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## Liquor, Gaming, and Marijuana

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During the 2021 legislative session, the General Assembly passed numerous measures related to the liquor, gaming, and marijuana industries.

### Liquor

The General Assembly passed the following bills related to the liquor industry.

In response to the COVID-19 public health emergency, the Governor issued an executive order allowing certain on-premises retail liquor licenses, such as restaurants, brewpubs, and taverns, to sell alcohol as part of takeout and delivery orders. This was codified by the legislature by Senate Bill 20-213, which was scheduled to be in place through July 1, 2021. *House Bill 21-1027* extends this through July 1, 2025. The bill also allows two or more eligible on-premises retail liquor licensees to use a communal outdoor dining area that is within 1,000 feet of each licensed premises.

*Senate Bill 21-270* increases the amount of spirits a licensed distillery pub may produce annually from 45,000 liters to 875,000 liters. The bill also increases the amount of wine a licensed vintner's restaurant may produce annually from 250,000 gallons to 925,000 gallons.

*House Bill 21-1044* allows a licensed winery's or licensed limited winery's premises to include up to two noncontiguous locations within a

ten-mile radius. The winery may operate a sales room at only one of the locations.

Under current law, a winery may obtain a wine festival permit to hold up to nine wine festivals per year, at which tastings and retail sales are allowed. *Senate Bill 21-082* enables beer and spirits manufacturers and certain retail liquor licensees, such as taverns and restaurants, to obtain a wine festival permit.

Under *Senate Bill 21-133*, if a club liquor licensee, such as an Elks Lodge or American Legion Post, purchases alcohol from a wholesaler for a special event held on the premises, the licensee is not required to store that alcohol separately from the licensee's inventory.

### Gaming

The General Assembly passed the following bills related to the gaming industry.

The Local Government Limited Gaming Impact Fund provides financial assistance to eligible local governments for gaming impacts, and awards grants to provide gambling addiction counseling, prevention, and education. *House Bill 21-1132* specifies that grants from the fund should only be awarded for explicitly identifiable and well-documented negative impacts resulting from limited gaming and

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grants should be distributed based on the relative need of the local government.

*House Bill 21-1249*, sponsored by the Legislative Audit Committee, repeals the requirement that the Office of the State Auditor conduct audits in 2022 and 2027 on the portion of Limited Gaming Fund revenue that is transferred to the State Historical Fund for the preservation and restoration of Black Hawk, Central City, and Cripple Creek.

*House Bill 21-1292* requires the Division of Gaming in the Department of Revenue to provide monthly and annual reports that contain additional information related to sports betting activity in Black Hawk, Central City, and Cripple Creek. The bill also places additional requirements on the county assessors in Gilpin and Teller Counties if they use aggregate sports betting information that results in an increase in the actual value of the casino's real property.

The Colorado Limited Gaming Control Commission is responsible for promulgating the rules and regulations governing limited gaming in Colorado. The commission consists of five members who are appointed by the Governor. *Senate Bill 21-155* requires the Governor to prioritize appointing members who are registered electors of Gilpin or Teller Counties.

### Marijuana

The General Assembly passed the following bills related to the regulated marijuana industry.

*House Bill 21-1317* makes a wide range of changes that effect doctors and patients in the state's medical marijuana program, requires additional studies related to marijuana be

conducted, and places other restrictions on the sales of marijuana.

The bill places additional requirements on patients who are age 18 to 21 and are seeking to obtain a medical marijuana card for the first time. These individuals are required to be diagnosed as having a debilitating or disabling medical condition after in-person consultations with two physicians from separate medical practices. These individuals, unless homebound, are required to attend follow-up appointments with one of the recommending physicians every six months.

The bill also makes several changes that impact physicians who recommend medical marijuana to their patients including:

- requiring a physician that recommends marijuana to review any existing records of the diagnosing physician or licensed mental health provider;
- requiring physicians who certify a debilitating or disabling medical condition for an applicant to the medical marijuana program to include in the certification specific information, such as the maximum THC potency level of medical marijuana being recommended, the recommended product, the patient's daily authorized quantity, and directions for use;
- prohibiting physicians from charging patients an additional fee to recommend an extended plant count; and
- requiring physicians to take a medical continuing education course regarding medical marijuana that is at least five hours every two years.

The bill also directs a number of studies related to marijuana be conducted. The Colorado School of Public Health is required to conduct a

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review of all available research regarding the possible effects of high-potency THC marijuana and marijuana concentrates. The research must identify any gaps that exist in the research and what studies may be needed to fill those gaps. The Colorado Department of Public Health and Environment (CDPHE) is required to create a report from hospital and emergency room data related to patients with conditions or a diagnosis that reflects marijuana use. Finally, the coroners' association is required to study methods to test for all scheduled drugs and the presence and quantity of THC, and beginning in 2022, coroners will be required to complete a full toxicology screen, including testing for the presence of THC, in each case of a non-natural death, excluding homicide, for Colorado residents under the age of 25. Information from these toxicology screens must be provided to CDPHE, which must compile and report the information collected annually.

The bill requires medical marijuana stores to record each sales transaction in the seed-to-sale inventory tracking system to prevent patients from purchasing more than their daily authorized quantity and THC potency limits. The bill also limits most medical and retail marijuana consumers from purchasing more than eight grams of marijuana concentrate in a single day. Most medical marijuana patients age 18 to 21 may not purchase more than two grams of medical marijuana concentrate in a single day. Marijuana stores are also required to provide customers who purchase marijuana concentrate with an educational resource that is created by the Marijuana Enforcement Division.

Finally, the Marijuana Enforcement Division is required to promulgate rules related to marijuana concentrates that are intended to promote consumer health and awareness, including the recommended serving size, labeling requirements, and a notice regarding the potential risks of overconsumption that must be included in any advertising or

marketing that is specific to marijuana concentrate.

*Senate Bill 21-056* requires schools to treat nonsmokeable medical marijuana that is legally recommended by a licensed physician the same as a medication prescribed by a licensed health care practitioner. The bill requires school district boards of education to include information about the process for the storage, possession, and administration of nonsmokeable medical marijuana by students with a valid medical marijuana card on school grounds in the districts' policies for prescription medication. The bill also allows school personnel to volunteer to possess, administer, or assist in the administration of nonsmokeable medical marijuana.

*House Bill 21-1090* addresses the criminal penalties for the possession of small amounts of marijuana and allows certain marijuana offenses to be sealed. The bill raises the limit for illegal possession of marijuana by a person under the age of 21 from one ounce to two ounces. The bill also allows individuals who have been convicted of marijuana possession to have their record sealed if they have not been convicted of a criminal offense since the final disposition of all criminal proceedings or their release from supervision, whichever is later. Finally, the bill allows individuals who have been convicted of class 3 felony for marijuana cultivation to petition the court to have their record sealed.

*House Bill 21-1301* addresses issues related to the outdoor cultivation of marijuana, including creating a working group, to be convened by the Department of Agriculture, that will study and recommend options for minimizing cross-pollination between marijuana and industrial hemp, and allowing marijuana cultivation facilities to file a contingency plan for its outdoor cultivation operation when there is an adverse weather event. The bill also

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requires the Marijuana Enforcement Division to convene a working group to examine how the state's existing rules and tax laws that apply to the state's wholesale marijuana cultivation market may be amended to better position businesses in the state to be competitive if marijuana is legalized under federal law.

**Marijuana business operations.** The general assembly passed several bills related to the operations of marijuana-licensed businesses.

*Senate Bill 21-111* creates the Marijuana Entrepreneur Assistance Program in the Office of Economic Development and International Trade and provides and appropriation of \$4.0 million from the Marijuana Tax Cash Fund for the program. The program is intended to support entrepreneurs in the marijuana industry by providing loans, grants, and technical assistance to social equity licensees.

*House Bill 21-1216* allows medical marijuana cultivation facilities and product manufacturers to receive marijuana from a co-located retail facility with at least one identical controlling beneficial owner and change the marijuana's designation from retail to medical. The business is not entitled to a refund of any excise taxes that have been imposed or paid on the marijuana prior to the transfer and change of designation. The Marijuana Enforcement Division is required to analyze the feasibility of allowing a designation change for medical marijuana to retail marijuana and provide a report to the General Assembly in January 2022.

*House Bill 21-1204* creates an exception for purposes of unemployment insurance under the Colorado Employment Security Act for an employee leasing company or other employing entity to be considered an employing unit rather than a common paymaster if the company or entity is owned by a medical or retail marijuana licensee that owns at least 50 percent of an entity that shares the employee

leasing company or other employing entity's services.