

BY AUTHORITY

ORDINANCE NO. _____

COUNCIL BILL NO. CB13-0541

SERIES OF _____

COMMITTEE OF REFERENCE:

AS AMENDED 8-19-13

Special Issues,

Amendment 64

A BILL

For an ordinance establishing a special retail marijuana sales tax, subject to the approval of the voters at a special municipal election to be held in conjunction with the state odd-year election on November 5, 2013.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Subject to approval of the voters of the referred ballot question set forth in Section 2 of this ordinance, Article II of Chapter 53 of the Denver Revised Municipal Code shall be amended by the addition of a new Division 4, to read as follows:

DIVISION 4. SPECIAL RETAIL MARIJUANA SALES TAX

Sec. 53-83. Administration and enforcement.

The special retail marijuana sales tax imposed pursuant to this Division 4 shall be administered and enforced in accordance with the provisions of Divisions I and II of this Article II, and in a manner consistent with the administration and enforcement of other city sales taxes, including, without limitation, any penalties for failure to make any return or to collect or pay any tax.

Sec. 53-84. Definitions.

The following words and phrases when used in this Division 4, unless the context otherwise requires, shall have the meanings given to them in this section.

(1) "*Consumer*" means a person twenty-one years of age or older who purchases retail marijuana or retail marijuana products for personal use by person twenty-one years of age or older but not for resale to others.

(2) "*Retail Marijuana*" means all or parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of

1 the plant, and every compound, manufacture, salt, derivative, mixture, or
2 preparation of the plant, its seeds, or its resin, including marijuana
3 concentrate. "Retail marijuana" does not include industrial hemp, nor does it
4 include fiber produced from the stalks, oil, cake made from the seeds of the
5 plant, sterilized seed of the plant that is incapable of germination, or the
6 weight of any other ingredient combined with marijuana to prepare topical or
7 oral administrations, food, drink, or other product.

8
9 (3) "*Retail marijuana products*" means concentrated retail marijuana products and
10 retail marijuana products that are comprised of retail marijuana and other
11 ingredients and are intended for use or consumption, such as but not limited
12 to, edible products, ointments, and tinctures.

13
14 (4) "*Retail marijuana sales tax*" means the tax imposed on the sale of retail
15 marijuana and retail marijuana products pursuant to this Division 4.

16
17 (5) "*Retail marijuana store*" means an entity licensed by the Colorado Department
18 of Revenue to sell retail marijuana and retail marijuana products to consumers
19 pursuant to section 16 of article XVIII of the Colorado Constitution and the
20 "Colorado Retail Marijuana Code," Article 43.4 of Title 12, C.R.S., and license
21 by the Department of Excise and License pursuant to article V of Chapter 6,
22 D.R.M.C.

23
24 **53-85. Imposition of tax.**

25
26 (a) In addition to the sale tax imposed by Division 1 of this Article II, beginning January
27 1, 2014 there is imposed upon all sales of retail marijuana and retail marijuana
28 products to a consumer by a retail marijuana store a tax at the rate of ~~five (5)~~
29 **percent three and one-half (3.5) percent** of the amount of the sale.

30
31 (b) The maximum tax rate that may be imposed pursuant to this section is fifteen (15)
32 percent ~~and the minimum tax rate that may be imposed pursuant to this section~~

1 ~~is three and one-half (3.5) percent.~~ At any time on or after January 1, 2014, the
2 city may, by ordinance:

3 (1) Establish another tax rate to be imposed pursuant to this Division 4 that is
4 ~~equal to or greater than three and one-half (3.5) percent and~~ equal to or
5 less than the maximum fifteen (15) percent tax rate provided in this
6 subsection; or

7
8 (2) After establishing a tax rate that is lower than fifteen (15) percent, increase the
9 tax rate to be imposed pursuant to this section; except that, in no event shall
10 the city increase the tax rate above fifteen (15) percent of the sale of retail
11 marijuana or retail marijuana products.

12
13 (c) Nothing in this section shall be construed to impose a tax on the sale of marijuana or
14 marijuana products to any person by a medical marijuana center licensed by the
15 Colorado Department of Revenue to sell medical marijuana and medical marijuana-
16 infused products pursuant to the Colorado Medical Marijuana Code, article 43.3 of
17 Title 12, C.R.S. and licensed by the city pursuant to article XII of chapter 24,
18 D.R.M.C. To the extent any retail marijuana store exists at the same location and
19 under common ownership with a licensed medical marijuana center, the retailer shall
20 strictly segregate and account for sales of retail marijuana distinct from medical
21 marijuana in accordance with all applicable state and city laws and regulations
22 governing collocation of retail marijuana stores and medical marijuana centers.

23
24 **53-86. Purpose of tax.**

25 The council declares that the purpose of the levy of the tax imposed by this
26 Division 4 is for raising funds for the payment of direct and indirect expenses related
27 to the licensing and regulation of the retail marijuana industry, enforcement of
28 marijuana laws in general, educational and public health programs to mitigate any
29 negative consequences associated with the consumption of marijuana and marijuana
30 products, programs to prevent the illegal diversion of retail marijuana and retail
31 marijuana products to persons under the age of twenty-one; and to otherwise pay the
32 expenses of operating and improving the city and its facilities. In accordance with
33 these purposes, the proceeds of the tax shall be placed in the unapportioned sales,

1 use and lodger's tax account of the fund plan, section 20-18 of the Code, from which
2 shall be allocated, apportioned and transferred as therein provided such sums to the
3 respective funds and accounts of said fund plan as are therein indicated and for the
4 purposes therein stated.

5
6 **53-87. Revenue and spending limitations.**

7 Notwithstanding any limitations on revenue, spending, or appropriations
8 contained in section 20 of article X of the Colorado Constitution or any other
9 provision of law, any revenues generated by the retail marijuana sales tax imposed
10 pursuant to this Division 4, as approved by the voters at the special municipal
11 election on November 5, 2013, may be collected and spent as a voter-approved
12 revenue change and shall not require further voter approval to modify the tax rate as
13 provided in section 53-85 or to collect and spend any revenue derived from a
14 modified tax rate.

15
16 **Section 2.** Pursuant to § 8.2.3 of the Charter, the City Council hereby calls a special
17 municipal election to be conducted on November 5, 2013 and coordinated with the regular
18 biennial school district election occurring on said date. In accordance with § 3.3.6 of the
19 Charter and Article X, Section 20 of the Colorado Constitution, the tax increase set forth in
20 Section 1 of this ordinance shall be submitted to a vote of the registered electors of the City
21 and County of Denver at said election. Each elector voting at said election and desirous of
22 voting for or against the tax increase shall cast a vote as provided by law either "Yes" or
23 "No" on the proposition:

24 **Referred Question _____**

25 "SHALL CITY TAXES BE INCREASED BY ~~\$6.4 MILLION~~ **\$4.48 MILLION**
26 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS
27 ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES
28 TAX OF ~~5%~~ **3.5%** ON THE SALE OF RETAIL MARIJUANA AND RETAIL
29 MARIJUANA PRODUCTS, WITH THE TAX REVENUES BEING USED TO FUND
30 THE ENFORCEMENT OF REGULATIONS ON THE RETAIL MARIJUANA
31 INDUSTRY, OTHER COSTS RELATED TO ENFORCEMENT OF MARIJUANA
32 LAWS, EDUCATION AND PUBLIC HEALTH PROGRAMS ASSOCIATED WITH
33 MARIJUANA CONSUMPTION INCLUDING PREVENTION OF UNDERAGE
34 CONSUMPTION, AND OTHER CITY EXPENSES, WITH THE RATE OF THE TAX
35 BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER
36 VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED
37 15%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE

1 COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED
2 BY LAW?"
3

4 The proper officials of the City and County of Denver as are charged with duties relating to the election
5 shall, before the election, issue such calls, make such certifications, and publications, give such
6 notices (including, without limitation, the notice required by Art. X, §20(3)(b) of the Colorado
7 Constitution), make such appointments, and do all such other acts and things in connection with the
8 submission of this question to the registered electors of the City and County of Denver at the election
9 as are required by the constitution and laws of the state of Colorado and the Charter and ordinances
10 of the City and County of Denver. The ballots cast at such election shall be canvassed and the results
11 ascertained, determined, and certified in accordance with the requirements of the Constitution and
12 laws of the State of Colorado and the Charter and ordinances of the City and County of Denver.
13

14 **Section 3.** Subject to the approval of the voters as provided in Section 7 of this Ordinance, this
15 ordinance shall be effective January 1, 2014.

16 COMMITTEE APPROVAL DATE: July 29, 2013

17 MAYOR-COUNCIL DATE: August 6, 2013.

18 PASSED BY THE COUNCIL _____ 2013

19 _____ - PRESIDENT

20 APPROVED: _____ - MAYOR _____ 2013

21 ATTEST: _____ - CLERK AND RECORDER,
22 EX-OFFICIO CLERK OF THE
23 CITY AND COUNTY OF DENVER

24 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2013; _____ 2013

25 PREPARED BY: David W. Broadwell, Assistant City Attorney; DATE: August 15, 2013

26 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
27 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
28 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
29 3.2.6 of the Charter.
30

31 Douglas J. Friednash, Denver City Attorney

32 BY: _____, _____ City Attorney DATE: _____, 2013
33