

**Bill Number**

House Bill 16-1261

**Sponsors**

*Representative Pabon  
Senators Jahn and  
Baumgardner*

**Short Title**

*Retail Marijuana Sunset*

**Research Analyst**

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**Status**

This research note reflects the final version of the bill, which was signed by the Governor and became effective on June 10, 2016.

**Summary**

The bill continues the Colorado Retail Marijuana Code until September 1, 2019, and makes changes regarding licensing, rulemaking, industry operations, county-initiated ballot measures, and criminal provisions, as outlined below.

***Licensing:***

- creates licenses for retail marijuana transporters and retail marijuana establishment operators; and
- repeals the requirement that a license application be denied based on a previous denial at the same location.

***Rulemaking:***

- clarifies that standards pertaining to packaging and labeling of retail marijuana is a matter of statewide concern and regulated by the Marijuana Enforcement Division (MED) in the Department of Revenue (DOR);
- repeals the requirement that marijuana-themed magazines only be sold in retail marijuana stores or behind the counter in stores where people under 21 are present; and
- repeals DOR's authority to promulgate rules prohibiting misrepresentation and unfair practices.

***Industry operations:***

- harmonizes the mandatory testing provisions for retail marijuana with those in the Colorado Medical Marijuana Code;
- allows a licensee the opportunity to remediate a product that has tested positive for a microbial;
- allows for performance-based incentives for employees of cultivation facilities and products

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- manufacturers;
- exempts non-edible, non-psychoactive retail marijuana products from the one ounce per transaction limit;
- repeals the one-quarter ounce limitation on the amount of retail marijuana that can be sold to a non-resident;
- requires that a display case containing marijuana concentrate include the potency of the concentrate next to the name of the product; and
- allows trade craftspeople to be reasonably monitored rather than accompanied on a full-time basis while working in a limited access area.

***County-initiated ballot measures:***

- requires that not less than 15 percent of the registered electors in a county sign a petition for a county-initiated measure related to retail marijuana in order for it to be placed on the ballot.

***Criminal provisions:***

- creates a new level 1 drug misdemeanor for the transfer of marijuana or marijuana concentrate at no cost if the transfer is related to remuneration for any other service or product.

## **Background**

In response to the passage of Amendment 64 during the 2013 legislative session, the General Assembly created the Retail Marijuana Code which expanded the authority of DOR to include the regulation of retail marijuana. Under the retail code, businesses that grow, process, test, and sell retail marijuana are licensed by MED. As of March 1, 2016, the following number and type of businesses are licensed:

- 424 retail marijuana stores;
- 503 retail marijuana cultivation centers;
- 173 retail marijuana product manufacturers; and
- 15 retail marijuana testing facilities.

Any adult aged 21 and over may purchase marijuana from a licensed retail store; however, out-of-state visitors are limited to purchasing no more than one-quarter ounce of marijuana at a time. During the first nine months of legal sales, retail marijuana stores had to grow marijuana at a commonly owned cultivation facility (i.e., vertical integration, as in the medical marijuana market). Beginning October 1, 2014, retail stores were able to obtain marijuana on the wholesale market from any cultivator or to continue to cultivate plants themselves.

## **House Action**

***House Finance Committee (January 27, 2016).*** The committee held a hearing on the Department of Regulatory Agencies' (DORA) *2015 Sunset Review: Colorado Retail Marijuana Code*. At the hearing, representatives from DORA and MED answered committee questions. Representatives from Pueblo County, Dixie Brands, iComply, Emerald Fields, Americana, the Colorado Cannabis Chamber of Commerce, LivWell, Smart Colorado, and several individuals representing themselves commented on the sunset report.

***House Finance Committee (March 24, 2016).*** At the hearing, a representative of DOR answered committee questions. Representatives of Dixie Brands, LivWell, and the Marijuana Industry Group testified in support of the bill. A representative of Smart Colorado testified against

the bill. The bill was laid over to a future date for action only.

**House Finance Committee (April 6, 2016).** At the hearing, representatives of the U.S. Marijuana Party, Step 13, Healthy Cannabis Unlimited, and several individuals representing themselves testified against a possible potency amendment. Representatives of the Colorado Association of School Resource Officers, the Anschutz Foundation, the Arapahoe House, and several individuals representing themselves testified in support of a proposed potency amendment. Representatives of the Southern Colorado Cannabis Council, the North Metro Drug Task Force, the Children's Hospital of Colorado, the Colorado Municipal League, iComply, 36 Solutions, and the Colorado Chamber of Commerce testified in support of the bill. A representative of DOR answered committee questions.

The committee adopted 10 amendments. The amendments are outlined below:

- *amendment L.002* repealed the one-quarter ounce limitation on the amount of retail marijuana that can be sold to a non-resident;
- *amendment L.006* allowed for performance-based incentives for employees of cultivation facilities and products manufacturers;
- *amendment L.007* removed the language regarding bonding. The issue was addressed by House Bill 16-1041;
- *amendment L.010* created a new level 1 drug misdemeanor for the transfer of marijuana or marijuana concentrate at no cost if the transfer is related to remuneration for any other service or product;
- *amendment L.013* allowed trade craftspeople to be reasonably monitored rather than accompanied on a full-time basis while working in a limited access area;
- *amendment L.015* required that not less than 15 percent of the registered electors in a county sign a petition for a county-initiated measure related to retail marijuana in order for it to be placed on the ballot;
- *amendment L.018* allowed a licensee the opportunity to remediate a product that has tested positive for a microbial;
- *amendment L.019* exempted non-edible, non-psychoactive retail marijuana products from the one ounce per transaction limit;
- *amendment L.022* required that a display case containing marijuana concentrate include the potency of the concentrate next to the name of the product; and
- *amendment L.027* required that the potency of the retail marijuana or retail marijuana product be highlighted on the product's label.

The committee referred the bill, as amended, to the House Appropriations Committee.

**House Appropriations Committee (April 15, 2016).** The committee adopted amendment J.001, which added an appropriations clause to the bill. The committee referred the bill, as amended, to the House Committee of the Whole.

**House second reading (April 15, 2016).** The House adopted the House Finance Committee and House Appropriations Committee reports. House passed the bill on second reading with no additional amendments.

**House third reading (April 18, 2016).** The House passed the bill on the third reading with no additional amendments.

## Senate Action

**Senate Business, Labor, and Technology Committee (April 27, 2016).** At the hearing, representatives of the Children's Hospital of Colorado, C4, LivWell, and Dixie Brands testified in support of the bill. Representatives of Arapahoe House, Smart Colorado, the Colorado Association

of Chiefs of Police, 36 Solutions, the North Metro Task Force, and several individuals representing themselves testified on the bill. Representatives of DORA and DOR answered committee questions. The committee referred the bill unamended to the Senate Finance Committee.

**Senate Finance Committee (May 3, 2016).** At the hearing, an individual representing herself testified against the bill. A representative from DOR answered committee questions. The committee referred the bill unamended to the Senate Appropriations Committee.

**Senate Appropriations Committee (May 5, 2016).** The committee referred the bill unamended to the Senate Committee of the Whole.

**Senate second reading (May 5, 2016).** The Senate passed the bill on second reading with no additional amendments.

**Senate third reading (May 6, 2016).** The Senate passed the bill on the third reading with no additional amendments.

## Relevant Research

Colorado Department of Regulatory Agencies, *2015 Sunset Review: Colorado Retail Marijuana Code*: <http://tinyurl.com/glnhojr>