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HOUSE BILL 18-1381

BY REPRESENTATIVE(S) Gray and Van Winkle, Michaelson Jenet, Bridges, Buckner, Catlin, Coleman, Hansen, Hooton, Kennedy, Landgraf, Liston, Lontine, Pettersen, Roberts, Singer, Winkler, Jackson, Melton; also SENATOR(S) Neville T. and Jahn, Fenberg, Guzman, Kerr, Marble, Moreno, Priola, Tate.

CONCERNING OPERATIONS RELATED TO THE SALE OF MEDICAL MARIJUANA IN THE REGULATED MEDICAL MARIJUANA MARKET, AND, IN CONNECTION THEREWITH, MOVING FROM THE SEVENTY PERCENT OWN SOURCE REQUIREMENT TO A ONE-YEAR TRANSITION PERIOD OF FIFTY PERCENT OWN SOURCE REQUIREMENT TO AN ELIMINATION OF THE OWN SOURCE REQUIREMENT.

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

SECTION 1. In Colorado Revised Statutes, 12-43.3-202, **add** (4) as follows:

12-43.3-202. Powers and duties of state licensing authority - rules. (4) RULES PROMULGATED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING SUBJECTS:

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

(a) THE STATE LICENSING AUTHORITY SHALL CREATE A STATEWIDE LICENSURE CLASS SYSTEM FOR OPTIONAL PREMISES CULTIVATION FACILITY LICENSES. THE CLASSIFICATIONS MAY BE BASED UPON SQUARE FOOTAGE OF THE FACILITY; LIGHTS, LUMENS, OR WATTAGE; LIT CANOPY; THE NUMBER OF CULTIVATING PLANTS; OTHER REASONABLE METRICS; OR ANY COMBINATION THEREOF. THE STATE LICENSING AUTHORITY SHALL CREATE A FEE STRUCTURE FOR THE LICENSURE CLASS SYSTEM.

(b) (I) THE STATE LICENSING AUTHORITY MAY ESTABLISH LIMITATIONS UPON MEDICAL 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 AN OPTIONAL PREMISES CULTIVATION FACILITY LICENSE OR CLASS OF LICENSES BASED UPON SOME REASONABLE METRIC OR SET OF METRICS INCLUDING, BUT NOT LIMITED TO, THOSE ITEMS DETAILED IN SUBSECTION (4)(a) OF THIS SECTION, 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 OPTIONAL PREMISES CULTIVATION FACILITY LICENSEES IN THE STATE, COLLECTIVELY, BASED UPON SOME REASONABLE METRIC OR SET OF METRICS INCLUDING, BUT NOT LIMITED TO, THOSE ITEMS DETAILED IN SUBSECTION (4)(a) OF THIS SECTION, AS DETERMINED BY THE STATE LICENSING AUTHORITY.

(II) WHEN CONSIDERING ANY SUCH LIMITATIONS, THE STATE LICENSING AUTHORITY SHALL:

(A) CONSIDER THE TOTAL CURRENT AND ANTICIPATED DEMAND FOR MEDICAL MARIJUANA AND MEDICAL MARIJUANA-INFUSED PRODUCTS IN COLORADO;

(B) CONSIDER ANY OTHER RELEVANT FACTORS; AND

(C) ATTEMPT TO MINIMIZE THE MARKET FOR UNLAWFUL MARIJUANA.

(c) THE STATE LICENSING AUTHORITY MAY ADOPT REGULATIONS THAT LIMIT THE AMOUNT OF MEDICAL MARIJUANA INVENTORY THAT A MEDICAL MARIJUANA CENTER MAY HAVE ON HAND. IF THE STATE LICENSING AUTHORITY ADOPTS A LIMITATION, THE LIMITATION MUST BE COMMERCIALY REASONABLE AND CONSIDER FACTORS INCLUDING A MEDICAL MARIJUANA CENTER'S SALES HISTORY AND THE NUMBER OF PATIENTS THAT ARE REGISTERED AT A MEDICAL MARIJUANA CENTER AS THEIR PRIMARY CENTER.

SECTION 2. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 12-43.3-403 as follows:

12-43.3-403. Optional premises cultivation facility license.

(1) AN OPTIONAL PREMISES CULTIVATION FACILITY LICENSE MAY BE ISSUED ONLY TO A PERSON WHO CULTIVATES MEDICAL MARIJUANA FOR SALE AND DISTRIBUTION TO LICENSED MEDICAL MARIJUANA CENTERS, MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER LICENSEES, OR OTHER OPTIONAL PREMISES CULTIVATION FACILITIES.

(2) AN OPTIONAL PREMISES CULTIVATION FACILITY SHALL TRACK THE MARIJUANA IT CULTIVATES FROM SEED OR IMMATURE PLANT TO WHOLESALE PURCHASE.

(3) AN OPTIONAL PREMISES CULTIVATION FACILITY MAY PROVIDE, EXCEPT AS REQUIRED BY SECTION 12-43.3-202 (2.5)(a)(I), 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. AN OPTIONAL PREMISES CULTIVATION FACILITY SHALL MAINTAIN A RECORD OF WHAT WAS PROVIDED TO THE TESTING FACILITY, THE IDENTITY OF THE TESTING FACILITY, AND THE TESTING RESULTS.

(4) MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS MAY NOT BE CONSUMED ON THE PREMISES OF AN OPTIONAL PREMISES CULTIVATION FACILITY.

SECTION 3. In Colorado Revised Statutes, 12-43.3-402, **amend** (3) and (4) as follows:

12-43.3-402. Medical marijuana center license - repeal.

(3) Every person selling medical marijuana as provided for in this ~~article~~ ARTICLE 43.3 shall sell only medical marijuana grown in its medical marijuana optional premises licensed pursuant to this article. A MEDICAL MARIJUANA CENTER MAY NOT SELL MORE THAN TWO OUNCES OF MEDICAL MARIJUANA TO A PATIENT OR CAREGIVER; EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY SELL MORE THAN TWO OUNCES TO A PATIENT OR CAREGIVER WHO HAS BEEN RECOMMENDED AN EXTENDED OUNCE COUNT BY HIS OR HER RECOMMENDING PHYSICIAN IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE LICENSING AUTHORITY. In addition to medical marijuana, a medical marijuana center may sell no more than six immature plants to a patient; except that a medical marijuana center may sell more than six immature plants, but may not exceed half the recommended plant count, to a patient who has been recommended an expanded plant count by his or her recommending physician IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE LICENSING AUTHORITY. A medical marijuana center may sell immature plants to a primary caregiver, another medical marijuana center, or a medical marijuana-infused product manufacturer pursuant to rules promulgated by the state licensing authority. The provisions of this subsection (3) ~~shall~~ DO not apply to medical marijuana-infused products.

(4) (a) Notwithstanding the requirements of subsection (3) of this section to the contrary, a medical marijuana licensee may purchase not more than ~~thirty~~ FIFTY percent of its total on-hand inventory of medical marijuana, EXCLUDING MEDICAL MARIJUANA TRIM, from another licensed medical marijuana center in Colorado. A medical marijuana center may sell no more than ~~thirty~~ FIFTY percent of its total on-hand inventory, EXCLUDING MEDICAL MARIJUANA TRIM, to another Colorado licensed medical marijuana licensee; except that the director of the division that regulates medical marijuana may grant a temporary waiver:

~~(a)~~ (I) To a medical marijuana center or applicant if the medical marijuana center or applicant suffers a catastrophic event related to its inventory; or

~~(b)~~ (II) To a new medical marijuana center licensee for a period not to exceed ninety days so the new licensee can cultivate the necessary medical marijuana to comply with this subsection (4).

(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2019.

SECTION 4. In Colorado Revised Statutes, 12-43.3-402, **repeal and reenact, with amendments, as amended by section 3 of this act, (3)** as follows:

12-43.3-402. Medical marijuana center license - repeal.

(3) (a) EVERY PERSON SELLING MEDICAL MARIJUANA AS PROVIDED FOR IN THIS ARTICLE 43.3 SHALL SELL ONLY MEDICAL MARIJUANA ACQUIRED FROM AN OPTIONAL PREMISES CULTIVATION FACILITY LICENSEE, MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER LICENSEE, OR ANOTHER MEDICAL MARIJUANA CENTER.

(b) A MEDICAL MARIJUANA CENTER MAY NOT SELL MORE THAN TWO OUNCES OF MEDICAL MARIJUANA TO A PATIENT OR CAREGIVER; EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY SELL MORE THAN TWO OUNCES TO A PATIENT OR CAREGIVER WHO HAS BEEN RECOMMENDED AN EXTENDED OUNCE COUNT BY HIS OR HER RECOMMENDING PHYSICIAN IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE LICENSING AUTHORITY.

(c) IN ADDITION TO MEDICAL MARIJUANA, A MEDICAL MARIJUANA CENTER MAY SELL NO MORE THAN SIX IMMATURE PLANTS TO A PATIENT; EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY SELL MORE THAN SIX IMMATURE PLANTS, BUT MAY NOT EXCEED HALF THE RECOMMENDED PLANT COUNT, TO A PATIENT WHO HAS BEEN RECOMMENDED AN EXPANDED PLANT COUNT BY HIS OR HER RECOMMENDING PHYSICIAN IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE LICENSING AUTHORITY. A MEDICAL MARIJUANA CENTER MAY SELL IMMATURE PLANTS TO A PRIMARY CAREGIVER, ANOTHER MEDICAL MARIJUANA CENTER, OR A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER PURSUANT TO RULES PROMULGATED BY THE STATE LICENSING AUTHORITY.

(d) A MEDICAL MARIJUANA CENTER MAY SELL MEDICAL MARIJUANA TO ANOTHER MEDICAL MARIJUANA CENTER, AN OPTIONAL PREMISES CULTIVATION FACILITY, OR A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS PURSUANT TO RULES PROMULGATED BY THE STATE LICENSING AUTHORITY.

(e) THE PROVISIONS OF THIS SUBSECTION (3) DO NOT APPLY TO MEDICAL MARIJUANA-INFUSED PRODUCTS.

SECTION 5. In Colorado Revised Statutes, 12-43.3-404, **amend**

(1)(b); and **repeal** (8) as follows:

12-43.3-404. Medical marijuana-infused products manufacturer license - rules. (1) (b) A medical marijuana-infused products manufacturer may cultivate its own medical marijuana if it obtains a medical marijuana optional premises cultivation facility license, it may purchase medical marijuana from a medical marijuana center pursuant to subsection (3) of this section, IT MAY PURCHASE MEDICAL MARIJUANA FROM AN OPTIONAL PREMISES CULTIVATION FACILITY LICENSEE, or it may purchase medical marijuana from another medical marijuana-infused products manufacturer. 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 medical marijuana center, A MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION FACILITY LICENSEE, a medical marijuana-infused products manufacturer, or one of their medical marijuana optional premises cultivation facilities to the point of transfer to a medical marijuana center or a medical marijuana-infused products manufacturer.

~~(8) A medical marijuana-infused products manufacturer that has an optional premises cultivation license shall not sell any of the medical marijuana that it cultivates except for the medical marijuana that is contained in medical marijuana-infused products.~~

SECTION 6. In Colorado Revised Statutes, 12-43.3-901, **repeal** (4)(e) and (5) 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:

~~(e) To possess more than six medical marijuana plants and two ounces of medical marijuana for each patient who has registered the center as his or her primary center pursuant to section 25-1.5-106 (8)(f), C.R.S.; except that a medical marijuana center may have an amount that exceeds the six-plant and two-ounce product per patient limit if the center sells to patients that are authorized to have more than six plants and two ounces of product. In the case of a patient authorized to exceed the six-plant and two-ounce limit, the center shall obtain documentation from the patient's physician that the patient needs more than six plants and two ounces of~~

product.

~~(5) Except as provided in sections 12-43.3-402 (4), 12-43.3-403, and 12-43.3-404, it is unlawful for a medical marijuana center, medical marijuana-infused products manufacturing operation with an optional premises cultivation license, or medical marijuana center with an optional premises cultivation license to sell, deliver, or cause to be delivered to a licensee any medical marijuana not grown upon its licensed premises, or for a licensee or medical marijuana center with an optional premises cultivation license or medical marijuana-infused products manufacturing operation with an optional premises cultivation license to sell, possess, or permit sale of medical marijuana not grown upon its licensed premises. A violation of the provisions of this subsection (5) by a licensee shall be grounds for the immediate revocation of the license granted under this article.~~

SECTION 7. Effective date. This act takes effect July 1, 2019; except that sections 3, 7, and 8 of this act take effect July 1, 2018.

SECTION 8. 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.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO