



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**HB 19-1234**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated March 26, 2019)

**Drafting Number:** LLS 19-0822  
**Prime Sponsors:** Rep. Valdez A.; Singer  
Sen. Gonzales; Marble

**Date:** April 24, 2019  
**Bill Status:** Senate Finance  
**Fiscal Analyst:** Erin Reynolds | 303-866-4146  
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**Bill Topic:** REGULATED MARIJUANA DELIVERY

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input 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

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 \$390,153 to the Department of Revenue.

**Fiscal Note Status:** This revised fiscal note reflects the reengrossed bill. It has also been updated to reflect new information from the Department of Revenue.

**Table 1  
State Fiscal Impacts Under HB 19-1234**

		<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Revenue</b>	Cash Funds	\$546,000	\$1,336,520
	<b>Total</b>	<b>\$546,000</b>	<b>\$1,336,520</b>
<b>Expenditures</b>	Cash Funds	\$390,153	\$1,106,913
	Centrally Appropriated	\$81,571	\$284,146
	<b>Total</b>	<b>\$471,723</b>	<b>\$1,391,059</b>
<b>Total FTE</b>		<b>3.8 FTE</b>	<b>13.1 FTE</b>
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

## **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. The Marijuana Enforcement Division (MED) in the Department of Revenue has rulemaking authority over the permit and delivery system.

Delivery permit issuances are valid for one-year and are phased-in as follows:

- January 2, 2020 — medical marijuana center delivery permits; and
- January 2, 2021 — retail marijuana store delivery permits and medical and retail marijuana transporter delivery permits.

The bill establishes marijuana delivery requirements, 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 a report to the finance committees of the General Assembly by January 2, 2021, regarding the number of medical marijuana center 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**

**Centers and stores.** It is assumed 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.

**Transporters.** It is assumed that all existing transporter licensees will apply for and be issued a delivery permit when eligible, of which there are currently 11 medical and 15 retail licensees currently. In addition, the bill is assumed to incentivize approximately 10 additional transporter license applicants in each category in the first two implementation years, since the delivery permit does not require a licensed premise and provides the option to obtain off-premise storage permits. As a result, it is assumed that the MED will issue:

- 36 Transporter permits in FY 2020-21.

**State Revenue**

The bill increases state cash fund revenue from licensing fees to the Marijuana Cash Fund by an estimated \$546,000 in FY 2019-20, and \$1.3 million 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 transporter, background check, and transporter storage 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**

<b>FY</b>	<b>Type of Fee</b>	<b>Estimated/ Current Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<b>FY 19-20</b>	Medical Center Delivery Permit	\$6,000	91	\$546,000
<b>FY 2019-20 Total</b>				<b>\$546,000</b>
	Retail Store Delivery Permit	\$6,000	83	\$498,000
	Medical Center Delivery Renewal	\$6,000	91	\$546,000
	Medical and Retail Delivery Permit <i>(existing licensees)</i>	\$6,000	26	\$156,000
<b>FY 20-21</b>	Transporter License & Delivery Permit <i>(new licensees)</i>	\$11,400	10	\$114,000
	Fingerprint Background Check <i>(new licensees)</i>	\$52	10	\$520
	Transporter Storage Permit <i>(new licensees)</i>	\$2,200	10	\$22,000
<b>FY 2020-21 Total</b>				<b>\$1,336,520</b>

**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 \$471,723 and 3.8 FTE in FY 2019-20 and \$1.4 million and 13.1 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**

	<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Department of Revenue</b>		
Personal Services	\$266,201	\$942,294
Operating Expenses and Capital Outlay Costs	\$22,517	\$54,582
Legal Services	\$35,752	\$35,752
Computer Programming	\$49,700	-
Vehicle Lease and Mileage	\$8,850	\$44,250
Investigator Equipment	\$7,132	\$29,515
Fingerprint Background Checks	-	\$520
Centrally Appropriated Costs*	\$81,571	\$284,146
FTE – Personal Services	3.6 FTE	12.9 FTE
FTE – Legal Services	0.2 FTE	0.2 FTE
<b>Total Cost</b>	<b>\$471,723</b>	<b>\$1,391,059</b>
<b>Total FTE</b>	<b>3.8 FTE</b>	<b>13.1 FTE</b>

\* 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 12.9 FTE in FY 2020-21 to perform rulemaking, licensing, investigations, analysis, and hearings required under the bill. First-year costs have been prorated for the bill's August 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 Compliance Investigator. In FY 2020-21, this workload requires 2.5 Compliance Investigator and 1.0 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 1.0 FTE Criminal Investigator, 0.5 FTE Compliance Investigator, and 1.0 Statistical Analyst. In FY 2020-21, this workload requires 5.0 FTE Criminal Investigator, 3.0 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.* The five criminal investigators required under the bill each require law enforcement equipment at a one-time cost of \$6,145; ammunition, fees, and contracts at an annual cost of \$987; 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 \$520 in FY 2020-21. This amount is 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 \$81,571 in FY 2019-20 and \$284,146 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. The bill is also expected to increase transporter licenses, of which \$400 of each license is credited to the applicable local government. Finally, to the extent local governments assess additional permit-related fees, 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 \$390,153 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; and
- \$4,950 to the Department of Personnel and Administration.

**State and Local Government Contacts**

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