



Legislative
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HB 18-1092

**FINAL
FISCAL NOTE**

Drafting Number:	LLS 18-0377	Date:	July 31, 2018
Prime Sponsors:	Rep. Melton; Singer Sen. Neville T.	Bill Status:	Postponed Indefinitely
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Bill Topic: MARIJUANA DELIVERY PILOT PROJECT

Summary of Fiscal Impact:

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

This bill would have created a marijuana delivery pilot program if a memorandum of understanding were put in place between the Marijuana Enforcement Division and a municipality. Up to three municipalities would have been permitted to participate. The bill would have had a conditional impact on state and local government revenue and expenditures through December 31, 2020, when the pilot program repealed.

Appropriation Summary: The bill would have required an appropriation of \$310,543 to the Department of Revenue if certain conditions were met.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
Conditional State Fiscal Impacts Under HB 18-1092**

		FY 2018-19	FY 2019-20
Revenue	Cash Funds	\$360,700	\$380,800
	Total	\$360,700	\$380,800
Expenditures	Cash Funds	\$310,543	\$306,260
	Centrally Appropriated	\$50,128	\$74,533
	Total	\$360,671	\$380,793
	Total FTE	2.9 FTE	4.2 FTE
Transfers		-	-
TABOR Refund	General Fund	\$360,700	\$380,800

Summary of Legislation

This bill creates a pilot program to allow marijuana delivery in up to three municipalities that enter into a Memorandum of Understanding with the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR). The memorandum must include an agreement on revenue sharing and declare the store to be the point of taxation. The MED must begin issuing licenses by January 1, 2019, and report to the finance committees of the General Assembly by March 1, 2020. The program repeals on December 31, 2020.

The MED is required to perform rulemaking related to the license, for which the bill specifies criteria to be considered during this process. Application and renewal fees must cover costs for regulation and enforcement of the license. Licensees and their staff, who must have an occupational license, must undergo specific training related to marijuana delivery, in particular for proof of age identification verification.

Assumptions

The fiscal note assumes that DOR will, by rule, require a memorandum of understanding to be in place with a municipality before it accepts applications for marijuana delivery licenses. As a result, the impacts outlined in this fiscal note are conditional upon a future agreement between the state and a local government. At this time, it is unknown which municipalities, if any, have an interest in participating in the pilot program.

Background

As of January 2018, the Marijuana Enforcement Division has issued over 35,000 occupational licenses, 1,500 medical marijuana business licenses, and 1,900 retail marijuana establishment licenses.

State Revenue

Conditional on a memorandum of understanding in place, the bill will increase state cash fund revenue by \$360,700 in FY 2018-19 and by \$380,800 in FY 2019-20 to the Marijuana Cash Fund in DOR.

Fee impact on marijuana delivery licensees. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Because the bill requires that the fee reflect the expected costs of administering the marijuana delivery license, these fee amounts are estimates based on the conditional expenditure estimate of the fiscal note and the assumed number of endorsement applications, as discussed in the State Expenditures section. DOR will set the fees administratively based on expected costs and can adjust the fees to reflect the actual costs to administer the license. Table 2 below identifies the fee impact of this bill.

Table 2
Conditional Fee Impact on Marijuana Delivery Licensees

Fiscal Year	Type of Fee	Estimated Fee	Number Affected	Total Fee Impact
FY 2018-19	Marijuana Delivery License	\$3,607	100	\$360,700
FY 2019-20		\$3,808	100	\$380,800

TABOR Refund

This bill increases state revenue from licensing fees, which will increase the amount of money required to be refunded under TABOR by \$360,700 in FY 2018-19 and \$380,800 in FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

The bill conditionally increases state expenditures for the MED in DOR by \$360,671 and 2.9 FTE in FY 2018-19 and by \$380,793 and 4.2 FTE in FY 2019-20 from the Marijuana Cash Fund. These conditional expenditure impacts are shown in Table 3 and discussed below.

Table 3
Conditional Expenditures Under HB 18-1092

	FY 2018-19	FY 2019-20
Department of Revenue		
Personal Services	\$159,526	\$239,289
Operating Expenses and Capital Outlay Costs	\$21,377	\$3,800
Legal Services	\$42,624	\$37,296
Law Enforcement Equipment	\$18,741	-
Vehicle Lease	\$14,850	\$14,850
Mileage	\$11,025	\$11,025
Computer Programming	\$42,400	-
Centrally Appropriated Costs*	\$50,128	\$74,533
FTE – Personal Services	2.7 FTE	4.0 FTE
FTE – Legal Services	0.2 FTE	0.2 FTE
Total Cost	\$360,671	\$380,793
Total FTE	2.9 FTE	4.2 FTE

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

Expenditure assumptions. The fiscal note assumes that at least 100 applications for marijuana delivery licenses will be submitted to the MED if a municipality agrees to participate in the pilot program, which take an average of 20 hours to process. The MED will perform unauthorized sale investigations, which will be more difficult than existing sales-related investigations, as transactions will occur at locations other than the licensed premises, as well as complaint-based investigations, risk-based investigations, and targeted inspections. The fiscal note assumes that about six inspections will occur a month, averaging 90 hours per inspection.

Licensing and investigation staff. Conditional upon a municipality entering into an agreement with the MED to allow marijuana delivery in its jurisdiction, the bill will require increases in licensing and investigation staff of 3.0 FTE Criminal Investigator I and 1.0 FTE Compliance Specialist I each year of the pilot program, which repeals on December 31, 2020. Criminal investigators also require per investigator expenditures of law enforcement equipment at a one-time cost of \$6,247; a vehicle leased at \$4,950 per year, this amount is reappropriated to the Department of Personnel and Administration; and \$3,675 for mileage, which represents 7,500 miles per year at a rate of \$0.49 per mile. While the fiscal note shows costs effective November 2018, with license issuance beginning January 2019, these costs will be reduced if an agreement is put in place at a later date and the MED is delayed in accepting applications.

Legal services. The MED will promulgate rules to implement the bill. This will require a stakeholder process and 400 hours of legal services support from the Department of Law in FY 2018-19 and 350 hours in FY 2019-20. Legal services are provided at a rate of \$106.56 per hour and represent an allocation of 0.2 FTE each year. The fiscal note assumes that the MED can perform rulemaking related to requiring a memorandum of understanding to be in place with a municipality before it issues any marijuana delivery licenses within existing appropriations.

Computer programming. The DOR will have conditional costs to modify its computer systems in FY 2018-19 only. The DOR will contract with its computer system vendors to modify the DR 1616 (Retail Marijuana Excise Tax Form) and perform other modifications to its taxation system, GenTax, at a cost of \$12,000 for 48 hours of programming, at a rate of \$250 per hour. To expand the tracking requirements for home deliveries, the DOR will update its marijuana tracking system, METRC, at a cost of \$22,400 for 112 hours of programming, at a rate of \$200 per hour. Programming and testing to add the delivery endorsement to the licensing system, MyLO, will cost \$8,000.

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 \$50,128 in FY 2018-19, and 74,533 in FY 2019-20.

Local Government Impact

If a municipality agrees to participate in the marijuana delivery pilot program, similar to the state, it will have increased revenue and costs to license and enforce marijuana delivery licensees.

Effective Date

The bill was postponed indefinitely by the Senate Judiciary Committee on April 18, 2018.

State Appropriations

The bill includes an appropriation of \$310,543 to the Department of Revenue from the Marijuana Cash Fund and an allocation of 2.7 FTE. The following departments are reappropriated funds in the following amounts:

- Department of Law, \$42,624 and an allocation of 0.2 FTE; and
- Department of Personnel and Administration, \$14,850.

State and Local Government Contacts

Information Technology Law Municipalities Revenue