROCESSED MARIJUANA THAT IS ALLOCATED FOR DIRECT SALE TO CONSUMERS. THE DEPARTMENT SHALL ADOPT RULES TO ESTABLISH THE RATES FOR FRESH FROZEN INDOOR UNPROCESSED RETAIL MARIJUANA AND FRESH FROZEN OUTDOOR UNPROCESSED RETAIL MARIJUANA ON OR BEFORE JULY 1, 2027.

(4.5) "INDOOR UNPROCESSED RETAIL MARIJUANA" MEANS UNPROCESSED RETAIL MARIJUANA CULTIVATED IN ANY MANNER OTHER THAN OUTDOOR UNPROCESSED RETAIL MARIJUANA, AS DEFINED IN SUBSECTION (6.7) OF THIS SECTION.

(6.5) "NATURAL WEATHER CONDITIONS" MEANS AMBIENT TEMPERATURE, PRECIPITATION, AND HUMIDITY.

(6.7) (a) "OUTDOOR UNPROCESSED RETAIL MARIJUANA" MEANS UNPROCESSED RETAIL MARIJUANA THAT, EXCEPT AS PROVIDED IN SUBSECTION (6.7)(b) OF THIS SECTION, WAS CULTIVATED UNDER NATURAL SUNLIGHT WITHOUT ARTIFICIAL LIGHT OR LIGHT DEPRIVATION, WITH DIRECT EXPOSURE TO NATURAL WEATHER CONDITIONS, AND NOT WITHIN AN INDOOR FACILITY, GREENHOUSE, OR OTHER STRUCTURE THAT PREVENTS EXPOSURE TO NATURAL SUNLIGHT AND NATURAL WEATHER CONDITIONS.

(b) OUTDOOR UNPROCESSED MARIJUANA MAY BE:

(I) CULTIVATED USING ARTIFICIAL LIGHT TO MAINTAIN VEGETATIVE PLANTS UNDER TWENTY-FOUR INCHES IN HEIGHT AND TO MAINTAIN MOTHER PLANTS;

(II) CULTIVATED USING IRRIGATION, FERTIGATION, OR SIMILAR AGRICULTURAL PRACTICES; AND

(III) PROTECTED FROM AN ADVERSE WEATHER EVENT PURSUANT TO A CONTINGENCY PLAN APPROVED BY THE STATE LICENSING AUTHORITY PURSUANT TO SECTION 44-10-602 (14).

SECTION 2. In Colorado Revised Statutes, **add** 39-28.8-201.5 as follows:

39-28.8-201.5. Average market rate - unprocessed retail marijuana - description.

FOR EACH AVERAGE MARKET RATE CATEGORY OF UNPROCESSED RETAIL MARIJUANA THAT THE DEPARTMENT ESTABLISHES PURSUANT TO SECTION 39-28.8-101 (1.5), THE DEPARTMENT SHALL PUBLISH A GENERAL DESCRIPTION OF THE METHODOLOGY AND DATA SOURCES USED TO CALCULATE THE RATE, WHILE PROTECTING CONFIDENTIAL, PROPRIETARY, AND IDENTIFYING INFORMATION.

SECTION 3. Effective date. This act takes effect July 1, 2026.

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

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO