

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0361.01 Michael Dohr x4347

SENATE BILL 22-149

SENATE SPONSORSHIP

Priola and Hansen,

HOUSE SPONSORSHIP

Amabile and Lynch,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO IMPROVE MARIJUANA INDUSTRY
102 REGULATION.

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 requires future contracts for the seed-to-sale tracking system to be awarded pursuant to a transparent, online, and dynamically competitive process. The bill requires the state licensing authority to produce an annual report regarding its enforcement activities. The report must include:

- The number of underage compliance checks performed in

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.

- the previous calendar year;
- The number of underage sale violations in the previous calendar year, including the name of the license violator, how many violations were the result of underage compliance checks or tips, and the sanction or sanctions imposed for each violation; and
- A description of the black or gray market enforcement activities that the state licensing authority engaged in, including the dates of the activities, any violations found, and the result of those violations if known.

The bill requires the state licensing authority to produce an annual report regarding licensing violations. The report must be organized by month, include the name of the violator and the violation location, and identify the violation and the sanction or sanctions imposed and if the sanction is a license revocation or voluntary surrender of a license and the reason for the revocation or voluntary surrender.

The state licensing authority shall maintain a free searchable database on its website related to compliance check records and minor in possession of marijuana records and an online method for submitting an anonymous tip related to licensing violations.

The bill requires the state licensing authority to conduct at least 2 compliance checks a year at each medical and retail marijuana center.

The bill requires regulatory penalties related to underage sales to be based on the number of violations and any injury or death that occurred as a result of the violation.

The bill requires the state licensing authority to promulgate rules regarding:

- Product recalls, including a requirement for the issuance of a health and safety advisory when a product is recalled that includes the name of the product, the timing of when the consumer would receive the advisory, the places where the product was sold, the time period when the product was for sale, the requested actions that the state licensing authority may direct to a seller, cultivator, or manufacturer, and any other additional information that would assist the public; and
- Timelines and deadlines for notifying a licensee of an alleged violation; a licensee's response to an alleged violation; and a licensee's compliance with any sanction imposed, which must require, in the case of an uncontested violation, that the licensee has 90 days to comply with the sanction.

The bill directs that when the state licensing authority convenes a work group, task force, or other group to assist in developing rules or policies that involve public health and consumer safety, the state licensing

authority shall make every reasonable attempt to have broad representation from non-marijuana industry parties on the work group, task force, or other group. The bill requires the state licensing authority to provide any written materials received from a member of the group or task force to all members of the group or task force within 7 days after receipt of the material; except that any proprietary information must be redacted from the material.

The bill requires that when the state licensing authority reports a voluntary surrender of a license that is the result of a settlement or agreement with the licensing authority, the report shall designate the action as "voluntary surrender - licensing violation settlement".

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The marijuana enforcement division, called the state licensing
5 authority in statute, is the enforcement agency for regulated marijuana in
6 Colorado;

7 (b) As the marijuana enforcement agency, the marijuana
8 enforcement division's primary focus is on ensuring regulated marijuana
9 is cultivated, manufactured, and sold pursuant to the law and regulations;
10 and

11 (c) The marijuana enforcement division also has a duty to protect
12 regulated marijuana consumers' health and safety.

13 (2) Therefore, the general assembly finds and declares that it is
14 necessary for the marijuana enforcement division to report on its
15 enforcement activities and it is imperative to balance the amount of
16 influence that the marijuana industry has on the rule-making and
17 policy-making process in the marijuana enforcement division.

18 **SECTION 2.** In Colorado Revised Statutes, 44-10-202, **add**
19 (1)(a.5), (9), (10), (11), and (12) as follows:

1 **44-10-202. Powers and duties of state licensing authority -**
2 **stakeholder work group - rules - report - legislative declaration -**
3 **repeal.** (1) Powers and duties. The state licensing authority shall:

4 (a.5) AT THE CONCLUSION OF THE CONTRACT IN EFFECT ON THE
5 EFFECTIVE DATE OF THIS SUBSECTION (1)(a.5) AND AT THE CONCLUSION OF
6 EACH FUTURE CONTRACT, CONSISTENT WITH THE "PROCUREMENT CODE",
7 ARTICLES 101 TO 112 OF TITLE 24, AND NOTWITHSTANDING ANY OTHER
8 PROVISION OF LAW, ENTER INTO A CONTRACT FOR THE DEVELOPMENT AND
9 MAINTENANCE SERVICES FOR THE SEED-TO-SALE TRACKING SYSTEM
10 DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION IN A TRANSPARENT,
11 ONLINE, AND DYNAMICALLY COMPETITIVE PROCESS. THE STATE LICENSING
12 AUTHORITY SHALL NOT AWARD THE CONTRACT TO A PERSON LICENSED
13 PURSUANT TO THIS ARTICLE 10 OR TO AN ENTITY THAT WOULD RESULT IN
14 A GOVERNMENTAL ENTITY BENEFITTING FINANCIALLY FROM THE
15 CONTRACT.

16 (9) (a) THE STATE LICENSING AUTHORITY SHALL PRODUCE AN
17 ANNUAL REPORT REGARDING STATE AND LOCAL GOVERNMENT
18 ENFORCEMENT ACTIVITIES BEGINNING JULY 1, 2023. THE REPORT MUST
19 INCLUDE:

20 (I) THE NUMBER OF UNDERAGE COMPLIANCE CHECKS PERFORMED
21 IN THE PREVIOUS CALENDAR YEAR;

22 (II) THE NUMBER OF UNDERAGE SALE VIOLATIONS IN THE
23 PREVIOUS CALENDAR YEAR AND FOR EACH VIOLATION:

24 (A) THE NAME OF THE LICENSE VIOLATOR AND ANY "DOING
25 BUSINESS AS" NAME OF THE VIOLATOR;

26 (B) WHETHER THE VIOLATION WAS THE RESULT OF AN UNDERAGE
27 COMPLIANCE CHECK;

1 (C) WHETHER THE VIOLATION WAS THE RESULT OF A TIP RELATED
2 TO LICENSING VIOLATIONS; AND

3 (D) THE SANCTION OR SANCTIONS IMPOSED FOR THE VIOLATION;
4 AND

5 (III) A DESCRIPTION OF THE BLACK OR GRAY MARKET
6 ENFORCEMENT ACTIVITIES THAT THE STATE LICENSING AUTHORITY
7 ENGAGED IN, INCLUDING THE DATES OF THE ACTIVITIES, ANY VIOLATIONS
8 FOUND, AND THE RESULT OF THOSE VIOLATIONS, IF KNOWN.

9 (b) THE REPORT CAN BE MADE IN CONJUNCTION WITH OR AS A PART
10 OF THE REPORT REQUIRED BY SECTION 44-10-901 (7), AND THE STATE
11 LICENSING AUTHORITY SHALL POST THE REPORT IN A CONSPICUOUS PLACE
12 ON ITS WEBSITE.

13 (10) THE STATE LICENSING AUTHORITY SHALL PRODUCE AN
14 ANNUAL REPORT REGARDING STATE AND LOCAL LICENSING VIOLATIONS
15 THAT REACHED FINAL AGENCY ACTION. EACH LOCAL LICENSING
16 AUTHORITY IS REQUIRED TO REPORT THE INFORMATION NECESSARY FOR
17 THE STATE LICENSING AUTHORITY TO COMPLETE THIS REPORT IN A
18 MANNER REQUIRED BY THE STATE LICENSING AUTHORITY. THE REPORT
19 MUST BE ORGANIZED BY MONTH, INCLUDE THE NAME OF THE VIOLATOR
20 AND THE VIOLATION LOCATION, AND IDENTIFY THE VIOLATION, THE
21 SANCTION OR SANCTIONS IMPOSED AS A RESULT OF FINAL AGENCY ACTION,
22 AND IF THE SANCTION IS A LICENSE REVOCATION OR VOLUNTARY
23 SURRENDER OF A LICENSE, AND THE REASON FOR THE REVOCATION OR
24 VOLUNTARY SURRENDER. THE REPORT CAN BE MADE IN CONJUNCTION
25 WITH OR AS A PART OF THE REPORT REQUIRED BY SECTION 44-10-901 (7),
26 AND THE STATE LICENSING AUTHORITY SHALL POST THE REPORT IN A
27 CONSPICUOUS PLACE ON ITS WEBSITE.

1 (11) (a) THE STATE LICENSING AUTHORITY SHALL MAINTAIN A
2 FREE SEARCHABLE DATABASE ON ITS WEBSITE RELATED TO COMPLIANCE
3 CHECK RECORDS THAT HAVE REACHED FINAL AGENCY ACTION AND MINOR
4 IN POSSESSION OF MARIJUANA RECORDS; EXCEPT THAT THE RECORDS MUST
5 NOT INCLUDE ANY IDENTIFYING INFORMATION RELATED TO A MINOR.

6 (b) THE STATE LICENSING AUTHORITY SHALL MAINTAIN AN ONLINE
7 METHOD FOR SUBMITTING AN ANONYMOUS TIP RELATED TO LICENSING
8 VIOLATIONS.

9 (12) (a) TO THE DEGREE THAT IS ACHIEVABLE WITHIN THE AMOUNT
10 OF FEES COLLECTED, EACH YEAR, THE STATE LICENSING AUTHORITY SHALL
11 PERFORM, CAUSE TO BE PERFORMED, OR COORDINATE WITH A LOCAL
12 AUTHORITY IN THE PERFORMANCE OF AT LEAST TWO COMPLIANCE CHECKS
13 AT EACH MEDICAL AND RETAIL MARIJUANA CENTER. THE STATE LICENSING
14 AUTHORITY SHALL PERFORM A COMPLIANCE CHECK BY ENGAGING A
15 PERSON UNDER TWENTY-ONE YEARS OF AGE TO ENTER A RETAIL LOCATION
16 TO ATTEMPT TO PURCHASE RETAIL MARIJUANA OR MEDICAL MARIJUANA
17 OR RETAIL MARIJUANA PRODUCTS OR MEDICAL MARIJUANA PRODUCTS.

18 (b) IF A COMPLIANCE CHECK OF A LOCATION PERFORMED
19 PURSUANT TO SUBSECTION (12)(a) OF THIS SECTION REVEALS A VIOLATION
20 OF THIS ARTICLE 10, THE STATE LICENSING AUTHORITY, OR A LOCAL
21 AUTHORITY IN COORDINATION WITH THE STATE LICENSING AUTHORITY,
22 SHALL CONDUCT AN ADDITIONAL COMPLIANCE CHECK OF THE RETAIL
23 LOCATION WITHIN THREE TO SIX MONTHS AFTER THE COMPLIANCE CHECK
24 AT WHICH THE VIOLATION WAS DISCOVERED.

25 **SECTION 3.** In Colorado Revised Statutes, 44-10-203, **amend**
26 (2)(m); and **add** (2)(jj), (2)(kk), (10), and (11) as follows:

27 **44-10-203. State licensing authority - rules - definition.**

1 (2) **Mandatory rule-making.** Rules promulgated pursuant to section
2 44-10-202 (1)(c) must include but need not be limited to the following
3 subjects:

4 (m) Establishing a schedule of penalties and procedures for
5 issuing and appealing citations for violation of statutes and rules and
6 issuing administrative citations, INCLUDING THAT PENALTIES RELATED TO
7 UNDERAGE SALES MUST BE BASED ON THE NUMBER OF VIOLATIONS AND
8 ANY INJURY OR DEATH, IF KNOWN, THAT OCCURRED AS A RESULT OF THE
9 VIOLATION;

10 (jj) PRODUCT RECALLS OR HEALTH AND SAFETY ADVISORIES,
11 INCLUDING A REQUIREMENT FOR THE ISSUANCE OF A HEALTH AND SAFETY
12 ADVISORY WHEN A PRODUCT IS RECALLED THAT INCLUDES THE NAME OF
13 THE PRODUCT, THE TIMING OF WHEN THE CONSUMER OR PUBLIC WOULD
14 RECEIVE THE ADVISORY AFTER THE NEED FOR AN ADVISORY IS
15 DETERMINED, THE PLACES WHERE THE PRODUCT WAS SOLD, THE TIME
16 PERIOD WHEN THE PRODUCT WAS FOR SALE, THE REQUESTED ACTIONS
17 THAT THE STATE LICENSING AUTHORITY MAY DIRECT TO A SELLER,
18 CULTIVATOR, OR MANUFACTURER, AND ANY OTHER ADDITIONAL
19 INFORMATION THAT WOULD ASSIST THE PUBLIC;

20 (kk) TIMELINES AND DEADLINES FOR NOTIFYING A LICENSEE OF AN
21 ALLEGED VIOLATION; A LICENSEE'S RESPONSE TO AN ALLEGED VIOLATION;
22 AND A LICENSEE'S COMPLIANCE WITH ANY SANCTION IMPOSED, WHICH
23 MUST REQUIRE, IN THE CASE OF AN UNCONTESTED VIOLATION IN WHICH
24 THE LICENSEE RESPONDED, THAT THE LICENSEE HAS NINETY DAYS TO
25 COMPLY WITH THE SANCTION IMPOSED AS A PART OF FINAL AGENCY
26 ACTION. THE TIMELINES MAY BE DIFFERENT BASED ON THE SEVERITY OF
27 THE ALLEGED VIOLATION OR THE LICENSEE'S RESPONSE TO THE VIOLATION.

1 (10) (a) WHEN THE STATE LICENSING AUTHORITY CONVENES A
2 WORK GROUP, TASK FORCE, OR OTHER GROUP TO ASSIST IN DEVELOPING
3 RULES OR POLICIES THAT INVOLVE PUBLIC HEALTH AND CONSUMER
4 SAFETY, THE STATE LICENSING AUTHORITY SHALL MAKE EVERY
5 REASONABLE ATTEMPT TO HAVE BROAD REPRESENTATION FROM
6 NON-MARIJUANA INDUSTRY PARTIES ON THE WORK GROUP, TASK FORCE,
7 OR OTHER GROUP INCLUDING, BUT NOT LIMITED, TO PHYSICIANS,
8 ADDICTION SPECIALISTS, MENTAL HEALTH EXPERTS, COMMUNITY HARM
9 REDUCTION ADVOCATES, SCHOOL ADMINISTRATORS, AND INDIVIDUALS
10 NEGATIVELY IMPACTED BY MARIJUANA USE.

11 (b) WHEN THE STATE LICENSING AUTHORITY CONVENES A WORK
12 GROUP, TASK FORCE, OR OTHER GROUP TO ASSIST IN DEVELOPING RULES
13 OR POLICIES, IT SHALL POST NOTICE OF THE GROUP'S OR TASK FORCE'S
14 MEETINGS ON ITS WEBSITE AT LEAST FORTY-EIGHT HOURS IN ADVANCE
15 AND NOTIFY EACH MEMBER OF THE GROUP OR TASK FORCE OF THE
16 MEETING AT LEAST FIVE DAYS IN ADVANCE.

17 (c) WHEN THE STATE LICENSING AUTHORITY CONVENES A WORK
18 GROUP, TASK FORCE, OR OTHER GROUP TO ASSIST IN DEVELOPING RULES
19 OR POLICIES, AND THE STATE LICENSING AUTHORITY RECEIVES ANY
20 WRITTEN MATERIALS FROM A MEMBER OF THE GROUP OR TASK FORCE, THE
21 STATE LICENSING AUTHORITY SHALL PROVIDE THE MATERIAL TO ALL
22 MEMBERS OF THE GROUP OR TASK FORCE WITHIN SEVEN DAYS AFTER
23 RECEIPT OF THE MATERIAL; EXCEPT THAT ANY PROPRIETARY INFORMATION
24 MUST BE REDACTED FROM THE MATERIAL.

25 (11) (a) WHEN THE STATE LICENSING AUTHORITY REPORTS A
26 VOLUNTARY SURRENDER OF A LICENSE THAT IS THE RESULT OF A
27 SETTLEMENT OR AGREEMENT WITH THE STATE LICENSING AUTHORITY, THE

1 REPORT MUST DESIGNATE THE ACTION AS "VOLUNTARY SURRENDER -
2 LICENSING VIOLATION SETTLEMENT" AND MUST STATE HOW LONG THE
3 LICENSEE MUST WAIT BEFORE APPLYING FOR A NEW LICENSE.

4 (b) WHEN THE STATE LICENSING AUTHORITY REPORTS A LICENSING
5 VIOLATION, THE REPORT MUST ALSO INCLUDE ANY LICENSED BUSINESS'S
6 "DOING BUSINESS AS" NAME.

7 **SECTION 4. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, or safety.