

NOTE: The governor signed this measure on 3/11/2016.

An Act

HOUSE BILL 16-1041

BY REPRESENTATIVE(S) Lebsock, Duran, Fields, Garnett, Melton, Moreno, Roupe, Ryden, Singer;
also SENATOR(S) Holbert, Baumgardner, Guzman, Hill, Jahn, Kefalas, Lundberg, Marble, Martinez Humenik, Neville T., Scheffel, Scott, Steadman, Woods, Cadman.

CONCERNING THE REMOVAL OF UNREASONABLY IMPRACTICABLE FINANCIAL REQUIREMENTS APPLICABLE TO MARIJUANA BUSINESSES THAT ARE REQUIRED TO BE LICENSED.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby:

(a) Finds that:

(I) Colorado's constitution prohibits the imposition of regulations on retail marijuana establishments that would make their operation unreasonably impracticable;

(II) Colorado statute currently requires medical marijuana businesses and retail marijuana establishments to post a bond for the

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

issuance or renewal of their state-issued licenses, which licenses are necessary for the establishments to operate; and

(III) Bonds for medical marijuana businesses and retail marijuana establishments are simply unavailable in the current marketplace, perhaps due to the fact that marijuana is illegal pursuant to federal law;

(b) Determines that the requirement to post a bond makes the operation of medical marijuana businesses and retail marijuana establishments unreasonably impracticable; and

(c) Declares that the adoption of this act is necessary to comply with Colorado's constitution.

SECTION 2. In Colorado Revised Statutes, **repeal** 12-43.3-304 as follows:

12-43.3-304. Medical marijuana license bond. ~~(1) Before the state licensing authority issues a state license to an applicant, the applicant shall procure and file with the state licensing authority evidence of a good and sufficient bond in the amount of five thousand dollars with corporate surety thereon duly licensed to do business with the state, approved as to form by the attorney general of the state, and conditioned that the applicant shall report and pay all sales and use taxes due to the state, or for which the state is the collector or collecting agent, in a timely manner, as provided in law.~~

~~(2) A corporate surety shall not be required to make payments to the state claiming under such bond until a final determination of failure to pay taxes due to the state has been made by the state licensing authority or a court of competent jurisdiction.~~

~~(3) All bonds required pursuant to this section shall be renewed at such time as the bondholder's license is renewed. The renewal may be accomplished through a continuation certificate issued by the surety.~~

SECTION 3. In Colorado Revised Statutes, 12-43.3-307, **amend** (1) (g) (I) as follows:

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

(g) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to:

(I) ~~Provide a surety bond or~~ File any tax return with a taxing agency related to a medical marijuana business or retail marijuana establishment;

SECTION 4. In Colorado Revised Statutes, **repeal** 12-43.4-303 as follows:

12-43.4-303. Retail marijuana license bond. ~~(1) Before the state licensing authority issues a state license to an applicant, the applicant shall procure and file with the state licensing authority evidence of a good and sufficient bond in the amount of five thousand dollars with corporate surety thereon duly licensed to do business with the state, approved as to form by the attorney general of the state, and conditioned that the applicant shall report and pay all sales and use taxes due to the state, or for which the state is the collector or collecting agent, in a timely manner, as provided in law.~~

~~(2) A corporate surety shall not be required to make payments to the state claiming under such bond until a final determination of failure to pay taxes due to the state is made by the executive director of the department of revenue or a court of competent jurisdiction.~~

~~(3) All bonds required pursuant to this section must be renewed at such time as the bondholder's license is renewed. The renewal may be accomplished through a continuation certificate issued by the surety.~~

SECTION 5. In Colorado Revised Statutes, 12-43.4-306, **amend** (1) (f) as follows:

12-43.4-306. Persons prohibited as licensees - definitions. (1) A license provided by this article shall not be issued to or held by:

(f) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to:

(I) ~~Provide a surety bond or~~ File any tax return related to a retail marijuana establishment; or

(II) Pay any taxes, interest, or penalties due the department of

revenue, AS DETERMINED BY FINAL AGENCY ACTION, relating to a retail marijuana establishment;

SECTION 6. In Colorado Revised Statutes, 39-28.8-304, **repeal** (4) as follows:

39-28.8-304. Returns and remittance of tax - civil penalty. (4) ~~A retail marijuana cultivation facility shall file with the department evidence of a surety bond issued by a company authorized to do business in this state for the benefit of the department in an amount equal to two months of the facility's anticipated liability for the tax imposed pursuant to this part 3. The amount of the facility's anticipated tax liability shall be determined solely in the discretion of the retail marijuana cultivation facility. The department may require a facility to file or a facility may choose to file a replacement surety bond if the amount of the facility's actual tax liability changes after the facility has filed a bond with the department pursuant to this subsection (4).~~

SECTION 7. Applicability. This act applies to conduct occurring on or after the effective date of this act.

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.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
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