

**UPDATED SUMMARY
SENATE BILL 16-040**

Second Regular Session - Seventieth Colorado General Assembly

This summary applies to the reengrossed version of this bill as introduced in the second house. It does not reflect any amendments that may be subsequently adopted. This summary reflects only the main points of the legislation.

~~The bill includes in the definition of "owner", in the medical and retail marijuana codes, a recipient of a commercially reasonable royalty associated with the use by a licensee of intellectual property and a licensed employee who receives a share of the profits from an employee benefit plan. The state licensing authority has the authority to promulgate rules on the parameters of a commercially reasonable royalty.~~

~~Under current law, an owner of a medical or retail marijuana business must have been a Colorado resident for at least 2 years prior to applying for licensure. The bill allows an owner to be either a 2-year resident of Colorado or a United States citizen on the date of the application for applications submitted on or after January 1, 2017, and prohibits an owner from being a publicly traded company. The bill requires a controlling interest of the licensees, as determined by the operating agreement, to be Colorado residents and maintain that residency while licensees.~~

The bill repeals the current definition of owner in the retail and medical marijuana codes and replaces it with definitions of "direct beneficial interest owner" and "indirect beneficial interest owner".

"Direct beneficial interest owner" is defined as a person or closely held business entity that owns a share or shares of stock in a licensed medical marijuana business, including the officers, directors, managing members, or partners of the licensed medical marijuana business or closely held business entity, or a qualified limited passive investor. A direct beneficial owner must have been a resident of Colorado for at least one year prior to applying for licensure or be a U.S. citizen prior to applying. A retail or medical marijuana business may be comprised of an unlimited number of direct beneficial owners who were Colorado residents for at least one year prior to application. A retail or medical marijuana business that includes a direct beneficial owner who was not a Colorado resident for one year prior to the application is limited to 15 direct beneficial owners and must include one officer who was a Colorado resident for one year prior to the application. All officers with day-to-day control over the business must have been Colorado residents for at least one year prior to the application. The state licensing authority can review the 15 person limit and increase it. 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. A person who wants to be approved as direct beneficial interest owner must first submit a request for suitability to the state licensing authority and must receive a finding of suitability prior to applying as a direct beneficial owner.

"Indirect beneficial interest owner" is defined as 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.

The bill allows qualified institutional investors to own up to 30% of a medical or retail marijuana business.

The bill prohibits a publicly traded company from being an owner in a medical or retail marijuana business.

The bill gives the state licensing authority rulemaking authority regarding the parameters and qualifications of an indirect beneficial interest owner and a qualified limited passive investor.

Under current law, an owner of a medical or retail marijuana business must have been a Colorado resident for at least 2 years prior to applying for licensure. The bill repeals this requirement.

Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.
Prepared by the Office of Legislative Legal Services.