

NOTE: The governor signed this measure on 6/5/2015.

An Act

SENATE BILL 15-115

BY SENATOR(S) Hill, Holbert, Aguilar;
also REPRESENTATIVE(S) Pabon, Ginal, Kagan, Kraft-Tharp, Lebsock,
Garnett, Singer.

CONCERNING THE SUNSET REVIEW OF THE MEDICAL MARIJUANA PROGRAMS.

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

SECTION 1. In Colorado Revised Statutes, 12-43.3-1001, **amend** (1) as follows:

12-43.3-1001. Sunset review - article repeal. (1) This article is repealed, effective ~~July 1, 2015~~ SEPTEMBER 1, 2019.

SECTION 2. In Colorado Revised Statutes, 24-34-104, **repeal** (46) (n); and **add** (50.5) (m) and (50.5) (n) as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (46) The following agencies, functions, or both shall terminate on July 1, 2015:

(n) ~~The regulation of persons licensed pursuant to article 43.3 of title 12, C.R.S.~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(50.5) The following agencies, functions, or both, terminate on September 1, 2019:

(m) THE REGULATION OF PERSONS LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S.

(n) THE MEDICAL MARIJUANA PROGRAM CREATED IN SECTION 25-1.5-106, C.R.S.

SECTION 3. In Colorado Revised Statutes, 12-43.3-104, **amend** (16) as follows:

12-43.3-104. Definitions. As used in this article, unless the context otherwise requires:

(16) "State licensing authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical AND RETAIL marijuana in this state, pursuant to section 12-43.3-201.

SECTION 4. In Colorado Revised Statutes, **amend** 12-43.3-105 as follows:

12-43.3-105. Limited access areas. Subject to the provisions of section 12-43.3-701, a limited access area shall be a building, room, or other contiguous area upon the licensed premises where medical marijuana is grown, cultivated, stored, weighed, displayed, packaged, sold, or possessed for sale, under control of the licensee, with ACCESS limited access 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.

SECTION 5. In Colorado Revised Statutes, 12-43.3-202, **amend** (1) (d), (1) (f), and (1) (g); **repeal** (3); and **add** (1) (h) as follows:

12-43.3-202. Powers and duties of state licensing authority - rules. (1) The state licensing authority shall:

(d) Maintain the confidentiality of reports or other information obtained from a MEDICAL OR RETAIL licensee ~~showing the sales volume or quantity of medical marijuana sold~~ 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 patient 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, ARTICLE 43.4 OF THIS TITLE, or for any other state or local law enforcement purpose. Any information released related to patients may be used only for a purpose authorized by this article, ARTICLE 43.4 OF THIS TITLE, or to verify that a person who presented a registry identification card to a state or local law enforcement official is lawfully in possession of such card.

(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; ~~and~~

(g) In recognition of the potential medicinal value of medical marijuana, make a request by January 1, 2012, to the federal drug enforcement administration to consider rescheduling, for pharmaceutical purposes, medical marijuana from a schedule I controlled substance to a schedule II controlled substance; AND

(h) DEVELOP AND MAINTAIN A SEED-TO-SALE TRACKING SYSTEM THAT TRACKS MEDICAL MARIJUANA FROM EITHER THE SEED OR IMMATURE PLANT STAGE UNTIL THE MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCT IS SOLD TO A CUSTOMER AT A MEDICAL MARIJUANA CENTER TO ENSURE THAT NO MEDICAL MARIJUANA GROWN OR PROCESSED BY A MEDICAL MARIJUANA ESTABLISHMENT IS SOLD OR OTHERWISE TRANSFERRED EXCEPT BY A MEDICAL MARIJUANA CENTER.

(3) ~~By October 31, 2013, the state licensing authority shall publish a report on its web site that shows:~~

~~(a) The number of applications received on or before August 1,~~

~~2010, and, of those applications, the number of licenses granted, the number of applications denied, the number of applications pending, and the number of applications withdrawn; and~~

~~(b) The number of applications received July 1, 2012, through September 30, 2013, and, of those applications, the number of licenses granted, the number of applications denied, the number of applications pending, and the number of applications withdrawn.~~

SECTION 6. In Colorado Revised Statutes, 12-43.3-303, **amend** (4) as follows:

12-43.3-303. Results of investigation - decision of authorities.

(4) After approval of an application, ~~neither the state nor~~ local licensing authority shall NOT issue a local license until the building in which the business to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with the applicable provisions of this article, and then only after the state or local licensing authority has inspected the premises to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

SECTION 7. In Colorado Revised Statutes, 12-43.3-307, **amend** (1) (g) and (1) (h); and **add** (1) (g.5) as follows:

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

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

(I) Provide a surety bond or file any tax return with a taxing agency RELATED TO A MEDICAL MARIJUANA BUSINESS OR RETAIL MARIJUANA ESTABLISHMENT;

(II) Pay any taxes, interest, or penalties due RELATED TO A MEDICAL MARIJUANA BUSINESS OR RETAIL MARIJUANA ESTABLISHMENT;

~~(III) Pay any judgments due to a government agency;~~

~~(IV) Stay out of default on a government-issued student loan;~~

~~(V) Pay child support; or~~

~~(VI) Remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency, or an outstanding delinquency for child support;~~

(g.5) A PERSON WHO FAILS TO MEET QUALIFICATIONS FOR LICENSURE THAT DIRECTLY AND DEMONSTRABLY RELATE TO THE OPERATION OF A MEDICAL MARIJUANA ESTABLISHMENT;

~~(h) (I) A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance; except that the licensing authority may grant a license to an employee if the employee has a state felony conviction based on possession or use of a controlled substance that would not be a felony if the person were convicted of the offense on the date he or she applied for licensure; A PERSON WHO HAS DISCHARGED A SENTENCE FOR A CONVICTION OF A FELONY IN THE FIVE YEARS IMMEDIATELY PRECEDING HIS OR HER APPLICATION DATE; OR~~

(II) A PERSON WHO 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;

SECTION 8. In Colorado Revised Statutes, 12-43.3-311, **amend** (1) as follows:

12-43.3-311. 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 shall apply for the renewal of an existing license to the local licensing authority not less than forty-five days and to the state licensing authority not less than thirty days prior to the date of expiration. A local 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 provided that the applicant has filed a timely renewal application with the local licensing authority. All renewals filed with the local licensing authority and subsequently approved by the local licensing authority shall next be processed by the state 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 forty-five-day or thirty-day time requirements set forth in this subsection (1).~~ 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. The local licensing authority may hold a hearing on the application for renewal only if the licensee has had complaints filed against it, has a history of violations, or there are allegations against the licensee that would constitute good cause. The local licensing authority shall not hold a renewal hearing provided for by this subsection (1) for a medical marijuana center until it has posted a notice of hearing on the licensed medical marijuana center premises in the manner described in section 12-43.3-302 (2) for a period of ten days and provided notice to the applicant at least ten days prior to the hearing. The local licensing authority may refuse to renew any license for good cause, subject to judicial review.

SECTION 9. In Colorado Revised Statutes, 12-43.3-402, **amend** (1) as follows:

12-43.3-402. Medical marijuana center license. (1)(a) A medical marijuana center license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of this article.

(b) THE MEDICAL MARIJUANA CENTER SHALL TRACK ALL OF ITS MEDICAL MARIJUANA AND MEDICAL MARIJUANA-INFUSED PRODUCTS FROM

THE POINT THAT THEY ARE TRANSFERRED FROM A MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION FACILITY OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER TO THE POINT OF SALE.

SECTION 10. In Colorado Revised Statutes, 12-43.3-403, **amend** (2); and **add** (3) as follows:

12-43.3-403. Optional premises cultivation license. (2) Optional premises cultivation licenses may be combined in a common area solely for the purposes of growing and cultivating medical marijuana and used to provide medical marijuana to more than one licensed medical marijuana center or licensed medical marijuana-infused product manufacturer so long as the holder of the optional premise cultivation license is also a common owner of each licensed medical marijuana center or licensed medical marijuana-infused product manufacturer to which medical marijuana is provided. In accordance with promulgated rules relating to plant and product tracking requirements, each optional premises cultivation licensee shall supply medical marijuana only to its associated licensed medical marijuana centers or licensed medical marijuana-infused product manufacturers; EXCEPT THAT AN OPTIONAL PREMISES CULTIVATION LICENSEE ASSOCIATED WITH A LICENSED MEDICAL MARIJUANA CENTER MAY TRANSPORT MEDICAL MARIJUANA DIRECTLY TO ANY OTHER LICENSED MEDICAL MARIJUANA CENTER FOR A TRANSACTION PURSUANT TO SECTION 12-43.3-402 (4) OR A LICENSED MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER FOR A TRANSACTION PURSUANT TO SECTION 12-43.3-404 (3) IF THERE IS A CORRESPONDING DOCUMENTED POINT-OF-SALE TRANSACTION PRIOR TO TRANSPORTING THE MEDICAL MARIJUANA FROM THE OPTIONAL PREMISES CULTIVATION PREMISES TO THE LICENSED MEDICAL MARIJUANA CENTER OR LICENSED MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER.

(3) A MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION FACILITY SHALL TRACK THE MARIJUANA IT CULTIVATES FROM SEED OR IMMATURE PLANT TO WHOLESALE TRANSFER.

SECTION 11. In Colorado Revised Statutes, 12-43.3-404, **amend** (1); and **add** (11) as follows:

12-43.3-404. Medical marijuana-infused products manufacturing license - rules. (1) (a) A medical marijuana-infused

products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of this article.

(b) A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER MAY CULTIVATE ITS OWN MEDICAL MARIJUANA IF IT OBTAINS A MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION FACILITY LICENSE, OR IT MAY PURCHASE MEDICAL MARIJUANA FROM A LICENSED MEDICAL MARIJUANA CENTER PURSUANT TO SUBSECTION (3) OF THIS SECTION. A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL TRACK ALL OF ITS MEDICAL MARIJUANA FROM THE POINT IT IS EITHER TRANSFERRED FROM ITS MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION FACILITY OR THE POINT WHEN IT IS DELIVERED TO THE MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER FROM A LICENSED MEDICAL MARIJUANA CENTER OR A LICENSED MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION FACILITY TO THE POINT OF TRANSFER TO A LICENSED MEDICAL MARIJUANA CENTER.

(11) A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL NOT:

(a) ADD ANY MEDICAL 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 MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER DOES NOT STATE OR ADVERTISE TO THE CONSUMER THAT THE FINAL MEDICAL MARIJUANA-INFUSED PRODUCT CONTAINS A TRADEMARKED FOOD PRODUCT;

(b) INTENTIONALLY OR KNOWINGLY LABEL OR PACKAGE A MEDICAL MARIJUANA-INFUSED PRODUCT IN A MANNER THAT WOULD CAUSE A REASONABLE CONSUMER CONFUSION AS TO WHETHER THE MEDICAL MARIJUANA-INFUSED PRODUCT WAS A TRADEMARKED FOOD PRODUCT; OR

(c) LABEL OR PACKAGE A MEDICAL MARIJUANA-INFUSED PRODUCT IN A MANNER THAT VIOLATES ANY FEDERAL TRADEMARK LAW OR REGULATION.

SECTION 12. In Colorado Revised Statutes, 12-43.3-601, **amend**

(4) as follows:

12-43.3-601. Suspension - revocation - fines. (4) Upon payment of the fine pursuant to subsection (3) of this section, the state or local licensing authority shall enter its further order permanently staying the imposition of the suspension. If the fine is paid to a local licensing authority, the governing body of the authority shall cause the moneys to be paid into the general fund of the local licensing authority. 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 ~~medical marijuana license~~ cash fund created in section 12-43.3-501.

SECTION 13. In Colorado Revised Statutes, 12-43.3-602, **amend** (6) as follows:

12-43.3-602. Disposition of unauthorized marijuana or marijuana-infused products and related materials. ~~(6) The licensing authority shall not carry out the destruction authorized by subsection (4) of this section until it has notified the district attorney for the judicial district in which the marijuana is located to determine whether the marijuana or product constitutes evidence in a criminal proceeding such that it should not be destroyed, and until fifteen days have passed from the date of the issuance of such notice.~~ A DISTRICT ATTORNEY SHALL NOTIFY THE STATE LICENSING AUTHORITY IF HE OR SHE BEGINS INVESTIGATING A MEDICAL 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 MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS FROM THE MEDICAL MARIJUANA ESTABLISHMENT UNTIL THE DESTRUCTION IS APPROVED BY THE DISTRICT ATTORNEY.

SECTION 14. In Colorado Revised Statutes, 12-43.3-901, **repeal** (4) (l) as follows:

12-43.3-901. Unlawful acts - exceptions. (4) It is unlawful for any person licensed to sell medical marijuana pursuant to this article:

~~(l) To sell, serve, or distribute medical marijuana at any time other than between the hours of 8 a.m. and 7 p.m. Monday through Sunday;~~

SECTION 15. In Colorado Revised Statutes, 25-1.5-106, **amend** (18) as follows:

25-1.5-106. Medical marijuana program - powers and duties of state health agency - rules - medical review board - medical marijuana program cash fund - subaccount - created - repeal. (18) (a) This section is repealed, effective ~~July~~ SEPTEMBER 1, 2019.

(b) PRIOR TO THE REPEAL OF THIS SECTION, THE DEPARTMENT OF REGULATORY AGENCIES SHALL CONDUCT A SUNSET REVIEW AS DESCRIBED IN SECTION 24-34-104 (8), C.R.S.

SECTION 16. In Colorado Revised Statutes, 12-43.3-201, **add** (4) and (5) as follows:

12-43.3-201. State licensing authority - creation. (4) A STATE LICENSING AUTHORITY EMPLOYEE WITH REGULATORY OVERSIGHT RESPONSIBILITIES FOR MARIJUANA BUSINESSES LICENSED BY THE STATE LICENSING AUTHORITY SHALL NOT WORK FOR, REPRESENT, OR PROVIDE CONSULTING SERVICES TO OR OTHERWISE DERIVE PECUNIARY GAIN FROM A MARIJUANA BUSINESS LICENSED BY THE STATE LICENSING AUTHORITY OR OTHER BUSINESS ENTITY ESTABLISHED FOR THE PRIMARY PURPOSE OF PROVIDING SERVICES TO THE MARIJUANA INDUSTRY FOR A PERIOD OF SIX MONTHS FOLLOWING HIS OR HER LAST DAY OF EMPLOYMENT WITH THE STATE LICENSING AUTHORITY.

(5) ANY PERSON WHO DISCLOSES CONFIDENTIAL RECORDS OR INFORMATION IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S. ANY CRIMINAL PROSECUTION PURSUANT TO THE PROVISIONS OF THIS SECTION MUST BE BROUGHT WITHIN FIVE YEARS FROM THE DATE THE VIOLATION OCCURRED.

SECTION 17. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill L. Cadman
PRESIDENT OF
THE SENATE

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO