

CHAPTER 247

REVENUE - ACTIVITIES REGULATION

SENATE BILL 22-178

BY SENATOR(S) Gonzales, Ginal, Jaquez Lewis, Lee, Moreno, Smallwood;
also REPRESENTATIVE(S) Valdez A. and Van Winkle, Bird, Hooton, Lindsay.

AN ACT

CONCERNING THE ABILITY FOR CERTAIN MARIJUANA LICENSEES TO CHANGE THE DESIGNATION OF MARIJUANA FROM MEDICAL TO RETAIL, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 44-10-502, **add** (9.5) as follows:

44-10-502. Medical marijuana cultivation facility license - rules - definitions.

(9.5) (a) **STARTING JANUARY 1, 2023, AFTER OBTAINING PASSING TEST RESULTS, A MEDICAL MARIJUANA CULTIVATION FACILITY MAY TRANSFER MEDICAL MARIJUANA TO A CO-LOCATED RETAIL MARIJUANA CULTIVATION FACILITY WITH AT LEAST ONE IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE MEDICAL MARIJUANA TO RETAIL MARIJUANA. PURSUANT TO SECTION 44-10-602 (13.5)(a), AFTER THE RETAIL MARIJUANA CULTIVATION FACILITY ENTERS THE DESIGNATION CHANGE INTO THE SEED-TO-SALE TRACKING SYSTEM, THE MARIJUANA IS RETAIL MARIJUANA AND IS THE PROPERTY OF THE RETAIL MARIJUANA CULTIVATION FACILITY. THE MARIJUANA THAT CHANGED DESIGNATION PURSUANT TO THIS SUBSECTION (9.5)(a) MUST NOT BE TRANSFERRED TO THE ORIGINATING MEDICAL MARIJUANA CULTIVATION FACILITY OR ANY MEDICAL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM RETAIL MARIJUANA BACK TO MEDICAL MARIJUANA, OR OTHERWISE BE TREATED AS MEDICAL MARIJUANA.**

(b) (I) **NOTWITHSTANDING SUBSECTION (9.5)(a) OF THIS SECTION TO THE CONTRARY, A MEDICAL MARIJUANA CULTIVATION FACILITY MAY TRANSFER MEDICAL MARIJUANA TO A RETAIL MARIJUANA CULTIVATION FACILITY THAT IS NOT CO-LOCATED WITH THE MEDICAL MARIJUANA CULTIVATION FACILITY TO CHANGE THE DESIGNATION OF THE MEDICAL MARIJUANA TO RETAIL MARIJUANA IF:**

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

(A) THE MEDICAL MARIJUANA CULTIVATION FACILITY AND RETAIL MARIJUANA CULTIVATION FACILITY HAVE AT LEAST ONE IDENTICAL CONTROLLING BENEFICIAL OWNER; AND

(B) THE MEDICAL MARIJUANA CULTIVATION FACILITY AND RETAIL MARIJUANA CULTIVATION FACILITY CANNOT BE CO-LOCATED BECAUSE THE LOCAL JURISDICTION PROHIBITS THE OPERATION OF EITHER A MEDICAL MARIJUANA CULTIVATION FACILITY OR A RETAIL MARIJUANA CULTIVATION FACILITY.

(II) PRIOR TO MAKING A TRANSFER PURSUANT TO THIS SUBSECTION (9.5)(b), THE MEDICAL MARIJUANA CULTIVATION FACILITY SHALL ENSURE THAT THE MEDICAL MARIJUANA PASSED ALL TESTS REQUIRED BY THE STATE LICENSING AUTHORITY IN RULE.

(c) BOTH THE MEDICAL MARIJUANA CULTIVATION FACILITY AND THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL REMAIN AT OR UNDER THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND AFTER THE TRANSFER IS CONDUCTED PURSUANT TO THIS SUBSECTION (9.5).

(d) THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL PAY ANY RETAIL MARIJUANA EXCISE TAX PURSUANT TO SECTION 39-28.8-302. THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL NOTIFY THE LOCAL LICENSING AUTHORITY IN THE LOCAL JURISDICTION WHERE THE TRANSFEROR AND TRANSFEREE OPERATE AND PAY ANY APPLICABLE EXCISE TAX ON THE TRANSFERRED RETAIL MARIJUANA.

(e) PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION (9.5), A MEDICAL MARIJUANA CULTIVATION FACILITY MAY MAKE A VIRTUAL TRANSFER OF MARIJUANA THAT IS REFLECTED IN THE SEED-TO-SALE TRACKING SYSTEM EVEN IF THE MARIJUANA IS NOT PHYSICALLY MOVED OR TRANSFERRED.

SECTION 2. In Colorado Revised Statutes, 44-10-602, **add** (13.5) as follows:

44-10-602. Retail marijuana cultivation facility license - rules - definitions.

(13.5) (a) STARTING JANUARY 1, 2023, AFTER OBTAINING PASSING TESTING RESULTS, A RETAIL MARIJUANA CULTIVATION FACILITY MAY RECEIVE A TRANSFER OF MEDICAL MARIJUANA FROM A CO-LOCATED MEDICAL MARIJUANA CULTIVATION FACILITY WITH AT LEAST ONE IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE MEDICAL MARIJUANA TO RETAIL MARIJUANA. THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL ENTER THE DESIGNATION CHANGE INTO THE SEED-TO-SALE TRACKING SYSTEM AND, AFTER THE CHANGE IS ENTERED INTO THE SYSTEM, THE MARIJUANA IS RETAIL MARIJUANA AND IS THE PROPERTY OF THE RETAIL MARIJUANA CULTIVATION FACILITY. THE MARIJUANA THAT CHANGED DESIGNATION PURSUANT TO THIS SUBSECTION (13.5)(a) MUST NOT BE TRANSFERRED TO THE ORIGINATING MEDICAL MARIJUANA CULTIVATION FACILITY OR ANY MEDICAL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM RETAIL MARIJUANA BACK TO MEDICAL MARIJUANA, OR OTHERWISE BE TREATED AS MEDICAL MARIJUANA.

(b) (I) NOTWITHSTANDING SUBSECTION (13.5)(a) OF THIS SECTION TO THE CONTRARY, A RETAIL MARIJUANA CULTIVATION FACILITY MAY RECEIVE A TRANSFER OF MEDICAL MARIJUANA FROM A MEDICAL MARIJUANA CULTIVATION FACILITY THAT

IS NOT CO-LOCATED WITH THE RETAIL MARIJUANA CULTIVATION FACILITY TO CHANGE THE DESIGNATION OF THE MEDICAL MARIJUANA TO RETAIL MARIJUANA IF:

(A) THE RETAIL MARIJUANA CULTIVATION FACILITY AND MEDICAL MARIJUANA CULTIVATION FACILITY HAVE AT LEAST ONE IDENTICAL CONTROLLING BENEFICIAL OWNER; AND

(B) THE RETAIL MARIJUANA CULTIVATION FACILITY AND MEDICAL MARIJUANA CULTIVATION FACILITY CANNOT BE CO-LOCATED BECAUSE THE LOCAL JURISDICTION PROHIBITS THE OPERATION OF EITHER A MEDICAL MARIJUANA CULTIVATION FACILITY OR A RETAIL MARIJUANA CULTIVATION FACILITY.

(II) PRIOR TO RECEIVING A TRANSFER PURSUANT TO THIS SUBSECTION (13.5)(b), THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL ENSURE THAT THE MEDICAL MARIJUANA PASSED ALL TESTS REQUIRED BY THE STATE LICENSING AUTHORITY IN RULE.

(c) BOTH THE RETAIL MARIJUANA CULTIVATION FACILITY AND THE MEDICAL MARIJUANA CULTIVATION FACILITY SHALL REMAIN AT OR UNDER THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND AFTER THE TRANSFER IS CONDUCTED PURSUANT TO THIS SUBSECTION (13.5).

(d) THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL PAY ANY RETAIL MARIJUANA EXCISE TAX PURSUANT TO SECTION 39-28.8-302. THE RETAIL MARIJUANA CULTIVATION FACILITY SHALL NOTIFY THE LOCAL LICENSING AUTHORITY IN THE LOCAL JURISDICTION WHERE THE TRANSFEROR AND TRANSFEREE OPERATE AND PAY ANY APPLICABLE EXCISE TAX ON THE TRANSFERRED RETAIL MARIJUANA.

(e) PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION (13.5), A RETAIL MARIJUANA CULTIVATION FACILITY MAY RECEIVE A VIRTUAL TRANSFER OF MARIJUANA THAT IS REFLECTED IN THE SEED-TO-SALE TRACKING SYSTEM EVEN IF THE MARIJUANA IS NOT PHYSICALLY MOVED OR TRANSFERRED.

SECTION 3. Appropriation. For the 2022-23 state fiscal year, \$228,510 is appropriated to the department of revenue for use by the marijuana enforcement division. This appropriation is from the marijuana cash fund created in section 44-10-801 (1)(a), C.R.S., and is based on an assumption that the division will require an additional 2.9 FTE. To implement this act, the division may use this appropriation for marijuana enforcement.

SECTION 4. Effective date. This act takes effect July 1, 2022.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 26, 2022