

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0325.01 Michael Dohr x4347

HOUSE BILL 18-1011

HOUSE SPONSORSHIP

Pabon,

SENATE SPONSORSHIP

Neville T. and Jahn,

House Committees

Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO ALLOW GREATER INVESTMENT

102 FLEXIBILITY IN MARIJUANA BUSINESSES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill redefines the terms "direct beneficial interest" and "permitted economic interest" so that only those who own more than 5% of the shares of stock in a marijuana business have to go through the disclosure and background investigations. The bill repeals the provisions that require limited passive investors to go through an initial background check. The bill repeals the provisions that limit the number of out-of-state

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

direct beneficial owners to 15 persons. The bill repeals the provision that prohibits publicly traded entities from holding a marijuana license.

The bill states that, when the marijuana state licensing authority adopts rules related to ownership by and licensing of publicly traded companies, the rules must be substantively identical to the gaming commission rules for ownership by and licensing of publicly traded companies.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43.3-104, **amend**
3 (1), (12.4), and (14.3) as follows:

4 **12-43.3-104. Definitions.** As used in this article 43.3, unless the
5 context otherwise requires:

6 (1) "Direct beneficial interest owner" means a person ~~or closely~~
7 ~~held business entity that~~ WHO:

8 (a) Owns ~~a share or~~ FIVE PERCENT OR MORE OF THE shares of stock
9 in a licensed medical marijuana business; ~~including the officers, directors,~~
10 ~~managing members, or partners of~~ OR

11 (b) IS A DIRECTOR OF AN INCORPORATED ENTITY OR MANAGER OF
12 A LIMITED LIABILITY COMPANY OPERATING the licensed medical marijuana
13 business ~~or closely held business entity, or a qualified limited passive~~
14 ~~investor~~ OR ANY ENTITY OWNING FIVE PERCENT OR MORE OF THE SHARES
15 OF STOCK OR OTHER EQUITY INTERESTS OF THE MEDICAL MARIJUANA
16 BUSINESS.

17 (12.4) "Permitted economic interest" means any unsecured
18 convertible debt instrument, option agreement, warrant, or any other right
19 to obtain ~~an~~ FIVE PERCENT OR MORE ownership interest when the holder
20 of such interest is a natural person who is a lawful United States resident
21 and whose right to convert into an ownership interest is contingent on the
22 holder qualifying and obtaining a license as an owner under this ~~article~~

1 ARTICLE 43.3 or such other agreements as may be permitted by rule of the
2 state licensing authority.

3 (14.3) "Qualified limited passive investor" means a ~~natural~~ person
4 ~~who is a United States citizen and~~ THAT is a passive investor ~~who~~ THAT
5 owns less than a five percent share or shares of stock in a licensed
6 medical marijuana business.

7 **SECTION 2.** In Colorado Revised Statutes, 12-43.3-202, **amend**
8 (1)(b)(I) as follows:

9 **12-43.3-202. Powers and duties of state licensing authority -**
10 **rules.** (1) The state licensing authority shall:

11 (b) (I) Promulgate such rules and such special rulings and findings
12 as necessary for the proper regulation and control of the cultivation,
13 manufacture, distribution, and sale of medical marijuana and for the
14 enforcement of this ~~article~~ ARTICLE 43.3. RULES, SPECIAL RULINGS, AND
15 FINDINGS AS THEY PERTAIN TO OWNERSHIP BY AND LICENSING OF
16 PUBLICLY TRADED COMPANIES MUST BE SUBSTANTIVELY IDENTICAL TO
17 THE RULES GOVERNING SPECIFIC REPORTING AND APPROVAL
18 REQUIREMENTS FOR PUBLICLY TRADED COMPANIES CONTAINED IN RULE
19 4.5 OF THE DEPARTMENT OF REVENUE; GAMING COMMISSION RULES AS THE
20 RULE EXISTS ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(b)(I),
21 INCLUDING WITHOUT LIMITATION REPORTING REQUIREMENTS; ALLOWANCE
22 OF PUBLICLY TRADED LICENSE HOLDERS WHETHER THEY REPORT TO THE
23 SECURITIES EXCHANGE COMMISSION OR WITH ANY OTHER NATIONAL OR
24 REGIONAL SECURITIES EXCHANGE; AND SUITABILITY REQUIREMENTS. A
25 county, municipality, or city and county that has adopted a temporary
26 moratorium regarding the subject matter of this ~~article~~ ARTICLE 43.3 shall
27 be specifically authorized to extend the moratorium until June 30, 2012.

1 **SECTION 3.** In Colorado Revised Statutes, 12-43.3-307, **amend**
2 (1) introductory portion; and **repeal** (1)(n) as follows:

3 **12-43.3-307. Persons prohibited as licensees.** (1) A license
4 provided by this ~~article~~ ARTICLE 43.3 shall not be issued to or held by:
5 (n) ~~A publicly traded company.~~

6 **SECTION 4.** In Colorado Revised Statutes, 12-43.3-307.5,
7 **amend** (3)(b); and **repeal** (3)(a), (3)(c), and (5)(b) as follows:

8 **12-43.3-307.5. Business and owner requirements - legislative**
9 **declaration - definitions.** (3) (a) ~~A medical marijuana business may be~~
10 ~~comprised of an unlimited number of direct beneficial interest owners that~~
11 ~~have been residents of Colorado for at least one year prior to the date of~~
12 ~~the application.~~

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

23 (c) ~~Notwithstanding the requirements of paragraph (b) of this~~
24 ~~subsection (3), the state licensing authority may review the limitation on~~
25 ~~the number of direct beneficial interest owners and may increase the~~
26 ~~number of allowable interests above fifteen based on reasonable~~
27 ~~considerations such as developments in state and federal financial~~

1 ~~regulations, market conditions, and the licensee's ability to access~~
2 ~~legitimate sources of capital.~~

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

7 **SECTION 5.** In Colorado Revised Statutes, 12-43.4-103, **amend**
8 (1), (12.4), and (14.3) as follows:

9 **12-43.4-103. Definitions.** As used in this article 43.4, unless the
10 context otherwise requires:

11 (1) "Direct beneficial interest owner" means a person ~~or closely~~
12 ~~held business entity that~~ WHO:

13 (a) Owns ~~a share or~~ FIVE PERCENT OR MORE OF THE shares of stock
14 in a licensed retail marijuana business; ~~including the officers, directors,~~
15 ~~managing members, or partners of~~ OR

16 (b) IS A DIRECTOR OF AN INCORPORATED ENTITY OR MANAGER OF
17 A LIMITED LIABILITY COMPANY OPERATING the licensed retail marijuana
18 business ~~or closely held business entity, or a qualified limited passive~~
19 ~~investor~~ OR ANY ENTITY OWNING FIVE PERCENT OR MORE OF THE SHARES
20 OF STOCK OR OTHER EQUITY INTEREST OF THE RETAIL MARIJUANA
21 BUSINESS.

22 (12.4) "Permitted economic interest" means any unsecured
23 convertible debt instrument, option agreement, warrant, or any other right
24 to obtain ~~an~~ FIVE PERCENT OR MORE ownership interest when the holder
25 of such interest is a natural person who is a lawful United States resident
26 and whose right to convert into an ownership interest is contingent on the
27 holder qualifying and obtaining a license as an owner under this ~~article~~

1 ARTICLE 43.4 or such other agreements as may be permitted by rule by the
2 state licensing authority.

3 (14.3) "Qualified limited passive investor" means a ~~natural~~ person
4 ~~who is a United States citizen and~~ THAT is a passive investor ~~who~~ THAT
5 owns less than a five percent share or shares of stock in a licensed retail
6 marijuana business.

7 **SECTION 6.** In Colorado Revised Statutes, 12-43.4-202, **amend**
8 (2)(b) as follows:

9 **12-43.4-202. Powers and duties of state licensing authority -**
10 **rules.** (2) The state licensing authority has the authority to:

11 (b) Promulgate ~~on or before July 1, 2013,~~ rules for the proper
12 regulation and control of the cultivation, manufacture, distribution, sale,
13 and testing of retail marijuana and retail marijuana products and for the
14 enforcement of this ~~article~~ ARTICLE 43.4 and promulgate amended rules
15 and such special rulings and findings as necessary. RULES, SPECIAL
16 RULINGS, AND FINDINGS AS THEY PERTAIN TO OWNERSHIP BY AND
17 LICENSING OF PUBLICLY TRADED COMPANIES MUST BE SUBSTANTIVELY
18 IDENTICAL TO THE RULES GOVERNING SPECIFIC REPORTING AND APPROVAL
19 REQUIREMENTS FOR PUBLICLY TRADED COMPANIES CONTAINED IN RULE
20 4.5 OF THE DEPARTMENT OF REVENUE; GAMING COMMISSION RULES AS THE
21 RULE EXISTS ON THE EFFECTIVE DATE OF THIS SUBSECTION (2)(b),
22 INCLUDING WITHOUT LIMITATION REPORTING REQUIREMENTS; ALLOWANCE
23 OF PUBLICLY TRADED LICENSE HOLDERS WHETHER THEY REPORT TO THE
24 SECURITIES EXCHANGE COMMISSION OR WITH ANY OTHER NATIONAL OR
25 REGIONAL SECURITIES EXCHANGE; AND SUITABILITY REQUIREMENTS.

26 **SECTION 7.** In Colorado Revised Statutes, 12-43.4-306, **amend**
27 (1) introductory portion; and **repeal** (1)(l) as follows:

1 **12-43.4-306. Persons prohibited as licensees - definitions.**

2 (1) A license provided by this ~~article~~ ARTICLE 43.4 shall not be issued to
3 or held by:

4 (1) ~~A publicly traded company.~~

5 **SECTION 8.** In Colorado Revised Statutes, 12-43.4-306.5,
6 **amend** (3)(b); and **repeal** (3)(a), (3)(c), and (5)(b) as follows:

7 **12-43.4-306.5. Business and owner requirements - legislative**
8 **declaration - definitions.** (3) (a) ~~A retail marijuana business may be~~
9 ~~comprised of an unlimited number of direct beneficial interest owners that~~
10 ~~have been residents of Colorado for at least one year prior to the date of~~
11 ~~the application.~~

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

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

1 legitimate sources of capital.

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

6 **SECTION 9. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.