



COLORADO
Department of Revenue
Marijuana Enforcement Division

COLORADO DEPARTMENT OF REVENUE
MARIJUANA ENFORCEMENT DIVISION

Emergency Rule Adoption

Amended Rules, 1 CCR 212-3

2-245 – Change of Controlling Beneficial Owner Application or Notification

2-265 – Owner and Employee License: License Requirements, Applications, Qualifications, and Privileges

Statement of Emergency Justification

Pursuant to sections 24-4-103 and 44-10-203, C.R.S., I, Mark Ferrandino, CEO and Executive Director of the Department of Revenue and State Licensing Authority, hereby adopt amended Rules 2-245 and 2-265, 1 CCR 212-3 (Emergency Rules) attached hereto.

Section 24-4-103(6), C.R.S., authorizes the State Licensing Authority to issue an emergency rule if the State Licensing Authority finds that the immediate adoption of the rule is imperatively necessary to comply with state law, federal 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: (1) the immediate adoption of this amended rule is necessary to comply with the constitutional and statutory mandates of the Colorado Marijuana Code, sections 44-10-101 *et seq.*, C.R.S.; (2) the immediate adoption of this new rule is necessary to preserve the public health, safety, and welfare; and (3) compliance with the notice and public hearing requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

Statutory Authority

The State Licensing Authority promulgates these Emergency Rules pursuant to the authority granted in the Colorado Constitution, Article XVIII, Sec. 16, the Colorado Marijuana Code, sections 44-10-101 *et seq.*, C.R.S., and the state Administrative Procedure Act, section 24-4-103, C.R.S. The statutory authority for the Emergency Rules is identified in the statement of basis and purpose preceding the rules and includes but is not limited to sections 44-10-202(1)(e), 44-10-203(1)(d), 44-10-203(1)(k), 44-10-203(2)(ee)(I)(A) and (E), 44-10-203(7), 44-10-308(3)(b), 44-10-309, 44-10-310, 44-10-311, and 44-10-312, 44-10-505(1)(a), and 44-10-605(1)(a), C.R.S.

Emergency Rule Adoption Order

Rule 2-245 – Change of Controlling Beneficial Owner Application or Notification

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Purpose for Emergency Rule

The purpose of this Emergency Rule is to amend: 1) Rule 2-245, which currently prohibits a Medical Marijuana Transporter or Retail Marijuana Transporter from utilizing the established change of controlling beneficial owner process to transfer the license; and 2) Rule 2-265 to implement Executive Order D2022-034 and HB 22-1383.

On March 24, 2022, Governor Polis signed HB 22-1135, which removed the statutory prohibition that prevented Medical Marijuana Transporters and Retail Marijuana Transporters from transferring the ownership of the license. The bill included a petition clause, which stated that the act takes effect at 12:01 am on the day following the expiration of the ninety-day period after final adjournment of the general assembly. To date, no petition has been filed, and therefore, these Emergency Rules are imperatively necessary to align the rule with the revised statutory provisions in sections 44-10-505 and 44-10-605, C.R.S.

On June 3, 2022, Governor Polis signed HB 22-1383 Employment Opportunities for Juveniles, giving rise to the proposed rule amendment in Rule 2-265(L)(1)(f) and (L)(2)(a), and which minimizes hurdles to employment for juveniles involved in the justice system. The bill included a petition clause, which stated that the act takes effect at 12:01 am on the day following the expiration of the ninety-day period after final adjournment of the general assembly. To date, no petition has been filed, and therefore, these Emergency Rules are imperatively necessary to align the rule with the revised statutory provisions.

On July 14, 2022, Governor Polis signed Executive Order D2022-034 Protecting Colorado's Workforce and Expanding Licensing Opportunities, giving rise to the proposed rule amendment in Rule 2-265(L)(1)(e) and (L)(2)(a), which states that a civil judgment or criminal conviction, discipline, or other sanction imposed under the laws of another state regarding consumption, possession, cultivation, or processing of marijuana that is lawful and consistent with professional conduct and standards of care within the State of Colorado will not be considered in determining whether a person is eligible to hold a license. The Executive Order directed the Department of Revenue's Marijuana Enforcement Division to establish policies and promulgate and issue rules as necessary to comply with the Executive Order, which was effective upon signing and shall remain in effect unless modified or rescinded by future Executive Order of the Governor. Therefore, these Emergency Rules are imperatively necessary to comply with the Executive Order's directive.

Effective of Emergency Rules and Permanent Rulemaking

The attached Emergency Rule is effective **August 10, 2022**.

Pursuant to section 24-4-103(6), C.R.S., of the Colorado Administrative Procedure Act, the Emergency Rules remain in effect for 120 days from the date of adoption or until repealed by the State Licensing Authority upon filing of a notice of such with the Secretary of State.

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On June 16, 2022, the State Licensing Authority initiated the rulemaking stakeholder process to inform permanent rules. The State Licensing Authority intends to initiate the permanent rulemaking process pursuant to the Colorado Administrative Procedure Act, section 24-4-103, C.R.S., on August 31, 2022 by filing the Notice of Permanent Rulemaking. The Division facilitated a virtual public stakeholder meeting to present the proposed rule revisions in accordance with HB 22-1135 and to provide opportunities for public comment by interested parties on July 15, 2022. The Division facilitated a virtual public stakeholder meeting to present the proposed rule revisions in accordance with HB 22-1383 and Executive Order D2022-034 on July 27, 2022.

Additional information regarding the Division’s permanent rulemaking session can be accessed on the [Division’s website](#).

Statement of Adoption

Pursuant to the Colorado Administrative Procedure Act, Title 24, Article 4, of the Colorado Revised Statutes, I, Mark Ferrandino, CEO/Executive Director of the Colorado Department of Revenue, State Licensing Authority, promulgate the following rules to become effective on August 10, 2022.

Part 2 – LICENSING AND INTERESTS

Rule 2-245 – Change of Controlling Beneficial Owner Application or Notification

Rule 2-265 – Owner and Employee License: License Requirements, Applications, Qualifications, and Privileges

Mark Ferrandino
CEO and Executive Director
Colorado Department of Revenue
State Licensing Authority

Date

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