

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0607.02 Michael Dohr x4347

HOUSE BILL 18-1381

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A BILL FOR AN ACT

101 CONCERNING OPERATIONS RELATED TO THE SALE OF MEDICAL
102 MARIJUANA IN THE REGULATED MEDICAL MARIJUANA MARKET,
103 AND, IN CONNECTION THEREWITH, MOVING FROM THE SEVENTY
104 PERCENT OWN SOURCE REQUIREMENT TO A ONE-YEAR
105 TRANSITION PERIOD OF FIFTY PERCENT OWN SOURCE
106 REQUIREMENT TO AN ELIMINATION OF THE OWN SOURCE
107 REQUIREMENT.

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>.)

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.

Under current law, a medical marijuana center must source 70% of the medical marijuana it sells from its associated optional premises cultivation facility. Similarly, an optional premises cultivation facility must have 70% of the medical marijuana it cultivates sold through its associated medical marijuana center. The bill eliminates that requirement and allows medical marijuana centers to source medical marijuana from any optional premises cultivation facility.

The bill creates a transition period between the current limited sourcing model that begins July 1, 2018. For one year from that date, medical marijuana centers and optional premises cultivation facilities can purchase and sell 50% of their inventory as a wholesale transaction, and medical marijuana trim is not included in the calculation of the percentage. Then, on or after July 1, 2019, an optional premises cultivation facility may sell any amount of the medical marijuana it cultivates to any medical marijuana center. Similarly, a medical marijuana center may source its medical marijuana from any optional premises cultivation facility without restriction. Additionally, the state licensing authority shall adopt a production management system similar to the system in the retail marijuana code.

The bill allows a medical marijuana center to sell medical marijuana acquired from an optional premises cultivation facility licensee or medical marijuana-infused products manufacturer licensee. A medical marijuana center can sell more than 2 ounces to a patient if that patient has a recommended extended ounce count from his or her physician and registers with the medical marijuana center as his or her primary center. The patient also has to sign an affidavit that he or she does not have a primary caregiver cultivating medical marijuana on his or her behalf.

The bill makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43.3-202, **add** (4)

3 as follows:

4 **12-43.3-202. Powers and duties of state licensing authority -**

5 **rules.** (4) RULES PROMULGATED PURSUANT TO SUBSECTION (1)(b) OF

6 THIS SECTION MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE

7 FOLLOWING SUBJECTS:

8 (a) THE STATE LICENSING AUTHORITY SHALL CREATE A STATEWIDE

1 LICENSURE CLASS SYSTEM FOR OPTIONAL PREMISES CULTIVATION FACILITY
2 LICENSES. THE CLASSIFICATIONS MAY BE BASED UPON SQUARE FOOTAGE
3 OF THE FACILITY; LIGHTS, LUMENS, OR WATTAGE; LIT CANOPY; THE
4 NUMBER OF CULTIVATING PLANTS; OTHER REASONABLE METRICS; OR ANY
5 COMBINATION THEREOF. THE STATE LICENSING AUTHORITY SHALL CREATE
6 A FEE STRUCTURE FOR THE LICENSURE CLASS SYSTEM.

7 (b) (I) THE STATE LICENSING AUTHORITY MAY ESTABLISH
8 LIMITATIONS UPON MEDICAL MARIJUANA PRODUCTION THROUGH ONE OR
9 MORE OF THE FOLLOWING METHODS:

10 (A) PLACING OR MODIFYING A LIMIT ON THE NUMBER OF LICENSES
11 THAT IT ISSUES, BY CLASS OR OVERALL, BUT IN PLACING OR MODIFYING
12 THE LIMITS, THE AUTHORITY SHALL CONSIDER THE REASONABLE
13 AVAILABILITY OF NEW LICENSES AFTER A LIMIT IS ESTABLISHED OR
14 MODIFIED;

15 (B) PLACING OR MODIFYING A LIMIT ON THE AMOUNT OF
16 PRODUCTION PERMITTED BY AN OPTIONAL PREMISES CULTIVATION
17 FACILITY LICENSE OR CLASS OF LICENSES BASED UPON SOME REASONABLE
18 METRIC OR SET OF METRICS INCLUDING, BUT NOT LIMITED TO, THOSE ITEMS
19 DETAILED IN SUBSECTION (4)(a) OF THIS SECTION, PREVIOUS MONTHS'
20 SALES, PENDING SALES, OR OTHER REASONABLE METRICS AS DETERMINED
21 BY THE STATE LICENSING AUTHORITY; AND

22 (C) PLACING OR MODIFYING A LIMIT ON THE TOTAL AMOUNT OF
23 PRODUCTION BY OPTIONAL PREMISES CULTIVATION FACILITY LICENSEES IN
24 THE STATE, COLLECTIVELY, BASED UPON SOME REASONABLE METRIC OR
25 SET OF METRICS INCLUDING, BUT NOT LIMITED TO, THOSE ITEMS DETAILED
26 IN SUBSECTION (4)(a) OF THIS SECTION, AS DETERMINED BY THE STATE
27 LICENSING AUTHORITY.

1 (II) WHEN CONSIDERING ANY SUCH LIMITATIONS, THE STATE
2 LICENSING AUTHORITY SHALL:

3 (A) CONSIDER THE TOTAL CURRENT AND ANTICIPATED DEMAND
4 FOR MEDICAL MARIJUANA AND MEDICAL MARIJUANA-INFUSED PRODUCTS
5 IN COLORADO;

6 (B) CONSIDER ANY OTHER RELEVANT FACTORS; AND

7 (C) ATTEMPT TO MINIMIZE THE MARKET FOR UNLAWFUL
8 MARIJUANA.

9 (c) THE STATE LICENSING AUTHORITY MAY ADOPT REGULATIONS
10 THAT LIMIT THE AMOUNT OF MEDICAL MARIJUANA INVENTORY THAT A
11 MEDICAL MARIJUANA CENTER MAY HAVE ON HAND. IF THE STATE
12 LICENSING AUTHORITY ADOPTS A LIMITATION, THE LIMITATION MUST BE
13 COMMERCIALY REASONABLE AND CONSIDER FACTORS INCLUDING A
14 MEDICAL MARIJUANA CENTER'S SALES HISTORY AND THE NUMBER OF
15 PATIENTS THAT ARE REGISTERED AT A MEDICAL MARIJUANA CENTER AS
16 THEIR PRIMARY CENTER.

17 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
18 **with amendments,** 12-43.3-403 as follows:

19 **12-43.3-403. Optional premises cultivation facility license.**

20 (1) AN OPTIONAL PREMISES CULTIVATION FACILITY LICENSE MAY BE
21 ISSUED ONLY TO A PERSON WHO CULTIVATES MEDICAL MARIJUANA FOR
22 SALE AND DISTRIBUTION TO LICENSED MEDICAL MARIJUANA CENTERS,
23 MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER LICENSEES, OR
24 OTHER OPTIONAL PREMISES CULTIVATION FACILITIES.

25 (2) AN OPTIONAL PREMISES CULTIVATION FACILITY SHALL TRACK
26 THE MARIJUANA IT CULTIVATES FROM SEED OR IMMATURE PLANT TO
27 WHOLESALE PURCHASE.

1 (3) AN OPTIONAL PREMISES CULTIVATION FACILITY MAY PROVIDE,
2 EXCEPT AS REQUIRED BY SECTION 12-43.3-202 (2.5)(a)(I), A SAMPLE OF
3 ITS PRODUCTS TO A FACILITY THAT HAS A MARIJUANA TESTING FACILITY
4 LICENSE FROM THE STATE LICENSING AUTHORITY FOR TESTING AND
5 RESEARCH PURPOSES. AN OPTIONAL PREMISES CULTIVATION FACILITY
6 SHALL MAINTAIN A RECORD OF WHAT WAS PROVIDED TO THE TESTING
7 FACILITY, THE IDENTITY OF THE TESTING FACILITY, AND THE TESTING
8 RESULTS.

9 (4) MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED
10 PRODUCTS MAY NOT BE CONSUMED ON THE PREMISES OF AN OPTIONAL
11 PREMISES CULTIVATION FACILITY.

12 **SECTION 3.** In Colorado Revised Statutes, 12-43.3-402, **amend**
13 (3) and (4) as follows:

14 **12-43.3-402. Medical marijuana center license - repeal.**

15 (3) Every person selling medical marijuana as provided for in this ~~article~~
16 ARTICLE 43.3 shall sell only medical marijuana grown in its medical
17 marijuana optional premises licensed pursuant to this article. A MEDICAL
18 MARIJUANA CENTER MAY NOT SELL MORE THAN TWO OUNCES OF MEDICAL
19 MARIJUANA TO A PATIENT OR CAREGIVER; EXCEPT THAT A MEDICAL
20 MARIJUANA CENTER MAY SELL MORE THAN TWO OUNCES TO A PATIENT OR
21 CAREGIVER WHO HAS BEEN RECOMMENDED AN EXTENDED OUNCE COUNT
22 BY HIS OR HER RECOMMENDING PHYSICIAN IN ACCORDANCE WITH
23 REGULATIONS ADOPTED BY THE STATE LICENSING AUTHORITY. In addition
24 to medical marijuana, a medical marijuana center may sell no more than
25 six immature plants to a patient; except that a medical marijuana center
26 may sell more than six immature plants, but may not exceed half the
27 recommended plant count, to a patient who has been recommended an

1 expanded plant count by his or her recommending physician IN
2 ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE LICENSING
3 AUTHORITY. A medical marijuana center may sell immature plants to a
4 primary caregiver, another medical marijuana center, or a medical
5 marijuana-infused product manufacturer pursuant to rules promulgated
6 by the state licensing authority. The provisions of this subsection (3) shall
7 DO not apply to medical marijuana-infused products.

8 (4) (a) Notwithstanding the requirements of subsection (3) of this
9 section to the contrary, a medical marijuana licensee may purchase not
10 more than ~~thirty~~ FIFTY percent of its total on-hand inventory of medical
11 marijuana, EXCLUDING MEDICAL MARIJUANA TRIM, from another licensed
12 medical marijuana center in Colorado. A medical marijuana center may
13 sell no more than ~~thirty~~ FIFTY percent of its total on-hand inventory,
14 EXCLUDING MEDICAL MARIJUANA TRIM, to another Colorado licensed
15 medical marijuana licensee; except that the director of the division that
16 regulates medical marijuana may grant a temporary waiver:

17 ~~(a)~~ (I) To a medical marijuana center or applicant if the medical
18 marijuana center or applicant suffers a catastrophic event related to its
19 inventory; or

20 ~~(b)~~ (II) To a new medical marijuana center licensee for a period
21 not to exceed ninety days so the new licensee can cultivate the necessary
22 medical marijuana to comply with this subsection (4).

23 (b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2019.

24 **SECTION 4.** In Colorado Revised Statutes, 12-43.3-402, **repeal**
25 **and reenact, with amendments, as amended by section 3 of this act,**
26 (3) as follows:

27 **12-43.3-402. Medical marijuana center license - repeal.**

1 (3) (a) EVERY PERSON SELLING MEDICAL MARIJUANA AS PROVIDED FOR
2 IN THIS ARTICLE 43.3 SHALL SELL ONLY MEDICAL MARIJUANA ACQUIRED
3 FROM AN OPTIONAL PREMISES CULTIVATION FACILITY LICENSEE, MEDICAL
4 MARIJUANA-INFUSED PRODUCTS MANUFACTURER LICENSEE, OR ANOTHER
5 MEDICAL MARIJUANA CENTER.

6 (b) A MEDICAL MARIJUANA CENTER MAY NOT SELL MORE THAN
7 TWO OUNCES OF MEDICAL MARIJUANA TO A PATIENT OR CAREGIVER;
8 EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY SELL MORE THAN TWO
9 OUNCES TO A PATIENT OR CAREGIVER WHO HAS BEEN RECOMMENDED AN
10 EXTENDED OUNCE COUNT BY HIS OR HER RECOMMENDING PHYSICIAN IN
11 ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE LICENSING
12 AUTHORITY.

13 (c) IN ADDITION TO MEDICAL MARIJUANA, A MEDICAL MARIJUANA
14 CENTER MAY SELL NO MORE THAN SIX IMMATURE PLANTS TO A PATIENT;
15 EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY SELL MORE THAN SIX
16 IMMATURE PLANTS, BUT MAY NOT EXCEED HALF THE RECOMMENDED
17 PLANT COUNT, TO A PATIENT WHO HAS BEEN RECOMMENDED AN
18 EXPANDED PLANT COUNT BY HIS OR HER RECOMMENDING PHYSICIAN IN
19 ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE LICENSING
20 AUTHORITY. A MEDICAL MARIJUANA CENTER MAY SELL IMMATURE PLANTS
21 TO A PRIMARY CAREGIVER, ANOTHER MEDICAL MARIJUANA CENTER, OR A
22 MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER PURSUANT TO
23 RULES PROMULGATED BY THE STATE LICENSING AUTHORITY.

24 (d) A MEDICAL MARIJUANA CENTER MAY SELL MEDICAL
25 MARIJUANA TO ANOTHER MEDICAL MARIJUANA CENTER, AN OPTIONAL
26 PREMISES CULTIVATION FACILITY, OR A MEDICAL MARIJUANA-INFUSED
27 PRODUCTS MANUFACTURERS PURSUANT TO RULES PROMULGATED BY THE

1 STATE LICENSING AUTHORITY.

2 (e) THE PROVISIONS OF THIS SUBSECTION (3) DO NOT APPLY TO
3 MEDICAL MARIJUANA-INFUSED PRODUCTS.

4 **SECTION 5.** In Colorado Revised Statutes, 12-43.3-404, **amend**
5 (1)(b); and **repeal** (8) as follows:

6 **12-43.3-404. Medical marijuana-infused products**
7 **manufacturer license - rules.** (1) (b) A medical marijuana-infused
8 products manufacturer may cultivate its own medical marijuana if it
9 obtains a medical marijuana optional premises cultivation facility license,
10 it may purchase medical marijuana from a medical marijuana center
11 pursuant to subsection (3) of this section, IT MAY PURCHASE MEDICAL
12 MARIJUANA FROM AN OPTIONAL PREMISES CULTIVATION FACILITY
13 LICENSEE, or it may purchase medical marijuana from another medical
14 marijuana-infused products manufacturer. A medical marijuana-infused
15 products manufacturer shall track all of its medical marijuana from the
16 point it is either transferred from its medical marijuana optional premises
17 cultivation facility or the point when it is delivered to the medical
18 marijuana-infused products manufacturer from a medical marijuana
19 center, A MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION
20 FACILITY LICENSEE, a medical marijuana-infused products manufacturer,
21 or one of their medical marijuana optional premises cultivation facilities
22 to the point of transfer to a medical marijuana center or a medical
23 marijuana-infused products manufacturer.

24 ~~(8) A medical marijuana-infused products manufacturer that has~~
25 ~~an optional premises cultivation license shall not sell any of the medical~~
26 ~~marijuana that it cultivates except for the medical marijuana that is~~
27 ~~contained in medical marijuana-infused products.~~

1 **SECTION 6.** In Colorado Revised Statutes, 12-43.3-901, **repeal**
2 (4)(e) and (5) as follows:

3 **12-43.3-901. Unlawful acts - exceptions.** (4) It is unlawful for
4 any person licensed to sell medical marijuana pursuant to this article:

5 (e) ~~To possess more than six medical marijuana plants and two~~
6 ~~ounces of medical marijuana for each patient who has registered the~~
7 ~~center as his or her primary center pursuant to section 25-1.5-106 (8)(f),~~
8 ~~C.R.S.; except that a medical marijuana center may have an amount that~~
9 ~~exceeds the six-plant and two-ounce product per patient limit if the center~~
10 ~~sells to patients that are authorized to have more than six plants and two~~
11 ~~ounces of product. In the case of a patient authorized to exceed the~~
12 ~~six-plant and two-ounce limit, the center shall obtain documentation from~~
13 ~~the patient's physician that the patient needs more than six plants and two~~
14 ~~ounces of product.~~

15 (5) ~~Except as provided in sections 12-43.3-402 (4), 12-43.3-403,~~
16 ~~and 12-43.3-404, it is unlawful for a medical marijuana center, medical~~
17 ~~marijuana-infused products manufacturing operation with an optional~~
18 ~~premises cultivation license, or medical marijuana center with an optional~~
19 ~~premises cultivation license to sell, deliver, or cause to be delivered to a~~
20 ~~licensee any medical marijuana not grown upon its licensed premises, or~~
21 ~~for a licensee or medical marijuana center with an optional premises~~
22 ~~cultivation license or medical marijuana-infused products manufacturing~~
23 ~~operation with an optional premises cultivation license to sell, possess, or~~
24 ~~permit sale of medical marijuana not grown upon its licensed premises.~~
25 ~~A violation of the provisions of this subsection (5) by a licensee shall be~~
26 ~~grounds for the immediate revocation of the license granted under this~~
27 ~~article.~~

1 **SECTION 7. Effective date.** This act takes effect July 1, 2019;
2 except that section 3 of this act takes effect July 1, 2018.

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