

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

PREAMENDED

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

LLS NO. 21-0204.01 Jacob Baus x2173

HOUSE BILL 21-1216

HOUSE SPONSORSHIP

Valdez A. and Van Winkle, Gray, Herod, Jackson, Michaelson Jenet, Ricks

SENATE SPONSORSHIP

Gonzales,

House Committees

Business Affairs & Labor

Senate Committees

Finance

Business, Labor, & Technology

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY FOR CERTAIN MARIJUANA LICENSEES TO**
102 **CHANGE THE DESIGNATION OF MARIJUANA FROM RETAIL TO**
103 **MEDICAL.**

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>.)

The bill allows a medical marijuana cultivation facility licensee to receive and change marijuana's designation from retail to medical and a marijuana products manufacturer licensee to receive and change a marijuana product from retail to medical.

The bill clarifies that a transfer and change of designation of the

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

HOUSE
3rd Reading Unamended
April 6, 2021

HOUSE
2nd Reading Unamended
April 5, 2021

marijuana from retail to medical does not create a right to a refund of a retail marijuana excise tax imposed or paid prior to the transfer and change of designation.

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

2 **SECTION 1.** In Colorado Revised Statutes, 44-10-502, **add (9)**
3 **and (10)** as follows:

4 **44-10-502. Medical marijuana cultivation facility license -**
5 **rules - definitions.** (9) (a) AFTER OBTAINING PASSING TESTING RESULTS,
6 A MEDICAL MARIJUANA CULTIVATION FACILITY MAY RECEIVE A TRANSFER
7 OF RETAIL MARIJUANA FROM A CO-LOCATED RETAIL MARIJUANA
8 CULTIVATION FACILITY WITH AT LEAST ONE IDENTICAL CONTROLLING
9 BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE RETAIL
10 MARIJUANA TO MEDICAL MARIJUANA. THE MEDICAL MARIJUANA
11 CULTIVATION FACILITY SHALL ENTER THE DESIGNATION CHANGE INTO THE
12 SEED-TO-SALE TRACKING SYSTEM AND, AFTER THE CHANGE IS ENTERED
13 INTO THE SYSTEM, THE MARIJUANA IS MEDICAL MARIJUANA AND IS THE
14 PROPERTY OF THE MEDICAL MARIJUANA CULTIVATION FACILITY. THE
15 MARIJUANA THAT CHANGED DESIGNATION PURSUANT TO THIS SUBSECTION
16 (9)(a) SHALL NOT BE TRANSFERRED TO THE ORIGINATING RETAIL
17 MARIJUANA CULTIVATION FACILITY OR ANY RETAIL MARIJUANA LICENSEE,
18 HAVE ITS DESIGNATION CHANGED FROM MEDICAL MARIJUANA TO RETAIL
19 MARIJUANA, OR OTHERWISE BE TREATED AS RETAIL MARIJUANA.

20 (b) BOTH THE MEDICAL MARIJUANA CULTIVATION FACILITY AND
21 RETAIL MARIJUANA CULTIVATION FACILITY MUST REMAIN AT OR UNDER
22 THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND AFTER THE
23 DESIGNATION IS CONDUCTED PURSUANT TO SUBSECTION (9)(a) OF THIS
24 SECTION.

1 (c) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL
2 MARIJUANA TO MEDICAL MARIJUANA PURSUANT TO THIS SUBSECTION (9)
3 IS NOT A TRANSACTION THAT RESULTS IN A RIGHT TO REFUND OF ANY
4 RETAIL MARIJUANA EXCISE TAX INCURRED OR PAID PRIOR TO THAT
5 TRANSFER AND CHANGE OF DESIGNATION.

6 (10) (a) AFTER OBTAINING PASSING TEST RESULTS, A MEDICAL
7 MARIJUANA CULTIVATION FACILITY MAY TRANSFER MEDICAL MARIJUANA
8 TO A CO-LOCATED RETAIL MARIJUANA CULTIVATION FACILITY WITH AT
9 LEAST ONE IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE
10 DESIGNATION OF THE MEDICAL MARIJUANA TO RETAIL MARIJUANA.
11 PURSUANT TO SECTION 44-10-602 (14)(a), AFTER THE RETAIL MARIJUANA
12 CULTIVATION FACILITY ENTERS THE DESIGNATION CHANGE INTO THE
13 SEED-TO-SALE TRACKING SYSTEM, THE MARIJUANA IS RETAIL MARIJUANA
14 AND IS THE PROPERTY OF THE RETAIL MARIJUANA CULTIVATION FACILITY.
15 THE MARIJUANA THAT CHANGED DESIGNATION PURSUANT TO THIS
16 SUBSECTION (10)(a) SHALL NOT BE TRANSFERRED TO THE ORIGINATING
17 MEDICAL MARIJUANA CULTIVATION FACILITY OR ANY MEDICAL
18 MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM RETAIL
19 MARIJUANA TO MEDICAL MARIJUANA, OR OTHERWISE BE TREATED AS
20 MEDICAL MARIJUANA.

21 (b) (I) NOTWITHSTANDING SUBSECTION (10)(a) OF THIS SECTION
22 TO THE CONTRARY, A MEDICAL MARIJUANA CULTIVATION FACILITY MAY
23 TRANSFER MEDICAL MARIJUANA TO A RETAIL MARIJUANA CULTIVATION
24 FACILITY THAT IS NOT CO-LOCATED WITH THE MEDICAL MARIJUANA
25 CULTIVATION FACILITY TO CHANGE THE DESIGNATION OF THE MEDICAL
26 MARIJUANA TO RETAIL MARIJUANA IF:

27 (A) THE MEDICAL MARIJUANA CULTIVATION FACILITY AND RETAIL

1 MARIJUANA CULTIVATION FACILITY HAVE AT LEAST ONE IDENTICAL
2 CONTROLLING BENEFICIAL OWNER; AND

3 (B) THE MEDICAL MARIJUANA CULTIVATION FACILITY AND RETAIL
4 MARIJUANA CULTIVATION FACILITY CANNOT BE CO-LOCATED BECAUSE THE
5 LOCAL JURISDICTION WHERE THE MEDICAL MARIJUANA CULTIVATION
6 FACILITY IS LOCATED PROHIBITS THE OPERATION OF A RETAIL MARIJUANA
7 CULTIVATION FACILITY.

8 (II) PRIOR TO MAKING A TRANSFER PURSUANT TO THIS SUBSECTION
9 (10)(b), THE MEDICAL MARIJUANA CULTIVATION FACILITY MUST RECEIVE
10 APPROVAL FROM THE STATE LICENSING AUTHORITY THAT THE MEDICAL
11 MARIJUANA CULTIVATION FACILITY AND THE RETAIL MARIJUANA
12 CULTIVATION FACILITY SATISFY THE REQUIREMENTS OF THIS SUBSECTION
13 (10)(b). THE STATE LICENSING AUTHORITY MUST NOT REQUIRE AN
14 APPROVAL FOR EACH TRANSFER THAT OCCURS PURSUANT TO THIS
15 SUBSECTION (10)(b) BUT MUST ONLY REQUIRE ONE APPROVAL FOR
16 TRANSFERS TO OCCUR FROM THE MEDICAL MARIJUANA CULTIVATION
17 FACILITY TO THE RETAIL MARIJUANA CULTIVATION FACILITY PURSUANT TO
18 THIS SUBSECTION (10)(b).

19 (c) BOTH THE MEDICAL MARIJUANA CULTIVATION FACILITY AND
20 RETAIL MARIJUANA CULTIVATION FACILITY MUST REMAIN AT OR UNDER
21 THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND AFTER THE
22 DESIGNATION IS CONDUCTED PURSUANT TO THIS SUBSECTION (10).

23 (d) THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL PAY
24 ANY RETAIL MARIJUANA EXCISE TAX PURSUANT TO SECTION 39-28.8-302.

25 **SECTION 2.** In Colorado Revised Statutes, 44-10-503, **add** (12)
26 as follows:

27 **44-10-503. Medical marijuana products manufacturer license**

1 **- rules - definition.** (12) (a) AFTER OBTAINING PASSING TESTING
2 RESULTS, A MEDICAL MARIJUANA PRODUCTS MANUFACTURER MAY
3 RECEIVE A TRANSFER OF RETAIL MARIJUANA THAT HAS BEEN EXTRACTED
4 AND IS IN A CONCENTRATED FORM FROM A CO-LOCATED RETAIL
5 MARIJUANA PRODUCTS MANUFACTURER WITH AT LEAST ONE IDENTICAL
6 CONTROLLING BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE
7 RETAIL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A
8 CONCENTRATED FORM TO MEDICAL MARIJUANA THAT HAS BEEN
9 EXTRACTED AND IS IN A CONCENTRATED FORM. THE MEDICAL MARIJUANA
10 PRODUCTS MANUFACTURER SHALL ENTER THE DESIGNATION CHANGE INTO
11 THE SEED-TO-SALE TRACKING SYSTEM AND, AFTER THE CHANGE IS
12 ENTERED INTO THE SYSTEM, THE PRODUCT IS A MEDICAL MARIJUANA
13 PRODUCT AND IS THE PROPERTY OF THE MEDICAL MARIJUANA PRODUCTS
14 MANUFACTURER. A PRODUCT THAT CHANGED DESIGNATION PURSUANT TO
15 THIS SUBSECTION (12)(a) SHALL NOT BE TRANSFERRED TO THE
16 ORIGINATING RETAIL MARIJUANA PRODUCTS MANUFACTURER OR ANY
17 RETAIL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM A
18 MEDICAL MARIJUANA PRODUCT, OR OTHERWISE BE TREATED AS A RETAIL
19 MARIJUANA PRODUCT.

20 (b) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL
21 MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED
22 FORM TO MEDICAL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A
23 CONCENTRATED FORM PURSUANT TO THIS SUBSECTION (12) IS NOT A
24 TRANSACTION THAT RESULTS IN A RIGHT TO REFUND OF ANY RETAIL
25 MARIJUANA EXCISE TAX INCURRED OR PAID PRIOR TO THAT TRANSFER AND
26 CHANGE OF DESIGNATION.

27 **SECTION 3.** In Colorado Revised Statutes, 44-10-602, **add** (13)

1 and (14) as follows:

2 **44-10-602. Retail marijuana cultivation facility license - rules**

3 - **definitions.** (13) (a) AFTER OBTAINING PASSING TEST RESULTS
4 REQUIRED BY SUBSECTION (4) OF THIS SECTION, A RETAIL MARIJUANA
5 CULTIVATION FACILITY MAY TRANSFER RETAIL MARIJUANA TO A
6 CO-LOCATED MEDICAL MARIJUANA CULTIVATION FACILITY WITH AT LEAST
7 ONE IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE
8 DESIGNATION OF THE RETAIL MARIJUANA TO MEDICAL MARIJUANA.
9 PURSUANT TO SECTION 44-10-502 (9)(a), AFTER THE MEDICAL MARIJUANA
10 CULTIVATION FACILITY ENTERS THE DESIGNATION CHANGE INTO THE
11 SEED-TO-SALE TRACKING SYSTEM, THE MARIJUANA IS MEDICAL
12 MARIJUANA AND IS THE PROPERTY OF THE MEDICAL MARIJUANA
13 CULTIVATION FACILITY. THE MARIJUANA THAT CHANGED DESIGNATION
14 PURSUANT TO THIS SUBSECTION (13)(a) SHALL NOT BE TRANSFERRED TO
15 THE ORIGINATING RETAIL MARIJUANA CULTIVATION FACILITY OR ANY
16 RETAIL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM
17 MEDICAL MARIJUANA TO RETAIL MARIJUANA, OR OTHERWISE BE TREATED
18 AS RETAIL MARIJUANA.

19 (b) BOTH THE MEDICAL MARIJUANA CULTIVATION FACILITY AND
20 RETAIL MARIJUANA CULTIVATION FACILITY MUST REMAIN AT OR UNDER
21 THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND AFTER THE
22 DESIGNATION IS CONDUCTED PURSUANT TO SUBSECTION (13)(a) OF THIS
23 SECTION.

24 (c) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL
25 MARIJUANA TO MEDICAL MARIJUANA PURSUANT TO THIS SUBSECTION (13)
26 IS NOT A TRANSACTION THAT RESULTS IN A RIGHT TO REFUND OF ANY
27 RETAIL MARIJUANA EXCISE TAX INCURRED OR PAID PRIOR TO THAT

1 TRANSFER AND CHANGE OF DESIGNATION.

2 (14) (a) AFTER OBTAINING PASSING TESTING RESULTS, A RETAIL
3 MARIJUANA CULTIVATION FACILITY MAY RECEIVE A TRANSFER OF
4 MEDICAL MARIJUANA FROM A CO-LOCATED MEDICAL MARIJUANA
5 CULTIVATION FACILITY WITH AT LEAST ONE IDENTICAL CONTROLLING
6 BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE MEDICAL
7 MARIJUANA TO RETAIL MARIJUANA. THE RETAIL MARIJUANA CULTIVATION
8 FACILITY SHALL ENTER THE DESIGNATION CHANGE INTO THE
9 SEED-TO-SALE TRACKING SYSTEM AND, AFTER THE CHANGE IS ENTERED
10 INTO THE SYSTEM, THE MARIJUANA IS RETAIL MARIJUANA AND IS THE
11 PROPERTY OF THE RETAIL MARIJUANA CULTIVATION FACILITY. THE
12 MARIJUANA THAT CHANGED DESIGNATION PURSUANT TO THIS SUBSECTION
13 (14)(a) SHALL NOT BE TRANSFERRED TO THE ORIGINATING MEDICAL
14 MARIJUANA CULTIVATION FACILITY OR ANY MEDICAL MARIJUANA
15 LICENSEE, HAVE ITS DESIGNATION CHANGED FROM RETAIL MARIJUANA TO
16 MEDICAL MARIJUANA, OR OTHERWISE BE TREATED AS MEDICAL
17 MARIJUANA.

18 (b) (I) NOTWITHSTANDING SUBSECTION (14)(a) OF THIS SECTION
19 TO THE CONTRARY, A RETAIL MARIJUANA CULTIVATION FACILITY MAY
20 RECEIVE A TRANSFER OF MEDICAL MARIJUANA FROM A MEDICAL
21 MARIJUANA CULTIVATION FACILITY THAT IS NOT CO-LOCATED WITH THE
22 RETAIL MARIJUANA CULTIVATION FACILITY TO CHANGE THE DESIGNATION
23 OF THE MEDICAL MARIJUANA TO RETAIL MARIJUANA IF:

24 (A) THE RETAIL MARIJUANA CULTIVATION FACILITY AND MEDICAL
25 MARIJUANA CULTIVATION FACILITY HAVE AT LEAST ONE IDENTICAL
26 CONTROLLING BENEFICIAL OWNER; AND

27 (B) THE RETAIL MARIJUANA CULTIVATION FACILITY AND MEDICAL

1 MARIJUANA CULTIVATION FACILITY CANNOT BE CO-LOCATED BECAUSE THE
2 LOCAL JURISDICTION WHERE THE MEDICAL MARIJUANA CULTIVATION
3 FACILITY IS LOCATED PROHIBITS THE OPERATION OF A RETAIL MARIJUANA
4 CULTIVATION FACILITY.

5 (II) PRIOR TO MAKING A TRANSFER PURSUANT TO THIS SUBSECTION
6 (14)(b), THE RETAIL MARIJUANA CULTIVATION FACILITY MUST RECEIVE
7 APPROVAL FROM THE STATE LICENSING AUTHORITY THAT THE RETAIL
8 MARIJUANA CULTIVATION FACILITY AND THE MEDICAL MARIJUANA
9 CULTIVATION FACILITY SATISFY THE REQUIREMENTS OF THIS SUBSECTION
10 (14)(b). THE STATE LICENSING AUTHORITY MUST NOT REQUIRE AN
11 APPROVAL FOR EACH TRANSFER THAT OCCURS PURSUANT TO THIS
12 SUBSECTION (14)(b), BUT MUST ONLY REQUIRE ONE APPROVAL FOR
13 TRANSFERS TO OCCUR FROM THE MEDICAL MARIJUANA CULTIVATION
14 FACILITY TO THE RETAIL MARIJUANA CULTIVATION FACILITY PURSUANT TO
15 THIS SUBSECTION (14)(b).

16 (c) BOTH THE RETAIL MARIJUANA CULTIVATION FACILITY AND
17 MEDICAL MARIJUANA CULTIVATION FACILITY MUST REMAIN AT OR UNDER
18 THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND AFTER THE
19 DESIGNATION IS CONDUCTED PURSUANT TO THIS SUBSECTION (14).

20 (d) THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL PAY
21 ANY RETAIL MARIJUANA EXCISE TAX PURSUANT TO SECTION 39-28.8-302.

22 **SECTION 4.** In Colorado Revised Statutes, 44-10-603, **add** (15)
23 as follows:

24 **44-10-603. Retail marijuana products manufacturer license -**
25 **rules - definition.** (15) (a) AFTER OBTAINING PASSING TEST RESULTS
26 REQUIRED BY SUBSECTION (6) OF THIS SECTION, A RETAIL MARIJUANA
27 PRODUCTS MANUFACTURER MAY TRANSFER RETAIL MARIJUANA THAT HAS

1 BEEN EXTRACTED AND IS IN A CONCENTRATED FORM TO A CO-LOCATED
2 MEDICAL MARIJUANA PRODUCTS MANUFACTURER WITH AT LEAST ONE
3 IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE
4 DESIGNATION OF THE RETAIL MARIJUANA THAT HAS BEEN EXTRACTED AND
5 IS IN A CONCENTRATED FORM TO MEDICAL MARIJUANA THAT HAS BEEN
6 EXTRACTED AND IS IN A CONCENTRATED FORM. PURSUANT TO SECTION
7 44-10-503 (12)(a), AFTER THE MEDICAL MARIJUANA PRODUCTS
8 MANUFACTURER ENTERS THE DESIGNATION CHANGE INTO THE
9 SEED-TO-SALE TRACKING SYSTEM, THE PRODUCT IS A MEDICAL MARIJUANA
10 PRODUCT AND IS THE PROPERTY OF THE MEDICAL MARIJUANA PRODUCTS
11 MANUFACTURER. A PRODUCT THAT CHANGED DESIGNATION PURSUANT TO
12 THIS SUBSECTION (15)(a) SHALL NOT BE TRANSFERRED TO THE
13 ORIGINATING RETAIL MARIJUANA PRODUCTS MANUFACTURER OR ANY
14 RETAIL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM A
15 MEDICAL MARIJUANA PRODUCT, OR OTHERWISE BE TREATED AS A RETAIL
16 MARIJUANA PRODUCT.

17 (b) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL
18 MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED
19 FORM TO MEDICAL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A
20 CONCENTRATED FORM PURSUANT TO THIS SUBSECTION (15) IS NOT A
21 TRANSACTION THAT RESULTS IN A RIGHT TO REFUND OF ANY RETAIL
22 MARIJUANA EXCISE TAX INCURRED OR PAID PRIOR TO THAT TRANSFER AND
23 CHANGE OF DESIGNATION.

24 **SECTION 5.** In Colorado Revised Statutes, 39-28.8-302, **amend**
25 (2) as follows:

26 **39-28.8-302. Retail marijuana - excise tax levied at first**
27 **transfer from retail marijuana cultivation facility - tax rate.**

1 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS SECTION, the
2 tax imposed pursuant to subsection (1) of this section shall not be levied
3 on the sale or transfer of unprocessed marijuana by a marijuana
4 cultivation facility to a medical marijuana center.

5 (b) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL
6 MARIJUANA TO MEDICAL MARIJUANA PURSUANT TO SECTIONS 44-10-502
7 (9) AND 44-10-602 (13) OR RETAIL MARIJUANA THAT HAS BEEN
8 EXTRACTED AND IS IN A CONCENTRATED FORM TO MEDICAL MARIJUANA
9 THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM PURSUANT
10 TO SECTIONS 44-10-503 (12) AND 44-10-603 (15) IS NOT A TRANSACTION
11 THAT CREATES A RIGHT TO A REFUND OF A RETAIL MARIJUANA EXCISE TAX
12 IMPOSED OR PAID PRIOR TO THAT TRANSFER AND CHANGE OF
13 DESIGNATION.

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