

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0970.01 Thomas Morris x4218

**HOUSE BILL 16-1266**

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**HOUSE SPONSORSHIP**

**Becker K.,**

**SENATE SPONSORSHIP**

**Cooke,**

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**House Committees**

Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE DEPARTMENT OF REVENUE'S AUTHORITY OVER**  
102 **MARIJUANA THAT CONTAINS CHEMICAL CONTAMINANTS, AND,**  
103 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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**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/bills summaries>.)*

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.*

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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 ~~(I) (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 AND SET FORTH IN THE RULES,  
16 INCLUDING PESTICIDES THAT ARE NOT AUTHORIZED PURSUANT TO SECTION  
17 24-20-112 (1), C.R.S., and to ensure 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

1 AND SET FORTH IN THE RULES, INCLUDING PESTICIDES THAT ARE NOT  
2 AUTHORIZED PURSUANT TO SECTION 24-20-112 (1), C.R.S.:

3 (A) The licensee shall immediately quarantine the products, and  
4 notify the state licensing authority, ~~The licensee shall~~ AND, ONCE THE  
5 DEPARTMENT HAS PROMULGATED A RULE TO IMPLEMENT THIS  
6 SUB-SUBPARAGRAPH (A) AND AFTER THE PROCEDURES OF  
7 SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (III) HAVE BEEN  
8 COMPLIED WITH, document and properly destroy the adulterated product;  
9 AND

10 (B) THE STATE LICENSING AUTHORITY MAY IMMEDIATELY  
11 QUARANTINE THE PRODUCTS AND DOCUMENT AND PROPERLY DESTROY  
12 THE ADULTERATED PRODUCT;

13 (C) BEFORE EITHER THE DEPARTMENT MAY, OR THE LICENSEE  
14 SHALL, DESTROY THE PRODUCTS, THE LICENSEE MAY CONTEST THE  
15 RESULTS OF THE TEST BY FILING WRITTEN NOTICE WITH THE DEPARTMENT  
16 WITHIN FIVE DAYS AFTER RECEIPT OF THE TEST RESULTS. THE  
17 DEPARTMENT SHALL NOTIFY THE LICENSEE OF THIS OPPORTUNITY, SHALL  
18 HOLD A HEARING ON THE MATTER WITHIN TWO WEEKS AFTER RECEIPT OF  
19 THE NOTICE OF APPEAL, AND SHALL PROMPTLY DETERMINE THE MATTER  
20 AND PROVIDE THE LICENSEE WITH WRITTEN NOTICE OF ITS  
21 DETERMINATION.

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

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

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

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

5           **12-43.4-202. Powers and duties of state licensing authority -**  
6 **rules.** (3) (a) Rules promulgated pursuant to paragraph (b) of subsection  
7 (2) of this section must include, but need not be limited to, the following  
8 subjects:

9           (IV) (A) Establishing a marijuana and marijuana products  
10 independent testing and certification program, within an implementation  
11 time frame established by the department, requiring licensees to test  
12 marijuana to ensure at a minimum that products sold for human  
13 consumption do not contain contaminants that are injurious to health, AS  
14 DETERMINED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
15 AND SET FORTH IN THE RULES, INCLUDING PESTICIDES THAT ARE NOT  
16 AUTHORIZED PURSUANT TO SECTION 24-20-112 (1), C.R.S., and to ensure  
17 correct labeling.

18           (C) ~~In the event that~~ IF test results indicate the presence of  
19 quantities of any substance determined BY THE DEPARTMENT OF PUBLIC  
20 HEALTH AND ENVIRONMENT AND SET FORTH IN THE RULES to be injurious  
21 to health, ~~such~~ INCLUDING PESTICIDES THAT ARE NOT AUTHORIZED  
22 PURSUANT TO SECTION 24-20-112 (1), C.R.S., THE LICENSEE SHALL  
23 IMMEDIATELY QUARANTINE THE products, ~~shall be immediately~~  
24 ~~quarantined and immediate notification to the marijuana enforcement~~  
25 ~~division shall be made. The adulterated product shall be documented and~~  
26 ~~properly destroyed~~ NOTIFY THE STATE LICENSING AUTHORITY, AND, ONCE  
27 THE DEPARTMENT HAS PROMULGATED A RULE TO IMPLEMENT THIS

1 SUB-SUBPARAGRAPH (C) AND AFTER THE PROCEDURES OF  
2 SUB-SUBPARAGRAPH (H) OF THIS SUBPARAGRAPH (IV) HAVE BEEN  
3 COMPLIED WITH, DOCUMENT AND PROPERLY DESTROY THE ADULTERATED  
4 PRODUCTS, AND THE STATE LICENSING AUTHORITY MAY IMMEDIATELY  
5 QUARANTINE THE PRODUCTS AND DOCUMENT AND PROPERLY DESTROY  
6 THE ADULTERATED PRODUCTS.

7 (H) BEFORE EITHER THE DEPARTMENT MAY, OR THE LICENSE  
8 SHALL, DESTROY THE PRODUCTS, THE LICENSEE MAY CONTEST THE  
9 RESULTS OF THE TEST BY FILING WRITTEN NOTICE WITH THE DEPARTMENT  
10 WITHIN FIVE DAYS AFTER RECEIPT OF THE TEST RESULTS. THE  
11 DEPARTMENT SHALL NOTIFY THE LICENSEE OF THIS OPPORTUNITY, SHALL  
12 HOLD A HEARING ON THE MATTER WITHIN TWO WEEKS AFTER RECEIPT OF  
13 THE NOTICE OF APPEAL, AND SHALL PROMPTLY DETERMINE THE MATTER  
14 AND PROVIDE THE LICENSEE WITH WRITTEN NOTICE OF ITS  
15 DETERMINATION.

16

17 **SECTION 3. Appropriation.** (1) For the 2016-17 state fiscal  
18 year, \$23,753 is appropriated to the department of revenue. This  
19 appropriation is from the marijuana cash fund created in section  
20 12-43.3-501 (1) (a), C.R.S. To implement this act, the department may  
21 use this appropriation for the purchase of legal services.

22 (2) For the 2016-17 state fiscal year, \$23,753 is appropriated to  
23 the department of law. This appropriation is from reappropriated funds  
24 received from the department of revenue under subsection (1) of this  
25 section and is based on an assumption that the department of law will  
26 require an additional 0.1 FTE. To implement this act, the department of  
27 law may use this appropriation to provide legal services for the

1 department of revenue.

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.