

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 18-0540.01 Michael Dohr x4347

HOUSE BILL 18-1023

HOUSE SPONSORSHIP

Herod,

SENATE SPONSORSHIP

Gardner,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED**
102 **TO LEGALIZED MARIJUANA FROM TITLE 12, COLORADO REVISED**
103 **STATUTES, AS PART OF THE ORGANIZATIONAL RECODIFICATION**
104 **OF TITLE 12.**

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/>.)

Committee on Legal Services. Current law directs the office of legislative legal services to study the organizational recodification of title 12 of the Colorado Revised Statutes, which relates to professions and

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.

SENATE
Amended 2nd Reading
February 26, 2018

HOUSE
3rd Reading Unamended
January 30, 2018

HOUSE
Amended 2nd Reading
January 26, 2018

occupations. One recommendation of the study is to relocate laws located in title 12 that are administered by the department of revenue to a new title 44, which will consist solely of laws administered by the department of revenue that regulate a variety of activities.

To implement this recommendation, **section 1** of the bill creates title 44 and **section 2** relocates article 43.3 of title 12, medical marijuana, to a new article 11 in a new title 44, Colorado Revised Statutes; and **section 3** of the bill relocates article 43.4 of title 12, retail marijuana, to a new article 12 in a new title 44, Colorado Revised Statutes. **Sections 4 through 28** of the bill make conforming amendments, and **section 29** repeals the articles where the law was previously codified.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** title 44 as follows:

3 **TITLE 44**

4 **ACTIVITIES REGULATED BY THE**

5 **DEPARTMENT OF REVENUE**

6 **ARTICLE 1**

7 **Common Provisions**

8 **44-1-101. Short title.** THE SHORT TITLE OF THIS TITLE 44 IS THE
9 "DEPARTMENT OF REVENUE ACTIVITIES REGULATION ACT".

10 **44-1-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
11 HEREBY FINDS AND DECLARES THAT:

12 (a) BEFORE THE ENACTMENT OF THIS TITLE 44, LAWS
13 ADMINISTERED BY THE DEPARTMENT OF REVENUE THAT REGULATE A
14 VARIETY OF ACTIVITIES WERE CODIFIED IN TWO TITLES OF THE COLORADO
15 REVISED STATUTES, MOST PROMINENTLY IN TITLE 12, WHICH GOVERNS
16 PROFESSIONS AND OCCUPATIONS;

17 (b) MOST PROFESSIONS AND OCCUPATIONS ARE REGULATED BY
18 THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO TITLE 12, BUT
19 PRIOR TO THE 2017 LEGISLATIVE SESSION, TITLE 12 CONTAINED NUMEROUS

1 LAWS THAT DID NOT PERTAIN TO THE REGULATION OF PROFESSIONS AND
2 OCCUPATIONS AND WERE NOT ADMINISTERED BY THE DEPARTMENT OF
3 REGULATORY AGENCIES;

4 (c) WITH THE ENACTMENT OF SECTION 2-3-510 IN 2016, THE
5 GENERAL ASSEMBLY DIRECTED THE OFFICE OF LEGISLATIVE LEGAL
6 SERVICES TO STUDY AN ORGANIZATIONAL RECODIFICATION OF TITLE 12 OF
7 THE COLORADO REVISED STATUTES, INCLUDING RELOCATING LAWS THAT
8 DO NOT PERTAIN TO PROFESSIONS AND OCCUPATIONS AND ARE NOT
9 ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES;

10 (d) BASED ON RECOMMENDATIONS FROM THE TITLE 12
11 RECODIFICATION STUDY, THE GENERAL ASSEMBLY ENACTED SEVERAL
12 BILLS IN THE 2017 LEGISLATIVE SESSION TO RELOCATE OUT OF TITLE 12
13 MANY LAWS THAT ARE ADMINISTERED BY ENTITIES OTHER THAN THE
14 DEPARTMENT OF REGULATORY AGENCIES;

15 (e) THE STUDY ALSO RECOMMENDED CREATING A NEW TITLE 44
16 FOR PURPOSES OF CONSOLIDATING LAWS ADMINISTERED BY THE
17 DEPARTMENT OF REVENUE THAT REGULATE ACTIVITIES INTO A SINGLE
18 TITLE IN ORDER TO FACILITATE BOTH:

19 (I) THE PUBLIC'S AND REGULATED ENTITIES' UNDERSTANDING OF
20 THE LAWS THAT APPLY TO THEM; AND

21 (II) THE DEPARTMENT OF REVENUE'S ADMINISTRATION OF THESE
22 LAWS; AND

23 (f) CREATING A NEW TITLE 44 CONSISTING OF LAWS ADMINISTERED
24 BY THE DEPARTMENT OF REVENUE THAT REGULATE VARIOUS ACTIVITIES
25 IS NECESSARY TO IMPLEMENT THE RECOMMENDATIONS OF THE TITLE 12
26 RECODIFICATION STUDY AND FACILITATE THE REORGANIZATION OF TITLE
27 12 PERTAINING TO THE REGULATION OF PROFESSIONS AND OCCUPATIONS.

1 **44-11-103. [Formerly 12-43.3-103] Applicability.** (1) (a) On
2 July 1, 2010, a person who is operating an established, locally approved
3 business for the purpose of cultivation, manufacture, or sale of medical
4 marijuana or medical marijuana-infused products or a person who has
5 applied to a local government to operate a locally approved business for
6 the purpose of cultivation, manufacture, or sale of medical marijuana or
7 medical marijuana-infused products ~~which~~ THAT is subsequently granted
8 may continue to operate that business in accordance with any applicable
9 state or local laws. "Established", as used in this ~~paragraph (a)~~
10 SUBSECTION (1)(a), shall mean owning or leasing a space with a storefront
11 and remitting sales taxes in a timely manner on retail sales of the business
12 as required pursuant to section 39-26-105, ~~C.R.S.~~, as well as any
13 applicable local sales taxes.

14 (b) To continue operating a business or operation as described in
15 ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION,
16 the owner shall, on or before August 1, 2010, complete forms as provided
17 by the department of revenue and shall pay a fee, which shall be credited
18 to the medical marijuana license cash fund established pursuant to section
19 ~~12-43.3-501~~ 44-11-501. The purpose of the fee shall be to pay for the
20 direct and indirect costs of the state licensing authority and the
21 development of application procedures and rules necessary to implement
22 this ~~article~~ ARTICLE 11. Payment of the fee and completion of the form
23 shall not create a local or state license or a present or future entitlement
24 to receive a license. An owner issued a local license after August 1, 2010,
25 shall complete the forms and pay the fee pursuant to this ~~paragraph (b)~~
26 SUBSECTION (1)(b) within thirty days after issuance of the local license.
27 In addition to any criminal penalties for selling without a license, it shall

1 be unlawful to continue operating a business or operation without filing
2 the forms and paying the fee as described in this ~~paragraph (b)~~
3 SUBSECTION (1)(b), and any violation of this section shall be prima-facie
4 evidence of unsatisfactory character, record, and reputation for any future
5 application for license under this ~~article~~ ARTICLE 11.

6 (c) A county, city and county, or municipality shall provide to the
7 state licensing authority, upon request, a list that includes the name and
8 location of each local center or operation licensed in said county, city and
9 county, or municipality so that the state licensing authority can identify
10 any center or operation operating unlawfully.

11 (2) (a) Prior to July 1, 2011, a county, city and county, or
12 municipality may adopt and enforce a resolution or ordinance licensing,
13 regulating, or prohibiting the cultivation or sale of medical marijuana. In
14 a county, city and county, or municipality where such an ordinance or
15 resolution has been adopted, a person who is not registered as a patient or
16 primary caregiver pursuant to section 25-1.5-106 ~~C.R.S.~~, and who is
17 cultivating or selling medical marijuana shall not be entitled to an
18 affirmative defense to a criminal prosecution as provided for in section
19 14 of article XVIII of the state constitution unless the person is in
20 compliance with the applicable county or municipal law.

21 (b) On or before September 1, 2010, a business or operation shall
22 certify that it is cultivating at least seventy percent of the medical
23 marijuana necessary for its operation.

24 (c) On and after July 1, 2011, all businesses for the purpose of
25 cultivation, manufacture, or sale of medical marijuana or medical
26 marijuana-infused products, as defined in this ~~article~~ ARTICLE 11, shall be
27 subject to the terms and conditions of this ~~article~~ ARTICLE 11 and any

1 rules promulgated pursuant to this ~~article~~ ARTICLE 11; except that a person
2 that has met the deadlines set forth in ~~paragraphs (a) and (b) of subsection~~
3 ~~(1)~~ SUBSECTIONS (1)(a) AND (1)(b) of this section that has not had its
4 application acted upon by the state licensing authority may continue to
5 operate until action is taken on the application, unless the person is
6 operating in a jurisdiction that has imposed a prohibition on licensure.
7 While continuing to operate prior to the licensing authority acting on the
8 application, the person shall otherwise be subject to the terms and
9 conditions of this ~~article~~ ARTICLE 11 and all rules promulgated pursuant
10 to this ~~article~~ ARTICLE 11.

11 (d) (I) On and after July 1, 2012, persons who did not meet all
12 requirements of ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this
13 section as of July 1, 2010, may begin to apply for a license pursuant to
14 this ~~article~~ ARTICLE 11. A business or operation that applies and is
15 approved for its license after July 1, 2012, shall certify to the state
16 licensing authority that it is cultivating at least seventy percent of the
17 medical marijuana necessary for its operation within ninety days after
18 being licensed.

19 (II) For those persons that are licensed prior to July 1, 2012, the
20 person may apply to the local and state licensing authorities regarding
21 changes to its license and may apply for a new license if the license is for
22 a business that has been licensed and the person is purchasing that
23 business or if the business is changing license type.

24 (III) For a person who has met the deadlines set forth in
25 ~~paragraphs (a) and (b) of subsection (1)~~ SUBSECTIONS (1)(a) AND (1)(b)
26 of this section and who has lost his or her location because a city or
27 county has voted pursuant to section ~~12-43.3-106~~ 44-11-106 to ban his or

1 her operation, the person may apply for a new license with a local
2 licensing authority and transfer the location of its pending application
3 with the state licensing authority.

4 (e) This ~~article~~ ARTICLE 11 sets forth the exclusive means by
5 which manufacture, sale, distribution, and dispensing of medical
6 marijuana may occur in the state of Colorado. Licensees shall not be
7 subject to the terms of section 14 of article XVIII of the state constitution,
8 except where specifically referenced in this ~~article~~ ARTICLE 11.

9 **44-11-104. [Formerly 12-43.3-104] Definitions.** As used in this
10 ~~article 43.3~~ ARTICLE 11, unless the context otherwise requires:

11 (1) "Direct beneficial interest owner" means a person or closely
12 held business entity that owns a share or shares of stock in a licensed
13 medical marijuana business, including the officers, directors, managing
14 members, or partners of the licensed medical marijuana business or
15 closely held business entity, or a qualified limited passive investor.

16 ~~(1.3)~~ (2) "Good cause", for purposes of refusing or denying a
17 license renewal, reinstatement, or initial license issuance, means:

18 (a) The licensee or applicant has violated, does not meet, or has
19 failed to comply with any of the terms, conditions, or provisions of this
20 ~~article~~ ARTICLE 11; any rules promulgated pursuant to this ~~article~~ ARTICLE
21 11; or any supplemental local law, rules, or regulations;

22 (b) The licensee or applicant has failed to comply with any special
23 terms or conditions that were placed on its license pursuant to an order of
24 the state or local licensing authority;

25 (c) The licensed premises have been operated in a manner that
26 adversely affects the public health or welfare or the safety of the
27 immediate neighborhood in which the establishment is located.

1 ~~(1.5)~~ (3) "Immature plant" means a nonflowering medical
2 marijuana plant that is no taller than eight inches and no wider than eight
3 inches produced from a cutting, clipping, or seedling and that is in a
4 growing container that is no larger than two inches wide and two inches
5 tall that is sealed on the sides and bottom.

6 ~~(1.7)~~ (4) "Indirect beneficial interest owner" means a holder of a
7 permitted economic interest, a recipient of a commercially reasonable
8 royalty associated with the use of intellectual property by a licensee, a
9 licensed employee who receives a share of the profits from an employee
10 benefit plan, a qualified institutional investor, or another similarly
11 situated person or entity as determined by the state licensing authority.

12 ~~(2)~~ (5) "License" means to grant a license or registration pursuant
13 to this ~~article~~ ARTICLE 11.

14 ~~(3)~~ (6) "Licensed premises" means the premises specified in an
15 application for a license under this ~~article~~ ARTICLE 11, which are owned
16 or in possession of the licensee and within which the licensee is
17 authorized to cultivate, manufacture, distribute, or sell medical marijuana
18 in accordance with the provisions of this ~~article~~ ARTICLE 11.

19 ~~(4)~~ (7) "Licensee" means a person licensed or registered pursuant
20 to this ~~article~~ ARTICLE 11.

21 ~~(5)~~ (8) "Local licensing authority" means an authority designated
22 by municipal or county charter, ordinance, or resolution, or the governing
23 body of a municipality, city and county, or the board of county
24 commissioners of a county if no such authority is designated.

25 ~~(6)~~ (9) "Location" means a particular parcel of land that may be
26 identified by an address or other descriptive means.

27 ~~(6.5)~~ (10) "Marijuana-based workforce development or training

1 program" means a program designed to train individuals to work in the
2 legal medical marijuana industry operated by an entity licensed under this
3 ~~article 43.3~~ ARTICLE 11 or by a school that is authorized by the division
4 of private occupational schools.

5 ~~(7)~~ (11) "Medical marijuana" means marijuana that is grown and
6 sold pursuant to the provisions of this ~~article~~ ARTICLE 11 and for a
7 purpose authorized by section 14 of article XVIII of the state constitution
8 but shall not be considered a nonprescription drug for purposes of section
9 12-42.5-102 (21) or 39-26-717, ~~€R.S.~~, or an over-the-counter medication
10 for purposes of section 25.5-5-322. ~~€R.S.~~

11 ~~(7.5)~~ (12) "Medical marijuana business operator" means an entity
12 or person who is not an owner and who is licensed to provide professional
13 operational services to a medical marijuana establishment for direct
14 remuneration from the medical marijuana establishment.

15 ~~(8)~~ (13) "Medical marijuana center" means a person licensed
16 pursuant to this ~~article~~ ARTICLE 11 to operate a business as described in
17 section ~~12-43.3-402~~ 44-11-402 that sells medical marijuana to registered
18 patients or primary caregivers as defined in section 14 of article XVIII of
19 the state constitution, but is not a primary caregiver.

20 ~~(8.5)~~ (14) "Medical marijuana transporter" means an entity or
21 person that is licensed to transport medical marijuana and medical
22 marijuana-infused products from one medical marijuana establishment to
23 another medical marijuana establishment and to temporarily store the
24 transported medical marijuana and medical marijuana-infused products
25 at its licensed premises, but is not authorized to sell medical marijuana or
26 medical marijuana-infused products under any circumstances.

27 ~~(9)~~ (15) "Medical marijuana-infused product" means a product

1 infused with medical marijuana that is intended for use or consumption
2 other than by smoking, including but not limited to edible products,
3 ointments, and tinctures. These products, when manufactured or sold by
4 a licensed medical marijuana center or a medical marijuana-infused
5 ~~product~~ PRODUCTS manufacturer, shall not be considered a food or drug
6 for the purposes of the "Colorado Food and Drug Act", part 4 of article
7 5 of title 25. ~~C.R.S.~~

8 ~~(10)~~ (16) "Medical marijuana-infused products manufacturer"
9 means a person licensed pursuant to this ~~article~~ ARTICLE 11 to operate a
10 business as described in section ~~12-43.3-404~~ 44-11-404.

11 ~~(10.5)~~ (17) "Opaque" means that the packaging does not allow the
12 product to be seen without opening the packaging material.

13 ~~(11)~~ (18) "Optional premises" means the premises specified in an
14 application for a medical marijuana center license with related growing
15 facilities in Colorado for which the licensee is authorized to grow and
16 cultivate marijuana for a purpose authorized by section 14 of article
17 XVIII of the state constitution.

18 ~~(12)~~ (19) "Optional premises cultivation operation" means a
19 person licensed pursuant to this ~~article~~ ARTICLE 11 to operate a business
20 as described in section ~~12-43.3-403~~ 44-11-403.

21 ~~(12.3) Repealed.~~

22 ~~(12.4)~~ (20) "Permitted economic interest" means any unsecured
23 convertible debt instrument, option agreement, warrant, or any other right
24 to obtain an ownership interest when the holder of such interest is a
25 natural person who is a lawful United States resident and whose right to
26 convert into an ownership interest is contingent on the holder qualifying
27 and obtaining a license as an owner under this ~~article~~ ARTICLE 11; or such

1 other agreements as may be permitted by rule of the state licensing
2 authority.

3 ~~(13)~~ (21) "Person" means a natural person, partnership,
4 association, company, corporation, limited liability company, or
5 organization, or a manager, agent, owner, director, servant, officer, or
6 employee thereof.

7 ~~(14)~~ (22) "Premises" means a distinct and definite location, which
8 may include a building, a part of a building, a room, or any other definite
9 contiguous area.

10 ~~(14.3)~~ (23) "Qualified limited passive investor" means a natural
11 person who is a United States citizen and is a passive investor who owns
12 less than a five percent share or shares of stock in a licensed medical
13 marijuana business.

14 ~~(14.5)~~ (24) "Resealable" means that the package continues to
15 function with effectiveness specifications, which shall be established by
16 the state licensing authority similar to the federal "Poison Prevention
17 Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq., for the number of
18 openings and closings customary for its size and contents, which shall be
19 determined by the state licensing authority.

20 ~~(15)~~ (25) "School" means a public or private preschool or a public
21 or private elementary, middle, junior high, or high school.

22 ~~(16)~~ (26) "State licensing authority" means the authority created
23 for the purpose of regulating and controlling the licensing of the
24 cultivation, manufacture, distribution, and sale of medical and retail
25 marijuana in this state, pursuant to section ~~12-43.3-201~~ 44-11-201.

26 **44-11-105. [Formerly 12-43.3-105] Limited access areas.**
27 Subject to the provisions of section ~~12-43.3-701~~ 44-11-701, a limited

1 access area shall be a building, room, or other contiguous area upon the
2 licensed premises where medical marijuana is grown, cultivated, stored,
3 weighed, displayed, packaged, sold, or possessed for sale, under control
4 of the licensee, with access limited to only those persons licensed by the
5 state licensing authority and those visitors escorted by a person licensed
6 by the state licensing authority. All areas of ingress or egress to limited
7 access areas shall be clearly identified as such by a sign as designated by
8 the state licensing authority.

9 **44-11-106. [Formerly 12-43.3-106] Local option.** The operation
10 of this ~~article~~ ARTICLE 11 shall be statewide unless a municipality, county,
11 city, or city and county, by either a majority of the registered electors of
12 the municipality, county, city, or city and county voting at a regular
13 election or special election called in accordance with the "Colorado
14 Municipal Election Code of 1965", article 10 of title 31, ~~C.R.S.~~, or the
15 "Uniform Election Code of 1992", articles 1 to 13 of title 1, ~~C.R.S.~~, as
16 applicable, or a majority of the members of the governing board for the
17 municipality, county, city, or city and county, vote to prohibit the
18 operation of medical marijuana centers, optional premises cultivation
19 operations, and medical marijuana-infused products manufacturers'
20 licenses.

21 PART 2

22 STATE LICENSING AUTHORITY

23 **44-11-201. [Formerly 12-43.3-201] State licensing authority -**
24 **creation.** (1) For the purpose of regulating and controlling the licensing
25 of the cultivation, manufacture, distribution, and sale of medical
26 marijuana and retail marijuana in this state, there is hereby created the
27 state licensing authority, which shall be the executive director of the

1 department of revenue or the deputy director of the department of revenue
2 if the executive director so designates. The state licensing authority shall
3 adopt regulations regarding retail marijuana and retail marijuana products
4 by July 1, 2013.

5 (2) The executive director of the department of revenue shall be
6 the chief administrative officer of the state licensing authority and may
7 employ, pursuant to section 13 of article XII of the state constitution, such
8 officers and employees as may be determined to be necessary, which
9 officers and employees shall be part of the department of revenue.

10 ~~(3) Repealed.~~

11 ~~(4)~~ (3) A state licensing authority employee with regulatory
12 oversight responsibilities for marijuana businesses licensed by the state
13 licensing authority shall not work for, represent, or provide consulting
14 services to or otherwise derive pecuniary gain from a marijuana business
15 licensed by the state licensing authority or other business entity
16 established for the primary purpose of providing services to the marijuana
17 industry for a period of six months following his or her last day of
18 employment with the state licensing authority.

19 ~~(5)~~ (4) Any person who discloses confidential records or
20 information in violation of the provisions of this ~~article~~ ARTICLE 11
21 commits a class 1 misdemeanor and shall be punished as provided in
22 section 18-1.3-501. ~~C.R.S.~~ Any criminal prosecution pursuant to the
23 provisions of this section must be brought within five years from the date
24 the violation occurred.

25 **44-11-202. [Formerly 12-43.3-202] Powers and duties of state**
26 **licensing authority - rules.** (1) The state licensing authority shall:

27 (a) Grant or refuse state licenses for the cultivation, manufacture,

1 distribution, and sale of medical marijuana as provided by law; suspend,
2 fine, restrict, or revoke such licenses, whether active, expired, or
3 surrendered, upon a violation of this ~~article 43.3~~ ARTICLE 11, or a rule
4 promulgated pursuant to this ~~article 43.3~~ ARTICLE 11; and impose any
5 penalty authorized by this ~~article 43.3~~ ARTICLE 11 or any rule promulgated
6 pursuant to this ~~article 43.3~~ ARTICLE 11. The state licensing authority may
7 take any action with respect to a registration pursuant to this ~~article 43.3~~
8 ARTICLE 11 as it may with respect to a license pursuant to this ~~article 43.3~~
9 11, in accordance with the procedures established pursuant to this ~~article~~
10 ~~43.3~~ ARTICLE 11.

11 (b) ~~(f)~~ Promulgate such rules and such special rulings and findings
12 as necessary for the proper regulation and control of the cultivation,
13 manufacture, distribution, and sale of medical marijuana and for the
14 enforcement of this ~~article~~ ARTICLE 11. A county, municipality, or city
15 and county that has adopted a temporary moratorium regarding the
16 subject matter of this ~~article~~ ARTICLE 11 shall be specifically authorized
17 to extend the moratorium until June 30, 2012.

18 ~~(H) Repealed.~~

19 (c) Hear and determine at a public hearing any contested state
20 license denial and any complaints against a licensee and administer oaths
21 and issue subpoenas to require the presence of persons and the production
22 of papers, books, and records necessary to the determination of any
23 hearing so held, all in accordance with article 4 of title 24. ~~C.R.S.~~ The
24 state licensing authority may, at its discretion, delegate to the department
25 of revenue hearing officers the authority to conduct licensing,
26 disciplinary, and rule-making hearings under section 24-4-105. ~~C.R.S.~~
27 When conducting ~~such~~ THE hearings, the hearing officers shall be

1 employees of the state licensing authority under the direction and
2 supervision of the executive director and the state licensing authority.

3 (d) Maintain the confidentiality of reports or other information
4 obtained from a medical or retail licensee containing any individualized
5 data, information, or records related to the licensee or its operation,
6 including sales information, financial records, tax returns, credit reports,
7 cultivation information, testing results, and security information and
8 plans, or revealing any patient information, or any other records that are
9 exempt from public inspection pursuant to state law. Such reports or other
10 information may be used only for a purpose authorized by this ~~article,~~
11 ~~article 43.4 of this title~~ ARTICLE 11 OR ARTICLE 12 OF THIS TITLE 44, or for
12 any other state or local law enforcement purpose. Any information
13 released related to patients may be used only for a purpose authorized by
14 this ~~article, article 43.4 of this title~~ ARTICLE 11 OR ARTICLE 12 OF THIS
15 TITLE, or to verify that a person who presented a registry identification
16 card to a state or local law enforcement official is lawfully in possession
17 of such card.

18 (e) Develop such forms, licenses, identification cards, and
19 applications as are necessary or convenient in the discretion of the state
20 licensing authority for the administration of this ~~article~~ ARTICLE 11 or any
21 of the rules promulgated under this ~~article~~ ARTICLE 11;

22 (f) Prepare and transmit annually, in the form and manner
23 prescribed by the heads of the principal departments pursuant to section
24 24-1-136, ~~C.R.S.~~, a report accounting to the governor for the efficient
25 discharge of all responsibilities assigned by law or directive to the state
26 licensing authority;

27 (g) In recognition of the potential medicinal value of medical

1 marijuana, make a request by January 1, 2012, to the federal drug
2 enforcement administration to consider rescheduling, for pharmaceutical
3 purposes, medical marijuana from a schedule I controlled substance to a
4 schedule II controlled substance; and

5 (h) Develop and maintain a seed-to-sale tracking system that
6 tracks medical marijuana from either the seed or immature plant stage
7 until the medical marijuana or medical marijuana-infused product is sold
8 to a customer at a medical marijuana center to ensure that no medical
9 marijuana grown or processed by a medical marijuana establishment is
10 sold or otherwise transferred except by a medical marijuana center;
11 except that the medical marijuana or medical marijuana-infused product
12 is no longer subject to the tracking system once the medical marijuana or
13 medical marijuana-infused product has been:

14 (I) Transferred to a medical research facility pursuant to section
15 25-1.5-106.5 (5)(b); or

16 (II) Transferred to a pesticide manufacturer in quantities that are
17 limited as specified in rules promulgated by the state licensing authority,
18 in consultation with the departments of public health and environment
19 and agriculture. The rules must define a pesticide manufacturer that is
20 authorized to conduct research and must authorize a pesticide
21 manufacturer to conduct research to establish safe and effective protocols
22 for the use of pesticides on medical marijuana. Notwithstanding any other
23 provision of law, a pesticide manufacturer authorized pursuant to this
24 subsection (1)(h)(II) to conduct pesticide research regarding marijuana
25 must be located in Colorado, must conduct the research in Colorado, and
26 is exempt from all otherwise applicable restrictions on the possession and
27 use of medical marijuana or medical marijuana-infused product; except

1 that the manufacturer shall:

2 (A) Not possess at any time a quantity of medical marijuana or
3 medical marijuana-infused product in excess of the limit established in
4 rules promulgated by the state licensing authority;

5 (B) Use the medical marijuana and medical marijuana-infused
6 product only for the pesticide research authorized pursuant to this
7 subsection (1)(h)(II);

8 (C) Destroy, in compliance with rules promulgated by the state
9 licensing authority, all medical marijuana and medical marijuana-infused
10 product remaining after the research has been completed; and

11 (D) Not apply pesticides for research purposes on the licensed
12 premises of a medical marijuana business.

13 (2) (a) Rules promulgated pursuant to subsection (1)(b) of this
14 section may include, but need not be limited to, the following subjects:

15 (I) Compliance with, enforcement of, or violation of any provision
16 of this ~~article~~ ARTICLE 11, section 18-18-406.3 (7), ~~C.R.S.~~, or any rule
17 issued pursuant to this ~~article~~ ARTICLE 11, including procedures and
18 grounds for denying, suspending, fining, restricting, or revoking a state
19 license issued pursuant to this ~~article~~ ARTICLE 11;

20 (II) Specifications of duties of officers and employees of the state
21 licensing authority;

22 (III) Instructions for local licensing authorities and law
23 enforcement officers;

24 (IV) Requirements for inspections, investigations, searches,
25 seizures, forfeitures, and such additional activities as may become
26 necessary from time to time;

27 (V) Creation of a range of penalties for use by the state licensing

- 1 authority;
- 2 (VI) Prohibition of misrepresentation and unfair practices;
- 3 (VII) Control of informational and product displays on licensed
4 premises;
- 5 (VIII) Development of individual identification cards for owners,
6 officers, managers, contractors, employees, and other support staff of
7 entities licensed pursuant to this ~~article~~ ARTICLE 11, including a
8 fingerprint-based criminal history record check as may be required by the
9 state licensing authority prior to issuing a card;
- 10 (IX) Identification of state licensees and their owners, officers,
11 managers, and employees;
- 12 (X) Security requirements for any premises licensed pursuant to
13 this ~~article~~ ARTICLE 11, including, at a minimum, lighting, physical
14 security, video, alarm requirements, and other minimum procedures for
15 internal control as deemed necessary by the state licensing authority to
16 properly administer and enforce the provisions of this ~~article~~ ARTICLE 11,
17 including reporting requirements for changes, alterations, or
18 modifications to the premises;
- 19 (XI) Regulation of the storage of, warehouses for, and
20 transportation of medical marijuana;
- 21 (XII) Sanitary requirements for medical marijuana centers,
22 including but not limited to sanitary requirements for the preparation of
23 medical marijuana-infused products;
- 24 (XIII) The specification of acceptable forms of picture
25 identification that a medical marijuana center may accept when verifying
26 a sale;
- 27 (XIV) Labeling standards;

1 ~~(XIV.5)~~ (XV) Prohibiting the sale of medical marijuana and
2 medical marijuana-infused products unless the product is:

3 (A) Packaged in packaging meeting requirements established by
4 the state licensing authority similar to the federal "Poison Prevention
5 Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq.; or

6 (B) Placed in an opaque and resealable exit package or container
7 at the point of sale prior to exiting the store, and the container or package
8 meets the requirements established by the state licensing authority.

9 ~~(XV)~~ (XVI) Records to be kept by licensees and the required
10 availability of the records;

11 ~~(XVI)~~ (XVII) State licensing procedures, including procedures for
12 renewals, reinstatements, initial licenses, and the payment of licensing
13 fees;

14 ~~(XVII)~~ (XVIII) The reporting and transmittal of monthly sales tax
15 payments by medical marijuana centers;

16 ~~(XVIII)~~ (XIX) Authorization for the department of revenue to
17 have access to licensing information to ensure sales and income tax
18 payment and the effective administration of this ~~article~~ ARTICLE 11;

19 ~~(XVIII.5)~~ (XX) Rules effective on or before January 1, 2016,
20 relating to permitted economic interests including a process for a criminal
21 history record check, a requirement that a permitted economic interest
22 applicant submit to and pass a criminal history record check, a divestiture,
23 and other agreements that would qualify as permitted economic interests;

24 ~~(XVIII.6)~~ (XXI) Medical marijuana transporter licensed
25 businesses, including requirements for drivers, including obtaining and
26 maintaining a valid Colorado driver's license; insurance requirements;
27 acceptable time frames for transport, storage, and delivery; requirements

1 for transport vehicles; and requirements for licensed premises;

2 ~~(XVIII.7)~~ (XXII) Medical marijuana business operator licensees,
3 including the form and structure of allowable agreements between
4 operators and owners.

5 ~~(XIX)~~ (XXIII) Authorization for the department of revenue to
6 issue administrative citations and procedures for issuing, appealing, and
7 creating a citation violation list and schedule of penalties;

8 ~~(XX)~~ (XXIV) Such other matters as are necessary for the fair,
9 impartial, stringent, and comprehensive administration of this ~~article 43.3~~
10 ARTICLE 11;

11 ~~(XXI)~~ (XXV) The parameters and qualifications of an indirect
12 beneficial interest owner and a qualified limited passive investor; AND

13 ~~(XXII)~~ (XXVI) Marijuana research and development licenses and
14 marijuana research and development cultivation licenses, including
15 application requirements; renewal requirements, including whether
16 additional research projects may be added or considered; conditions for
17 license revocation; security measures to ensure marijuana is not diverted
18 to purposes other than research; the amount of plants, useable marijuana,
19 marijuana concentrates, or marijuana-infused products a licensee may
20 have on its premises; licensee reporting requirements; the conditions
21 under which marijuana possessed by medical marijuana licensees may be
22 donated to marijuana research and development licensees and marijuana
23 research and development cultivation licensees; provisions to prevent
24 contamination; requirements for destruction of marijuana after the
25 research is concluded; and any additional requirements.

26 (b) Nothing in this ~~article~~ ARTICLE 11 shall be construed as
27 delegating to the state licensing authority the power to fix prices for

1 medical marijuana.

2 (c) Nothing in this ~~article~~ ARTICLE 11 shall be construed to limit
3 a law enforcement agency's ability to investigate unlawful activity in
4 relation to a medical marijuana center, optional premises cultivation
5 operation, or medical marijuana-infused products manufacturer. A law
6 enforcement agency shall have the authority to run a Colorado crime
7 information center criminal history record check of a primary caregiver,
8 licensee, or employee of a licensee during an investigation of unlawful
9 activity related to medical marijuana.

10 ~~(2.5)~~ (3) (a) Rules promulgated pursuant to subsection (1)(b) of
11 this section must include, but need not be limited to, the following
12 subjects:

13 (I) (A) Establishing a medical marijuana and medical
14 marijuana-infused products independent testing and certification program
15 for medical marijuana licensees, within an implementation time frame,
16 and requiring licensees to test medical marijuana to ensure, at a minimum,
17 that products sold for human consumption do not contain contaminants
18 that are injurious to health and to ensure correct labeling.

19 (B) Testing may include analysis for microbial and residual
20 solvents and chemical and biological contaminants deemed to be public
21 health hazards by the Colorado department of public health and
22 environment based on medical reports and published scientific literature.

23 (C) In the event that test results indicate the presence of quantities
24 of any substance determined to be injurious to health, the licensee shall
25 immediately quarantine the products and notify the state licensing
26 authority. The state licensing authority shall give the licensee an
27 opportunity to remediate the product if the test indicated the presence of

1 a microbial. If the licensee is unable to remediate the product, the licensee
2 shall document and properly destroy the adulterated product.

3 (D) Testing shall also verify THC potency representations and
4 homogeneity for correct labeling and provide a cannabinoid profile for
5 the marijuana product.

6 (E) The state licensing authority shall determine an acceptable
7 variance for potency representations and procedures to address potency
8 misrepresentations.

9 (F) The state licensing authority shall determine the protocols and
10 frequency of marijuana testing by licensees.

11 (G) A state, local, or municipal agency shall not employ or use the
12 results of any test of medical marijuana or medical marijuana-infused
13 products conducted by an analytical laboratory that is not certified
14 pursuant to this subsection ~~(2.5)(a)(I)~~ (3)(a)(I) for the particular testing
15 category and accredited pursuant to the International Organization for
16 Standardization/International Electrotechnical Commission 17025:2005
17 standard, or any subsequent superseding standard, in that field of testing.

18 (II) Signage, marketing, and advertising, including but not limited
19 to a prohibition on mass-market campaigns that have a high likelihood of
20 reaching persons under eighteen years of age and other such rules that
21 may include:

22 (A) Allowing packaging and accessory branding;

23 (B) A prohibition on health or physical benefit claims in
24 advertising, merchandising, and packaging;

25 (C) A prohibition on unsolicited pop-up advertising on the
26 internet;

27 (D) A prohibition on banner ads on mass-market websites;

1 (E) A prohibition on opt-in marketing that does not permit an easy
2 and permanent opt-out feature; and

3 (F) A prohibition on marketing directed toward location-based
4 devices, including but not limited to cellular phones, unless the marketing
5 is a mobile device application installed on the device by the owner of the
6 device who is eighteen years of age or older and includes a permanent and
7 easy opt-out feature.

8 (III) (A) A prohibition on the production and sale of edible
9 medical marijuana-infused products that are in the distinct shape of a
10 human, animal, or fruit. Geometric shapes and products that are simply
11 fruit flavored are not considered fruit. Products in the shape of a
12 marijuana leaf are permissible. Nothing in this ~~subparagraph (H)~~
13 SUBSECTION (3)(a)(III) applies to a company logo.

14 (B) The rules promulgated pursuant to this ~~subparagraph (H)~~
15 SUBSECTION (3)(a)(III) shall take effect on October 1, 2017.

16 (b) The executive director of the department of public health and
17 environment shall provide to the state licensing authority standards for
18 licensing laboratories pursuant to the requirements as outlined in
19 ~~sub-subparagraph (A) of subparagraph (I) of paragraph (a) of this~~
20 ~~subsection (2.5)~~ SUBSECTION (3)(a)(I)(A) OF THIS SECTION for medical
21 marijuana and medical marijuana-infused products.

22 (c) Mandatory medical marijuana testing shall not begin until a
23 marijuana laboratory testing reference library is created and licensees are
24 set up for proficiency tests and standards.

25 ~~(3) Repealed.~~

26 PART 3

27 STATE AND LOCAL LICENSING

1 **44-11-301. [Formerly 12-43.3-301] Local licensing authority -**
2 **applications - licenses.** (1) A local licensing authority may issue only the
3 following medical marijuana licenses upon payment of the fee and
4 compliance with all local licensing requirements to be determined by the
5 local licensing authority:

- 6 (a) A medical marijuana center license;
- 7 (b) An optional premises cultivation license;
- 8 (c) A medical marijuana-infused products manufacturing license;
- 9 (d) A medical marijuana testing facility license;
- 10 (e) A medical marijuana transporter license;
- 11 (f) A medical marijuana business operator license;
- 12 (g) A marijuana research and development license; and
- 13 (h) A marijuana research and development cultivation license.

14 (2) (a) A local licensing authority shall not issue a local license
15 within a municipality, city and county, or the unincorporated portion of
16 a county unless the governing body of the municipality or city and county
17 has adopted an ordinance, or the governing body of the county has
18 adopted a resolution, containing specific standards for license issuance,
19 or if no such ordinance or resolution is adopted prior to July 1, 2012, then
20 a local licensing authority shall consider the minimum licensing
21 requirements of this part 3 when issuing a license.

22 (b) In addition to all other standards applicable to the issuance of
23 licenses under this ~~article~~ ARTICLE 11, the local governing body may
24 adopt additional standards for the issuance of medical marijuana center,
25 optional premises cultivation, or medical marijuana-infused products
26 manufacturer licenses consistent with the intent of this ~~article~~ ARTICLE 11
27 that may include, but need not be limited to:

1 (I) Distance restrictions between premises for which local licenses
2 are issued;

3 (II) Reasonable restrictions on the size of an applicant's licensed
4 premises; and

5 (III) Any other requirements necessary to ensure the control of the
6 premises and the ease of enforcement of the terms and conditions of the
7 license.

8 (3) An application for a license specified in subsection (1) of this
9 section shall be filed with the state licensing authority and the appropriate
10 local licensing authority on forms provided by the state licensing
11 authority and shall contain such information as the state licensing
12 authority may require and any forms as the local licensing authority may
13 require. Each application shall be verified by the oath or affirmation of
14 the persons prescribed by the state licensing authority.

15 (4) An applicant shall file, at the time of application for a license,
16 plans and specifications for the interior of the building if the building to
17 be occupied is in existence at the time. If the building is not in existence,
18 the applicant shall file a plot plan and a detailed sketch for the interior
19 and submit an architect's drawing of the building to be constructed. In its
20 discretion, the local or state licensing authority may impose additional
21 requirements necessary for the approval of the application.

22 **44-11-302. [Formerly 12-43.3-302] Public hearing notice -**
23 **posting and publication.** (1) Upon receipt of an application for a local
24 license, except an application for renewal or for transfer of ownership, a
25 local licensing authority may schedule a public hearing upon the
26 application to be held not less than thirty days after the date of the
27 application. If the local licensing authority schedules a hearing for a

1 license application, it shall post and publish public notice thereof not less
2 than ten days prior to the hearing. The local licensing authority shall give
3 public notice by posting a sign in a conspicuous place on the license
4 applicant's premises for which license application has been made and by
5 publication in a newspaper of general circulation in the county in which
6 the applicant's premises are located.

7 (2) Public notice given by posting shall include a sign of suitable
8 material, not less than twenty-two inches wide and twenty-six inches
9 high, composed of letters not less than one inch in height and stating the
10 type of license applied for, the date of the application, the date of the
11 hearing, the name and address of the applicant, and such other
12 information as may be required to fully apprise the public of the nature of
13 the application. The sign shall contain the names and addresses of the
14 officers, directors, or manager of the facility to be licensed.

15 (3) Public notice given by publication shall contain the same
16 information as that required for signs.

17 (4) If the building in which medical marijuana is to be cultivated,
18 manufactured, or distributed is in existence at the time of the application,
19 a sign posted as required in subsections (1) and (2) of this section shall be
20 placed so as to be conspicuous and plainly visible to the general public.
21 If the building is not constructed at the time of the application, the
22 applicant shall post a sign at the premises upon which the building is to
23 be constructed in such a manner that the notice shall be conspicuous and
24 plainly visible to the general public.

25 (5) (a) ~~(Deleted by amendment, L. 2013.)~~

26 ~~(b)~~ (a) When conducting its application review, the state licensing
27 authority may advise the local licensing authority of any items that it finds

1 that could result in the denial of the license application. Upon correction
2 of the noted discrepancies, if the correction is permitted by the state
3 licensing authority, the state licensing authority shall notify the local
4 licensing authority of its conditional approval of the license application
5 amendments. The state licensing authority shall then issue the applicant's
6 state license, which shall remain conditioned upon local authority
7 approval.

8 (e)(b) All applications submitted for review shall be accompanied
9 by all applicable state and local license and application fees. Any
10 applications that are later denied or withdrawn may allow for a refund of
11 license fees only. All application fees provided by an applicant shall be
12 retained by the respective licensing authority.

13 **44-11-303. [Formerly 12-43.3-303] Results of investigation -**
14 **decision of authorities.** (1) Not less than five days prior to the date of
15 the public hearing authorized in section ~~12-43.3-302~~ 44-11-302, the local
16 licensing authority shall make known its findings, based on its
17 investigation, in writing to the applicant and other parties of interest. The
18 local licensing authority has authority to refuse to issue a license provided
19 for in this section for good cause, subject to judicial review.

20 (2) Before entering a decision approving or denying the
21 application for a local license, the local licensing authority may consider,
22 except where this ~~article~~ ARTICLE 11 specifically provides otherwise, the
23 facts and evidence adduced as a result of its investigation, as well as any
24 other facts pertinent to the type of license for which application has been
25 made, including the number, type, and availability of medical marijuana
26 centers, optional premises cultivation operations, or medical
27 marijuana-infused products manufacturers located in or near the premises

1 under consideration, and any other pertinent matters affecting the
2 qualifications of the applicant for the conduct of the type of business
3 proposed.

4 (3) Within thirty days after the public hearing or completion of the
5 application investigation, a local licensing authority shall issue its
6 decision approving or denying an application for local licensure. The
7 decision shall be in writing and shall state the reasons for the decision.
8 The local licensing authority shall send a copy of the decision by certified
9 mail to the applicant at the address shown in the application.

10 (4) After approval of an application, the local licensing authority
11 shall not issue a local license until the building in which the business to
12 be conducted is ready for occupancy with such furniture, fixtures, and
13 equipment in place as are necessary to comply with the applicable
14 provisions of this ~~article~~ ARTICLE 11, and then only after the state or local
15 licensing authority has inspected the premises to determine that the
16 applicant has complied with the architect's drawing and the plot plan and
17 detailed sketch for the interior of the building submitted with the
18 application.

19 (5) After approval of an application for conditional state licensure,
20 the state licensing authority shall notify the local licensing authority of
21 such approval. After approval of an application for local licensure, the
22 local licensing authority shall notify the state licensing authority of such
23 approval, who shall investigate and either approve or disapprove the
24 application for state licensure.

25 **44-11-304. [Formerly 12-43.3-305] State licensing authority -**
26 **application and issuance procedures.** (1) Applications for a state
27 license under the provisions of this ~~article~~ ARTICLE 11 shall be made to

1 the state licensing authority on forms prepared and furnished by the state
2 licensing authority and shall set forth such information as the state
3 licensing authority may require to enable the state licensing authority to
4 determine whether a state license should be granted. The information
5 shall include the name and address of the applicant, the names and
6 addresses of the officers, directors, or managers, and all other information
7 deemed necessary by the state licensing authority. Each application shall
8 be verified by the oath or affirmation of such person or persons as the
9 state licensing authority may prescribe.

10 (2) The state licensing authority shall issue a state license to a
11 medical marijuana center, an optional premises cultivation operation, or
12 a medical marijuana-infused products manufacturer pursuant to this
13 section upon satisfactory completion of the applicable criminal history
14 background check associated with the application, and the state license
15 is conditioned upon local licensing authority approval. A license applicant
16 is prohibited from operating a licensed medical marijuana business
17 without both state and local licensing authority approval. The denial of an
18 application by the local licensing authority shall be considered as a basis
19 for the state licensing authority to revoke the state-issued license.

20 ~~(2.5)~~ (3) An applicant that has been permitted to operate a medical
21 marijuana business under the provisions of section ~~12-43.3-103 (1)(b)~~
22 44-11-103 (1)(b) and has been issued a conditional license by the state
23 licensing authority pursuant to subsection (2) of this section may continue
24 to operate the business while an application is pending with the local
25 licensing authority. If the local licensing authority denies the license
26 application, the medical marijuana business shall cease operations upon
27 receiving the denial. The denial of an application by the local licensing

1 authority shall be considered as a basis for the state licensing authority to
2 revoke the state-issued license.

3 ~~(3)~~ (4) Nothing in this ~~article~~ ARTICLE 11 shall preempt or
4 otherwise impair the power of a local government to enact ordinances or
5 resolutions concerning matters authorized to local governments.

6 **44-11-305. [Formerly 12-43.3-306] Denial of application.**

7 (1) The state licensing authority shall deny a state license if the premises
8 on which the applicant proposes to conduct its business does not meet the
9 requirements of this ~~article~~ ARTICLE 11 or for reasons set forth in section
10 ~~12-43.3-104(1.3)(c)~~ 44-11-104 (2)(c) or ~~12-43.3-305~~ 44-11-304, and the
11 state licensing authority may deny a license for good cause as defined by
12 section ~~12-43.3-104(1.3)(a) or (1.3)(b)~~ 44-11-104 (2)(a) OR (2)(b).

13 (2) If the state licensing authority denies a state license pursuant
14 to subsection (1) of this section, the applicant shall be entitled to a
15 hearing pursuant to section 24-4-104 (9) ~~€R.S.~~, and judicial review
16 pursuant to section 24-4-106. ~~€R.S.~~ The state licensing authority shall
17 provide written notice of the grounds for denial of the state license to the
18 applicant and to the local licensing authority at least fifteen days prior to
19 the hearing.

20 **44-11-306. [Formerly 12-43.3-307] Persons prohibited as**

21 **licensees - definition.** (1) A license provided by this ~~article~~ ARTICLE 11
22 shall not be issued to or held by:

- 23 (a) A person until the fee therefore has been paid;
- 24 (b) A person whose criminal history indicates that he or she is not
25 of good moral character;
- 26 (c) A corporation, if the criminal history of any of its officers,
27 directors, or stockholders indicates that the officer, director, or

1 stockholder is not of good moral character;

2 (d) A licensed physician making patient recommendations;

3 (e) A person employing, assisted by, or financed in whole or in
4 part by any other person whose criminal history indicates he or she is not
5 of good character and reputation satisfactory to the respective licensing
6 authority;

7 (f) A person under twenty-one years of age;

8 (g) A person licensed pursuant to this ~~article~~ ARTICLE 11 who,
9 during a period of licensure, or who, at the time of application, has failed
10 to:

11 (I) File any tax return with a taxing agency related to a medical
12 marijuana business or retail marijuana establishment;

13 (II) Pay any taxes, interest, or penalties due related to a medical
14 marijuana business or retail marijuana establishment;

15 ~~(III) to (VI) (Deleted by amendment, L. 2015.)~~

16 ~~(g-5)~~ (h) A person who fails to meet qualifications for licensure
17 that directly and demonstrably relate to the operation of a medical
18 marijuana establishment;

19 ~~(h)~~ (i) (I) A person who has discharged a sentence for a conviction
20 of a felony in the five years immediately preceding his or her application
21 date; or

22 (II) A person who has discharged a sentence for a conviction of
23 a felony pursuant to any state or federal law regarding the possession,
24 distribution, manufacturing, cultivation, or use of a controlled substance
25 in the ten years immediately preceding his or her application date or five
26 years from May 28, 2013, whichever is longer; except that the licensing
27 authority may grant a license to a person if the person has a state felony

1 conviction based on possession or use of marijuana or marijuana
2 concentrate that would not be a felony if the person were convicted of the
3 offense on the date he or she applied for licensure;

4 (†) (j) A person who employs another person at a medical
5 marijuana facility who has not passed a criminal history record check;

6 (†) (k) A sheriff, deputy sheriff, police officer, or prosecuting
7 officer, or an officer or employee of the state licensing authority or a local
8 licensing authority;

9 (†) (l) A person whose authority to be a primary caregiver as
10 defined in section 25-1.5-106 (2) C.R.S., has been revoked by the state
11 health agency;

12 (†) (m) A person for a license for a location that is currently
13 licensed as a retail food establishment or wholesale food registrant; or

14 ~~(m) Repealed.~~

15 (n) A publicly traded company.

16 (2) (a) In investigating the qualifications of an applicant or a
17 licensee, the state and local licensing authorities may have access to
18 criminal history record information furnished by a criminal justice agency
19 subject to any restrictions imposed by such agency. In the event the state
20 or local licensing authority considers the applicant's criminal history
21 record, the state or local licensing authority shall also consider any
22 information provided by the applicant regarding such criminal history
23 record, including but not limited to evidence of rehabilitation, character
24 references, and educational achievements, especially those items
25 pertaining to the period of time between the applicant's last criminal
26 conviction and the consideration of the application for a state license.

27 (b) As used in paragraph (a) of this subsection (2) SUBSECTION

1 (2)(a) OF THIS SECTION, "criminal justice agency" means any federal, state,
2 or municipal court or any governmental agency or subunit of such agency
3 that administers criminal justice pursuant to a statute or executive order
4 and that allocates a substantial part of its annual budget to the
5 administration of criminal justice.

6 (c) At the time of filing an application for issuance or renewal of
7 a state medical marijuana center license, medical marijuana-infused
8 product manufacturer license, or optional premises cultivation license, an
9 applicant shall submit a set of his or her fingerprints and file personal
10 history information concerning the applicant's qualifications for a state
11 license on forms prepared by the state licensing authority. The state or
12 local licensing authority shall submit the fingerprints to the Colorado
13 bureau of investigation for the purpose of conducting fingerprint-based
14 criminal history record checks. The Colorado bureau of investigation
15 shall forward the fingerprints to the federal bureau of investigation for the
16 purpose of conducting fingerprint-based criminal history record checks.
17 The state or local licensing authority may acquire a name-based criminal
18 history record check for an applicant or a license holder who has twice
19 submitted to a fingerprint-based criminal history record check and whose
20 fingerprints are unclassifiable. An applicant who has previously
21 submitted fingerprints for state licensing purposes may request that the
22 fingerprints on file be used. The state or local licensing authority shall use
23 the information resulting from the fingerprint-based criminal history
24 record check to investigate and determine whether an applicant is
25 qualified to hold a state license pursuant to this ~~article~~ ARTICLE 11. The
26 state or local licensing authority may verify any of the information an
27 applicant is required to submit.

1 **44-11-307. [Formerly 12-43.3-307.5] Business and owner**
2 **requirements - legislative declaration - definition.** (1) (a) The general
3 assembly hereby finds and declares that:

4 (I) Medical marijuana businesses need to be able to access capital
5 in order to effectively grow their businesses and remain competitive in the
6 marketplace;

7 (II) The current regulatory structure for medical marijuana creates
8 a substantial barrier to investment from out-of-state interests;

9 (III) There is insufficient capital in the state to properly fund the
10 capital needs of Colorado medical marijuana businesses;

11 (IV) Colorado medical marijuana businesses need to have ready
12 access to capital from investors in states outside of Colorado; and

13 (V) Providing access to legitimate sources of capital helps prevent
14 the opportunity for those who engage in illegal activity to gain entry into
15 the state's regulated medical marijuana market.

16 (b) Therefore, the general assembly is providing a mechanism for
17 Colorado medical marijuana businesses to access capital from investors
18 in other states.

19 (2) A direct beneficial interest owner who is a natural person must
20 either:

21 (a) Have been a resident of Colorado for at least one year prior to
22 the date of the application; or

23 (b) Be a United States citizen prior to the date of the application.

24 (3) (a) A medical marijuana business may be comprised of an
25 unlimited number of direct beneficial interest owners that have been
26 residents of Colorado for at least one year prior to the date of the
27 application.

1 (b) On and after January 1, 2017, a medical marijuana business
2 that is comprised of one or more direct beneficial interest owners who
3 have not been Colorado residents for at least one year prior to application
4 shall have at least one officer who has been a Colorado resident for at
5 least one year prior to application and all officers with day-to-day
6 operational control over the business must be Colorado residents for at
7 least one year prior to application. A medical marijuana business under
8 this ~~paragraph (b)~~ SUBSECTION (3)(b) is limited to no more than fifteen
9 direct beneficial interest owners, including all parent and subsidiary
10 entities, all of whom are natural persons.

11 (c) Notwithstanding the requirements of ~~paragraph (b) of this~~
12 ~~subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION, the state licensing
13 authority may review the limitation on the number of direct beneficial
14 interest owners and may increase the number of allowable interests above
15 fifteen based on reasonable considerations such as developments in state
16 and federal financial regulations, market conditions, and the licensee's
17 ability to access legitimate sources of capital.

18 (d) A direct beneficial interest owner that is a closely held
19 business entity must consist entirely of natural persons who are United
20 States citizens prior to the date of the application, including all parent and
21 subsidiary entities.

22 (4) A medical marijuana business may include qualified
23 institutional investors that own thirty percent or less of the medical
24 marijuana business.

25 (5) (a) A person who intends to apply as a direct beneficial
26 interest owner and is not a Colorado resident for at least one year prior to
27 the date of application shall first submit a request to the state licensing

1 authority for a finding of suitability as a direct beneficial interest owner.
2 The person shall receive a finding of suitability prior to submitting an
3 application to the state licensing authority to be a direct beneficial interest
4 owner. Failure to receive a finding of suitability prior to application is
5 grounds for denial by the state licensing authority.

6 (b) The state licensing authority shall perform a limited initial
7 background check on qualified limited passive investors. If the initial
8 background check provides reasonable cause for additional investigation,
9 the state licensing authority may require a full background check.

10 (6) The state licensing authority shall review the medical
11 marijuana business's operating documents to ensure compliance with this
12 section.

13 (7) For purposes of this section, unless the context otherwise
14 requires, "institutional investor" means:

15 (a) A bank as defined in section 3(a)(6) of the federal "Securities
16 Exchange Act of 1934", as amended;

17 (b) An insurance company as defined in section 2(a)(17) of the
18 federal "Investment Company Act of 1940", as amended;

19 (c) An investment company registered under section 8 of the
20 federal "Investment Company Act of 1940", as amended;

21 (d) An investment adviser registered under section 203 of the
22 federal "Investment Advisers Act of 1940", as amended;

23 (e) Collective trust funds as defined in section 3(c)(11) of the
24 federal "Investment Company Act of 1940", as amended;

25 (f) An employee benefit plan or pension fund that is subject to the
26 federal "Employee Retirement Income Security Act of 1974", as
27 amended, excluding an employee benefit plan or pension fund sponsored

1 by a licensee or an intermediary or holding company licensee that directly
2 or indirectly owns five percent or more of a licensee;

3 (g) A state or federal government pension plan;

4 (h) A group comprised entirely of persons specified in ~~subsections~~
5 ~~(a) to (g) of this subsection (7)~~ SUBSECTIONS (7)(a) TO (7)(g) OF THIS
6 SECTION; or

7 (i) Any other entity identified through rule by the state licensing
8 authority.

9 **44-11-308. [Formerly 12-43.3-308] Restrictions for applications**
10 **for new licenses.** (1) The state or a local licensing authority shall not
11 receive or act upon an application for the issuance of a state or local
12 license pursuant to this ~~article~~ ARTICLE 11:

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

19 (b) Until it is established that the applicant is, or will be, entitled
20 to possession of the premises for which application is made under a lease,
21 rental agreement, or other arrangement for possession of the premises or
22 by virtue of ownership of the premises;

23 (c) For a location in an area where the cultivation, manufacture,
24 and sale of medical marijuana as contemplated is not permitted under the
25 applicable zoning laws of the municipality, city and county, or county;

26 (d) (I) If the building in which medical marijuana is to be sold is
27 located within one thousand feet of a school, an alcohol or drug treatment

1 facility, the principal campus of a college, university, or seminary, or a
2 residential child care facility. The provisions of this section shall not
3 affect the renewal or reissuance of a license once granted or apply to
4 licensed premises located or to be located on land owned by a
5 municipality, nor shall the provisions of this section apply to an existing
6 licensed premises on land owned by the state, or apply to a license in
7 effect and actively doing business before said principal campus was
8 constructed. The local licensing authority of a city and county, by rule or
9 regulation, the governing body of a municipality, by ordinance, and the
10 governing body of a county, by resolution, may vary the distance
11 restrictions imposed by this ~~subparagraph (I)~~ SUBSECTION (1)(d)(I) for a
12 license or may eliminate one or more types of schools, campuses, or
13 facilities from the application of a distance restriction established by or
14 pursuant to this ~~subparagraph (I)~~ SUBSECTION (1)(d)(I).

15 (II) The distances referred to in this ~~paragraph (d)~~ SUBSECTION
16 (1)(d) are to be computed by direct measurement from the nearest
17 property line of the land used for a school or campus to the nearest
18 portion of the building in which medical marijuana is to be sold, using a
19 route of direct pedestrian access.

20 (III) In addition to the requirements of section ~~12-43.3-303 (2)~~
21 44-11-303 (2), the local licensing authority shall consider the evidence
22 and make a specific finding of fact as to whether the building in which
23 the medical marijuana is to be sold is located within any distance
24 restrictions established by or pursuant to this ~~paragraph (d)~~ SUBSECTION
25 (1)(d).

26 **44-11-309. [Formerly 12-43.3-309] Transfer of ownership.**

27 (1) A state or local license granted under the provisions of this ~~article~~

1 ARTICLE 11 shall not be transferable except as provided in this section, but
2 this section shall not prevent a change of location as provided in section
3 ~~12-43.3-310 (13)~~ 44-11-310 (13).

4 (2) For a transfer of ownership, a license holder shall apply to the
5 state and local licensing authorities on forms prepared and furnished by
6 the state licensing authority. In determining whether to permit a transfer
7 of ownership, the state and local licensing authorities shall consider only
8 the requirements of this ~~article~~ ARTICLE 11, any rules promulgated by the
9 state licensing authority, and any other local restrictions. The local
10 licensing authority may hold a hearing on the application for transfer of
11 ownership. The local licensing authority shall not hold a hearing pursuant
12 to this subsection (2) until the local licensing authority has posted a notice
13 of hearing in the manner described in section ~~12-43.3-302 (2)~~ 44-11-302
14 (2) on the licensed medical marijuana center premises for a period of ten
15 days and has provided notice of the hearing to the applicant at least ten
16 days prior to the hearing. Any transfer of ownership hearing by the state
17 licensing authority shall be held in compliance with the requirements
18 specified in section ~~12-43.3-302~~ 44-11-302.

19 **44-11-310. [Formerly 12-43.3-310] Licensing in general.**

20 (1) This ~~article~~ ARTICLE 11 authorizes a county, municipality, or city and
21 county to prohibit the operation of medical marijuana centers, optional
22 premises cultivation operations, and medical marijuana-infused products
23 manufacturers' licenses and to enact reasonable regulations or other
24 restrictions applicable to medical marijuana centers, optional premises
25 cultivation licenses, and medical marijuana-infused products
26 manufacturers' licenses based on local government zoning, health, safety,
27 and public welfare laws for the distribution of medical marijuana that are

1 more restrictive than this ~~article~~ ARTICLE 11.

2 (2) A medical marijuana center, optional premises cultivation
3 operation, or medical marijuana-infused products manufacturer may not
4 operate until it has been licensed by the local licensing authority and the
5 state licensing authority pursuant to this ~~article~~ ARTICLE 11. If the state
6 licensing authority issues the applicant a state license and the local
7 licensing authority subsequently denies the applicant a license, the state
8 licensing authority shall consider the local licensing authority denial as a
9 basis for the revocation of the state-issued license. In connection with a
10 license, the applicant shall provide a complete and accurate list of all
11 owners, officers, and employees who manage, own, or are otherwise
12 substantially associated with the operation and shall provide a complete
13 and accurate application as required by the state licensing authority.

14 (3) A medical marijuana center, optional premises cultivation
15 operation, or medical marijuana-infused products manufacturer shall
16 notify the state licensing authority in writing within ten days after an
17 owner, officer, or manager ceases to work at, manage, own, or otherwise
18 be associated with the operation. The owner, officer, or manager shall
19 surrender to the state licensing authority any identification card that may
20 have been issued by the state licensing authority on or before the date of
21 the notification.

22 (4) A medical marijuana center, optional premises cultivation
23 operation, or medical marijuana-infused products manufacturer shall
24 notify the state licensing authority in writing of the name, address, and
25 date of birth of an owner, officer, or manager before the new owner,
26 officer, or manager begins managing, owning, or associating with the
27 operation. Any owner, officer, manager or employee shall pass a

1 fingerprint-based criminal history record check as required by the state
2 licensing authority and obtain the required identification prior to being
3 associated with, managing, owning, or working at the operation.

4 (5) A medical marijuana center, optional premises cultivation
5 operation, or medical marijuana-infused products manufacturer shall not
6 acquire, possess, cultivate, deliver, transfer, transport, supply, or dispense
7 marijuana for any purpose except to assist patients, as defined by section
8 14 (1) of article XVIII of the state constitution.

9 (6) All managers and employees of a medical marijuana center,
10 optional premises cultivation operation, or medical marijuana-infused
11 products manufacturer shall be residents of Colorado upon the date of
12 their license application. All licenses granted pursuant to this ~~article~~
13 ARTICLE 11 shall be valid for a period not to exceed two years after the
14 date of issuance unless revoked or suspended pursuant to this ~~article~~
15 ARTICLE 11 or the rules promulgated pursuant to this ~~article~~ ARTICLE 11.

16 (7) Before granting a local or state license, the respective
17 licensing authority may consider, except where this ~~article~~ ARTICLE 11
18 specifically provides otherwise, the requirements of this ~~article~~ ARTICLE
19 11 and any rules promulgated pursuant to this ~~article~~ ARTICLE 11, and all
20 other reasonable restrictions that are or may be placed upon the licensee
21 by the licensing authority. With respect to a second or additional license
22 for the same licensee or the same owner of another licensed business
23 pursuant to this ~~article~~ ARTICLE 11, each licensing authority shall consider
24 the effect on competition of granting or denying the additional licenses
25 to such licensee and shall not approve an application for a second or
26 additional license that would have the effect of restraining competition.

27 (8) (a) Each license issued under this ~~article~~ ARTICLE 11 is

1 separate and distinct. It is unlawful for a person to exercise any of the
2 privileges granted under a license other than the license that the person
3 holds or for a licensee to allow any other person to exercise the privileges
4 granted under the licensee's license. A separate license shall be required
5 for each specific business or business entity and each geographical
6 location.

7 (b) At all times, a licensee shall possess and maintain possession
8 of the premises or optional premises for which the license is issued by
9 ownership, lease, rental, or other arrangement for possession of the
10 premises.

11 (9) (a) The licenses provided pursuant to this ~~article~~ ARTICLE 11
12 shall specify the date of issuance, the period of licensure, the name of the
13 licensee, and the premises or optional premises licensed. The licensee
14 shall conspicuously place the license at all times on the licensed premises
15 or optional premises.

16 (b) A local licensing authority shall not transfer location of or
17 renew a license to sell medical marijuana until the applicant for the
18 license provides verification that a license was issued and granted by the
19 state licensing authority for the previous license term. The state licensing
20 authority shall not transfer location of or renew a state license until the
21 applicant provides verification that a license was issued and granted by
22 the local licensing authority for the previous license term.

23 (10) In computing any period of time prescribed by this ~~article~~
24 ARTICLE 11, the day of the act, event, or default from which the
25 designated period of time begins to run shall not be included. Saturdays,
26 Sundays, and legal holidays shall be counted as any other day.

27 (11) A licensee shall report each transfer or change of financial

1 interest in the license to the state and local licensing authorities thirty days
2 prior to any transfer or change pursuant to section ~~12-43.3-309~~
3 44-11-309. A report shall be required for transfers of capital stock of any
4 corporation regardless of size.

5 (12) Each licensee shall manage the licensed premises himself or
6 herself or employ a separate and distinct manager on the premises and
7 shall report the name of the manager to the state and local licensing
8 authorities. The licensee shall report any change in manager to the state
9 and local licensing authorities prior to the change pursuant to subsection
10 (4) of this section.

11 (13) (a) A licensee may move his or her permanent location to any
12 other place in Colorado once permission to do so is granted by the state
13 and local licensing authorities provided for in this ~~article 43.3~~ ARTICLE 11.
14 Upon receipt of an application for change of location, the state licensing
15 authority shall, within seven days, submit a copy of the application to the
16 local licensing authority to determine whether the transfer complies with
17 all local restrictions on change of location.

18 (b) In permitting a change of location, the state and local licensing
19 authorities shall consider all reasonable restrictions that are or may be
20 placed upon the new location by the governing board or local licensing
21 authority of the municipality, city and county, or county, and any such
22 change in location shall be in accordance with all requirements of this
23 ~~article 43.3~~ ARTICLE 11 and rules promulgated pursuant to this ~~article 43.3~~
24 ARTICLE 11.

25 ~~(14) Repealed.~~

26 **44-11-311. [Formerly 12-43.3-311] License renewal.** (1) Ninety
27 days prior to the expiration date of an existing license, the state licensing

1 authority shall notify the licensee of the expiration date by first class mail
2 at the licensee's address of record with the state licensing authority. A
3 licensee shall apply for the renewal of an existing license to the local
4 licensing authority not less than forty-five days and to the state licensing
5 authority not less than thirty days prior to the date of expiration. A local
6 licensing authority shall not accept an application for renewal of a license
7 after the date of expiration, except as provided in subsection (2) of this
8 section. The state licensing authority may extend the expiration date of
9 the license and accept a late application for renewal of a license provided
10 that the applicant has filed a timely renewal application with the local
11 licensing authority. All renewals filed with the local licensing authority
12 and subsequently approved by the local licensing authority shall next be
13 processed by the state licensing authority. The state licensing authority
14 may administratively continue the license and accept a later application
15 for renewal of a license at the discretion of the state licensing authority.
16 The local licensing authority may hold a hearing on the application for
17 renewal only if the licensee has had complaints filed against it, has a
18 history of violations, or there are allegations against the licensee that
19 would constitute good cause. The local licensing authority shall not hold
20 a renewal hearing provided for by this subsection (1) for a medical
21 marijuana center until it has posted a notice of hearing on the licensed
22 medical marijuana center premises in the manner described in section
23 ~~42-43.3-302 (2)~~ 44-11-302 (2) for a period of ten days and provided
24 notice to the applicant at least ten days prior to the hearing. The local
25 licensing authority may refuse to renew any license for good cause,
26 subject to judicial review.

27 (1.5) (2) The state licensing authority may require an additional

1 fingerprint request when there is a demonstrated investigative need.

2 ~~(2)~~(3)(a) Notwithstanding the provisions of subsection (1) of this
3 section, a licensee whose license has been expired for not more than
4 ninety days may file a late renewal application upon the payment of a
5 nonrefundable late application fee of five hundred dollars to the local
6 licensing authority. A licensee who files a late renewal application and
7 pays the requisite fees may continue to operate until both the state and
8 local licensing authorities have taken final action to approve or deny the
9 licensee's late renewal application unless the state or local licensing
10 authority summarily suspends the license pursuant to article 4 of title 24,
11 ~~C.R.S.~~, this ~~article~~ ARTICLE 11, and rules promulgated pursuant to this
12 ~~article~~ ARTICLE 11.

13 (b) The state and local licensing authorities may not accept a late
14 renewal application more than ninety days after the expiration of a
15 licensee's permanent annual license. A licensee whose permanent annual
16 license has been expired for more than ninety days shall not cultivate,
17 manufacture, distribute, or sell any medical marijuana until all required
18 licenses have been obtained.

19 (c) Notwithstanding the amount specified for the late application
20 fee in ~~paragraph (a) of this subsection (2)~~ SUBSECTION (3)(a) OF THIS
21 SECTION, the state licensing authority by rule or as otherwise provided by
22 law may reduce the amount of the fee if necessary pursuant to section
23 24-75-402 (3) ~~C.R.S.~~, by reducing the uncommitted reserves of the fund
24 to which all or any portion of the fee is credited. After the uncommitted
25 reserves of the fund are sufficiently reduced, the state licensing authority
26 by rule or as otherwise provided by law may increase the amount of the
27 fee as provided in section 24-75-402 (4). ~~C.R.S.~~

1 to the applicant a license from any of the following classes, subject to the
2 provisions and restrictions provided by this ~~article 43.3~~ ARTICLE 11:

- 3 (a) Medical marijuana center license;
- 4 (b) Optional premises cultivation license;
- 5 (c) Medical marijuana-infused products manufacturing license;
- 6 ~~(e.5)~~ (d) Medical marijuana testing facility license;
- 7 ~~(d)~~ (e) Occupational licenses and registrations for owners,
8 managers, operators, employees, contractors, and other support staff
9 employed by, working in, or having access to restricted areas of the
10 licensed premises, as determined by the state licensing authority. Upon
11 receipt of an affirmation under penalty of perjury that the applicant is
12 enrolled in a marijuana-based workforce development or training program
13 operated by an entity licensed under this ~~article 43.3~~ ARTICLE 11 or by a
14 school that is authorized by the division of private occupational schools
15 in Colorado that will require access or employment within a premises
16 licensed pursuant to this ~~article 43.3~~ ARTICLE 11 or ~~article 43.4~~ ARTICLE
17 12 of this ~~title 12~~ TITLE 44, the state licensing authority may exempt for
18 up to two years based on the length of the program the residency
19 requirement in section ~~12-43.3-310 (6)~~ 44-11-310 (6) for a person
20 applying for an occupational license for participation in a
21 marijuana-based workforce development or training program. The state
22 licensing authority may take any action with respect to a registration
23 pursuant to this ~~article 43.3~~ ARTICLE 11 as it may with respect to a license
24 pursuant to this ~~article 43.3~~ ARTICLE 11, in accordance with the
25 procedures established pursuant to this ~~article 43.3~~ ARTICLE 11.

- 26 ~~(e)~~ (f) Medical marijuana transporter license;
- 27 ~~(f)~~ (g) Medical marijuana business operator license;

1 ~~(g)~~ (h) Marijuana research and development license; and
2 ~~(h)~~ (i) Marijuana research and development cultivation license.

3 (2) All persons licensed pursuant to this ~~article~~ ARTICLE 11 shall
4 collect sales tax on all sales made pursuant to the licensing activities.

5 (3) A state chartered bank or a credit union may loan money to
6 any person licensed pursuant to this ~~article~~ ARTICLE 11 for the operation
7 of a licensed business. A marijuana financial services cooperative
8 organized pursuant to article 33 of title 11 ~~C.R.S.~~, may accept as a
9 member, loan money to, and accept deposits from any entity licensed
10 pursuant to this ~~article~~ ARTICLE 11 for the operation of a licensed
11 business.

12 **44-11-402. [Formerly 12-43.3-402] Medical marijuana center**
13 **license.** (1) (a) A medical marijuana center license shall be issued only
14 to a person selling medical marijuana pursuant to the terms and conditions
15 of this ~~article~~ ARTICLE 11.

16 (b) The medical marijuana center shall track all of its medical
17 marijuana and medical marijuana-infused products from the point that
18 they are transferred from a medical marijuana optional premises
19 cultivation facility or medical marijuana-infused products manufacturer
20 to the point of sale.

21 (2) (a) Notwithstanding the provisions of this section, a medical
22 marijuana center licensee may also sell medical marijuana-infused
23 products that are prepackaged and labeled so as to clearly indicate all of
24 the following:

- 25 (I) That the product contains medical marijuana;
- 26 (II) That the product is manufactured without any regulatory
27 oversight for health, safety, or efficacy; and

1 (III) That there may be health risks associated with the
2 consumption or use of the product.

3 (b) A medical marijuana licensee may contract with a medical
4 marijuana-infused products manufacturing licensee for the manufacture
5 of medical marijuana-infused products upon a medical marijuana-infused
6 products manufacturing licensee's licensed premises.

7 (3) Every person selling medical marijuana as provided for in this
8 ~~article~~ ARTICLE 11 shall sell only medical marijuana grown in its medical
9 marijuana optional premises licensed pursuant to this ~~article~~ ARTICLE 11.
10 In addition to medical marijuana, a medical marijuana center may sell no
11 more than six immature plants to a patient; except that a medical
12 marijuana center may sell more than six immature plants, but may not
13 exceed half the recommended plant count, to a patient who has been
14 recommended an expanded plant count by his or her recommending
15 physician. A medical marijuana center may sell immature plants to a
16 primary caregiver, another medical marijuana center, or a medical
17 marijuana-infused product manufacturer pursuant to rules promulgated
18 by the state licensing authority. The provisions of this subsection (3) shall
19 not apply to medical marijuana-infused products.

20 (4) Notwithstanding the requirements of subsection (3) of this
21 section to the contrary, a medical marijuana licensee may purchase not
22 more than thirty percent of its total on-hand inventory of medical
23 marijuana from another licensed medical marijuana center in Colorado.
24 A medical marijuana center may sell no more than thirty percent of its
25 total on-hand inventory to another Colorado licensed medical marijuana
26 licensee; except that the director of the division that regulates medical
27 marijuana may grant a temporary waiver:

1 (a) To a medical marijuana center or applicant if the medical
2 marijuana center or applicant suffers a catastrophic event related to its
3 inventory; or

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

7 (5) Prior to initiating a sale, the employee of the medical
8 marijuana center making the sale shall verify that the purchaser has a
9 valid registry identification card issued pursuant to section 25-1.5-106
10 ~~C.R.S.~~, or a copy of a current and complete new application for the
11 medical marijuana registry administered by the department of public
12 health and environment that is documented by a certified mail return
13 receipt as having been submitted to the department of public health and
14 environment within the preceding thirty-five days, and a valid picture
15 identification card that matches the name on the registry identification
16 card. A purchaser may not provide a copy of a renewal application in
17 order to make a purchase at a medical marijuana center. A purchaser may
18 only make a purchase using a copy of his or her application from 8 a.m.
19 to 5 p.m., Monday through Friday. If the purchaser presents a copy of his
20 or her application at the time of purchase, the employee must contact the
21 department of public health and environment to determine whether the
22 purchaser's application has been denied. The employee shall not complete
23 the transaction if the purchaser's application has been denied. If the
24 purchaser's application has been denied, the employee shall be authorized
25 to confiscate the purchaser's copy of the application and the
26 documentation of the certified mail return receipt, if possible, and shall,
27 within seventy-two hours after the confiscation, turn it over to the

1 department of public health and environment or a local law enforcement
2 agency. The failure to confiscate the copy of the application and
3 document of the certified mail return receipt or to turn it over to the state
4 health department or a state or local law enforcement agency within
5 seventy-two hours after the confiscation shall not constitute a criminal
6 offense.

7 ~~(5.5)~~ (6) Transactions for the sale of medical marijuana or a
8 medical marijuana-infused product at a medical marijuana center may be
9 completed by using an automated machine that is in a restricted access
10 area of the center if the machine complies with the rules promulgated by
11 the state licensing authority regarding the transaction of sale of product
12 at a medical marijuana center and the transaction complies with
13 subsection (5) of this section.

14 ~~(6)~~ (7) A medical marijuana center may provide, except as
15 required by section ~~12-43.3-202 (2.5)(a)(i)~~ 44-11-202 (3)(a)(I), a sample
16 of its products to a facility that has a medical marijuana testing facility
17 license from the state licensing authority for testing and research
18 purposes. A medical marijuana center shall maintain a record of what was
19 provided to the testing facility, the identity of the testing facility, and the
20 results of the testing.

21 ~~(7)~~ (8) All medical marijuana sold at a licensed medical marijuana
22 center shall be labeled with a list of all chemical additives, including but
23 not limited to nonorganic pesticides, herbicides, and fertilizers, that were
24 used in the cultivation and the production of the medical marijuana.

25 ~~(8)~~ (9) A licensed medical marijuana center shall comply with all
26 provisions of article 34 of title 24, ~~C.R.S.~~, as the provisions relate to
27 persons with disabilities.

1 ~~(9)~~ (10) Notwithstanding the provisions of section ~~12-43.3-901~~
2 ~~(4)(m)~~ 44-11-901 (4)(l), a medical marijuana center may sell below cost
3 or donate to a patient who has been designated indigent by the state health
4 agency or who is in hospice care:

5 (a) Medical marijuana; or

6 (b) No more than six immature plants; except that a medical
7 marijuana center may sell or donate more than six immature plants, but
8 may not exceed half the recommended plant count, to a patient who has
9 been recommended an expanded plant count by his or her recommending
10 physician; or

11 (c) Medical marijuana-infused products to patients.

12 **44-11-403. [Formerly 12-43.3-403] Optional premises**
13 **cultivation license.** (1) An optional premises cultivation license may be
14 issued only to a person licensed pursuant to section ~~12-43.3-402 (1)~~
15 44-11-402 (1) or ~~12-43.3-404 (1)~~ 44-11-404 (1) who grows and cultivates
16 medical marijuana at an additional Colorado licensed premises
17 contiguous or not contiguous with the licensed premises of the person's
18 medical marijuana center license or the person's medical
19 marijuana-infused products manufacturing license.

20 (2) Optional premises cultivation licenses may be combined in a
21 common area solely for the purposes of growing and cultivating medical
22 marijuana and used to provide medical marijuana to more than one
23 licensed medical marijuana center or licensed medical marijuana-infused
24 product manufacturer so long as the holder of the optional premise
25 cultivation license is also a common owner of each licensed medical
26 marijuana center or licensed medical marijuana-infused product
27 manufacturer to which medical marijuana is provided. In accordance with

1 promulgated rules relating to plant and product tracking requirements,
2 each optional premises cultivation licensee shall supply medical
3 marijuana only to its associated licensed medical marijuana centers or
4 licensed medical marijuana-infused product manufacturers; except that
5 an optional premises cultivation licensee associated with a licensed
6 medical marijuana center may transport medical marijuana directly to any
7 other licensed medical marijuana center for a transaction pursuant to
8 section ~~12-43.3-402~~ (4) 44-11-402 (4) or a licensed medical
9 marijuana-infused products manufacturer for a transaction pursuant to
10 section ~~12-43.3-404~~ (3) 44-11-404 (3) if there is a corresponding
11 documented point-of-sale transaction prior to transporting the medical
12 marijuana from the optional premises cultivation premises to the licensed
13 medical marijuana center or licensed medical marijuana-infused products
14 manufacturer.

15 (3) A medical marijuana optional premises cultivation facility
16 shall track the marijuana it cultivates from seed or immature plant to
17 wholesale transfer.

18 **44-11-404. [Formerly 12-43.3-404] Medical marijuana-infused**
19 **products manufacturing license - rules.** (1) (a) A medical
20 marijuana-infused products manufacturing license may be issued to a
21 person who manufactures medical marijuana-infused products, pursuant
22 to the terms and conditions of this ~~article~~ ARTICLE 11.

23 (b) A medical marijuana-infused products manufacturer may
24 cultivate its own medical marijuana if it obtains a medical marijuana
25 optional premises cultivation facility license, it may purchase medical
26 marijuana from a medical marijuana center pursuant to subsection (3) of
27 this section, or it may purchase medical marijuana from another medical

1 marijuana-infused products manufacturer. A medical marijuana-infused
2 products manufacturer shall track all of its medical marijuana from the
3 point it is either transferred from its medical marijuana optional premises
4 cultivation facility or the point when it is delivered to the medical
5 marijuana-infused products manufacturer from a medical marijuana
6 center, a medical marijuana-infused products manufacturer, or one of
7 their medical marijuana optional premises cultivation facilities to the
8 point of transfer to a medical marijuana center or a medical
9 marijuana-infused products manufacturer.

10 (2) Medical marijuana-infused products shall be prepared on a
11 licensed premises that is used exclusively for the manufacture and
12 preparation of medical marijuana-infused products and using equipment
13 that is used exclusively for the manufacture and preparation of medical
14 marijuana-infused products.

15 (3) A medical marijuana-infused products manufacturer shall have
16 a written agreement or contract with a medical marijuana center or a
17 medical marijuana-infused products manufacturer, which contract shall
18 at a minimum set forth the total amount of medical marijuana obtained
19 from the medical marijuana center or the medical marijuana-infused
20 products manufacturer to be used in the manufacturing process, and the
21 total amount of medical marijuana-infused products to be manufactured
22 from the medical marijuana obtained from the medical marijuana center
23 or the medical marijuana-infused products manufacturer. A medical
24 marijuana-infused products manufacturer shall not use medical marijuana
25 from more than five different medical marijuana centers or medical
26 marijuana-infused products manufacturers in total in the production of
27 one medical marijuana-infused product. The medical marijuana-infused

1 products manufacturer may sell its products to any medical marijuana
2 center or to any medical marijuana-infused products manufacturer.

3 (4) All licensed premises on which medical marijuana-infused
4 products are manufactured shall meet the sanitary standards for medical
5 marijuana-infused product preparation promulgated pursuant to section
6 ~~12-43.3-202 (2)(a)(XH)~~ 44-11-202 (2)(a)(XII).

7 (5) The medical marijuana-infused product shall be sealed and
8 conspicuously labeled in compliance with this ~~article~~ ARTICLE 11 and any
9 rules promulgated pursuant to this ~~article~~ ARTICLE 11. The labeling of
10 medical marijuana-infused products is a matter of statewide concern.

11 (6) Medical marijuana-infused products may not be consumed on
12 a premises licensed pursuant to this ~~article~~ ARTICLE 11.

13 (7) Notwithstanding any other provision of state law, sales of
14 medical marijuana-infused products shall not be exempt from state or
15 local sales tax.

16 (8) A medical marijuana-infused products manufacturer that has
17 an optional premises cultivation license shall not sell any of the medical
18 marijuana that it cultivates except for the medical marijuana that is
19 contained in medical marijuana-infused products.

20 (9) (a) A medical marijuana-infused products manufacturer may
21 not have more than five hundred medical marijuana plants on its premises
22 or at its optional premises cultivation operation; except that the director
23 of the division that regulates medical marijuana may grant a waiver in
24 excess of five hundred marijuana plants based on the consideration of the
25 factors in subsection (9)(b) of this section.

26 (b) The director of the division that regulates medical marijuana
27 shall consider the following factors in determining whether to grant the

1 waiver described in ~~paragraph (a) of this subsection (9)~~ SUBSECTION
2 (9)(a) OF THIS SECTION:

3 (I) The nature of the products manufactured;

4 (II) The business need;

5 (III) Existing business contracts with licensed medical marijuana
6 centers for the production of medical marijuana-infused products; and

7 (IV) The ability to contract with licensed medical marijuana
8 centers for the production of medical marijuana-infused products.

9 (10) A medical marijuana-infused products manufacturer may
10 provide, except as required by section ~~12-43.3-202 (2.5)(a)(f)~~ 44-11-202
11 (3)(a)(I), a sample of its products to a facility that has a medical
12 marijuana testing facility license from the state licensing authority for
13 testing and research purposes. A medical marijuana products
14 manufacturer shall maintain a record of what was provided to the testing
15 facility, the identity of the testing facility, and the results of the testing.

16 (11) A medical marijuana-infused products manufacturer shall
17 not:

18 (a) Add any medical marijuana to a food product where the
19 manufacturer of the food product holds a trademark to the food product's
20 name; except that a manufacturer may use a trademarked food product if
21 the manufacturer uses the product as a component or as part of a recipe
22 and where the medical marijuana-infused products manufacturer does not
23 state or advertise to the consumer that the final medical marijuana-infused
24 product contains a trademarked food product;

25 (b) Intentionally or knowingly label or package a medical
26 marijuana-infused product in a manner that would cause a reasonable
27 consumer confusion as to whether the medical marijuana-infused product

1 was a trademarked food product; or

2 (c) Label or package a medical marijuana-infused product in a
3 manner that violates any federal trademark law or regulation.

4 **44-11-405. [Formerly 12-43.3-405] Medical marijuana testing**
5 **facility license - rules.** (1) A medical marijuana testing facility license
6 may be issued to a person who performs testing and research on medical
7 marijuana for medical marijuana licensees, medical marijuana and
8 medical marijuana-infused products for marijuana and research
9 development licensees and marijuana research and development
10 cultivation licensees, and marijuana or marijuana-infused products grown
11 or produced by a registered patient or registered primary caregiver on
12 behalf of a registered patient, upon verification of registration pursuant
13 to section 25-1.5-106 (7)(e) and verification that the patient is a
14 participant in a clinical or observational study conducted by a marijuana
15 research and development licensee or marijuana research and
16 development cultivation licensee. The facility may develop and test
17 medical marijuana products.

18 (2) The state licensing authority shall promulgate rules pursuant
19 to its authority in section ~~12-43.3-202 (1)(b)~~ 44-11-202 (1)(b) related to
20 acceptable testing and research practices, including but not limited to
21 testing, standards, quality control analysis, equipment certification and
22 calibration, and chemical identification and other substances used in bona
23 fide research methods.

24 (3) A person who has an interest in a medical marijuana testing
25 facility license from the state licensing authority for testing purposes shall
26 not have any interest in a licensed medical marijuana center, a licensed
27 optional premises cultivation operation, a licensed medical

1 marijuana-infused products manufacturer, a licensed retail marijuana
2 store, a licensed retail marijuana cultivation facility, or a licensed retail
3 marijuana products manufacturer. A person that has an interest in a
4 licensed medical marijuana center, a licensed optional premises
5 cultivation operation, a licensed medical marijuana-infused products
6 manufacturer, a licensed retail marijuana store, a licensed retail marijuana
7 cultivation facility, or a licensed retail marijuana products manufacturer
8 shall not have an interest in a facility that has a medical marijuana testing
9 facility license.

10 **44-11-406. [Formerly 12-43.3-406] Medical marijuana**
11 **transporter license.** (1) (a) A medical marijuana transporter license may
12 be issued to a person to provide logistics, distribution, and storage of
13 medical marijuana and medical marijuana-infused products.
14 Notwithstanding any other provisions of law, a medical marijuana
15 transporter license is valid for two years, but cannot be transferred with
16 a change of ownership. A licensed medical marijuana transporter is
17 responsible for the medical marijuana and medical marijuana-infused
18 products once it takes control of the product.

19 (b) A licensed medical marijuana transporter may contract with
20 multiple licensed medical marijuana businesses.

21 (c) On and after July 1, 2017, all medical marijuana transporters
22 shall hold a valid medical marijuana transporter license; except that an
23 entity licensed pursuant to this ~~article~~ ARTICLE 11 that provides its own
24 distribution is not required to have a medical marijuana transporter
25 license to transport and distribute its products. The state licensing
26 authority shall begin accepting applications after January 1, 2017.

27 (2) A medical marijuana transporter licensee may maintain a

1 licensed premises to temporarily store medical marijuana and medical
2 marijuana-infused products and to use as a centralized distribution point.
3 The licensed premises must be located in a jurisdiction that permits the
4 operation of medical marijuana centers. A licensed medical marijuana
5 transporter may store and distribute medical marijuana and medical
6 marijuana-infused products from this location. A storage facility must
7 meet the same security requirements that are required to obtain a medical
8 marijuana optional premise cultivation license.

9 (3) A medical marijuana transporter licensee shall use the
10 seed-to-sale tracking system developed pursuant to section ~~12-43.4-202~~
11 ~~(†)~~44-12-202 (1) to create shipping manifests documenting the transport
12 of medical marijuana and medical marijuana-infused products throughout
13 the state.

14 (4) A medical marijuana transporter licensee may:

15 (a) Maintain and operate one or more warehouses in the state to
16 handle medical marijuana and medical marijuana-infused products; and

17 (b) Deliver medical marijuana and medical marijuana-infused
18 products on orders previously taken if the place where orders are taken
19 and delivered is licensed.

20 **44-11-407. [Formerly 12-43.3-407] Medical marijuana business**
21 **operator license.** A medical marijuana business operator license may be
22 issued to an entity or person who operates a medical marijuana
23 establishment licensed pursuant to this ~~article 43.3~~ ARTICLE 11, for an
24 owner licensed pursuant to this ~~article 43.3~~ ARTICLE 11, and who may
25 receive a portion of the profits as compensation.

26 **44-11-408. [Formerly 12-43.3-408] Marijuana research and**
27 **development license - marijuana research and development**

1 **cultivation license.** (1) (a) A marijuana research and development
2 license may be issued to a person to possess marijuana for the limited
3 research purposes identified in subsection (2) of this section.

4 (b) A marijuana research and development cultivation license may
5 be issued to a person to grow, cultivate, possess, and transfer, by sale or
6 donation, marijuana pursuant to section ~~12-43.3-202 (2)(a)(XXII)~~
7 44-11-202 (2)(a)(XXVI) or subsection (4) of this section for the limited
8 research purposes identified in subsection (2) of this section.

9 (2) A license identified in subsection (1) of this section may be
10 issued for the following limited research purposes:

- 11 (a) To test chemical potency and composition levels;
- 12 (b) To conduct clinical investigations of marijuana-derived
13 medicinal products;
- 14 (c) To conduct research on the efficacy and safety of
15 administering marijuana as part of medical treatment;
- 16 (d) To conduct genomic, horticultural, or agricultural research;
17 and
- 18 (e) To conduct research on marijuana-affiliated products or
19 systems.

20 (3) (a) As part of the application process for a marijuana research
21 and development license or marijuana research and development
22 cultivation license, an applicant shall submit to the state licensing
23 authority a description of the research that the applicant intends to
24 conduct and whether the research will be conducted with a public
25 institution or using public money. If the research will not be conducted
26 with a public institution or with public money, the state licensing
27 authority shall grant the application if it determines that the application

1 meets the criteria in subsection (2) of this section.

2 (b) If the research will be conducted with a public institution or
3 public money, the scientific advisory council established in section
4 25-1.5-106.5 (3) shall review an applicant's research project to determine
5 that it meets the requirements of subsection (2) of this section and to
6 assess the following:

7 (I) The project's quality, study design, value, or impact;

8 (II) Whether the applicant has the appropriate personnel;
9 expertise; facilities; infrastructure; funding; and human, animal, or other
10 approvals in place to successfully conduct the project; and

11 (III) Whether the amount of marijuana to be grown by the
12 applicant is consistent with the project's scope and goals.

13 (c) If the scientific advisory council determines that the research
14 project does not meet the requirements of subsection (2) of this section or
15 assesses the criteria in this subsection (3) to be inadequate, the application
16 must be denied.

17 (4) A marijuana research and development cultivation licensee
18 may only transfer, by sale or donation, marijuana grown within its
19 operation to other marijuana research and development licensees or
20 marijuana research and development cultivation licensees. The state
21 licensing authority may revoke a marijuana research and development
22 cultivation license for violations of this subsection (4) and any other
23 violation of this ~~article 43.3~~ ARTICLE 11.

24 (5) A marijuana research and development licensee or marijuana
25 research and development cultivation licensee may contract to perform
26 research in conjunction with a public higher education research institution
27 or another marijuana research and development licensee or marijuana

1 research and development cultivation licensee.

2 (6) The growing, cultivating, possessing, or transferring, by sale
3 or donation, of marijuana in accordance with this section and the rules
4 adopted pursuant to it, by a marijuana research and development licensee
5 or marijuana research and development cultivation licensee, is not a
6 criminal or civil offense under state law. A marijuana research and
7 development license or marijuana research and development cultivation
8 license must be issued in the name of the applicant and must specify the
9 location in Colorado at which the marijuana research and development
10 licensee or marijuana research and development cultivation licensee
11 intends to operate. A marijuana research and development licensee or
12 marijuana research and development cultivation licensee shall not allow
13 any other person to exercise the privilege of the license.

14 (7) If the research conducted includes a public institution or public
15 money, the scientific advisory council shall review any reports made by
16 marijuana research and development licensees and marijuana research
17 and development cultivation licensees under state licensing authority rule
18 and provide the state licensing authority with its determination on
19 whether the research project continues to meet research qualifications
20 pursuant to this section.

21 PART 5

22 FEES

23 **44-11-501. [Formerly 12-43.3-501] Marijuana cash fund.**

24 (1) (a) All ~~moneys~~ MONEY collected by the state licensing authority
25 pursuant to this ~~article~~ ARTICLE 11 and ~~article 43.4~~ ARTICLE 12 of this ~~title~~
26 TITLE 44 shall be transmitted to the state treasurer, who shall credit the
27 same to the marijuana cash fund, which fund is hereby created and

1 referred to in this section as the "fund". The fund consists of:

2 (I) The ~~moneys~~ MONEY collected by the state licensing authority;
3 and

4 ~~(II) to (IV) (Deleted by amendment, L. 2014.)~~

5 ~~(V)~~ (II) Any additional general fund ~~moneys~~ MONEY appropriated
6 to the fund that ~~are~~ IS necessary for the operation of the state licensing
7 authority.

8 (b) ~~Moneys~~ MONEY in the fund ~~are~~ IS subject to annual
9 appropriation by the general assembly to the department of revenue for
10 the direct and indirect costs associated with implementing this ~~article~~;
11 ~~article 43.4 of this title~~, ARTICLE 11, ARTICLE 12 OF THIS TITLE 44, and
12 article 28.8 of title 39; ~~C.R.S.~~;

13 (c) Any ~~moneys~~ MONEY in the fund not expended for these
14 purposes may be invested by the state treasurer as provided by law. All
15 interest and income derived from the investment and deposit of ~~moneys~~
16 MONEY in the fund shall be credited to the fund. Any unexpended and
17 unencumbered ~~moneys~~ MONEY remaining in the fund at the end of a fiscal
18 year shall remain in the fund and shall not be credited or transferred to the
19 general fund or another fund.

20 ~~(d) and (e) Repealed.~~

21 ~~(f)~~ (d) (I) On July 1, 2014, the state treasurer shall transfer to the
22 marijuana tax cash fund created in section 39-28.8-501 ~~C.R.S.~~; any
23 ~~moneys~~ MONEY in the fund that ~~are~~ IS attributable to the retail marijuana
24 excise tax transferred pursuant to section 39-28.8-305 (1)(b), ~~C.R.S.~~; the
25 retail marijuana sales tax transferred pursuant to section 39-28.8-203
26 (1)(b), ~~C.R.S.~~; or the sales tax imposed pursuant to section 39-26-106,
27 ~~C.R.S.~~; on the retail sale of marijuana products under this ~~article~~ ARTICLE

1 11 and ~~article 43.4~~ ARTICLE 12 of this ~~title~~ TITLE 44.

2 (II) On the date on which the state controller publishes the
3 comprehensive annual financial report of the state for the 2013-14 state
4 fiscal year, the state treasurer shall transfer to the marijuana tax cash fund
5 created in section 39-28.8-501 ~~€:R:S.~~, any remaining ~~moneys~~ MONEY in
6 the fund that ~~are~~ IS attributable to the retail marijuana excise tax
7 transferred pursuant to section 39-28.8-305 (1)(b), ~~€:R:S.~~, the retail
8 marijuana sales tax transferred pursuant to section 39-28.8-203 (1)(b),
9 ~~€:R:S.~~, or the sales tax imposed pursuant to section 39-26-106, ~~€:R:S.~~, on
10 the retail sale of marijuana products under this ~~article~~ ARTICLE 11 and
11 ~~article 43.4~~ ARTICLE 12 of this ~~title~~ TITLE 44.

12 (2) The executive director of the department of revenue by rule or
13 as otherwise provided by law may reduce the amount of one or more of
14 the fees if necessary pursuant to section 24-75-402 (3) ~~€:R:S.~~, to reduce
15 the uncommitted reserves of the fund to which all or any portion of one
16 or more of the fees is credited. After the uncommitted reserves of the
17 fund are sufficiently reduced, the executive director by rule or as
18 otherwise provided by law may increase the amount of one or more of the
19 fees as provided in section 24-75-402 (4). ~~€:R:S.~~

20 (3) (a) The state licensing authority shall establish fees for
21 processing the following types of applications, licenses, notices, or
22 reports required to be submitted to the state licensing authority:

23 (I) Applications for licenses listed in section ~~12-43.3-401~~
24 44-11-401 and rules promulgated pursuant to that section;

25 (II) Applications to change location pursuant to section
26 ~~12-43.3-310~~ 44-11-310 and rules promulgated pursuant to that section;

27 (III) Applications for transfer of ownership pursuant to section

1 ~~12-43.3-310~~ 44-11-310 and rules promulgated pursuant to that section;

2 (IV) License renewal and expired license renewal applications
3 pursuant to section ~~12-43.3-311~~ 44-11-311; and

4 (V) Licenses as listed in section ~~12-43.3-401~~ 44-11-401.

5 (b) The amounts of such fees, when added to the other fees
6 transferred to the fund pursuant to this section, shall reflect the actual
7 direct and indirect costs of the state licensing authority in the
8 administration and enforcement of this ~~article~~ ARTICLE 11 so that the fees
9 avoid exceeding the statutory limit on uncommitted reserves in
10 administrative agency cash funds as set forth in section 24-75-402 (3).

11 ~~C.R.S.~~

12 (c) The state licensing authority may charge applicants licensed
13 under this ~~article~~ ARTICLE 11 a fee for the cost of each fingerprint analysis
14 and background investigation undertaken to qualify new officers,
15 directors, managers, or employees.

16 (d) At least annually, the state licensing authority shall review the
17 amounts of the fees and, if necessary, adjust the amounts to reflect the
18 direct and indirect costs of the state licensing authority.

19 (4) Except as provided in subsection (5) of this section, the state
20 licensing authority shall establish a basic fee that shall be paid at the time
21 of service of any subpoena upon the state licensing authority, plus a fee
22 for meals and a fee for mileage at the rate prescribed for state officers and
23 employees in section 24-9-104 ~~C.R.S.~~; for each mile actually and
24 necessarily traveled in going to and returning from the place named in the
25 subpoena. If the person named in the subpoena is required to attend the
26 place named in the subpoena for more than one day, there shall be paid,
27 in advance, a sum to be established by the state licensing authority for

1 each day of attendance to cover the expenses of the person named in the
2 subpoena.

3 (5) The subpoena fee established pursuant to subsection (4) of this
4 section shall not be applicable to any federal, state or local governmental
5 agency.

6 **44-11-502. [Formerly 12-43.3-502] Fees - allocation.** (1) Except
7 as otherwise provided, all fees and fines provided for by this ~~article~~
8 ARTICLE 11 and ~~article 43.4~~ ARTICLE 12 of this ~~title~~ TITLE 44 shall be paid
9 to the department of revenue, which shall transmit the fees to the state
10 treasurer. The state treasurer shall credit the fees to the marijuana cash
11 fund created in section ~~12-43.3-501~~ 44-11-501.

12 (2) The expenditures of the state licensing authority shall be paid
13 out of appropriations from the marijuana cash fund created in section
14 ~~12-43.3-501~~ 44-11-501.

15 **44-11-503. [Formerly 12-43.3-503] Local license fees.** (1) Each
16 application for a local license provided for in this ~~article~~ ARTICLE 11 filed
17 with a local licensing authority shall be accompanied by an application
18 fee in an amount determined by the local licensing authority.

19 (2) License fees as determined by the local licensing authority
20 shall be paid to the treasurer of the municipality, city and county, or
21 county where the licensed premises is located in advance of the approval,
22 denial, or renewal of the license.

23 PART 6

24 DISCIPLINARY ACTIONS

25 **44-11-601. [Formerly 12-43.3-601] Suspension - revocation -**
26 **fines.** (1) In addition to any other sanctions prescribed by this ~~article~~
27 ARTICLE 11 or rules promulgated pursuant to this ~~article~~ ARTICLE 11, the

1 state licensing authority or a local licensing authority has the power, on
2 its own motion or on complaint, after investigation and opportunity for a
3 public hearing at which the licensee shall be afforded an opportunity to
4 be heard, to suspend or revoke a license issued by the respective authority
5 for a violation by the licensee or by any of the agents or employees of the
6 licensee of the provisions of this ~~article~~ ARTICLE 11, or any of the rules
7 promulgated pursuant to this ~~article~~ ARTICLE 11, or of any of the terms,
8 conditions, or provisions of the license issued by the state or local
9 licensing authority. The state licensing authority or a local licensing
10 authority has the power to administer oaths and issue subpoenas to require
11 the presence of persons and the production of papers, books, and records
12 necessary to the determination of a hearing that the state or local licensing
13 authority is authorized to conduct.

14 (2) The state or local licensing authority shall provide notice of
15 suspension, revocation, fine, or other sanction, as well as the required
16 notice of the hearing pursuant to subsection (1) of this section, by mailing
17 the same in writing to the licensee at the address contained in the license.
18 Except in the case of a summary suspension, a suspension shall not be for
19 a longer period than six months. If a license is suspended or revoked, a
20 part of the fees paid therefore shall not be returned to the licensee. Any
21 license or permit may be summarily suspended by the issuing licensing
22 authority without notice pending any prosecution, investigation, or public
23 hearing pursuant to the terms of section 24-4-104 (4). ~~C.R.S.~~ Nothing in
24 this section shall prevent the summary suspension of a license pursuant
25 to section 24-4-104 (4). ~~C.R.S.~~ Each patient registered with a medical
26 marijuana center that has had its license summarily suspended may
27 immediately transfer his or her primary center to another licensed medical

1 marijuana center.

2 (3) (a) Whenever a decision of the state licensing authority or a
3 local licensing authority suspending a license for fourteen days or less
4 becomes final, the licensee may, before the operative date of the
5 suspension, petition for permission to pay a fine in lieu of having the
6 license suspended for all or part of the suspension period. Upon the
7 receipt of the petition, the state or local licensing authority may, in its sole
8 discretion, stay the proposed suspension and cause any investigation to be
9 made which it deems desirable and may, in its sole discretion, grant the
10 petition if the state or local licensing authority is satisfied that:

11 (I) The public welfare and morals would not be impaired by
12 permitting the licensee to operate during the period set for suspension and
13 that the payment of the fine will achieve the desired disciplinary
14 purposes;

15 (II) The books and records of the licensee are kept in such a
16 manner that the loss of sales that the licensee would have suffered had the
17 suspension gone into effect can be determined with reasonable accuracy;
18 and

19 (III) The licensee has not had his or her license suspended or
20 revoked, nor had any suspension stayed by payment of a fine, during the
21 two years immediately preceding the date of the motion or complaint that
22 resulted in a final decision to suspend the license or permit.

23 (b) The fine accepted shall be not less than five hundred dollars
24 nor more than one hundred thousand dollars.

25 (c) Payment of a fine pursuant to the provisions of this subsection
26 (3) shall be in the form of cash or in the form of a certified check or
27 cashier's check made payable to the state or local licensing authority,

1 whichever is appropriate.

2 (4) Upon payment of the fine pursuant to subsection (3) of this
3 section, the state or local licensing authority shall enter its further order
4 permanently staying the imposition of the suspension. If the fine is paid
5 to a local licensing authority, the governing body of the authority shall
6 cause the ~~moneys~~ MONEY to be paid into the general fund of the local
7 licensing authority. Fines paid to the state licensing authority pursuant to
8 subsection (3) of this section shall be transmitted to the state treasurer,
9 who shall credit the same to the marijuana cash fund created in section
10 ~~42-43.3-501~~ 44-11-501.

11 (5) In connection with a petition pursuant to subsection (3) of this
12 section, the authority of the state or local licensing authority is limited to
13 the granting of such stays as are necessary for the authority to complete
14 its investigation and make its findings and, if the authority makes such
15 findings, to the granting of an order permanently staying the imposition
16 of the entire suspension or that portion of the suspension not otherwise
17 conditionally stayed.

18 (6) If the state or local licensing authority does not make the
19 findings required in ~~paragraph (a) of subsection (3)~~ SUBSECTION (3)(a) of
20 this section and does not order the suspension permanently stayed, the
21 suspension shall go into effect on the operative date finally set by the state
22 or local licensing authority.

23 (7) Each local licensing authority shall report all actions taken to
24 impose fines, suspensions, and revocations to the state licensing authority
25 in a manner required by the state licensing authority. No later than
26 January 15 of each year, the state licensing authority shall compile a
27 report of the preceding year's actions in which fines, suspensions, or

1 revocations were imposed by local licensing authorities and by the state
2 licensing authority. The state licensing authority shall file one copy of the
3 report with the chief clerk of the house of representatives, one copy with
4 the secretary of the senate, and six copies in the joint legislative library.

5 **44-11-602. [Formerly 12-43.3-602] Disposition of unauthorized**
6 **marijuana or marijuana-infused products and related materials -**
7 **rules.** (1) The provisions of this section shall apply in addition to any
8 criminal, civil, or administrative penalties and in addition to any other
9 penalties prescribed by this ~~article~~ ARTICLE 11 or any rules promulgated
10 pursuant to this ~~article~~ ARTICLE 11. Any provisions in this ~~article~~ ARTICLE
11 11 related to law enforcement shall be considered a cumulative right of
12 the people in the enforcement of the criminal laws.

13 (2) Every licensee licensed under this ~~article~~ ARTICLE 11 shall be
14 deemed, by virtue of applying for, holding, or renewing such person's
15 license, to have expressly consented to the procedures set forth in this
16 section.

17 (3) A state or local agency shall not be required to cultivate or
18 care for any marijuana or marijuana-infused product belonging to or
19 seized from a licensee. A state or local agency shall not be authorized to
20 sell marijuana, medical or otherwise.

21 (4) If the state or local licensing authority issues a final agency
22 order imposing a disciplinary action against a licensee pursuant to section
23 ~~12-43.3-601~~ 44-11-601, then, in addition to any other remedies, the
24 licensing authority's final agency order may specify that some or all of the
25 licensee's marijuana or marijuana-infused product is not medical
26 marijuana or a medical marijuana-infused product and is an illegal
27 controlled substance. The order may further specify that the licensee shall

1 lose any interest in any of the marijuana or marijuana-infused product
2 even if the marijuana or marijuana-infused product previously qualified
3 as medical marijuana or a medical marijuana-infused product. The final
4 agency order may direct the destruction of any such marijuana and
5 marijuana-infused products, except as provided in subsections (5) and (6)
6 of this section. The authorized destruction may include the incidental
7 destruction of any containers, equipment, supplies, and other property
8 associated with the marijuana or marijuana-infused product.

9 (5) Following the issuance of a final agency order by the licensing
10 authority imposing a disciplinary action against a licensee and ordering
11 destruction authorized by subsection (4) of this section, a licensee shall
12 have fifteen days within which to file a petition for stay of agency action
13 with the district court. The action shall be filed in the city and county of
14 Denver, which shall be deemed to be the residence of the state licensing
15 authority for purposes of this section. The licensee shall serve the petition
16 in accordance with the rules of civil procedure. The district court shall
17 promptly rule upon the petition and shall determine whether the licensee
18 has a substantial likelihood of success on judicial review so as to warrant
19 delay of the destruction authorized by subsection (4) of this section or
20 whether other circumstances, including but not limited to the need for
21 preservation of evidence, warrant delay of such destruction. If destruction
22 is so delayed pursuant to judicial order, the court shall issue an order
23 setting forth terms and conditions pursuant to which the licensee may
24 maintain the marijuana and marijuana-infused product pending judicial
25 review, and prohibiting the licensee from using or distributing the
26 marijuana or marijuana-infused product pending the review. The
27 licensing authority shall not carry out the destruction authorized by

1 subsection (4) of this section until fifteen days have passed without the
2 filing of a petition for stay of agency action, or until the court has issued
3 an order denying stay of agency action pursuant to this subsection (5).

4 (6) A district attorney shall notify the state licensing authority if
5 he or she begins investigating a medical marijuana establishment. If the
6 state licensing authority has received notification from a district attorney
7 that an investigation is being conducted, the state licensing authority shall
8 not destroy any medical marijuana or medical marijuana-infused products
9 from the medical marijuana establishment until the destruction is
10 approved by the district attorney.

11 (7) On or before January 1, 2012, the state licensing authority
12 shall promulgate rules governing the implementation of this section.

13 PART 7

14 INSPECTION OF BOOKS AND RECORDS

15 **44-11-701. [Formerly 12-43.3-701] Inspection procedures.**

16 (1) Each licensee shall keep a complete set of all records necessary to
17 show fully the business transactions of the licensee, all of which shall be
18 open at all times during business hours for the inspection and examination
19 of the state licensing authority or its duly authorized representatives. The
20 state licensing authority may require any licensee to furnish such
21 information as it considers necessary for the proper administration of this
22 ~~article~~ ARTICLE 11 and may require an audit to be made of the books of
23 account and records on such occasions as it may consider necessary by an
24 auditor to be selected by the state licensing authority who shall likewise
25 have access to all books and records of the licensee, and the expense
26 thereof shall be paid by the licensee.

27 (2) The licensed premises, including any places of storage where

1 medical marijuana is grown, stored, cultivated, sold, or dispensed, shall
2 be subject to inspection by the state or local licensing authorities and their
3 investigators, during all business hours and other times of apparent
4 activity, for the purpose of inspection or investigation. For examination
5 of any inventory or books and records required to be kept by the
6 licensees, access shall be required during business hours. Where any part
7 of the licensed premises consists of a locked area, upon demand to the
8 licensee, such area shall be made available for inspection without delay,
9 and, upon request by authorized representatives of the state or local
10 licensing authority, the licensee shall open the area for inspection.

11 (3) Each licensee shall retain all books and records necessary to
12 show fully the business transactions of the licensee for a period of the
13 current tax year and the three immediately prior tax years.

14 PART 8

15 JUDICIAL REVIEW

16 **44-11-801. [Formerly 12-43.3-801] Judicial review.** Decisions
17 by the state licensing authority or a local licensing authority shall be
18 subject to judicial review pursuant to section 24-4-106. ~~C.R.S.~~

19 PART 9

20 UNLAWFUL ACTS - ENFORCEMENT

21 **44-11-901. [Formerly 12-43.3-901] Unlawful acts - exceptions.**

22 (1) Except as otherwise provided in this ~~article~~ ARTICLE 11, it is unlawful
23 for a person:

24 (a) To consume medical marijuana in a licensed medical
25 marijuana center, and it shall be unlawful for a medical marijuana
26 licensee to allow medical marijuana to be consumed upon its licensed
27 premises;

1 (b) With knowledge, to permit or fail to prevent the use of his or
2 her registry identification by any other person for the unlawful purchasing
3 of medical marijuana.

4 (c) and (d) (~~Deleted by amendment, L. 2011, (HB 11-1043), ch.~~
5 ~~266, p. 1210, § 16, effective July 1, 2011.~~)

6 (2) It is unlawful for a person to buy, sell, transfer, give away, or
7 acquire medical marijuana except as allowed pursuant to this ~~article~~
8 ARTICLE 11.

9 (3) It is unlawful for a person licensed pursuant to this ~~article~~
10 ARTICLE 11:

11 (a) To be within a limited-access area unless the person's license
12 badge is displayed as required by this ~~article~~ ARTICLE 11, except as
13 provided in section ~~12-43.3-701~~ 44-11-701;

14 (b) To fail to designate areas of ingress and egress for
15 limited-access areas and post signs in conspicuous locations as required
16 by this ~~article~~ ARTICLE 11;

17 (c) To fail to report a transfer required by section ~~12-43.3-310~~
18 ~~(11)~~ 44-11-310 (11); or

19 (d) To fail to report the name of or a change in managers as
20 required by section ~~12-43.3-310~~ ~~(12)~~ 44-11-310 (12).

21 (4) It is unlawful for any person licensed to sell medical marijuana
22 pursuant to this ~~article~~ ARTICLE 11:

23 (a) To display any signs that are inconsistent with local laws or
24 regulations;

25 (b) To use advertising material that is misleading, deceptive, or
26 false, or that is designed to appeal to minors;

27 (c) To provide public premises, or any portion thereof, for the

1 purpose of consumption of medical marijuana in any form;

2 (d) (I) To sell medical marijuana to a person not licensed pursuant
3 to this ~~article~~ ARTICLE 11 or to a person not able to produce a valid patient
4 registry identification card, unless the person has a copy of a current and
5 complete new application for the medical marijuana registry administered
6 by the department of public health and environment that is documented
7 by a certified mail return receipt as having been submitted to the
8 department of public health and environment within the preceding
9 thirty-five days and the employee assisting the person has contacted the
10 department of public health and environment and, as a result, determined
11 the person's application has not been denied. Notwithstanding any
12 provision in this ~~subparagraph (I)~~ SUBSECTION (4)(d)(I) to the contrary,
13 a person under twenty-one years of age shall not be employed to sell or
14 dispense medical marijuana at a medical marijuana center or grow or
15 cultivate medical marijuana at an optional premises cultivation operation.

16 (II) If a licensee or a licensee's employee has reasonable cause to
17 believe that a person is exhibiting a fraudulent patient registry
18 identification card in an attempt to obtain medical marijuana, the licensee
19 or employee shall be authorized to confiscate the fraudulent patient
20 registry identification card, if possible, and shall, within seventy-two
21 hours after the confiscation, turn it over to the state health department or
22 local law enforcement agency. The failure to confiscate the fraudulent
23 patient registry identification card or to turn it over to the state health
24 department or a state or local law enforcement agency within seventy-two
25 hours after the confiscation shall not constitute a criminal offense.

26 (e) To possess more than six medical marijuana plants and two
27 ounces of medical marijuana for each patient who has registered the

1 center as his or her primary center pursuant to section 25-1.5-106 (8)(f);
2 ~~C.R.S.~~; except that a medical marijuana center may have an amount that
3 exceeds the six-plant and two-ounce product per patient limit if the center
4 sells to patients that are authorized to have more than six plants and two
5 ounces of product. In the case of a patient authorized to exceed the
6 six-plant and two-ounce limit, the center shall obtain documentation from
7 the patient's physician that the patient needs more than six plants and two
8 ounces of product.

9 (f) To offer for sale or solicit an order for medical marijuana in
10 person except within the licensed premises;

11 (g) To have in possession or upon the licensed premises any
12 medical marijuana, the sale of which is not permitted by the license;

13 (h) To buy medical marijuana from a person not licensed to sell
14 as provided by this ~~article~~ ARTICLE 11;

15 (i) To sell medical marijuana except in the permanent location
16 specifically designated in the license for sale;

17 (j) To have on the licensed premises any medical marijuana or
18 marijuana paraphernalia that shows evidence of the medical marijuana
19 having been consumed or partially consumed;

20 (k) To require a medical marijuana center or medical marijuana
21 center with an optional premises cultivation license to make delivery to
22 any premises other than the specific licensed premises where the medical
23 marijuana is to be sold;

24 ~~(l) Repealed.~~

25 ~~(m)~~ (l) To violate the provisions of section 6-2-103 or 6-2-105;
26 ~~C.R.S.~~;

27 ~~(n)~~ (m) To burn or otherwise destroy marijuana or any substance

1 containing marijuana for the purpose of evading an investigation or
2 preventing seizure; or

3 (n) To abandon a licensed premises or otherwise cease
4 operation without notifying the state and local licensing authorities at
5 least forty-eight hours in advance and without accounting for and
6 forfeiting to the state licensing authority for destruction all marijuana or
7 products containing marijuana.

8 (5) Except as provided in sections ~~12-43.3-402 (4), 12-43.3-403,~~
9 ~~and 12-43.3-404~~ 44-11-402 (4), 44-11-403, AND 44-11-404, it is unlawful
10 for a medical marijuana center, medical marijuana-infused products
11 manufacturing operation with an optional premises cultivation license, or
12 medical marijuana center with an optional premises cultivation license to
13 sell, deliver, or cause to be delivered to a licensee any medical marijuana
14 not grown upon its licensed premises, or for a licensee or medical
15 marijuana center with an optional premises cultivation license or medical
16 marijuana-infused products manufacturing operation with an optional
17 premises cultivation license to sell, possess, or permit sale of medical
18 marijuana not grown upon its licensed premises. A violation of the
19 provisions of this subsection (5) by a licensee shall be grounds for the
20 immediate revocation of the license granted under this ~~article~~ ARTICLE 11.

21 (6) It shall be unlawful for a physician who makes patient referrals
22 to a licensed medical marijuana center to receive anything of value from
23 the medical marijuana center licensee or its agents, servants, officers, or
24 owners or anyone financially interested in the licensee, and it shall be
25 unlawful for a licensee licensed pursuant to this ~~article~~ ARTICLE 11 to
26 offer anything of value to a physician for making patient referrals to the
27 licensed medical marijuana center.

1 minimum criteria described in subsection (2) of this section. The
2 department of public health and environment shall review each submitted
3 program and shall provide the state licensing authority with the
4 department's analysis of whether the portions of the program related to
5 the department's oversight meet the minimum criteria described in this
6 section.

7 (2) An approved training program shall contain, at a minimum, the
8 following standards and shall be taught in a classroom setting in a
9 minimum of a two-hour period:

10 (a) Program standards that specify, at a minimum, who must
11 attend, the time frame for new staff to attend, recertification requirements,
12 record keeping, testing and assessment protocols, and effectiveness
13 evaluations; and

14 (b) A core curriculum of pertinent statutory and regulatory
15 provisions, which curriculum includes, but need not be limited to:

16 (I) Information on required licenses, age requirements, patient
17 registry cards issued by the department of public health and environment,
18 maintenance of records, privacy issues, and unlawful acts;

19 (II) Administrative and criminal liability and license and court
20 sanctions;

21 (III) Statutory and regulatory requirements for employees and
22 owners;

23 (IV) Acceptable forms of identification, including patient registry
24 cards and associated documents and procedures; and

25 (V) Local and state licensing and enforcement, which may
26 include, but need not be limited to, key statutes and rules affecting
27 patients, owners, managers, and employees.

1 ~~(2.5)~~ (3) When promulgating program standards pursuant to
2 subsection (2) of this section, the state licensing authority shall consider
3 input from other state agencies, local jurisdictions, the medical and retail
4 marijuana industry, and any other state or national seller server program.

5 ~~(3)~~ (4) A provider of an approved training program shall maintain
6 its training records at its principal place of business during the applicable
7 year and for the preceding three years, and the provider shall make the
8 records available for inspection by the licensing authority during normal
9 business hours.

10 **44-11-1102. [Formerly 12-43.3-1102] Responsible vendor -**
11 **designation.** (1) (a) A medical marijuana business licensed pursuant to
12 this ~~article~~ ARTICLE 11 or a retail marijuana business licensed pursuant to
13 ~~article 43.4~~ ARTICLE 12 of this ~~title~~ TITLE 44 may receive a responsible
14 vendor designation from the program vendor after successfully
15 completing a responsible medical or retail marijuana vendor server and
16 seller training program approved by the state licensing authority. A
17 responsible vendor designation is valid for two years from the date of
18 issuance.

19 (b) Successful completion of an approved training program is
20 achieved when the program has been attended by and, as determined by
21 the program provider, satisfactorily completed by all employees selling
22 and handling medical or retail marijuana, all managers, and all resident
23 on-site owners, if any.

24 (c) In order to maintain the responsible vendor designation, the
25 licensed medical or retail marijuana business must have each new
26 employee who sells or handles medical or retail marijuana, manager, or
27 resident on-site owner attend and satisfactorily complete a responsible

1 medical or retail marijuana vendor server and seller training program
2 within ninety days after being employed or becoming an owner. The
3 licensed medical or retail marijuana business shall maintain
4 documentation of completion of the program by new employees,
5 managers, or owners.

6 (2) A licensed medical or retail marijuana business that receives
7 a responsible vendor designation from the program vendor shall maintain
8 information on all persons licensed pursuant to this ~~article~~ ARTICLE 11
9 who are in its employment and who have been trained in an approved
10 training program. The information includes the date, place, time, and
11 duration of training and a list of all licensed persons attending each
12 specific training class, which class includes a training examination or
13 assessment that demonstrates proficiency.

14 (3) If a local or state licensing authority initiates an administrative
15 action against a licensee who has complied with the requirements of this
16 section and has been designated a responsible vendor, the licensing
17 authority shall consider the designation as a mitigating factor when
18 imposing sanctions or penalties on the licensee.

19 **SECTION 3.** In Colorado Revised Statutes, **add with amended**
20 **and relocated provisions** article 12 to title 44 as follows:

21 **ARTICLE 12**

22 **Colorado Retail Marijuana Code**

23 **PART 1**

24 **COLORADO RETAIL MARIJUANA CODE**

25 **44-12-101. [Formerly 12-43.4-101] Short title.** ~~This article shall~~
26 ~~be known and may be cited as~~ THE SHORT TITLE OF THIS ARTICLE 12 IS the
27 "Colorado Retail Marijuana Code".

1 **44-12-102. [Formerly 12-43.4-102] Legislative declaration.**

2 (1) The general assembly hereby declares that this ~~article~~ ARTICLE 12
3 shall be deemed an exercise of the police powers of the state for the
4 protection of the economic and social welfare and the health, peace, and
5 morals of the people of this state.

6 (2) The general assembly further declares that it is unlawful under
7 state law to cultivate, manufacture, distribute, or sell retail marijuana and
8 retail marijuana products, except in compliance with the terms,
9 conditions, limitations, and restrictions in section 16 of article XVIII of
10 the state constitution and this ~~article~~ ARTICLE 12.

11 **44-12-103. [Formerly 12-43.4-103] Definitions.** As used in this
12 ~~article 43.4~~ ARTICLE 12, unless the context otherwise requires:

13 (1) "Direct beneficial interest owner" means a person or closely
14 held business entity that owns a share or shares of stock in a licensed
15 retail marijuana business, including the officers, directors, managing
16 members, or partners of the licensed retail marijuana business or closely
17 held business entity, or a qualified limited passive investor.

18 ~~(1.3)~~(2) "Escorted" means appropriately checked into the limited
19 access area and accompanied by a person licensed by the state licensing
20 authority; except that trade craftspeople not normally engaged in the
21 business of cultivating, processing, or selling retail marijuana need not be
22 accompanied on a full-time basis, but only reasonably monitored.

23 ~~(1.5)~~(3) "Executive director" means the executive director of the
24 department of revenue.

25 ~~(2)~~(4) "Immature plant" means a nonflowering marijuana plant
26 that is no taller than eight inches and no wider than eight inches, is
27 produced from a cutting, clipping, or seedling, and is in a cultivating

1 container.

2 ~~(2.5)~~ (5) "Indirect beneficial interest owner" means a holder of a
3 permitted economic interest, a recipient of a commercially reasonable
4 royalty associated with the use of intellectual property by a licensee, a
5 licensed employee who receives a share of the profits from an employee
6 benefit plan, a qualified institutional investor, or another similarly
7 situated person or entity as determined by the state licensing authority.

8 ~~(3)~~ (6) "License" means to grant a license or registration pursuant
9 to this ~~article~~ ARTICLE 12.

10 ~~(4)~~ (7) "Licensed premises" means the premises specified in an
11 application for a license under this ~~article~~ ARTICLE 12, which are owned
12 or in possession of the licensee and within which the licensee is
13 authorized to cultivate, manufacture, distribute, sell, or test retail
14 marijuana and retail marijuana products in accordance with this ~~article~~
15 ARTICLE 12.

16 ~~(5)~~ (8) "Licensee" means a person licensed or registered pursuant
17 to this ~~article~~ ARTICLE 12.

18 ~~(6)~~ (9) "Local jurisdiction" means a locality as defined in section
19 16 (2)(e) of article XVIII of the state constitution.

20 ~~(7)~~ (10) "Local licensing authority" means, for any local
21 jurisdiction that has chosen to adopt a local licensing requirement in
22 addition to the state licensing requirements of this ~~article~~ ARTICLE 12, an
23 authority designated by municipal, county, or city and county charter,
24 ordinance, or resolution, or the governing body of a municipality or city
25 and county, or the board of county commissioners of a county if no such
26 authority is designated.

27 ~~(8)~~ (11) "Location" means a particular parcel of land that may be

1 identified by an address or other descriptive means.

2 ~~(9)~~ (12) "Marijuana accessories" has the same meaning as defined
3 in section 16 (2)(g) of article XVIII of the state constitution.

4 ~~(9.5)~~ (13) "Marijuana-based workforce development or training
5 program" means a program designed to train individuals to work in the
6 licensed retail marijuana industry operated by an entity licensed under this
7 ~~article 43.4~~ ARTICLE 12 or by a school that is authorized by the division
8 of private occupational schools.

9 ~~(10)~~ (14) "Mobile distribution center" means any vehicle other
10 than a common passenger light-duty vehicle with a short wheel base used
11 to carry a quantity of marijuana greater than one ounce.

12 ~~(10.5)~~ (15) "Opaque" means that the packaging does not allow the
13 product to be seen without opening the packaging material.

14 ~~(11)~~ (16) "Operating fees", as referred to in section 16 (5)(f) of
15 article XVIII of the state constitution, means fees that may be charged by
16 a local jurisdiction for costs, including but not limited to inspection,
17 administration, and enforcement of retail marijuana establishments
18 authorized pursuant to this ~~article~~ ARTICLE 12.

19 ~~(12) Repealed.~~

20 ~~(12.4)~~ (17) "Permitted economic interest" means any unsecured
21 convertible debt instrument, option agreement, warrant, or any other right
22 to obtain an ownership interest when the holder of such interest is a
23 natural person who is a lawful United States resident and whose right to
24 convert into an ownership interest is contingent on the holder qualifying
25 and obtaining a license as an owner under this ~~article~~ ARTICLE 12 or such
26 other agreements as may be permitted by rule by the state licensing
27 authority.

1 ~~(13)~~ (18) "Person" means a natural person, partnership,
2 association, company, corporation, limited liability company, or
3 organization; except that "person" does not include any governmental
4 organization.

5 ~~(14)~~ (19) "Premises" means a distinctly identified, as required by
6 the state licensing authority, and definite location, which may include a
7 building, a part of a building, a room, or any other definite contiguous
8 area.

9 ~~(14.3)~~ (20) "Qualified limited passive investor" means a natural
10 person who is a United States citizen and is a passive investor who owns
11 less than a five percent share or shares of stock in a licensed retail
12 marijuana business.

13 ~~(14.5)~~ (21) "Resealable" means that the package continues to
14 function within effectiveness specifications, which shall be established
15 by the state licensing authority similar to the federal "Poison Prevention
16 Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq., for the number of
17 openings and closings customary for its size and contents, which shall be
18 determined by the state licensing authority.

19 ~~(15)~~ (22) "Retail marijuana" means "marijuana" or "marihuana",
20 as defined in section 16 (2)(f) of article XVIII of the state constitution,
21 that is cultivated, manufactured, distributed, or sold by a licensed retail
22 marijuana establishment.

23 ~~(16)~~ (23) "Retail marijuana cultivation facility" has the same
24 meaning as "marijuana cultivation facility" as defined in section 16 (2)(h)
25 of article XVIII of the state constitution.

26 ~~(17)~~ (24) "Retail marijuana establishment" means a retail
27 marijuana store, a retail marijuana cultivation facility, a retail marijuana

1 products manufacturer, or a retail marijuana testing facility.

2 ~~(17.5)~~ (25) "Retail marijuana establishment operator" means an
3 entity or person that is not an owner and that is licensed to provide
4 professional operational services to a retail marijuana establishment for
5 direct remuneration from the retail marijuana establishment.

6 ~~(18)~~ (26) "Retail marijuana products" means "marijuana products"
7 as defined in section 16 (2)(k) of article XVIII of the state constitution
8 that are produced at a retail marijuana products manufacturer.

9 ~~(19)~~ (27) "Retail marijuana products manufacturer" has the same
10 meaning as "marijuana product manufacturing facility" as defined in
11 section 16 (2)(j) of article XVIII of the state constitution.

12 ~~(20)~~ (28) "Retail marijuana store" has the same meaning as
13 defined in section 16 (2)(n) of article XVIII of the state constitution.

14 ~~(21)~~ (29) "Retail marijuana testing facility" means "marijuana
15 testing facility" as defined in section 16 (2)(l) of article XVIII of the state
16 constitution that is licensed pursuant to this ~~article~~ ARTICLE 12.

17 ~~(21.5)~~ (30) "Retail marijuana transporter" means an entity or
18 person that is licensed to transport retail marijuana and retail marijuana
19 products from one retail marijuana establishment to another retail
20 marijuana establishment and to temporarily store the transported retail
21 marijuana and retail marijuana products at its licensed premises, but is not
22 authorized to sell retail marijuana or retail marijuana products under any
23 circumstances.

24 ~~(22)~~ (31) "Sale" or "sell" includes to exchange, barter, or traffic
25 in, to solicit or receive and order except through a licensee licensed under
26 this ~~article~~ ARTICLE 12, to deliver for value in any way other than
27 gratuitously, to peddle or possess with intent to sell, or to traffic in for any

1 consideration promised or obtained directly or indirectly.

2 ~~(23)~~ (32) "School" means a public or private preschool or a public
3 or private elementary, middle, junior high, or high school or institution of
4 higher education.

5 ~~(24)~~ (33) "State licensing authority" means the authority created
6 for the purpose of regulating and controlling the licensing of the
7 cultivation, manufacture, distribution, sale, and testing of retail marijuana
8 in this state pursuant to section ~~12-43.4-201~~ 44-12-201.

9 **44-12-104. [Formerly 12-43.4-104] Applicability - retail**
10 **marijuana.** (1) (a) (I) On or after October 1, 2013, a person who is
11 operating in good standing a licensed medical marijuana center, an
12 optional premises cultivation license, or a licensed medical
13 marijuana-infused products business or a person who had a pending
14 application with the state licensing authority prior to December 10, 2012,
15 has paid all applicable licensing fees, and has not yet had that application
16 approved may apply for a retail marijuana establishment license under
17 this ~~article~~ ARTICLE 12.

18 (II) An applicant pursuant to this ~~paragraph (a)~~ SUBSECTION (1)(a)
19 shall indicate whether he or she wants to surrender the current medical
20 marijuana license issued pursuant to part 4 of ~~article 43.3~~ ARTICLE 11 of
21 this ~~title~~ TITLE 44 or intends to retain the license in addition to the retail
22 marijuana establishment license.

23 (III) If the applicant indicates a desire to surrender the medical
24 marijuana license, the applicant shall continue to operate under that
25 license so long as the license remains in effect until a retail marijuana
26 establishment license is approved. If the retail marijuana establishment
27 license is granted, the applicant shall have fourteen days from the

1 effective date of the license to surrender the medical marijuana license to
2 the state licensing authority. If the retail marijuana license is granted, on
3 the effective date of the license, all medical marijuana plants and
4 inventory shall become retail marijuana plants and inventory on the date
5 of the retail marijuana establishment license; except that beginning on
6 July 1, 2016, an applicant shall not be allowed to transfer medical
7 marijuana plants and inventory from a medical marijuana center or from
8 a medical marijuana-infused products manufacturer to any retail
9 marijuana establishment. Beginning on July 1, 2016, the only transfer of
10 medical marijuana allowed pursuant to this ~~subparagraph (HH)~~
11 SUBSECTION (1)(a)(III) is the transfer of medical marijuana plants and
12 inventory from a medical marijuana cultivation facility to a retail
13 marijuana cultivation facility.

14 (IV) An applicant pursuant to this ~~paragraph (a)~~ SUBSECTION
15 (1)(a) may apply for a retail marijuana establishment license and retain
16 the medical marijuana license. The applicant may apply to have the
17 medical marijuana licensed operation and the retail marijuana
18 establishment at the same location only if the local jurisdiction permits
19 the medical marijuana licensed operation and the retail marijuana
20 establishment to be operated at the same location. At the time that the
21 retail marijuana establishment license becomes effective, the applicant
22 shall identify the medical marijuana inventory that will become retail
23 marijuana inventory; except that beginning on July 1, 2016, an applicant
24 shall not be allowed to transfer medical marijuana inventory from a
25 medical marijuana center or from a medical marijuana-infused products
26 manufacturer to any retail marijuana establishment. Beginning on July 1,
27 2016, the only transfer of medical marijuana allowed pursuant to this

1 ~~subparagraph (IV)~~ SUBSECTION (1)(a)(IV) is the transfer of medical
2 marijuana inventory from a medical marijuana cultivation facility to a
3 retail marijuana cultivation facility.

4 (V) An applicant pursuant to this ~~paragraph (a)~~ SUBSECTION (1)(a)
5 who retains a medical marijuana license and obtains a retail marijuana
6 establishment license for the two licensed premises must maintain actual
7 physical separation between the two or only sell medical marijuana to
8 persons twenty-one years of age or older.

9 ~~(VI) Repealed.~~

10 ~~(b) (I) Repealed.~~

11 ~~(H)~~ On and after July 1, 2014, persons who did not meet the
12 requirements of ~~subparagraph (I) of paragraph (a) of this subsection (I)~~
13 SUBSECTION (1)(a)(I) OF THIS SECTION may apply for licensure pursuant
14 to this ~~article~~ ARTICLE 12. A license issued to a person pursuant to this
15 ~~subparagraph (H)~~ SUBSECTION (1)(b) is not effective until October 1,
16 2014.

17 ~~(c) Repealed.~~

18 (2) (a) A person applying pursuant to subsection (1) of this section
19 shall complete forms as provided by the state licensing authority and shall
20 pay the application fee and the licensing fee, which shall be credited to
21 the marijuana cash fund established pursuant to section ~~12-43.4-501~~
22 44-11-501. The state licensing authority shall forward, within seven days,
23 one-half of the license application fee to the local jurisdiction unless the
24 local jurisdiction has prohibited the operation of retail marijuana
25 establishments pursuant to section 16 (5)(f) of article XVIII of the state
26 constitution. If the license is denied, the state licensing authority shall
27 refund the licensing fee to the applicant.

1 (b) ~~(f)~~ The state licensing authority shall act upon an application
2 made pursuant to subsection (1) of this section no sooner than forty-five
3 days and no later than ninety days after the date of the application. The
4 state licensing authority shall process applications in the order in which
5 complete applications are received by the state licensing authority.

6 ~~(H) Repealed.~~

7 (3) As provided in section 16 (5)(f) of article XVIII of the state
8 constitution, any local jurisdiction may enact ordinances or regulations
9 governing the time, place, manner, and number of retail marijuana
10 establishments, which may include a local licensing requirement, or may
11 prohibit the operation of retail marijuana establishments through the
12 enactment of an ordinance or through a referred or initiated measure. If
13 a county acts through an initiated measure, the proponents shall submit
14 a petition signed by not less than fifteen percent of the registered electors
15 in the county.

16 (4) This ~~article~~ ARTICLE 12 sets forth the exclusive means by
17 which cultivation, manufacture, sale, distribution, dispensing, and testing
18 of retail marijuana and retail marijuana products may occur in the state of
19 Colorado.

20 (5) (a) Nothing in this ~~article~~ ARTICLE 12 is intended to require an
21 employer to permit or accommodate the use, consumption, possession,
22 transfer, display, transportation, sale, or cultivating of marijuana in the
23 workplace or to affect the ability of employers to have policies restricting
24 the use of marijuana by employees.

25 (b) Nothing in this ~~article~~ ARTICLE 12 prohibits a person,
26 employer, school, hospital, detention facility, corporation, or any other
27 entity who occupies, owns, or controls a property from prohibiting or

1 otherwise regulating the possession, consumption, use, display, transfer,
2 distribution, sale, transportation, or cultivating of marijuana on or in that
3 property.

4 (6) Repealed.

5 **44-12-105. [Formerly 12-43.4-105] Limited access areas.**

6 Subject to the provisions of section ~~12-43.4-701~~ 44-12-701, a limited
7 access area shall be a building, room, or other contiguous area upon the
8 licensed premises where retail marijuana and retail marijuana products are
9 cultivated, stored, weighed, packaged, or tested, under control of the
10 licensee, with access limited to only those persons licensed by the state
11 licensing authority and those visitors escorted by a person licensed by the
12 state licensing authority. All areas of ingress or egress to limited access
13 areas shall be clearly identified as such by a sign as designated by the
14 state licensing authority.

15 PART 2

16 STATE LICENSING AUTHORITY

17 **44-12-201. [Formerly 12-43.4-201] State licensing authority.**

18 For the purpose of regulating and controlling the licensing of the
19 cultivation, manufacture, distribution, sale, and testing of retail marijuana
20 and retail marijuana products in this state, the state licensing authority
21 created in section ~~12-43.3-201~~ 44-11-201 shall also have regulatory
22 authority for retail marijuana and retail marijuana products as permitted
23 in section 16 of article XVIII of the state constitution and this ~~article~~
24 ARTICLE 12.

25 **44-12-202. [Formerly 12-43.4-202]** (1) To ensure that no
26 marijuana grown or processed by a retail marijuana establishment is sold
27 or otherwise transferred except by a retail marijuana store or as authorized

1 by law, the state licensing authority shall develop and maintain a
2 seed-to-sale tracking system that tracks retail marijuana from either seed
3 or immature plant stage until the marijuana or retail marijuana product is
4 sold to a customer at a retail marijuana store; except that retail marijuana
5 or retail marijuana product is no longer subject to the tracking system
6 once the retail marijuana has been:

7 (a) Transferred to a medical research facility pursuant to section
8 25-1.5-106.5 (5)(b); or

9 (b) Transferred to a pesticide manufacturer in quantities that are
10 limited as specified in rules promulgated by the state licensing authority,
11 in consultation with the departments of public health and environment
12 and agriculture. The rules must define a pesticide manufacturer that is
13 authorized to conduct research and must authorize a pesticide
14 manufacturer to conduct research to establish safe and effective protocols
15 for the use of pesticides on retail marijuana. Notwithstanding any other
16 provision of law, a pesticide manufacturer authorized pursuant to this
17 subsection (1)(b) to conduct pesticide research regarding retail marijuana
18 must be located in Colorado, must conduct the research in Colorado, and
19 is exempt from all otherwise applicable restrictions on the possession and
20 use of retail marijuana; except that the manufacturer shall:

21 (I) Not possess at any time a quantity of retail marijuana in excess
22 of the limit established in rules promulgated by the state licensing
23 authority;

24 (II) Use the retail marijuana only for the pesticide research
25 authorized pursuant to this subsection (1)(b);

26 (III) Destroy, in compliance with rules promulgated by the state
27 licensing authority, all retail marijuana remaining after the research has

1 been completed; and

2 (IV) Not apply pesticides for research purposes on the licensed
3 premises of a retail marijuana establishment.

4 (2) The state licensing authority has the authority to:

5 (a) Grant or refuse state licenses for the cultivation, manufacture,
6 distribution, sale, and testing of retail marijuana and retail marijuana
7 products as provided by law; suspend, fine, restrict, or revoke such
8 licenses, whether active, expired, or surrendered, upon a violation of this
9 ~~article 43.4~~ ARTICLE 12 or any rule promulgated pursuant to this ~~article~~
10 ~~43.4~~ ARTICLE 12; and impose any penalty authorized by this ~~article 43.4~~
11 ARTICLE 12 or any rule promulgated pursuant to this ~~article 43.4~~ ARTICLE
12 12. The state licensing authority may take any action with respect to a
13 registration pursuant to this ~~article 43.4~~ ARTICLE 12 as it may with respect
14 to a license pursuant to this ~~article 43.4~~ ARTICLE 12, in accordance with
15 the procedures established pursuant to this ~~article 43.4~~ ARTICLE 12.

16 (b) Promulgate, on or before July 1, 2013, rules for the proper
17 regulation and control of the cultivation, manufacture, distribution, sale,
18 and testing of retail marijuana and retail marijuana products and for the
19 enforcement of this ~~article~~ ARTICLE 12 and promulgate amended rules and
20 such special rulings and findings as necessary;

21 (c) Hear and determine at a public hearing any contested state
22 license denial and any complaints against a licensee and administer oaths
23 and issue subpoenas to require the presence of persons and the production
24 of papers, books, and records necessary to the determination of any
25 hearing so held, all in accordance with article 4 of title 24. ~~C.R.S.~~ The
26 state licensing authority may, at its discretion, delegate to the department
27 of revenue hearing officers the authority to conduct licensing,

1 disciplinary, and rule-making hearings. When conducting ~~such~~ THE
2 hearings, the hearing officers are employees of the state licensing
3 authority under the direction and supervision of the executive director and
4 the state licensing authority.

5 (d) Maintain the confidentiality of reports or other information
6 obtained from a licensee containing any individualized data, information,
7 or records related to the licensee or its operation, including sales
8 information, financial records, tax returns, credit reports, cultivation
9 information, testing results, and security information and plans, or
10 revealing any customer information, or any other records that are exempt
11 from public inspection pursuant to state law. Such reports or other
12 information may be used only for a purpose authorized by this ~~article~~
13 ARTICLE 12 or for any other state or local law enforcement purpose. Any
14 customer information may be used only for a purpose authorized by this
15 ~~article~~ ARTICLE 12.

16 (e) Develop such forms, licenses, identification cards, and
17 applications as are necessary or convenient in the discretion of the state
18 licensing authority for the administration of this ~~article~~ ARTICLE 12 or any
19 of the rules promulgated under this ~~article~~ ARTICLE 12; and

20 (f) Prepare and transmit annually, in the form and manner
21 prescribed by the heads of the principal departments pursuant to section
22 24-1-136, ~~C.R.S.~~, a report accounting to the governor for the efficient
23 discharge of all responsibilities assigned by law or directive to the state
24 licensing authority.

25 (3) (a) Rules promulgated pursuant to ~~paragraph (b) of subsection~~
26 ~~(2)~~ SUBSECTION (2)(b) of this section must include, but need not be
27 limited to, the following subjects:

1 (I) Procedures consistent with this ~~article~~ ARTICLE 12 for the
2 issuance, renewal, suspension, and revocation of licenses to operate retail
3 marijuana establishments;

4 (II) Subject to the limitations contained in section 16 (5)(a)(II) of
5 article XVIII of the state constitution and consistent with this ~~article~~
6 ARTICLE 12, a schedule of application, licensing, and renewal fees for
7 retail marijuana establishments;

8 (III) Qualifications for licensure under this ~~article~~ ARTICLE 12,
9 including but not limited to the requirement for a fingerprint-based
10 criminal history record check for all owners, officers, managers,
11 contractors, employees, and other support staff of entities licensed
12 pursuant to this ~~article~~ ARTICLE 12;

13 (IV) (A) Establishing a marijuana and marijuana products
14 independent testing and certification program, within an implementation
15 time frame established by the department, requiring licensees to test
16 marijuana to ensure at a minimum that products sold for human
17 consumption do not contain contaminants that are injurious to health and
18 to ensure correct labeling.

19 (B) Testing may include analysis for microbial and residual
20 solvents and chemical and biological contaminants deemed to be public
21 health hazards by the Colorado department of public health and
22 environment based on medical reports and published scientific literature.

23 (C) In the event that test results indicate the presence of quantities
24 of any substance determined to be injurious to health, the licensee shall
25 immediately quarantine the products and notify the state licensing
26 authority. The state licensing authority shall give the licensee an
27 opportunity to retest the product and if the second test also indicates the

1 presence of quantities of any substance determined to be injurious to
2 health then the licensee can remediate the product if the test indicated the
3 presence of a microbial. If two additional tests do not indicate the
4 presence of quantities of any substance determined to be injurious to
5 health, the product may be used or sold by the licensee. If the licensee is
6 unable to remediate the product, the licensee shall document and properly
7 destroy the adulterated product.

8 (D) Testing shall also verify THC potency representations and
9 homogeneity for correct labeling and provide a cannabinoid profile for
10 the marijuana product. An individual marijuana piece of ten milligrams
11 or less that has gone through process validation is exempt from continued
12 homogeneity testing. Homogeneity testing for one hundred milligram
13 servings may utilize validation measures.

14 (E) The state licensing authority shall determine an acceptable
15 variance for potency representations and procedures to address potency
16 misrepresentations. The state licensing authority shall determine an
17 acceptable variance of at least plus or minus fifteen percent for potency
18 representations and procedures to address potency misrepresentations.

19 (F) The state licensing authority shall determine the protocols and
20 frequency of marijuana testing by licensees.

21 (G) The executive director of the department of public health and
22 environment shall provide to the state licensing authority standards for
23 licensing laboratories pursuant to the requirements as outlined in
24 ~~sub-subparagraph (A) of this subparagraph (IV)~~ SUBSECTION
25 (3)(a)(IV)(A) OF THIS SECTION for marijuana and marijuana products.

26 (H) A state, local, or municipal agency shall not employ or use the
27 results of any test of marijuana or marijuana products conducted by an

1 analytical laboratory that is not certified pursuant to this subsection
2 (3)(a)(IV) for the particular testing category and accredited to the
3 International Organization for Standardization/International
4 Electrotechnical Commission 17025:2005 standard, or any subsequent
5 superseding standard, in that field of testing.

6 (V) Security requirements for any premises licensed pursuant to
7 this ~~article~~ ARTICLE 12, including, at a minimum, lighting, physical
8 security, video, and alarm requirements, and other minimum procedures
9 for internal control as deemed necessary by the state licensing authority
10 to properly administer and enforce the provisions of this ~~article~~ ARTICLE
11 12, including reporting requirements for changes, alterations, or
12 modifications to the premises;

13 (VI) Requirements to prevent the sale or diversion of retail
14 marijuana and retail marijuana products to persons under twenty-one
15 years of age;

16 (VII) Labeling requirements for retail marijuana and retail
17 marijuana products sold by a retail marijuana establishment that are at
18 least as stringent as imposed by section 25-4-1614 (3)(a) ~~C.R.S.~~, and
19 include but are not limited to:

20 ~~(A) to (H) (Deleted by amendment, L. 2016.)~~

21 ~~(H)~~ (A) Warning labels;

22 ~~(J) (Deleted by amendment, L. 2016.)~~

23 ~~(K)~~ (B) Amount of THC per serving and the number of servings
24 per package for marijuana products;

25 ~~(L) to (N) (Deleted by amendment, L. 2016.)~~

26 ~~(O)~~ (C) A universal symbol indicating the package contains
27 marijuana; and

1 ~~(P)~~ (D) The potency of the retail marijuana or retail marijuana
2 product highlighted on the label;

3 (VIII) Health and safety regulations and standards for the
4 manufacture of retail marijuana products and the cultivation of retail
5 marijuana;

6 (IX) Limitations on the display of retail marijuana and retail
7 marijuana products;

8 (X) Regulation of the storage of, warehouses for, and
9 transportation of retail marijuana and retail marijuana products;

10 (XI) Sanitary requirements for retail marijuana establishments,
11 including but not limited to sanitary requirements for the preparation of
12 retail marijuana products;

13 (XII) Records to be kept by licensees and the required availability
14 of the records;

15 (XIII) The reporting and transmittal of monthly sales tax payments
16 by retail marijuana stores and any applicable excise tax payments by retail
17 marijuana cultivation facilities;

18 (XIV) Authorization for the department of revenue to have access
19 to licensing information to ensure sales, excise, and income tax payment
20 and the effective administration of this ~~article~~ ARTICLE 12;

21 ~~(XIV.5)~~ (XV) Rules effective on or before January 1, 2016,
22 relating to permitted economic interests including a process for a criminal
23 history record check; a requirement that a permitted economic interest
24 applicant submit to and pass a criminal history record check; a divestiture;
25 and other agreements that would qualify as permitted economic interests;

26 ~~(XV)~~ (XVI) Compliance with, enforcement of, or violation of any
27 provision of this ~~article~~ ARTICLE 12, section 18-18-406.3 (7), ~~C.R.S.~~, or

1 any rule issued pursuant to this ~~article~~ ARTICLE 12, including procedures
2 and grounds for denying, suspending, fining, restricting, or revoking a
3 state license issued pursuant to this ~~article~~ ARTICLE 12;

4 ~~(XVI)~~ (XVII) Establishing a schedule of penalties and procedures
5 for issuing and appealing citations for violation of statutes and rules and
6 issuing administrative citations;

7 ~~(XVII)~~ (XVIII) Retail marijuana transporter licensed businesses,
8 including requirements for drivers, including obtaining and maintaining
9 a valid Colorado driver's license; insurance requirements; acceptable time
10 frames for transport, storage, and delivery; requirements for transport
11 vehicles; and requirements for licensed premises;

12 ~~(XVIII)~~ (XIX) Retail marijuana establishment operator licensees,
13 including the form and structure of allowable agreements between
14 operators and owners;

15 ~~(XIX)~~ (XX) Nonescorted visitors in limited access areas; and

16 ~~(XX)~~ (XXI) The parameters and qualifications of an indirect
17 beneficial interest owner and a qualified limited passive investor.

18 ~~(a.5)~~ (b) (I) Pursuant to the authority granted in ~~paragraph (b) of~~
19 ~~subsection (2)~~ SUBSECTION (2)(b) of this section, on or before January 1,
20 2016, the state licensing authority shall promulgate rules establishing the
21 equivalent of one ounce of retail marijuana flower in various retail
22 marijuana products including retail marijuana concentrate.

23 (II) Prior to promulgating the rules required by ~~subparagraph (I)~~
24 ~~of this paragraph (a.5)~~ SUBSECTION (3)(b)(I) OF THIS SECTION, the state
25 licensing authority may contract for a scientific study to determine the
26 equivalency of marijuana flower in retail marijuana products including
27 retail marijuana concentrate.

1 ~~(b)~~ (c) Rules promulgated pursuant to ~~paragraph (b) of subsection~~
2 ~~(2)~~ SUBSECTION (2)(b) of this section must also include the following
3 subjects:

4 (I) Specifications of duties of officers and employees of the state
5 licensing authority;

6 (II) Instructions for local jurisdictions and law enforcement
7 officers;

8 (III) Requirements for inspections, investigations, searches,
9 seizures, forfeitures, and such additional activities as may become
10 necessary from time to time;

11 ~~(IV) Repealed.~~

12 ~~(V)~~ (IV) Development of individual identification cards for
13 owners, officers, managers, contractors, employees, and other support
14 staff of entities licensed pursuant to this ~~article~~ ARTICLE 12, including a
15 fingerprint-based criminal history record check as may be required by the
16 state licensing authority prior to issuing a card;

17 ~~(VI)~~ (V) Identification of state licensees and their owners,
18 officers, managers, and employees;

19 ~~(VII)~~ (VI) The specification of acceptable forms of picture
20 identification that a retail marijuana store may accept when verifying a
21 sale, including but not limited to government-issued identification cards;

22 ~~(VIII)~~ (VII) State licensing procedures, including procedures for
23 renewals, reinstatements, initial licenses, and the payment of licensing
24 fees; and

25 ~~(IX)~~ (VIII) Such other matters as are necessary for the fair,
26 impartial, stringent, and comprehensive administration of this ~~article~~
27 ARTICLE 12.

1 ~~(e)~~ (d) Rules promulgated pursuant to ~~paragraph (b) of subsection~~
2 ~~(2)~~ SUBSECTION (2)(b) of this section must also include the following
3 subjects, and the state licensing authority may seek the assistance of the
4 department of public health and environment when necessary before
5 promulgating the rules:

6 (I) Signage, marketing, and advertising, including but not limited
7 to a prohibition on mass-market campaigns that have a high likelihood of
8 reaching persons under twenty-one years of age and other such rules that
9 may include:

10 (A) Allow packaging and accessory branding;

11 (B) A prohibition on health or physical benefit claims in
12 advertising, merchandising, and packaging;

13 (C) A prohibition on unsolicited pop-up advertising on the
14 internet;

15 (D) A prohibition on banner ads on mass-market websites;

16 (E) A prohibition on opt-in marketing that does not permit an easy
17 and permanent opt-out feature; and

18 (F) A prohibition on marketing directed towards location-based
19 devices, including but not limited to cellular phones, unless the marketing
20 is a mobile device application installed on the device by the owner of the
21 device who is twenty-one years of age or older and includes a permanent
22 and easy opt-out feature;

23 ~~(H) Repealed.~~

24 ~~(HH)~~ (II) Prohibiting the sale of retail marijuana and retail
25 marijuana products unless:

26 (A) The product is packaged by the retail marijuana store or the
27 retail marijuana products manufacturer in packaging meeting

1 requirements established by the state licensing authority similar to the
2 federal "Poison Prevention Packaging Act of 1970", 15 U.S.C. sec. 1471
3 et seq.; or

4 (B) The product is placed in an opaque and resealable exit
5 package or container meeting requirements established by the state
6 licensing authority at the point of sale prior to exiting the store;

7 ~~(IV)~~ (III) The safe and lawful transport of retail marijuana and
8 retail marijuana products between the licensed business and testing
9 laboratories;

10 ~~(V)~~ (IV) A standardized marijuana serving size amount for edible
11 retail marijuana products that does not contain more than ten milligrams
12 of active THC designed only to provide consumers with information
13 about the total number of servings of active THC in a particular retail
14 marijuana product, not as a limitation on the total amount of THC in any
15 particular item, labeling requirements regarding servings for edible retail
16 marijuana products, and limitations on the total amount of active THC in
17 a sealed internal package that is no more than one hundred milligrams of
18 active THC;

19 ~~(VI)~~ (V) Labeling guidelines concerning the total content of THC
20 per unit of weight;

21 ~~(VII)~~ (VI) Prohibition or regulation of additives to any retail
22 marijuana product, including but not limited to those that are toxic,
23 designed to make the product more addictive, designed to make the
24 product more appealing to children, or misleading to consumers, but not
25 including common baking and cooking items;

26 ~~(VIII)~~ (VII) Permission for a local fire department to conduct an
27 annual fire inspection of a retail marijuana cultivation facility; and

1 ~~(IX)~~ (VIII) (A) A prohibition on the production and sale of edible
2 retail marijuana products that are in the distinct shape of a human, animal,
3 or fruit. Geometric shapes and products that are simply fruit flavored are
4 not considered fruit. Products in the shape of a marijuana leaf are
5 permissible. Nothing in this ~~subparagraph (IX)~~ SUBSECTION (3)(d)(VIII)
6 applies to a company logo.

7 (B) The rules promulgated pursuant to this ~~subparagraph (IX)~~
8 SUBSECTION (3)(d)(VIII) shall take effect on October 1, 2017.

9 ~~(e.5)~~ (e) (I) Pursuant to the authority granted in ~~paragraph (b) of~~
10 ~~subsection (2)~~ SUBSECTION (2)(b) of this section, on or before January 1,
11 2016, the state licensing authority shall promulgate rules requiring that
12 edible retail marijuana products be clearly identifiable, when practicable,
13 with a standard symbol indicating that it contains marijuana and is not for
14 consumption by children. The symbols promulgated by rule of the state
15 licensing authority must not appropriate signs or symbols associated with
16 another Colorado business or industry.

17 (II) On or before August 1, 2014, the state licensing authority
18 shall convene a stakeholders group, including but not limited to
19 representatives of the department of public health and environment, retail
20 marijuana store licensees, retail marijuana products manufacturers
21 licensees, child abuse prevention experts, and advocates for children's
22 health, to make recommendations for rules on how edible retail marijuana
23 products can be clearly identifiable, when practicable, to indicate that it
24 contains marijuana, is not for consumption by children, and is safe for
25 consumers. Prior to February 1, 2015, the state licensing authority shall
26 report its findings to the health and human services committee of the
27 senate and the health insurance and environment committee of the house

1 of representatives, or any successor committees.

2 ~~(d)~~ (f) Nothing in this ~~article~~ ARTICLE 12 shall be construed as
3 delegating to the state licensing authority the power to fix prices for retail
4 marijuana.

5 ~~(e)~~ (g) Nothing in this ~~article~~ ARTICLE 12 shall be construed to
6 limit a law enforcement agency's ability to investigate unlawful activity
7 in relation to a retail marijuana establishment. A law enforcement agency
8 shall have the authority to run a Colorado crime information center
9 criminal history record check of a licensee, or employee of a licensee,
10 during an investigation of unlawful activity related to retail marijuana and
11 retail marijuana products.

12 ~~(f)~~ (h) The general assembly finds and declares that matters
13 related to labeling as regulated pursuant to ~~subparagraph (VII) of~~
14 ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a)(VII) OF THIS
15 SECTION and ~~subparagraphs (V) and (VI) of paragraph (c) of this~~
16 ~~subsection (3)~~ SUBSECTIONS (3)(d)(IV) AND (3)(d)(V) OF THIS SECTION,
17 packaging as regulated pursuant to ~~subparagraph (III) of paragraph (c) of~~
18 ~~this subsection (3)~~ SUBSECTION (3)(d)(II) OF THIS SECTION, and testing as
19 regulated pursuant to ~~subparagraph (IV) of paragraph (a) of this~~
20 ~~subsection (3)~~ SUBSECTION (3)(a)(IV) OF THIS SECTION are matters of
21 statewide concern, and the sole regulatory authority for labeling,
22 packaging, and testing is pursuant to this section.

23 (4) (a) The state licensing authority shall create a statewide
24 licensure class system for retail marijuana cultivation facilities. The
25 classifications may be based upon square footage of the facility; lights,
26 lumens, or wattage; lit canopy; the number of cultivating plants; a
27 combination of the foregoing; or other reasonable metrics. The state

1 licensing authority shall create a fee structure for the license class system.

2 (b) (I) The state licensing authority may establish limitations upon
3 retail marijuana production through one or more of the following
4 methods:

5 (A) Placing or modifying a limit on the number of licenses that it
6 issues, by class or overall, but in placing or modifying the limits, the
7 authority shall consider the reasonable availability of new licenses after
8 a limit is established or modified;

9 (B) Placing or modifying a limit on the amount of production
10 permitted by a retail marijuana cultivation license or class of licenses
11 based upon some reasonable metric or set of metrics including, but not
12 limited to, those items detailed in ~~paragraph (a) of this subsection (4)~~
13 SUBSECTION (4)(a) OF THIS SECTION, previous months' sales, pending
14 sales, or other reasonable metrics as determined by the state licensing
15 authority; and

16 (C) Placing or modifying a limit on the total amount of production
17 by retail marijuana cultivation licensees in the state, collectively, based
18 upon some reasonable metric or set of metrics including, but not limited
19 to, those items detailed in ~~paragraph (a) of this subsection (4)~~ SUBSECTION
20 (4)(a) OF THIS SECTION, as determined by the state licensing authority.

21 (II) Notwithstanding anything contained in this ~~article~~ ARTICLE 12
22 to the contrary, in considering any such limitations, the state licensing
23 authority, in addition to any other relevant considerations, shall:

24 (A) Consider the total current and anticipated demand for retail
25 marijuana and retail marijuana products in Colorado; and

26 (B) Attempt to minimize the market for unlawful marijuana.

27

PART 3

1 STATE AND LOCAL LICENSING

2 **44-12-301. [Formerly 12-43.4-301] Local approval - licensing.**

3 (1) When the state licensing authority receives an application for original
4 licensing or renewal of an existing license for any marijuana
5 establishment, the state licensing authority shall provide, within seven
6 days, a copy of the application to the local jurisdiction in which the
7 establishment is to be located unless the local jurisdiction has prohibited
8 the operation of retail marijuana establishments pursuant to section 16
9 (5)(f) of article XVIII of the state constitution. The local jurisdiction shall
10 determine whether the application complies with local restrictions on
11 time, place, manner, and the number of marijuana businesses. The local
12 jurisdiction shall inform the state licensing authority whether the
13 application complies with local restrictions on time, place, manner, and
14 the number of marijuana businesses.

15 (2) A local jurisdiction may impose a separate local licensing
16 requirement as a part of its restrictions on time, place, manner, and the
17 number of marijuana businesses. A local jurisdiction may decline to
18 impose any local licensing requirements, but a local jurisdiction shall
19 notify the state licensing authority that it either approves or denies each
20 application forwarded to it.

21 **44-12-302. [Formerly 12-43.4-302] Public hearing notice -
22 posting and publication.**

23 (1) If a local jurisdiction issues local licenses
24 for a retail marijuana establishment, a local jurisdiction may schedule a
25 public hearing on the application. If the local jurisdiction schedules a
26 hearing, it shall post and publish public notice thereof not less than ten
27 days prior to the hearing. The local jurisdiction shall give public notice by
posting a sign in a conspicuous place on the license applicant's premises

1 for which a local license application has been made and by publication in
2 a newspaper of general circulation in the county in which the applicant's
3 premises are located.

4 (2) If a local jurisdiction does not issue local licenses, the local
5 jurisdiction may give public notice of the state license application by
6 posting a sign in a conspicuous place on the state license applicant's
7 premises for which a state license application has been made and by
8 publication in a newspaper of general circulation in the county in which
9 the applicant's premises are located.

10 **44-12-303. [Formerly 12-43.4-304] State licensing authority -**
11 **application and issuance procedures.** (1) Applications for a state
12 license under the provisions of this ~~article~~ ARTICLE 12 must be made to
13 the state licensing authority on forms prepared and furnished by the state
14 licensing authority and must set forth such information as the state
15 licensing authority may require to enable the state licensing authority to
16 determine whether a state license should be granted. The information
17 must include the name and address of the applicant and the names and
18 addresses of the officers, directors, or managers. Each application must
19 be verified by the oath or affirmation of such person or persons as the
20 state licensing authority may prescribe. The state licensing authority may
21 issue a state license to an applicant pursuant to this section upon
22 completion of the applicable criminal history background check
23 associated with the application, and the state license is conditioned upon
24 local jurisdiction approval. A license applicant is prohibited from
25 operating a licensed retail marijuana business without state and local
26 jurisdiction approval. If the applicant does not receive local jurisdiction
27 approval within one year from the date of state licensing authority

1 approval, the state license shall expire and may not be renewed. If an
2 application is denied by the local licensing authority, the state licensing
3 authority shall revoke the state-issued license.

4 (2) Nothing in this ~~article~~ ARTICLE 12 preempts or otherwise
5 impairs the power of a local government to enact ordinances or
6 resolutions concerning matters authorized to local governments.

7 **44-12-304. [Formerly 12-43.4-305] Denial of application -**
8 **definition.** (1) The state licensing authority shall deny a state license if
9 the premises on which the applicant proposes to conduct its business does
10 not meet the requirements of this ~~article~~ ARTICLE 12 or for reasons set
11 forth in section ~~12-43.4-304~~ 44-12-303. The state licensing authority may
12 refuse or deny a license renewal, reinstatement, or initial license issuance
13 for good cause. For purposes of this subsection (1), "good cause" means:

14 (a) The licensee or applicant has violated, does not meet, or has
15 failed to comply with any of the terms, conditions, or provisions of this
16 ~~article~~ ARTICLE 12, any rules promulgated pursuant to this ~~article~~ ARTICLE
17 12, or any supplemental local law, rules, or regulations;

18 (b) The licensee or applicant has failed to comply with any special
19 terms or conditions that were placed on its license pursuant to an order of
20 the state or local licensing authority; or

21 (c) The licensed premises have been operated in a manner that
22 adversely affects the public health or the safety of the immediate
23 neighborhood in which the establishment is located.

24 (2) If the state licensing authority denies a state license pursuant
25 to subsection (1) of this section, the applicant shall be entitled to a
26 hearing pursuant to section 24-4-104 (9) ~~€R.S.~~, and judicial review
27 pursuant to section 24-4-106. ~~€R.S.~~ The state licensing authority shall

1 provide written notice of the grounds for denial of the state license to the
2 applicant and to the local jurisdiction at least fifteen days prior to the
3 hearing.

4 **44-12-305. [Formerly 12-43.4-306] Persons prohibited as**
5 **licensees - definition.** (1) A license provided by this ~~article~~ ARTICLE 12
6 shall not be issued to or held by:

7 (a) A person until the fee therefor has been paid;

8 (b) An individual whose criminal history indicates that he or she
9 is not of good moral character after considering the factors in section
10 24-5-101 (2); ~~C.R.S.~~;

11 (c) A person other than an individual if the criminal history of any
12 of its officers, directors, stockholders, or owners indicates that the officer,
13 director, stockholder, or owner is not of good moral character after
14 considering the factors in section 24-5-101 (2); ~~C.R.S.~~;

15 (d) A person financed in whole or in part by any other person
16 whose criminal history indicates he or she is not of good moral character
17 after considering the factors in section 24-5-101 (2), ~~C.R.S.~~, and
18 reputation satisfactory to the respective licensing authority;

19 (e) A person under twenty-one years of age;

20 (f) A person licensed pursuant to this ~~article~~ ARTICLE 12 who,
21 during a period of licensure, or who, at the time of application, has failed
22 to:

23 (I) File any tax return related to a medical or retail marijuana
24 establishment; or

25 (II) Pay any taxes, interest, or penalties due, as determined by final
26 agency action, relating to a medical or retail marijuana establishment;

27 (g) A person who:

1 (I) Has discharged a sentence for a conviction of a felony in the
2 five years immediately preceding his or her application date; or

3 (II) Has discharged a sentence for a conviction of a felony
4 pursuant to any state or federal law regarding the possession, distribution,
5 manufacturing, cultivation, or use of a controlled substance in the ten
6 years immediately preceding his or her application date or five years from
7 May 28, 2013, whichever is longer; except that the licensing authority
8 may grant a license to a person if the person has a state felony conviction
9 based on possession or use of marijuana or marijuana concentrate that
10 would not be a felony if the person were convicted of the offense on the
11 date he or she applied for licensure;

12 (h) A person who employs another person at a retail marijuana
13 establishment who has not submitted fingerprints for a criminal history
14 record check or whose criminal history record check reveals that the
15 person is ineligible;

16 (i) A sheriff, deputy sheriff, police officer, or prosecuting officer,
17 or an officer or employee of the state licensing authority or a local
18 licensing authority;

19 (j) A person applying for a license for a location that is currently
20 licensed as a retail food establishment or wholesale food registrant; or

21 ~~(k) Repealed.~~

22 ~~(k)~~ (k) A publicly traded company.

23 (2) (a) In investigating the qualifications of an applicant or a
24 licensee, the state and local licensing authorities may have access to
25 criminal history record information furnished by a criminal justice agency
26 subject to any restrictions imposed by such agency. In the event the state
27 or local licensing authority considers the applicant's criminal history

1 record, the state or local licensing authority shall also consider any
2 information provided by the applicant regarding such criminal history
3 record, including but not limited to evidence of rehabilitation, character
4 references, and educational achievements, especially those items
5 pertaining to the time between the applicant's last criminal conviction and
6 the consideration of the application for a state license.

7 (b) As used in ~~paragraph (a) of this subsection (2)~~ SUBSECTION
8 (2)(a) OF THIS SECTION, "criminal justice agency" means any federal, state,
9 or municipal court or any governmental agency or subunit of such agency
10 that administers criminal justice pursuant to a statute or executive order
11 and that allocates a substantial part of its annual budget to the
12 administration of criminal justice.

13 (c) At the time of filing an application for issuance of a state retail
14 marijuana establishment license, an applicant shall submit a set of his or
15 her fingerprints and file personal history information concerning the
16 applicant's qualifications for a state license on forms prepared by the state
17 licensing authority. The state licensing authority or local jurisdiction shall
18 submit the fingerprints to the Colorado bureau of investigation for the
19 purpose of conducting fingerprint-based criminal history record checks.
20 The Colorado bureau of investigation shall forward the fingerprints to the
21 federal bureau of investigation for the purpose of conducting
22 fingerprint-based criminal history record checks. The state licensing
23 authority or local jurisdiction may acquire a name-based criminal history
24 record check for an applicant or a license holder who has twice submitted
25 to a fingerprint-based criminal history record check and whose
26 fingerprints are unclassifiable. An applicant who has previously
27 submitted fingerprints for state or local licensing purposes may request

1 that the fingerprints on file be used. The state licensing authority or local
2 jurisdiction shall use the information resulting from the fingerprint-based
3 criminal history record check to investigate and determine whether an
4 applicant is qualified to hold a state or local license pursuant to this ~~article~~
5 ARTICLE 12. The state licensing authority or local jurisdiction may verify
6 any of the information an applicant is required to submit.

7 **44-12-306. [Formerly 12-43.4-306.5] Business and owner**
8 **requirements - legislative declaration - definition.** (1) (a) The general
9 assembly hereby finds and declares that:

10 (I) Retail marijuana businesses need to be able to access capital
11 in order to effectively grow their businesses and remain competitive in the
12 marketplace;

13 (II) The current regulatory structure for retail marijuana creates a
14 substantial barrier to investment from out-of-state interests;

15 (III) There is insufficient capital in Colorado to properly fund the
16 capital needs of Colorado retail marijuana businesses;

17 (IV) Colorado retail marijuana businesses need to have ready
18 access to capital from investors in states outside of Colorado; and

19 (V) Providing access to legitimate sources of capital helps prevent
20 the opportunity for those who engage in illegal activity to gain entry into
21 Colorado's regulated retail marijuana market.

22 (b) Therefore, the general assembly is providing a mechanism for
23 Colorado retail marijuana businesses to access capital from investors in
24 other states.

25 (2) A direct beneficial interest owner who is a natural person must
26 either:

27 (a) Have been a resident of Colorado for at least one year prior to

1 the date of the application; or

2 (b) Be a United States citizen prior to the date of the application.

3 (3) (a) A retail marijuana business may be comprised of an
4 unlimited number of direct beneficial interest owners that have been
5 residents of Colorado for at least one year prior to the date of the
6 application.

7 (b) On and after January 1, 2017, a retail marijuana business that
8 is comprised of one or more direct beneficial interest owners who have
9 not been Colorado residents for at least one year prior to application shall
10 have at least one officer who has been a Colorado resident for at least one
11 year prior to application and all officers with day-to-day operational
12 control over the business must be Colorado residents for at least one year
13 prior to application. A retail marijuana business under this ~~paragraph (b)~~
14 SUBSECTION (3)(b) is limited to no more than fifteen direct beneficial
15 interest owners, including all parent and subsidiary entities, all of whom
16 are natural persons.

17 (c) Notwithstanding the requirements of ~~paragraph (b) of this~~
18 ~~subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION, the state licensing
19 authority may review the limitation on the number of direct beneficial
20 interest owners and may increase the number of allowable interests above
21 fifteen based on reasonable considerations such as developments in state
22 and federal financial regulations, market conditions, and the licensee's
23 ability to access legitimate sources of capital.

24 (d) A direct beneficial interest owner that is a closely held
25 business entity must consist entirely of natural persons who are United
26 States citizens prior to the date of the application, including all parent and
27 subsidiary entities.

1 (4) A retail marijuana business may include qualified institutional
2 investors that own thirty percent or less of the retail marijuana business.

3 (5) (a) A person who intends to apply as a direct beneficial
4 interest owner and is not a Colorado resident for at least one year prior to
5 the date of application shall first submit a request to the state licensing
6 authority for a finding of suitability as a direct beneficial interest owner.
7 The person shall receive a finding of suitability prior to submitting an
8 application to the state licensing authority to be a direct beneficial interest
9 owner. Failure to receive a finding of suitability prior to application is
10 grounds for denial by the state licensing authority.

11 (b) The state licensing authority shall perform a limited initial
12 background check on qualified limited passive investors. If the initial
13 background check provides reasonable cause for additional investigation,
14 the state licensing authority may require a full background check.

15 (6) The state licensing authority shall review the retail marijuana
16 business's operating documents to ensure compliance with this section.

17 (7) For purposes of this section, unless the context otherwise
18 requires, "institutional investor" means:

19 (a) A bank as defined in section 3(a)(6) of the federal "Securities
20 Exchange Act of 1934", as amended;

21 (b) An insurance company as defined in section 2(a)(17) of the
22 federal "Investment Company Act of 1940", as amended;

23 (c) An investment company registered under section 8 of the
24 federal "Investment Company Act of 1940", as amended;

25 (d) An investment adviser registered under section 203 of the
26 federal "Investment Advisers Act of 1940", as amended;

27 (e) Collective trust funds as defined in section 3(c)(11) of the

1 federal "Investment Company Act of 1940", as amended;

2 (f) An employee benefit plan or pension fund that is subject to the
3 federal "Employee Retirement Income Security Act of 1974", as
4 amended, excluding an employee benefit plan or pension fund sponsored
5 by a licensee or an intermediary or holding company licensee that directly
6 or indirectly owns five percent or more of a licensee;

7 (g) A state or federal government pension plan;

8 (h) A group comprised entirely of persons specified in subsections
9 ~~(a) to (g) of this subsection (7)~~ (7)(a) TO (7)(g) OF THIS SECTION; or

10 (i) Any other entity identified through rule by the state licensing
11 authority.

12 **44-12-307. [Formerly 12-43.4-307] Restrictions for applications**
13 **for new licenses.** ~~(1)~~ The state licensing authority shall not approve an
14 application for the issuance of a state license pursuant to this ~~article~~:
15 ARTICLE 12

16 ~~(a) Repealed.~~

17 ~~(b)~~ until it is established that the applicant is, or will be, entitled
18 to possession of the premises for which application is made under a lease,
19 rental agreement, or other arrangement for possession of the premises or
20 by virtue of ownership of the premises.

21 **44-12-308. [Formerly 12-43.4-308] Transfer of ownership.**
22 (1) A state license granted under the provisions of this ~~article~~ ARTICLE 12
23 is not transferable except as provided in this section, but this section does
24 not prevent a change of location as provided in section ~~12-43.4-309 (12)~~
25 44-12-309 (12).

26 (2) For a transfer of ownership, a license holder shall apply to the
27 state licensing authority on forms prepared and furnished by the state

1 licensing authority. Upon receipt of an application for transfer of
2 ownership, the state licensing authority shall submit, within seven days,
3 a copy of the application to the local jurisdiction to determine whether the
4 transfer complies with local restrictions on transfer of ownership. In
5 determining whether to permit a transfer of ownership, the state licensing
6 authority shall consider only the requirements of this ~~article~~ ARTICLE 12,
7 any rules promulgated by the state licensing authority, and any other local
8 restrictions. The local jurisdiction may hold a hearing on the application
9 for transfer of ownership. The local jurisdiction shall not hold a hearing
10 pursuant to this subsection (2) until the local jurisdiction has posted a
11 notice of hearing in the manner described in section ~~12-43.4-302 (1)~~
12 44-12-302 (1) on the licensed premises for a period of ten days and has
13 provided notice of the hearing to the applicant at least ten days prior to
14 the hearing. Any transfer of ownership hearing by the state licensing
15 authority shall be held in compliance with the requirements specified in
16 section ~~12-43.4-304~~ 44-12-303.

17 **44-12-309. [Formerly 12-43.4-309] Licensing in general.**

18 (1) Local jurisdictions are authorized to adopt and enforce regulations for
19 retail marijuana establishments that are at least as restrictive as the
20 provisions of this ~~article~~ ARTICLE 12 and any rule promulgated pursuant
21 to this ~~article~~ ARTICLE 12.

22 (2) A retail marijuana establishment may not operate until it is
23 licensed by the state licensing authority pursuant to this ~~article~~ ARTICLE
24 12 and approved by the local jurisdiction. If an application is denied by
25 the local licensing authority, the state licensing authority shall revoke the
26 state-issued license. In connection with a license, the applicant shall
27 provide a complete and accurate application as required by the state

1 licensing authority.

2 (3) A retail marijuana establishment shall notify the state licensing
3 authority in writing of the name, address, and date of birth of an owner,
4 officer, or manager before the new owner, officer, or manager begins
5 managing, owning, or associating with the operation. The owner, officer,
6 manager, or employee must pass a fingerprint-based criminal history
7 record check as required by the state licensing authority and obtain the
8 required identification prior to being associated with, managing, owning,
9 or working at the operation.

10 (4) A retail marijuana establishment shall not acquire, possess,
11 cultivate, deliver, transfer, transport, supply, or dispense marijuana for
12 any purpose except as authorized by section 16 of article XVIII of the
13 state constitution and this ~~article~~ ARTICLE 12.

14 (5) All managers and employees of a retail marijuana
15 establishment shall be residents of Colorado upon the date of their license
16 application. All licenses granted pursuant to this ~~article~~ ARTICLE 12 are
17 valid for a period of one year after the date of issuance unless revoked or
18 suspended pursuant to this ~~article~~ ARTICLE 12 or the rules promulgated
19 pursuant to this ~~article~~ ARTICLE 12.

20 (6) Before granting a state license, the state licensing authority
21 may consider, except when this ~~article~~ ARTICLE 12 specifically provides
22 otherwise, the requirements of this ~~article~~ ARTICLE 12 and any rules
23 promulgated pursuant to this ~~article~~ ARTICLE 12, and all other reasonable
24 restrictions that are or may be placed upon the licensee by the licensing
25 authority.

26 (7) (a) Each license issued under this ~~article~~ ARTICLE 12 is
27 separate and distinct. It is unlawful for a person to exercise any of the

1 privileges granted under a license other than the license that the person
2 holds or for a licensee to allow any other person to exercise the privileges
3 granted under the licensee's license. A separate license shall be required
4 for each specific business or business entity and each geographical
5 location.

6 (b) At all times, a licensee shall possess and maintain possession
7 of the premises for which the license is issued by ownership, lease, rental,
8 or other arrangement for possession of the premises.

9 (8) The licenses issued pursuant to this ~~article~~ ARTICLE 12 must
10 specify the date of issuance, the period of licensure, the name of the
11 licensee, and the premises licensed. The licensee shall conspicuously
12 place the license at all times on the licensed premises.

13 (9) In computing any time prescribed by this ~~article~~ ARTICLE 12,
14 the day of the act, event, or default from which the designated time begins
15 to run is not included. Saturdays, Sundays, and legal holidays are counted
16 as any other day.

17 (10) A licensee shall report each transfer or change of financial
18 interest in the license to the state and local licensing authorities and
19 receive approval prior to any transfer or change pursuant to section
20 ~~12-43.4-308~~ 44-12-308. A report is required for transfers of capital stock
21 of any corporation regardless of size.

22 (11) Each licensee shall manage the licensed premises himself or
23 herself or employ a separate and distinct manager on the premises and
24 shall report the name of the manager to the state and local licensing
25 authorities. The licensee shall report any change in manager to the state
26 and local licensing authorities within seven days after the change pursuant
27 to section ~~12-43.4-308~~ 44-12-308.

1 (12) (a) A licensee may move the permanent location to any other
2 place in Colorado once permission to do so is granted by the state and
3 local jurisdiction provided for in this ~~article~~ ARTICLE 12. Upon receipt of
4 an application for change of location, the state licensing authority shall,
5 within seven days, submit a copy of the application to the local
6 jurisdiction to determine whether the transfer complies with all local
7 restrictions on change of location.

8 (b) In permitting a change of location, the local jurisdiction shall
9 consider all reasonable restrictions that are or may be placed upon the
10 new location by the governing board of the municipality, city and county,
11 or county, and any such change in location shall be in accordance with all
12 requirements of this ~~article~~ ARTICLE 12 and rules promulgated pursuant
13 to this ~~article~~ ARTICLE 12.

14 **44-12-310. [Formerly 12-43.4-310] License renewal.** (1) Ninety
15 days prior to the expiration date of an existing license, the state licensing
16 authority shall notify the licensee of the expiration date by first-class mail
17 at the licensee's address of record with the state licensing authority. A
18 licensee may apply for the renewal of an existing license to the state
19 licensing authority not less than thirty days prior to the date of expiration.
20 Upon receipt of an application for renewal of an existing license and any
21 applicable fees, the state licensing authority shall submit, within seven
22 days, a copy of the application to the local jurisdiction to determine
23 whether the application complies with all local restrictions on renewal of
24 licenses. The state licensing authority shall not accept an application for
25 renewal of a license after the date of expiration, except as provided in
26 subsection ~~(2)~~ (3) of this section. The state licensing authority may extend
27 the expiration date of the license and accept a late application for renewal

1 of a license if the applicant has filed a timely renewal application with the
2 local licensing authority. The state or the local licensing authority, in its
3 discretion, subject to the requirements of this subsection (1) and
4 subsection ~~(2)~~ (3) of this section and based upon reasonable grounds, may
5 waive the thirty-day time requirements set forth in this subsection (1).

6 ~~(1.5)~~ (2) The state licensing authority may require an additional
7 fingerprint request when there is a demonstrated investigative need.

8 ~~(2)~~ (3) (a) Notwithstanding the provisions of subsection (1) of this
9 section, a licensee whose license has been expired for not more than
10 ninety days may file a late renewal application upon the payment of a
11 nonrefundable late application fee of five hundred dollars to the state
12 licensing authority. A licensee who files a late renewal application and
13 pays the requisite fees may continue to operate until the state licensing
14 authority takes final action to approve or deny the licensee's late renewal
15 application unless the state licensing authority summarily suspends the
16 license pursuant to article 4 of title 24, ~~C.R.S.~~, this ~~article~~ ARTICLE 12, and
17 rules promulgated pursuant to this ~~article~~ ARTICLE 12.

18 (b) The state licensing authority may administratively continue the
19 license and accept a later application for renewal of a license at the
20 discretion of the state licensing authority.

21 (c) Notwithstanding the amount specified for the late application
22 fee in ~~paragraph (a) of this subsection (2)~~ SUBSECTION (3)(a) OF THIS
23 SECTION, the state licensing authority by rule or as otherwise provided by
24 law may reduce the amount of the fee if necessary pursuant to section
25 24-75-402 (3) ~~C.R.S.~~, by reducing the uncommitted reserves of the fund
26 to which all or any portion of the fee is credited. After the uncommitted
27 reserves of the fund are sufficiently reduced, the state licensing authority,

1 by rule or as otherwise provided by law, may increase the amount of the
2 fee as provided in section 24-75-402 (4). ~~C.R.S.~~

3 **44-12-311. [Formerly 12-43.4-311] Inactive licenses.** The state
4 licensing authority, in its discretion, may revoke or elect not to renew any
5 license if it determines that the licensed premises have been inactive,
6 without good cause, for at least one year.

7 **44-12-312. [Formerly 12-43.4-312] Unlawful financial**
8 **assistance.** (1) The state licensing authority shall require a complete
9 disclosure of all persons having a direct or indirect financial interest, and
10 the extent of such interest, in each license issued under this ~~article~~
11 ARTICLE 12.

12 (2) This section is intended to prohibit and prevent the control of
13 the outlets for the sale of retail marijuana or retail marijuana products by
14 a person or party other than the persons licensed pursuant to the
15 provisions of this ~~article~~ ARTICLE 12.

16 PART 4

17 LICENSE TYPES

18 **44-12-401. [Formerly 12-43.4-401] Classes of licenses.** (1) For
19 the purpose of regulating the cultivation, manufacture, distribution, sale,
20 and testing of retail marijuana and retail marijuana products, the state
21 licensing authority in its discretion, upon receipt of an application in the
22 prescribed form, may issue and grant to the applicant a license from any
23 of the following classes, subject to the provisions and restrictions
24 provided by this ~~article 43.4~~ ARTICLE 12:

- 25 (a) Retail marijuana store license;
26 (b) Retail marijuana cultivation facility license;
27 (c) Retail marijuana products manufacturing license;

1 (d) Retail marijuana testing facility license;

2 (e) Occupational licenses and registrations for owners, managers,
3 operators, employees, contractors, and other support staff employed by,
4 working in, or having access to restricted areas of the licensed premises,
5 as determined by the state licensing authority. Upon receipt of an
6 affirmation under penalty of perjury that the applicant is enrolled in a
7 marijuana-based workforce development or training program operated by
8 an entity licensed under this ~~article 43.4~~ ARTICLE 12 or by a school that is
9 authorized by the division of private occupational schools in Colorado
10 that will require access or employment within a premises licensed
11 pursuant to this ~~article 43.4~~ ARTICLE 12 or ~~article 43.3~~ ARTICLE 11 of this
12 ~~title 12~~ TITLE 44, the state licensing authority may exempt for up to two
13 years based on the length of the program the residency requirement in
14 section ~~12-43.4-309 (5)~~ 44-12-309 (5) for a person applying for an
15 occupational license for participation in a marijuana-based workforce
16 development or training program. The state licensing authority may take
17 any action with respect to a registration pursuant to this ~~article 43.4~~
18 ARTICLE 12 as it may with respect to a license pursuant to this ~~article 43.4~~
19 ARTICLE 12, in accordance with the procedures established pursuant to
20 this ~~article 43.4~~ ARTICLE 12.

21 (f) Retail marijuana transporter license; and

22 (g) Retail marijuana business operator license.

23 (2) (a) A person may operate a licensed medical marijuana center,
24 an optional cultivation facility, a medical marijuana-infused products
25 manufacturing facility, and any retail marijuana establishment at the same
26 location if the local jurisdiction permits a dual operation.

27 (b) (I) Except as provided in ~~subparagraph (H) of this paragraph~~

1 ~~(b)~~ SUBSECTION (2)(b)(II) OF THIS SECTION, a dual medical marijuana
2 center and retail marijuana store shall maintain separate licensed
3 premises, including entrances and exits, inventory, point of sale
4 operations, and record keeping.

5 (II) For a dual medical marijuana center and a retail marijuana
6 store that only sells medical marijuana to persons twenty-one years of age
7 or older, the state licensing authority must adopt rules concerning the
8 licensed premises including but not limited to whether to allow single
9 entrances and exits and virtual separation of inventory.

10 (c) A dual cultivation business operation shall maintain either
11 physical or virtual separation of the two facilities and the plants and
12 inventory of the two facilities.

13 (3) All persons licensed pursuant to this ~~article~~ ARTICLE 12 shall
14 collect sales tax on all retail sales made at a retail marijuana store.

15 (4) Notwithstanding any other provision of law to the contrary, a
16 licensed retail cultivation facility or a licensed retail marijuana products
17 manufacturer may compensate its employees using performance-based
18 incentives.

19 **44-12-402. [Formerly 12-43.4-402] Retail marijuana store**
20 **license - definition.** (1) (a) A retail marijuana store license shall be
21 issued only to a person selling retail marijuana or retail marijuana
22 products pursuant to the terms and conditions of this ~~article~~ ARTICLE 12.

23 (b) A retail marijuana store may cultivate its own retail marijuana
24 if it obtains a retail marijuana cultivation facility license, or it may
25 purchase retail marijuana from a licensed retail marijuana cultivation
26 facility.

27 ~~(c) Repealed.~~

1 ~~(d)~~ (c) A retail marijuana store shall not accept any retail
2 marijuana purchased from a retail marijuana cultivation facility unless the
3 retail marijuana store is provided with evidence that any applicable excise
4 tax due, pursuant to article 28.8 of title 39, ~~C.R.S.~~, was paid.

5 ~~(e)~~ (d) The retail marijuana store shall track all of its retail
6 marijuana and retail marijuana products from the point that they are
7 transferred from a retail marijuana cultivation facility or retail marijuana
8 products manufacturer to the point of sale.

9 (2) (a) Notwithstanding the provisions of this section, a retail
10 marijuana store licensee may also sell retail marijuana products that are
11 prepackaged and labeled as required by rules of the state licensing
12 authority pursuant to section ~~12-43.4-202~~ 44-12-202.

13 (b) A retail marijuana store licensee may transact with a retail
14 marijuana products manufacturing licensee for the purchase of retail
15 marijuana products upon a retail marijuana products manufacturing
16 licensee's licensed premises or a retail marijuana store's licensed
17 premises.

18 (3) (a) (I) A retail marijuana store may not sell more than one
19 ounce of retail marijuana or its equivalent in retail marijuana products,
20 including retail marijuana concentrate, except for nonedible,
21 nonpsychoactive retail marijuana products, including ointments, lotions,
22 balms, and other nontransdermal topical products during a single
23 transaction to a person.

24 ~~(H) Repealed.~~

25 ~~(HH)~~ (II) As used in this ~~paragraph (a)~~ SUBSECTION (3)(a),
26 "equivalent in retail marijuana products" has the same meaning as
27 established by the state licensing authority by rule pursuant to section

1 ~~12-43.4-202 (3)(a.5)~~ 44-12-202 (3)(b).

2 (b) (I) Prior to initiating a sale, the employee of the retail
3 marijuana store making the sale shall verify that the purchaser has a valid
4 identification card showing the purchaser is twenty-one years of age or
5 older. If a person under twenty-one years of age presents a fraudulent
6 proof of age, any action relying on the fraudulent proof of age shall not
7 be grounds for the revocation or suspension of any license issued under
8 this ~~article~~ ARTICLE 12.

9 (II) (A) If a retail marijuana store licensee or employee has
10 reasonable cause to believe that a person is under twenty-one years of age
11 and is exhibiting fraudulent proof of age in an attempt to obtain any retail
12 marijuana or marijuana-infused product, the licensee or employee is
13 authorized to confiscate such fraudulent proof of age, if possible, and
14 shall, within seventy-two hours after the confiscation, remit to a state or
15 local law enforcement agency. The failure to confiscate such fraudulent
16 proof of age or to remit to a state or local law enforcement agency within
17 seventy-two hours after the confiscation does not constitute a criminal
18 offense.

19 (B) If a retail marijuana store licensee or employee believes that
20 a person is under twenty-one years of age and is exhibiting fraudulent
21 proof of age in an attempt to obtain any retail marijuana or retail
22 marijuana-infused product, the licensee or employee or any peace or
23 police officer, acting in good faith and upon probable cause based upon
24 reasonable grounds therefor, may detain and question such person in a
25 reasonable manner for the purpose of ascertaining whether the person is
26 guilty of any unlawful act regarding the purchase of retail marijuana. The
27 questioning of a person by an employee or a peace or police officer does

1 not render the licensee, the employee, or the peace or police officer civilly
2 or criminally liable for slander, false arrest, false imprisonment, malicious
3 prosecution, or unlawful detention.

4 (4) A retail marijuana store may provide, except as required by
5 section ~~12-43.4-202 (3)(a)(IV)~~ 44-12-202 (3)(a)(IV), a sample of its
6 products to a facility that has a marijuana testing facility license from the
7 state licensing authority for testing and research purposes. A retail
8 marijuana store shall maintain a record of what was provided to the
9 testing facility, the identity of the testing facility, and the results of the
10 testing.

11 (5) All retail marijuana and retail marijuana products sold at a
12 licensed retail marijuana store shall be packaged and labeled as required
13 by rules of the state licensing authority pursuant to section ~~12-43.4-202~~
14 44-12-202.

15 (6) A licensed retail marijuana store shall comply with all
16 provisions of article 34 of title 24, ~~C.R.S.~~, as the provisions relate to
17 persons with disabilities.

18 (7) (a) A licensed retail marijuana store may only sell retail
19 marijuana, retail marijuana products, marijuana accessories,
20 nonconsumable products such as apparel, and marijuana related products
21 such as childproof packaging containers, but shall be prohibited from
22 selling or giving away any consumable product, including but not limited
23 to cigarettes or alcohol, or edible product that does not contain marijuana,
24 including but not limited to sodas, candies, or baked goods.

25 (b) A licensed retail marijuana store may not sell any retail
26 marijuana or retail marijuana products that contain nicotine or alcohol, if
27 the sale of the alcohol would require a license pursuant to article 46 1 or

1 ~~47~~ 2 of this ~~title~~ TITLE 44.

2 (c) A licensed retail marijuana store shall not sell retail marijuana
3 or retail marijuana products over the internet nor deliver retail marijuana
4 or retail marijuana products to a person not physically present in the retail
5 marijuana store's licensed premises.

6 (8) The premises of a licensed retail marijuana store is the only
7 place where an automatic dispensing machine that contains retail
8 marijuana or retail marijuana products may be located. If a licensed retail
9 marijuana store uses an automatic dispensing machine that contains retail
10 marijuana and retail marijuana products, it must comply with the
11 regulations promulgated by the state licensing authority for its use.

12 (9) Retail marijuana or retail marijuana products may not be
13 consumed on the premises of a retail marijuana store.

14 (10) Notwithstanding any other provision of state law, sales of
15 retail marijuana and retail marijuana products are not exempt from state
16 or local sales tax.

17 (11) A display case containing marijuana concentrate must include
18 the potency of the marijuana concentrate next to the name of the product.

19 **44-12-403. [Formerly 12-43.4-403] Retail marijuana cultivation**
20 **facility license.** (1) A retail marijuana cultivation facility license may be
21 issued only to a person who cultivates retail marijuana for sale and
22 distribution to licensed retail marijuana stores, retail marijuana products
23 manufacturing licensees, or other retail marijuana cultivation facilities.

24 ~~(2) Repealed.~~

25 ~~(3)~~ (2) A retail marijuana cultivation facility shall remit any
26 applicable excise tax due in accordance with article 28.8 of title 39,
27 ~~C.R.S.~~, based on the average wholesale prices set by the state licensing

1 authority.

2 ~~(4)~~ (3) A retail marijuana cultivation facility shall track the
3 marijuana it cultivates from seed or immature plant to wholesale
4 purchase. Prior to delivery of any sold retail marijuana, the retail
5 marijuana cultivation facility shall provide evidence that it paid any
6 applicable excise tax on the retail marijuana due pursuant to article 28.8
7 of title 39. ~~C.R.S.~~

8 ~~(5)~~ (4) A retail marijuana cultivation facility may provide, except
9 as required by section ~~12-43.4-202 (3)(a)(IV)~~ 44-12-202 (3)(a)(IV), a
10 sample of its products to a facility that has a marijuana testing facility
11 license from the state licensing authority for testing and research
12 purposes. A retail marijuana cultivation facility shall maintain a record of
13 what was provided to the testing facility, the identity of the testing
14 facility, and the testing results.

15 ~~(6)~~ (5) Retail marijuana or retail marijuana products may not be
16 consumed on the premises of a retail marijuana cultivation facility.

17 **44-12-404. [Formerly 12-43.4-404] Retail marijuana products**
18 **manufacturing license.** (1) (a) A retail marijuana products
19 manufacturing license may be issued to a person who manufactures retail
20 marijuana products pursuant to the terms and conditions of this ~~article~~
21 ARTICLE 12.

22 (b) A retail marijuana products manufacturer may cultivate its
23 own retail marijuana if it obtains a retail marijuana cultivation facility
24 license, or it may purchase retail marijuana from a licensed retail
25 marijuana cultivation facility. A retail marijuana products manufacturer
26 shall track all of its retail marijuana from the point it is either transferred
27 from its retail marijuana cultivation facility or the point when it is

1 delivered to the retail marijuana products manufacturer from a licensed
2 retail marijuana cultivation facility to the point of transfer to a licensed
3 retail marijuana store.

4 ~~(c) Repealed.~~

5 ~~(d)~~ (c) A retail marijuana products manufacturer shall not accept
6 any retail marijuana purchased from a retail marijuana cultivation facility
7 unless the retail marijuana products manufacturer is provided with
8 evidence that any applicable excise tax due pursuant to article 28.8 of title
9 39, ~~C.R.S.~~, was paid.

10 ~~(e)~~ (d) A retail marijuana products manufacturer shall not:

11 (I) Add any marijuana to a food product where the manufacturer
12 of the food product holds a trademark to the food product's name; except
13 that a manufacturer may use a trademarked food product if the
14 manufacturer uses the product as a component or as part of a recipe and
15 where the marijuana product manufacturer does not state or advertise to
16 the consumer that the final retail marijuana product contains a
17 trademarked food product;

18 (II) Intentionally or knowingly label or package a retail marijuana
19 product in a manner that would cause a reasonable consumer confusion
20 as to whether the retail marijuana product was a trademarked food
21 product; or

22 (III) Label or package a product in a manner that violates any
23 federal trademark law or regulation.

24 (2) Retail marijuana products shall be prepared on a licensed
25 premises that is used exclusively for the manufacture and preparation of
26 retail marijuana or retail marijuana products and using equipment that is
27 used exclusively for the manufacture and preparation of retail marijuana

1 products; except that, if permitted by the local jurisdiction, a retail
2 marijuana products manufacturing licensee may share the same premises
3 as a medical marijuana-infused products manufacturing licensee so long
4 as a virtual or physical separation of inventory is maintained pursuant to
5 rule of the state licensing authority.

6 (3) All licensed premises on which retail marijuana products are
7 manufactured shall meet the sanitary standards for retail marijuana
8 product preparation promulgated pursuant to section ~~12-43.4-202~~
9 ~~(3)(a)(XI)~~ 44-12-202 (3)(a)(XI).

10 (4) (a) The retail marijuana product shall be sealed and
11 conspicuously labeled in compliance with this ~~article~~ ARTICLE 12 and any
12 rules promulgated pursuant to this ~~article~~ ARTICLE 12. The labeling of
13 retail marijuana products is a matter of statewide concern.

14 (b) The standard symbol requirements as promulgated pursuant to
15 section ~~12-43.4-202 (3)(e.5)~~, 44-12-202 (3)(e) do not apply to a
16 multi-serving liquid retail marijuana product, which is impracticable to
17 mark, if the product complies with all statutory and rule packaging
18 requirements for multi-serving edibles and complies with the following
19 enhanced requirements to reduce the risk of accidental ingestion. A
20 multi-serving liquid must:

21 (I) Be packaged in a structure that uses a single mechanism to
22 achieve both child-resistance and accurate pouring measurement of each
23 liquid serving in increments equal to or less than ten milligrams of active
24 THC per serving, with no more than one hundred milligrams of active
25 THC total per package; and

26 (II) The measurement component is within the child-resistant cap
27 or closure of the bottle and is not a separate component.

1 (5) Retail marijuana or retail marijuana products may not be
2 consumed on the premises of a retail marijuana products manufacturing
3 facility.

4 (6) A retail marijuana products manufacturer may provide, except
5 as required by section ~~12-43.4-202 (3)(a)(IV)~~ 44-12-202 (3)(a)(IV), a
6 sample of its products to a facility that has a retail marijuana testing
7 facility license from the state licensing authority for testing and research
8 purposes. A retail marijuana products manufacturer shall maintain a
9 record of what was provided to the testing facility, the identity of the
10 testing facility, and the results of the testing.

11 (7) An edible retail marijuana product may list its ingredients and
12 compatibility with dietary practices.

13 (8) A licensed retail marijuana products manufacturer shall
14 package and label each product manufactured as required by rules of the
15 state licensing authority pursuant to section ~~12-43.4-202~~ 44-12-202.

16 (9) All retail marijuana products that require refrigeration to
17 prevent spoilage must be stored and transported in a refrigerated
18 environment.

19 **44-12-405. [Formerly 12-43.4-405] Retail marijuana testing**
20 **facility license - rules.** (1) A retail marijuana testing facility license may
21 be issued to a person who performs testing and research on retail
22 marijuana and industrial hemp as regulated by article 61 of title 35.
23 ~~C.R.S.~~ The facility may develop and test retail marijuana products and
24 industrial hemp as regulated by article 61 of title 35. ~~C.R.S.~~ Prior to
25 performing testing on industrial hemp, a facility shall verify that the
26 person requesting the testing has received a registration from the
27 commissioner as required by section 35-61-104. ~~C.R.S.~~

1 (2) The state licensing authority shall promulgate rules pursuant
2 to its authority in section ~~12-43.4-202 (1)(b)~~ 44-12-202 (1)(b) related to
3 acceptable testing and research practices, including but not limited to
4 testing, standards, quality control analysis, equipment certification and
5 calibration, and chemical identification and other substances used in bona
6 fide research methods.

7 (3) A person who has an interest in a retail marijuana testing
8 facility license from the state licensing authority for testing purposes shall
9 not have any interest in a licensed medical marijuana center, a licensed
10 optional premises cultivation operation, a licensed medical
11 marijuana-infused products manufacturer, a licensed retail marijuana
12 store, a licensed retail marijuana cultivation facility, or a licensed retail
13 marijuana products manufacturer. A person that has an interest in a
14 licensed medical marijuana center, a licensed optional premises
15 cultivation operation, a licensed medical marijuana-infused products
16 manufacturer, a licensed retail marijuana store, a licensed retail marijuana
17 cultivation facility, or a licensed retail marijuana products manufacturer
18 shall not have an interest in a facility that has a retail marijuana testing
19 facility license.

20 **44-12-406. [Formerly 12-43.4-406] Retail marijuana**
21 **transporter license.** (1) (a) A retail marijuana transporter license may
22 be issued to a person to provide logistics, distribution, and storage of
23 retail marijuana and retail marijuana products. Notwithstanding any other
24 provisions of law, a retail marijuana transporter license is valid for two
25 years, but cannot be transferred with a change of ownership. A licensed
26 retail marijuana transporter is responsible for the retail marijuana and
27 retail marijuana products once it takes control of the product.

1 (b) A licensed retail marijuana transporter may contract with
2 multiple licensed retail marijuana businesses.

3 (c) On and after July 1, 2017, all retail marijuana transporters shall
4 hold a valid retail marijuana transporter license; except that an entity
5 licensed pursuant to this ~~article~~ ARTICLE 12 that provides its own
6 distribution is not required to have a retail marijuana transporter license
7 to transport and distribute its products. The state licensing authority shall
8 begin accepting applications after January 1, 2017.

9 (2) A retail marijuana transporter licensee may maintain a licensed
10 premises to temporarily store retail marijuana and retail marijuana
11 products and to use as a centralized distribution point. The licensed
12 premises must be located in a jurisdiction that permits the operation of
13 retail marijuana stores. A licensed retail marijuana transporter may store
14 and distribute retail marijuana and retail marijuana products from this
15 location. A storage facility must meet the same security requirements that
16 are required to obtain a retail marijuana cultivation license.

17 (3) A retail marijuana transporter licensee shall use the
18 seed-to-sale tracking system developed pursuant to section ~~12-43.4-202~~
19 ~~(†)~~44-12-202 (1) to create shipping manifests documenting the transport
20 of retail marijuana and retail marijuana products throughout the state.

21 (4) A retail marijuana transporter licensee may:

22 (a) Maintain and operate one or more warehouses in the state to
23 handle retail marijuana and retail marijuana products; and

24 (b) Deliver retail marijuana products on orders previously taken
25 if the place where orders are taken and delivered is licensed.

26 **44-12-407. [Formerly 12-43.4-407] Retail marijuana business**
27 **operator license.** A retail marijuana business operator license may be

1 issued to a person who operates a retail marijuana establishment licensed
2 pursuant to this ~~article~~ ARTICLE 12, for an owner licensed pursuant to this
3 ~~article~~ ARTICLE 12, and who may receive a portion of the profits as
4 compensation.

5 PART 5

6 FEES

7 **44-12-501. [Formerly 12-43.4-501] Fees.** (1) The state licensing
8 authority may charge and collect fees under this ~~article~~ ARTICLE 12. The
9 application fee for a person applying pursuant to section ~~12-43.4-104~~
10 ~~(1)(a)~~ 44-12-104 (1)(a) shall be five hundred dollars. The state licensing
11 authority shall transfer two hundred fifty dollars of the fee to the
12 marijuana cash fund and submit two hundred fifty dollars to the local
13 jurisdiction in which the license is proposed to be issued.

14 (2) The application fee for a person applying pursuant to section
15 ~~12-43.4-104 (1)(b)~~ 44-12-104 (1)(b) shall be five thousand dollars. The
16 state licensing authority shall transfer two thousand five hundred dollars
17 of the fee to the marijuana cash fund and remit two thousand five hundred
18 dollars to the local jurisdiction in which the license is proposed to be
19 issued. If the state licensing authority is considering raising the
20 five-thousand-dollar application fee, it shall confer with each local
21 jurisdiction in which a license under this ~~article~~ ARTICLE 12 is issued prior
22 to raising the application fee. If the application fee amount is changed, it
23 must be split evenly between the marijuana cash fund and the local
24 jurisdiction in which the license is proposed to be issued.

25 (3) A local jurisdiction in which a license under this ~~article~~
26 ARTICLE 12 may be permitted may adopt and impose operating fees in an
27 amount determined by the local jurisdiction on marijuana establishments

1 located within the local jurisdiction.

2 PART 6

3 DISCIPLINARY ACTIONS

4 **44-12-601. [Formerly 12-43.4-601] Suspension - revocation -**
5 **fines.** (1) In addition to any other sanctions prescribed by this ~~article~~
6 ARTICLE 12 or rules promulgated pursuant to this ~~article~~ ARTICLE 12, the
7 state licensing authority has the power, on its own motion or on
8 complaint, after investigation and opportunity for a public hearing at
9 which the licensee must be afforded an opportunity to be heard, to fine a
10 licensee or to suspend or revoke a license issued by the authority for a
11 violation by the licensee or by any of the agents or employees of the
12 licensee of the provisions of this ~~article~~ ARTICLE 12, or any of the rules
13 promulgated pursuant to this ~~article~~ ARTICLE 12, or of any of the terms,
14 conditions, or provisions of the license issued by the state licensing
15 authority. The state licensing authority has the power to administer oaths
16 and issue subpoenas to require the presence of persons and the production
17 of papers, books, and records necessary to the determination of a hearing
18 that the state authority is authorized to conduct.

19 (2) The state licensing authority shall provide notice of
20 suspension, revocation, fine, or other sanction, as well as the required
21 notice of the hearing pursuant to subsection (1) of this section, by mailing
22 the same in writing to the licensee at the address contained in the license
23 and, if different, at the last address furnished to the authority by the
24 licensee. Except in the case of a summary suspension, a suspension shall
25 not be for a period longer than six months. If a license is suspended or
26 revoked, a part of the fees paid therefor shall not be returned to the
27 licensee. Any license may be summarily suspended by the state licensing

1 authority without notice pending any prosecution, investigation, or public
2 hearing pursuant to the terms of section 24-4-104 (4). ~~C.R.S.~~ Nothing in
3 this section shall prevent the summary suspension of a license pursuant
4 to section 24-4-104 (4). ~~C.R.S.~~

5 (3) (a) Whenever a decision of the state licensing authority
6 suspending a license for fourteen days or less becomes final, the licensee
7 may, before the operative date of the suspension, petition for permission
8 to pay a fine in lieu of having the license suspended for all or part of the
9 suspension period. Upon the receipt of the petition, the state authority
10 may, in its sole discretion, stay the proposed suspension and cause any
11 investigation to be made which it deems desirable and may, in its sole
12 discretion, grant the petition if the state licensing authority is satisfied
13 that:

14 (I) The public welfare would not be impaired by permitting the
15 licensee to operate during the period set for suspension and that the
16 payment of the fine will achieve the desired disciplinary purposes; and

17 (II) The books and records of the licensee are kept in such a
18 manner that the loss of sales that the licensee would have suffered had the
19 suspension gone into effect can be determined with reasonable accuracy.

20 (b) The fine accepted shall be not less than five hundred dollars
21 nor more than one hundred thousand dollars.

22 (c) Payment of a fine pursuant to the provisions of this subsection
23 (3) shall be in the form of cash or in the form of a certified check or
24 cashier's check made payable to the state or local licensing authority,
25 whichever is appropriate.

26 (4) Upon payment of the fine pursuant to subsection (3) of this
27 section, the state licensing authority shall enter its further order

1 permanently staying the imposition of the suspension. Fines paid to the
2 state licensing authority pursuant to subsection (3) of this section shall be
3 transmitted to the state treasurer, who shall credit the same to the
4 marijuana cash fund created in section ~~12-43.3-501~~ 44-11-501.

5 (5) In connection with a petition pursuant to subsection (3) of this
6 section, the authority of the state licensing authority is limited to the
7 granting of such stays as are necessary for the authority to complete its
8 investigation and make its findings and, if the authority makes such
9 findings, to the granting of an order permanently staying the imposition
10 of the entire suspension or that portion of the suspension not otherwise
11 conditionally stayed.

12 (6) If the state licensing authority does not make the findings
13 required in ~~paragraph (a) of subsection (3)~~ SUBSECTION (3)(a) of this
14 section and does not order the suspension permanently stayed, the
15 suspension shall go into effect on the operative date finally set by the state
16 licensing authority.

17 (7) No later than January 15 of each year, the state licensing
18 authority shall compile a report of the preceding year's actions in which
19 fines, suspensions, or revocations were imposed by the state licensing
20 authority. The state licensing authority shall file one copy of the report
21 with the chief clerk of the house of representatives, one copy with the
22 secretary of the senate, and six copies in the joint legislative library.

23 **44-12-602. [Formerly 12-43.4-602] Disposition of unauthorized**
24 **marijuana or marijuana products and related materials - rules.**

25 (1) The provisions of this section shall apply in addition to any criminal,
26 civil, or administrative penalties and in addition to any other penalties
27 prescribed by this ~~article~~ ARTICLE 12 or any rules promulgated pursuant

1 to this ~~article~~ ARTICLE 12. Any provisions in this ~~article~~ ARTICLE 12
2 related to law enforcement shall be considered a cumulative right of the
3 people in the enforcement of the criminal laws.

4 (2) Every licensee licensed under this ~~article~~ ARTICLE 12 shall be
5 deemed, by virtue of applying for, holding, or renewing such person's
6 license, to have expressly consented to the procedures set forth in this
7 section.

8 (3) A state or local agency shall not be required to cultivate or
9 care for any retail marijuana or retail marijuana product belonging to or
10 seized from a licensee. A state or local agency shall not be authorized to
11 sell marijuana, retail or otherwise.

12 (4) If the state licensing authority issues a final agency order
13 imposing a disciplinary action against a licensee pursuant to section
14 ~~12-43.4-601~~ 44-12-601, then, in addition to any other remedies, the
15 licensing authority's final agency order may specify that some or all of the
16 licensee's marijuana or marijuana product is not retail marijuana or a
17 retail marijuana product and is an illegal controlled substance. The order
18 may further specify that the licensee shall lose any interest in any of the
19 marijuana or marijuana product even if the marijuana or marijuana
20 product previously qualified as retail marijuana or a retail marijuana
21 product. The final agency order may direct the destruction of any such
22 marijuana and marijuana products, except as provided in subsections (5)
23 and (6) of this section. The authorized destruction may include the
24 incidental destruction of any containers, equipment, supplies, and other
25 property associated with the marijuana or marijuana product.

26 (5) Following the issuance of a final agency order by the state
27 licensing authority against a licensee and ordering destruction authorized

1 by subsection (4) of this section, a licensee shall have fifteen days within
2 which to file a petition for stay of agency action with the district court.
3 The action shall be filed in the city and county of Denver, which shall be
4 deemed to be the residence of the state licensing authority for purposes
5 of this section. The licensee shall serve the petition in accordance with the
6 Colorado rules of civil procedure. The district court shall promptly rule
7 upon the petition and determine whether the licensee has a substantial
8 likelihood of success on judicial review so as to warrant delay of the
9 destruction authorized by subsection (4) of this section or whether other
10 circumstances, including but not limited to the need for preservation of
11 evidence, warrant delay of such destruction. If destruction is so delayed
12 pursuant to judicial order, the court shall issue an order setting forth terms
13 and conditions pursuant to which the licensee may maintain the retail
14 marijuana and retail marijuana product pending judicial review and
15 prohibiting the licensee from using or distributing the retail marijuana or
16 retail marijuana product pending the review. The licensing authority shall
17 not carry out the destruction authorized by subsection (4) of this section
18 until fifteen days have passed without the filing of a petition for stay of
19 agency action or until the court has issued an order denying stay of
20 agency action pursuant to this subsection (5).

21 (6) A district attorney shall notify the state licensing authority if
22 it begins investigating a retail marijuana establishment. If the state
23 licensing authority has received notification from a district attorney that
24 an investigation is being conducted, the state licensing authority shall not
25 destroy any marijuana or marijuana products from the retail marijuana
26 establishment until the destruction is approved by the district attorney.

27 (7) On or before January 1, 2014, the state licensing authority

1 shall promulgate rules governing the implementation of this section.

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PART 7

3

INSPECTION OF BOOKS AND RECORDS

4

44-12-701. [Formerly 12-43.4-701] Inspection procedures.

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(1) Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the state licensing authority or its duly authorized representatives. The state licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this ~~article~~ ARTICLE 12 and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the state licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

(2) The licensed premises, including any places of storage where retail marijuana or retail marijuana products are stored, cultivated, sold, dispensed, or tested shall be subject to inspection by the state or local jurisdictions and their investigators, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. Access shall be required during business hours for examination of any inventory or books and records required to be kept by the licensees. When any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the state or local jurisdiction, the licensee shall open the area for inspection.

(3) Each licensee shall retain all books and records necessary to

1 show fully the business transactions of the licensee for a period of the
2 current tax year and the three immediately prior tax years.

3 PART 8

4 JUDICIAL REVIEW

5 **44-12-801. [Formerly 12-43.4-801] Judicial review.** Decisions
6 by the state licensing authority are subject to judicial review pursuant to
7 section 24-4-106. ~~C.R.S.~~

8 PART 9

9 UNLAWFUL ACTS

10 **44-12-901. [Formerly 12-43.4-901] Unlawful acts - exceptions.**

11 (1) Except as otherwise provided in this ~~article~~ ARTICLE 12, it is unlawful
12 for a person to consume retail marijuana or retail marijuana products in
13 a licensed retail marijuana establishment, and it is unlawful for a retail
14 marijuana licensee to allow retail marijuana or retail marijuana products
15 to be consumed upon its licensed premises.

16 (2) It is unlawful for a person to:

17 (a) Buy, sell, transfer, give away, or acquire retail marijuana or
18 retail marijuana products except as allowed pursuant to this ~~article~~
19 ARTICLE 12 or section 16 of article XVIII of the state constitution; or

20 (b) Have an unreported financial interest or a direct interest in a
21 license pursuant to this ~~article~~ ARTICLE 12; except that this ~~paragraph (b)~~
22 SUBSECTION (2)(b) does not apply to banks or savings and loan
23 associations supervised and regulated by an agency of the state or federal
24 government, or to FHA-approved mortgagees, or to stockholders,
25 directors, or officers thereof.

26 (3) It is unlawful for a person licensed pursuant to this ~~article~~
27 ARTICLE 12:

1 (a) To be within a limited-access area unless the person's license
2 badge is displayed as required by this ~~article~~ ARTICLE 12, except as
3 provided in section ~~12-43.4-701~~ 44-12-701;

4 (b) To fail to designate areas of ingress and egress for
5 limited-access areas and post signs in conspicuous locations as required
6 by this ~~article~~ ARTICLE 12;

7 (c) To fail to report a transfer required by section ~~12-43.4-309~~
8 ~~(10)~~ 44-12-309 (10); or

9 (d) To fail to report the name of or a change in managers as
10 required by section ~~12-43.4-309~~ ~~(11)~~ 44-12-309 (11).

11 (4) It is unlawful for any person licensed to sell retail marijuana
12 or retail marijuana products pursuant to this ~~article~~ ARTICLE 12:

13 (a) To display any signs that are inconsistent with local laws or
14 regulations;

15 (b) To use advertising material that is misleading, deceptive, or
16 false, or that is designed to appeal to minors;

17 (c) To provide public premises, or any portion thereof, for the
18 purpose of consumption of retail marijuana or retail marijuana products
19 in any form;

20 (d) To have in possession or upon the licensed premises any
21 marijuana, the sale of which is not permitted by the license;

22 (e) To sell or permit the sale of retail marijuana or retail marijuana
23 products to a person under twenty-one years of age;

24 (f) To sell more than a quarter of an ounce of retail marijuana and
25 no more than a quarter of an ounce equivalent of a retail marijuana
26 product during a single transaction to a nonresident of the state;

27 (g) To have on the licensed premises any retail marijuana, retail

1 marijuana products, or marijuana paraphernalia that shows evidence of
2 the retail marijuana having been consumed or partially consumed;

3 (h) Distribute marijuana or marijuana products, with or without
4 remuneration, directly to another person using a mobile distribution
5 center;

6 (i) To violate the provisions of section 6-2-103 or 6-2-105;
7 ~~€:R:S.;~~ or

8 (j) To abandon a licensed premises or otherwise cease operation
9 without notifying the state and local licensing authorities at least
10 forty-eight hours in advance and without accounting for and forfeiting to
11 the state licensing authority for destruction all marijuana or products
12 containing marijuana.

13 ~~(5) Repealed.~~

14 ~~(6)~~ (5) A person who commits any acts that are unlawful pursuant
15 to this ~~article~~ ARTICLE 12 or the rules authorized and adopted pursuant to
16 this ~~article~~ ARTICLE 12 commits a class 2 misdemeanor and shall be
17 punished as provided in section 18-1.3-501; ~~€:R:S.;~~ except that a
18 violation of ~~paragraph (c) of subsection (4)~~ SUBSECTION (4)(e) of this
19 section is a class 1 misdemeanor and shall be punished as provided in
20 section 18-1.3-501. ~~€:R:S.~~ If a violation of this ~~article~~ ARTICLE 12 or the
21 rules authorized and adopted pursuant to this ~~article~~ ARTICLE 12 also
22 constitutes a violation of title 18, ~~€:R:S.;~~ the violation shall be charged
23 and prosecuted pursuant to title 18. ~~€:R:S.~~

24 PART 10

25 REPEAL OF ARTICLE

26 **44-12-1001. [Formerly 12-43.4-1001] Sunset review - article**
27 **repeal.** (1) This ~~article~~ ARTICLE 12 is repealed, effective September 1,

1 2019.

2 (2) Prior to the repeal of this ~~article~~ ARTICLE 12, the department
3 of regulatory agencies shall conduct a sunset review as described in
4 section 24-34-104 (5). ~~C.R.S.~~

5 PART 11

6 SEVERABILITY

7 **44-12-1101. [Formerly 12-43.4-1101] Severability.** If any
8 provision of this ~~article~~ ARTICLE 12 is found by a court of competent
9 jurisdiction to be unconstitutional, the remaining provisions of this ~~article~~
10 ARTICLE 12 are valid, unless it appears to the court that the valid
11 provisions of the statute are so essentially and inseparably connected
12 with, and so dependent upon, the void provision that it cannot be
13 presumed that the legislature would have enacted the valid provisions
14 without the void one; or unless the court determines that the valid
15 provisions, standing alone, are incomplete and are incapable of being
16 executed in accordance with the legislative intent.

17 **SECTION 4.** In Colorado Revised Statutes, 6-1-105, **amend**
18 (1)(hhh) as follows:

19 **6-1-105. Deceptive trade practices.** (1) A person engages in a
20 deceptive trade practice when, in the course of the person's business,
21 vocation, or occupation, the person:

22 (hhh) Knowingly represents that hemp, hemp oil, or any derivative
23 of a hemp plant constitutes retail marijuana or medical marijuana unless
24 it fully satisfies the definition of such products pursuant to section
25 ~~12-43.4-103 (15), C.R.S.~~, 44-12-103 (22) or section ~~12-43.3-104 (7),~~
26 ~~C.R.S.~~ 44-11-104 (11);

27 **SECTION 5.** In Colorado Revised Statutes, 11-33-103, **amend**

1 the introductory portion and (4) as follows:

2 **11-33-103. Definitions.** As used in this ~~article~~ ARTICLE 33, unless
3 the context otherwise requires:

4 (4) "Licensed marijuana business" means an entity licensed
5 pursuant to ~~section 12-43.3-402, 12-43.3-403, 12-43.3-404, 12-43.4-402,~~
6 ~~12-43.4-403, 12-43.4-404, or 12-43.4-405, C.R.S.~~ SECTION 44-11-402,
7 44-11-403, 44-11-404, 44-12-402, 44-12-403, 44-12-404, OR 44-12-405.

8 **SECTION 6.** In Colorado Revised Statutes, 11-33-104, **amend**
9 (2)(a)(II) as follows:

10 **11-33-104. Organization - charter - investigation.** (2) A co-op
11 may be organized in the following manner:

12 (a) (II) A co-op may be incorporated and organized for the
13 purpose of providing financial services to licensed marijuana businesses
14 in good standing with the executive director of the state licensing
15 authority created in ~~section 12-43.3-201, C.R.S.,~~ SECTION 44-11-201,
16 industrial hemp businesses, and entities that provide goods or services to
17 licensed marijuana businesses and that provide documentation to the
18 co-op of an inability to get comparable services from a bank or credit
19 union.

20 **SECTION 7.** In Colorado Revised Statutes, 11-33-106, **amend**
21 (2) as follows:

22 **11-33-106. Membership - disclosures.** (2) (a) Co-op
23 membership is limited to only entities that own, operate, or are licensed
24 marijuana businesses in good standing with the executive director of the
25 state licensing authority created in ~~section 12-43.3-201, C.R.S.~~ SECTION
26 44-11-201, industrial hemp businesses, and entities that provide goods or
27 services to licensed marijuana businesses and that provide documentation

1 to the co-op of an inability to get comparable services from a bank or
2 credit union.

3 (b) An individual is not qualified to be a member of a co-op,
4 regardless of whether the individual is licensed, including pursuant to
5 ~~section 12-43.3-401 (1)(d)~~ SECTION 44-11-401 (1)(f) or ~~12-43.4-401~~
6 ~~(1)(e)~~, ~~C.R.S.~~ 44-12-401 (1)(e), to own, operate, manage, or be employed
7 by a licensed marijuana business, either as a sole proprietor or any other
8 form of ownership that gives the individual sole control over the licensed
9 marijuana business.

10 **SECTION 8.** In Colorado Revised Statutes, 13-21-121, **amend**
11 (2)(b) as follows:

12 **13-21-121. Agricultural recreation or agritourism activities -**
13 **legislative declaration - inherent risks - limitation of civil liability -**
14 **duty to post warning notice - definitions.** (2) As used in this section,
15 unless the context otherwise requires:

16 (b) "Agricultural recreation or agritourism activity" means an
17 activity related to the normal course of agriculture, as defined in section
18 35-1-102 (1), ~~C.R.S.~~, which activity is engaged in by participants for
19 entertainment, pleasure, or other recreational purposes, or for educational
20 purposes, regardless of whether a fee is charged to the participants.
21 "Agricultural recreation or agritourism activity" also means hunting,
22 shooting, swimming, diving, tubing, and riding or operating a motorized
23 recreational vehicle that occurs on or in proximity to the property of an
24 agricultural operation or an adjacent roadway. "Agricultural recreation or
25 agritourism activity" includes, but is not limited to, planting, cultivation,
26 irrigation, or harvesting of crops; acceptable practices of animal
27 husbandry; rodeo and livestock activities; and maintenance of farm or

1 ranch equipment. "Agricultural recreation or agritourism activity" does
2 not include any activity related to or associated with medical marijuana
3 as defined in ~~section 12-43.3-104, C.R.S.~~, SECTION 44-11-104 or retail
4 marijuana as defined in ~~section 12-43.4-103, C.R.S.~~ SECTION 44-12-103.

5 **SECTION 9.** In Colorado Revised Statutes, **amend** 13-22-601 as
6 follows:

7 **13-22-601. Contracts pertaining to marijuana enforceable.** It
8 is the public policy of the state of Colorado that a contract is not void or
9 voidable as against public policy if it pertains to lawful activities
10 authorized by section 16 of article XVIII of the state constitution and
11 ~~article 43.4 of title 12, C.R.S.~~ ARTICLE 12 OF TITLE 44.

12 **SECTION 10.** In Colorado Revised Statutes, **amend** 16-2.5-121
13 as follows:

14 **16-2.5-121. Executive director of the department of revenue**
15 **- senior director of enforcement for the department of revenue.** The
16 executive director and the senior director of enforcement of the
17 department of revenue are peace officers while engaged in the
18 performance of their duties whose authority includes the enforcement of
19 laws and rules regarding automobile dealers pursuant to section 12-6-105
20 (3), the lottery pursuant to sections 24-35-205 (3) and 24-35-206 (7),
21 medical marijuana pursuant to ~~article 43.3 of title 12~~ ARTICLE 11 OF TITLE
22 44, limited gaming pursuant to section 12-47.1-204, liquor pursuant to
23 section 12-47-904 (1), and racing events pursuant to section 12-60-203
24 (1), and the enforcement of all laws of the state of Colorado and who may
25 be certified by the P.O.S.T. board.

26 **SECTION 11.** In Colorado Revised Statutes, **amend**
27 16-2.5-124.5 as follows:

1 **16-2.5-124.5. Director of marijuana enforcement and**
2 **marijuana enforcement investigator.** The director of the marijuana
3 enforcement division or a marijuana enforcement investigator is a peace
4 officer while engaged in the performance of his or her duties and while
5 acting under proper orders or rules pursuant to ~~article 43.3 or 43.4 of title~~
6 ~~12, C.R.S.~~ ARTICLE 11 OR 12 OF TITLE 44, and shall also include the
7 enforcement of all laws of the state of Colorado and who may be certified
8 by the P.O.S.T. board.

9 **SECTION 12.** In Colorado Revised Statutes, 18-1.3-204, **amend**
10 (1)(b) and (2)(a)(VIII)(A) as follows:

11 **18-1.3-204. Conditions of probation - interstate compact**
12 **probation transfer cash fund - creation.** (1) (b) Notwithstanding the
13 provisions of ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF
14 THIS SECTION, unless the defendant is sentenced to probation for a
15 conviction of a crime under ~~article 43.3 of title 12, C.R.S.~~ ARTICLE 11 OF
16 TITLE 44, the possession or use of medical marijuana, as authorized
17 pursuant to section 14 of article XVIII of the state constitution, shall not
18 be considered another offense such that its use constitutes a violation of
19 the terms of probation.

20 (2) (a) When granting probation, the court may, as a condition of
21 probation, require that the defendant:

22 (VIII) Refrain from excessive use of alcohol or any unlawful use
23 of controlled substances, as defined in section 18-18-102 (5), or of any
24 other dangerous or abusable drug without a prescription; except that the
25 court shall not, as a condition of probation, prohibit the possession or use
26 of medical marijuana, as authorized pursuant to section 14 of article
27 XVIII of the state constitution, unless:

1 (A) The defendant is sentenced to probation for conviction of a
2 crime under ~~article 43.3 of title 12, C.R.S.~~ ARTICLE 11 OF TITLE 44; or

3 **SECTION 13.** In Colorado Revised Statutes, 18-18-406.3,
4 **amend** (7) as follows:

5 **18-18-406.3. Medical use of marijuana by persons diagnosed**
6 **with debilitating medical conditions - unlawful acts - penalty -**
7 **medical marijuana program cash fund.** (7) An owner, officer, or
8 employee of a business licensed pursuant to ~~article 43.3 of title 12, C.R.S.~~
9 ARTICLE 11 OF TITLE 44, or an employee of the state medical marijuana
10 licensing authority, a local medical marijuana licensing authority, or the
11 department of public health and environment, who releases or makes
12 public a patient's medical record or any confidential information
13 contained in any such record that is provided to or by the business
14 licensed pursuant to ~~article 43.3 of title 12, C.R.S.~~ ARTICLE 11 OF TITLE
15 44, without the written authorization of the patient commits a class 1
16 misdemeanor; except that the owner, officer, or employee shall release
17 the records or information upon request by the state or local medical
18 marijuana licensing authority. The records or information produced for
19 review by the state or local licensing authority shall not become public
20 records by virtue of the disclosure and may be used only for a purpose
21 authorized by ~~article 43.3 of title 12, C.R.S.~~ ARTICLE 11 OF TITLE 44, or
22 for another state or local law enforcement purpose. The records or
23 information shall constitute medical data as defined by section 24-72-204
24 (3)(a)(I). ~~C.R.S.~~ The state or local medical marijuana licensing authority
25 may disclose any records or information so obtained only to those persons
26 directly involved with any investigation or proceeding authorized by
27 ~~article 43.3 of title 12, C.R.S.~~ ARTICLE 11 OF TITLE 44, or for any state or

1 local law enforcement purpose.

2 **SECTION 14.** In Colorado Revised Statutes, 18-18-406.6,
3 **amend** (1) and (2) as follows:

4 **18-18-406.6. Extraction of marijuana concentrate - definitions.**

5 (1) It shall be unlawful for any person who is not licensed pursuant to
6 ~~article 43.3 or 43.4 of title 12, C.R.S.,~~ ARTICLE 11 OR 12 OF TITLE 44 to
7 knowingly manufacture marijuana concentrate using an inherently
8 hazardous substance.

9 (2) It shall be unlawful for any person who is not licensed
10 pursuant to ~~article 43.3 or 43.4 of title 12, C.R.S.,~~ ARTICLE 11 OR 12 OF
11 TITLE 44 who owns, manages, operates, or otherwise controls the use of
12 any premises to knowingly allow marijuana concentrate to be
13 manufactured on the premises using an inherently hazardous substance.

14 **SECTION 15.** In Colorado Revised Statutes, 24-20-112, **amend**
15 (1) and (2) as follows:

16 **24-20-112. Implementation of section 16 of article XVIII of the**
17 **Colorado constitution - criteria for pesticide use - education oversight**

18 **and materials - rules.** (1) The governor shall designate a state agency
19 to promulgate rules to designate criteria that identify pesticides that may
20 be used in the cultivation of marijuana as authorized pursuant to ~~article~~
21 ~~43.4 of title 12, C.R.S.~~ ARTICLE 12 OF TITLE 44. The designated agency
22 may consult with other state agencies in promulgating the rules. The
23 agency shall publish a list of pesticides that meet the criteria on its
24 website.

25 (2) The governor shall designate a state agency to work with a
26 private advisory group to develop good cultivation and handling practices
27 for the marijuana industry. The designated agency is encouraged to assist

1 in the formation of a private advisory group. If a private advisory group
2 develops good cultivation and handling practices, an entity licensed
3 pursuant to ~~article 43.4 of title 12, C.R.S.~~, ARTICLE 12 OF TITLE 44 that
4 follows those practices may include a statement of compliance on its label
5 after receiving certification of compliance. The designated agency may
6 consult with other state agencies to receive technical assistance.

7 **SECTION 16.** In Colorado Revised Statutes, 24-33.5-516,
8 **amend** (3) as follows:

9 **24-33.5-516. Study marijuana implementation.** (3) The
10 division is not required to perform the duties required by this section until
11 the marijuana cash fund, created in section ~~12-43.3-501, C.R.S.~~
12 44-11-501, has received sufficient revenue to fully fund the
13 appropriations made to the department of revenue related to ~~articles 43.3~~
14 ~~and 43.4 of title 12, C.R.S.~~ ARTICLES 11 AND 12 OF TITLE 44, and the
15 general assembly has appropriated sufficient ~~moneys~~ MONEY from the
16 fund for such duties.

17 **SECTION 17.** In Colorado Revised Statutes, 24-34-104, **amend**
18 (17)(a)(XIII) and (17)(a)(XV) as follows:

19 **24-34-104. General assembly review of regulatory agencies**
20 **and functions for repeal, continuation, or reestablishment - legislative**
21 **declaration - repeal.** (17) (a) The following agencies, functions, or both,
22 are scheduled for repeal on September 1, 2019:

23 (XIII) The regulation of persons licensed in accordance with
24 ~~article 43.3 of title 12, C.R.S.~~ ARTICLE 11 OF TITLE 44;

25 (XV) The regulation of persons licensed pursuant to ~~article 43.4~~
26 ~~of title 12, C.R.S.~~ ARTICLE 12 OF TITLE 44.

27 **SECTION 18.** In Colorado Revised Statutes, 25-1.5-106, **amend**

1 (3.5)(b), (3.7), (3.8)(a), (7)(e)(I)(A), (8.5)(b), and (8.6)(b) as follows:

2 **25-1.5-106. Medical marijuana program - powers and duties**
3 **of state health agency - rules - medical review board - medical**
4 **marijuana program cash fund - subaccount - created - repeal.**

5 (3.5) **Marijuana laboratory testing reference library.** (b) The
6 reference library must contain a library of methodologies for marijuana
7 testing in the areas of potency, homogeneity, contaminants, and solvents
8 consistent with the laboratory requirements set by the department of
9 revenue pursuant to ~~article 43.3 or 43.4 of title 12, C.R.S.~~ ARTICLE 11 OR
10 12 OF TITLE 44.

11 (3.7) The state health agency shall convene a group of interested
12 parties including representatives from the state licensing authority,
13 primary caregivers, patients, marijuana testing laboratory licensees, and
14 any other interested persons to explore laboratory testing options for
15 medical marijuana not produced by someone licensed pursuant to ~~article~~
16 ~~43.3 of title 12, C.R.S.~~ ARTICLE 11 OF TITLE 44.

17 (3.8) (a) The state health agency or an organization with whom the
18 state health agency contracts shall be responsible for proficiency testing
19 and remediating problems with laboratories licensed pursuant to ~~article~~
20 ~~43.3 or 43.4 of title 12, C.R.S.~~ ARTICLE 11 OR 12 OF TITLE 44.

21 (7) **Primary caregivers.** (e) (I) (A) In order to be a primary
22 caregiver who cultivates medical marijuana for his or her patients or
23 transports medical marijuana for his or her patients, he or she shall also
24 register with the state licensing authority and comply with all local laws,
25 regulations, and zoning and use restrictions. A person may not register as
26 a primary caregiver if he or she is licensed as a medical marijuana
27 business as described in part 4 of ~~article 43.3 of title 12~~ ARTICLE 11 OF

1 TITLE 44 or a retail marijuana business as described in part 4 of ~~article~~
2 ~~43.4 of title 12~~ ARTICLE 12 OF TITLE 44. An employee, contractor, or other
3 support staff employed by a licensed entity pursuant to ~~article 43.3 or 43.4~~
4 ~~of title 12~~ ARTICLE 11 OR 12 OF TITLE 44, or working in or having access
5 to a restricted area of a licensed premises pursuant to ~~article 43.3 or 43.4~~
6 ~~of title 12~~ ARTICLE 11 OR 12 OF TITLE 44, may be a primary caregiver.

7 (8.5) **Encourage patient voluntary registration - plant limits.**

8 (b) A patient shall not cultivate more than ninety-nine plants. Only a
9 medical marijuana business licensed and properly authorized pursuant to
10 ~~article 43.3 of title 12, C.R.S.,~~ ARTICLE 11 OF TITLE 44 may cultivate more
11 than ninety-nine plants.

12 (8.6) **Primary caregivers plant limits - exceptional**

13 **circumstances.** (b) A primary caregiver shall not cultivate more than
14 ninety-nine plants. Only a medical marijuana business licensed and
15 properly authorized pursuant to ~~article 43.3 of title 12, C.R.S.,~~ ARTICLE
16 11 OF TITLE 44 may cultivate more than ninety-nine plants. The primary
17 caregiver is not allowed to grow additional plants until he or she is
18 licensed by the state licensing authority.

19 **SECTION 19.** In Colorado Revised Statutes, 25-5-403, **amend**

20 (3) as follows:

21 **25-5-403. Offenses.** (3) The provisions of this section shall not

22 apply to a medical marijuana center or a medical marijuana-infused
23 products manufacturer licensed pursuant to ~~article 43.3 of title 12, C.R.S.,~~
24 ARTICLE 11 OF TITLE 44 that manufactures or sells a food product that
25 contains medical marijuana so long as the food product is labeled as
26 containing medical marijuana and the label specifies that the product is
27 manufactured without any regulatory oversight for health, safety, or

1 efficacy, and that there may be health risks associated with the
2 consumption or use of the product.

3 **SECTION 20.** In Colorado Revised Statutes, 25-14-103.5,
4 **amend** (3)(a)(I) as follows:

5 **25-14-103.5. Prohibition against the use of tobacco products**
6 **and retail marijuana on school property - legislative declaration -**
7 **education program - special account.** (3) (a) (I) The board of education
8 of each school district shall adopt appropriate policies and rules that
9 mandate a prohibition against the use of all tobacco products and all retail
10 marijuana or retail marijuana products authorized pursuant to ~~article 43.4~~
11 ~~of title 12, C.R.S.~~, ARTICLE 12 OF TITLE 44 on all school property by
12 students, teachers, staff, and visitors and that provide for the enforcement
13 of such policies and rules.

14 **SECTION 21.** In Colorado Revised Statutes, 26-2-104, **amend**
15 (2)(a)(II)(D) and (2)(h)(I)(C) as follows:

16 **26-2-104. Public assistance programs - electronic benefits**
17 **transfer service - joint reports with department of revenue - signs -**
18 **rules - repeal.** (2) (a) (II) Only those businesses that offer products or
19 services related to the purpose of the public assistance benefits are
20 allowed to participate in the electronic benefits transfer service through
21 the use of point-of-sale terminals. Clients shall not be allowed to access
22 cash benefits through the electronic benefits transfer service from
23 automated teller machines in this state located in:

24 (D) Establishments licensed to sell medical marijuana or medical
25 marijuana-infused products pursuant to ~~article 43.3 of title 12, C.R.S.~~,
26 ARTICLE 11 OF TITLE 44 or retail marijuana or retail marijuana products
27 pursuant to ~~article 43.4 of title 12, C.R.S.~~ ARTICLE 12 OF TITLE 44; except

1 that the prohibition for these establishments does not take effect until
2 sixty days after May 1, 2015; or

3 (h) (I) On or before January 1, 2016, the department of revenue
4 shall adopt rules pursuant to the "State Administrative Procedure Act",
5 article 4 of title 24, that relate to a client's use of automated teller
6 machines at locations where such use is prohibited. The rules must apply
7 to the following establishments:

8 (C) Establishments licensed to sell medical marijuana or medical
9 marijuana-infused products pursuant to ~~article 43.3 of title 12, C.R.S.~~,
10 ARTICLE 11 OF TITLE 44 or retail marijuana or retail marijuana-infused
11 products pursuant to ~~article 43.4 of title 12, C.R.S.~~ ARTICLE 12 OF TITLE
12 44; and

13 **SECTION 22.** In Colorado Revised Statutes, **amend** 35-61-105.5
14 as follows:

15 **35-61-105.5. Testing laboratories.** If a person registered pursuant
16 to this ~~article~~ ARTICLE 61 wants a licensed retail marijuana testing facility
17 to perform testing on the industrial hemp that the registrant is cultivating,
18 that person shall use a radio frequency identification-based inventory
19 tracking system approved by the commissioner for a sample of the
20 registrant's industrial hemp crop. The commissioner shall only approve
21 an inventory tracking system if that system is compatible with the state
22 licensing authority's seed-to-sale tracking system required pursuant to
23 ~~section 12-43.4-202 (1), C.R.S.~~ SECTION 44-12-202 (1). A licensed retail
24 testing facility shall provide the test results to the registrant and the
25 commissioner. All test results shall be considered confidential business
26 information. This section shall not be construed to prevent the use of the
27 tracking system for other purposes.

1 **SECTION 23.** In Colorado Revised Statutes, 39-22-104, **amend**
2 (4)(r) and (4)(s) as follows:

3 **39-22-104. Income tax imposed on individuals, estates, and**
4 **trusts - single rate - legislative declaration - definitions - repeal.**

5 (4) There shall be subtracted from federal taxable income:

6 (r) For income tax years commencing on or after January 1, 2014,
7 if a taxpayer is licensed under the "Colorado Medical Marijuana Code",
8 ~~article 43.3 of title 12, C.R.S.~~ ARTICLE 11 OF TITLE 44, an amount equal
9 to any expenditure that is eligible to be claimed as a federal income tax
10 deduction but is disallowed by section 280E of the internal revenue code
11 because marijuana is a controlled substance under federal law;

12 (s) For income tax years commencing on or after January 1, 2014,
13 if a taxpayer is licensed under the "Colorado Retail Marijuana Code",
14 ~~article 43.4 of title 12, C.R.S.~~ ARTICLE 12 OF TITLE 44, an amount equal
15 to any expenditure that is eligible to be claimed as a federal income tax
16 deduction but is disallowed by section 280E of the federal internal
17 revenue code because marijuana is a controlled substance under federal
18 law;

19 **SECTION 24.** In Colorado Revised Statutes, 39-22-304, **amend**
20 (3)(m) and (3)(n) as follows:

21 **39-22-304. Net income of corporation - legislative declaration**
22 **- definitions - repeal.** (3) There shall be subtracted from federal taxable
23 income:

24 (m) For income tax years commencing on or after January 1,
25 2014, if a taxpayer is licensed under the "Colorado Medical Marijuana
26 Code", ~~article 43.3 of title 12, C.R.S.~~ ARTICLE 11 OF TITLE 44, an amount
27 equal to any expenditure that is eligible to be claimed as a federal income

1 tax deduction but is disallowed by section 280E of the internal revenue
2 code because marijuana is a controlled substance under federal law;

3 (n) For income tax years commencing on or after January 1, 2014,
4 if a taxpayer is licensed under the "Colorado Retail Marijuana Code",
5 ~~article 43.4 of title 12, C.R.S.~~ ARTICLE 12 OF TITLE 44, an amount equal
6 to any expenditure that is eligible to be claimed as a federal income tax
7 deduction but is disallowed by section 280E of the federal internal
8 revenue code because marijuana is a controlled substance under federal
9 law;

10 **SECTION 25.** In Colorado Revised Statutes, 39-26-102, **amend**
11 the introductory portion and (5.8) as follows:

12 **39-26-102. Definitions.** As used in this ~~article~~ ARTICLE 26, unless
13 the context otherwise requires:

14 (5.8) "Medical marijuana" shall have the same meaning as set
15 forth in ~~section 12-43.3-104 (7), C.R.S.~~ SECTION 44-11-104 (11).

16 **SECTION 26.** In Colorado Revised Statutes, 39-28.8-101,
17 **amend** (6) as follows:

18 **39-28.8-101. Definitions.** Unless the context otherwise requires,
19 any terms not defined in this article 28.8 have the meanings set forth in
20 article 26 of this title 39. As used in this article 28.8, unless the context
21 otherwise requires:

22 (6) "Medical marijuana center" means an entity licensed by the
23 department to sell marijuana and marijuana products pursuant to section
24 14 of article XVIII of the state constitution and the "Colorado Medical
25 Marijuana Code", ~~article 43.3 of title 12, C.R.S.~~ ARTICLE 11 OF TITLE 44.

26 **SECTION 27.** In Colorado Revised Statutes, 39-28.8-501,
27 **amend** (2)(a) introductory portion and (2)(a)(I) as follows:

1 **39-28.8-501. Marijuana tax cash fund - creation - distribution**
2 **- legislative declaration.** (2) (a) The general assembly shall not
3 appropriate the ~~moneys~~ MONEY in the fund for the fiscal year in which
4 ~~they were~~ IT WAS received by the state; except that:

5 (I) The general assembly may appropriate ~~moneys~~ MONEY in the
6 fund to the department of revenue for the fiscal years in which ~~they were~~
7 IT WAS received by the state for the direct and indirect costs associated
8 with implementing this ~~article~~ ARTICLE 28.8 and ~~articles 43.3 and 43.4 of~~
9 ~~title 12, C.R.S.~~ ARTICLES 11 AND 12 OF TITLE 44; and

10 **SECTION 28.** In Colorado Revised Statutes, 39-28.8-502,
11 **amend** (2) as follows:

12 **39-28.8-502. Marijuana tax cash fund - budget requests.**

13 (2) Beginning with the budget request required to be submitted to the
14 joint budget committee by November 1, 2014, and for each budget
15 request required to be submitted each November thereafter, the executive
16 director of the department of revenue shall include in its budget request
17 for the direct and indirect costs associated with implementing this ~~article~~
18 ARTICLE 28.8 and ~~articles 43.3 and 43.4 of title 12, C.R.S.~~, ARTICLES 11
19 AND 12 OF TITLE 44 the amount that the department requests from the
20 ~~moneys~~ MONEY in the marijuana cash fund created in section
21 ~~12-43.3-501, C.R.S.~~ 44-11-501, and the amount that the department
22 requests from the marijuana tax cash fund.

23 **SECTION 29. Repeal of relocated provisions in this act.** In
24 Colorado Revised Statutes, **repeal** articles 43.3 and 43.4 of title 12.

25 **SECTION 30. Act subject to petition - effective date.** This
26 act takes effect October 1, 2018; except that, if a referendum petition is
27 filed pursuant to section 1 (3) of article V of the state constitution against

1 this act or an item, section, or part of this act within the ninety-day period
2 after final adjournment of the general assembly, then the act, item,
3 section, or part will not take effect unless approved by the people at the
4 general election to be held in November 2018 and, in such case, will take
5 effect on the date of the official declaration of the vote thereon by the
6 governor.