

## CHAPTER 130

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**REVENUE - ACTIVITIES REGULATION**

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## HOUSE BILL 21-1178

BY REPRESENTATIVE(S) Pico and Valdez D., Arndt, Lynch, Ricks, Snyder;  
also SENATOR(S) Woodward and Zenzinger, Moreno, Kirkmeyer.

**AN ACT****CONCERNING CORRECTING NONSUBSTANTIVE ERRORS IN THE COLORADO MARIJUANA CODE.**

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

**SECTION 1.** In Colorado Revised Statutes, 44-10-103, **amend** (8), (9), (41), (50)(a) introductory portion, (50)(a)(I), (50)(a)(II)(A), (50)(b)(I), (50)(d), (51), (52) introductory portion, (52)(a), (65), and (68) as follows:

**44-10-103. Definitions.** As used in this article 10, unless the context otherwise requires:

(8) "Affiliate" of, or person "affiliated with", has the same meaning as defined in the "~~Securities Act of 1933~~", as amended ***17 CFR 230.405***.

(9) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" owner's interest is determined in accordance with ~~section 13(d) of the federal "Securities Exchange Act of 1934" as amended, and rule 13d-3 promulgated thereunder~~ ***17 CFR 240.13d-3***.

(41) "Medical marijuana transporter" means an entity or person ~~that is~~ licensed to transport medical marijuana and medical marijuana products from one medical marijuana business to another medical marijuana business and to temporarily store the transported medical marijuana and medical marijuana products at its licensed premises, but is not authorized to sell medical marijuana or medical marijuana products under any circumstances.

(50) "Publicly traded corporation" means any person other than an individual that is organized under the laws of and for which its principal place of business is

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*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.*

located in one of the states or territories of the United States or District of Columbia or another country that authorizes the sale of marijuana and that:

(a) Has a class of securities registered pursuant to ~~section 12 of the federal "Securities Exchange Act of 1934", as amended~~ 15 U.S.C. SEC. 77a ET SEQ., that:

(I) Constitutes "covered securities" pursuant to ~~section 18 (b)(1)(A) of the federal "Securities Act of 1933", as amended~~ 15 U.S.C. SEC. 77r (b)(1)(A); or

(II) Is qualified and quoted on the OTCQX or OTCQB tier of the OTC markets if:

(A) The person is then required to file reports and is filing reports on a current basis with the federal securities and exchange commission pursuant to ~~the federal "Securities Exchange Act of 1934", as amended~~ 15 U.S.C. SEC. 78a ET SEQ., as if the securities constituted "covered securities" as described in ~~subsection (46)(a)(I) SUBSECTION (50)(a)(I) of this section; and~~

(b) Is an entity that has a class of securities listed on the Canadian securities exchange, Toronto stock exchange, TSX venture exchange, or other equity securities exchange recognized by the state licensing authority, if:

(I) The entity constitutes a "foreign private issuer", as defined in ~~rule 405 promulgated pursuant to the federal "Securities Act of 1933", as amended~~ **17 CFR 230.405**, whose securities are exempt from registration pursuant to ~~section 12 of the federal "Securities Exchange Act of 1934", as amended;~~ 15 U.S.C. SEC. 78a ET SEQ. pursuant to ~~rule 12g3-2 (b) promulgated pursuant to the federal "Securities Exchange Act of 1934", as amended~~ **17 CFR 240.12g3-2**; and

(d) A "publicly traded corporation" described in subsection (50)(a), (50)(b), or (50)(c) of this section does not include:

(I) An "ineligible issuer", as defined in ~~rule 405 promulgated pursuant to the federal "Securities Act of 1933", as amended~~ **17 CFR 230.405**, unless such publicly traded corporation satisfies the definition of ineligible issuer solely because it is one or more of the following, and the person is filing reports on a current basis with the federal securities and exchange commission pursuant to ~~the federal "Securities Exchange Act of 1934", as amended~~ 15 U.S.C. SEC. 78a ET SEQ., as if the securities constituted "covered securities" as described in subsection (50)(a)(I) of this section, and prior to becoming a publicly traded corporation, the person for at least two years was licensed by the state licensing authority as a medical marijuana business or retail marijuana business with a demonstrated history of operations in the state of Colorado, and during such time was not subject to suspension or revocation of the license:

(A) A "blank check company", as defined in ~~rule 419 (a)(2) promulgated pursuant to the federal "Securities Act of 1933", as amended~~ **17 CFR 230.419 (a)(2)**;

(B) An issuer in an offering of "penny stock", as defined in ~~rule 3a51-1 promulgated pursuant to the federal "Securities Exchange Act of 1934"~~ **17 CFR**

**240.3a51-1**; or

(C) A "shell company", as defined in ~~rule 405 promulgated pursuant to the federal "Securities Act of 1933", as amended 17 CFR 240.12b-2;~~ and

(II) A person disqualified as a "bad actor" ~~under rule 506 (d) promulgated pursuant to the federal "Securities Act of 1933", as amended~~ PURSUANT TO 17 CFR 230.506 (d)(1).

(51) "Qualified institutional investor" means:

(a) A bank, as defined in ~~section 3 (a)(6) of the federal "Securities Exchange Act of 1934", as amended~~ 15 U.S.C. SEC. 78c (a)(6), if the bank is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

(b) A bank holding company, as defined in ~~the federal "Bank Holding Company Act of 1956", as amended~~ 12 U.S.C. SEC. 1841 (a)(1), if the bank holding company is registered and current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

(c) An insurance company, as defined in ~~section 2 (a)(17) of the federal "Investment Company Act of 1940", as amended~~ 15 U.S.C. SEC. 80a-2 (a)(17), if the insurance company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

(d) An investment company registered ~~under section 8 of the federal "Investment Company Act of 1940", as amended~~ and subject to 15 U.S.C. sec. 80a-1 to 80a-64 ET SEQ., if the investment company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

(e) An employee benefit plan or pension fund subject to ~~the federal "Employee Retirement Income Security Act of 1974"~~ 29 U.S.C. SEC. 1001 ET SEQ., excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns ten percent or more of a licensee;

(f) A state or federal government pension plan;

(g) A group comprised entirely of persons specified in subsections (51)(a) to (51)(f) of this section; or

(h) Any other entity identified by rule by the state licensing authority.

(52) "Qualified private fund" means an issuer that would be an investment company, as defined in, ~~section 3 of the federal "Investment Company Act of 1940",~~ but for the exclusions provided under, ~~sections 3(c)(1) or 3(c)(7) of that act~~ 15 U.S.C. SEC. 80a-3, and that:

(a) Is advised or managed by an investment adviser, as defined and registered ~~under sections 80b-1-21, title 15 of the federal "Investment Advisers Act of 1940"~~

PURSUANT TO 15 U.S.C. SEC. 80b-1 ET SEQ., and for which the registered investment adviser is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder; and

(65) "Retail marijuana transporter" means an entity or person ~~that is~~ licensed to transport retail marijuana and retail marijuana products from one retail marijuana business to another retail marijuana business and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell retail marijuana or retail marijuana products under any circumstances.

(68) "Security" has the same meaning as DEFINED in ~~section (2)(1) of the federal "Securities Act of 1933", as amended~~ 15 U.S.C. SEC. ET SEQ. 77b (a)(1).

**SECTION 2.** In Colorado Revised Statutes, 44-10-202, **amend** (1)(b) as follows:

**44-10-202. Powers and duties of state licensing authority - rules - legislative declaration - repeal.** (1) **Powers and duties.** The state licensing authority shall:

(b) Grant or refuse state licenses for the cultivation, manufacture, distribution, sale, hospitality, and testing of regulated marijuana and regulated marijuana products as provided by law; suspend, fine, restrict, or revoke such licenses, whether active, expired, or surrendered, upon a violation of this article 10 or any rule promulgated pursuant to this article 10; and impose any penalty authorized by this article 10 or any rule promulgated pursuant to this article 10. The state licensing authority may take any action with respect to a registration OR PERMIT pursuant to this article 10 as it may with respect to a license pursuant to this article 10, in accordance with the procedures established pursuant to this article 10.

**SECTION 3.** In Colorado Revised Statutes, 44-10-203, **amend** (2)(q) as follows:

**44-10-203. State licensing authority - rules.** (2) **Mandatory rule-making.** Rules promulgated pursuant to section 44-10-202 (1)(c) must include but need not be limited to the following subjects:

(q) Temporary appointee registrations issued pursuant to ~~section 44-10-401 (2)~~ SECTION 44-10-401 (3), including occupational and business registration requirements; application time frames; notification requirements; issuance, expiration, renewal, suspension, and revocation of a temporary appointee registration; and conditions of registration;

**SECTION 4.** In Colorado Revised Statutes, 44-10-307, **amend** (1)(n), (1)(o), and (1)(p) as follows:

**44-10-307. Persons prohibited as licensees - definition.** (1) A license provided by this article 10 shall not be issued to or held by:

(n) A person that is or has a controlling beneficial owner that is disqualified as a "bad actor" ~~under rule 506 (d) promulgated pursuant to the federal "Securities Act of 1933", as amended, and subject~~ PURSUANT to 17 CFR 230.506 (d)(1);

(o) A person that is not a publicly traded corporation that is or has a passive beneficial owner or indirect financial interest holder that is disqualified as a "bad actor" ~~under rule 506 (d) promulgated pursuant to the federal "Securities Act of 1933", as amended, and subject~~ PURSUANT to 17 CFR 230.506 (d)(1);

(p) A person that is a publicly traded corporation that is or has a nonobjecting passive beneficial owner or indirect financial interest holder that is disqualified as a "bad actor" ~~under rule 506 (d) promulgated pursuant to the federal "Securities Act of 1933", as amended, and subject~~ PURSUANT to 17 CFR 230.506 (d)(1); or

**SECTION 5.** In Colorado Revised Statutes, 44-10-308, **amend** (1)(a)(VII) as follows:

**44-10-308. Business and owner requirements - legislative declaration - definition.** (1) (a) The general assembly hereby finds and declares that:

(VII) Recognizing that participation by publicly traded corporations in Colorado's medical marijuana industry and retail marijuana industry creates an increased need to assess barriers of entry for minority- and woman-owned businesses, with such efforts being made to identify solutions to arrive at a greater balance and for further equity for minority- and woman-owned businesses, and in a manner that is consistent with the public safety and enforcement goals as stated ~~herein~~ IN THIS SUBSECTION (1), it is therefore of substantive importance to address the lack of minority- and woman-owned businesses' inclusion in Colorado's medical marijuana industry and retail marijuana industry, social justice issues associated with marijuana prohibition, suitability issues relating to past convictions for potential licensees, licensing fees, and economic challenges that arise with the application processes.

**SECTION 6.** In Colorado Revised Statutes, 44-10-401, **amend** (1) and (2)(c) as follows:

**44-10-401. Classes of licenses.** (1) For the purpose of regulating the cultivation, manufacture, distribution, hospitality, and sale of regulated marijuana and regulated marijuana products, the state licensing authority in its discretion, upon application in the prescribed form made to it, may issue and grant to the applicant a license from any of the ~~following~~ classes LISTED IN SUBSECTION (2) OF THIS SECTION, subject to the provisions and restrictions provided by this article 10.

(2) (c) THE FOLLOWING ARE REGULATED MARIJUANA LICENSES OR REGISTRATIONS: Occupational licenses and registrations for owners, managers, operators, employees, contractors, and other support staff employed by, working in, or having access to restricted areas of the licensed premises, as determined by the state licensing authority. The state licensing authority may take any action with respect to a registration or permit pursuant to this article 10 as it may with respect to a license pursuant to this article 10, in accordance with the procedures established pursuant to this article 10.

**SECTION 7.** In Colorado Revised Statutes, 44-10-603, **amend** (2) as follows:

**44-10-603. Retail marijuana products manufacturer license - rules -**

**definition.** (2) Retail marijuana products must be prepared on a licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana products; except that, if permitted by the local jurisdiction and subject to rules of the state licensing authority, a retail marijuana products manufacturer licensee may share the same premises as:

- (a) A medical marijuana products manufacturer licensee so long as a virtual or physical separation of inventory is maintained;
- (b) A commonly owned marijuana research and development licensee so long as virtual or physical separation of inventory and research activity is maintained; or
- (c) AN accelerator manufacturer licensee if the retail marijuana products manufacturer has its premises endorsed pursuant to rule before each accelerator manufacturer licensee operates and each accelerator manufacturer licensee is approved to operate on that premises.

**SECTION 8.** In Colorado Revised Statutes, 44-10-801, **repeal** (1)(d) as follows:

**44-10-801. Marijuana cash fund.** (1) (d) ~~(f)~~ On July 1, 2014, the state treasurer shall transfer to the marijuana tax cash fund created in section 39-28.8-501 any money in the fund that is attributable to the retail marijuana excise tax transferred pursuant to section 39-28.8-305 (1)(b), the retail marijuana sales tax transferred pursuant to section 39-28.8-203 (1)(b), or the sales tax imposed pursuant to section 39-26-106, on the retail sale of marijuana products pursuant to this article 10.

~~(H)~~ On the date on which the state controller publishes the comprehensive annual financial report of the state for the 2013-14 state fiscal year, the state treasurer shall transfer to the marijuana tax cash fund created in section 39-28.8-501 any remaining money in the fund that is attributable to the retail marijuana excise tax transferred pursuant to section 39-28.8-305 (1)(b), the retail marijuana sales tax transferred pursuant to section 39-28.8-203 (1)(b), or the sales tax imposed pursuant to section 39-26-106, on the retail sale of marijuana products under this article 10.

~~(HH)~~ On July 1, 2019, the state treasurer shall transfer nine hundred fourteen thousand four hundred sixteen dollars from the marijuana cash fund to the marijuana tax cash fund created in section 39-28.8-501. On July 1, 2020, the state treasurer shall transfer eight hundred ninety thousand nine hundred one dollars from the marijuana cash fund to the marijuana tax cash fund.

~~(IV)~~ Notwithstanding any other provision of law, on June 30, 2020, the state treasurer shall transfer one million six hundred thousand dollars from the marijuana cash fund to the general fund.

**SECTION 9. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 10, 2021