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## Marijuana

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During the 2018 legislative session, the General Assembly considered bills relating to the regulation of both medical and recreational marijuana on topics such as taxes, research, use of medical marijuana, and marijuana business licensing.

### Taxes

Under current law, state retail marijuana sales tax revenue is deposited in the General Fund. After 10 percent of that tax revenue is allocated to local governments, 12.59 percent of the remainder is transferred to the State Public School Fund. Money in the fund is continuously appropriated to the Colorado Department of Education for the same fiscal year in which the money is transferred. *House Bill 18-1101* eliminates the continuous appropriation and, beginning in FY 2019-20, the General Assembly may only appropriate the transferred revenue in the fiscal year following the transfer.

Senate Bill 17-267 exempted retail marijuana from the state's 2.9 percent sales tax beginning July 1, 2017. Consistent with this exemption, the Department of Revenue stopped collecting retail marijuana sales taxes assessed by 14 special districts around the state. *Senate Bill 18-088* provides that special districts levying sales taxes on retail marijuana prior to July 1, 2017, retain their authority to do so.

Local districts must determine if voter approval is required before resuming the tax. Special district sales taxes on retail marijuana that ceased on July 1, 2017, were collected upon the signature of the governor, February 22, 2018.

The state collects a 15 percent excise tax on the first transfer of unprocessed marijuana from a cultivation facility to a marijuana retail store or processing facility. *Senate Bill 18-259* clarifies this requirement and makes changes to the authority of local governments to levy excise taxes on retail marijuana including: allowing counties to use either the wholesale price or the calculated wholesale price to determine the tax rate; clarifying that retail marijuana transporting is not a "transfer" of marijuana for tax purposes; and clarifies that metropolitan districts may levy only a general sales tax and not a special marijuana sales tax on retail marijuana.

The Local Government Retail Marijuana Impact Grant Program was created in 2015 to provide grants to eligible local governments for law enforcement activities, youth services, and to mitigate other impacts on services of local governments due to marijuana. *House Bill 18-1336* repeals the program, which has seen minimal demand and been replaced by the Gray and Black Market Marijuana Enforcement Grant Program that provides similar services.

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### Research

*House Bill 18-1259* allows certain cultivation facilities and product manufacturers to provide samples to up to five managers per month for quality control and product development purposes. Managers who receive samples of medical marijuana must have a medical marijuana registry identification card and are required to be designated as a recipient of the samples and tracked in the seed-to-sale tracking system.

The International Organization for Standardization/International Electrotechnical Commission 17025:2005 standard covers general requirements for the competence of testing and calibration laboratories. *House Bill 18-1422* requires medical and retail marijuana testing facilities to be accredited pursuant to this standard by January 1, 2019.

*Senate Bill 18-187* requires the Marijuana Enforcement Division within the Department of Revenue to make rules regarding medical and retail marijuana waste recycling. Specifically, the rules must establish conditions under which a marijuana licensee may transfer fibrous waste such as roots, stalks, and stems for the purpose of producing industrial fiber products.

Subject to the rules of the Marijuana Enforcement Division, *Senate Bill 18-271* allows a marijuana research and development licensee or a marijuana research and development cultivation licensee to share premises with a commonly owned medical marijuana-infused products manufacturer or a retail marijuana product manufacturer under a co-location permit. Entities that co-locate must separate inventory and research activity. The bill further authorizes \$100,000 for the administration of the Medical Marijuana Research Grant Program and encourages the State Board of Health to prioritize grants that gather objective scientific research regarding the efficacy and the safety of

administering medical marijuana for ovarian cancer, dementia, and other conditions the board finds appropriate.

### Use of Medical Marijuana

In June of 2018, the federal Food and Drug Administration (FDA) approved Epidiolex, a cannabidiol oral solution for the treatment of seizures associated with certain kinds of epilepsy. *House Bill 18-1187* amends the definition of "marijuana" to exclude prescription drug products approved by the FDA and dispensed by a pharmacy or prescription drug outlet.

Under current law, certain medical conditions qualify a patient to receive a medical marijuana registry card with a doctor's recommendation. *House Bill 18-1263*, which was vetoed by the Governor, would have added Autism Spectrum Disorder to the list of conditions for which medical marijuana may be used.

Under current law, a primary caregiver may possess and administer medical marijuana to a student at school with a valid medical marijuana recommendation from a licensed physician. *House Bill 18-1286* allows designated school personnel to administer the medical marijuana with permission from a parent. The bill provides school personnel protection from criminal prosecution if he or she possesses and administers medical marijuana to a student at school.

### Marijuana Business Licensing

The Governor vetoed two bills that would have expanded licensing opportunities for marijuana businesses. *House Bill 18-1011* would have modified the statutory ownership and investment definitions for medical and retail marijuana licensees, removed the limit of 15

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out-of-state owners, and allowed a publicly traded corporation to invest in a marijuana business or become a marijuana business.

*House Bill 18-1258* would have allowed existing retail marijuana store licensees, conditional upon local government approval, to operate a retail marijuana consumption establishment where customers 21 years and older could consume, without smoking, one serving of marijuana.

Current law does not directly address requirements for court-appointed receiverships or similar situations related to a person taking possession of, operating, managing, or controlling a licensed marijuana business. *House Bill 18-1280* requires an individual, before being appointed a receiver, to certify that he or she is not prohibited from holding a marijuana license. If appointed, the receiver must inform the Marijuana Enforcement Division and then receives a temporary appointment that may be subject to administrative action if the appointee fails to comply with state marijuana laws and regulations.

Medical marijuana establishments are currently required to purchase 70 percent of their product from an associated optional premises cultivation facility. *House Bill 18-1381* eliminates this requirement and allows medical marijuana centers to source from any optional premises cultivation facility after one year. Further, the possession limit for an optional premises facility is no longer tied to the number of patients registered at the medical marijuana center. Centers may sell more than two ounces to a patient with an extended ounce count if that patient has registered with the center as his or her primary caregiver.

*House Bill 18-1389* creates a centralized marijuana distribution permit that allows a marijuana cultivation facility to temporarily store marijuana concentrate or marijuana products designated for transfer to the permit-holder's medical marijuana center or retail marijuana store.