



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 18-1258

**FINAL
FISCAL NOTE**

Drafting Number:	LLS 18-0080	Date:	September 10, 2018
Prime Sponsors:	Rep. Singer; Melton Sen. Neville T.; Fenberg	Bill Status:	Vetoed by Governor
		Fiscal Analyst:	Erin Reynolds 303-866-4146 Erin.Reynolds@state.co.us

Bill Topic: MARIJUANA ACCESSORY CONSUMPTION ESTABLISHMENTS

Summary of Fiscal Impact:

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

Conditional upon local approval, the bill would have allowed the operation of retail marijuana accessory consumption establishments where customers may consume, without smoking, one serving of marijuana. It would have increased state and local government revenue and expenditures on an ongoing basis.

Appropriation Summary: The bill would have required an appropriation of \$99,637 to the Department of Revenue in FY 2018-19.

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

**Table 1
State Fiscal Impacts Under HB 18-1258**

		FY 2018-19	FY 2019-20
Revenue	Cash Funds	\$75,000	\$100,000
Expenditures	Cash Funds	\$99,637	\$24,386
	FTE	0.2 FTE	0.1 FTE
Transfers		-	-
TABOR Refund	General Fund	\$75,000	\$100,000

Summary of Legislation

As of January 1, 2019, this bill allows a retail marijuana store licensee to add an endorsement to its license to establish one marijuana accessory consumption establishment. The new endorsement is only available in jurisdictions that approve, through initiative or ordinance, such establishments, and is valid for one year.

At the marijuana accessory consumption establishment, customers 21 years and older may purchase and consume — without smoking — a limited amount of marijuana or marijuana concentrate on the premises. The amount will be determined in rule by the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR), but shall not be an amount less than one-quarter gram and contain no more than 10 milligrams of active THC. The bill contains requirements for local government approval, license endorsements, operations, and prohibited actions.

At point of sale, the establishment must provide information regarding the safe consumption of marijuana, which will be established by the Marijuana Education Oversight Committee in the Colorado Department of Public Health and Environment (CDPHE).

Data and Assumptions

There are currently 509 retail marijuana stores operating in Colorado. While licensing begins January 1, 2019, the fiscal note assumes that local jurisdictions will need time to adopt ordinances or approve ballot measures related to this license type. Therefore, FY 2019-20 will be the bill's first full implementation year. In this year, it is assumed that one percent of existing retail marijuana stores will apply for a marijuana accessory consumption establishment endorsement. Because stores seeking the endorsement hold existing licenses, applicants will not be required to submit to a fingerprint-based criminal background check or due diligence investigations.

State Revenue

This bill is expected to increase state cash fund revenue by \$75,000 in FY 2018-19 and \$100,000 in FY 2019-20 to the Marijuana Cash Fund in DOR.

Fee impact related to marijuana consumption establishment endorsements. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fee calculations will be set administratively by the MED based on cash fund balance, estimated program costs, and the estimated number of applications and licenses subject to the fee. Table 2 below identifies the fee impact of this bill.

Table 2
Fee Impact Related to Marijuana Consumption Establishment Endorsements

Fiscal Year	Type of Fee	Estimated Fee	Number Affected	Total Fee Impact
FY 2018-19	Application Fee	\$10,000	5	\$50,000
	Marijuana Consumption Endorsement	\$5,000	5	\$25,000
FY 2018-19 Total				\$75,000
FY 2019-20	Application Fee	\$10,000	5	\$50,000
	Marijuana Consumption Endorsement	\$5,000	5	\$25,000
	Endorsement Renewals	\$5,000	5	\$25,000
FY 2019-20 Total				\$100,000

TABOR Refund

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and 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 revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

This bill increases state cash fund expenditures by \$99,637 and 0.2 FTE in FY 2018-19, and \$24,386 and 0.1 FTE in FY 2019-20 and each year thereafter from the Marijuana Cash Fund in DOR. These costs are shown in Table 3 and explained below.

Table 3
Expenditures Under HB 18-1258

	FY 2018-19	FY 2019-20
Department of Revenue		
Legal Services	\$39,960	\$23,976
Computer Programming and Licenses	\$59,677	\$410
FTE – Legal Services	0.2 FTE	0.1 FTE
Total Cost	\$99,637	\$24,386
Total FTE	0.2 FTE	0.1 FTE

Department of Revenue. The MED is expected to require 375 hours of legal services in FY 2018-19 and 225 hours in FY 2019-20 at a rate of \$106.56 per hour. This volume of work requires an allocation of 0.2 FTE in FY 2018-19 and 0.1 FTE in FY 2019-20 to the Department of Law. In FY 2018-19, the department will provide general counsel and rulemaking support. In FY 2019-20, the department will provide general counsel, regulatory representation in hearings, and counsel in licensing disputes.

Computer programming. The DOR will incur one-time programming costs of \$59,677 in FY 2018-19, which includes updates to GenTax at \$12,000; updates to MyLO at \$4,067; and updates to METRC at \$43,200. Ongoing software licensing costs will be \$410 beginning FY 2018-19.

Department of Public Health and Environment. Workload will increase for the Marijuana Education Oversight Committee in CDPHE to create informational brochures regarding the safe consumption of marijuana. This workload increase will not require a change in appropriations for the committee or the department.

Judicial Department. Current law provides for judicial review of decisions by both state and local licensing authorities regarding marijuana licenses. Under the bill, courts would have judicial review of decisions related to the new endorsement. No change in appropriations is required.

Local Government

Local governments that approve marijuana consumption establishments will experience increases in hearings and enforcement workload and potential increases in licensing and sales tax revenue. Local governments have discretion in allowing the licensing of marijuana consumption establishments within their jurisdictions.

Effective Date

The bill was vetoed by the Governor on June 4, 2018.

State Appropriations

In FY 2018-19, the bill requires and includes an appropriation of \$99,637 from the Marijuana Cash Fund to the Department of Revenue. Of this amount, \$39,960 is reappropriated to the Department of Law with an allocation of 0.2 FTE.

State and Local Government Contacts

Counties	District Attorneys	Governor
Information Technology	Judicial	Law
Local Affairs	Municipalities	Public Health and Environment
Public Safety	Revenue	Sheriffs