

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 16-0202.01 Thomas Morris x4218

HOUSE BILL 16-1041

HOUSE SPONSORSHIP

Lebsock,

SENATE SPONSORSHIP

Holbert,

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REMOVAL OF UNREASONABLY IMPRACTICABLE**
102 **FINANCIAL REQUIREMENTS APPLICABLE TO MARIJUANA**
103 **BUSINESSES THAT ARE REQUIRED TO BE LICENSED.**

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://www.leg.state.co.us/billsummaries>.)

The bill:

- ! Declares that, because bonds for medical marijuana businesses and retail marijuana establishments are unavailable in the current marketplace, the requirement to post a bond for the issuance or renewal of a state-issued

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.

HOUSE
2nd Reading Unamended
February 1, 2016

license makes the operation of medical marijuana businesses and retail marijuana establishments unreasonably impracticable, a result prohibited by Colorado's constitution (**section 1** of the bill);

- ! Repeals the requirement that medical marijuana businesses (**sections 2 and 3**) and retail marijuana establishments (**sections 4 and 5**) post a bond to be eligible for the issuance or renewal of a license; and
- ! Repeals the requirement that retail marijuana cultivation facilities file a state tax surety bond (**section 6**).

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby:

4 (a) Finds that:

5 (I) Colorado's constitution prohibits the imposition of regulations
6 on retail marijuana establishments that would make their operation
7 unreasonably impracticable;

8 (II) Colorado statute currently requires medical marijuana
9 businesses and retail marijuana establishments to post a bond for the
10 issuance or renewal of their state-issued licenses, which licenses are
11 necessary for the establishments to operate; and

12 (III) Bonds for medical marijuana businesses and retail marijuana
13 establishments are simply unavailable in the current marketplace, perhaps
14 due to the fact that marijuana is illegal pursuant to federal law;

15 (b) Determines that the requirement to post a bond makes the
16 operation of medical marijuana businesses and retail marijuana
17 establishments unreasonably impracticable; and

18 (c) Declares that the adoption of this act is necessary to comply
19 with Colorado's constitution.

20 **SECTION 2.** In Colorado Revised Statutes, **repeal** 12-43.3-304

1 as follows:

2 **12-43.3-304. Medical marijuana license bond.** (1) Before the
3 state licensing authority issues a state license to an applicant, the
4 applicant shall procure and file with the state licensing authority evidence
5 of a good and sufficient bond in the amount of five thousand dollars with
6 corporate surety thereon duly licensed to do business with the state,
7 approved as to form by the attorney general of the state, and conditioned
8 that the applicant shall report and pay all sales and use taxes due to the
9 state, or for which the state is the collector or collecting agent, in a timely
10 manner, as provided in law.

11 (2) A corporate surety shall not be required to make payments to
12 the state claiming under such bond until a final determination of failure
13 to pay taxes due to the state has been made by the state licensing authority
14 or a court of competent jurisdiction.

15 (3) All bonds required pursuant to this section shall be renewed
16 at such time as the bondholder's license is renewed. The renewal may be
17 accomplished through a continuation certificate issued by the surety.

18 **SECTION 3.** In Colorado Revised Statutes, 12-43.3-307, amend
19 (1) (g) (I) as follows:

20 **12-43.3-307. Persons prohibited as licensees.** (1) A license
21 provided by this article shall not be issued to or held by:

22 (g) A person licensed pursuant to this article who, during a period
23 of licensure, or who, at the time of application, has failed to:

24 (I) ~~Provide a surety bond or~~ File any tax return with a taxing
25 agency related to a medical marijuana business or retail marijuana
26 establishment;

27 **SECTION 4.** In Colorado Revised Statutes, **repeal** 12-43.4-303

1 as follows:

2 **12-43.4-303. Retail marijuana license bond.** (1) Before the state
3 licensing authority issues a state license to an applicant, the applicant
4 shall procure and file with the state licensing authority evidence of a good
5 and sufficient bond in the amount of five thousand dollars with corporate
6 surety thereon duly licensed to do business with the state, approved as to
7 form by the attorney general of the state, and conditioned that the
8 applicant shall report and pay all sales and use taxes due to the state, or
9 for which the state is the collector or collecting agent, in a timely manner,
10 as provided in law.

11 (2) A corporate surety shall not be required to make payments to
12 the state claiming under such bond until a final determination of failure
13 to pay taxes due to the state is made by the executive director of the
14 department of revenue or a court of competent jurisdiction.

15 (3) All bonds required pursuant to this section must be renewed
16 at such time as the bondholder's license is renewed. The renewal may be
17 accomplished through a continuation certificate issued by the surety.

18 **SECTION 5.** In Colorado Revised Statutes, 12-43.4-306, amend
19 (1) (f) as follows:

20 **12-43.4-306. Persons prohibited as licensees - definitions.**

21 (1) A license provided by this article shall not be issued to or held by:

22 (f) A person licensed pursuant to this article who, during a period
23 of licensure, or who, at the time of application, has failed to:

24 (I) ~~Provide a surety bond or~~ File any tax return related to a retail
25 marijuana establishment; or

26 (II) Pay any taxes, interest, or penalties due the department of
27 revenue, AS DETERMINED BY FINAL AGENCY ACTION, relating to a retail

1 marijuana establishment;

2 **SECTION 6.** In Colorado Revised Statutes, 39-28.8-304, **repeal**

3 (4) as follows:

4 **39-28.8-304. Returns and remittance of tax - civil penalty.**

5 (4) A retail marijuana cultivation facility shall file with the department
6 evidence of a surety bond issued by a company authorized to do business
7 in this state for the benefit of the department in an amount equal to two
8 months of the facility's anticipated liability for the tax imposed pursuant
9 to this part 3. The amount of the facility's anticipated tax liability shall be
10 determined solely in the discretion of the retail marijuana cultivation
11 facility. The department may require a facility to file or a facility may
12 choose to file a replacement surety bond if the amount of the facility's
13 actual tax liability changes after the facility has filed a bond with the
14 department pursuant to this subsection (4).

15 **SECTION 7. Applicability.** This act applies to conduct occurring
16 on or after the effective date of this act.

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