

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0457.01 Michael Dohr x4347

SENATE BILL 16-040

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SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

Pabon,

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Senate Committees

Business, Labor, & Technology

House Committees

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A BILL FOR AN ACT

101 CONCERNING CHANGES TO THE REQUIREMENTS FOR OWNERS OF A  
102 LICENSED MARIJUANA BUSINESS.

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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://www.leg.state.co.us/bills/summaries>.)*

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.

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

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.

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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 (12.3) as follows:

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

6           (12.3) "Owner" means any person having a beneficial interest, as  
7 defined by the state licensing authority, in a medical marijuana business  
8 other than a holder of a permitted economic interest; A RECIPIENT OF A  
9 COMMERCIALY REASONABLE ROYALTY ASSOCIATED WITH THE USE BY A  
10 LICENSEE OF INTELLECTUAL PROPERTY; OR A LICENSED EMPLOYEE WHO  
11 RECEIVES A SHARE OF THE PROFITS FROM AN EMPLOYEE BENEFIT PLAN.

12           **SECTION 2.** In Colorado Revised Statutes, 12-43.3-202, **amend**  
13 (2) (a) (XIX) and (2) (a) (XX); and **add** (2) (a) (XXI) as follows:

14           **12-43.3-202. Powers and duties of state licensing authority -**  
15 **rules.** (2) (a) Rules promulgated pursuant to paragraph (b) of subsection  
16 (1) of this section may include, but need not be limited to, the following  
17 subjects:

18           (XIX) Authorization for the department of revenue to issue  
19 administrative citations and procedures for issuing, appealing, and  
20 creating a citation violation list and schedule of penalties; ~~and~~

1 (XX) Such other matters as are necessary for the fair, impartial,  
2 stringent, and comprehensive administration of this article; AND

3 (XXI) THE PARAMETERS FOR A COMMERCIALY REASONABLE  
4 ROYALTY.

5 **SECTION 3.** In Colorado Revised Statutes, 12-43.3-307, **repeal**  
6 (1) (m); and **add** (1) (n) as follows:

7 **12-43.3-307. Persons prohibited as licensees.** (1) A license  
8 provided by this article shall not be issued to or held by:

9 (m) ~~An owner, as defined by rule of the state licensing authority,~~  
10 ~~who has not been a resident of Colorado for at least two years prior to the~~  
11 ~~date of the owner's application.~~

12 (n) A PUBLICLY TRADED COMPANY.

13 **SECTION 4.** In Colorado Revised Statutes, **add** 12-43.3-307.5  
14 as follows:

15 **12-43.3-307.5. Owner residency requirement.** (1) AN OWNER,  
16 AS DEFINED BY RULE OF THE STATE LICENSING AUTHORITY, MUST EITHER:

17 (a) HAVE BEEN A RESIDENT OF COLORADO FOR AT LEAST TWO  
18 YEARS PRIOR TO THE DATE OF THE OWNER'S APPLICATION; OR

19 (b) BE A UNITED STATES CITIZEN PRIOR TO THE DATE OF THE  
20 OWNER'S APPLICATION.

21 **SECTION 5.** In Colorado Revised Statutes, 12-43.3-310, **amend**  
22 (6) as follows:

23 **12-43.3-310. Licensing in general.** (6) A CONTROLLING  
24 INTEREST OF THE LICENSEES, AS DETERMINED BY THE GOVERNING  
25 DOCUMENTS, AND all officers and managers and employees of a medical  
26 marijuana center, optional premises cultivation operation, or medical  
27 marijuana-infused products manufacturer shall be residents of Colorado

1 upon the date of their license application AND SHALL MAINTAIN  
2 COLORADO RESIDENCY AT ALL TIMES WHILE LICENSED. An owner shall  
3 meet the residency AND CITIZENSHIP requirements in ~~section 12-43.3-307~~  
4 ~~(l) (m)~~ SECTION 12-43.3-307.5. All licenses granted pursuant to this  
5 article shall be valid for a period not to exceed two years after the date of  
6 issuance unless revoked or suspended pursuant to this article or the rules  
7 promulgated pursuant to this article.

8 **SECTION 6.** In Colorado Revised Statutes, 12-43.4-103, **amend**  
9 (12) as follows:

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

12 (12) "Owner" means any person having a beneficial interest, as  
13 defined by the state licensing authority, in a retail marijuana  
14 establishment other than a holder of a permitted economic interest; A  
15 RECIPIENT OF A COMMERCIALY REASONABLE ROYALTY ASSOCIATED WITH  
16 THE USE BY A LICENSEE OF INTELLECTUAL PROPERTY; OR A LICENSED  
17 EMPLOYEE WHO RECEIVES A SHARE OF THE PROFITS FROM AN EMPLOYEE  
18 BENEFIT PLAN.

19 **SECTION 7.** In Colorado Revised Statutes, 12-43.4-202, **amend**  
20 (3) (a) (XV) and (3) (a) (XVI); and **add** (3) (a) (XVII) as follows:

21 **12-43.4-202. Powers and duties of state licensing authority -**  
22 **rules.** (3) (a) Rules promulgated pursuant to paragraph (b) of subsection  
23 (2) of this section must include, but need not be limited to, the following  
24 subjects:

25 (XV) Compliance with, enforcement of, or violation of any  
26 provision of this article, section 18-18-406.3 (7), C.R.S., or any rule  
27 issued pursuant to this article, including procedures and grounds for

1 denying, suspending, fining, restricting, or revoking a state license issued  
2 pursuant to this article; ~~and~~

3 (XVI) Establishing a schedule of penalties and procedures for  
4 issuing and appealing citations for violation of statutes and rules and  
5 issuing administrative citations; AND

6 (XVII) THE PARAMETERS FOR A COMMERCIALY REASONABLE  
7 ROYALTY.

8 **SECTION 8.** In Colorado Revised Statutes, 12-43.4-306, **repeal**  
9 (1) (k); and **add** (1) (l) as follows:

10 **12-43.4-306. Persons prohibited as licensees - definitions.**

11 (1) A license provided by this article shall not be issued to or held by:

12 (k) ~~An owner who has not been a resident of Colorado for at least~~  
13 ~~two years prior to the date of the owner's application.~~

14 (l) A PUBLICLY TRADED COMPANY.

15 **SECTION 9.** In Colorado Revised Statutes, **add** 12-43.4-306.5  
16 as follows:

17 **12-43.4-306.5. Owner residency requirement.** (1) AN OWNER,  
18 AS DEFINED BY RULE OF THE STATE LICENSING AUTHORITY, MUST EITHER:

19 (a) HAVE BEEN A RESIDENT OF COLORADO FOR AT LEAST TWO  
20 YEARS PRIOR TO THE DATE OF THE OWNER'S APPLICATION; OR

21 (b) BE A UNITED STATES CITIZEN PRIOR TO THE DATE OF THE  
22 OWNER'S APPLICATION.

23 **SECTION 10.** In Colorado Revised Statutes, 12-43.4-309,  
24 **amend** (5) as follows:

25 **12-43.4-309. Licensing in general.** (5) A CONTROLLING  
26 INTEREST OF THE LICENSEES, AS DETERMINED BY THE GOVERNING  
27 DOCUMENTS, AND all officers, managers, and employees of a retail

1 marijuana establishment shall be residents of Colorado upon the date of  
2 their license application AND SHALL MAINTAIN COLORADO RESIDENCY AT  
3 ALL TIMES WHILE LICENSED. An owner shall meet the residency AND  
4 CITIZENSHIP requirements in ~~section 12-43.4-306 (1) (k)~~ SECTION  
5 12-43.4-306.5. All licenses granted pursuant to this article are valid for  
6 a period of one year after the date of issuance unless revoked or  
7 suspended pursuant to this article or the rules promulgated pursuant to  
8 this article.

9           **SECTION 11. Applicability.** This act applies to applications  
10 made on or after January 1, 2017.

11           **SECTION 12. Safety clause.** The general assembly hereby finds,  
12 determines, and declares that this act is necessary for the immediate  
13 preservation of the public peace, health, and safety.