

STATE OF COLORADO

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Colorado Department of Revenue Marijuana Enforcement Division

John W. Hickenlooper
Governor

Barbara J. Brohl
Executive Director

Emergency Repeal of Prior Emergency Rules and Adoption of New Emergency Rules Concerning:

Retail Marijuana - Rule R 100 Series – General Applicability;

Retail Marijuana - Rule R 200 Series – Licensing;

Retail Marijuana - Rule R 1400 Series – Division, Local Jurisdiction, and Law Enforcement Procedures.

Statement of Emergency Justification and Adoption

Pursuant to Article 18, Subsection 16(5)(a) of the Colorado Constitution and sections 24-4-103 and 12-43.4-202, C.R.S., I, Barbara Brohl, Executive Director of the Department of Revenue and State Licensing Authority, hereby adopt the aforementioned new retail marijuana rules, which are attached hereto (“the September 9, 2013 Emergency Rules”).

Section 24-4-103(6), C.R.S., authorizes the State Licensing Authority to adopt a temporary or emergency rule if the State Licensing Authority finds that the immediate adoption of the rule is imperatively necessary to comply with a state law or for the preservation of public health, safety, or welfare and compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

I find that the immediate adoption of these new rules is necessary to comply with the constitutional mandates of Article 18 Subsection 16(5)(a), which became effective on December 10, 2012, and the mandates of sections 12-43.4-101 *et. seq.*, of the Colorado Revised Statutes, adopted through House Bill 13-1317, which became effective on May 28, 2013. I further find that the emergency adoption of these new regulations is necessary for the preservation of public health, safety, or welfare. Finally, I find that compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

Statutory Authority

The statutory authority for the creation of these new rules is cited above.

Purpose

To create new rules that conform to the requirements of Article 18, Subsection 16(5)(a) of the Colorado Constitution and House Bill 13-1317, which require the State Licensing Authority to adopt and promulgate rules, respectively, to provide for the proper regulation and control of the cultivation, manufacture, distribution, sale, and testing of Retail Marijuana and Retail Marijuana Products. Because of the tight time frames for rulemaking, the State Licensing Authority adopted emergency rules effective June 28, 2013 (“June 28, 2013 Emergency Rules”). The State Licensing Authority immediately thereafter

began permanent rulemaking proceedings pursuant to the state Administrative Procedure Act. Following significant input from the public, the State Licensing Authority is adopting permanent rules governing Retail Marijuana on September 9, 2013. Under the State Administrative Procedure Act, it is anticipated that these permanent rules will be effective October 15, 2013 (October 15, 2013 Permanent Rules”).

The October 15, 2013 Permanent Rules differ from, and are more detailed than, the June 28, 2013 Emergency Rules. The September 9, 2013 Emergency Rules will be identical to the corresponding October 15, 2013 Permanent Rules.

Under Article 18, Section 16 and House Bill 13-1317, certain businesses may begin the application process for a Retail Marijuana Establishment license on October 1, 2013. Without the emergency adoption of the above-listed rules, the regulated community will not have clarity regarding the application process for operating a Retail Marijuana Establishment and the process for converting a Medical Marijuana Business license to a Retail Marijuana Establishment license. Further, it would be contrary to the public interest to allow certain businesses to apply for licensure between October 1, 2013 and October 15, 2013 without complying with the more detailed provisions in the October 15, 2013 Permanent Rules.

The October 15, 2013 Permanent Rules and September 9, 2013 Emergency Rules were developed after significant stakeholder and public participation. Immediate adoption of these rules is necessary because certain businesses will begin applying for Retail Marijuana Establishment licenses on October 1, 2013. The State Licensing Authority wishes to provide such entities with advance notice regarding applicable rules.

The September 9, 2013 Emergency Rules replace those portions of the June 28, 2013 Emergency Rules governing the same topics. Specifically, the currently existing 1 CCR 212-2 Retail Marijuana Rules, R 100 Series, R 200 Series, and R 1400 Series from the June 28, 2013 Emergency Rules are hereby repealed and replaced by the attached September 9, 2013 Emergency Rules.



Barbara J. Brohl

Executive Director

Colorado Department of Revenue

State Licensing Authority



Date