

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0130.01 Michael Dohr x4347

HOUSE BILL 17-1221

HOUSE SPONSORSHIP

Willett and Pabon, Carver

SENATE SPONSORSHIP

Aguilar,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING GRAY AND BLACK MARKET MARIJUANA ENFORCEMENT**
102 **EFFORTS, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Committee on Cost-benefit Analysis of Legalized Marijuana in Colorado. The bill creates the grey and black market marijuana enforcement grant program (grant program) in the division of local government in the department of local affairs (division). The grant program awards grants to local governments to reimburse the local

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

governments, in part or in full, for training, education, law enforcement, and prosecution costs associated with grey and black marijuana markets. A rural local government with limited law enforcement resources has priority in receiving grants. The general assembly may appropriate money from the marijuana tax cash fund or the proposition AA refund account to the division for the grant program. The division shall adopt policies and procedures for the administration of the grant program, including rules related to the application process and the grant award criteria. The division shall include information regarding the effectiveness of the grant program in its SMART presentation beginning in November 2019.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Through citizen-initiated measures, Colorado provided its
5 citizens protections for the cultivation and use of medical marijuana in
6 2000 and recreational marijuana in 2012;

7 (b) One of the reasons behind these citizen-initiated measures was
8 to erode the black market for marijuana in Colorado;

9 (c) The constitutional provisions for both medical marijuana and
10 recreational marijuana provide protections for personal marijuana
11 cultivation, but are silent on the question of where marijuana plants may
12 be grown or processed for medical or recreational use;

13 (d) Although the authority for marijuana cultivation for both
14 medical and recreational marijuana is generally limited to six plants per
15 person, there are some provisions that can allow individuals to grow more
16 plants. Both the medical marijuana and recreational constitutional
17 provisions allow a citizen to assist another citizen in the cultivation of
18 marijuana.

19 (e) The assist provisions have created a situation in which
20 individuals are cultivating large quantities of marijuana in residential

1 properties;

2 (f) These large-scale cultivation sites in residential properties
3 create a public safety issue and are a public nuisance. A site in a
4 residential property can overburden the property's electrical system,
5 resulting in excessive power use and creating a fire hazard that puts first
6 responders at risk. A site can also cause water damage and mold in the
7 residential property. A site in a residential property can produce a noxious
8 smell that limits the ability of others who live in the area to enjoy the
9 quiet of their homes. Often the site is a rental home, and the renters cause
10 significant damage to the home by retrofitting the home to be used as a
11 large-scale cultivation site. When a residential property is used for a
12 large-scale cultivation site, it often lowers the property value of the
13 property and thus the property value of the rest of the neighborhood.
14 Finally, a site in a residential property can serve as a target for criminal
15 activity, creating an untenable public safety hazard.

16 (g) Large-scale, multi-national crime organizations have exploited
17 Colorado laws, rented multiple residential properties for large-scale
18 cultivation sites, and caused an influx of human trafficking and large
19 amounts of weapons as well as the potential for violent crimes in
20 residential neighborhoods;

21 (h) These large-scale cultivation sites in residential properties
22 have been used to divert marijuana out of state and to children; and

23 (i) In awarding grants under the gray and black market marijuana
24 enforcement grant program, the department of local affairs shall give
25 priority to local governments in rural areas that have limited law
26 enforcement resources.

27 (2) Therefore, the general assembly determines that it is necessary

1 to impose reasonable limits on residential marijuana cultivation that do
2 not encroach on the protections afforded Colorado citizens in the
3 Colorado constitution.

4 **SECTION 2.** In Colorado Revised Statutes, 18-18-406, **add** (3.5)
5 as follows:

6 **18-18-406. Offenses relating to marijuana and marijuana**
7 **concentrate - definition.** (3.5) A PERSON IS NOT IN COMPLIANCE WITH
8 THE AUTHORITY TO ASSIST ANOTHER INDIVIDUAL GRANTED IN SECTION 14
9 (2)(b) OR SECTION 16 (3)(e) OF ARTICLE XVIII OF THE STATE
10 CONSTITUTION AND IS SUBJECT TO THE OFFENSES AND PENALTIES OF THIS
11 SUBSECTION (3) OF THIS SECTION IF THE PERSON POSSESSES ANY
12 MARIJUANA PLANT HE OR SHE IS GROWING ON BEHALF OF ANOTHER
13 INDIVIDUAL, UNLESS HE OR SHE IS THE PRIMARY CAREGIVER FOR THE
14 INDIVIDUAL AND IS IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION
15 25-1.5-106.

16 **SECTION 3.** In Colorado Revised Statutes, **add** 24-32-118 as
17 follows:

18 **24-32-118. Gray and black market marijuana enforcement**
19 **grant program - report - definition.** (1) (a) THE GRAY AND BLACK
20 MARKET MARIJUANA ENFORCEMENT GRANT PROGRAM IS CREATED IN THE
21 DIVISION. THE DIVISION SHALL AWARD GRANTS TO LOCAL LAW
22 ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS TO COVER, IN PART OR
23 IN FULL, INVESTIGATION AND PROSECUTION COSTS ASSOCIATED WITH
24 UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS
25 CONDUCTED IN VIOLATION OF STATE LAW.

26 (b) THE DIVISION SHALL:

27 (I) SOLICIT AND REVIEW APPLICATIONS FOR GRANTS FROM LOCAL

1 LAW ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS; AND

2 (II) SELECT LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT
3 ATTORNEYS TO RECEIVE GRANTS TO COVER COSTS ASSOCIATED WITH THE
4 INVESTIGATION AND PROSECUTION OF UNLICENSED MARIJUANA
5 CULTIVATION OR DISTRIBUTION OPERATIONS CONDUCTED IN VIOLATION OF
6 STATE LAW.

7 (c) GRANTS AWARDED BY THE EXECUTIVE DIRECTOR OF THE
8 DEPARTMENT OF LOCAL AFFAIRS PURSUANT TO THIS SUBSECTION (1) SHALL
9 BE PRIORITIZED TO:

10 (I) PROVIDE NECESSARY FINANCIAL ASSISTANCE TO LOCAL LAW
11 ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN RURAL AREAS TO
12 ADDRESS UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION
13 OPERATIONS CONDUCTED IN VIOLATION OF STATE LAW;

14 (II) SUPPORT LOCAL LAW ENFORCEMENT AGENCIES AND DISTRICT
15 ATTORNEYS IN INVESTIGATING AND PROSECUTING LARGE-SCALE
16 UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS
17 CONDUCTED IN VIOLATION OF STATE LAW;

18 (III) PROVIDE NECESSARY FINANCIAL ASSISTANCE TO LOCAL LAW
19 ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN THE
20 INVESTIGATION AND PROSECUTION OF ORGANIZED CRIME INVOLVED IN
21 UNLICENSED MARIJUANA CULTIVATION OR DISTRIBUTION OPERATIONS
22 CONDUCTED IN VIOLATION OF STATE LAW; OR

23 (IV) PROVIDE NECESSARY FINANCIAL ASSISTANCE TO LOCAL LAW
24 ENFORCEMENT AGENCIES AND DISTRICT ATTORNEYS IN THE
25 INVESTIGATION AND PROSECUTION OF UNLICENSED MARIJUANA
26 CULTIVATION OR DISTRIBUTION OPERATIONS THAT DIVERT MARIJUANA
27 OUTSIDE OF COLORADO.

1 (2) THE GENERAL ASSEMBLY MAY ANNUALLY APPROPRIATE
2 MONEY FROM THE MARIJUANA TAX CASH FUND CREATED IN SECTION
3 39-28.8-501 OR THE PROPOSITION AA REFUND ACCOUNT CREATED IN
4 SECTION 39-28.8-604 (1) TO THE DIVISION TO MAKE THE GRANTS
5 DESCRIBED IN SUBSECTION (1) OF THIS SECTION AND FOR THE DIVISION'S
6 REASONABLE ADMINISTRATIVE EXPENSES RELATED TO THE GRANTS. ANY
7 UNEXPENDED AND UNENCUMBERED MONEY FROM AN APPROPRIATION
8 MADE PURSUANT TO THIS SUBSECTION (2) REMAINS AVAILABLE FOR
9 EXPENDITURE BY THE DIVISION IN THE NEXT FISCAL YEAR WITHOUT
10 FURTHER APPROPRIATION.

11 (3) THE DIVISION SHALL ADOPT POLICIES AND PROCEDURES THAT
12 ARE NECESSARY FOR THE ADMINISTRATION OF THE GRANT PROGRAM,
13 INCLUDING THE APPLICATION PROCESS AND THE GRANT AWARD CRITERIA.

14 (4) (a) ON OR BEFORE NOVEMBER 1, 2019, AND ON OR BEFORE
15 NOVEMBER 1 EACH YEAR THEREAFTER, THE DIVISION SHALL INCLUDE AN
16 UPDATE REGARDING THE EFFECTIVENESS OF THE GRANT PROGRAM IN ITS
17 REPORT TO THE MEMBERS OF THE APPLICABLE COMMITTEES OF REFERENCE
18 IN THE SENATE AND HOUSE OF REPRESENTATIVES AS REQUIRED BY THE
19 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
20 TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF
21 TITLE 2.

22 (b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORTS
23 REQUIRED IN SUBSECTION (4)(a) OF THIS SECTION CONTINUE INDEFINITELY.

24 (5) AS USED IN THIS SECTION, "RURAL AREA" MEANS:

25 (a) A COUNTY WITH A POPULATION OF LESS THAN TWO HUNDRED
26 THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE
27 POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS;

1 OR

2 (b) A MUNICIPALITY WITH A POPULATION OF LESS THAN THIRTY
3 THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE
4 POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS,
5 THAT IS LOCATED TEN MILES OR MORE FROM A MUNICIPALITY WITH A
6 POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE.

7 **SECTION 4. Appropriation.** (1) For the 2017-18 state fiscal
8 year, \$5,945,392 is appropriated to the department of local affairs. This
9 appropriation is from the marijuana tax cash fund created in section
10 39-28.8-501 (1), C.R.S. To implement this act, the department may use
11 this appropriation as follows:

12 (a) \$5,919,036 for use by the division of local government for the
13 gray and black market marijuana enforcement grant program, which
14 amount is based on an assumption that the division will require an
15 additional 1.3 FTE;

16 (b) \$21,603 for the purchase of information technology services;
17 and

18 (c) \$4,753 for the purchase of legal services.

19 (2) For the 2017-18 state fiscal year, \$21,603 is appropriated to
20 the office of the governor for use by the office of information technology.
21 This appropriation is from reappropriated funds received from the
22 department of local affairs under subsection (1)(b) of this section. To
23 implement this act, the office may use this appropriation to provide
24 information technology services for the department of local affairs.

25 (3) For the 2017-18 state fiscal year, \$4,753 is appropriated to the
26 department of law. This appropriation is from reappropriated funds
27 received from the department of local affairs under subsection (1)(c) of

1 this section. To implement this act, the department of law may use this
2 appropriation to provide legal services for the department of local affairs.

3 **SECTION 5. Effective date - applicability.** This act takes effect
4 July 1, 2017, and section 2 of this act applies to offenses committed on or
5 after said date.

6 **SECTION 6. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.