



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 19-1234

FISCAL NOTE

Drafting Number: LLS 19-0822 Date: March 26, 2019
Prime Sponsors: Rep. Valdez A.; Singer Bill Status: House Business
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Bill Topic: REGULATED MARIJUANA DELIVERY

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill phases-in a marijuana delivery permit for licensed medical and retail marijuana businesses and transporters. It will increase state and local government revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of \$395,717 to the Department of Revenue.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1 State Fiscal Impacts Under HB 19-1234

Table with 4 columns: Category, Sub-category, FY 2019-20, FY 2020-21. Rows include Revenue (Cash Funds, Total), Expenditures (Cash Funds, Centrally Appropriated, Total), Total FTE, Transfers, and TABOR Refund.

Summary of Legislation

This bill creates a marijuana delivery permit to allow licensed medical marijuana centers, licensed retail marijuana stores, and medical and retail marijuana transporters to deliver marijuana and marijuana products to customers. Medical marijuana delivery permit issuance begins January 2, 2020, and retail marijuana delivery permit issuance begins January 2, 2021. The Marijuana Enforcement Division (MED) in the Department of Revenue has rulemaking authority over the permit and delivery system. The bill establishes requirements for marijuana delivery, including:

- requiring responsible vendor training programs to include marijuana delivery training;
- requiring a \$1.00 surcharge on each delivery to be remitted to the municipality or county where the establishment is in business to be used for law enforcement purposes;
- prohibiting more than one delivery to the same person per day;
- requiring the MED to provide a prompt response to local law enforcement agencies requesting information related to criminal activity materially related to marijuana delivery; and
- prohibiting delivery in jurisdictions that prohibit the operation of other licensed marijuana businesses.

The MED must issue reports by January 2, 2021, and January 2, 2022, for medical and retail marijuana delivery respectively, regarding the number of delivery permit applications and issuances, any findings of criminal activity materially related to delivery, and any incident reports of felony charges materially related to delivery.

Assumptions

The fiscal note assumes 107 new delivery permits in FY 2019-20, and 103 new delivery permits and 107 renewals in FY 2020-21. Starting FY 2019-20, the fiscal note also assumes 5 new transporter licenses per year. These assumptions are discussed below.

Denver medical and retail permits. The fiscal note assumes that the equivalent of half of Denver's marijuana establishments will apply for and be issued a delivery permit in the first two fiscal years of the bill's implementation. Using March 2019 license data, this assumes:

- 91 Medical Marijuana Centers will apply for a permit in FY 2019-20; and
- 83 Retail Marijuana Stores will apply for a permit in FY 2020-21.

There will likely be additional marijuana establishments in future fiscal years, and the fiscal note assumes this increase will be addressed through the annual budget process.

Transporter permits. The fiscal note assumes that all existing transporter licensees will apply for and be issued a delivery permit. Using January 1, 2019, data, this assumes:

- 11 Medical Marijuana Transporters will apply for a permit in FY 2019-20; and
- 15 Retail Marijuana Transporters will apply for a permit in FY 2020-21.

Additional transporter licenses and delivery permits. The fiscal note assumes that the bill incentivizes additional transporter license applicants since the delivery permit offers a business model with no requirement for a licensed premises and the option to obtain off-premise storage permits. This increase is estimated at 40 percent, which equates to:

- 5 Medical Marijuana Transporter licenses and delivery permits issued in FY 2019-20; and
- 5 Retail Marijuana Transporter licenses and delivery permits issued in FY 2020-21.

State Revenue

The bill increases state cash fund revenue from licensing fees to the Marijuana Cash Fund by an estimated \$525,064 in FY 2019-20, and \$988,356 in FY 2020-21. The bill may increase revenue to various cash funds in the Judicial Department. These impacts are discussed below.

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. Table 2 below identifies the estimated fee impact of this bill. The actual marijuana delivery fee will be set by the MED. The background check and transporter fees outlined in the table below reflect the MED's current fee schedule. With the exception of the FBI pass-through portion of the fingerprint background check, this revenue is subject to TABOR; however, under the March 2019 Legislative Council Staff forecast, a TABOR surplus is not expected in FY 2019-20 or FY 2020-21.

**Table 2
 Fee Impact on Licensed Marijuana Delivery Businesses**

FY	Type of Fee	Estimated/ Current Fee	Number Affected	Total Fee Impact
FY 19-20	Medical MJ Delivery Permit	\$4,500	107	\$481,500
	Fingerprint Background Check	\$52	107	\$5,564
	Medical MJ Transporter Initial Application and License (2-year)	\$5,400	5	\$27,000
	Medical MJ Transporter Storage Permit	\$2,200	5	\$11,000
FY 2019-20 Total				\$525,064
FY 20-21	Retail MJ Delivery Permit	\$4,500	103	\$463,500
	Fingerprint Background Check	\$52	103	\$5,356
	Retail MJ Transporter Initial Application and License (2-year) - \$400 to local govt.	\$5,400	5	\$27,000
	Retail MJ Transporter Storage Permit	\$2,200	5	\$11,000
	Medical MJ Delivery Permit (Renewal)	\$4,500	107	\$481,500
FY 2020-21 Total				\$988,356

Court fees and fines. To the extent that the bill increases judicial review processes available to marijuana licensees, the bill may minimally increase revenue to the Judicial Department from court fees and surcharges, which are deposited into various cash funds within the department. This revenue source is also subject to TABOR.

State Expenditures

The bill will increase state cash fund expenditures by \$451,547 and 3.8 FTE in FY 2019-20, and \$1,059,086 and 10.6 FTE in FY 2020-21 from the Marijuana Cash Fund. Expenditure impacts are shown in Table 3 and discussed below.

**Table 3
 Expenditures Under HB 19-1234**

	FY 2019-20	FY 2020-21
Department of Revenue		
Personal Services	\$266,201	\$756,575
Operating Expenses and Capital Outlay Costs	\$22,517	\$38,098
Legal Services	\$35,752	\$35,752
Computer Programming	\$49,700	-
Vehicle Lease and Mileage	\$8,850	\$35,400
Investigator Equipment	\$7,132	\$27,541
Fingerprint Background Checks	\$5,564	\$5,564
Centrally Appropriated Costs*	\$55,831	\$160,156
FTE – Personal Services	3.6 FTE	10.4 FTE
FTE – Legal Services	0.2 FTE	0.2 FTE
Total Cost	\$451,547	\$1,059,086
Total FTE	3.8 FTE	10.6 FTE

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

Marijuana Enforcement Division — DOR. The MED requires 3.6 FTE in FY 2019-20 and 10.4 FTE in FY 2020-21 to perform initial rulemaking, licensing, investigations, analysis, and hearings required under the bill. First-year costs have been prorated for the bill's effective date.

Licensing staff. In addition to routine licensing, financial, and suitability determinations applicable to all marijuana licensees, investigations for delivery permit applicants will also involve: review of any unique eligibility criteria applicable to delivery permit holders as established in rule; inspection of delivery vehicles for determination of compliance with security and surveillance requirements; determination of compliance with training requirements; review of measures taken to comply with sales limitations, inventory tracking, record keeping, age verification, patient verification, and similar requirements; and determination of whether the applicable local jurisdiction allows delivery. In FY 2019-20, this workload requires 1.0 FTE Licensing Compliance Investigator. In FY 2020-21, this workload requires 1.0 FTE Licensing Compliance Investigator and 1.0 FTE Licensing Technician.

Field investigations staff. Similar to licensing investigations, field investigations will involve activity that is not isolated to the licensed premise. It is assumed that all retail marijuana delivery permit holders will be subject to a compliance check in the first year of operation in FY 2020-21. In FY 2019-20, this workload requires 0.9 FTE Criminal Investigator, 0.4 FTE Field Compliance Investigator, and 0.9 FTE Statistical Analyst. In FY 2020-21, this workload requires 4.0 FTE Criminal Investigator, 3.0 FTE Field Compliance Investigator, and 1.0 FTE Statistical Analyst.

Hearings staff. An additional 0.4 FTE Hearings Officer is required beginning in FY 2019-20 to manage additional hearings, legal cases, rulemaking proceedings, and rule reports required under the bill.

Legal services. Beginning in FY 2019-20, expenditures in the Department of Law will increase by \$35,752 and 0.2 FTE per year. In the first fiscal year, the Department of Law will assist the MED in rule promulgation for medical delivery, enforcement of the \$1 per delivery surcharge, and general implementation estimated to require 150 hours at the rate of \$103.63. The department is also assumed to handle at least one legal case a year, anticipated at 120 hours, and an estimated three underage or unauthorized sale cases, anticipated at 25 hours per case. In FY 2020-21, similar to FY 2019-20, the department will assist the MED in rule promulgation for retail delivery, handle one legal case and an estimated six underage or unauthorized sale cases.

Computer programming. The DOR will modify three computer systems to implement the bill. Updates to the GenTax system are estimated to cost \$2,000 for 8 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 \$43,200 for 216 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 \$4,500 for 30 hours of programming at a rate of \$150 per hour.

Vehicle leases and equipment. Criminal investigators each require law enforcement equipment at a one-time cost of \$7,132; a vehicle leased at \$4,950 per year, which is reappropriated to the Department of Personnel and Administration; and \$3,900 for mileage, which represents 7,500 miles per year at a rate of \$0.52 per mile.

Fingerprint background checks. As shown in Table 2, cost for fingerprint background checks are \$5,564 in FY 2019-20, and \$5,356 in FY 2020-21. These amounts are reappropriated to the Department of Public Safety (DPS).

Department of Public Safety. In addition to the reappropriation of background check funds, under the bill, the Division of Criminal Justice in the DPS may be consulted by the MED regarding the collection and analysis of additional crime data materially related to retail marijuana delivery. DPS can accomplish this potential workload increase within existing appropriations.

Judicial Department. The bill may increase trial court workload related to the judicial review process available to all marijuana licensees, and to the extent cases are filed against permittees for engaging in illegal conduct related to the possession, transportation, or delivery of medical or retail marijuana. The fiscal note assumes that the Judicial Department can manage this minimal increase within existing appropriations.

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 and supplemental employee retirement payments, are estimated to be \$55,831 in FY 2019-20 and \$160,156 in FY 2020-21.

Local Government

The bill will increase local government revenue in expenditures in municipalities and counties that approve marijuana delivery permits.

Revenue. Revenue to law enforcement agencies in affected local governments will increase from the \$1.00 surcharge collected from every transaction. In addition, to the extent local governments assess an additional permit fee, revenue will increase.

Expenditures. Affected local licensing authorities will have an increase in workload and expenditures to issue permits and ensure compliance with local licensing requirements.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2019-20, the bill requires an appropriation of \$395,717 from the Marijuana Cash Fund to the Marijuana Enforcement Division in the Department of Revenue and an allocation of 3.6 FTE. Of this amount, the following reappropriations are required:

- \$35,752 to the Department of Law and an allocation of 0.2 FTE;
- \$4,950 to the Department of Personnel and Administration; and
- \$5,564 to the Department of Public Safety.

State and Local Government Contacts

Counties	District Attorneys	Information Technology
Judicial	Law	Personnel
Municipalities	Public Health and Environment	Public Safety
Revenue		