

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0428.01 Michael Dohr x4347

**HOUSE BILL 16-1261**

**HOUSE SPONSORSHIP**

**Pabon, Conti, Court, Foote, Garnett, Kagan, Priola, Roupe, Wilson**

**SENATE SPONSORSHIP**

**Jahn and Baumgardner,**

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**House Committees**  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING CONTINUATION OF THE COLORADO RETAIL MARIJUANA**  
102         **CODE, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE**  
103         **RECOMMENDATIONS OF THE 2015 SUNSET REPORT ISSUED BY**  
104         **THE DEPARTMENT OF REGULATORY AGENCIES.**

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**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://www.leg.state.co.us/billsummaries>.)*

**Sunset Process - House Finance Committee.** The bill implements the following recommendations from the sunset report for the retail marijuana program:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

- ! Extending the retail marijuana code until September 1, 2019;
- ! Stating that regulation of labeling, packaging, and testing is a matter of statewide concern; and
- ! Repealing the following provisions from the retail marijuana code:
  - ! The requirement that a licensee post a surety bond as condition of licensure;
  - ! The requirement that the executive director deny a license based on a previous denial at the same location;
  - ! The proscription on the placement and sale of marijuana-themed magazines; and
  - ! The authority to promulgate rules prohibiting misrepresentation and unfair practices.

The bill creates 2 new retail marijuana licenses--a retail marijuana transport license and a retail marijuana operator license--and gives the state licensing authority rulemaking authority over those licenses.

The bill conforms language in the retail marijuana code to language in the medical marijuana code related to mandatory testing, the confidentiality of licensee information, and limited access areas.

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

2           **SECTION 1.** In Colorado Revised Statutes, 12-43.4-103, **amend**  
3           (14.5); and **add** (17.5) and (21.5) as follows:

4           **12-43.4-103. Definitions.** As used in this article, unless the  
5           context otherwise requires:

6           (14.5) "Resealable" means that the package continues to function  
7           with WITHIN effectiveness specifications, which shall be established by  
8           the state licensing authority similar to the federal "Poison Prevention  
9           Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq., for the number of  
10          openings and closings customary for its size and contents, which shall be  
11          determined by the state licensing authority.

12          (17.5) "RETAIL MARIJUANA ESTABLISHMENT OPERATOR" MEANS  
13          AN ENTITY OR PERSON THAT IS NOT AN OWNER AND THAT IS LICENSED TO

1 PROVIDE PROFESSIONAL OPERATIONAL SERVICES TO A RETAIL MARIJUANA  
2 ESTABLISHMENT FOR DIRECT REMUNERATION FROM THE RETAIL  
3 MARIJUANA ESTABLISHMENT.

4 (21.5) "RETAIL MARIJUANA TRANSPORTER" MEANS AN ENTITY OR  
5 PERSON THAT IS LICENSED TO TRANSPORT RETAIL MARIJUANA AND RETAIL  
6 MARIJUANA PRODUCT FROM ONE RETAIL MARIJUANA ESTABLISHMENT TO  
7 ANOTHER RETAIL MARIJUANA ESTABLISHMENT AND TO TEMPORARILY  
8 STORE THE TRANSPORTED RETAIL MARIJUANA AND RETAIL MARIJUANA  
9 PRODUCTS AT ITS LICENSED PREMISES, BUT IS NOT AUTHORIZED TO SELL  
10 RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS UNDER ANY  
11 CIRCUMSTANCES.

12 **SECTION 2.** In Colorado Revised Statutes, **amend** 12-43.4-105  
13 as follows:

14 **12-43.4-105. Limited access areas.** Subject to the provisions of  
15 section 12-43.4-701, a limited access area shall be a building, room, or  
16 other contiguous area upon the licensed premises where retail marijuana  
17 and retail marijuana products are cultivated, stored, weighed, packaged,  
18 or tested, under control of the licensee, with ACCESS limited ~~access~~ to  
19 only those persons licensed by the state licensing authority AND THOSE  
20 VISITORS ESCORTED BY A PERSON LICENSED BY THE STATE LICENSING  
21 AUTHORITY. All areas of ingress or egress to limited access areas shall be  
22 clearly identified as such by a sign as designated by the state licensing  
23 authority.

24 **SECTION 3.** In Colorado Revised Statutes, 12-43.4-202, **amend**  
25 (2) (d), (3) (a) (IV) (B), (3) (a) (IV) (C), (3) (a) (IV) (D), (3) (a) (IV) (E),  
26 (3) (a) (IV) (F), and (3) (a) (XV); **add** (3) (a) (XVII), (3) (a) (XVIII), and  
27 (3) (f); and **repeal** (3) (b) (IV) and (3) (c) (II) as follows:

1                   **12-43.4-202. Powers and duties of state licensing authority -**

2                   **rules.** (2) The state licensing authority has the authority to:

3                   (d) Maintain the confidentiality of reports or other information  
4                   obtained from a licensee ~~showing the sales volume or quantity of retail~~  
5                   ~~marijuana or retail marijuana products sold~~ CONTAINING ANY  
6                   INDIVIDUALIZED DATA, INFORMATION, OR RECORDS RELATED TO THE  
7                   LICENSEE OR ITS OPERATION, INCLUDING SALES INFORMATION, FINANCIAL  
8                   RECORDS, TAX RETURNS, CREDIT REPORTS, CULTIVATION INFORMATION,  
9                   TESTING RESULTS, AND SECURITY INFORMATION AND PLANS, or revealing  
10                  any customer information, or any other records that are exempt from  
11                  public inspection pursuant to state law. Such reports or other information  
12                  may be used only for a purpose authorized by this article or for any other  
13                  state or local law enforcement purpose. Any customer information may  
14                  be used only for a purpose authorized by this article.

15                  (3) (a) Rules promulgated pursuant to paragraph (b) of subsection  
16                  (2) of this section must include, but need not be limited to, the following  
17                  subjects:

18                  (IV) (B) ~~Testing shall include, but not be limited to, analysis for~~  
19                  ~~residual solvents, poisons, or toxins, harmful chemicals, dangerous molds~~  
20                  ~~or mildew; filth; and harmful microbials such as E. Coli or salmonella~~  
21                  ~~and pesticides~~ TESTING MAY INCLUDE ANALYSIS FOR MICROBIAL AND  
22                  RESIDUAL SOLVENTS AND CHEMICAL AND BIOLOGICAL CONTAMINANTS  
23                  DEEMED TO BE PUBLIC HEALTH HAZARDS BY THE COLORADO DEPARTMENT  
24                  OF PUBLIC HEALTH AND ENVIRONMENT BASED ON MEDICAL REPORTS AND  
25                  PUBLISHED SCIENTIFIC LITERATURE.

26                  (C) In the event that test results indicate the presence of quantities  
27                  of any substance determined to be injurious to health, ~~such products shall~~

1 be immediately quarantined and immediate notification to the marijuana  
2 enforcement division shall be made. The adulterated product shall be  
3 documented and properly destroyed. THE LICENSEE SHALL IMMEDIATELY  
4 QUARANTINE THE PRODUCTS AND NOTIFY THE STATE LICENSING  
5 AUTHORITY. THE LICENSEE SHALL DOCUMENT AND PROPERLY DESTROY  
6 THE ADULTERATED PRODUCT.

7 (D) Testing shall also verify THC potency representations for  
8 correct labeling and create process validation for edible marijuana  
9 products and other marijuana products in multi-serving packages for a ten  
10 milligram serving in a one hundred milligram package, including  
11 homogeneity, potency, solvents, and pesticides. TESTING SHALL ALSO  
12 VERIFY THC POTENCY REPRESENTATIONS AND HOMOGENEITY FOR  
13 CORRECT LABELING AND PROVIDE A CANNABINOID PROFILE FOR THE  
14 MARIJUANA PRODUCT. An individual marijuana piece of ten milligrams or  
15 less that has gone through process validation is exempt from continued  
16 homogeneity testing. Homogeneity testing for one hundred milligram  
17 servings may utilize validation measures.

18 (E) THE STATE LICENSING AUTHORITY SHALL DETERMINE AN  
19 ACCEPTABLE VARIANCE FOR POTENCY REPRESENTATIONS AND  
20 PROCEDURES TO ADDRESS POTENCY MISREPRESENTATIONS. The agency  
21 STATE LICENSING AUTHORITY shall determine an acceptable variance of  
22 at least plus or minus fifteen percent for potency representations and  
23 procedures to address potency misrepresentations.

24 (F) The agency STATE LICENSING AUTHORITY shall determine the  
25 protocols and frequency of marijuana testing by licensees.

26 (XV) Compliance with, enforcement of, or violation of any  
27 provision of this article, section 18-18-406.3 (7), C.R.S., or any rule

1 issued pursuant to this article, including procedures and grounds for  
2 denying, suspending, fining, restricting, or revoking a state license issued  
3 pursuant to this article; and

4 (XVII) RETAIL MARIJUANA TRANSPORTER LICENSED BUSINESSES,  
5 INCLUDING REQUIREMENTS FOR DRIVERS, INCLUDING OBTAINING AND  
6 MAINTAINING A VALID COLORADO DRIVER'S LICENSE; INSURANCE  
7 REQUIREMENTS; ACCEPTABLE TIME FRAMES FOR TRANSPORT, STORAGE,  
8 AND DELIVERY; REQUIREMENTS FOR TRANSPORT VEHICLES; AND  
9 REQUIREMENTS FOR LICENSED PREMISES; AND

10 (XVIII) RETAIL MARIJUANA ESTABLISHMENT OPERATOR  
11 LICENSEES, INCLUDING THE FORM AND STRUCTURE OF ALLOWABLE  
12 AGREEMENTS BETWEEN OPERATORS AND OWNERS.

13 (b) Rules promulgated pursuant to paragraph (b) of subsection (2)  
14 of this section must also include the following subjects:

15 (IV) ~~Prohibition of misrepresentation and unfair practices;~~

16 (c) Rules promulgated pursuant to paragraph (b) of subsection (2)  
17 of this section must also include the following subjects, and the state  
18 licensing authority may seek the assistance of the department of public  
19 health and environment when necessary before promulgating the rules:

20 (II) ~~Requiring that magazines whose primary focus is marijuana~~  
21 ~~or marijuana businesses are only sold in retail marijuana stores or behind~~  
22 ~~the counter in establishments where persons under twenty-one years of~~  
23 ~~age are present;~~

24 (f) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT MATTERS  
25 RELATED TO LABELING AS REGULATED PURSUANT TO SUBPARAGRAPH  
26 (VII) OF PARAGRAPH (a) OF THIS SUBSECTION (3) AND SUBPARAGRAPHS  
27 (V) AND (VI) OF PARAGRAPH (c) OF THIS SUBSECTION (3), PACKAGING AS

1 REGULATED PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (c) OF THIS  
2 SUBSECTION (3), AND TESTING AS REGULATED PURSUANT TO  
3 SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (3) ARE  
4 MATTERS OF STATEWIDE CONCERN, AND THE SOLE REGULATORY  
5 AUTHORITY FOR LABELING, PACKAGING, AND TESTING IS PURSUANT TO  
6 THIS SECTION.

7 **SECTION 4.** In Colorado Revised Statutes, **repeal** 12-43.4-303  
8 as follows:

9 **12-43.4-303. Retail marijuana license bond.** (1) Before the state  
10 licensing authority issues a state license to an applicant, the applicant  
11 shall procure and file with the state licensing authority evidence of a good  
12 and sufficient bond in the amount of five thousand dollars with corporate  
13 surety thereon duly licensed to do business with the state, approved as to  
14 form by the attorney general of the state, and conditioned that the  
15 applicant shall report and pay all sales and use taxes due to the state, or  
16 for which the state is the collector or collecting agent, in a timely manner,  
17 as provided in law.

18 (2) A corporate surety shall not be required to make payments to  
19 the state claiming under such bond until a final determination of failure  
20 to pay taxes due to the state is made by the executive director of the  
21 department of revenue or a court of competent jurisdiction.

22 (3) All bonds required pursuant to this section must be renewed  
23 at such time as the bondholder's license is renewed. The renewal may be  
24 accomplished through a continuation certificate issued by the surety.

25 **SECTION 5.** In Colorado Revised Statutes, 12-43.4-306, **amend**  
26 (1) (f) as follows:

27 **12-43.4-306. Persons prohibited as licensees - definitions.**

1       (1) A license provided by this article shall not be issued to or held by:  
2               (f) A person licensed pursuant to this article who, during a period  
3       of licensure, or who, at the time of application, has failed to:  
4                   (I) ~~Provide a surety bond or~~ File any tax return related to a  
5       MEDICAL OR retail marijuana establishment; or  
6                   (II) Pay any taxes, interest, or penalties due ~~the department of~~  
7       revenue relating to a MEDICAL OR retail marijuana establishment;

8               **SECTION 6.** In Colorado Revised Statutes, 12-43.4-307, **repeal**  
9       (1) (a) as follows:

10               **12-43.4-307. Restrictions for applications for new licenses.**

11       (1) The state licensing authority shall not approve an application for the  
12       issuance of a state license pursuant to this article:

13               (a) ~~If the application for the license concerns a particular location~~  
14       ~~that is the same as or within one thousand feet of a location for which,~~  
15       ~~within the two years immediately preceding the date of the application,~~  
16       ~~the state licensing authority denied an application for the same class of~~  
17       ~~license due to the nature of the use or other concern related to the~~  
18       ~~location; or~~

19               **SECTION 7.** In Colorado Revised Statutes, 12-43.4-401, **amend**  
20       (1) (d); and **add** (1) (f) and (1) (g) as follows:

21               **12-43.4-401. Classes of licenses.** (1) For the purpose of  
22       regulating the cultivation, manufacture, distribution, sale, and testing of  
23       retail marijuana and retail marijuana products, the state licensing  
24       authority in its discretion, upon receipt of an application in the prescribed  
25       form, may issue and grant to the applicant a license from any of the  
26       following classes, subject to the provisions and restrictions provided by  
27       this article:

(d) Retail marijuana testing facility license; and

(f) RETAIL MARIJUANA TRANSPORT LICENSE; AND

(g) RETAIL MARIJUANA BUSINESS OPERATOR LICENSE.

4                   **SECTION 8.** In Colorado Revised Statutes, **add** 12-43.4-406 and  
5                   12-43.4-407 as follows:

**12-43.4-406. Retail marijuana transport license.** (1) A RETAIL

MARIJUANA TRANSPORT LICENSE MAY BE ISSUED TO A PERSON WHO ONLY TEMPORARILY STORES AND TRANSPORTS RETAIL MARIJUANA THROUGHOUT THE STATE FOR OTHER ENTITIES LICENSED PURSUANT TO THIS PART 4.

(2) A RETAIL MARIJUANA TRANSPORT LICENSEE SHALL MAINTAIN

11 A LICENSED PREMISES FOR THE TEMPORARY STORAGE OF RETAIL  
12 MARIJUANA.

(3) A RETAIL MARIJUANA TRANSPORT LICENSEE SHALL HAVE

14 ACCESS TO AND SHALL USE THE SEED-TO-SALE TRACKING SYSTEM  
15 DEVELOPED PURSUANT TO SECTION 12-43.4-202 (1) TO CREATE SHIPPING  
16 MANIFESTS DOCUMENTING THE TRANSPORT OF RETAIL MARIJUANA  
17 THROUGHOUT THE STATE.

(4) AN ENTITY LICENSED PURSUANT TO THIS PART 4 MAY

19 TRANSPORT ITS OWN RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS  
20 WITHOUT POSSESSING A LICENSE PURSUANT TO THIS SECTION.

**12-43.4-407. Retail marijuana business operator license.** A

22 RETAIL MARIJUANA BUSINESS OPERATOR LICENSE MAY BE ISSUED TO A  
23 PERSON WHO OPERATES A RETAIL MARIJUANA ESTABLISHMENT LICENSED  
24 PURSUANT TO THIS ARTICLE, FOR AN OWNER LICENSED PURSUANT TO THIS  
25 ARTICLE, AND WHO MAY RECEIVE A PORTION OF THE PROFITS AS  
26 COMPENSATION.

**SECTION 9.** In Colorado Revised Statutes, 12-43.4-1001,

1       **amend** (1) as follows:

2           **12-43.4-1001. Sunset review - article repeal.** (1) This article is  
3       repealed, effective ~~July 1, 2016~~ SEPTEMBER 1, 2019.

4           **SECTION 10.** In Colorado Revised Statutes, 24-34-104, **repeal**  
5       (47) (d); and **add** (50.5) (o) as follows:

6           **24-34-104. General assembly review of regulatory agencies**  
7       **and functions for termination, continuation, or reestablishment.**

8       (47) The following agencies, functions, or both, shall terminate on July  
9       1, 2016:

10       (d) ~~The regulation of persons licensed pursuant to article 43.4 of~~  
11       ~~title 12, C.R.S.~~

12       (50.5) The following agencies, functions, or both, terminate on  
13       September 1, 2019:

14       (o) THE REGULATION OF PERSONS LICENSED PURSUANT TO ARTICLE  
15       43.4 OF TITLE 12, C.R.S.

16           **SECTION 11. Safety clause.** The general assembly hereby finds,  
17       determines, and declares that this act is necessary for the immediate  
18       preservation of the public peace, health, and safety.