

ARTICLE 43.4

Colorado Retail Marijuana Code

Cross references: For the medical marijuana program and medical review board, see § 25-1.5-106.

PART 1

COLORADO RETAIL MARIJUANA CODE

12-43.4-101. Short title. This article shall be known and may be cited as the "Colorado Retail Marijuana Code".

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1830, § 5 effective May 28.

12-43.4-102. Legislative declaration. (1) The general assembly hereby declares that this article shall be deemed an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.

(2) The general assembly further declares that it is unlawful under state law to cultivate, manufacture, distribute, or sell retail marijuana and retail marijuana products, except in compliance with the terms, conditions, limitations, and restrictions in section 16 of article XVIII of the state constitution and this article.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1830, § 5, effective May 28.

12-43.4-103. Definitions. As used in this article 43.4, unless the context otherwise requires:

(1) "Direct beneficial interest owner" means a person or closely held business entity that owns a share or shares of stock in a licensed retail marijuana business, including the officers, directors, managing members, or partners of the licensed retail marijuana business or closely held business entity, or a qualified limited passive investor.

(1.3) "Escorted" means appropriately checked into the limited access area and accompanied by a person licensed by the state licensing authority; except that trade craftspeople not normally engaged in the business of cultivating, processing, or selling retail marijuana need not be accompanied on a full-time basis, but only reasonably monitored.

(1.5) "Executive director" means the executive director of the department of revenue.

(2) "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches, is produced from a cutting, clipping, or seedling, and is in a cultivating container.

(2.5) "Indirect beneficial interest owner" means a holder of a permitted economic interest, a recipient of a commercially reasonable royalty associated with the use of intellectual property by a licensee, a licensed employee who receives a share of the profits from an employee

benefit plan, a qualified institutional investor, or another similarly situated person or entity as determined by the state licensing authority.

(3) "License" means to grant a license or registration pursuant to this article.

(4) "Licensed premises" means the premises specified in an application for a license under this article, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, or test retail marijuana and retail marijuana products in accordance with this article.

(5) "Licensee" means a person licensed or registered pursuant to this article.

(6) "Local jurisdiction" means a locality as defined in section 16 (2)(e) of article XVIII of the state constitution.

(7) "Local licensing authority" means, for any local jurisdiction that has chosen to adopt a local licensing requirement in addition to the state licensing requirements of this article, an authority designated by municipal, county, or city and county charter, ordinance, or resolution, or the governing body of a municipality or city and county, or the board of county commissioners of a county if no such authority is designated.

(8) "Location" means a particular parcel of land that may be identified by an address or other descriptive means.

(9) "Marijuana accessories" has the same meaning as defined in section 16 (2)(g) of article XVIII of the state constitution.

(9.5) "Marijuana-based workforce development or training program" means a program designed to train individuals to work in the licensed retail marijuana industry operated by an entity licensed under this article 43.4 or by a school that is authorized by the division of private occupational schools.

(10) "Mobile distribution center" means any vehicle other than a common passenger light-duty vehicle with a short wheel base used to carry a quantity of marijuana greater than one ounce.

(10.5) "Opaque" means that the packaging does not allow the product to be seen without opening the packaging material.

(11) "Operating fees", as referred to in section 16 (5)(f) of article XVIII of the state constitution, means fees that may be charged by a local jurisdiction for costs, including but not limited to inspection, administration, and enforcement of retail marijuana establishments authorized pursuant to this article.

(12) Repealed.

(12.4) "Permitted economic interest" means any unsecured convertible debt instrument, option agreement, warrant, or any other right to obtain an ownership interest when the holder of such interest is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent on the holder qualifying and obtaining a license as an owner under this article or such other agreements as may be permitted by rule by the state licensing authority.

(13) "Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization; except that "person" does not include any governmental organization.

(14) "Premises" means a distinctly identified, as required by the state licensing authority, and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

(14.3) "Qualified limited passive investor" means a natural person who is a United States citizen and is a passive investor who owns less than a five percent share or shares of stock in a licensed retail marijuana business.

(14.5) "Resealable" means that the package continues to function within effectiveness specifications, which shall be established by the state licensing authority similar to the federal "Poison Prevention Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq., for the number of openings and closings customary for its size and contents, which shall be determined by the state licensing authority.

(15) "Retail marijuana" means "marijuana" or "marihuana", as defined in section 16 (2)(f) of article XVIII of the state constitution, that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

(16) "Retail marijuana cultivation facility" has the same meaning as "marijuana cultivation facility" as defined in section 16 (2)(h) of article XVIII of the state constitution.

(17) "Retail marijuana establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, or a retail marijuana testing facility.

(17.5) "Retail marijuana establishment operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a retail marijuana establishment for direct remuneration from the retail marijuana establishment.

(18) "Retail marijuana products" means "marijuana products" as defined in section 16 (2)(k) of article XVIII of the state constitution that are produced at a retail marijuana products manufacturer.

(19) "Retail marijuana products manufacturer" has the same meaning as "marijuana product manufacturing facility" as defined in section 16 (2)(j) of article XVIII of the state constitution.

(20) "Retail marijuana store" has the same meaning as defined in section 16 (2)(n) of article XVIII of the state constitution.

(21) "Retail marijuana testing facility" means "marijuana testing facility" as defined in section 16 (2)(l) of article XVIII of the state constitution that is licensed pursuant to this article.

(21.5) "Retail marijuana transporter" means an entity or person that is licensed to transport retail marijuana and retail marijuana products from one retail marijuana establishment to another retail marijuana establishment and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell retail marijuana or retail marijuana products under any circumstances.

(22) "Sale" or "sell" includes to exchange, barter, or traffic in, to solicit or receive and order except through a licensee licensed under this article, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any consideration promised or obtained directly or indirectly.

(23) "School" means a public or private preschool or a public or private elementary, middle, junior high, or high school or institution of higher education.

(24) "State licensing authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of retail marijuana in this state pursuant to section 12-43.4-201.

Source: **L. 2013:** Entire article added, (HB 13-1317), ch. 329, p. 1830, § 5, effective May 28. **L. 2014:** (10.5) and (14.5) added, (HB 14-1122), ch. 39, p. 202, § 7, effective March 17. **L. 2015:** (12) amended and (12.4) added, (HB 15-1379), ch. 250, p. 913, § 3, effective August 5. **L. 2016:** (1) amended, (1.5), (2.5), and (14.3) added, and (12) repealed, (SB 16-040), ch. 293, p. 1188, § 7, effective June 10; (1.3), (1.5), (17.5), and (21.5) added and (14.5) amended, (HB 16-1261), ch. 338, p. 1372, § 1, effective June 10; (21.5) added, (HB 16-1211), ch. 333, p. 1353, § 6, effective August 10. **L. 2017:** IP amended and (9.5) added, (SB 17-187), ch. 354, p. 1842, § 3, effective August 9.

Editor's note: (1) Subsection (1.3) was numbered as (1) in HB 16-1261 but has been renumbered on revision for ease of location.

(2) Amendments to subsection (21.5) by HB 16-1261 and HB 16-1211 were harmonized.

12-43.4-104. Applicability - retail marijuana. (1) (a) (I) On or after October 1, 2013, a person who is operating in good standing a licensed medical marijuana center, an optional premises cultivation license, or a licensed medical marijuana-infused products business or a person who had a pending application with the state licensing authority prior to December 10, 2012, has paid all applicable licensing fees, and has not yet had that application approved may apply for a retail marijuana establishment license under this article.

(II) An applicant pursuant to this paragraph (a) shall indicate whether he or she wants to surrender the current medical marijuana license issued pursuant to part 4 of article 43.3 of this title or intends to retain the license in addition to the retail marijuana establishment license.

(III) If the applicant indicates a desire to surrender the medical marijuana license, the applicant shall continue to operate under that license so long as the license remains in effect until a retail marijuana establishment license is approved. If the retail marijuana establishment license is granted, the applicant shall have fourteen days from the effective date of the license to surrender the medical marijuana license to the state licensing authority. If the retail marijuana license is granted, on the effective date of the license, all medical marijuana plants and inventory shall become retail marijuana plants and inventory on the date of the retail marijuana establishment license; except that beginning on July 1, 2016, an applicant shall not be allowed to transfer medical marijuana plants and inventory from a medical marijuana center or from a medical marijuana-infused products manufacturer to any retail marijuana establishment. Beginning on July 1, 2016, the only transfer of medical marijuana allowed pursuant to this subparagraph (III) is the transfer of medical marijuana plants and inventory from a medical marijuana cultivation facility to a retail marijuana cultivation facility.

(IV) An applicant pursuant to this paragraph (a) may apply for a retail marijuana establishment license and retain the medical marijuana license. The applicant may apply to have the medical marijuana licensed operation and the retail marijuana establishment at the same location only if the local jurisdiction permits the medical marijuana licensed operation and the retail marijuana establishment to be operated at the same location. At the time that the retail marijuana establishment license becomes effective, the applicant shall identify the medical marijuana inventory that will become retail marijuana inventory; except that beginning on July 1, 2016, an applicant shall not be allowed to transfer medical marijuana inventory from a medical marijuana center or from a medical marijuana-infused products manufacturer to any retail marijuana establishment. Beginning on July 1, 2016, the only transfer of medical

marijuana allowed pursuant to this subparagraph (IV) is the transfer of medical marijuana inventory from a medical marijuana cultivation facility to a retail marijuana cultivation facility.

(V) An applicant pursuant to this paragraph (a) who retains a medical marijuana license and obtains a retail marijuana establishment license for the two licensed premises must maintain actual physical separation between the two or only sell medical marijuana to persons twenty-one years of age or older.

(VI) Repealed.

(b) (I) Repealed.

(II) On and after July 1, 2014, persons who did not meet the requirements of subparagraph (I) of paragraph (a) of this subsection (1) may apply for licensure pursuant to this article. A license issued to a person pursuant to this subparagraph (II) is not effective until October 1, 2014.

(c) Repealed.

(2) (a) A person applying pursuant to subsection (1) of this section shall complete forms as provided by the state licensing authority and shall pay the application fee and the licensing fee, which shall be credited to the marijuana cash fund established pursuant to section 12-43.4-501. The state licensing authority shall forward, within seven days, one-half of the license application fee to the local jurisdiction unless the local jurisdiction has prohibited the operation of retail marijuana establishments pursuant to section 16 (5)(f) of article XVIII of the state constitution. If the license is denied, the state licensing authority shall refund the licensing fee to the applicant.

(b) (I) The state licensing authority shall act upon an application made pursuant to subsection (1) of this section no sooner than forty-five days and no later than ninety days after the date of the application. The state licensing authority shall process applications in the order in which complete applications are received by the state licensing authority.

(II) Repealed.

(3) As provided in section 16 (5)(f) of article XVIII of the state constitution, any local jurisdiction may enact ordinances or regulations governing the time, place, manner, and number of retail marijuana establishments, which may include a local licensing requirement, or may prohibit the operation of retail marijuana establishments through the enactment of an ordinance or through a referred or initiated measure. If a county acts through an initiated measure, the proponents shall submit a petition signed by not less than fifteen percent of the registered electors in the county.

(4) This article sets forth the exclusive means by which cultivation, manufacture, sale, distribution, dispensing, and testing of retail marijuana and retail marijuana products may occur in the state of Colorado.

(5) (a) Nothing in this article is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or cultivating of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

(b) Nothing in this article prohibits a person, employer, school, hospital, detention facility, corporation, or any other entity who occupies, owns, or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or cultivating of marijuana on or in that property.

(6) Repealed.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1832, § 5, effective May 28. **L. 2015:** (1)(a)(III) and (1)(a)(IV) amended, (HB 15-1387), ch. 332, p. 1352, § 1, effective June 5. **L. 2016:** (3) amended, (HB 16-1261), ch. 338, p. 1373, § 2, effective June 10. **L. 2017:** (6) repealed, (HB 17-1137), ch. 45, p. 133, § 1, effective August 9.

Editor's note: (1) Subsection (1)(a)(VI)(B) provided for the repeal of subsection (1)(a)(VI), effective July 1, 2014. (See L. 2013, p. 1832.)

(2) Subsections (1)(b)(I)(B), (1)(c)(II), and (2)(b)(II)(B) provided for the repeal of subsections (1)(b)(I), (1)(c), and (2)(b)(II), respectively, effective July 1, 2015. (See L. 2013, p. 1832.)

12-43.4-105. Limited access areas. Subject to the provisions of section 12-43.4-701, a limited access area shall be a building, room, or other contiguous area upon the licensed premises where retail marijuana and retail marijuana products are cultivated, stored, weighed, packaged, or tested, under control of the licensee, with access limited to only those persons licensed by the state licensing authority and those visitors escorted by a person licensed by the state licensing authority. All areas of ingress or egress to limited access areas shall be clearly identified as such by a sign as designated by the state licensing authority.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1835, § 5, effective May 28. **L. 2016:** Entire section amended, (HB 16-1261), ch. 338, p. 1373, § 3, effective June 10.

PART 2

STATE LICENSING AUTHORITY

12-43.4-201. State licensing authority. For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of retail marijuana and retail marijuana products in this state, the state licensing authority created in section 12-43.3-201 shall also have regulatory authority for retail marijuana and retail marijuana products as permitted in section 16 of article XVIII of the state constitution and this article.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1835, § 5, effective May 28.

12-43.4-202. Powers and duties of state licensing authority - rules. (1) [*Editor's note: This version of subsection (1) is effective until January 1, 2018.*] The state licensing authority shall develop and maintain a seed-to-sale tracking system that tracks retail marijuana from either seed or immature plant stage until the marijuana or retail marijuana product is sold to a customer at a retail marijuana store to ensure that no marijuana grown or processed by a retail marijuana establishment is sold or otherwise transferred except by a retail marijuana store.

(1) [*Editor's note: This version of subsection (1) is effective January 1, 2018.*] To ensure that no marijuana grown or processed by a retail marijuana establishment is sold or otherwise transferred except by a retail marijuana store or as authorized by law, the state

licensing authority shall develop and maintain a seed-to-sale tracking system that tracks retail marijuana from either seed or immature plant stage until the marijuana or retail marijuana product is sold to a customer at a retail marijuana store; except that retail marijuana or retail marijuana product is no longer subject to the tracking system once the retail marijuana has been:

(a) Transferred to a medical research facility pursuant to section 25-1.5-106.5 (5)(b); or

(b) Transferred to a pesticide manufacturer in quantities that are limited as specified in rules promulgated by the state licensing authority, in consultation with the departments of public health and environment and agriculture. The rules must define a pesticide manufacturer that is authorized to conduct research and must authorize a pesticide manufacturer to conduct research to establish safe and effective protocols for the use of pesticides on retail marijuana. Notwithstanding any other provision of law, a pesticide manufacturer authorized pursuant to this subsection (1)(b) to conduct pesticide research regarding retail marijuana must be located in Colorado, must conduct the research in Colorado, and is exempt from all otherwise applicable restrictions on the possession and use of retail marijuana; except that the manufacturer shall:

(I) Not possess at any time a quantity of retail marijuana in excess of the limit established in rules promulgated by the state licensing authority;

(II) Use the retail marijuana only for the pesticide research authorized pursuant to this subsection (1)(b);

(III) Destroy, in compliance with rules promulgated by the state licensing authority, all retail marijuana remaining after the research has been completed; and

(IV) Not apply pesticides for research purposes on the licensed premises of a retail marijuana establishment.

(2) The state licensing authority has the authority to:

(a) Grant or refuse state licenses for the cultivation, manufacture, distribution, sale, and testing of retail marijuana and retail marijuana products as provided by law; suspend, fine, restrict, or revoke such licenses, whether active, expired, or surrendered, upon a violation of this article 43.4 or any rule promulgated pursuant to this article 43.4; and impose any penalty authorized by this article 43.4 or any rule promulgated pursuant to this article 43.4. The state licensing authority may take any action with respect to a registration pursuant to this article 43.4 as it may with respect to a license pursuant to this article 43.4, in accordance with the procedures established pursuant to this article 43.4.

(b) Promulgate, on or before July 1, 2013, rules for the proper regulation and control of the cultivation, manufacture, distribution, sale, and testing of retail marijuana and retail marijuana products and for the enforcement of this article and promulgate amended rules and such special rulings and findings as necessary;

(c) Hear and determine at a public hearing any contested state license denial and any complaints against a licensee and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held, all in accordance with article 4 of title 24, C.R.S. The state licensing authority may, at its discretion, delegate to the department of revenue hearing officers the authority to conduct licensing, disciplinary, and rule-making hearings. When conducting such hearings, the hearing officers are employees of the state licensing authority under the direction and supervision of the executive director and the state licensing authority.

(d) Maintain the confidentiality of reports or other information obtained from a licensee containing any individualized data, information, or records related to the licensee or its

operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state law. Such reports or other information may be used only for a purpose authorized by this article or for any other state or local law enforcement purpose. Any customer information may be used only for a purpose authorized by this article.

(e) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the state licensing authority for the administration of this article or any of the rules promulgated under this article; and

(f) Prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to section 24-1-136, C.R.S., a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the state licensing authority.

(3) (a) Rules promulgated pursuant to subsection (2)(b) of this section must include, but need not be limited to, the following subjects:

(I) Procedures consistent with this article for the issuance, renewal, suspension, and revocation of licenses to operate retail marijuana establishments;

(II) Subject to the limitations contained in section 16 (5)(a)(II) of article XVIII of the state constitution and consistent with this article, a schedule of application, licensing, and renewal fees for retail marijuana establishments;

(III) Qualifications for licensure under this article, including but not limited to the requirement for a fingerprint-based criminal history record check for all owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this article;

(IV) (A) Establishing a marijuana and marijuana products independent testing and certification program, within an implementation time frame established by the department, requiring licensees to test marijuana to ensure at a minimum that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

(B) Testing may include analysis for microbial and residual solvents and chemical and biological contaminants deemed to be public health hazards by the Colorado department of public health and environment based on medical reports and published scientific literature.

(C) In the event that test results indicate the presence of quantities of any substance determined to be injurious to health, the licensee shall immediately quarantine the products and notify the state licensing authority. The state licensing authority shall give the licensee an opportunity to retest the product and if the second test also indicates the presence of quantities of any substance determined to be injurious to health then the licensee can remediate the product if the test indicated the presence of a microbial. If two additional tests do not indicate the presence of quantities of any substance determined to be injurious to health, the product may be used or sold by the licensee. If the licensee is unable to remediate the product, the licensee shall document and properly destroy the adulterated product.

(D) Testing shall also verify THC potency representations and homogeneity for correct labeling and provide a cannabinoid profile for the marijuana product. An individual marijuana piece of ten milligrams or less that has gone through process validation is exempt from

continued homogeneity testing. Homogeneity testing for one hundred milligram servings may utilize validation measures.

(E) The state licensing authority shall determine an acceptable variance for potency representations and procedures to address potency misrepresentations. The state licensing authority shall determine an acceptable variance of at least plus or minus fifteen percent for potency representations and procedures to address potency misrepresentations.

(F) The state licensing authority shall determine the protocols and frequency of marijuana testing by licensees.

(G) The executive director of the department of public health and environment shall provide to the state licensing authority standards for licensing laboratories pursuant to the requirements as outlined in sub-subparagraph (A) of this subparagraph (IV) for marijuana and marijuana products.

(H) *[Editor's note: This sub-subparagraph (H) is effective January 1, 2018.]* A state, local, or municipal agency shall not employ or use the results of any test of marijuana or marijuana products conducted by an analytical laboratory that is not certified pursuant to this subsection (3)(a)(IV) for the particular testing category and accredited to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 standard, or any subsequent superseding standard, in that field of testing.

(V) Security requirements for any premises licensed pursuant to this article, including, at a minimum, lighting, physical security, video, and alarm requirements, and other minimum procedures for internal control as deemed necessary by the state licensing authority to properly administer and enforce the provisions of this article, including reporting requirements for changes, alterations, or modifications to the premises;

(VI) Requirements to prevent the sale or diversion of retail marijuana and retail marijuana products to persons under twenty-one years of age;

(VII) Labeling requirements for retail marijuana and retail marijuana products sold by a retail marijuana establishment that are at least as stringent as imposed by section 25-4-1614 (3)(a), C.R.S., and include but are not limited to:

(A) to (H) (Deleted by amendment, L. 2016.)

(I) Warning labels;

(J) (Deleted by amendment, L. 2016.)

(K) Amount of THC per serving and the number of servings per package for marijuana products;

(L) to (N) (Deleted by amendment, L. 2016.)

(O) A universal symbol indicating the package contains marijuana; and

(P) The potency of the retail marijuana or retail marijuana product highlighted on the label;

(VIII) Health and safety regulations and standards for the manufacture of retail marijuana products and the cultivation of retail marijuana;

(IX) Limitations on the display of retail marijuana and retail marijuana products;

(X) Regulation of the storage of, warehouses for, and transportation of retail marijuana and retail marijuana products;

(XI) Sanitary requirements for retail marijuana establishments, including but not limited to sanitary requirements for the preparation of retail marijuana products;

(XII) Records to be kept by licensees and the required availability of the records;

(XIII) The reporting and transmittal of monthly sales tax payments by retail marijuana stores and any applicable excise tax payments by retail marijuana cultivation facilities;

(XIV) Authorization for the department of revenue to have access to licensing information to ensure sales, excise, and income tax payment and the effective administration of this article;

(XIV.5) Rules effective on or before January 1, 2016, relating to permitted economic interests including a process for a criminal history record check; a requirement that a permitted economic interest applicant submit to and pass a criminal history record check; a divestiture; and other agreements that would qualify as permitted economic interests;

(XV) Compliance with, enforcement of, or violation of any provision of this article, section 18-18-406.3 (7), C.R.S., or any rule issued pursuant to this article, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this article;

(XVI) Establishing a schedule of penalties and procedures for issuing and appealing citations for violation of statutes and rules and issuing administrative citations;

(XVII) Retail marijuana transporter licensed businesses, including requirements for drivers, including obtaining and maintaining a valid Colorado driver's license; insurance requirements; acceptable time frames for transport, storage, and delivery; requirements for transport vehicles; and requirements for licensed premises;

(XVIII) Retail marijuana establishment operator licensees, including the form and structure of allowable agreements between operators and owners;

(XIX) Nonescorted visitors in limited access areas; and

(XX) The parameters and qualifications of an indirect beneficial interest owner and a qualified limited passive investor.

(a.5) (I) Pursuant to the authority granted in paragraph (b) of subsection (2) of this section, on or before January 1, 2016, the state licensing authority shall promulgate rules establishing the equivalent of one ounce of retail marijuana flower in various retail marijuana products including retail marijuana concentrate.

(II) Prior to promulgating the rules required by subparagraph (I) of this paragraph (a.5), the state licensing authority may contract for a scientific study to determine the equivalency of marijuana flower in retail marijuana products including retail marijuana concentrate.

(b) Rules promulgated pursuant to paragraph (b) of subsection (2) of this section must also include the following subjects:

(I) Specifications of duties of officers and employees of the state licensing authority;

(II) Instructions for local jurisdictions and law enforcement officers;

(III) Requirements for inspections, investigations, searches, seizures, forfeitures, and such additional activities as may become necessary from time to time;

(IV) Repealed.

(V) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this article, including a fingerprint-based criminal history record check as may be required by the state licensing authority prior to issuing a card;

(VI) Identification of state licensees and their owners, officers, managers, and employees;

(VII) The specification of acceptable forms of picture identification that a retail marijuana store may accept when verifying a sale, including but not limited to government-issued identification cards;

(VIII) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees; and

(IX) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this article.

(c) Rules promulgated pursuant to paragraph (b) of subsection (2) of this section must also include the following subjects, and the state licensing authority may seek the assistance of the department of public health and environment when necessary before promulgating the rules:

(I) Signage, marketing, and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching persons under twenty-one years of age and other such rules that may include:

(A) Allow packaging and accessory branding;

(B) A prohibition on health or physical benefit claims in advertising, merchandising, and packaging;

(C) A prohibition on unsolicited pop-up advertising on the internet;

(D) A prohibition on banner ads on mass-market websites;

(E) A prohibition on opt-in marketing that does not permit an easy and permanent opt-out feature; and

(F) A prohibition on marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is twenty-one years of age or older and includes a permanent and easy opt-out feature;

(II) Repealed.

(III) Prohibiting the sale of retail marijuana and retail marijuana products unless:

(A) The product is packaged by the retail marijuana store or the retail marijuana products manufacturer in packaging meeting requirements established by the state licensing authority similar to the federal "Poison Prevention Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq.; or

(B) The product is placed in an opaque and resealable exit package or container meeting requirements established by the state licensing authority at the point of sale prior to exiting the store;

(IV) The safe and lawful transport of retail marijuana and retail marijuana products between the licensed business and testing laboratories;

(V) A standardized marijuana serving size amount for edible retail marijuana products that does not contain more than ten milligrams of active THC designed only to provide consumers with information about the total number of servings of active THC in a particular retail marijuana product, not as a limitation on the total amount of THC in any particular item, labeling requirements regarding servings for edible retail marijuana products, and limitations on the total amount of active THC in a sealed internal package that is no more than one hundred milligrams of active THC;

(VI) Labeling guidelines concerning the total content of THC per unit of weight;

(VII) Prohibition or regulation of additives to any retail marijuana product, including but not limited to those that are toxic, designed to make the product more addictive, designed to

make the product more appealing to children, or misleading to consumers, but not including common baking and cooking items;

(VIII) Permission for a local fire department to conduct an annual fire inspection of a retail marijuana cultivation facility; and

(IX) (A) A prohibition on the production and sale of edible retail marijuana products that are in the distinct shape of a human, animal, or fruit. Geometric shapes and products that are simply fruit flavored are not considered fruit. Products in the shape of a marijuana leaf are permissible. Nothing in this subparagraph (IX) applies to a company logo.

(B) The rules promulgated pursuant to this subparagraph (IX) shall take effect on October 1, 2017.

(c.5) (I) Pursuant to the authority granted in paragraph (b) of subsection (2) of this section, on or before January 1, 2016, the state licensing authority shall promulgate rules requiring that edible retail marijuana products be clearly identifiable, when practicable, with a standard symbol indicating that it contains marijuana and is not for consumption by children. The symbols promulgated by rule of the state licensing authority must not appropriate signs or symbols associated with another Colorado business or industry.

(II) On or before August 1, 2014, the state licensing authority shall convene a stakeholders group, including but not limited to representatives of the department of public health and environment, retail marijuana store licensees, retail marijuana products manufacturers licensees, child abuse prevention experts, and advocates for children's health, to make recommendations for rules on how edible retail marijuana products can be clearly identifiable, when practicable, to indicate that it contains marijuana, is not for consumption by children, and is safe for consumers. Prior to February 1, 2015, the state licensing authority shall report its findings to the health and human services committee of the senate and the health insurance and environment committee of the house of representatives, or any successor committees.

(d) Nothing in this article shall be construed as delegating to the state licensing authority the power to fix prices for retail marijuana.

(e) Nothing in this article shall be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment. A law enforcement agency shall have the authority to run a Colorado crime information center criminal history record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

(f) The general assembly finds and declares that matters related to labeling as regulated pursuant to subparagraph (VII) of paragraph (a) of this subsection (3) and subparagraphs (V) and (VI) of paragraph (c) of this subsection (3), packaging as regulated pursuant to subparagraph (III) of paragraph (c) of this subsection (3), and testing as regulated pursuant to subparagraph (IV) of paragraph (a) of this subsection (3) are matters of statewide concern, and the sole regulatory authority for labeling, packaging, and testing is pursuant to this section.

(4) (a) The state licensing authority shall create a statewide licensure class system for retail marijuana cultivation facilities. The classifications may be based upon square footage of the facility; lights, lumens, or wattage; lit canopy; the number of cultivating plants; a combination of the foregoing; or other reasonable metrics. The state licensing authority shall create a fee structure for the license class system.

(b) (I) The state licensing authority may establish limitations upon retail marijuana production through one or more of the following methods:

(A) Placing or modifying a limit on the number of licenses that it issues, by class or overall, but in placing or modifying the limits, the authority shall consider the reasonable availability of new licenses after a limit is established or modified;

(B) Placing or modifying a limit on the amount of production permitted by a retail marijuana cultivation license or class of licenses based upon some reasonable metric or set of metrics including, but not limited to, those items detailed in paragraph (a) of this subsection (4), previous months' sales, pending sales, or other reasonable metrics as determined by the state licensing authority; and

(C) Placing or modifying a limit on the total amount of production by retail marijuana cultivation licensees in the state, collectively, based upon some reasonable metric or set of metrics including, but not limited to, those items detailed in paragraph (a) of this subsection (4), as determined by the state licensing authority.

(II) Notwithstanding anything contained in this article to the contrary, in considering any such limitations, the state licensing authority, in addition to any other relevant considerations, shall:

(A) Consider the total current and anticipated demand for retail marijuana and retail marijuana products in Colorado; and

(B) Attempt to minimize the market for unlawful marijuana.

Source: **L. 2013:** Entire article added, (HB 13-1317), ch. 329, p. 1835, § 5, effective May 28. **L. 2014:** IP(3)(c)(I) and (3)(c)(III)(B) amended, (HB 14-1122), ch. 39, p. 202, § 8, effective March 17; (3)(a.5) added, (HB 14-1361), ch. 235, p. 868, § 1, effective May 21; (3)(c.5) added, (HB 14-1366), ch. 236, p. 870, § 2, effective May 21. **L. 2015:** (3)(a)(IV)(D) and (3)(a)(IV)(E) amended, (HB 15-1283), ch. 307, p. 1256, § 2, effective June 5; (3)(a)(XIV.5) added, (HB 15-1379), ch. 250, p. 913, § 4, effective August 5. **L. 2016:** (2)(d), (3)(a)(IV)(B), (3)(a)(IV)(C), (3)(a)(IV)(D), (3)(a)(IV)(E), (3)(a)(IV)(F), (3)(a)(VII), and (3)(a)(XV) amended, (3)(a)(XVII), (3)(a)(XVIII), (3)(a)(XIX), and (3)(f) added, and (3)(b)(IV) and (3)(c)(II) repealed, (HB 16-1261), ch. 338, p. 1373, § 4, effective June 10; (3)(a)(XV) and (3)(a)(XVI) amended and (3)(a)(XX) added, (SB 16-040), ch. 293, p. 1189, § 8, effective June 10; (3)(c)(VII) and (3)(c)(VIII) amended and (3)(c)(IX) added, (HB 16-1436), ch. 361, p. 1508, § 2, effective June 10; (3)(a)(XVII) added, (HB 16-1211), ch. 333, p. 1353, § 7, effective August 10. **L. 2017:** (2)(a) and (3)(a)(IV)(C) amended, (SB 17-192), ch. 299, p. 1638, § 2, effective August 9; (1) and IP(3)(a) amended and (3)(a)(IV)(H) added, (HB 17-1367), ch. 406, p. 2123, § 8, effective January 1, 2018.

Editor's note: Section 11 of chapter 406 (HB 17-1367), Session Laws of Colorado 2017, provides that section 8 of the act changing this section applies to conduct occurring on or after January 1, 2018.

Cross references: For the legislative declaration in HB 14-1366, see section 1 of chapter 236, Session Laws of Colorado 2014.

PART 3

STATE AND LOCAL LICENSING

12-43.4-301. Local approval - licensing. (1) When the state licensing authority receives an application for original licensing or renewal of an existing license for any marijuana establishment, the state licensing authority shall provide, within seven days, a copy of the application to the local jurisdiction in which the establishment is to be located unless the local jurisdiction has prohibited the operation of retail marijuana establishments pursuant to section 16 (5)(f) of article XVIII of the state constitution. The local jurisdiction shall determine whether the application complies with local restrictions on time, place, manner, and the number of marijuana businesses. The local jurisdiction shall inform the state licensing authority whether the application complies with local restrictions on time, place, manner, and the number of marijuana businesses.

(2) A local jurisdiction may impose a separate local licensing requirement as a part of its restrictions on time, place, manner, and the number of marijuana businesses. A local jurisdiction may decline to impose any local licensing requirements, but a local jurisdiction shall notify the state licensing authority that it either approves or denies each application forwarded to it.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1842, § 5, effective May 28.

12-43.4-302. Public hearing notice - posting and publication. (1) If a local jurisdiction issues local licenses for a retail marijuana establishment, a local jurisdiction may schedule a public hearing on the application. If the local jurisdiction schedules a hearing, it shall post and publish public notice thereof not less than ten days prior to the hearing. The local jurisdiction shall give public notice by posting a sign in a conspicuous place on the license applicant's premises for which a local license application has been made and by publication in a newspaper of general circulation in the county in which the applicant's premises are located.

(2) If a local jurisdiction does not issue local licenses, the local jurisdiction may give public notice of the state license application by posting a sign in a conspicuous place on the state license applicant's premises for which a state license application has been made and by publication in a newspaper of general circulation in the county in which the applicant's premises are located.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1843, § 5, effective May 28. **L. 2015:** (2) amended, (SB 15-264), ch. 259, p. 947, § 21, effective August 5.

12-43.4-303. Retail marijuana license bond. (Repealed)

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1843, § 5, effective May 28. **L. 2016:** Entire section repealed, (HB 16-1041), ch. 14, p. 32, § 4, effective March 11.

Cross references: For the legislative declaration in HB 16-1041, see section 1 of chapter 14, Session Laws of Colorado 2016.

12-43.4-304. State licensing authority - application and issuance procedures. (1) Applications for a state license under the provisions of this article must be made to the state licensing authority on forms prepared and furnished by the state licensing authority and must set

forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a state license should be granted. The information must include the name and address of the applicant and the names and addresses of the officers, directors, or managers. Each application must be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe. The state licensing authority may issue a state license to an applicant pursuant to this section upon completion of the applicable criminal history background check associated with the application, and the state license is conditioned upon local jurisdiction approval. A license applicant is prohibited from operating a licensed retail marijuana business without state and local jurisdiction approval. If the applicant does not receive local jurisdiction approval within one year from the date of state licensing authority approval, the state license shall expire and may not be renewed. If an application is denied by the local licensing authority, the state licensing authority shall revoke the state-issued license.

(2) Nothing in this article preempts or otherwise impairs the power of a local government to enact ordinances or resolutions concerning matters authorized to local governments.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1843, § 5, effective May 28.

12-43.4-305. Denial of application - definition. (1) The state licensing authority shall deny a state license if the premises on which the applicant proposes to conduct its business does not meet the requirements of this article or for reasons set forth in section 12-43.4-304. The state licensing authority may refuse or deny a license renewal, reinstatement, or initial license issuance for good cause. For purposes of this subsection (1), "good cause" means:

(a) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this article, any rules promulgated pursuant to this article, or any supplemental local law, rules, or regulations;

(b) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or

(c) The licensed premises have been operated in a manner that adversely affects the public health or the safety of the immediate neighborhood in which the establishment is located.

(2) If the state licensing authority denies a state license pursuant to subsection (1) of this section, the applicant shall be entitled to a hearing pursuant to section 24-4-104 (9), C.R.S., and judicial review pursuant to section 24-4-106, C.R.S. The state licensing authority shall provide written notice of the grounds for denial of the state license to the applicant and to the local jurisdiction at least fifteen days prior to the hearing.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1844, § 5, effective May 28.

12-43.4-306. Persons prohibited as licensees - definitions. (1) A license provided by this article shall not be issued to or held by:

(a) A person until the fee therefor has been paid;

(b) An individual whose criminal history indicates that he or she is not of good moral character after considering the factors in section 24-5-101 (2), C.R.S.;

(c) A person other than an individual if the criminal history of any of its officers, directors, stockholders, or owners indicates that the officer, director, stockholder, or owner is not of good moral character after considering the factors in section 24-5-101 (2), C.R.S.;

(d) A person financed in whole or in part by any other person whose criminal history indicates he or she is not of good moral character after considering the factors in section 24-5-101 (2), C.R.S., and reputation satisfactory to the respective licensing authority;

(e) A person under twenty-one years of age;

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

(I) File any tax return related to a medical or retail marijuana establishment; or

(II) Pay any taxes, interest, or penalties due, as determined by final agency action, relating to a medical or retail marijuana establishment;

(g) A person who:

(I) Has discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date; or

(II) Has discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer; except that the licensing authority may grant a license to a person if the person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for licensure;

(h) A person who employs another person at a retail marijuana establishment who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals that the person is ineligible;

(i) A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

(j) A person applying for a license for a location that is currently licensed as a retail food establishment or wholesale food registrant; or

(k) Repealed.

(l) A publicly traded company.

(2) (a) In investigating the qualifications of an applicant or a licensee, the state and local licensing authorities may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the state or local licensing authority considers the applicant's criminal history record, the state or local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the time between the applicant's last criminal conviction and the consideration of the application for a state license.

(b) As used in paragraph (a) of this subsection (2), "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

(c) At the time of filing an application for issuance of a state retail marijuana establishment license, an applicant shall submit a set of his or her fingerprints and file personal history information concerning the applicant's qualifications for a state license on forms prepared by the state licensing authority. The state licensing authority or local jurisdiction shall submit the fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The state licensing authority or local jurisdiction may acquire a name-based criminal history record check for an applicant or a license holder who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for state or local licensing purposes may request that the fingerprints on file be used. The state licensing authority or local jurisdiction shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a state or local license pursuant to this article. The state licensing authority or local jurisdiction may verify any of the information an applicant is required to submit.

Source: **L. 2013:** Entire article added, (HB 13-1317), ch. 329, p. 1844, § 5, effective May 28. **L. 2014:** (2)(c) amended, (HB 14-1229), ch. 40, p. 204, § 1, effective March 17. **L. 2016:** (1)(f) amended, (HB 16-1041), ch. 14, p. 33, § 5, effective March 11; (1)(a) amended, (1)(k) repealed, and (1)(l) added, (SB 16-040), ch. 293, p. 1189, § 9, effective June 10; (1)(f) amended, (HB 16-1261), ch. 338, p. 1376, § 5, effective June 10.

Editor's note: Amendments to subsection (1)(f) by HB 16-1041 and HB 16-1261 were harmonized.

Cross references: For the legislative declaration in HB 16-1041, see section 1 of chapter 14, Session Laws of Colorado 2016.

12-43.4-306.5. Business and owner requirements - legislative declaration - definitions. (1) (a) The general assembly hereby finds and declares that:

(I) Retail marijuana businesses need to be able to access capital in order to effectively grow their businesses and remain competitive in the marketplace;

(II) The current regulatory structure for retail marijuana creates a substantial barrier to investment from out-of-state interests;

(III) There is insufficient capital in Colorado to properly fund the capital needs of Colorado retail marijuana businesses;

(IV) Colorado retail marijuana businesses need to have ready access to capital from investors in states outside of Colorado; and

(V) Providing access to legitimate sources of capital helps prevent the opportunity for those who engage in illegal activity to gain entry into Colorado's regulated retail marijuana market.

(b) Therefore, the general assembly is providing a mechanism for Colorado retail marijuana businesses to access capital from investors in other states.

(2) A direct beneficial interest owner who is a natural person must either:

(a) Have been a resident of Colorado for at least one year prior to the date of the application; or

(b) Be a United States citizen prior to the date of the application.

(3) (a) A retail marijuana business may be comprised of an unlimited number of direct beneficial interest owners that have been residents of Colorado for at least one year prior to the date of the application.

(b) On and after January 1, 2017, a retail marijuana business that is comprised of one or more direct beneficial interest owners who have not been Colorado residents for at least one year prior to application shall have at least one officer who has been a Colorado resident for at least one year prior to application and all officers with day-to-day operational control over the business must be Colorado residents for at least one year prior to application. A retail marijuana business under this paragraph (b) is limited to no more than fifteen direct beneficial interest owners, including all parent and subsidiary entities, all of whom are natural persons.

(c) Notwithstanding the requirements of paragraph (b) of this subsection (3), the state licensing authority may review the limitation on the number of direct beneficial interest owners and may increase the number of allowable interests above fifteen based on reasonable considerations such as developments in state and federal financial regulations, market conditions, and the licensee's ability to access legitimate sources of capital.

(d) A direct beneficial interest owner that is a closely held business entity must consist entirely of natural persons who are United States citizens prior to the date of the application, including all parent and subsidiary entities.

(4) A retail marijuana business may include qualified institutional investors that own thirty percent or less of the retail marijuana business.

(5) (a) A person who intends to apply as a direct beneficial interest owner and is not a Colorado resident for at least one year prior to the date of application shall first submit a request to the state licensing authority for a finding of suitability as a direct beneficial interest owner. The person shall receive a finding of suitability prior to submitting an application to the state licensing authority to be a direct beneficial interest owner. Failure to receive a finding of suitability prior to application is grounds for denial by the state licensing authority.

(b) The state licensing authority shall perform a limited initial background check on qualified limited passive investors. If the initial background check provides reasonable cause for additional investigation, the state licensing authority may require a full background check.

(6) The state licensing authority shall review the retail marijuana business's operating documents to ensure compliance with this section.

(7) For purposes of this section, unless the context otherwise requires, "institutional investor" means:

(a) A bank as defined in section 3(a)(6) of the federal "Securities Exchange Act of 1934", as amended;

(b) An insurance company as defined in section 2(a)(17) of the federal "Investment Company Act of 1940", as amended;

(c) An investment company registered under section 8 of the federal "Investment Company Act of 1940", as amended;

(d) An investment adviser registered under section 203 of the federal "Investment Advisers Act of 1940", as amended;

(e) Collective trust funds as defined in section 3(c)(11) of the federal "Investment Company Act of 1940", as amended;

(f) An employee benefit plan or pension fund that is subject to the federal "Employee Retirement Income Security Act of 1974", as amended, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary or holding company licensee that directly or indirectly owns five percent or more of a licensee;

(g) A state or federal government pension plan;

(h) A group comprised entirely of persons specified in subsections (a) to (g) of this subsection (7); or

(i) Any other entity identified through rule by the state licensing authority.

Source: L. 2016: Entire section added, (SB 16-040), ch. 293, p. 1190, § 10, effective June 10.

12-43.4-307. Restrictions for applications for new licenses. (1) The state licensing authority shall not approve an application for the issuance of a state license pursuant to this article:

(a) Repealed.

(b) Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1846, § 5, effective May 28. **L. 2016:** (1)(a) repealed, (HB 16-1261), ch. 338, p. 1376, § 6, effective June 10.

12-43.4-308. Transfer of ownership. (1) A state license granted under the provisions of this article is not transferable except as provided in this section, but this section does not prevent a change of location as provided in section 12-43.4-309 (12).

(2) For a transfer of ownership, a license holder shall apply to the state licensing authority on forms prepared and furnished by the state licensing authority. Upon receipt of an application for transfer of ownership, the state licensing authority shall submit, within seven days, a copy of the application to the local jurisdiction to determine whether the transfer complies with local restrictions on transfer of ownership. In determining whether to permit a transfer of ownership, the state licensing authority shall consider only the requirements of this article, any rules promulgated by the state licensing authority, and any other local restrictions. The local jurisdiction may hold a hearing on the application for transfer of ownership. The local jurisdiction shall not hold a hearing pursuant to this subsection (2) until the local jurisdiction has posted a notice of hearing in the manner described in section 12-43.4-302 (1) on the licensed premises for a period of ten days and has provided notice of the hearing to the applicant at least ten days prior to the hearing. Any transfer of ownership hearing by the state licensing authority shall be held in compliance with the requirements specified in section 12-43.4-304.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1847, § 5, effective May 28. **L. 2015:** (1) amended, (SB 15-264), ch. 259, p. 947, § 22, effective August 5.

12-43.4-309. Licensing in general. (1) Local jurisdictions are authorized to adopt and enforce regulations for retail marijuana establishments that are at least as restrictive as the provisions of this article and any rule promulgated pursuant to this article.

(2) A retail marijuana establishment may not operate until it is licensed by the state licensing authority pursuant to this article and approved by the local jurisdiction. If an application is denied by the local licensing authority, the state licensing authority shall revoke the state-issued license. In connection with a license, the applicant shall provide a complete and accurate application as required by the state licensing authority.

(3) A retail marijuana establishment shall notify the state licensing authority in writing of the name, address, and date of birth of an owner, officer, or manager before the new owner, officer, or manager begins managing, owning, or associating with the operation. The owner, officer, manager, or employee must pass a fingerprint-based criminal history record check as required by the state licensing authority and obtain the required identification prior to being associated with, managing, owning, or working at the operation.

(4) A retail marijuana establishment shall not acquire, possess, cultivate, deliver, transfer, transport, supply, or dispense marijuana for any purpose except as authorized by section 16 of article XVIII of the state constitution and this article.

(5) All managers and employees of a retail marijuana establishment shall be residents of Colorado upon the date of their license application. All licenses granted pursuant to this article are valid for a period of one year after the date of issuance unless revoked or suspended pursuant to this article or the rules promulgated pursuant to this article.

(6) Before granting a state license, the state licensing authority may consider, except when this article specifically provides otherwise, the requirements of this article and any rules promulgated pursuant to this article, and all other reasonable restrictions that are or may be placed upon the licensee by the licensing authority.

(7) (a) Each license issued under this article is separate and distinct. It is unlawful for a person to exercise any of the privileges granted under a license other than the license that the person holds or for a licensee to allow any other person to exercise the privileges granted under the licensee's license. A separate license shall be required for each specific business or business entity and each geographical location.

(b) At all times, a licensee shall possess and maintain possession of the premises for which the license is issued by ownership, lease, rental, or other arrangement for possession of the premises.

(8) The licenses issued pursuant to this article must specify the date of issuance, the period of licensure, the name of the licensee, and the premises licensed. The licensee shall conspicuously place the license at all times on the licensed premises.

(9) In computing any time prescribed by this article, the day of the act, event, or default from which the designated time begins to run is not included. Saturdays, Sundays, and legal holidays are counted as any other day.

(10) A licensee shall report each transfer or change of financial interest in the license to the state and local licensing authorities and receive approval prior to any transfer or change pursuant to section 12-43.4-308. A report is required for transfers of capital stock of any corporation regardless of size.

(11) Each licensee shall manage the licensed premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the

state and local licensing authorities. The licensee shall report any change in manager to the state and local licensing authorities within seven days after the change pursuant to section 12-43.4-308.

(12) (a) A licensee may move the permanent location to any other place in Colorado once permission to do so is granted by the state and local jurisdiction provided for in this article. Upon receipt of an application for change of location, the state licensing authority shall, within seven days, submit a copy of the application to the local jurisdiction to determine whether the transfer complies with all local restrictions on change of location.

(b) In permitting a change of location, the local jurisdiction shall consider all reasonable restrictions that are or may be placed upon the new location by the governing board of the municipality, city and county, or county, and any such change in location shall be in accordance with all requirements of this article and rules promulgated pursuant to this article.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1847, § 5, effective May 28. L. 2016: (5) amended, (SB 16-040), ch. 293, p. 1192, § 11, effective June 10.

12-43.4-310. License renewal. (1) Ninety days prior to the expiration date of an existing license, the state licensing authority shall notify the licensee of the expiration date by first-class mail at the licensee's address of record with the state licensing authority. A licensee may apply for the renewal of an existing license to the state licensing authority not less than thirty days prior to the date of expiration. Upon receipt of an application for renewal of an existing license and any applicable fees, the state licensing authority shall submit, within seven days, a copy of the application to the local jurisdiction to determine whether the application complies with all local restrictions on renewal of licenses. The state licensing authority shall not accept an application for renewal of a license after the date of expiration, except as provided in subsection (2) of this section. The state licensing authority may extend the expiration date of the license and accept a late application for renewal of a license if the applicant has filed a timely renewal application with the local licensing authority. The state or the local licensing authority, in its discretion, subject to the requirements of this subsection (1) and subsection (2) of this section and based upon reasonable grounds, may waive the thirty-day time requirements set forth in this subsection (1).

(1.5) The state licensing authority may require an additional fingerprint request when there is a demonstrated investigative need.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, a licensee whose license has been expired for not more than ninety days may file a late renewal application upon the payment of a nonrefundable late application fee of five hundred dollars to the state licensing authority. A licensee who files a late renewal application and pays the requisite fees may continue to operate until the state licensing authority takes final action to approve or deny the licensee's late renewal application unless the state licensing authority summarily suspends the license pursuant to article 4 of title 24, C.R.S., this article, and rules promulgated pursuant to this article.

(b) The state licensing authority may administratively continue the license and accept a later application for renewal of a license at the discretion of the state licensing authority.

(c) Notwithstanding the amount specified for the late application fee in paragraph (a) of this subsection (2), the state licensing authority by rule or as otherwise provided by law may

reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., by reducing the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the state licensing authority, by rule or as otherwise provided by law, may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1849, § 5, effective May 28. **L. 2016:** (1.5) added, (SB 16-040), ch. 293, p. 1192, § 12, effective June 10.

12-43.4-311. Inactive licenses. The state licensing authority, in its discretion, may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for at least one year.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1850, § 5, effective May 28.

12-43.4-312. Unlawful financial assistance. (1) The state licensing authority shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each license issued under this article.

(2) This section is intended to prohibit and prevent the control of the outlets for the sale of retail marijuana or retail marijuana products by a person or party other than the persons licensed pursuant to the provisions of this article.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1850, § 5, effective May 28.

PART 4

LICENSE TYPES

12-43.4-401. Classes of licenses. (1) For the purpose of regulating the cultivation, manufacture, distribution, sale, and testing of retail marijuana and retail marijuana products, the state licensing authority in its discretion, upon receipt of an application in the prescribed form, may issue and grant to the applicant a license from any of the following classes, subject to the provisions and restrictions provided by this article 43.4:

- (a) Retail marijuana store license;
- (b) Retail marijuana cultivation facility license;
- (c) Retail marijuana products manufacturing license;
- (d) Retail marijuana testing facility license;
- (e) Occupational licenses and registrations for owners, managers, operators, employees, contractors, and other support staff employed by, working in, or having access to restricted areas of the licensed premises, as determined by the state licensing authority. Upon receipt of an affirmation under penalty of perjury that the applicant is enrolled in a marijuana-based workforce development or training program operated by an entity licensed under this article 43.4 or by a school that is authorized by the division of private occupational schools in Colorado that

will require access or employment within a premises licensed pursuant to this article 43.4 or article 43.3 of this title 12, the state licensing authority may exempt for up to two years based on the length of the program the residency requirement in section 12-43.4-309 (5) for a person applying for an occupational license for participation in a marijuana-based workforce development or training program. The state licensing authority may take any action with respect to a registration pursuant to this article 43.4 as it may with respect to a license pursuant to this article 43.4, in accordance with the procedures established pursuant to this article 43.4.

(f) Retail marijuana transporter license; and

(g) Retail marijuana business operator license.

(2) (a) A person may operate a licensed medical marijuana center, an optional cultivation facility, a medical marijuana-infused products manufacturing facility, and any retail marijuana establishment at the same location if the local jurisdiction permits a dual operation.

(b) (I) Except as provided in subparagraph (II) of this paragraph (b), a dual medical marijuana center and retail marijuana store shall maintain separate licensed premises, including entrances and exits, inventory, point of sale operations, and record keeping.

(II) For a dual medical marijuana center and a retail marijuana store that only sells medical marijuana to persons twenty-one years of age or older, the state licensing authority must adopt rules concerning the licensed premises including but not limited to whether to allow single entrances and exits and virtual separation of inventory.

(c) A dual cultivation business operation shall maintain either physical or virtual separation of the two facilities and the plants and inventory of the two facilities.

(3) All persons licensed pursuant to this article shall collect sales tax on all retail sales made at a retail marijuana store.

(4) Notwithstanding any other provision of law to the contrary, a licensed retail cultivation facility or a licensed retail marijuana products manufacturer may compensate its employees using performance-based incentives.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1850, § 5, effective May 28. **L. 2016:** (1)(d) amended and (1)(f), (1)(g), and (4) added, (HB 16-1261), ch. 338, p. 1377, § 7, effective June 10; (1)(d) amended and (1)(f) added, (HB 16-1211), ch. 333, p. 1353, § 8, effective August 10. **L. 2017:** IP(1) and (1)(e) amended, (SB 17-187), ch. 354, p. 1842, § 4, effective August 9.

Editor's note: Subsection (1)(f) was amended in HB 16-1261. Those amendments were superseded by the amendment of subsection (1)(f) in HB 16-1211, effective August 10, 2016. For the amendments to subsection (1)(f) in HB 16-1261 in effect from June 10, 2016, to August 10, 2016, see chapter 338, Session Laws of Colorado 2016. (L. 2016, p. 1377.)

12-43.4-402. Retail marijuana store license - definitions. (1) (a) A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this article.

(b) A retail marijuana store may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license, or it may purchase retail marijuana from a licensed retail marijuana cultivation facility.

(c) Repealed.

(d) A retail marijuana store shall not accept any retail marijuana purchased from a retail marijuana cultivation facility unless the retail marijuana store is provided with evidence that any applicable excise tax due, pursuant to article 28.8 of title 39, C.R.S., was paid.

(e) The retail marijuana store shall track all of its retail marijuana and retail marijuana products from the point that they are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturer to the point of sale.

(2) (a) Notwithstanding the provisions of this section, a retail marijuana store licensee may also sell retail marijuana products that are prepackaged and labeled as required by rules of the state licensing authority pursuant to section 12-43.4-202.

(b) A retail marijuana store licensee may transact with a retail marijuana products manufacturing licensee for the purchase of retail marijuana products upon a retail marijuana products manufacturing licensee's licensed premises or a retail marijuana store's licensed premises.

(3) (a) (I) A retail marijuana store may not sell more than one ounce of retail marijuana or its equivalent in retail marijuana products, including retail marijuana concentrate, except for nonedible, nonpsychoactive retail marijuana products, including ointments, lotions, balms, and other nontransdermal topical products during a single transaction to a person.

(II) Repealed.

(III) As used in this paragraph (a), "equivalent in retail marijuana products" has the same meaning as established by the state licensing authority by rule pursuant to section 12-43.4-202 (3)(a.5).

(b) (I) Prior to initiating a sale, the employee of the retail marijuana store making the sale shall verify that the purchaser has a valid identification card showing the purchaser is twenty-one years of age or older. If a person under twenty-one years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age shall not be grounds for the revocation or suspension of any license issued under this article.

(II) (A) If a retail marijuana store licensee or employee has reasonable cause to believe that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any retail marijuana or marijuana-infused product, the licensee or employee is authorized to confiscate such fraudulent proof of age, if possible, and shall, within seventy-two hours after the confiscation, remit to a state or local law enforcement agency. The failure to confiscate such fraudulent proof of age or to remit to a state or local law enforcement agency within seventy-two hours after the confiscation does not constitute a criminal offense.

(B) If a retail marijuana store licensee or employee believes that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any retail marijuana or retail marijuana-infused product, the licensee or employee or any peace or police officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act regarding the purchase of retail marijuana. The questioning of a person by an employee or a peace or police officer does not render the licensee, the employee, or the peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(4) A retail marijuana store may provide, except as required by section 12-43.4-202 (3)(a)(IV), a sample of its products to a facility that has a marijuana testing facility license from the state licensing authority for testing and research purposes. A retail marijuana store shall

maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(5) All retail marijuana and retail marijuana products sold at a licensed retail marijuana store shall be packaged and labeled as required by rules of the state licensing authority pursuant to section 12-43.4-202.

(6) A licensed retail marijuana store shall comply with all provisions of article 34 of title 24, C.R.S., as the provisions relate to persons with disabilities.

(7) (a) A licensed retail marijuana store may only sell retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel, and marijuana related products such as childproof packaging containers, but shall be prohibited from selling or giving away any consumable product, including but not limited to cigarettes or alcohol, or edible product that does not contain marijuana, including but not limited to sodas, candies, or baked goods.

(b) A licensed retail marijuana store may not sell any retail marijuana or retail marijuana products that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to article 46 or 47 of this title.

(c) A licensed retail marijuana store shall not sell retail marijuana or retail marijuana products over the internet nor deliver retail marijuana or retail marijuana products to a person not physically present in the retail marijuana store's licensed premises.

(8) The premises of a licensed retail marijuana store is the only place where an automatic dispensing machine that contains retail marijuana or retail marijuana products may be located. If a licensed retail marijuana store uses an automatic dispensing machine that contains retail marijuana and retail marijuana products, it must comply with the regulations promulgated by the state licensing authority for its use.

(9) Retail marijuana or retail marijuana products may not be consumed on the premises of a retail marijuana store.

(10) Notwithstanding any other provision of state law, sales of retail marijuana and retail marijuana products are not exempt from state or local sales tax.

(11) A display case containing marijuana concentrate must include the potency of the marijuana concentrate next to the name of the product.

Source: **L. 2013:** Entire article added, (HB 13-1317), ch. 329, p. 1851, § 5, effective May 28. **L. 2014:** (3)(b) amended, (HB 14-1122), ch. 39, p. 200, § 2, effective March 17; (3)(a) amended, (HB 14-1361), ch. 235, p. 868, § 2, effective May 21. **L. 2016:** (3)(a)(I) amended, (3)(a)(II) repealed, and (11) added, (HB 16-1261), ch. 338, p. 1377, § 8, effective June 10.

Editor's note: Subsection (1)(c)(III) provided for the repeal of subsection (1)(c), effective January 1, 2015. (See L. 2013, p. 1851.)

12-43.4-403. Retail marijuana cultivation facility license. (1) A retail marijuana cultivation facility license may be issued only to a person who cultivates retail marijuana for sale and distribution to licensed retail marijuana stores, retail marijuana products manufacturing licensees, or other retail marijuana cultivation facilities.

(2) Repealed.

(3) A retail marijuana cultivation facility shall remit any applicable excise tax due in accordance with article 28.8 of title 39, C.R.S., based on the average wholesale prices set by the state licensing authority.

(4) A retail marijuana cultivation facility shall track the marijuana it cultivates from seed or immature plant to wholesale purchase. Prior to delivery of any sold retail marijuana, the retail marijuana cultivation facility shall provide evidence that it paid any applicable excise tax on the retail marijuana due pursuant to article 28.8 of title 39, C.R.S.

(5) A retail marijuana cultivation facility may provide, except as required by section 12-43.4-202 (3)(a)(IV), a sample of its products to a facility that has a marijuana testing facility license from the state licensing authority for testing and research purposes. A retail marijuana cultivation facility shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the testing results.

(6) Retail marijuana or retail marijuana products may not be consumed on the premises of a retail marijuana cultivation facility.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1853, § 5, effective May 28.

Editor's note: Subsection (2)(e) provided for the repeal of subsection (2), effective January 1, 2015. (See L. 2013, p. 1853.)

12-43.4-404. Retail marijuana products manufacturing license. (1) (a) A retail marijuana products manufacturing license may be issued to a person who manufactures retail marijuana products pursuant to the terms and conditions of this article.

(b) A retail marijuana products manufacturer may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license, or it may purchase retail marijuana from a licensed retail marijuana cultivation facility. A retail marijuana products manufacturer shall track all of its retail marijuana from the point it is either transferred from its retail marijuana cultivation facility or the point when it is delivered to the retail marijuana products manufacturer from a licensed retail marijuana cultivation facility to the point of transfer to a licensed retail marijuana store.

(c) Repealed.

(d) A retail marijuana products manufacturer shall not accept any retail marijuana purchased from a retail marijuana cultivation facility unless the retail marijuana products manufacturer is provided with evidence that any applicable excise tax due pursuant to article 28.8 of title 39, C.R.S., was paid.

(e) A retail marijuana products manufacturer shall not:

(I) Add any marijuana to a food product where the manufacturer of the food product holds a trademark to the food product's name; except that a manufacturer may use a trademarked food product if the manufacturer uses the product as a component or as part of a recipe and where the marijuana product manufacturer does not state or advertise to the consumer that the final retail marijuana product contains a trademarked food product;

(II) Intentionally or knowingly label or package a retail marijuana product in a manner that would cause a reasonable consumer confusion as to whether the retail marijuana product was a trademarked food product; or

(III) Label or package a product in a manner that violates any federal trademark law or regulation.

(2) Retail marijuana products shall be prepared on a licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana products; except that, if permitted by the local jurisdiction, a retail marijuana products manufacturing licensee may share the same premises as a medical marijuana-infused products manufacturing licensee so long as a virtual or physical separation of inventory is maintained pursuant to rule of the state licensing authority.

(3) All licensed premises on which retail marijuana products are manufactured shall meet the sanitary standards for retail marijuana product preparation promulgated pursuant to section 12-43.4-202 (3)(a)(XI).

(4) (a) The retail marijuana product shall be sealed and conspicuously labeled in compliance with this article and any rules promulgated pursuant to this article. The labeling of retail marijuana products is a matter of statewide concern.

(b) The standard symbol requirements as promulgated pursuant to section 12-43.4-202 (3)(c.5), do not apply to a multi-serving liquid retail marijuana product, which is impracticable to mark, if the product complies with all statutory and rule packaging requirements for multi-serving edibles and complies with the following enhanced requirements to reduce the risk of accidental ingestion. A multi-serving liquid must:

(I) Be packaged in a structure that uses a single mechanism to achieve both child-resistance and accurate pouring measurement of each liquid serving in increments equal to or less than ten milligrams of active THC per serving, with no more than one hundred milligrams of active THC total per package; and

(II) The measurement component is within the child-resistant cap or closure of the bottle and is not a separate component.

(5) Retail marijuana or retail marijuana products may not be consumed on the premises of a retail marijuana products manufacturing facility.

(6) A retail marijuana products manufacturer may provide, except as required by section 12-43.4-202 (3)(a)(IV), a sample of its products to a facility that has a retail marijuana testing facility license from the state licensing authority for testing and research purposes. A retail marijuana products manufacturer shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(7) An edible retail marijuana product may list its ingredients and compatibility with dietary practices.

(8) A licensed retail marijuana products manufacturer shall package and label each product manufactured as required by rules of the state licensing authority pursuant to section 12-43.4-202.

(9) All retail marijuana products that require refrigeration to prevent spoilage must be stored and transported in a refrigerated environment.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1855, § 5, effective May 28. **L. 2016:** (4) amended, (HB 16-1427), ch. 310, p. 1251, § 1, effective June 10.

Editor's note: Subsection (1)(c)(II) provided for the repeal of subsection (1)(c), effective January 1, 2015. (See L. 2013, p. 1855.)

12-43.4-405. Retail marijuana testing facility license - rules. (1) A retail marijuana testing facility license may be issued to a person who performs testing and research on retail marijuana and industrial hemp as regulated by article 61 of title 35, C.R.S. The facility may develop and test retail marijuana products and industrial hemp as regulated by article 61 of title 35, C.R.S. Prior to performing testing on industrial hemp, a facility shall verify that the person requesting the testing has received a registration from the commissioner as required by section 35-61-104, C.R.S.

(2) The state licensing authority shall promulgate rules pursuant to its authority in section 12-43.4-202 (1)(b) related to acceptable testing and research practices, including but not limited to testing, standards, quality control analysis, equipment certification and calibration, and chemical identification and other substances used in bona fide research methods.

(3) A person who has an interest in a retail marijuana testing facility license from the state licensing authority for testing purposes shall not have any interest in a licensed medical marijuana center, a licensed optional premises cultivation operation, a licensed medical marijuana-infused products manufacturer, a licensed retail marijuana store, a licensed retail marijuana cultivation facility, or a licensed retail marijuana products manufacturer. A person that has an interest in a licensed medical marijuana center, a licensed optional premises cultivation operation, a licensed medical marijuana-infused products manufacturer, a licensed retail marijuana store, a licensed retail marijuana cultivation facility, or a licensed retail marijuana products manufacturer shall not have an interest in a facility that has a retail marijuana testing facility license.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1856, § 5, effective May 28. **L. 2015:** (1) amended, (SB 15-196), ch. 280, p. 1147, § 1, effective August 5.

12-43.4-406. Retail marijuana transporter license. (1) (a) A retail marijuana transporter license may be issued to a person to provide logistics, distribution, and storage of retail marijuana and retail marijuana products. Notwithstanding any other provisions of law, a retail marijuana transporter license is valid for two years, but cannot be transferred with a change of ownership. A licensed retail marijuana transporter is responsible for the retail marijuana and retail marijuana products once it takes control of the product.

(b) A licensed retail marijuana transporter may contract with multiple licensed retail marijuana businesses.

(c) On and after July 1, 2017, all retail marijuana transporters shall hold a valid retail marijuana transporter license; except that an entity licensed pursuant to this article that provides its own distribution is not required to have a retail marijuana transporter license to transport and distribute its products. The state licensing authority shall begin accepting applications after January 1, 2017.

(2) A retail marijuana transporter licensee may maintain a licensed premises to temporarily store retail marijuana and retail marijuana products and to use as a centralized distribution point. The licensed premises must be located in a jurisdiction that permits the operation of retail marijuana stores. A licensed retail marijuana transporter may store and

distribute retail marijuana and retail marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a retail marijuana cultivation license.

(3) A retail marijuana transporter licensee shall use the seed-to-sale tracking system developed pursuant to section 12-43.4-202 (1) to create shipping manifests documenting the transport of retail marijuana and retail marijuana products throughout the state.

(4) A retail marijuana transporter licensee may:

(a) Maintain and operate one or more warehouses in the state to handle retail marijuana and retail marijuana products; and

(b) Deliver retail marijuana products on orders previously taken if the place where orders are taken and delivered is licensed.

Source: L. 2016: Entire section added, (HB 16-1261), ch. 338, p. 1377, § 9, effective June 10; entire section added and entire section repealed, (HB 16-1211), ch. 333, pp. 1354, 1355, §§ 9, 10, effective August 10.

Editor's note: This section as added by chapter 338 (HB 16-1261), effective June 10, 2016, was repealed and replaced by sections 9 and 10 of chapter 333 (HB 16-1211), effective August 10, 2016. For this section as it existed from June 10, 2016, to August 10, 2016, see chapter 338, Session Laws of Colorado 2016. (L. 2016, p. 1377.)

12-43.4-407. Retail marijuana business operator license. A retail marijuana business operator license may be issued to a person who operates a retail marijuana establishment licensed pursuant to this article, for an owner licensed pursuant to this article, and who may receive a portion of the profits as compensation.

Source: L. 2016: Entire section added, (HB 16-1261), ch. 338, p. 1378, § 9, effective June 10.

PART 5

FEES

12-43.4-501. Fees. (1) The state licensing authority may charge and collect fees under this article. The application fee for a person applying pursuant to section 12-43.4-104 (1)(a) shall be five hundred dollars. The state licensing authority shall transfer two hundred fifty dollars of the fee to the marijuana cash fund and submit two hundred fifty dollars to the local jurisdiction in which the license is proposed to be issued.

(2) The application fee for a person applying pursuant to section 12-43.4-104 (1)(b) shall be five thousand dollars. The state licensing authority shall transfer two thousand five hundred dollars of the fee to the marijuana cash fund and remit two thousand five hundred dollars to the local jurisdiction in which the license is proposed to be issued. If the state licensing authority is considering raising the five-thousand-dollar application fee, it shall confer with each local jurisdiction in which a license under this article is issued prior to raising the application fee. If

the application fee amount is changed, it must be split evenly between the marijuana cash fund and the local jurisdiction in which the license is proposed to be issued.

(3) A local jurisdiction in which a license under this article may be permitted may adopt and impose operating fees in an amount determined by the local jurisdiction on marijuana establishments located within the local jurisdiction.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1857, § 5, effective May 28.

PART 6

DISCIPLINARY ACTIONS

12-43.4-601. Suspension - revocation - fines. (1) In addition to any other sanctions prescribed by this article or rules promulgated pursuant to this article, the state licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee must be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke a license issued by the authority for a violation by the licensee or by any of the agents or employees of the licensee of the provisions of this article, or any of the rules promulgated pursuant to this article, or of any of the terms, conditions, or provisions of the license issued by the state licensing authority. The state licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of a hearing that the state authority is authorized to conduct.

(2) The state licensing authority shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing pursuant to subsection (1) of this section, by mailing the same in writing to the licensee at the address contained in the license and, if different, at the last address furnished to the authority by the licensee. Except in the case of a summary suspension, a suspension shall not be for a period longer than six months. If a license is suspended or revoked, a part of the fees paid therefor shall not be returned to the licensee. Any license may be summarily suspended by the state licensing authority without notice pending any prosecution, investigation, or public hearing pursuant to the terms of section 24-4-104 (4), C.R.S. Nothing in this section shall prevent the summary suspension of a license pursuant to section 24-4-104 (4), C.R.S.

(3) (a) Whenever a decision of the state licensing authority suspending a license for fourteen days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon the receipt of the petition, the state authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if the state licensing authority is satisfied that:

(I) The public welfare would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and

(II) The books and records of the licensee are kept in such a manner that the loss of sales that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.

(b) The fine accepted shall be not less than five hundred dollars nor more than one hundred thousand dollars.

(c) Payment of a fine pursuant to the provisions of this subsection (3) shall be in the form of cash or in the form of a certified check or cashier's check made payable to the state or local licensing authority, whichever is appropriate.

(4) Upon payment of the fine pursuant to subsection (3) of this section, the state licensing authority shall enter its further order permanently staying the imposition of the suspension. Fines paid to the state licensing authority pursuant to subsection (3) of this section shall be transmitted to the state treasurer, who shall credit the same to the marijuana cash fund created in section 12-43.3-501.

(5) In connection with a petition pursuant to subsection (3) of this section, the authority of the state licensing authority is limited to the granting of such stays as are necessary for the authority to complete its investigation and make its findings and, if the authority makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(6) If the state licensing authority does not make the findings required in paragraph (a) of subsection (3) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the state licensing authority.

(7) No later than January 15 of each year, the state licensing authority shall compile a report of the preceding year's actions in which fines, suspensions, or revocations were imposed by the state licensing authority. The state licensing authority shall file one copy of the report with the chief clerk of the house of representatives, one copy with the secretary of the senate, and six copies in the joint legislative library.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1857, § 5, effective May 28.

12-43.4-602. Disposition of unauthorized marijuana or marijuana products and related materials - rules. (1) The provisions of this section shall apply in addition to any criminal, civil, or administrative penalties and in addition to any other penalties prescribed by this article or any rules promulgated pursuant to this article. Any provisions in this article related to law enforcement shall be considered a cumulative right of the people in the enforcement of the criminal laws.

(2) Every licensee licensed under this article shall be deemed, by virtue of applying for, holding, or renewing such person's license, to have expressly consented to the procedures set forth in this section.

(3) A state or local agency shall not be required to cultivate or care for any retail marijuana or retail marijuana product belonging to or seized from a licensee. A state or local agency shall not be authorized to sell marijuana, retail or otherwise.

(4) If the state licensing authority issues a final agency order imposing a disciplinary action against a licensee pursuant to section 12-43.4-601, then, in addition to any other remedies, the licensing authority's final agency order may specify that some or all of the licensee's

marijuana or marijuana product is not retail marijuana or a retail marijuana product and is an illegal controlled substance. The order may further specify that the licensee shall lose any interest in any of the marijuana or marijuana product even if the marijuana or marijuana product previously qualified as retail marijuana or a retail marijuana product. The final agency order may direct the destruction of any such marijuana and marijuana products, except as provided in subsections (5) and (6) of this section. The authorized destruction may include the incidental destruction of any containers, equipment, supplies, and other property associated with the marijuana or marijuana product.

(5) Following the issuance of a final agency order by the state licensing authority against a licensee and ordering destruction authorized by subsection (4) of this section, a licensee shall have fifteen days within which to file a petition for stay of agency action with the district court. The action shall be filed in the city and county of Denver, which shall be deemed to be the residence of the state licensing authority for purposes of this section. The licensee shall serve the petition in accordance with the Colorado rules of civil procedure. The district court shall promptly rule upon the petition and determine whether the licensee has a substantial likelihood of success on judicial review so as to warrant delay of the destruction authorized by subsection (4) of this section or whether other circumstances, including but not limited to the need for preservation of evidence, warrant delay of such destruction. If destruction is so delayed pursuant to judicial order, the court shall issue an order setting forth terms and conditions pursuant to which the licensee may maintain the retail marijuana and retail marijuana product pending judicial review and prohibiting the licensee from using or distributing the retail marijuana or retail marijuana product pending the review. The licensing authority shall not carry out the destruction authorized by subsection (4) of this section until fifteen days have passed without the filing of a petition for stay of agency action or until the court has issued an order denying stay of agency action pursuant to this subsection (5).

(6) A district attorney shall notify the state licensing authority if it begins investigating a retail marijuana establishment. If the state licensing authority has received notification from a district attorney that an investigation is being conducted, the state licensing authority shall not destroy any marijuana or marijuana products from the retail marijuana establishment until the destruction is approved by the district attorney.

(7) On or before January 1, 2014, the state licensing authority shall promulgate rules governing the implementation of this section.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1859, § 5, effective May 28.

PART 7

INSPECTION OF BOOKS AND RECORDS

12-43.4-701. Inspection procedures. (1) Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the state licensing authority or its duly authorized representatives. The state licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of

this article and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the state licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

(2) The licensed premises, including any places of storage where retail marijuana or retail marijuana products are stored, cultivated, sold, dispensed, or tested shall be subject to inspection by the state or local jurisdictions and their investigators, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. Access shall be required during business hours for examination of any inventory or books and records required to be kept by the licensees. When any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the state or local jurisdiction, the licensee shall open the area for inspection.

(3) Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1860, § 5, effective May 28.

PART 8

JUDICIAL REVIEW

12-43.4-801. Judicial review. Decisions by the state licensing authority are subject to judicial review pursuant to section 24-4-106, C.R.S.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1861, § 5, effective May 28.

PART 9

UNLAWFUL ACTS

12-43.4-901. Unlawful acts - exceptions. (1) Except as otherwise provided in this article, it is unlawful for a person to consume retail marijuana or retail marijuana products in a licensed retail marijuana establishment, and it is unlawful for a retail marijuana licensee to allow retail marijuana or retail marijuana products to be consumed upon its licensed premises.

(2) It is unlawful for a person to:

(a) Buy, sell, transfer, give away, or acquire retail marijuana or retail marijuana products except as allowed pursuant to this article or section 16 of article XVIII of the state constitution; or

(b) Have an unreported financial interest or a direct interest in a license pursuant to this article; except that this paragraph (b) does not apply to banks or savings and loan associations

supervised and regulated by an agency of the state or federal government, or to FHA-approved mortgagees, or to stockholders, directors, or officers thereof.

(3) It is unlawful for a person licensed pursuant to this article:

(a) To be within a limited-access area unless the person's license badge is displayed as required by this article, except as provided in section 12-43.4-701;

(b) To fail to designate areas of ingress and egress for limited-access areas and post signs in conspicuous locations as required by this article;

(c) To fail to report a transfer required by section 12-43.4-309 (10); or

(d) To fail to report the name of or a change in managers as required by section 12-43.4-309 (11).

(4) It is unlawful for any person licensed to sell retail marijuana or retail marijuana products pursuant to this article:

(a) To display any signs that are inconsistent with local laws or regulations;

(b) To use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors;

(c) To provide public premises, or any portion thereof, for the purpose of consumption of retail marijuana or retail marijuana products in any form;

(d) To have in possession or upon the licensed premises any marijuana, the sale of which is not permitted by the license;

(e) To sell or permit the sale of retail marijuana or retail marijuana products to a person under twenty-one years of age;

(f) To sell more than a quarter of an ounce of retail marijuana and no more than a quarter of an ounce equivalent of a retail marijuana product during a single transaction to a nonresident of the state;

(g) To have on the licensed premises any retail marijuana, retail marijuana products, or marijuana paraphernalia that shows evidence of the retail marijuana having been consumed or partially consumed;

(h) Distribute marijuana or marijuana products, with or without remuneration, directly to another person using a mobile distribution center;

(i) To violate the provisions of section 6-2-103 or 6-2-105, C.R.S.; or

(j) To abandon a licensed premises or otherwise cease operation without notifying the state and local licensing authorities at least forty-eight hours in advance and without accounting for and forfeiting to the state licensing authority for destruction all marijuana or products containing marijuana.

(5) Repealed.

(6) A person who commits any acts that are unlawful pursuant to this article or the rules authorized and adopted pursuant to this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.; except that a violation of paragraph (e) of subsection (4) of this section is a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. If a violation of this article or the rules authorized and adopted pursuant to this article also constitutes a violation of title 18, C.R.S., the violation shall be charged and prosecuted pursuant to title 18, C.R.S.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1861, § 5, effective May 28. **L. 2014:** (4)(e) and (6) amended, (HB 14-1122), ch. 39, p. 200, § 3, effective March 17; (2)(b) amended, (HB 14-1363), ch. 302, p. 1263, § 8, effective May 31.

Editor's note: Subsection (5)(e) provided for the repeal of subsection (5), effective July 1, 2015. (See L. 2013, p. 1861.)

PART 10

REPEAL OF ARTICLE

12-43.4-1001. Sunset review - article repeal. (1) This article is repealed, effective September 1, 2019.

(2) Prior to the repeal of this article, the department of regulatory agencies shall conduct a sunset review as described in section 24-34-104 (5), C.R.S.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1863, § 5, effective May 28. **L. 2016:** (2) amended, (HB 16-1192), ch. 83, p. 233, § 9, effective April 14; (1) amended, (HB 16-1261), ch. 338, p. 1378, § 10, effective June 10.

PART 11

SEVERABILITY

12-43.4-1101. Severability. If any provision of this article is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this article are valid, unless it appears to the court that the valid provisions of the statute are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the legislature would have enacted the valid provisions without the void one; or unless the court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Source: L. 2013: Entire article added, (HB 13-1317), ch. 329, p. 1863, § 5, effective May 28.

ARTICLE 43.5

Professional Review - Health Care

12-43.5-101 to 12-43.5-103. (Repealed)

Source: L. 89: Entire article repealed, p. 689, § 6, effective July 1, 1989.

Editor's note: This article was added in 1975. For amendments to this article prior to its repeal in 1989, consult the Colorado statutory research explanatory note and the table itemizing