

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 24, 2018  
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

SB18-259 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 2, line 10, strike "county;" and substitute  
2 "county AT A RATE OF UP TO FIVE PERCENT OF THE AVERAGE MARKET  
3 RATE, AS DETERMINED BY THE DEPARTMENT OF REVENUE PURSUANT TO  
4 SECTION 39-28.8-101 (1), OF THE UNPROCESSED RETAIL MARIJUANA IF THE  
5 TRANSACTION IS BETWEEN AFFILIATED RETAIL MARIJUANA BUSINESS  
6 LICENSEES AND AT A RATE OF UP TO FIVE PERCENT OF THE CONTRACT  
7 PRICE, AS DEFINED IN SECTION 39-28.8-101 (2.5), FOR UNPROCESSED  
8 RETAIL MARIJUANA IF THE TRANSACTION IS BETWEEN UNAFFILIATED  
9 RETAIL MARIJUANA BUSINESS LICENSEES;"

10 Page 2, line 14, strike "section." and substitute "section AND A COUNTY  
11 WHICH, BEFORE NOVEMBER 1, 2018, OBTAINED THE APPROVAL OF THE  
12 ELIGIBLE ELECTORS OF THE COUNTY AS REQUIRED BY SUBSECTION (1)(b)  
13 OF THIS SECTION TO LEVY ONLY A COUNTY EXCISE TAX ON THE FIRST SALE  
14 OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL  
15 MARIJUANA CULTIVATION FACILITY THAT IS CALCULATED BASED UPON THE  
16 AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA AND IN  
17 WHICH THE ELIGIBLE ELECTORS THEREAFTER REJECTED A PROPOSED  
18 AMENDMENT TO ALLOW THE TAX TO BE CALCULATED BASED ON THE  
19 CONTRACT PRICE FOR TRANSACTIONS BETWEEN UNAFFILIATED RETAIL  
20 MARIJUANA BUSINESSES MAY CONTINUE TO COLLECT THE TAX ON SUCH  
21 TRANSACTIONS BASED ON AN AVERAGE MARKET RATE CALCULATION  
22 UNTIL DECEMBER 31, 2020."

1 Page 3, strike lines 1 and 2.

2 Page 3, line 3, strike "marijuana." and substitute "~~Such excise tax must be~~  
3 ~~calculated based on the average market rate of the unprocessed retail~~  
4 ~~marijuana.~~".

5 Page 3, strike lines 7 though 10 and substitute "cultivation facility. ~~The~~  
6 ~~tax rate imposed pursuant to this subsection (1)(a) may not exceed five~~  
7 ~~percent of the average market rate, as determined by the department of~~  
8 ~~revenue pursuant to section 39-28.8-101 (1), of the unprocessed retail~~  
9 ~~marijuana.~~".

10 Page 3, strike lines 16 through 18 and substitute "marijuana cultivation  
11 facility AT A RATE OF UP TO FIVE PERCENT OF THE AVERAGE MARKET RATE,  
12 AS DETERMINED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION  
13 39-28.8-101 (1), OF THE UNPROCESSED RETAIL MARIJUANA IF THE  
14 TRANSACTION IS BETWEEN AFFILIATED RETAIL MARIJUANA BUSINESS  
15 LICENSEES AND AT A RATE OF UP TO FIVE PERCENT OF THE CONTRACT  
16 PRICE, AS DEFINED IN SECTION 39-28.8-101 (2.5), FOR UNPROCESSED  
17 RETAIL MARIJUANA IF THE TRANSACTION IS BETWEEN UNAFFILIATED  
18 RETAIL MARIJUANA BUSINESS LICENSEES; EXCEPT THAT A MUNICIPALITY  
19 WHICH, BEFORE NOVEMBER 1, 2018, OBTAINED THE APPROVAL OF THE  
20 ELIGIBLE ELECTORS OF THE MUNICIPALITY AS REQUIRED BY SUBSECTION  
21 (2)(b) OF THIS SECTION TO LEVY ONLY A MUNICIPAL EXCISE TAX ON THE  
22 FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A  
23 RETAIL MARIJUANA CULTIVATION FACILITY THAT IS CALCULATED BASED  
24 UPON THE AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA  
25 AND IN WHICH THE ELIGIBLE ELECTORS THEREAFTER REJECTED A  
26 PROPOSED AMENDMENT TO ALLOW THE TAX TO BE CALCULATED BASED ON  
27 THE CONTRACT PRICE FOR TRANSACTIONS BETWEEN UNAFFILIATED RETAIL  
28 MARIJUANA BUSINESSES MAY CONTINUE TO COLLECT THE TAX ON SUCH  
29 TRANSACTIONS BASED ON AN AVERAGE MARKET RATE CALCULATION  
30 UNTIL DECEMBER 31, 2020. ~~Such excise tax must be calculated based on~~  
31 ~~the average market rate of the unprocessed retail marijuana.~~ The tax shall  
32 be imposed at the time".

33 Page 3, line 22, strike "The tax rate imposed".

34 Page 3, strike lines 23 through 27 and substitute "~~The tax rate imposed by~~  
35 ~~any statutory municipality pursuant to this subsection (2)(a) may not~~  
36 ~~exceed five percent of the average market rate, as determined by the~~

1 ~~department of revenue pursuant to section 39-28.8-101 (1), of the~~  
2 ~~unprocessed retail marijuana.~~

3 (7) IF A RETAIL MARIJUANA CULTIVATION FACILITY USES A RETAIL  
4 MARIJUANA TRANSPORTER, AS DEFINED IN SECTION 12-43.4-103 (21.5), TO  
5 TRANSPORT UNPROCESSED RETAIL MARIJUANA BEING SOLD OR  
6 TRANSFERRED BY THE RETAIL MARIJUANA CULTIVATION FACILITY TO A  
7 RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL  
8 MARIJUANA STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION  
9 FACILITY, THE TRANSPORTATION OF THE UNPROCESSED RETAIL MARIJUANA  
10 BY THE RETAIL MARIJUANA TRANSPORTER IS NOT A TRANSFER OF  
11 UNPROCESSED RETAIL MARIJUANA FOR THE PURPOSE OF LEVYING ANY  
12 EXCISE TAX IMPOSED PURSUANT TO THIS SECTION."

13 Page 4, strike lines 1 through 10.

14 Page 4, line 13, strike "metropolitan".

15 Page 4, strike line 14 and substitute "metropolitan district that levies A  
16 GENERAL UNIFORM sales tax as authorized by section 32-1-1106 (1),  
17 health".

18 Page 4, line 15, after "levies" insert "A GENERAL UNIFORM".

19 Page 4, line 16, after "levies" insert "A GENERAL UNIFORM".

20 Page 4, line 17, after "levy" insert "ITS GENERAL UNIFORM".

21 Page 4, line 19, after "levying" insert "ANY".

22 Page 4, line 23, strike "metropolitan district," and substitute "metropolitan  
23 district,".

24 Page 4, line 25, after "levy" insert "A GENERAL UNIFORM".

25 Page 5, strike lines 7 through 16.

26 Renumber succeeding sections accordingly.

27 Page 6, line 7, after "licensees." insert "RETAIL MARIJUANA EXCISE TAX  
28 SHALL ALSO BE CALCULATED AS FIFTEEN PERCENT OF THE CONTRACT  
29 PRICE WHEN THE FIRST TRANSFER OF RETAIL MARIJUANA THAT HAS BEEN

1 HARVESTED FOR SALE AT A RETAIL MARIJUANA STORE OR EXTRACTION BY  
2 A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY IS BETWEEN  
3 UNAFFILIATED RETAIL MARIJUANA CULTIVATION FACILITIES."

4 Page 6, line 10, strike "facility, or".

5 Page 6, strike lines 11 and 12 and substitute "facility or a retail marijuana  
6 store."

7 Page 6, strike lines 13 through 22 and substitute:

8           **"SECTION 4. Act subject to petition - effective date.** This act  
9 takes effect January 1, 2019; except that, if a referendum petition is filed  
10 pursuant to section 1 (3) of article V of the state constitution against this  
11 act or an item, section, or part of this act within the ninety-day period  
12 after final adjournment of the general assembly, then the act, item,  
13 section, or part will not take effect unless approved by the people at the  
14 general election to be held in November 2018 and, in such case, will take  
15 effect on January 1, 2019, or on the date of the official declaration of the  
16 vote thereon by the governor, whichever is later."

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