

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-0971.01 Jacob Baus x2173

SENATE BILL 22-178

SENATE SPONSORSHIP

Gonzales, Ginal, Jaquez Lewis, Lee, Moreno, Smallwood

HOUSE SPONSORSHIP

Valdez A. and Van Winkle, Bird, Hooton, Lindsay

Senate Committees

Finance
Appropriations

House Committees

Finance
Appropriations

HOUSE
3rd Reading Unamended
May 11, 2022

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY FOR CERTAIN MARIJUANA LICENSEES TO**
102 **CHANGE THE DESIGNATION OF MARIJUANA FROM MEDICAL TO**
103 **RETAIL, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

HOUSE
2nd Reading Unamended
May 10, 2022

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>.)

SENATE
3rd Reading Unamended
April 22, 2022

The bill allows a medical marijuana cultivation facility licensee to transfer medical marijuana to a retail marijuana cultivation facility licensee and the retail marijuana cultivation facility licensee to receive the

SENATE
Amended 2nd Reading
April 21, 2022

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.

marijuana and change the designation of the marijuana from medical to retail.

The bill clarifies that the retail marijuana cultivation facility licensee is required to pay any retail marijuana excise tax.

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

2 **SECTION 1.** In Colorado Revised Statutes, 44-10-502, **add** (9.5)
3 as follows:

4 **44-10-502. Medical marijuana cultivation facility license -**
5 **rules - definitions.** (9.5) (a) STARTING JANUARY 1, 2023, AFTER
6 OBTAINING PASSING TEST RESULTS, A MEDICAL MARIJUANA CULTIVATION
7 FACILITY MAY TRANSFER MEDICAL MARIJUANA TO A CO-LOCATED RETAIL
8 MARIJUANA CULTIVATION FACILITY WITH AT LEAST ONE IDENTICAL
9 CONTROLLING BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE
10 MEDICAL MARIJUANA TO RETAIL MARIJUANA. PURSUANT TO SECTION
11 44-10-602 (13.5)(a), AFTER THE RETAIL MARIJUANA CULTIVATION
12 FACILITY ENTERS THE DESIGNATION CHANGE INTO THE SEED-TO-SALE
13 TRACKING SYSTEM, THE MARIJUANA IS RETAIL MARIJUANA AND IS THE
14 PROPERTY OF THE RETAIL MARIJUANA CULTIVATION FACILITY. THE
15 MARIJUANA THAT CHANGED DESIGNATION PURSUANT TO THIS SUBSECTION
16 (9.5)(a) MUST NOT BE TRANSFERRED TO THE ORIGINATING MEDICAL
17 MARIJUANA CULTIVATION FACILITY OR ANY MEDICAL MARIJUANA
18 LICENSEE, HAVE ITS DESIGNATION CHANGED FROM RETAIL MARIJUANA
19 BACK TO MEDICAL MARIJUANA, OR OTHERWISE BE TREATED AS MEDICAL
20 MARIJUANA.

21 (b) (I) NOTWITHSTANDING SUBSECTION (9.5)(a) OF THIS SECTION
22 TO THE CONTRARY, A MEDICAL MARIJUANA CULTIVATION FACILITY MAY
23 TRANSFER MEDICAL MARIJUANA TO A RETAIL MARIJUANA CULTIVATION

1 FACILITY THAT IS NOT CO-LOCATED WITH THE MEDICAL MARIJUANA
2 CULTIVATION FACILITY TO CHANGE THE DESIGNATION OF THE MEDICAL
3 MARIJUANA TO RETAIL MARIJUANA IF:

4 (A) THE MEDICAL MARIJUANA CULTIVATION FACILITY AND RETAIL
5 MARIJUANA CULTIVATION FACILITY HAVE AT LEAST ONE IDENTICAL
6 CONTROLLING BENEFICIAL OWNER; AND

7 (B) THE MEDICAL MARIJUANA CULTIVATION FACILITY AND RETAIL
8 MARIJUANA CULTIVATION FACILITY CANNOT BE CO-LOCATED BECAUSE THE
9 LOCAL JURISDICTION PROHIBITS THE OPERATION OF EITHER A MEDICAL
10 MARIJUANA CULTIVATION FACILITY OR A RETAIL MARIJUANA CULTIVATION
11 FACILITY.

12 (II) PRIOR TO MAKING A TRANSFER PURSUANT TO THIS SUBSECTION
13 (9.5)(b), THE MEDICAL MARIJUANA CULTIVATION FACILITY SHALL ENSURE
14 THAT THE MEDICAL MARIJUANA PASSED ALL TESTS REQUIRED BY THE
15 STATE LICENSING AUTHORITY IN RULE.

16 (c) BOTH THE MEDICAL MARIJUANA CULTIVATION FACILITY AND
17 THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL REMAIN AT OR
18 UNDER THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND
19 AFTER THE TRANSFER IS CONDUCTED PURSUANT TO THIS SUBSECTION
20 (9.5).

21 (d) THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL PAY
22 ANY RETAIL MARIJUANA EXCISE TAX PURSUANT TO SECTION 39-28.8-302.
23 THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL NOTIFY THE LOCAL
24 LICENSING AUTHORITY IN THE LOCAL JURISDICTION WHERE THE
25 TRANSFEROR AND TRANSFEREE OPERATE AND PAY ANY APPLICABLE
26 EXCISE TAX ON THE TRANSFERRED RETAIL MARIJUANA.

27 (e) PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION (9.5),

1 A MEDICAL MARIJUANA CULTIVATION FACILITY MAY MAKE A VIRTUAL
2 TRANSFER OF MARIJUANA THAT IS REFLECTED IN THE SEED-TO-SALE
3 TRACKING SYSTEM EVEN IF THE MARIJUANA IS NOT PHYSICALLY MOVED OR
4 TRANSFERRED.

5 **SECTION 2.** In Colorado Revised Statutes, 44-10-602, **add**
6 (13.5) as follows:

7 **44-10-602. Retail marijuana cultivation facility license - rules**
8 **- definitions.** (13.5) (a) STARTING JANUARY 1, 2023, AFTER OBTAINING
9 PASSING TESTING RESULTS, A RETAIL MARIJUANA CULTIVATION FACILITY
10 MAY RECEIVE A TRANSFER OF MEDICAL MARIJUANA FROM A CO-LOCATED
11 MEDICAL MARIJUANA CULTIVATION FACILITY WITH AT LEAST ONE
12 IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE
13 DESIGNATION OF THE MEDICAL MARIJUANA TO RETAIL MARIJUANA. THE
14 RETAIL MARIJUANA CULTIVATION FACILITY SHALL ENTER THE
15 DESIGNATION CHANGE INTO THE SEED-TO-SALE TRACKING SYSTEM AND,
16 AFTER THE CHANGE IS ENTERED INTO THE SYSTEM, THE MARIJUANA IS
17 RETAIL MARIJUANA AND IS THE PROPERTY OF THE RETAIL MARIJUANA
18 CULTIVATION FACILITY. THE MARIJUANA THAT CHANGED DESIGNATION
19 PURSUANT TO THIS SUBSECTION (13.5)(a) MUST NOT BE TRANSFERRED TO
20 THE ORIGINATING MEDICAL MARIJUANA CULTIVATION FACILITY OR ANY
21 MEDICAL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM
22 RETAIL MARIJUANA BACK TO MEDICAL MARIJUANA, OR OTHERWISE BE
23 TREATED AS MEDICAL MARIJUANA.

24 (b) (I) NOTWITHSTANDING SUBSECTION (13.5)(a) OF THIS SECTION
25 TO THE CONTRARY, A RETAIL MARIJUANA CULTIVATION FACILITY MAY
26 RECEIVE A TRANSFER OF MEDICAL MARIJUANA FROM A MEDICAL
27 MARIJUANA CULTIVATION FACILITY THAT IS NOT CO-LOCATED WITH THE

1 RETAIL MARIJUANA CULTIVATION FACILITY TO CHANGE THE DESIGNATION
2 OF THE MEDICAL MARIJUANA TO RETAIL MARIJUANA IF:

3 (A) THE RETAIL MARIJUANA CULTIVATION FACILITY AND MEDICAL
4 MARIJUANA CULTIVATION FACILITY HAVE AT LEAST ONE IDENTICAL
5 CONTROLLING BENEFICIAL OWNER; AND

6 (B) THE RETAIL MARIJUANA CULTIVATION FACILITY AND MEDICAL
7 MARIJUANA CULTIVATION FACILITY CANNOT BE CO-LOCATED BECAUSE THE
8 LOCAL JURISDICTION PROHIBITS THE OPERATION OF EITHER A MEDICAL
9 MARIJUANA CULTIVATION FACILITY OR A RETAIL MARIJUANA CULTIVATION
10 FACILITY.

11 (II) PRIOR TO RECEIVING A TRANSFER PURSUANT TO THIS
12 SUBSECTION (13.5)(b), THE RETAIL MARIJUANA CULTIVATION FACILITY
13 SHALL ENSURE THAT THE MEDICAL MARIJUANA PASSED ALL TESTS
14 REQUIRED BY THE STATE LICENSING AUTHORITY IN RULE.

15 (c) BOTH THE RETAIL MARIJUANA CULTIVATION FACILITY AND THE
16 MEDICAL MARIJUANA CULTIVATION FACILITY SHALL REMAIN AT OR UNDER
17 THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND AFTER THE
18 TRANSFER IS CONDUCTED PURSUANT TO THIS SUBSECTION (13.5).

19 (d) THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL PAY
20 ANY RETAIL MARIJUANA EXCISE TAX PURSUANT TO SECTION 39-28.8-302.
21 THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL NOTIFY THE LOCAL
22 LICENSING AUTHORITY IN THE LOCAL JURISDICTION WHERE THE
23 TRANSFEROR AND TRANSFEREE OPERATE AND PAY ANY APPLICABLE
24 EXCISE TAX ON THE TRANSFERRED RETAIL MARIJUANA.

25 (e) PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION (13.5),
26 A RETAIL MARIJUANA CULTIVATION FACILITY MAY RECEIVE A VIRTUAL
27 TRANSFER OF MARIJUANA THAT IS REFLECTED IN THE SEED-TO-SALE

1 TRACKING SYSTEM EVEN IF THE MARIJUANA IS NOT PHYSICALLY MOVED OR
2 TRANSFERRED.

3 **SECTION 3. Appropriation.** For the 2022-23 state fiscal year,
4 \$228,510 is appropriated to the department of revenue for use by the
5 marijuana enforcement division. This appropriation is from the marijuana
6 cash fund created in section 44-10-801 (1)(a), C.R.S., and is based on an
7 assumption that the division will require an additional 2.9 FTE. To
8 implement this act, the division may use this appropriation for marijuana
9 enforcement.

10 **SECTION 4. Effective date.** This act takes effect July 1, 2022.

11 **SECTION 5. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.