

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0970.01 Thomas Morris x4218

HOUSE BILL 16-1266

HOUSE SPONSORSHIP

Becker K.,

SENATE SPONSORSHIP

Cooke,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE DEPARTMENT OF REVENUE'S AUTHORITY OVER
102 MARIJUANA THAT CONTAINS CHEMICAL CONTAMINANTS.

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://www.leg.state.co.us/billsummaries>.)

The bill allows the department of revenue to seize and destroy medical and retail marijuana that testing shows contains harmful contaminants, as determined by the department of public health and environment, or unauthorized pesticides.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43.3-202, **amend**
3 **as it will become effective July 1, 2016,** (2.5) (a) as follows:

4 **12-43.3-202. Powers and duties of state licensing authority -**
5 **rules.** (2.5) (a) Rules promulgated pursuant to paragraph (b) of
6 subsection (1) of this section must include, but need not be limited to, ~~the~~
7 ~~following subjects:~~

8 ~~(H) (A)~~ establishing a medical marijuana and medical
9 marijuana-infused products independent testing and certification program
10 for medical marijuana licensees within an implementation time frame.
11 ~~and requiring~~ THE RULES MUST REQUIRE:

12 (I) Licensees to test medical marijuana to ensure, at a minimum,
13 that products sold for human consumption do not contain contaminants
14 that are injurious to health, AS DETERMINED BY THE DEPARTMENT OF
15 PUBLIC HEALTH AND ENVIRONMENT, INCLUDING PESTICIDES THAT ARE NOT
16 AUTHORIZED PURSUANT TO SECTION 24-20-112 (1), C.R.S., and to ensure
17 correct labeling;

18 ~~(B)~~ (II) Testing ~~may~~ TO include analysis for microbial and residual
19 solvents, PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO SECTION
20 24-20-112 (1), C.R.S., and chemical and biological contaminants deemed
21 to be public health hazards by the ~~Colorado~~ department of public health
22 and environment based on medical reports and published scientific
23 literature;

24 ~~(C)~~ (III) ~~In the event~~ That IF test results indicate the presence of
25 quantities of any substance determined to be injurious to health AS
26 DETERMINED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,
27 INCLUDING PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO SECTION

1 24-20-112 (1), C.R.S.:

2 (A) The licensee shall immediately quarantine the products, ~~and~~
3 notify the state licensing authority, ~~The licensee shall~~ AND document and
4 properly destroy the adulterated product; AND

5 (B) THE STATE LICENSING AUTHORITY MAY IMMEDIATELY
6 QUARANTINE THE PRODUCTS AND DOCUMENT AND PROPERLY DESTROY
7 THE ADULTERATED PRODUCT;

8 ~~(D)~~ (IV) THAT testing ~~shall~~ also verify THC potency
9 representations and homogeneity for correct labeling and provide a
10 cannabinoid profile for the marijuana product;

11 ~~(E)~~ (V) The state licensing authority ~~shall~~ TO determine an
12 acceptable variance for potency representations and procedures to address
13 potency misrepresentations; AND

14 ~~(F)~~ (VI) The state licensing authority ~~shall~~ TO determine the
15 protocols and frequency of marijuana testing by licensees.

16 **SECTION 2.** In Colorado Revised Statutes, 12-43.4-202, **amend**
17 (3) (a) (IV) (A) and (3) (a) (IV) (C) as follows:

18 **12-43.4-202. Powers and duties of state licensing authority -**
19 **rules.** (3) (a) Rules promulgated pursuant to paragraph (b) of subsection
20 (2) of this section must include, but need not be limited to, the following
21 subjects:

22 (IV) (A) Establishing a marijuana and marijuana products
23 independent testing and certification program, within an implementation
24 time frame established by the department, requiring licensees to test
25 marijuana to ensure at a minimum that products sold for human
26 consumption do not contain contaminants that are injurious to health, AS
27 DETERMINED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,

1 INCLUDING PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO SECTION
2 24-20-112 (1), C.R.S., and to ensure correct labeling.

3 (C) ~~In the event that~~ IF test results indicate the presence of
4 quantities of any substance determined BY THE DEPARTMENT OF PUBLIC
5 HEALTH AND ENVIRONMENT to be injurious to health, ~~such~~ INCLUDING
6 PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO SECTION 24-20-112
7 (1), C.R.S., THE LICENSEE SHALL IMMEDIATELY QUARANTINE THE
8 products, ~~shall be immediately quarantined and immediate notification to~~
9 ~~the marijuana enforcement division shall be made. The adulterated~~
10 ~~product shall be documented and properly destroyed~~ NOTIFY THE STATE
11 LICENSING AUTHORITY, AND DOCUMENT AND PROPERLY DESTROY THE
12 ADULTERATED PRODUCTS, AND THE STATE LICENSING AUTHORITY MAY
13 IMMEDIATELY QUARANTINE THE PRODUCTS AND DOCUMENT AND
14 PROPERLY DESTROY THE ADULTERATED PRODUCTS.

15 **SECTION 3.** In Colorado Revised Statutes, 35-10-112.5, **amend**
16 (1) (d) as follows:

17 **35-10-112.5. Statewide uniformity of pesticide control and**
18 **regulation - exceptions.** (1) The general assembly hereby determines
19 that:

20 (d) Although the cultivation of marijuana is illegal under federal
21 law and so the use of pesticides in cultivating marijuana is not specifically
22 allowed by any pesticide's label, the cultivation of marijuana is
23 specifically allowed and regulated by Colorado law, and the use of
24 pesticides IN CONNECTION WITH MEDICAL AND RETAIL MARIJUANA should
25 be regulated pursuant to this article, ~~and~~ rules promulgated pursuant to
26 this article, AND SECTIONS 12-43.3-202 (2.5) (a), 12-43.4-202 (2) (g) AND
27 (3) (a) (IV) (A), AND 24-20-112 (1), C.R.S., rather than pursuant to local

1 laws; and

2 **SECTION 4. Act subject to petition - effective date -**

3 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
4 the expiration of the ninety-day period after final adjournment of the
5 general assembly (August 10, 2016, if adjournment sine die is on May 11,
6 2016); except that, if a referendum petition is filed pursuant to section 1
7 (3) of article V of the state constitution against this act or an item, section,
8 or part of this act within such period, then the act, item, section, or part
9 will not take effect unless approved by the people at the general election
10 to be held in November 2016 and, in such case, will take effect on the
11 date of the official declaration of the vote thereon by the governor.

12 (2) This act applies to conduct occurring on or after the applicable
13 effective date of this act.