

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 20-1023.01 Michael Dohr x4347

HOUSE BILL 20-1328

HOUSE SPONSORSHIP

Valdez A. and Esgar,

SENATE SPONSORSHIP

Rodriguez and Bridges,

House Committees
Rural Affairs & Agriculture

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CONTINGENCY PLANS FOR OUTDOOR MARIJUANA**
102 **CULTIVATION FACILITIES WHEN THERE IS AN EXTRAORDINARY**
103 **THREAT TO OPERATIONS.**

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>.)

By January 1, 2021, the bill requires the marijuana state licensing authority to promulgate rules regarding the process and procedure for filing and approving contingency plans for outdoor cultivation facilities when there is a threat to operations due to an adverse weather event or other catastrophe. A medical marijuana cultivation facility or retail

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.

marijuana cultivation facility may file a contingency plan with the state licensing authority and, if the plan is approved, may follow the plan if there is an adverse weather event or other catastrophe.

Prior to January 1, 2021, a medical marijuana cultivation facility licensee or retail marijuana cultivation facility licensee that cultivates marijuana outdoors may take any reasonable and necessary action to prevent or ameliorate crop loss due to an adverse weather event. The action is not a violation of state or local law or regulations unless the state licensing authority or local authorities can show that the action was not reasonable and necessary to prevent or ameliorate crop loss due to an adverse weather event.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Since creating a regulatory framework for medical and retail
5 marijuana sales, some licensed cultivators have grown marijuana
6 outdoors;

7 (b) Like any other crops that are grown outdoors, marijuana is
8 susceptible to adverse weather events;

9 (c) Under current law, measures that could be taken to prevent
10 loss or damage to marijuana crops due to adverse weather events are
11 unavailable to cultivators because those measures could violate state or
12 local regulations, which could result in a revocation of licensure; and

13 (d) Not only do the cultivators lose their crops in these cases, but
14 the state and local governments lose tax revenue that would have been
15 generated by the sale of the marijuana lost to an adverse weather event.

16 (2) Therefore, the general assembly determines that is necessary
17 to provide marijuana cultivators with a way to protect their crops from an
18 adverse weather event without jeopardizing their licenses.

19 **SECTION 2.** In Colorado Revised Statutes, 44-10-103, **add** (6.5)

1 as follows:

2 **44-10-103. Definitions.** As used in this article 10, unless the
3 context otherwise requires:

4 (6.5) "ADVERSE WEATHER EVENT" MEANS:

5 (a) DAMAGING WEATHER, SUCH AS DROUGHT, FREEZE, HAIL,
6 EXCESSIVE MOISTURE, EXCESSIVE WIND, OR TORNADO;

7 (b) AN ADVERSE NATURAL OCCURRENCE, SUCH AS EARTHQUAKE
8 OR FLOOD; OR

9 (c) A CONDITION RELATED TO DAMAGING WEATHER OR AN
10 ADVERSE NATURAL OCCURRENCE, SUCH AS EXCESSIVE HEAT, DISEASE, OR
11 INSECT INFESTATION.

12 **SECTION 3.** In Colorado Revised Statutes, 44-10-203, **amend**
13 (2)(ff)(VII) and (2)(gg)(VI); and **add** (2)(hh) as follows:

14 **44-10-203. State licensing authority - rules. (2) Mandatory**
15 **rule-making.** Rules promulgated pursuant to section 44-10-202 (1)(c)
16 must include but need not be limited to the following subjects:

17 (ff) The implementation of marijuana hospitality and retail
18 marijuana hospitality and sales business licenses, including but not
19 limited to:

20 (VII) Rules to ensure compliance with section 42-4-1305.5; ~~and~~

21 (gg) For marijuana hospitality businesses that are mobile,
22 regulations including but not limited to:

23 (VI) Proper ventilation within the vehicle; AND

24 (hh) BY JANUARY 1, 2021, THE PROCESS AND PROCEDURE FOR
25 FILING AND APPROVING CONTINGENCY PLANS FOR OUTDOOR CULTIVATION
26 FACILITIES WHEN THERE IS A THREAT TO OPERATIONS DUE TO AN ADVERSE
27 WEATHER EVENT OR OTHER CATASTROPHE, INCLUDING DEFINING "OTHER

1 CATASTROPHE".

2 **SECTION 4.** In Colorado Revised Statutes, 44-10-502, **add** (9)
3 as follows:

4 **44-10-502. Medical marijuana cultivation facility license -**
5 **rules - definitions - repeal.** (9) (a) (I) A MEDICAL MARIJUANA
6 CULTIVATION FACILITY LICENSEE THAT CULTIVATES MEDICAL MARIJUANA
7 OUTDOORS MAY TAKE ANY REASONABLE AND NECESSARY ACTION TO
8 PREVENT OR AMELIORATE CROP LOSS DUE TO AN ADVERSE WEATHER
9 EVENT. THE ACTION IS NOT A VIOLATION OF STATE LAW OR RULES OR
10 LOCAL LAW OR REGULATIONS UNLESS THE STATE LICENSING AUTHORITY
11 OR LOCAL AUTHORITIES CAN SHOW THAT THE ACTION WAS NOT
12 REASONABLE AND NECESSARY TO PREVENT OR AMELIORATE CROP LOSS
13 DUE TO AN ADVERSE WEATHER EVENT.

14 (II) THIS SUBSECTION (9)(a) IS REPEALED, EFFECTIVE JANUARY 1,
15 2021.

16 (b) BEGINNING JANUARY 1, 2021, A MEDICAL MARIJUANA
17 CULTIVATION FACILITY LICENSEE THAT CULTIVATES MEDICAL MARIJUANA
18 OUTDOORS MAY FILE A CONTINGENCY PLAN FOR ITS OUTDOOR
19 CULTIVATION OPERATION WHEN THERE IS THREAT TO OPERATIONS DUE TO
20 AN ADVERSE WEATHER EVENT OR OTHER CATASTROPHE. IF THE
21 CONTINGENCY PLAN IS APPROVED BY THE STATE LICENSING AUTHORITY,
22 THE MEDICAL MARIJUANA CULTIVATION FACILITY LICENSEE MAY FOLLOW
23 THE CONTINGENCY PLAN IN THE CASE OF AN ADVERSE WEATHER EVENT OR
24 OTHER CATASTROPHE.

25 **SECTION 5.** In Colorado Revised Statutes, 44-10-602, **add** (13)
26 as follows:

27 **44-10-602. Retail marijuana cultivation facility license - rules**

1 **- definitions - repeal.** (13) (a) (I) A RETAIL MARIJUANA CULTIVATION
2 FACILITY LICENSEE THAT CULTIVATES RETAIL MARIJUANA OUTDOORS MAY
3 TAKE ANY REASONABLE AND NECESSARY ACTION TO PREVENT OR
4 AMELIORATE CROP LOSS DUE TO AN ADVERSE WEATHER EVENT. THE
5 ACTION IS NOT A VIOLATION OF STATE LAW OR RULES OR LOCAL LAW OR
6 REGULATIONS UNLESS THE STATE LICENSING AUTHORITY OR LOCAL
7 AUTHORITIES CAN SHOW THAT THE ACTION WAS NOT REASONABLE AND
8 NECESSARY TO PREVENT OR AMELIORATE CROP LOSS DUE TO AN ADVERSE
9 WEATHER EVENT.

10 (II) THIS SUBSECTION (13)(a) IS REPEALED, EFFECTIVE JANUARY
11 1, 2021.

12 (b) BEGINNING JANUARY 1, 2021, A RETAIL MARIJUANA
13 CULTIVATION FACILITY LICENSEE THAT CULTIVATES RETAIL MARIJUANA
14 OUTDOORS MAY FILE A CONTINGENCY PLAN FOR ITS OUTDOOR
15 CULTIVATION OPERATION WHEN THERE IS THREAT TO OPERATIONS DUE TO
16 AN ADVERSE WEATHER EVENT OR OTHER CATASTROPHE. IF THE
17 CONTINGENCY PLAN IS APPROVED BY THE STATE LICENSING AUTHORITY,
18 THE RETAIL MARIJUANA CULTIVATION FACILITY LICENSEE MAY FOLLOW
19 THE CONTINGENCY PLAN IN THE CASE OF AN ADVERSE WEATHER EVENT OR
20 OTHER CATASTROPHE.

21 **SECTION 6. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety.