

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 26-0325.01 Stephanie Schrab x4330

HOUSE BILL 26-1077

HOUSE SPONSORSHIP

Gonzalez R. and Willford, Phillips, Ricks, Titone

SENATE SPONSORSHIP

Lindstedt and Marchman, Snyder, Gonzales J.

House Committees

Finance
Appropriations

Senate Committees

Finance

SENATE
Amended 3rd Reading
May 11, 2026

A BILL FOR AN ACT

101 **CONCERNING THE AVERAGE MARKET RATE OF UNPROCESSED RETAIL**
102 **MARIJUANA.**

SENATE
Amended 2nd Reading
May 8, 2026

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>.)

HOUSE
3rd Reading Unamended
April 30, 2026

Current law imposes a tax on the first sale or transfer of unprocessed retail marijuana at a rate of 15% of the average market rate of the unprocessed retail marijuana. The "average market rate" is currently defined as the average price, as determined by the department of revenue, of all unprocessed retail marijuana that is sold or transferred from retail marijuana cultivation facilities in the state to retail marijuana

HOUSE
Amended 2nd Reading
April 29, 2026

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

product manufacturing facilities or retail marijuana stores.

Effective July 1, 2026, the bill defines "indoor unprocessed retail marijuana" and "outdoor unprocessed retail marijuana." The bill also amends the existing definition of "average market rate" to require separate rates for indoor unprocessed retail marijuana and outdoor unprocessed retail marijuana, which must be lower than the rates for indoor unprocessed retail marijuana. In addition, the existing definition of "average market rate" requires that unprocessed retail marijuana for extractions have a separate average market rate that is lower than the rate for unprocessed retail marijuana for direct sale to consumers. The bill clarifies that this requirement applies to both outdoor and indoor unprocessed retail marijuana.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-28.8-101, **amend**
3 (1.5); and **add** (4.5), (6.5) and (6.7) as follows:

4 **39-28.8-101. Definitions.**

5 Unless the context otherwise requires, any terms not defined in this
6 article 28.8 have the meanings set forth in article 26 of this title 39. As
7 used in this article 28.8, unless the context otherwise requires:

8 (1.5) "Average market rate" means the average price, as
9 determined by the department on a quarterly basis, of all unprocessed
10 retail marijuana that is sold or transferred from retail marijuana
11 cultivation facilities in the state to retail marijuana product manufacturing
12 facilities or retail marijuana stores, less taxes paid on the sales or
13 transfers. An "average market rate" may be based on the purchaser or
14 transferee of unprocessed retail marijuana or on the nature of the
15 unprocessed retail marijuana that is sold or transferred. The "average __
16 market rate" must include one or more rates that cover unprocessed
17 marijuana that is allocated to extractions, and the initial rates for these
18 product types must be lower than the rate for unprocessed marijuana that
19 is allocated for direct sale to consumers. INCLUDING FRESH FROZEN

1 INDOOR UNPROCESSED RETAIL MARIJUANA AND FRESH FROZEN OUTDOOR
2 UNPROCESSED RETAIL MARIJUANA. THE INITIAL RATES FOR UNPROCESSED
3 MARIJUANA THAT ARE ALLOCATED TO EXTRACTIONS MUST BE LOWER
4 THAN THE RATE FOR UNPROCESSED MARIJUANA THAT IS ALLOCATED FOR
5 DIRECT SALE TO CONSUMERS. THE DEPARTMENT SHALL ADOPT RULES TO
6 ESTABLISH THE RATES FOR FRESH FROZEN INDOOR UNPROCESSED RETAIL
7 MARIJUANA AND FRESH FROZEN OUTDOOR UNPROCESSED RETAIL
8 MARIJUANA ON OR BEFORE JULY 1, 2027.

9 (4.5) "INDOOR UNPROCESSED RETAIL MARIJUANA" MEANS
10 UNPROCESSED RETAIL MARIJUANA CULTIVATED IN ANY MANNER
11 OTHER THAN OUTDOOR UNPROCESSED RETAIL MARIJUANA, AS DEFINED IN
12 SUBSECTION (6.7) OF THIS SECTION.

13 (6.5) "NATURAL WEATHER CONDITIONS" MEANS AMBIENT
14 TEMPERATURE, PRECIPITATION, AND HUMIDITY.

15 (6.7) (a) "OUTDOOR UNPROCESSED RETAIL MARIJUANA" MEANS
16 UNPROCESSED RETAIL MARIJUANA THAT, EXCEPT AS PROVIDED IN
17 SUBSECTION (6.7)(b) OF THIS SECTION, WAS CULTIVATED UNDER NATURAL
18 SUNLIGHT WITHOUT ARTIFICIAL LIGHT OR LIGHT DEPRIVATION, WITH
19 DIRECT EXPOSURE TO NATURAL WEATHER CONDITIONS, AND NOT WITHIN
20 AN INDOOR FACILITY, GREENHOUSE, OR OTHER STRUCTURE THAT
21 PREVENTS EXPOSURE TO NATURAL SUNLIGHT AND NATURAL WEATHER
22 CONDITIONS.

23 (b) OUTDOOR UNPROCESSED MARIJUANA MAY BE:
24 (I) CULTIVATED USING ARTIFICIAL LIGHT TO MAINTAIN
25 VEGETATIVE PLANTS UNDER TWENTY-FOUR INCHES IN HEIGHT AND TO
26 MAINTAIN MOTHER PLANTS;

27 (II) CULTIVATED USING IRRIGATION, FERTIGATION, OR SIMILAR

1 AGRICULTURAL PRACTICES; AND
2 (III) PROTECTED FROM AN ADVERSE WEATHER EVENT PURSUANT
3 TO A CONTINGENCY PLAN APPROVED BY THE STATE LICENSING AUTHORITY
4 PURSUANT TO SECTION 44-10-602 (14).

5 SECTION 2. In Colorado Revised Statutes, add 39-28.8-201.5
6 as follows:

7 39-28.8-201.5. Average market rate - unprocessed retail
8 marijuana - description.

9 FOR EACH AVERAGE MARKET RATE CATEGORY OF UNPROCESSED
10 RETAIL MARIJUANA THAT THE DEPARTMENT ESTABLISHES PURSUANT TO
11 SECTION 39-28.8-101 (1.5), THE DEPARTMENT SHALL PUBLISH A GENERAL
12 DESCRIPTION OF THE METHODOLOGY AND DATA SOURCES USED TO
13 CALCULATE THE RATE, WHILE PROTECTING CONFIDENTIAL, PROPRIETARY,
14 AND IDENTIFYING INFORMATION.

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16 SECTION 3. Effective date. This act takes effect July 1, 2026.

17 SECTION 4. Safety clause. The general assembly finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, or safety or for appropriations for
20 the support and maintenance of the departments of the state and state
21 institutions.