



**Colorado
Legislative
Council
Staff**

HB16-1214

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0731
Prime Sponsor(s): Rep. Conti

Date: May 16, 2016
Bill Status: Postponed Indefinitely
Fiscal Analyst: Clare Pramuk (303-866-2677)

BILL TOPIC: MARIJUANA

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	<u>at least \$10,000</u>	<u>at least \$10,000</u>
Cash Funds	at least 10,000	at least 10,000
State Expenditures	<u>\$11,430</u>	
Cash Funds	9,000	
Centrally Appropriated Costs	2,430	
TABOR Impact	at least \$10,000	at least \$10,000
Appropriation Required: \$9,000 - Department of Public Health and Environment (FY 2016-17).		
Future Year Impacts: Ongoing state revenue increases.		

Summary of Legislation

The bill makes several changes to the regulation of medical marijuana centers and primary caregivers, increases penalties for illegal marijuana cultivation, and limits court awards for damages to medical marijuana plants that have been seized by law enforcement.

Under current law, a medical marijuana center may sell medical marijuana below cost or donate it to an indigent patient or one who is in hospice care. This bill allows a center to exempt discounted or donated medical marijuana from its optional premises cultivation license production limit.

The bill moves up the effective date of caregiver plant limits established in Senate Bill 15-014 from January 1, 2017, to July 1, 2016. SB15-014 limited a primary caregiver to 36 medical marijuana plants unless the primary caregiver has one or more patients with a medically necessary extended plant count, in which case the plant limit is 99 plants. A primary caregiver growing more than 99 medical marijuana plants must become licensed as a medical marijuana business by the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR).

For criminal offenses related to illegal marijuana cultivation, the bill requires the court to levy a fine up to \$10,000 per day from the date that law enforcement discovered the illegal cultivation until it was no longer in operation.

Finally, the bill limits the amount a successful plaintiff may recover in actual damages to \$6,000 for the harm, neglect, injury, or destruction of medical marijuana plants while in the possession of state or local law enforcement. The bill does not waive immunity or any defense to a claim for damages, nor does it create or confer any right, property right, or other interest in medical marijuana or its use.

State Revenue

Assumptions. The fiscal note assumes that 10 individuals annually will be convicted of having an illegal grow operation and that these individuals will cease operation within one day of law enforcement discovering their operation. The average fine is estimated to be at least \$1,000 per case.

This bill is expected to increase state revenue from fines by at least \$10,000 per year beginning in FY 2016-17, paid to the Fines Collection Cash Fund in the Judicial Department.

Because the courts have discretion in levying a fine up to \$10,000 per day, the precise impact to state revenue cannot be determined. However, based on the number of fines imposed in the past three years, the fiscal note assumes that any revenue generated is likely to be more than \$10,000 per year.

TABOR Impact

This bill increases state revenue from fines, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

Assumptions. The fiscal note assumes that caregivers with plant counts in excess of 99 medical marijuana plants will reduce their plant counts rather than becoming licensed as medical marijuana businesses.

This bill will increase state expenditures by \$11,430 in FY 2016-17 only, from the Medical Marijuana Cash Fund in the Colorado Department of Public Health and Environment (CDPHE). It also increases workload for the Judicial Department.

Department of Public Health and Environment. In order to identify that a medical marijuana patient is in hospice care, the CDPHE will add a hospice status check box to the online physician certification form. This will require \$9,000 in programming costs from the Medical Marijuana Cash Fund. The fiscal note also includes indirect costs for CDPHE of \$2,430.

Judicial Department. To the extent that the additional fine increases the complexity of cases and extends the length of trials, trial courts will have an increase in workload for cases concerning illegal marijuana plant counts. This is expected to be a minimal increase in workload that can be addressed within existing appropriations.

Comparable Crime

Under state law, Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. Over the past three years, 32 individuals were convicted of having marijuana plant counts of seven or more which is in excess of the 6 plant limit in the Colorado Constitution. Of the 32 individuals convicted, 26 were male, 6 were female, 24 were Caucasian, 4 Asian, and 4 Hispanic. The fiscal note assumes that all of these cases would have been subject to the increased penalty required by the bill.

Local Government Impact

Under current law, there is no limit to the amount a plaintiff can recover in a civil action against state or local law enforcement for damage to medical marijuana plants that have been seized and held by law enforcement. Limiting to \$6,000 the actual damages that can be recovered from a law enforcement agency may significantly reduce the amount of damages paid, but this amount will depend on a variety of factors, including the number and size of medical marijuana seizures made, and cannot be determined.

Effective Date

The bill was postponed indefinitely by the House Judiciary Committee on February 25, 2016.

State Appropriations

For FY 2016-17, the Department of Public Health and Environment requires an appropriation of \$9,000 from the Medical Marijuana Cash Fund.

State and Local Government Contacts

Counties
Judicial
Public Safety

Governor's Marijuana Office
Municipalities
Revenue

Information Technology
Public Health and Environment
Sheriffs