

# 2020

## Colorado Marijuana Handbook

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**Legislative Council Staff**  
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## **A Colorado Legislative Council Staff Publication**

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## Section 1: Marijuana Law

### Medical Marijuana

Coloradans initiated and approved a constitutional amendment, Amendment 20, to legalize medical marijuana in 2000.<sup>1</sup> Amendment 20 legalized the acquisition, use, possession, production, and transportation of medical marijuana for patients and caregivers by creating an affirmative defense to the state's criminal marijuana laws.

**Registration required.** The state's Department of Public Health and Environment (CDPHE) maintains the confidential medical marijuana patient registry. In order to apply for the medical marijuana patient registry and to receive a registry identification card, a patient must reside in Colorado and possess written documentation from a licensed physician stating that the patient has been diagnosed with a debilitating medical condition and may benefit from the medical use of marijuana.

**Debilitating and disabling medical conditions.** Medical marijuana may be used to treat the following debilitating medical conditions: cancer; glaucoma; HIV/AIDS; and chronic or debilitating diseases or medical conditions such as cachexia, severe pain, severe nausea, seizures, and persistent muscle spasms. The CDPHE may also approve other medical conditions to be treated by medical marijuana, but has not added any conditions to date. Additionally, the state legislature created a statutory right to use medical marijuana for the treatment of post-traumatic stress disorder as a disabling medical condition in 2017. Autism spectrum disorder and a condition for which a physician could prescribe an opioid for pain were added as disabling medical conditions in 2019.

**Caregivers.** Once a patient receives a registry identification card from the CDPHE, a patient may designate one primary caregiver on the medical marijuana registry, and may update this designation regularly. The law defines a "primary caregiver" as a person who is 18 years of age or older who has significant responsibility for managing the well-being of the patient. Primary caregivers may be a parent, advising caregiver, transporting caregiver, or cultivating caregiver. Beginning December 1, 2020, patients under the age of 18 may have both parents or guardians designated as caregivers.<sup>2</sup> Cultivating and transporting caregivers must register with the Marijuana Enforcement Division within the Department of Revenue and may not serve as a caregiver for more than five patients.

**Registry identification cards.** Registry identification cards must be renewed annually. If a patient receives a diagnosis that his or her medical condition requiring medical marijuana is cured, the registry identification card must be returned to the CDPHE within 24 hours of receiving that diagnosis. Under Senate Bill 19-218, the CDPHE promulgated rules to allow a physician to set the expiration date for a registry identification card issued to a patient with a disabling medical condition to no less than 60 days and no more than one year from issuance.<sup>3</sup> This may enable a patient using medical marijuana instead of an opioid for pain to receive a registry card that is effective for the duration of the disabling medical condition. The bill also authorized dentists and advanced practice practitioners with prescriptive authority, acting within the scope of their practice, to recommend medical marijuana for disabling medical conditions.

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<sup>1</sup>Colo. Const. art. XVIII, § 14.

<sup>2</sup>Section 25-1.5-106 (8)(b)(1) C.R.S.

<sup>3</sup>5 CCR 1006-2 (3.B.3)

**Possession.** Patients may possess up to two ounces of a usable form of medical marijuana (including the seeds, leaves, buds, and flowers) and no more than six marijuana plants, with three or fewer being mature flowering plants. However, patients and primary caregivers may claim that amounts in excess of this are medically necessary to address a patient’s debilitating medical condition.

Patients may not engage in the medical use of marijuana in a way that endangers the health or well-being of any person or in plain view of, or in a place open to, the public. Employers are not required to accommodate the medical use of marijuana in the workplace, and health insurance providers are not required to provide reimbursement for the medical use of marijuana.

**Minors.** The law specifies additional provisions for the medical use of marijuana for patients under the age of 18. These include requiring two physicians to provide a diagnosis of a debilitating or disabling medical condition and requiring at least one of these physicians to explain the possible risks and benefits of the medical use of marijuana to the patient and each of the patient’s parents residing in Colorado.

**Reference library.** The CDPHE must maintain a marijuana laboratory testing reference library. This reference library must include a library of methodologies for marijuana testing in the areas of potency, homogeneity, contaminants, and solvents, and make these materials available to the public. The reference library is located at: <https://www.colorado.gov/pacific/cdphe/marijuana-reference-library>.

**Statutory implementation.** While the state legalized medical marijuana in 2000, medical marijuana business licensing and enforcement was not codified until 2010 when the Marijuana Enforcement Division within the Department of Revenue was created in law. A temporary statewide moratorium on new medical marijuana licenses was in place from August 1, 2010, and June 30, 2012, to allow local governments to adopt a resolution or ordinance related to the licensing, regulation, or prohibition of the operation of licensed medical marijuana businesses in their jurisdiction.

## Retail Marijuana

In 2012, Coloradans initiated and approved a constitutional amendment, Amendment 64, to legalize the use and possession of marijuana for recreational purposes (retail marijuana) for persons 21 years of age or older.<sup>4</sup>

Retail marijuana must be taxed and regulated in a manner similar to alcohol in several specific ways, including:

- requiring individuals to show proof of age before purchasing marijuana;
- prohibiting the sale of marijuana to minors;
- prohibiting driving under the influence of marijuana; and
- requiring that marijuana be sold by legitimate businesses and be labeled in a way that informs and protects consumers.

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<sup>4</sup>Colo. Const. art. XVIII, § 16.

For persons 21 years of age or older in Colorado, the following acts are lawful:

- possessing, using, displaying, purchasing, or transporting up to one ounce of marijuana;
- growing no more than six marijuana plants in an enclosed and locked space, with three or fewer being mature, flowering plants;
- transferring up to one ounce of retail marijuana to another person who is 21 years of age or older without remuneration;
- consuming marijuana, though not openly, publicly, or in a manner that endangers others; and
- assisting another person who is 21 years of age or older with any of the above.

Local governments may not limit an individual's right to possess, grow, and use marijuana. A local government may enact ordinances or regulations governing aspects of retail marijuana establishment operations or prohibit the operation of retail marijuana businesses through the enactment of an ordinance or through an initiated or referred measure. Any initiated or referred measure to prohibit the operation of these establishments must appear on a general election ballot during an even-numbered year.

Additional constitutional provisions specify that:

- employers may have policies restricting the use of marijuana by employees and are not required to permit or accommodate employees' engagement with marijuana in the workplace;
- any person or entity that occupies, owns, or controls a property may prohibit or otherwise regulate the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property; and
- the Department of Revenue is required to manage marijuana licensing and enforcement statewide.

A summary of all enacted marijuana legislation is provided in Appendix A.

## **Regulated Marijuana**

Senate Bill 19-224 addressed recommendations from 2018 sunset reports, which included integrating the medical and retail codes into a single code, the Colorado Regulated Marijuana Code. The bill continued the regulation of medical and retail marijuana until September 1, 2028, with changes that included harmonizing the former Medical Marijuana Code and the Retail Marijuana Code.

## **Criminal Penalties Related to Marijuana**

The following actions related to marijuana are punishable under state law. For more information about criminal penalties, please reference the Legislative Council Staff Crime Classification Guide.<sup>5</sup>

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<sup>5</sup>Available online at: <https://leg.colorado.gov/publications/crime-classification-guide-2020>.

- **Introducing contraband in the first degree.** It is a class 4 felony for any person to attempt to introduce a dangerous instrument, alcoholic beverage, controlled substance, marijuana, or marijuana concentrate into a detention facility, or for any person who is confined in a detention facility to make any of these items.<sup>6</sup>
- **Possession of contraband in the first degree.** Any person confined in a detention facility who possesses an alcohol beverage, controlled substance, marijuana, or marijuana concentrate commits a class 6 felony.<sup>7</sup>
- **Illegal possession of marijuana or marijuana paraphernalia by an underage person.** It is unlawful and an unclassified petty offense for a person under 21 years of age to possess one ounce or less of marijuana, to consume marijuana, or to possess marijuana paraphernalia, except as permitted by law.<sup>8</sup>
- **Offenses related to marijuana and marijuana concentrate and underage persons.** The sale, transfer, or dispensing of marijuana or marijuana concentrate to a minor by an adult at least two years older than the minor is illegal. Depending on the amount of marijuana or marijuana concentrate involved, the level of offense ranges from a level 4 to a level 1 drug felony.<sup>9</sup>
- **Offenses related to marijuana and marijuana concentrate—manufacturing.** Except as otherwise authorized by law, it is a level 3 drug felony to knowingly process or manufacture any marijuana or marijuana concentrate or knowingly allow marijuana or marijuana concentrate to be processed or manufactured on land owned, occupied, or controlled by an unauthorized person.<sup>10</sup>
- **Offenses related to marijuana and marijuana concentrate—sales and distribution.** Except as otherwise authorized by law, it is unlawful to knowingly dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marijuana or marijuana concentrate; or attempt, induce, attempt to induce, or conspire with one or more other persons, to dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marijuana or marijuana concentrate. Depending on the amount of marijuana or marijuana concentrate involved, the level of offense ranges from a level 1 drug misdemeanor to a level 1 drug felony.<sup>11</sup>
- **Offenses related to marijuana and marijuana concentrate—cultivation.** It is unlawful for a person to knowingly cultivate, grow, or produce a marijuana plant or knowingly allow a marijuana plant to be cultivated, grown, or produced on land that the person owns, occupies, or controls. Depending on the number of marijuana plants involved, the level of offense ranges from a level 1 drug misdemeanor to a level 3 drug felony. However, it is not a violation if the person is cultivating plants as allowed under the constitution in an enclosed and locked space. There are additional requirements if recreational marijuana is being cultivated in a residence where persons under 21 years of age live.<sup>12</sup>

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<sup>6</sup>Section 18-8-203 (2), C.R.S.

<sup>7</sup>Section 18-8-204.1 (2), C.R.S.

<sup>8</sup>Sections 18-13-122 (3) and (4), C.R.S.

<sup>9</sup>Sections 18-18-406 (1)(a), (b), (c), and (d) and Sections 18-18-406 (2)(b)(III)(A), (B), (C), and (D), C.R.S.

<sup>10</sup>Section 18-18-406 (2)(a)(II), C.R.S.

<sup>11</sup>Section 18-18-406 (2)(b), C.R.S.

<sup>12</sup>Section 18-18-406 (3), C.R.S.

- **Offenses related to marijuana and marijuana concentrate—cultivation limits.** No more than 12 marijuana plants may be cultivated, grown, or produced on or in a residential property except as otherwise authorized by law. Depending on the number of marijuana plants involved, the level of offense ranges from an unclassified drug petty offense to a level 3 drug felony.<sup>13</sup>
- **Offenses related to marijuana and marijuana concentrate—possession.** It is unlawful to possess marijuana or marijuana concentrate above the limits specified in the constitution. A person who possesses not more than two ounces of marijuana commits a drug petty offense. A person who possesses more than two ounces of marijuana, but not more than six ounces of marijuana or not more than three ounces of marijuana concentrate, commits a level 2 drug misdemeanor. A person who possesses more than six ounces of marijuana or more than three ounces of marijuana concentrate commits a level 1 drug misdemeanor.<sup>14</sup>
- **Offenses related to marijuana and marijuana concentrate—consumption.** It is unlawful to openly and publicly display, consume, or use marijuana or marijuana concentrate. Depending on the amount of marijuana involved, the level of offense ranges from an unclassified drug petty offense to a level 1 drug misdemeanor. Marijuana may be consumed at licensed marijuana hospitality establishments and retail marijuana hospitality establishments<sup>15</sup>
- **Offenses related to marijuana and marijuana concentrate—transfer.** The transferring or dispensing of not more than two ounces of marijuana from one person to another for no consideration is an unclassified drug petty offense.<sup>16</sup> The constitution allows for the transfer of up to one ounce of marijuana without remuneration to a person who is 21 years of age or older.<sup>17</sup> The transferring of marijuana or marijuana concentrate at no cost to a person if the transfer is in any way related to remuneration for any other services or product is a level 1 drug misdemeanor.<sup>18</sup>
- **Unlawful use or possession of synthetic cannabinoids or salvia divinorum.** Any person who uses or possesses any amount of any synthetic cannabinoid or salvia divinorum commits a level 2 drug misdemeanor.<sup>19</sup>
- **Unlawful distribution, manufacturing, dispensing, sale, or cultivation of synthetic cannabinoids or salvia divinorum.** Any person who knowingly manufactures, dispenses, sells, distributes, or possesses with the intent to manufacture, dispense, sell, or distribute any amount of synthetic cannabinoid or salvia divinorum, or who induces, attempts to induce, or conspires with one or more persons to do so, or who cultivates salvia divinorum with the intent to dispense, sell, or distribute any amount of salvia divinorum commits a level 3 drug felony.<sup>20</sup>
- **Unlawful acts related to medical marijuana—fraudulent medical condition.** A person commits a class 1 misdemeanor by fraudulently representing a medical condition to a physician, the CDPHE, or a state or local law enforcement official for the purpose of falsely obtaining a marijuana registry identification card or for the purpose of avoiding arrest and prosecution for a marijuana-related offense.<sup>21</sup>

<sup>13</sup>Sections 18-18-406 (3)(a)(II), (III), and (IV), and Section 18-18-406 (3.5), C.R.S.

<sup>14</sup>Sections 18-18-406 (4)(a), (4)(b), (4)(c), and (5)(a), C.R.S.

<sup>15</sup>Sections 18-18-406 (5)(b) (I) through (V), C.R.S.

<sup>16</sup>Section 18-18-406 (5)(c), C.R.S.

<sup>17</sup>Colo. Const. art. XVIII, § 16 (3)(c).

<sup>18</sup>Section 18-18-406 (5.5), C.R.S.

<sup>19</sup>Section 18-18-406.1, C.R.S.

<sup>20</sup>Section 18-18-406.2 (2), C.R.S.

<sup>21</sup>Section 18-18-406.3 (2)(a), C.R.S.



- **Unlawful acts related to medical marijuana—fraudulent use, theft of, or counterfeit registry cards.** The fraudulent use or theft of any person’s marijuana registry identification card, including any card that is required to be returned to the CDPHE, is a class 1 misdemeanor.<sup>22</sup> The fraudulent production or counterfeiting of, or tampering with, one or more marijuana registry identification cards is a class 1 misdemeanor.<sup>23</sup>
- **Unlawful acts related to medical marijuana—confidential records.** Any person who releases or makes public any confidential record or any confidential information contained in any such record that is provided to or by the marijuana registry or primary caregiver registry without the written authorization of the marijuana registry patient commits a class 1 misdemeanor.<sup>24</sup>
- **Unlawful advertising of marijuana.** Any person who knowingly advertises the unlawful sale of marijuana, marijuana concentrate, or marijuana-infused products commits a level 2 drug misdemeanor.<sup>25</sup>
- **Unlawful use of marijuana in a detention facility.** A person confined in a detention facility who possesses or uses marijuana commits a level 1 drug misdemeanor.<sup>26</sup>
- **Extraction of marijuana concentrate.** Unless licensed, any person who knowingly manufactures marijuana concentrate using an inherently hazardous substance, or knowingly allows marijuana concentrate to be manufactured using an inherently hazardous substance on a premises owned, managed, operated, or otherwise controlled by the person, commits a level 2 drug felony.<sup>27</sup>
- **Unlawful acts—licenses.** It is a level 4 drug felony to dispense any marijuana or marijuana concentrate, except as otherwise permitted under provisions related to pharmacists and researchers.<sup>28</sup>
- **Prohibited acts related to marijuana taxes.** Any retail marijuana cultivation facility or agent who sells or transfers retail marijuana without a license, or who willfully makes any false or fraudulent return or false statement on any return, or who willfully evades the payment of the retail marijuana excise tax commits a crime punishable in accordance with Section 39-21-118, C.R.S. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case.<sup>29</sup>
- **Disclosure of confidential records or information.** Any person who discloses confidential records or information in violation of the provisions of the Colorado Marijuana Code commits a class 1 misdemeanor.<sup>30</sup>
- **Underage sales of retail marijuana.** A person who sells or permits the sale of retail marijuana or retail marijuana products to a person under 21 years of age, commits a class 1 misdemeanor.<sup>31</sup>

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<sup>22</sup>Section 18-18-406.3 (3), C.R.S.

<sup>23</sup>Section 18-18-406.3 (4), C.R.S.

<sup>24</sup>Sections 18-18-406.3 (5) and (7), C.R.S.

<sup>25</sup>Section 18-18-406.4, C.R.S.

<sup>26</sup>Section 18-18-406.5 (1), C.R.S.

<sup>27</sup>Section 18-18-406.6, C.R.S.

<sup>28</sup>Sections 18-18-414 (1)(a), (b), (c), and (d), C.R.S.

<sup>29</sup>Section 39-28.8-306, C.R.S.

<sup>30</sup>Section 44-10-201 (4), C.R.S.

<sup>31</sup>Section 44-10-701 (5)(a), C.R.S.

- **Unlawful acts.** Violating any provision of the Colorado Marijuana Code, unless the offense also violates the Criminal Code, is a class 2 misdemeanor.<sup>32</sup>

**Pardons related to marijuana.** House Bill 20-1424 allows the Governor to grant pardons to a class of defendants who were convicted of the possession of up to two ounces of marijuana. On October 1, 2020, Governor Polis issued [Executive Order C 2020-004](#), which granted full and unconditional pardons to individuals convicted of a petty offense, misdemeanor, or felony for the possession of one ounce or less of marijuana. This act pardoned 2,732 convictions.<sup>33</sup>

## Driving Laws

**Driving under the influence.** Under Colorado law, drivers with five nanograms or more of delta 9-tetrahydrocannabinol (THC) per milliliter in whole blood can be prosecuted for driving under the influence (DUI) or driving while ability impaired (DWAI).<sup>34</sup>

**Open marijuana containers.** Persons in a motor vehicle who use or consume marijuana or have an open marijuana container in their possession commit a Class A traffic infraction. This prohibition does not apply to:

- passengers in the back seat(s) of a vehicle that is used for the transportation of people for compensation;
- passengers in the living quarters of a house coach, house trailer, motor home, or trailer coach;
- open marijuana containers that are located in the area behind the last upright seat, or other areas that are not normally occupied, of a motor vehicle that is not equipped with a trunk.<sup>35</sup>

## Where Marijuana Consumption is Permitted

The open and public consumption of marijuana is prohibited under Colorado law.<sup>36</sup> This prohibition applies regardless of the form in which the marijuana is consumed (smoking, eating, vaping, etc.). Any use of marijuana in a manner that endangers others is also prohibited. Examples of public places where marijuana may not be consumed include, but are not limited to: parks, sidewalks, ski resorts, concert venues, businesses, restaurants, bars, and common areas of apartment buildings or condominiums. As an exception, House Bill 19-1230 authorized marijuana hospitality and hospitality and sales licenses that allow marijuana to be consumed on a licensed premises, if approved by a local government. In addition to marijuana, these businesses may sell food, but may not sell alcohol or manufacture or sell food items with marijuana.

Marijuana may only be used on private property in a manner that is not open and public. Property owners may choose to restrict the ability of persons on their property to possess or consume marijuana.<sup>37</sup> For example, many hotels, apartments, rental properties, businesses, hospitals, and other entities ban the possession and/or consumption of marijuana on their property. Consumption of marijuana is also prohibited on federal land, including national parks and wilderness areas.

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<sup>32</sup>Section 44-10-701 (9), C.R.S.

<sup>33</sup>Retrieved from: <https://www.colorado.gov/governor/news/3126-gov-polis-grants-historic-pardons-marijuana-convictions>.

<sup>34</sup>Section 42-4-1301 (6)(a)(IV), C.R.S.

<sup>35</sup>Section 42-4-1305.5, C.R.S.

<sup>36</sup>Colo. Const., Art. XVIII, Section 16 (3), Section 44-10-702 (1), C.R.S.

<sup>37</sup>Colo. Const., Art. XVIII, Section 16 (6)(d).

**Local governments.** Local governments may enact laws affecting where marijuana may be consumed.<sup>38</sup> For example, in 2016, voters in Denver approved Initiative 300, which allows the city and county of Denver to issue permits for designated cannabis consumption areas.<sup>39</sup> Under this measure, businesses that meet certain criteria and receive a permit may operate a consumption area where persons over the age of 21 may consume marijuana products.

## Marijuana on School Property

**Medical marijuana possession and administration.** Students are prohibited from possessing or self-administering medical marijuana on school grounds, on a school bus, or at any school-sponsored event, with some exceptions. Instead, primary caregivers and school personnel, if approved by the school district and designated in an agreement with the student's parents, are allowed to possess and administer medical marijuana in a non-smokeable form to a student on the grounds of the school in which the student is enrolled, on a school bus, or at a school-sponsored event. Primary caregivers and designated school personnel are prohibited from administering the medical marijuana in a manner that creates disruption or causes exposure to other students, and any remaining medical marijuana must be removed from school property.<sup>40</sup>

Schools are not required to comply with medical marijuana administration provisions in state law if compliance results in the school losing federal funding and if the school posts on its website a statement of its decision not to comply; or if a student participates in a school activity that takes place outside of Colorado.

**Retail marijuana on school property.** Colorado law requires school district boards of education to adopt appropriate policies and rules that mandate a prohibition against the use of all tobacco products and all retail marijuana or retail marijuana products on all school property by students, teachers, staff, and visitors.<sup>41</sup>

## Marijuana-Related Studies

The CDPHE and the Department of Public Safety are required to perform marijuana-related studies. These studies are described below with links to the most recent findings.

**Report on marijuana health effects.** The General Assembly charged the CDPHE with appointing the Retail Marijuana Public Health Advisory Committee to monitor the health effects of marijuana and publish biennial reports.<sup>42</sup> The committee released their latest report on January 31, 2019. The report contains data from four state health surveys, data from hospitals and the poison control center, a scientific literature review, public health and evidence statements, and public health recommendations, and identifies gaps in research regarding marijuana use and its health effects. More information is available here: <https://marijuanahealthinfo.colorado.gov>.

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<sup>38</sup>Section 44-10-702 (2), C.R.S.

<sup>39</sup>Retrieved from: <https://www.denvergov.org/content/denvergov/en/denver-business-licensing-center/marijuana-licenses/social-consumption-advisory-committee.html>.

<sup>40</sup>Section 22-1-119.3 (3), C.R.S.

<sup>41</sup>Section 25-14-103.5 (3), C.R.S.

<sup>42</sup>Section 25-1.5-110, C.R.S.

**Report on the THC concentration in marijuana.** In a footnote in the 2019 Long Bill, the General Assembly directed the CDPHE to review and study data on the THC potency of marijuana and any related health effects.<sup>43</sup> The Retail Marijuana Public Health Advisory Committee released its report on July 31, 2020, which can be found here: <https://marijuanahealthinfo.colorado.gov/reports-and-summaries>.

**Study of law enforcement activity related to marijuana.** The General Assembly tasked the Division of Criminal Justice in the Department of Public Safety with conducting a two-year scientific study of law enforcement activity related to the implementation of Amendment 64.<sup>44</sup> The division is also required to report annually certain data concerning substance-affected driving citations that occurred in the previous year.<sup>45</sup> Information about these reports is available here: <https://ors.colorado.gov/ors-mjimpacts>.

## Marijuana-Related Education Efforts

**Marijuana Educational Oversight Committee and educational materials.** Senate Bill 13-283 required the Governor to designate a state agency to establish an educational oversight committee composed of members with relevant experience in marijuana issues. The committee must develop and implement recommendations for education of all necessary stakeholders on issues related to marijuana use, cultivation, and any other relevant topics. The bill also required the Governor to designate a state agency to establish educational materials regarding appropriate retail marijuana use and prevention of marijuana use by those under 21 years of age. Executive Order D 2013-007 established the Governor's Office as the designated agency for these two initiatives.<sup>46</sup>

**Marijuana resource bank.** Senate Bill 17-025 required the Department of Education, with assistance from the CDPHE and the Marijuana Educational Oversight Committee, to create and maintain a resource bank of evidence-based, research-based, and promising program materials and curricula pertaining to marijuana, which may be used in elementary and secondary schools.<sup>47</sup> The resource bank must be provided free of charge, and can be accessed here: [www.cde.state.co.us/healthandwellness/marijuana](http://www.cde.state.co.us/healthandwellness/marijuana).

In addition, the Department of Education, upon request, must provide technical assistance to a school district, charter school, or board of cooperative educational services regarding the development of curricula on marijuana use.

**Statewide marijuana education campaign.** Senate Bill 14-215 required the CDPHE to develop, implement, and evaluate an ongoing statewide prevention and education campaign to address the long-term marijuana education needs in the state.<sup>48</sup> Through this effort, the CDPHE launched the Good to Know and Protect What's Next campaigns, and the [colorado.gov/marijuana](http://colorado.gov/marijuana) website. In May 2018, the CDPHE introduced new public education campaigns under the brand Responsibility Grows Here: <https://responsibilitygrowshere.com>. These campaigns discourage youth from using marijuana and educate adults on using marijuana safely, legally, and responsibly.

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<sup>43</sup>Senate Bill 19-207, Department of Public Health and Environment, Footnote 88a.

<sup>44</sup>Section 24-33.5-516, C.R.S.

<sup>45</sup>Section 24-33.5-520, C.R.S.

<sup>46</sup>Section 24-20-112 (4) and (5), C.R.S.

<sup>47</sup>Section 22-2-127.7, C.R.S.

<sup>48</sup>Section 25-3.5-1001, *et seq.*, C.R.S.

**Colorado Department of Transportation education campaign.** The Colorado Department of Transportation has developed several education campaigns related to the dangers of marijuana-impaired driving. Two of these recent campaigns have included “Drive High, Get a DUI” and “Uncomfortable High.” More information can be found here:

<https://www.codot.gov/safety/alcohol-and-impaired-driving/druggeddriving>.

## **Marijuana-Related Grant Programs**

**Behavioral Health Care Professional Matching Grant Program.** Senate Bill 14-215 created the Behavioral Health Care Professional Matching Grant Program in the Department of Education.<sup>49</sup> The grant program is intended to provide funding to education providers to increase the presence of school health professionals and training and resources for school staff to provide substance use or misuse and other behavioral health care services and education to students. The grant program is funded with money from the Marijuana Tax Cash Fund.

**Gray and Black Market Marijuana Enforcement Grant Program.** House Bill 17-1221 created the Gray and Black Market Marijuana Enforcement Grant Program within the Department of Local Affairs.<sup>50</sup> The grant program is intended to award grants to local law enforcement agencies and district attorneys to cover investigation and prosecution costs associated with unlicensed marijuana cultivation or distribution operations conducted in violation of state law. The grant program is funded with money from the Marijuana Tax Cash Fund.

**Medical Assistance Act grants.** The Department of Health Care Policy and Financing awards Medical Assistance Act grants to organizations to operate a substance abuse screening, brief intervention, and referral to treatment practice.<sup>51</sup> One of the requirements of receiving a grant is that the organization must campaign to increase public awareness of the risks related to alcohol, marijuana, tobacco, and drug use and to reduce any stigma associated with treatment. The grant program is funded with money from the Marijuana Tax Cash Fund.

**Medical Marijuana Health Research Grant Program.** Senate Bill 14-155 created the Medical Marijuana Health Research Grant Program in the CDPHE.<sup>52</sup> The grant program funds research to ascertain the general medical efficacy and appropriate administration of marijuana and its component parts. The Medical Marijuana Scientific Advisory Council submits recommendations for research grants to the State Board of Health for approval. The grant program is funded with money from the Health Research Subaccount in the Medical Marijuana Program Cash Fund.

Information about the research grants that have been approved can be found here:

<https://www.colorado.gov/pacific/cdphe/marijuana-research>.

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<sup>49</sup>Section 22-96-103, C.R.S.

<sup>50</sup>Section 24-32-119, C.R.S.

<sup>51</sup>Section 25.5-5-208, C.R.S.

<sup>52</sup>Section 25-1.5-106.5, C.R.S.

**School-based Health Center Grant Program.** House Bill 18-1003 created the School-based Health Center Grant Program in the CDPHE.<sup>53</sup> The grant program assists with the establishment, expansion, and ongoing operations of school-based health centers in the state. Grants may be used for a variety of purposes, including the expansion of behavioral health services and education, intervention, and prevention services for opioid, alcohol, and marijuana, and other substance use disorders. The grant program is funded with money from the Marijuana Tax Cash Fund.

**School-based Substance Abuse Prevention and Intervention Grant Program.** Senate Bill 14-215 created the School-based Substance Abuse Prevention and Intervention Grant Program in the Department of Health Care Policy and Financing.<sup>54</sup> The grant program awards competitive grants to eligible entities to provide school-based prevention and intervention programs for individuals 12 to 19 years of age, with a primary focus on reducing marijuana use, but also including strategies and efforts to reduce alcohol use and prescription drug misuse. Entities eligible to receive grants include schools, school districts, boards of cooperative educational services, nonprofits, not-for-profit community-based organizations, and community-based behavioral health organizations.

**Tony Grampsas Youth Services Program.** Senate Bill 14-215 allowed funding from the Tony Grampsas Youth Services Program to be used for community-based programs specifically related to the prevention and intervention of adolescent and youth marijuana use.<sup>55</sup> The Department of Human Services administers the grants awarded by the Tony Grampsas Youth Services Board and monitors the effectiveness of programs that receive grant funding. The grant program is partially funded with money from the Marijuana Tax Cash Fund.

## **Institute of Cannabis Research, Colorado State University**

Senate Bill 16-191 established the Institute of Cannabis Research at the Colorado State University at Pueblo. The institute supports and conducts research related to marijuana, including clinical research, biotechnologies, clinical studies, the efficacies of medical marijuana, and economic development. The institute also hosts a multidisciplinary national cannabis conference, and publishes the peer-reviewed multidisciplinary Journal of Cannabis Studies. The institute's website is:

[www.csupueblo.edu/institute-of-cannabis-research/index.html](http://www.csupueblo.edu/institute-of-cannabis-research/index.html).

House Bill 19-1311 established the institute's mission in statute, created a governing board to oversee the institute, and set parameters on awarding research funds. Research funds may be awarded to Colorado-based nonprofits and institutions of higher education, including research entities associated with the institution and marijuana research and development licensees working with institutions. The institute receives funding from the Marijuana Tax Cash Fund, and may receive revenue from gifts, grants, donations, fees, or the sale or licensing of intellectual property.

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<sup>53</sup>Section 25-20.5-503, C.R.S.

<sup>54</sup>Section 25.5-1-206, C.R.S.

<sup>55</sup>Section 26-6.8-102, C.R.S.

## Pesticides

Until recently, Colorado did not regulate pesticide use on cannabis, including marijuana and hemp. Regulation is complicated by marijuana's designation as a Schedule I controlled substance under federal law and by the many ways in which marijuana can be consumed — inhaled, ingested, or topically applied.

The use of pesticides in Colorado is regulated under the Pesticide Applicator's Act, which is administered by the state's Department of Agriculture. In addition, the U.S. Environmental Protection Agency administers the Federal Insecticide, Fungicide, and Rodenticide Act, which requires that all pesticides distributed or sold in the United States must be registered by the Environmental Protection Agency. Because marijuana falls within the definition of a raw agricultural commodity, the Colorado Food and Drug Act authorizes the CDPHE to deem a marijuana crop unsafe if the crop is contaminated with pesticides.

The Colorado Department of Agriculture has developed rules for determining which pesticides can be used on marijuana crops and maintains a list of these pesticides on its website.<sup>56</sup> These products have not been tested to determine their health effects, and the department makes no assurances of their safety or effectiveness when used on marijuana. The department educates the marijuana industry on the proper use of pesticides on marijuana crops.

## Marijuana Testing Facilities

Marijuana testing facilities must receive a business license and certification from the Marijuana Enforcement Division. The CDPHE is responsible for inspecting facilities to determine whether they qualify for certification as a marijuana testing facility by the Marijuana Enforcement Division. The CDPHE also maintains a reference library to provide guidance to testing facilities on testing methodologies. Medical and retail marijuana testing facilities must be accredited pursuant to the *International Organization for Standardization/International Electrotechnical Commission 17025:2005* standard that stipulates general requirements for the competence of testing and calibration laboratories.

As of January 1, 2021, the Marijuana Enforcement Division has licensed ten testing facilities for both medical and retail marijuana and one facility for retail marijuana only. Marijuana samples are tested for potency and the presence of contaminants such as pesticides, solvents and mold. In addition to listing which pesticides growers may use on marijuana and regulating pesticide use, the Department of Agriculture lab tests marijuana for pesticide residue and the presence of prohibited pesticides.

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<sup>56</sup>Retrieved from: <http://colorado.gov/pacific/agplants/pesticide-use-cannabis-production-information>.



## Section 2: Marijuana Licensing

### Licensing Process

Medical and retail marijuana businesses must be licensed by both the state and local licensing authorities.

**State licensing authority.** The Marijuana Enforcement Division in the Department of Revenue serves as the state licensing authority, overseeing the licensing of medical and retail marijuana businesses. The division has the following functions:

- applications and licensing;
- investigations, hearings, and enforcement;
- developing forms, applications, and licenses;
- developing identification badges for owners and employees;
- maintaining a seed-to-sale tracking system that tracks marijuana from the seed or immature plant stage to when it is sold to a customer, with an exception for marijuana transferred for research purposes;
- promulgating rules related to the operation of medical and retail marijuana businesses, including security requirements for licensed premises, labeling and packaging standards, and restrictions related to advertising by marijuana businesses;
- data collection and maintenance; and
- annual reporting.

**Local licensing authority.** A local licensing authority is an authority designated by municipal or county charter, ordinance, or resolution, or the governing body of a municipality, city and county, or the board of county commissioners of a county if no such authority is designated. A local licensing authority may determine its own licensing requirements and forms, and must also consider the minimum licensing requirements set forth by the state. State law suggests considerations related to distance restrictions between licensed premises, premises size restrictions, and other requirements that ensure control of premises and ease of enforcement. Local governments may enact regulations based on local government zoning, health, safety, and public welfare laws that are more restrictive than state law. Local governments may also prohibit the operation of medical or retail marijuana businesses.

**Public hearing.** For each new license, the local government may schedule a public hearing to take place within 30 days of the application date. If a hearing is scheduled, it must meet public notice requirements, both in publications and posted at the proposed location. If a public hearing is held, the local licensing authority must provide its findings to the applicant at least five days prior to the hearing.

**Application investigation results and decision.** A local licensing authority must approve or deny an application within 30 days after the public hearing, if applicable, or upon completion of the application investigation. Licensing decisions must be in writing and sent via certified mail. Once an application is approved, the license may not be issued until the building is ready for occupancy and has passed a premises inspection performed by either licensing authority (applicants are required to file plans and specifications for the interior of the building with their application). A license may be denied by either the state or local licensing authority.



**Radius restrictions and impact on competition (only applies to medical marijuana businesses).**

Licensed medical marijuana businesses may not be located within 1,000 feet of a school; alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential child care facility. The state and local licensing authorities may not approve an application for a second or additional medical marijuana business license for the same licensee or the same owner of another licensed medical marijuana business if the effect would restrain competition.

## **General Licensing Provisions**

A separate license is required for each specific business or business entity and each geographical location.

**License issuance.** Applications for a state medical marijuana or retail marijuana business license must be made to the Marijuana Enforcement Division on division forms and include the name and address of the applicant, required disclosures, and all other information deemed necessary by the division. State approval is predicated on the satisfactory completion of the applicable criminal history background check and is conditioned on local licensing authority approval. If the local licensing authority does not approve the application within one year of state approval, the state license expires and may not be renewed. If the local licensing authority denies an application, the state license is revoked.

**License validity and renewal.** Retail marijuana licenses are valid for a period of one year after the date of issuance unless revoked or suspended. Medical marijuana licenses are valid for a period not to exceed two years after the date of issuance unless revoked or suspended. The state or local licensing authority may revoke or elect not to renew any license for good cause subject to judicial review, or if it determines that the licensed premises have been inactive, without good cause, for at least one year. The Marijuana Enforcement Division must notify licensees prior to an upcoming license expiration, and renewal applications must be submitted to the state and local licensing authorities prior to the date of expiration. If a licensee submits a timely and sufficient renewal application, the licensee may continue to operate until the application is acted upon by the division.

**Limited access areas.** Marijuana must be grown, cultivated, stored, weighed, displayed, packaged, sold, or possessed for sale in a limited access area of the licensed premises, with access limited to persons licensed by the Marijuana Enforcement Division and visitors escorted by these licensees.

**Inspections.** Licensed premises and transaction records are subject to inspection by the Marijuana Enforcement Division at any time during business hours. Transaction records must be kept for a period of three years.

**Unlawful acts.** Under the Regulated Marijuana Code, among other provisions, it is unlawful for:

- with the exception of marijuana hospitality businesses and hospitality and sales businesses, any person to consume regulated marijuana or regulated marijuana products in a licensed medical or retail marijuana business and for licensees to provide public premises for the purpose of consumption of regulated marijuana or marijuana products;
- any person to buy, sell, transfer, give away, or acquire regulated marijuana or regulated marijuana products except as permitted by the state constitution or statute;

- a medical marijuana patient, with knowledge, to permit or fail to prevent the use of his or her registry card by another person for the unlawful purchase of medical marijuana;
- a person to have certain ownership or financial interests without making proper disclosures;
- a person to knowingly adulterate or alter or attempt to adulterate or alter regulated marijuana or regulated marijuana products to circumvent testing results;
- licensees to display signs that are inconsistent with local laws or regulations;
- licensees to use advertising that is misleading, deceptive, or false, or that is designed to appeal to minors;
- medical marijuana licensees to sell medical marijuana to a person without a valid registry identification card;
- retail marijuana licensees to sell to a person under 21 years of age (class 1 misdemeanor);
- retail marijuana licensees to distribute directly to another person using a mobile distribution store;
- a physician who makes referrals to a licensed medical marijuana store to receive anything of value from the store or for the licensee to offer anything of value to a physician for making referrals.

Except where noted otherwise, these unlawful acts are class 2 misdemeanors. For violations that also constitute a violation of Title 18 of the Colorado Revised Statutes, those violations are to be charged and prosecuted pursuant to Title 18.

**Disciplinary actions.** The Marijuana Enforcement Division has the authority to suspend or revoke a license after an investigation and public hearing. The division or local licensing authority has the power to administer oaths and issue subpoenas. State law outlines procedures and fine amounts, as well as the process for disposition of unauthorized marijuana or marijuana-infused products. All decisions made by the division or local licensing authority are subject to judicial review. In calendar year 2020, the division levied penalties (fines and fees) of \$1.4 million.

**Sales limits—medical.** A medical marijuana store may not sell more than two ounces of medical marijuana to a patient or caregiver; except that a medical marijuana store may sell more than two ounces to a patient or caregiver who has been recommended an extended ounce count by his or her recommending physician. A medical marijuana store may sell no more than six immature plants to a patient; except that a medical marijuana store may sell more than six immature plants, but may not exceed half the recommended plant count, to a patient who has been recommended an extended plant count by his or her recommending physician. A medical marijuana store may not sell, individually or in any combination, more than two ounces of medical marijuana flower, 40 grams of medical marijuana concentrate, or medical marijuana products containing a combined total of 20,000 milligrams to a patient in a single business day. However, a medical marijuana store may sell medical marijuana flower in an amount that exceeds this only to a patient who has a physician recommendation for more than two ounces of flower and is registered with the medical marijuana store. Additionally, a medical marijuana store may sell medical marijuana concentrate or medical marijuana products in an amount that exceeds this only to a patient who has a physician exemption from the sales limitation and is registered with the medical marijuana store.

**Sales limits—retail.** A retail marijuana store may not sell more than one ounce of retail marijuana or its equivalent in retail marijuana products, including retail marijuana concentrate, during a single transaction to a person. The sales limit does not include nonedible, nonpsychoactive retail marijuana products such as ointments, lotions, balms, and other nontransdermal topical products.

**Product labeling and packaging requirements.** State law requires the Marijuana Enforcement Division to promulgate rules establishing labeling requirements for regulated marijuana and regulated marijuana products that are sold by medical and retail marijuana businesses. These labels must include:

- warning labels;
- the amount of THC per serving and the number of servings per package for regulated marijuana products;
- a universal symbol indicating that the package contains marijuana; and
- the potency of the regulated marijuana and regulated marijuana products.

Edible marijuana products must be clearly identifiable, when practicable, with a standard symbol indicating that they contain marijuana and are not for consumption by children. The law also prohibits edible marijuana products from being in the shape of a human, animal, or fruit. Marijuana must be placed in child-proof packaging that is placed in an opaque and resealable exit package or container prior to exiting the store.

Single servings of edible and liquid retail marijuana products may not contain more than 10 milligrams of active THC. A sealed package of edible and liquid retail marijuana may not contain more than a total of 100 milligrams of active THC. Multi-serving liquid retail marijuana products must be packaged in a structure that uses a single mechanism to achieve both child-resistance and accurate pouring measurement of each serving in increments equal to or less than 10 milligrams of active THC.

**Advertising prohibitions.** Marijuana businesses are prohibited from:

- engaging in mass-market advertising or marketing campaigns that have a high likelihood of reaching persons under 18 years of age for medical marijuana (21 years of age for retail marijuana);
- making health or physical benefit claims in advertising, merchandising, and packaging;
- engaging in unsolicited pop-up advertising on the internet;
- placing banner ads on mass-market websites;
- engaging in opt-in marketing that does not permit an easy and permanent opt-out feature;
- engaging in marketing directed toward location-based devices, including cell phones; or
- violating other limitations that may be adopted in rule.

## **Licensee Requirements**

**Background check requirements.** All owners, with the exception of indirect financial interest holders, officers, managers, and employees of a regulated marijuana business must pass a fingerprint-based criminal history record check as required by the Marijuana Enforcement Division and obtain the required identification prior to being associated with, managing, owning, or working at the operation.

**Persons prohibited as licensees.** Among other criteria, state law prohibits medical and retail marijuana licenses from being issued to or held by:

- a person until the licensing fee has been paid;
- a person under 21 years of age;

- a person who is not of good moral character themselves or is financed by a person not of good moral character;
- a person who fails to meet the qualifications for licensure;
- a person applying for a license at a location currently licensed as a retail food establishment (does not apply to persons applying for a marijuana hospitality or hospitality and sales license);
- a person with a financial interest organized or formed under a country that provides support for terrorism;
- a person considered a bad actor or ineligible issuer under federal securities law;
- a person, who during a period of licensure, failed to file and pay applicable taxes, interest and penalties;
- a person who was convicted of a felony in the three years immediately preceding his or her application date, except for an accelerator license;
- a person currently subject to a deferred judgement or sentence for a felony; or
- a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority.

In addition, medical marijuana licenses may not be issued to or held by a licensed physician making patient recommendations or by a person whose authority to be a primary caregiver has been revoked by the CDPHE.

**Business owner requirements.** There are three ownership categories for a marijuana business:

- controlling beneficial owners;
- passive beneficial owners, and;
- indirect financial interest holders.

All persons applying to become a controlling beneficial owner or passive beneficial owner are required to receive a finding of suitability or an exemption from the Marijuana Enforcement Division.

*Controlling beneficial owner.* A controlling beneficial owner means a natural person, a domestic or foreign entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, a publicly traded corporation, or a qualified private fund that is not otherwise licensed as a qualified institutional investor:

- that owns or acquires beneficial ownership (voting power) of 10 percent or more of a marijuana business;
- that is an affiliate that controls a marijuana business;
- that is otherwise in a position to control the marijuana business; or
- a qualified institutional investor that owns or acquires beneficial ownership of 30 percent or more of the securities of a marijuana business.

*Indirect financial interest holder.* This type of investor is a person that is not an affiliate, a controlling beneficial owner, or a passive beneficial owner of a marijuana business and that:

- holds a commercially reasonable royalty interest in exchange for a marijuana business's use of the person's intellectual property;

- holds a permitted economic interest issued prior to January 1, 2020, that has not been converted into an ownership interest;
- is a contract counterparty; or
- is identified by the division as an indirect financial interest holder.

*Passive beneficial owner.* The passive beneficial owner is a person owning or acquiring any interest in a regulated marijuana business that is not otherwise a controlling beneficial owner or in control.

**Social equity licensees.** Social equity licensees may hold any regulated marijuana business license or permit and may be eligible for incentives through the Marijuana Enforcement Division or the Office of Economic Development and International Trade. To qualify as a social equity licensee, the applicant must:

- be a Colorado resident;
- not have been the owner of a revoked marijuana license;
- hold at least 51 percent of the beneficial ownership of a regulated marijuana business, either individually or collectively with other social equity licensees; and
- have demonstrated at least one of the following:
  - resided for at least 15 years between 1980 and 2010 in an area designated as an opportunity zone, or as a disproportionate impacted area as defined in rule by Marijuana Enforcement Division;
  - the applicant or the applicant's immediate family was arrested for or convicted of a marijuana offense or was subject to civil asset forfeiture related to a marijuana investigation; or
  - the applicant's household income in the previous year did not exceed an amount determined by the Marijuana Enforcement Division.

## Business License and Permit Types

**Medical marijuana license and permit types.** The following sections outline medical marijuana license and permit types. The number of licenses issued in each category as of January 1, 2021, is shown in Table 1.

- **Medical marijuana store license.** These licenses may be issued to persons selling medical marijuana to medical marijuana patients. Medical marijuana stores may sell medical marijuana products that are prepackaged and labeled in a way that clearly indicates that the product contains medical marijuana; that the product is manufactured without any regulatory oversight for health, safety, or efficacy; and that there may be health risks associated with the consumption or use of the product. Medical marijuana stores may also sell immature plants (nonflowering and no taller than 8 inches and no wider than 8 inches).
- *Medical marijuana delivery permit.* A medical marijuana delivery permit may be issued to a licensed medical marijuana store, thereby authorizing the store to deliver medical marijuana and medical marijuana products to patients or parents or guardians at private residences. A one-dollar surcharge must be assessed on each delivery, to be remitted to the local municipality where the store is located to assist with local law enforcement costs. The Marijuana Enforcement Division began issuing delivery permits on January 2, 2020.

- **Medical marijuana cultivation facility license.** These licenses may be issued to persons cultivating medical marijuana for sale and distribution to licensed medical marijuana stores, medical marijuana product manufacturers, and other medical marijuana cultivation facilities. The Marijuana Enforcement Division is required to create a statewide licensure class system for cultivation facility licenses, with classifications based on square footage of the facility; lights, lumens, or wattage; lit canopy; the number of cultivating plants; other reasonable metrics; or any combination of these.
  - *Centralized distribution permit.* A centralized distribution permit may be issued to a licensed medical marijuana cultivation facility. Permit holders may provide for the temporary storage of medical marijuana concentrate and medical marijuana products received from a medical marijuana product manufacturer on its licensed premises for the sole purpose of these products being transferred to the permit holders' commonly owned medical marijuana stores. These products may not be stored for more than 90 days.
- **Medical marijuana products manufacturer license.** These licenses may be issued to persons manufacturing medical marijuana products. Medical marijuana products must be prepared on a licensed premises that is used exclusively for the manufacture and preparation of medical marijuana products and using equipment that is used exclusively for the manufacture and preparation of medical marijuana products. A medical marijuana products manufacturer may sell its products to any licensed medical marijuana store or any licensed medical marijuana products manufacturer. There are specific limitations related to medical marijuana products manufacturers' use or imitation of trademarked food products.
- **Medical marijuana business operator license.** These licenses may be issued to entities or persons operating a licensed medical marijuana business and those who receive a portion of the profits as compensation.
- **Medical marijuana occupational licenses and registrations.** These licenses and registrations are required for owners, managers, operators, employees, contractors, and other support staff employed by, working in, or having access to restricted areas of the licensed premises, as determined by the Marijuana Enforcement Division.
- **Marijuana research and development license.** These licenses allow persons to grow, cultivate, possess, and transfer, by sale or donation, marijuana for limited research purposes. These research purposes include: testing chemical potency and composition levels; conducting clinical investigations of marijuana-derived medicinal products; conducting research on the efficacy and safety of administering marijuana as part of medical treatment; conducting genomic, horticultural, or agricultural research; and conducting research on marijuana-affiliated products or systems. Research conducted with a public institution or with public money must be reviewed by the Colorado Medical Marijuana Scientific Advisory Council.
- **Medical marijuana testing facility license.** These licenses may be issued to persons performing testing and research on medical marijuana, medical marijuana products, and industrial hemp products for medical marijuana licensees, patients, and caregivers. State law limits interests that a medical marijuana testing facility licensee may have with other medical and retail licensees.

- **Medical marijuana transporter license.** These licenses may be issued to persons providing logistics, distribution, delivery, and storage of medical marijuana and medical marijuana products. These licensees may maintain a licensed premises for temporary storage needs and to use as a centralized distribution location.
- *Medical marijuana delivery permit.* A medical marijuana delivery permit may be issued to a licensed medical marijuana transporter, thereby authorizing the licensee to deliver medical marijuana and medical marijuana products to patients or parents or guardians at private residences. The Marijuana Enforcement Division began issuing delivery permits to medical marijuana transporter licensees on January 2, 2021.

**Table 1**  
**Number of Licensed Medical Marijuana Businesses**  
*As of January 1, 2021*

License Type	Number
Medical Marijuana Stores	431
Medical Marijuana Cultivation Facilities	462
Medical Marijuana Product Manufacturers	216
Medical Marijuana Business Operators	7
Medical Marijuana Research and Development	1
Medical Marijuana Testing Facilities	11
Medical Marijuana Delivery	6
Medical Marijuana Transport Businesses	6

*Source: Marijuana Enforcement Division, Department of Revenue.*

**Retail marijuana license and permit types.** The following sections outline retail marijuana license and permit types. The number of licenses issued in each category as of January 1, 2021, is shown in Table 2.

- **Retail marijuana store license.** These licenses may be issued to persons selling retail marijuana or retail marijuana products. Licensees may only sell retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel, industrial hemp products, and marijuana-related products, such as childproof packaging containers. Licensees are prohibited from selling or giving away any consumable product, including cigarettes, alcohol, and edible products that do not contain marijuana. A licensee may either sell its own marijuana, if it also has a retail marijuana cultivation facility license, or sell marijuana purchased from a licensed cultivator. Store employees must verify that a purchaser is 21 years of age or older with a valid identification card.
- *Retail marijuana delivery permit.* A retail marijuana delivery permit may be issued to a licensed retail marijuana store, thereby authorizing the store to deliver retail marijuana and retail marijuana products to individuals at private residences. A one-dollar surcharge must be assessed on each delivery, to be remitted to the local municipality where the store is located to assist with local law enforcement costs. The Marijuana Enforcement Division began issuing retail marijuana delivery permits on January 2, 2021.

- *Retail marijuana accelerator store license.* A retail marijuana accelerator store license may be issued to a social equity licensee qualified to operate a retail marijuana store on the site of a retail marijuana store with an accelerator endorsement. The licensee may receive technical assistance and financial support from the retail marijuana store licensee.
- **Retail marijuana cultivation facility license.** These licenses may be issued to persons who cultivate retail marijuana for sale and distribution to other retail marijuana licensees. The Marijuana Enforcement Division is required to create a statewide licensure class system for cultivation facility licenses, with classifications based on square footage of the facility; lights, lumens, or wattage; lit canopy; the number of cultivating plants; other reasonable metrics; or any combination of these.
  - *Centralized distribution permit.* A centralized distribution permit may be issued to a licensed retail marijuana cultivation facility. Permit holders may provide for the temporary storage of retail marijuana concentrate and retail marijuana products received from a retail marijuana business on its licensed premises for the sole purpose of these products being transferred to the permit holders' commonly owned retail marijuana stores. These products may not be stored for more than 90 days.
  - *Retail marijuana accelerator cultivator license.* A retail marijuana accelerator cultivator license may be issued to a social equity licensee qualified to operate a cultivation operation on the site of a retail marijuana cultivation facility with an accelerator endorsement. The licensee may receive technical assistance and financial support from the retail marijuana cultivation facility licensee.
  - **Retail marijuana products manufacturer license.** These licenses may be issued to persons manufacturing retail marijuana products. Retail marijuana products must be prepared on a licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana products. There are specific limitations related to retail marijuana products manufacturers' use or imitation of trademarked food products.
  - *Retail marijuana accelerator manufacturer license.* A retail marijuana accelerator manufacturer license may be issued to a social equity licensee qualified to operate a retail marijuana products manufacturing operation on the site of a retail marijuana products manufacturing facility with an accelerator endorsement. The licensee may receive technical assistance and financial support from the retail marijuana products manufacturer licensee.
  - **Retail marijuana business operator license.** These licenses may be issued to persons operating a licensed retail marijuana business, owners of such businesses, and those who receive a portion of the profits as compensation.



- **Marijuana hospitality business license.** If allowed by local government ordinance or resolution, these licenses may be issued to persons operating a licensed premises where marijuana may be consumed. These licensees may be mobile. These licensees may not sell retail or medical marijuana. Additionally, these licensees may not admit anyone under the age of 21, allow free samples of marijuana to be distributed, permit the use or consumption of marijuana by a patron who displays any visible signs of intoxication, allow on-duty employees to consume marijuana, allow alcohol to be consumed on the premises, or allow tobacco products to be smoked on the premises, among other restrictions. Employees of the business must successfully complete a responsible vendor training program annually. Licensees must provide informational materials regarding the safe consumption of marijuana. Retail food establishments may operate a licensed marijuana hospitality business in an isolated portion of the premises.
- **Retail marijuana hospitality and sales business license.** If allowed by local government ordinance or resolution, these licenses may be issued to persons operating a licensed premises where marijuana may be sold and consumed. These licensees may not admit anyone under the age of 21, allow free samples of marijuana to be distributed, sell or serve marijuana to a patron who displays any visible signs of intoxication, allow on-duty employees to consume marijuana, allow alcohol to be consumed on the premises, allow tobacco products to be smoked on the premises, among other restrictions. Employees of the business must successfully complete a responsible vendor training program annually. Licensees must provide informational materials regarding the safe consumption of marijuana. Retail food establishments may operate a licensed marijuana hospitality and sales business in an isolated portion of the premises.
- **Retail marijuana occupational licenses and registrations.** These licenses and registrations are required for owners, managers, operators, employees, contractors, and other support staff employed by, working in, or having access to restricted areas of the licensed premises, as determined by the Marijuana Enforcement Division.
- **Retail marijuana testing facility license.** These licenses may be issued to persons performing testing and research on retail marijuana, industrial hemp, and industrial hemp products. State law limits interests that a retail marijuana testing facility licensee may have with other medical and retail marijuana licensees.
- **Retail marijuana transporter license.** These licenses may be issued to persons providing logistics, distribution, delivery, and storage of retail marijuana and retail marijuana products. These licensees may maintain a licensed premises for temporary storage needs and to use as a centralized distribution location.
- *Retail marijuana delivery permit.* A retail marijuana delivery permit may be issued to a licensed retail marijuana transporter, thereby authorizing the licensee to deliver retail marijuana and retail marijuana products to individuals at private residences. The Marijuana Enforcement Division began issuing delivery permits to retail marijuana transporter licensees on January 2, 2021.

**Table 2**  
**Number of Licensed Retail Marijuana Businesses**  
*As of January 1, 2021*

License Type	Number
Retail Marijuana Stores	606
Retail Marijuana Cultivations	715
Retail Marijuana Product Manufacturers	290
Retail Marijuana Business Operators	9
Retail Marijuana Testing Facilities	11
Retail Marijuana Transport Businesses	12
Retail Marijuana Hospitality and Sales	3

*Source: Marijuana Enforcement Division, Department of Revenue.*

## Sunset Review

In Colorado, a program subject to the sunset review process is set to repeal on a specific date unless the General Assembly affirmatively acts to extend it. The Regulated Marijuana Code and the Medical Marijuana Program are subject to the sunset review process conducted by the Department of Regulatory Agencies. The first review for the former Medical Marijuana Code is available at [Medical Marijuana Sunset 2014](#),<sup>57</sup> and the first review for the former Retail Marijuana Code is available at [Retail Marijuana Sunset 2015](#).<sup>58</sup> The Medical Marijuana Program at the CDPHE was subject to sunset review beginning in 2018 and the repeal dates for both codes and the program were set to coincide henceforth, beginning on September 1, 2019. A copy of the most recent sunset report for the former medical and retail marijuana codes is available at [Marijuana Sunset Reports 2018](#).<sup>59</sup> A copy of the report for the Medical Marijuana Program is available at: [Medical Marijuana Sunset Report 2018](#). The next sunset review for the Regulated Marijuana Code is scheduled for publication on October 15, 2027.

## Local Ordinances

Colorado law allows local governments to prohibit the operation of medical and/or retail marijuana businesses within their jurisdiction.<sup>60</sup> Local governments may also enact ordinances regulating the operations of medical and retail marijuana businesses that are more restrictive than state law.

For information related to which local authorities allow the operation of medical and/or retail marijuana businesses, see Figure 1, which is also available on Legislative Council Staff's [website](#).<sup>61</sup>

<sup>57</sup><https://drive.google.com/file/d/0B8bNvcf083ydTFpkdVRwdnhTazQ/view>.

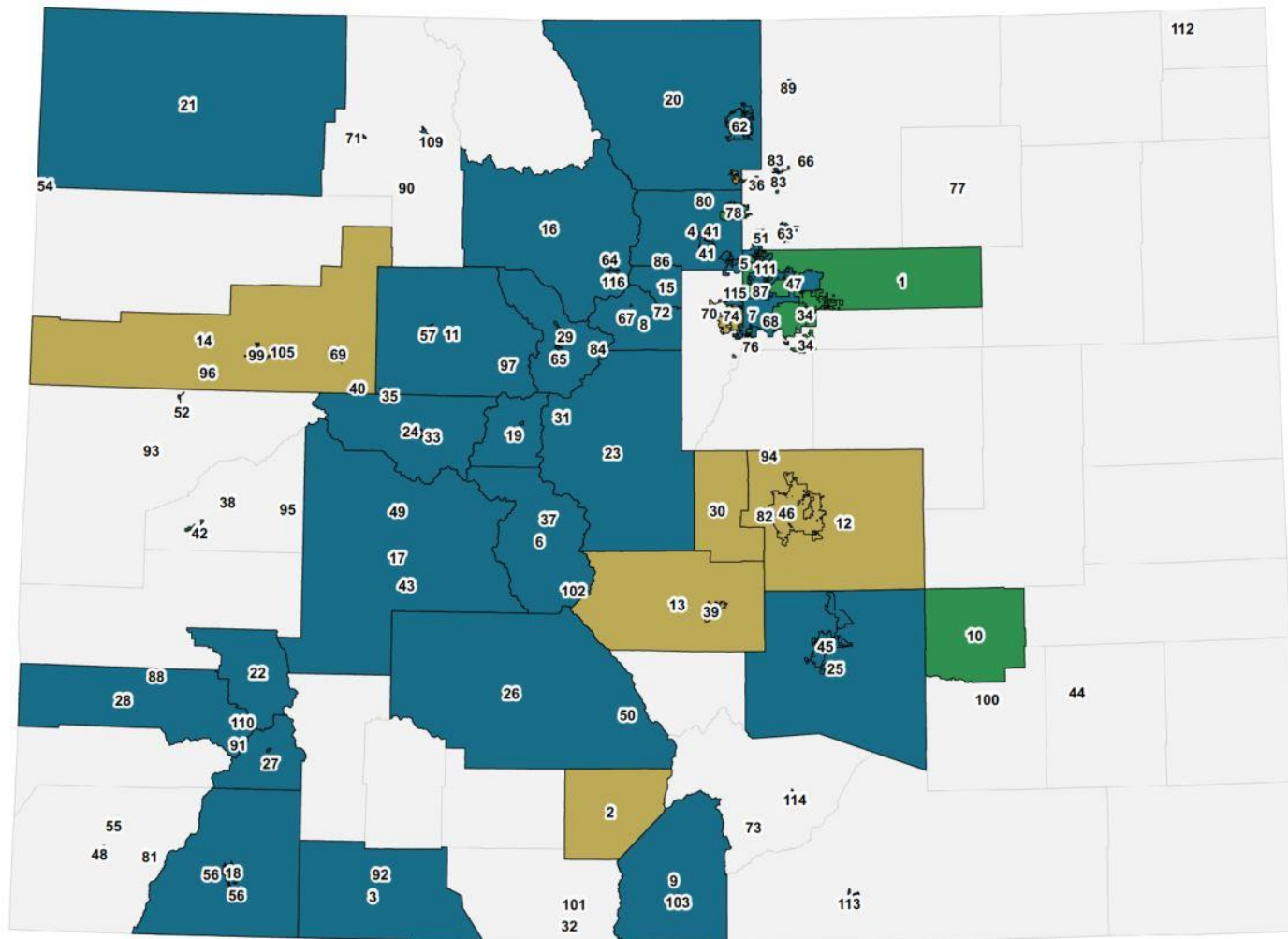
<sup>58</sup><https://drive.google.com/file/d/0B8bNvcf083ydSIh4NWtHTjFoa2s/view>.

<sup>59</sup><https://drive.google.com/file/d/1QeSxuD7cqil3L5mLulnWze2BsyYpCSQj/view>.

<sup>60</sup>Colo. Const. art. XVIII, § 16 (5)(f) and Section 44-10-104, C.R.S.

<sup>61</sup>Retrieved from: <http://colg.maps.arcgis.com/apps/View/index.html?appid=12a59bd1b6814ea8aafe8f4aae0b1f3e>.

**Figure 1**  
**Local Jurisdictions Where Medical and/or Retail Marijuana is Permitted as of 2020**  
*See Table 3 for information corresponding to labels*



Map prepared by Colorado Legislative Council Staff.  
 Last updated on: February 9, 2020

Medical and Retail (90)
  Medical Only (13)
  Retail Only (13)

**Table 3**  
**Local Jurisdictions Where Medical and/or Retail Marijuana is Permitted as of 2020**  
*As shown in Figure 1*

Label	Jurisdiction	Marijuana Type	Label	Jurisdiction	Marijuana Type	Label	Jurisdiction	Marijuana Type
1	Adams County	Retail Only	40	Town of Carbondale	Medical and Retail	79	City of Louisville	Medical and Retail
2	Alamosa County	Medical Only	41	City of Boulder	Medical and Retail	80	Town of Lyons	Medical and Retail
3	Archuleta County	Medical and Retail	42	City of Delta	Retail Only	81	Town of Mancos	Medical and Retail
4	Boulder County	Medical and Retail	43	City of Gunnison	Medical and Retail	82	City of Manitou Springs	Medical and Retail
5	City & County of Broomfield	Medical and Retail	44	City of Las Animas	Medical and Retail	83	Town of Milliken	Medical and Retail
6	Chaffee County	Medical and Retail	45	City of Pueblo	Medical and Retail	84	Town of Montezuma	Medical and Retail
7	City & County of Denver	Medical and Retail	46	City of Colorado Springs	Medical and Retail	85	Town of Mountain View	Medical and Retail
8	Clear Creek County	Medical and Retail	47	City of Commerce City	Medical and Retail	86	Town Nederland	Medical and Retail
9	Costilla County	Medical and Retail	48	City of Cortez	Medical and Retail	87	City of Northglenn	Medical and Retail
10	Crowley County	Retail Only	49	Town of Crested Butte	Medical and Retail	88	Town of Norwood	Medical and Retail
11	Eagle County	Medical and Retail	50	Town of Crestone	Retail Only	89	Town of Nunn	Medical and Retail
12	El Paso County	Medical Only	51	City of Dacono	Medical Only	90	Town of Oak Creek	Medical and Retail
13	Fremont County	Medical Only	52	Town of De Beque	Retail Only	91	Town of Ophir	Medical and Retail
14	Garfield County	Medical Only	53	Town of Dillon	Retail Only	92	Town of Pagosa Springs	Medical and Retail
15	Gilpin County	Medical and Retail	54	Town of Dinosaur	Medical and Retail	93	Town of Palisade	Medical and Retail
16	Grand County	Medical and Retail	55	Town of Dolores	Medical and Retail	94	Town of Palmer Lake	Medical and Retail
17	Gunnison County	Medical and Retail	56	City of Durango	Medical and Retail	95	Town of Paonia	Medical and Retail
18	La Plata County	Medical and Retail	57	Town of Eagle	Medical and Retail	96	Town of Parachute	Medical and Retail
19	Lake County	Medical and Retail	58	City of Edgewater	Medical and Retail	97	Town of Red Cliff	Medical and Retail
20	Larimer County	Medical and Retail	59	Town of Empire	Medical and Retail	98	Town of Ridgway	Medical and Retail
21	Moffat County	Medical and Retail	60	City of Englewood	Medical and Retail	99	City of Rifle	Medical and Retail
22	Ouray County	Medical and Retail	61	City of Federal Heights	Medical and Retail	100	City of Rocky Ford	Medical Only
23	Park County	Medical and Retail	62	City of Fort Collins	Medical and Retail	101	Town of Romeo	Retail Only
24	Pitkin County	Medical and Retail	63	City of Fort Lupton	Medical and Retail	102	City of Salida	Medical and Retail
25	Pueblo County	Medical and Retail	64	Town of Fraser	Medical and Retail	103	Town of San Luis	Medical and Retail
26	Saguache County	Medical and Retail	65	Town of Frisco	Medical and Retail	104	Town of Sheridan	Retail Only
27	San Juan County	Medical and Retail	66	Town of Garden City	Medical and Retail	105	Town of Silt	Retail Only
28	San Miguel County	Medical and Retail	67	Town of Georgetown	Medical and Retail	106	Town Silver Plume	Medical and Retail
29	Summit County	Medical and Retail	68	City of Glendale	Medical and Retail	107	Town of Silverthorne	Medical and Retail
30	Teller County	Medical Only	69	City of Glenwood Springs	Medical and Retail	108	Town of Silverton	Medical and Retail
31	Town of Alma	Medical and Retail	70	City of Golden	Medical Only	109	City of Steamboat Springs	Medical and Retail
32	Town of Antonito	Retail Only	71	Town of Hayden	Medical and Retail	110	Town of Telluride	Medical and Retail
33	City of Aspen	Medical and Retail	72	City of Idaho Springs	Medical and Retail	111	City of Thornton	Medical and Retail
34	City of Aurora	Retail Only	73	Town of La Veta	Medical and Retail	112	Town of Sedgwick	Medical and Retail
35	Town of Basalt	Medical and Retail	74	City of Lakewood	Medical and Retail	113	City of Trinidad	Medical and Retail
36	Town of Berthoud	Medical Only	75	City of Leadville	Medical and Retail	114	City of Walsenburg	Retail Only
37	Town of Buena Vista	Medical and Retail	76	City of Littleton	Medical and Retail	115	City of Wheat Ridge	Medical and Retail
38	Town of Cedaredge	Medical and Retail	77	Town of Log Lane Village	Medical and Retail	116	Town of Winter Park	Medical and Retail
39	Canon City	Medical and Retail	78	City of Longmont	Retail Only			

## **Section 3: Marijuana in the State Budget**

### **Marijuana-Related Cash Funds**

The General Assembly has established three marijuana-related cash funds where marijuana-related fee revenue and a percentage of marijuana tax revenue are deposited.

**Medical Marijuana Program Cash Fund.** All medical marijuana program-related fees collected by the CDPHE are deposited into the Medical Marijuana Program Cash Fund. The moneys in this cash fund are subject to annual appropriation by the General Assembly to the CDPHE for the purpose of establishing, operating, and maintaining the medical marijuana program.<sup>62</sup>

**Marijuana Cash Fund.** All fees and other moneys collected by the Department of Revenue pursuant to the Regulated Marijuana Code are deposited into the Marijuana Cash Fund. The moneys in this cash fund are subject to annual appropriation by the General Assembly to the Department of Revenue for the direct and indirect costs associated with implementing the Regulated Marijuana Code and collecting taxes on marijuana and marijuana products as outlined in Article 28.8 of Title 39, C.R.S.<sup>63</sup>

**Marijuana Tax Cash Fund.** Tax revenue collected from the regular state sales tax on medical marijuana and non-marijuana retail product sales and a portion of the tax revenue collected from the special sales tax on retail marijuana sales is deposited into the Marijuana Tax Cash Fund. Beginning in FY 2020-21, Marijuana Tax Cash Fund revenues may be appropriated by the General Assembly in the same year in which they are collected, whereas previously these revenues were generally limited to being appropriated in fiscal years following the year of collection.<sup>64</sup>

The General Assembly has identified specific purposes toward which moneys from the Marijuana Tax Cash Fund may be appropriated:

- to educate people about marijuana to prevent its illegal use or legal abuse;
- to provide services for adolescents and school-aged children in school settings or through community-based organizations;
- to treat and provide related services to people with any type of substance use or mental health disorder, including those with co-occurring disorders, or to evaluate the effectiveness and sufficiency of behavioral health services;
- for jail-based and other behavioral health services for persons involved in or diverted from the criminal justice system;
- for state regulatory enforcement, policy coordination, or litigation defense costs related to retail or medical marijuana;
- for law enforcement and law enforcement training, including any expenses for the Police Officers Standards and Training Board training or certification;
- for the promotion of public health, including poison control, prescription drug take-back programs, the creation of a marijuana laboratory testing reference library, and other public health services related to controlled substances;

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<sup>62</sup>Section 25-1.5-106 (16) and (17), C.R.S.

<sup>63</sup>Section 44-10-801, C.R.S.

<sup>64</sup>Section 39-28.8-501, C.R.S.



- to study the use of marijuana and other drugs, their health effects, and other social impacts related to them;
- to research, regulate, study, and test industrial hemp or hemp seeds;
- for the start-up expenses of the Division of Financial Services related to the regulation of Marijuana Financial Services Cooperatives, until the state Commission of Financial Services first collects assessments on such cooperatives;
- for the Colorado Veterans' Service-to-Career Program;
- for the expenses of the Department of Education and the Department of Public Health and Environment in developing and maintaining the resource bank for educational materials on marijuana and providing related technical assistance;
- for housing, rental assistance, and supportive services, including reentry services;
- for the development of local dually identified crossover youth plans and services;
- for comprehensive quality physical education instruction;
- to fund the law enforcement, public safety, and criminal justice information sharing grant program; and
- for the disability benefits application assistance program.

## Taxes on Marijuana

Three unique taxes apply differently to medical and retail marijuana. The state's 2.9 percent sales tax applies to medical marijuana only, and revenue from this tax is subject to the state's constitutional spending limit (TABOR).<sup>65</sup> Retail marijuana is subject to an excise tax of 15 percent and a special sales tax of 15 percent; these taxes are exempt from TABOR as voter-approved revenue increases. Figure 2 summarizes the taxes that apply to each type of marijuana.

**Figure 2**  
**Colorado Marijuana Taxes**

	Medical Marijuana	Retail Marijuana
State Sales Tax (2.9%)	✓	
Special Sales Tax (15.0%)		✓
Excise Tax (15.0%)		✓

*Note: Prior to July 1, 2017, retail marijuana was subject to the 2.9% sales tax and the excise tax rate was 10%.*

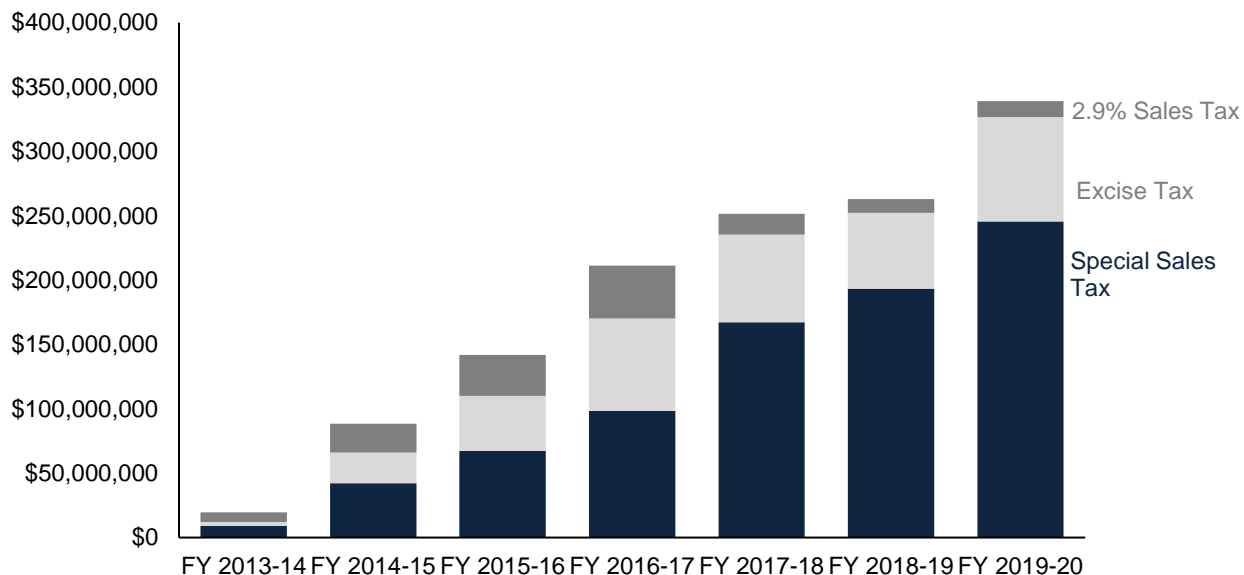
<sup>65</sup>Colo. Const. art. X, § 20.

## Marijuana Tax Collections

Colorado has collected approximately \$1.3 billion in tax revenue from the marijuana industry between January 1, 2014, when regulated adult-use marijuana sales began, and June 2020. As shown in Figure 3, total marijuana tax revenue has increased from \$19.5 million in FY 2013-14 to \$338.9 million in FY 2019-20. Revenue collections in FY 2013-14 represent six months of tax collections as marijuana sales started half-way through the fiscal year. The special sales tax is the largest source of revenue from the marijuana industry, accounting for 72.4 percent of total marijuana tax revenue in FY 2019-20. The excise tax accounted for 23.9 percent, and the 2.9 percent sales tax accounted for 3.6 percent of the tax revenue from the marijuana industry in FY 2019-20.

Starting in FY 2017-18, the taxation of adult-use marijuana changed as part of a broader bill that affected many parts of the state budget.<sup>66</sup> The special sales tax increased from 10 percent to 15 percent and adult-use marijuana was exempted from the state’s 2.9 percent sales tax.

**Figure 3**  
**Colorado Marijuana Tax Revenue**



Source: Colorado Department of Revenue.

## Marijuana Tax Revenue Distribution Formulas

Marijuana tax revenue is distributed to three state cash funds, the General Fund, and local governments that allow the sale of retail marijuana. Marijuana tax revenue is distributed according to the following formulas:

**State sales tax – 2.9 percent.** All of the state sales tax revenue collected on sales of medical marijuana and on merchandise and non-marijuana products sold in retail marijuana stores is deposited in the Marijuana Tax Cash Fund.<sup>67</sup>

<sup>66</sup>[Senate Bill 17-267](#), Sustainability of Rural Colorado.

<sup>67</sup>Section 39-28.8-501 (1), C.R.S.

**Special sales tax on retail marijuana – 15 percent.** Revenue from the special sales tax is divided between state and local governments, with 90 percent of collections deposited into the state General Fund, and 10 percent of collections distributed to local governments.

Starting in FY 2018-19, the state’s share, initially deposited in the state General Fund, has the following distribution:<sup>68</sup>

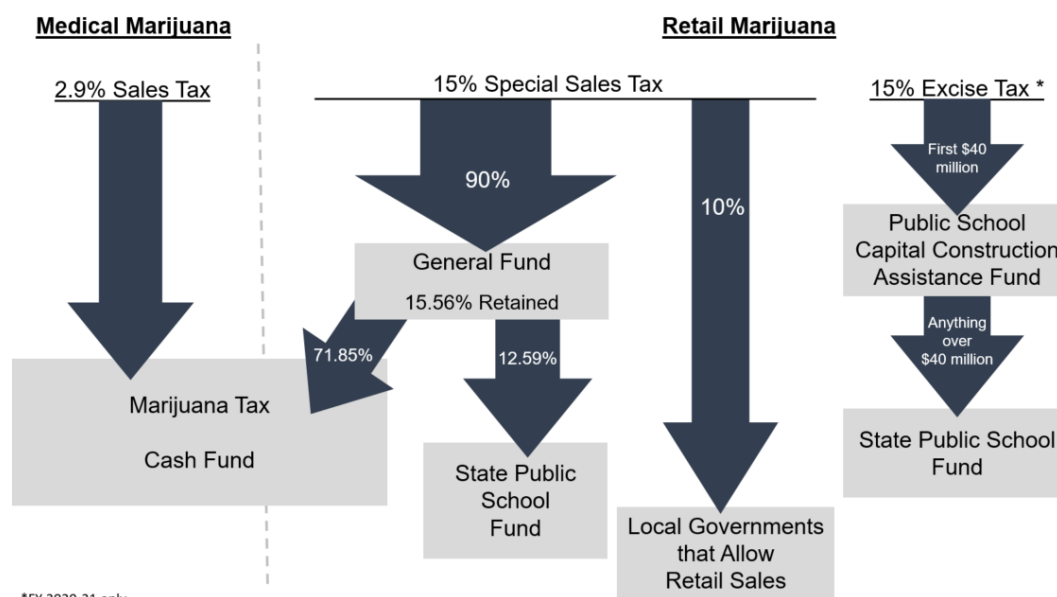
- 15.56 percent is retained in the General Fund;
- 12.59 percent is deposited into the State Public School Fund; and
- 71.85 percent is deposited into the Marijuana Tax Cash Fund.

The 10 percent share to local governments is distributed in proportion to the geographic location of retail marijuana sales.<sup>69</sup>

**Excise tax on retail marijuana – 15 percent.** The constitution dedicates the first \$40 million in excise tax revenue to school construction.<sup>70</sup> For FY 2020-21 only, HB 20-1418 diverts all excise tax above the first \$40 million to the State Public School Fund.

Figure 4 illustrates the distribution of marijuana tax revenue.

**Figure 4**  
**Distribution of Marijuana Tax Revenue**  
*FY 2020-21*



Source: Article 28.8 of Title 39, C.R.S.

<sup>68</sup>Section 39-28.8-203, (1)(b)(I.5), C.R.S.

<sup>69</sup>Section 39-28.8-203, (1)(a)(I), C.R.S.

<sup>70</sup>Colo. Const. art. XVIII, §16 (5)(d).



## Use of Marijuana Tax Revenue

Marijuana tax revenue is deposited in four separate state funds and distributed to local governments that allow the sale of retail marijuana. Each of these funds has specific requirements on how marijuana tax revenue in the fund can be spent.

**Marijuana Tax Cash Fund.** Appropriations from the fund are limited to specific uses determined by the General Assembly, as detailed at the beginning of this section.<sup>71</sup> In FY 2020-21, \$121.6 million from the fund was appropriated to 14 state agencies.

**General Fund.** A portion of special sales tax revenue is retained in the state General Fund starting in FY 2017-18. In FY 2019-20, \$34.4 million was retained in the General Fund. The General Fund is used to fund most general government functions of the state.

**State Public School Fund.** State money used to finance the School Finance Act is deposited in the State Public School Fund. The State Public School Fund is used to pay the state's share of school funding and has been used for other educational purposes.

**Local governments.** The 10 percent local government share of retail marijuana tax revenue is distributed proportionally to where the sales occur, meaning only local governments that allow sales of retail marijuana receive a portion of the tax revenue. In FY 2019-20, the local government share of special sales tax revenue totaled \$24.5 million. Local governments are not limited in how they use their share of special sales tax revenue.

In addition to the local share of the state's special sales tax, local governments may collect their own tax revenue on the sale of marijuana. County and municipal sales taxes apply to retail and medical marijuana unless the local government specifically exempts them. Local governments may also levy a special sales tax or an excise tax on retail marijuana with voter approval.

**Public School Capital Construction Assistance Fund.** The primary use of the Public School Capital Construction Assistance fund is the Building Excellent Schools Today (BEST) Act, which was enacted by the legislature in 2008.<sup>72</sup> The Department of Education administers the BEST program, which provides public schools money for capital construction projects, with priority given to health and safety concerns, including new roofs and boilers, major renovations, and the construction of new schools. It is a competitive grant program available to all public school districts, charter schools, institute charter schools, boards of cooperative educational services, and the Colorado School for the Deaf and Blind. Grant applications are reviewed on a yearly cycle and recommended for funding by the Public School Capital Construction Assistance Board. The board consists of nine appointed members who, in conjunction with division staff, review all grant applications for the current fiscal year. The fund is also used for capital construction assistance to charter schools, and emergency grants for unanticipated events that threaten the health or safety of public school facilities.

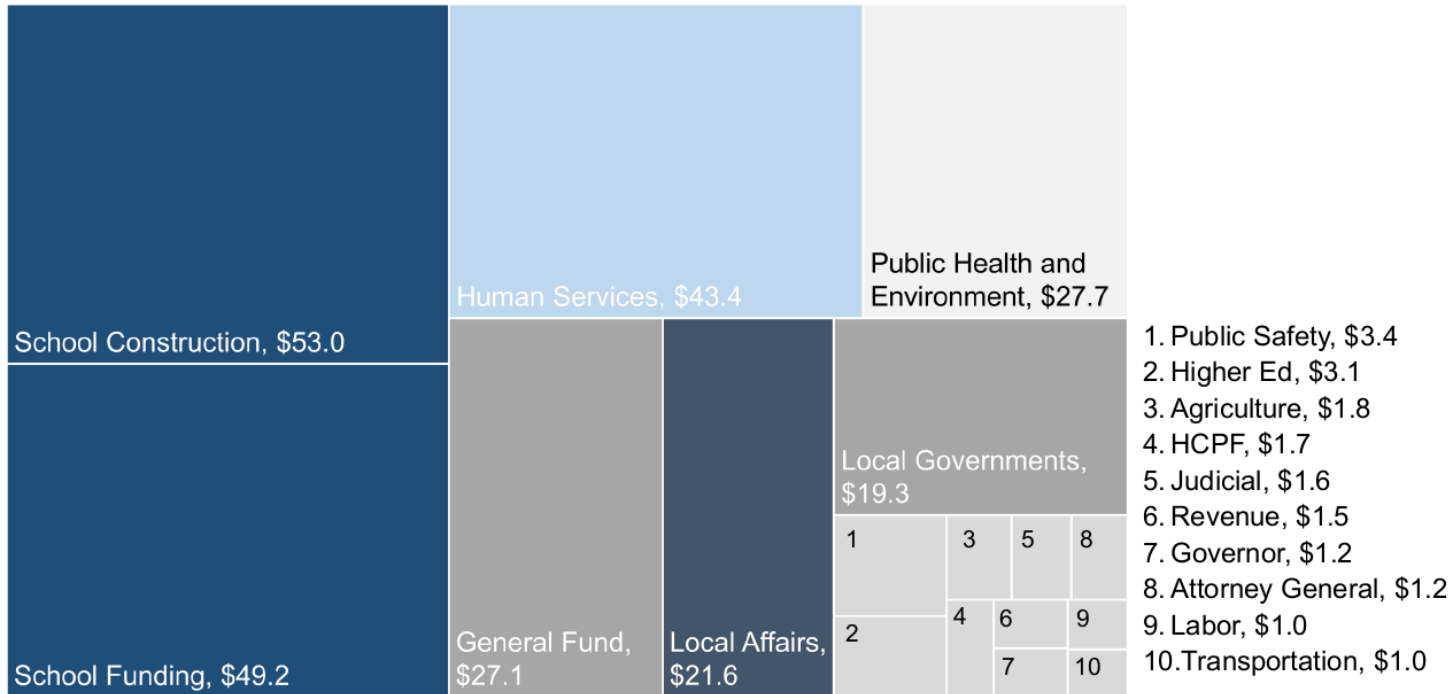
**Total distributions.** Figure 5 shows the uses of all marijuana revenue in FY 2018-19. Taking into account the statutory distributions and the MCTF appropriations, K-12 education received \$102.2 million for both school funding and school construction. This represents about 39.5 percent of expenditures of marijuana revenue.

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<sup>71</sup>Section 39-28.8-501 (2)(b)(IV), C.R.S.

<sup>72</sup>Section 22-43.7-101, *et seq.*, C.R.S.

**Figure 5**  
**Marijuana Revenue Distributions by Use**  
*FY 2018-19, Millions*



Sources: Colorado Joint Budget Committee Staff, Article 28.8 of Title 39, C.R.S.

## Section 4: Colorado Regulations

### Code of Colorado Regulations

**Department of Revenue.** State law requires the Department of Revenue to promulgate a variety of rules related to the cultivation, manufacture, distribution, sale, and testing of marijuana, including, but not limited to:

- licensure requirements, including a required fingerprint-based criminal history record check;
- the establishment of an independent testing and certification program for marijuana products;
- licensed premises security requirements, including lighting, physical security, video, and alarm requirements;
- underage sale prevention;
- labeling requirements, including warnings, amount of THC per serving, servings per package, universal marijuana symbol, and product potency;
- health and safety regulations;
- limitations on the display of retail marijuana and marijuana products;
- enforcement procedures;
- penalty schedule;
- rules specific to certain license types and investors; and
- a statewide license class system and fee structure.

Department of Revenue regulations related to marijuana may be found in the following sections of the code:

- 1 CCR 201-18. Department of Revenue Retail Marijuana Tax
- 1 CCR 212-3. Department of Revenue Marijuana Rules

**Department of Public Health and Environment.** CDPHE regulations related to medical marijuana and the medical marijuana registry may be found in the following sections of the code:

- 5 CCR 1006-2. Department of Public Health and Environment Medical Use of Marijuana

**Department of Agriculture.** Department of Agriculture regulations related to pesticides and marijuana may be found in the following sections of the code:

- 8 CCR 1203-26. Department of Agriculture Use of Pesticides in the Cultivation of Retail Marijuana

The Code of Colorado Regulations is available on the Secretary of State's website at: [www.sos.state.co.us/CCR](http://www.sos.state.co.us/CCR). The website includes rulemaking details for each state agency.

## Section 5: Federal Law and Jurisdictional Issues

Under the federal Controlled Substances Act, "marihuana" is designated as a Schedule I drug.<sup>73</sup> Drugs, substances, and chemicals with a Schedule I designation are considered to have a high potential for abuse, have no currently accepted medical use in treatment in the United States, and lack accepted safety for use of the drug under medical supervision.

**U.S. Department of Justice guidance.** Under the Obama administration, the Department of Justice established guidelines for states that had legalized marijuana that endeavored to minimize federal enforcement of the Controlled Substances Act as it related to marijuana, as long as states established certain regulatory and law enforcement systems.

- **The Ogden Memo.** In 2009, the Department of Justice announced formal guidelines for federal prosecutors in states that enacted laws authorizing the use of marijuana for medical purposes. The Ogden Memo, named for Deputy Attorney General David Ogden who issued it, put a low priority on prosecuting those who buy and sell marijuana for medicinal purposes and opened the door for medical marijuana businesses to begin operations throughout Colorado and other states with legalized medical marijuana.
- **The Cole memos.** Deputy Attorney General James Cole released clarifications to the Ogden Memo to provide further guidance to states regarding federal enforcement. The first, in 2011, stated that the "Ogden Memorandum was never intended to shield such activities from federal enforcement action and prosecution, even where those activities purport to comply with state law."

Two years later, in what is known as the "Cole Memo," the Department of Justice again attempted to clarify how federal law enforcement would address legalized marijuana cultivation and use in Colorado and Washington State. The Cole Memo provided guidance to federal prosecutors for federal enforcement activity concerning marijuana and identified certain priorities, the violation of which could trigger federal enforcement action. The memo suggested that states that legalize marijuana implement strong regulatory structures to prevent the following:

- distribution of marijuana to minors;
- revenue from the sale of marijuana going to criminal enterprises, gangs, and cartels;
- the diversion of marijuana from states where it is legal under state law in some form to other states;
- state-authorized marijuana activity being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- violence and the use of firearms in the cultivation and distribution of marijuana;
- drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- marijuana possession or use on federal property.

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<sup>73</sup>21 U.S.C. § 812 (c).

Finally, in early 2014, a third memorandum from Deputy Attorney General Cole directed prosecutors to use the same regulatory priorities listed in the 2013 Cole Memo to determine whether to take federal legal action against financial services companies that attempted to provide banking services to marijuana businesses.

- **The Sessions Memo.** In January of 2018, Attorney General Jeff Sessions rescinded all previous guidance regarding marijuana enforcement. The Sessions Memo directs federal prosecutors to use their own discretion in enforcing federal law in states where marijuana is legal for recreational or medical purposes.

**Banking.** According to the U.S. Treasury Department, nearly 400 banks and credit unions serve the marijuana industry nationwide. Because marijuana is illegal at the federal level, banks are at risk of federal action in response to a number of federal laws, including the Controlled Substances Act, Bank Secrecy Act, Anti-Money Laundering law, and the Know Your Customer doctrine.

The Financial Crimes Enforcement Network (FinCEN) in the U.S. Department of the Treasury oversees and implements policies to prevent and detect money laundering. In 2014, FinCEN issued guidance for financial institutions that provide services to marijuana-related businesses based on the priorities included in the now-rescinded Cole Memo. The guidance requires that financial institutions file suspicious activity reports (SARs) for marijuana businesses based on their compliance with state law and interference with Cole Memo priorities. Levels of SAR filings include:

- **Marijuana Limited SAR** – where a financial institution believes that a business is in compliance with state laws and is not interfering with any of the Cole Memo priorities;
- **Marijuana Priority SAR** – where a financial institution believes that a business is violating state law or interfering with one or more of the Cole Memo priorities; and
- **Marijuana Termination SAR** – where a financial institution deems it necessary to terminate its relationship with a business to maintain an effective anti-money laundering compliance program.

Banks that are willing to serve marijuana businesses can charge high fees to cover the additional monitoring required for those accounts. As of this writing, this guidance is still in effect but does not have the force of law, and the current administration can withdraw the guidance at any time.

**Taxing issues—Section 280E.** Section 280E of the Internal Revenue Code prohibits businesses from subtracting business expenses to calculate taxable income if the business consists of trafficking in controlled substances. Because marijuana is a Schedule I controlled substance, the federal Internal Revenue Service applies this section to legal marijuana businesses. Congress created section 280E in 1982 to prevent drug dealers from deducting business expenses from their income trafficking controlled substances. Because of the application of 280E, marijuana businesses are subject to a significantly higher effective tax rate than similar non-marijuana businesses. Colorado law allows marijuana businesses to deduct certain business expenses from their state income taxes that are disallowed on federal returns by Section 280E.

**Rohrabacher–Farr amendment.** Beginning in 2014, Congress has annually passed an amendment to various federal spending bills prohibiting the U.S. Department of Justice from using funds to interfere with state-legal medical marijuana programs. After the amendment’s initial passage in 2014, the U.S. Department of Justice interpreted the amendment to mean that only state officials were protected from investigation and prosecution. In 2015, a District Court decision ruled against the U.S. Department of Justice’s interpretation and indicated that the amendment protects all private individuals and entities involved in the use, distribution, possession, or cultivation of medical marijuana in states where it is legal.<sup>74</sup>

**Marijuana research.** Due to marijuana’s classification as a Schedule I controlled substance, scientific researchers are required to follow specific procedures outlined in federal laws and regulations in order to conduct research involving marijuana. This includes applying for and obtaining registration from a variety of federal agencies, including the Drug Enforcement Administration and the Food and Drug Administration.<sup>75</sup>

Marijuana used for scientific research must be obtained by a grower licensed by the Drug Enforcement Administration. Currently, the National Institute on Drug Abuse is the only entity licensed by the Drug Enforcement Administration as a marijuana grower. Researchers must apply with the institute to obtain marijuana for specific research purposes through its Drug Supply Program.

The National Institute on Drug Abuse currently contracts with the University of Mississippi to grow marijuana for use in research studies. Both entities are registered by the Drug Enforcement Administration under the U.S. Controlled Substances Act, which requires every person who manufactures or distributes any controlled substance, including marijuana, to be registered annually.<sup>76</sup> In August 2016, the Drug Enforcement Administration adopted a new policy indicating that additional marijuana growers may apply to become registered marijuana growers and suppliers of marijuana for research purposes.<sup>77</sup> On August 27, 2019, the Drug Enforcement Administration announced plans to approve additional marijuana growers for research purposes, and its intention to propose new regulations to govern those marijuana growers.<sup>78</sup> To date, the Drug Enforcement Administration has not released the proposed regulations or registered any additional growers.

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<sup>74</sup>*United States of America vs. Marin Alliance for Medical Marijuana*, No. 3:98-cv-00086 (Northern District of California, October 19, 2015).

<sup>75</sup>21 C.F.R. § 1301.18.

<sup>76</sup>21 U.S.C. § 822.

<sup>77</sup>Retrieved from: <http://federalregister.gov/a/2016-17955>.

<sup>78</sup>Retrieved from: <https://www.federalregister.gov/documents/2019/08/27/2019-18456/bulk-manufacturer-of-controlled-substances-applications-bulk-manufacturers-of-marihuana>.

## Section 6: Additional Resources

### Legislative Council Staff publications:

- Colorado Marijuana Personal Cultivation Laws, *Issue Brief*, June 2019:  
<http://leg.colorado.gov/publications/colorado-marijuana-personal-cultivation-laws>
- Marijuana Revenue in the State Budget, *Interested Persons Memorandum*, December 2019:  
<http://leg.colorado.gov/publications/marijuana-revenue-state-budget>
- Summary of Legislation, 2020: Liquor, Tobacco/Nicotine, and Marijuana:  
<http://leg.colorado.gov/publications/summary-liquor-tobacconicotine-and-marijuana-legislation-2020>

### Office of Legislative Legal Services publications:

- Retail Marijuana, August 2020:  
<http://leg.colorado.gov/sites/default/files/retail-marijuana.pdf>
- Medical Marijuana, August 2020:  
<http://leg.colorado.gov/sites/default/files/medical-marijuana.pdf>

### Joint Budget Committee Staff publications:

- Marijuana Policy Overview, FY 2021-22:  
[http://leg.colorado.gov/sites/default/files/fy2021-22\\_marbrf.pdf](http://leg.colorado.gov/sites/default/files/fy2021-22_marbrf.pdf)

### State of Colorado resources:

- Official state website on the laws and health effects of retail marijuana:  
[www.colorado.gov/marijuana](http://www.colorado.gov/marijuana)

**Appendix A**  
**Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
2000	<b>Amendment 20</b> Medical Use of Marijuana	<ul style="list-style-type: none"> <li>• Allowed patients diagnosed with a serious or chronic illness and their caregivers to legally grow and possess marijuana for medical purposes.</li> <li>• Defined debilitating medical conditions for which patients may use medical marijuana.</li> <li>• Established an affirmative defense for patients, physicians, and caregivers charged with violating marijuana laws.</li> <li>• Allowed a doctor to legally provide a seriously or chronically ill patient with a written statement that the patient might benefit from medical use of marijuana.</li> <li>• Directed the Department of Public Health and Environment to establish a confidential state registry of patients and their caregivers who are permitted to possess marijuana for medical purposes.</li> <li>• Established limits to the lawful use and possession of marijuana for medical purposes.</li> <li>• Prohibited the public use of medical marijuana.</li> <li>• Restricted medical use of marijuana to patients 18 and over except in certain circumstances.</li> <li>• Specified that an employer does not need to accommodate the use of medical marijuana in the workplace and that health insurance companies are not required to pay for medical marijuana.</li> </ul>
2001	<b>HB 01-1371</b> Restrictions on Medical Marijuana	<ul style="list-style-type: none"> <li>• Enacted Amendment 20.</li> <li>• Established penalties for fraudulent representation of a medical condition, use or production of counterfeit medical marijuana cards, or theft of marijuana cards.</li> <li>• Outlined requirements for medical marijuana cards.</li> <li>• Directed the Department of Public Health and Environment to promulgate rules regarding the addition of debilitating medical conditions.</li> </ul>
2010	<b>HB 10-1284</b> Medical Marijuana Regulations	<ul style="list-style-type: none"> <li>• Created the Medical Marijuana Code in state statute, which established the Medical Marijuana Enforcement Division in the Department of Revenue.</li> <li>• Directed the division to promulgate rules for the regulation and control of the cultivation, manufacture, distribution, and sale of medical marijuana.</li> <li>• Specified the responsibilities of state and local licensing authorities and identified individuals prohibited from holding a medical marijuana license.</li> <li>• Further defined caregiver and the patient caregiver relationship and imposed limitations on caregivers including the number of patients one can care for.</li> <li>• Created the Medical Marijuana Licensing Cash Fund.</li> <li>• Directed the Department of Regulatory Agencies to conduct a sunset review of the medical marijuana program prior to the program's repeal date of July 1, 2015.</li> </ul>
	<b>SB 10-109</b> Medical Marijuana Doctor Patient Relations	<ul style="list-style-type: none"> <li>• Addressed the role of physicians in certifying that an individual may benefit from medical marijuana and clarified the responsibilities of the Department of Public Health and Environment regarding the medical marijuana registry.</li> <li>• Defined bona fide physician-patient relationship for purposes of obtaining medical marijuana.</li> </ul>
2011	<b>HB 11-1043</b> Medical Marijuana	<ul style="list-style-type: none"> <li>• Extended the moratorium on new marijuana businesses until June 30, 2012, and narrowed the two-year residency requirement to owners.</li> <li>• Required marijuana testing.</li> </ul>



**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2011 (cont.)</b>	<b>HB 11-1043</b> Medical Marijuana (cont.)	<ul style="list-style-type: none"> <li>• Created provisions for the seizure and destruction of medical marijuana.</li> <li>• Limited medical marijuana-infused products manufacturers to 500 plants unless granted a waiver.</li> <li>• Required primary caregivers who cultivate medical marijuana for their patients to register their cultivation sites.</li> <li>• Allowed medical marijuana centers to sell at a reduced cost or donate medical marijuana to indigent patients and to sell up to six immature plants to a patient.</li> <li>• Allowed patients to purchase medical marijuana prior to receiving a registry card by presenting an application and photo identification in lieu of the registry card.</li> </ul>
	<b>HB 11-1250</b> No Medical Marijuana Ingestible Products	<ul style="list-style-type: none"> <li>• Required the Department of Revenue to promulgate rules requiring special packaging and labeling for medical marijuana-infused products.</li> <li>• Specifically required packaging to be significantly difficult for children under the age of five to open and to not allow the product to be seen through the packaging material.</li> </ul>
<b>2012</b>	<b>Amendment 64</b> Use and Regulation of Marijuana	<ul style="list-style-type: none"> <li>• Regulated the growth, manufacture, and sale of marijuana in a system of licensed establishments overseen by state and local governments.</li> <li>• Allowed individuals who are 21 years old or older to possess, use, display, purchase, transport, and transfer — to individuals who are 21 years old or older — one ounce of less of marijuana.</li> <li>• Allowed individuals who are 21 years old or older to possess, grow, process, and transport up to six marijuana plants, with certain restrictions.</li> <li>• Required the state legislature to enact an excise tax on marijuana sales, of which the first \$40 million in revenue raised annually is credited to a state fund used for constructing public schools; the excise tax was required to be approved by a separate statewide vote (see Proposition AA).</li> <li>• Required the state legislature to enact legislation concerning the growth, processing, and sale of industrial hemp.</li> </ul>
<b>2013</b>	<b>HB 13-1042</b> State Income Tax Deduction Disallowed by IRC 280E	<ul style="list-style-type: none"> <li>• Allowed state-licensed medical marijuana businesses to claim a state income tax deduction for business expenses that are otherwise eligible to be claimed as a federal income tax deduction but are disallowed by Section 280E of the Internal Revenue Code, such as rent and personnel costs.</li> <li>• Did not include retail marijuana businesses.</li> </ul>
	<b>HB 13-1061</b> Responsible Medical Marijuana Vendor	<ul style="list-style-type: none"> <li>• Created the Responsible Medical Marijuana Vendor Server and Seller Designation for licensed medical marijuana businesses, and set standards for a training program for achieving the designation.</li> </ul>
	<b>HB 13-1238</b> Transfer Funds for Medical Marijuana Enforcement	<ul style="list-style-type: none"> <li>• Allowed the Marijuana Enforcement Division to conditionally issue a license to a medical marijuana business prior to it being issued a local license on the condition that the business receives its local license within one year. If the local licensing authority denies an application, the conditional license expires and may not be renewed.</li> <li>• Applied only to medical marijuana businesses operating prior to July 1, 2010.</li> <li>• Required state and local licensing authorities to post on their websites annually about the number of medical marijuana applications received, licenses granted, applications denied or withdrawn, and results of enforcement efforts.</li> </ul>

**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2013 (cont.)</b>	<b>HB 13-1317</b> Implement Amendment 64 Majority Recommendation	<ul style="list-style-type: none"> <li>• Created the Retail Marijuana Code.</li> <li>• Renamed the Medical Marijuana Enforcement Division the Marijuana Enforcement Division and gave it the authority to regulate both medical and retail marijuana.</li> <li>• Created a regulatory system for retail marijuana under which existing medical marijuana businesses have the option to convert to retail or to operate both medical and retail businesses.</li> <li>• Required vertical integration of licensees until September 30, 2014, meaning that a retail marijuana store could only sell marijuana grown in its own retail marijuana cultivation facility, with some exceptions. Beginning October 1, 2014, a licensed retail marijuana store or products manufacturer could grow its marijuana at its own cultivation facility or purchase it from a facility with that does not share common ownership.</li> <li>• Required the Department of Public Health and Environment to provide the Marijuana Enforcement Division with standards for licensing the laboratories that will be responsible for the testing and certification of marijuana.</li> <li>• Made local licensing of retail marijuana businesses optional, but required applicants for licensure to comply with local restrictions on the time, place, manner, and number of retail marijuana businesses permitted.</li> <li>• Limited non-resident purchases to one quarter of an ounce in a single transaction.</li> </ul>
	<b>HB 13-1318</b> Retail Marijuana Taxes	<ul style="list-style-type: none"> <li>• Referred a ballot question, Proposition AA, to the voters at the 2013 general election for approval to levy excise and sales taxes on retail marijuana beginning January 1, 2014. (<i>See also Proposition AA</i>)</li> <li>• Required the Department of Revenue to set the average market rate of unprocessed retail marijuana twice a year.</li> <li>• Required retail marijuana businesses to keep detailed electronic records on all transactions of retail marijuana.</li> <li>• Allowed local governments to apply local sales taxes to retail marijuana in addition to the state sales tax.</li> <li>• Prohibited retail marijuana businesses from maintaining any portion of the retail marijuana sales tax to cover the expenses of collecting and remitting the tax.</li> <li>• Allowed the General Assembly to raise or lower the retail marijuana sales tax at any time through legislation, up to 15 percent.</li> <li>• Required that tax revenues be used for the enforcement of regulations on the retail marijuana industry and gave the Department of Revenue rulemaking authority over implementation of these taxes.</li> <li>• Required marijuana businesses to post a surety bond equal to two months of anticipated tax liability.</li> <li>• Subjected retail marijuana licensees that fail to remit sales and excise taxes, or unlicensed individuals who sell or transfer marijuana, to criminal penalties.</li> </ul>
	<b>HB 13-1325</b> Inferences for Marijuana and Driving Offenses	<ul style="list-style-type: none"> <li>• Created a permissible inference that a driver was under the influence of one or more drugs if their blood contains five nanograms or more of delta 9-tetrahydrocannabinol (THC) per milliliter in whole blood (5 ng/mL) at the time of the offense or within a reasonable time thereafter.</li> <li>• Prohibited a defendant's valid medical marijuana registry identification card from being used in a DUI or DWAI trial as part of the prosecution's case in chief. In addition, in a traffic stop, the driver's possession of a valid medical marijuana registry identification card must not, in the absence of other contributing factors, constitute probable cause for a peace officer to require the analysis of the driver's blood.</li> </ul>

**Appendix A (cont.)**  
**Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2013</b> <b>(cont.)</b>	<b>SB 13-250</b> Drug Sentencing Changes	<ul style="list-style-type: none"> <li>• Created a new sentencing grid for drug offenses and new options for drug offenders to avoid a felony conviction.</li> </ul>
	<b>SB 13-283</b> Implement Amendment 64 Consensus	<ul style="list-style-type: none"> <li>• Required the Commission on Criminal and Juvenile Justice to make recommendations to the General Assembly regarding criminal laws that need revision to ensure compatibility with Amendment 64.</li> <li>• Prohibited open containers of marijuana in motor vehicles.</li> <li>• Allowed for license revocation of certain care facilities if marijuana is consumed or cultivated onsite and prohibits marijuana at community residential homes or regional centers.</li> <li>• Allowed retail marijuana businesses to participate in a responsible vendor program.</li> <li>• Made marijuana subject to the same indoor air quality restrictions as tobacco products.</li> <li>• Encouraged the Peace Officer Standards and Training Board to include advanced roadside impairment driving enforcement training curriculum in the peace officer training academy.</li> <li>• Allowed retail marijuana stores to deduct certain business expenses from their state income taxes that are prohibited by federal tax law.</li> <li>• Authorized the Governor to designate state agencies to carry out other duties under the bill.</li> </ul>
	<b>Proposition AA</b> Retail Marijuana Taxes	<ul style="list-style-type: none"> <li>• Imposed a 15 percent state excise tax on the average wholesale price of retail marijuana when the product is first sold or transferred by a retail marijuana cultivation facility. Distributed excise tax collections to the Public School Capital Construction Assistance Fund (first \$40 million), and any amount remaining to the Marijuana Cash Fund.</li> <li>• Imposed an additional 10 percent state sales tax on retail marijuana and retail marijuana products to increase funding for the regulation and enforcement of the retail marijuana industry and to fund related health, education, and public safety costs.</li> <li>• Directed 15 percent of the revenue collected from the 10 percent state sales tax to cities and counties where retail marijuana sales occur.</li> <li>• Allowed the state legislature to increase or decrease the excise and sales taxes on retail marijuana so long as the rate of either tax does not exceed 15 percent.</li> </ul>
<b>2014</b>	<b>HB 14-1122</b> Keep Legal Marijuana from Those Under 21	<ul style="list-style-type: none"> <li>• Required medical marijuana be sold in a package or container meeting requirements established by the Marijuana Enforcement Division.</li> <li>• Allowed a retail marijuana store owner or employee to confiscate fraudulent proof of age from a person under 21 years of age attempting to purchase retail marijuana; the owner or employee may also detain and question the person.</li> <li>• Changes the classification of the crime for selling, or permitting the sale of, retail marijuana to a person under 21 years of age from a class 2 to a class 1 misdemeanor.</li> <li>• Specified the enclosure and locked space requirements for cultivation of marijuana in a residence where a person under 21 years of age lives or visits.</li> </ul>

**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2014 (cont.)</b>	<b>HB 14-1229</b> Retail Marijuana Fingerprint Check Local Authority	<ul style="list-style-type: none"> <li>• Conformed retail marijuana licensing law with medical marijuana law by allowing a local jurisdiction to submit fingerprints to the Colorado Bureau of Investigation in the Department of Public Safety for the purpose of conducting fingerprint-based criminal history record checks for an individual applying for a retail marijuana establishment license. If the individual's fingerprints are unclassifiable, the local jurisdiction may acquire a name-based criminal history check.</li> </ul>
	<b>HB 14-1361</b> Regulation of Marijuana Concentrates	<ul style="list-style-type: none"> <li>• Required the Department of Revenue to promulgate rules establishing the equivalency of one ounce of retail marijuana flower in various retail marijuana products including retail marijuana concentrate.</li> <li>• Permitted a contract for a scientific study to determine such equivalency.</li> <li>• Clarified that a retail marijuana store may not sell more than one ounce of retail marijuana or its equivalent to a resident and not more than a quarter ounce of retail marijuana or its equivalent to a non-resident.</li> </ul>
	<b>HB 14-1366</b> Sale of Edible Marijuana Products	<ul style="list-style-type: none"> <li>• Required the Department of Revenue to promulgate rules requiring edible retail marijuana products be clearly identified, when practicable, with a standard symbol indicating that it contains marijuana and is not for consumption by children.</li> <li>• Required the convening of a stakeholders group to develop recommendations for the rules on standard labeling for edible retail marijuana products, which reported to the General Assembly.</li> </ul>
	<b>HB 14-1396</b> Medical Pot Registry Access Health Department Contractors	<ul style="list-style-type: none"> <li>• Clarified that independent contractors and other agencies with whom the Department of Public Health and Environment contracts or works with under an intergovernmental agreement to provide medical marijuana program registry-related services are included in the constitutional definition of "authorized employees of the state health agency."</li> <li>• Clarified the bona fide doctor-patient relationship definition.</li> <li>• Clarified that primary caregivers may only provide marijuana to those who are registered with the caregiver in the registry.</li> </ul>
	<b>HB 14-1398</b> Authorize Marijuana Financial Service	<ul style="list-style-type: none"> <li>• Conditional on approval from the Federal Reserve System Board, allowed for the creation and regulation of marijuana financial services cooperatives, referred to as "cannabis credit co-ops" or CCCs, with a membership restricted to licensed marijuana businesses able to document the inability to get comparable services from a bank or credit union.</li> <li>• Authorized the Division of Financial Services in the Department of Regulatory Agencies to regulate CCCs in a manner similar to credit unions.</li> </ul>
	<b>SB 14-129</b> Marijuana Criminal Provision Clean Up	<ul style="list-style-type: none"> <li>• Modified criminal provisions related to marijuana, including underage possession and consumption offenses; sealing of records; and open marijuana container violations.</li> <li>• Encouraged the Peace Officer Standards and Training Board to offer an advanced roadside impaired driving enforcement training course.</li> </ul>
	<b>SB 14-155</b> Medical Marijuana Health Effects Grant Program	<ul style="list-style-type: none"> <li>• Created the Medical Marijuana Health Effects Grant Program, with up to \$10 million available for grants, to fund scientific research on the use of marijuana, its component parts, and industrial hemp as part of medical treatment.</li> </ul>

**Appendix A (cont.)**  
**Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2014</b> <b>(cont.)</b>	<b>SB 14-155</b> Medical Marijuana Health Effects Grant Program (cont.)	<ul style="list-style-type: none"> <li>• Created a scientific advisory council of at least 6, but no more than 12, members to be appointed to provide policy guidance and scientific oversight and review to the program.</li> </ul>
	<b>SB 14-215</b> Disposition of Legal Marijuana Related Revenue	<ul style="list-style-type: none"> <li>• Created the Marijuana Tax Cash Fund for tax revenue collected in connection with the retail marijuana industry.</li> <li>• Required that money not appropriated to fund administration may be appropriated based on the most recent estimate of revenue prepared by the staff of the Legislative Council or the Department of Revenue.</li> <li>• Identified the purposes for which moneys may be appropriated from the fund.</li> <li>• Created the Office of Marijuana Coordination in the Office of the Governor to coordinate executive department information related to regulation, public health, economics, and safety of retail marijuana.</li> <li>• Directed the Department of Public Health and Environment to integrate information from each state agency involved in providing retail marijuana information to align the messaging, branding, and education.</li> <li>• Required the Department of Public Health and Environment to provide data, training, educational materials, and resources on effective prevention strategies to local community coalitions and marijuana prevention programs, and to evaluate the success of its education efforts.</li> </ul>
<b>2015</b>	<b>HB 15-1267</b> Use of Medical Marijuana During Probation	<ul style="list-style-type: none"> <li>• Made an exception to probation conditions to allow a person on probation to possess and use medical marijuana, unless the person was convicted of an offense related to medical marijuana or the court determined such a prohibition was necessary.</li> </ul>
	<b>HB 15-1283</b> Marijuana Reference Library and Lab Testing	<ul style="list-style-type: none"> <li>• Required the Department of Public Health and Environment to develop and maintain a marijuana laboratory testing reference library. The reference library must contain methodologies for marijuana testing in the areas of potency, homogeneity, contaminants, and solvents.</li> <li>• Made the Department of Public Health and Environment, or its designated contractor, responsible for proficiency testing and remediating problems with medical and retail marijuana laboratories.</li> <li>• Expanded the potency testing to include creating process validation for edible and other marijuana products in multi-serving packages.</li> <li>• Exempted individual marijuana pieces that have gone through process validation and permitted process validation from continued homogeneity testing.</li> <li>• Required the Department of Public Health and Environment to determine an acceptable range in variance for potency.</li> </ul>
	<b>HB 15-1305</b> Unlawful Manufacture Marijuana Concentrate	<ul style="list-style-type: none"> <li>• Made it a level 2 drug felony for an unlicensed person to manufacture marijuana concentrate or permit its manufacture using an inherently hazardous substance.</li> </ul>
	<b>HB 15-1367</b> Retail Marijuana Taxes	<ul style="list-style-type: none"> <li>• Referred a ballot question, Proposition BB, to the voters at the 2015 general election requesting that the state be permitted to retain and spend excess taxes collected under Proposition AA. <i>See also Proposition BB.</i></li> </ul>

**Appendix A (cont.)**  
**Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2015</b> <b>(cont.)</b>	<b>HB 15-1379</b> Marijuana Permitted Economic Interest	<ul style="list-style-type: none"> <li>• Allowed nonresidents to hold a permitted economic interest in a regulated medical or retail marijuana business.</li> <li>• Clarified that only a natural person who is a lawful U.S. resident may obtain an ownership interest and that the interest is limited to an unsecured debt instrument, option agreement, warrant, or any other right to obtain an ownership interest.</li> </ul>
	<b>HB 15-1387</b> End Transfer of Medical Marijuana to Retail Marijuana	<ul style="list-style-type: none"> <li>• Ended the practice of transferring medical marijuana inventory to a retail marijuana establishment when a retail marijuana licensee surrendered his or her existing medical marijuana license.</li> <li>• Allowed only the transfer of medical marijuana inventory from a medical to a retail marijuana cultivation facility after July 1, 2016.</li> </ul>
	<b>SB 15-014</b> Medical Marijuana	<ul style="list-style-type: none"> <li>• Required the Colorado Medical Board to adopt rules and establish guidelines for physicians making medical marijuana recommendations for patients suffering from severe pain.</li> <li>• Required the Department of Public Health and Environment to establish guidelines for physicians to help provide informed consent to medical marijuana patients.</li> <li>• Specified the relationships with a patient required for a primary caregiver and required caregivers to register with the Marijuana Enforcement Division.</li> <li>• Created an exception for students to use medical marijuana at school if a school district adopts a policy authorizing the student’s parent or a medical professional to assist the student with the administration of medical marijuana in an appropriate location on school grounds, a school bus, or at a school-sponsored event.</li> </ul>
	<b>SB 15-065</b> Ban Public Benefit Transfers at Certain Establishments	<ul style="list-style-type: none"> <li>• Prohibited recipients of public benefits from using electronic benefit transfer cards at adult-oriented entertainment and licensed marijuana establishments.</li> </ul>
	<b>SB 15-115</b> Sunset Medical Marijuana Programs	<ul style="list-style-type: none"> <li>• Continued the Medical Marijuana Code from July 1, 2015, to September 1, 2019, aligning with the sunset date of the medical marijuana program administered by the Department of Public Health and Environment.</li> <li>• Harmonized certain provisions in the Medical and Retail Marijuana Codes.</li> <li>• Significant changes to the Medical Marijuana Code included: prohibiting a state licensing authority employee from working in or for the marijuana industry for six months after leaving the state; requiring a seed-to-sale tracking system; and repealing the hours during which medical marijuana centers can sell medical marijuana and authorizing the Department of Revenue to set the hours in rule.</li> </ul>
	<b>SB 15-167</b> Modify 2014-15 Appropriation from Marijuana Revenue	<ul style="list-style-type: none"> <li>• Balanced appropriations for programs funded with retail marijuana tax revenue for FY 2014-15 only.</li> </ul>
	<b>SB 15-249</b> Marijuana Tax Cash Fund Transfer to General Fund	<ul style="list-style-type: none"> <li>• Increased the end-of-year transfer from Marijuana Tax Cash Fund to the General Fund for FY 2014-15 only.</li> </ul>

**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2015 (cont.)</b>	<b>SB 15-260</b> Medical Marijuana Testing Product	<ul style="list-style-type: none"> <li>Authorized the creation of a medical marijuana testing facility license and required that medical marijuana and medical marijuana-infused products be tested. Mandatory testing cannot begin until a marijuana laboratory testing reference library is created.</li> </ul>
	<b>Proposition BB</b> Retain Revenue in Excess of Blue Book Estimate	<ul style="list-style-type: none"> <li>Allowed the state to retain and spend \$66.1 million rather than refund it to taxpayers. The refund obligation was a result of Proposition AA, where the ballot information guide underestimated the total state revenue amount for FY 2014-15. Under the state Taxpayer’s Bill of Rights, if voters approve a new tax and an estimate of state revenue or new taxes is exceeded, the state must refund the excess up to the amount of revenue collected from the new tax.</li> </ul>
<b>2016</b>	<b>HB 16-1041</b> Repeal Bonding Requirement Marijuana	<ul style="list-style-type: none"> <li>Repealed the surety bond required of licensed medical marijuana businesses, retail marijuana establishments, and retail marijuana cultivation facilities, as these bonds were unavailable to the industry.</li> </ul>
	<b>HB 16-1064</b> Medical Marijuana Testing Facility Local Licensing	<ul style="list-style-type: none"> <li>Allowed a local medical marijuana licensing authority to issue medical marijuana testing facility licenses.</li> </ul>
	<b>HB 16-1211</b> Marijuana Transporter License	<ul style="list-style-type: none"> <li>Created state medical and retail marijuana transporter licenses and allowed for the issuance of a local medical marijuana transporter license.</li> </ul>
	<b>HB 16-1261</b> Retail Marijuana Sunset	<ul style="list-style-type: none"> <li>Continued the Retail Marijuana Code until September 1, 2019.</li> <li>Made changes regarding licensing, rulemaking, industry operations, county-initiated ballot measures, and criminal provisions.</li> <li>Created a license for retail marijuana establishment operators.</li> <li>Repealed the requirement that a license application be denied based on a previous denial at the same location.</li> <li>Harmonized mandatory testing provisions for retail marijuana with those in the Medical Marijuana Code.</li> <li>Allowed a licensee the opportunity to remediate a product that has tested positive for a microbial.</li> <li>Allowed for performance-based incentives for employees of cultivation facilities and products manufacturers.</li> <li>Repealed the one-quarter ounce limitation on the amount of retail marijuana that can be sold to a nonresident.</li> <li>Required that a display case containing marijuana concentrate include the potency of the concentrate next to the name of the product.</li> </ul>
	<b>HB 16-1359</b> Use of Medical Marijuana While on Probation	<ul style="list-style-type: none"> <li>Required the court to use material evidence rather than a substance abuse assessment when it is deciding whether a person can use medical marijuana while on probation.</li> </ul>



**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2016 (cont.)</b>	<b>HB 16-1363</b> Medical Marijuana Advertising Rulemaking Authority	<ul style="list-style-type: none"> <li>• Authorized the division to promulgate rules related to medical marijuana advertising that is likely to reach underage persons.</li> </ul>
	<b>HB 16-1373</b> Student Medical Marijuana Use at School	<ul style="list-style-type: none"> <li>• Repealed the authorization for school districts to adopt a medical marijuana policy, and instead allowed a primary caregiver to possess and administer, in a non-smokeable form, medical marijuana to a student on school property.</li> <li>• Allowed a school district board of education or charter school board to adopt policies regarding who may act as a primary caregiver, and the reasonable parameters for the administration and use of medical marijuana on school property.</li> <li>• Made an exception for a school district or charter school board if the district or school risks losing federal funding as a result of complying with the bill.</li> <li>• Prohibited school districts and charter schools from denying a student who holds a valid recommendation for medical marijuana the eligibility to attend school.</li> </ul>
	<b>HB 16-1408</b> Cash Fund Allocations for Health-Related Programs	<ul style="list-style-type: none"> <li>• Among several other allocations for health-related programs, backfilled Tobacco Master Settlement Agreement Program funding with Marijuana Tax Cash Fund dollars.</li> </ul>
	<b>HB 16-1418</b> Marijuana Tax Cash Fund Transfer to General Fund	<ul style="list-style-type: none"> <li>• Transferred money from the Marijuana Tax Cash Fund to the General Fund and eliminated transfers in further fiscal years that would have paid back the General Fund for money in the Proposition AA refund account.</li> </ul>
	<b>HB 16-1427</b> Multi-Serving Liquid Marijuana Products	<ul style="list-style-type: none"> <li>• Exempted multi-serving liquid retail marijuana products from the edible retail marijuana labeling requirement if the product complies with all statutory and regulatory packaging requirements for multi-serving edibles. Other products must be marked with a standard symbol indicating that the product contains marijuana and is not for consumption by children.</li> </ul>
	<b>HB 16-1436</b> No Edible Marijuana Products Shaped to Entice Kids	<ul style="list-style-type: none"> <li>• Required the Marijuana Enforcement Division to promulgate rules to prohibit the production and sale of edible marijuana-infused products shaped like a human, an animal, or fruit.</li> </ul>
	<b>SB 16-015</b> Rules for Allowed Marijuana Pesticides	<ul style="list-style-type: none"> <li>• Required the Department of Agriculture to create a list of allowable pesticides for use in the cultivation or processing of retail marijuana.</li> </ul>
	<b>SB 16-040</b> Marijuana Owner Changes	<ul style="list-style-type: none"> <li>• Repealed the two-year residency requirement for owners of medical and retail marijuana businesses and replaced the definition of owner with definitions of direct beneficial interest owner and indirect beneficial interest owner.</li> <li>• Allowed qualified institutional investors to own up to 30 percent of a medical or a retail marijuana business.</li> <li>• Precluded publicly traded companies from ownership.</li> </ul>



**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2016 (cont.)</b>	<b>SB 16-041</b> CDPS Data on Law Enforcement Marijuana	<ul style="list-style-type: none"> <li>• Repealed the requirement that the Department of Public Safety study enforcement costs related to the implementation of Amendment 64.</li> <li>• Added a requirement that the department report on marijuana-initiated contacts by law enforcement.</li> </ul>
	<b>SB 16-080</b> Marijuana Grows Enclosed Space Requirements	<ul style="list-style-type: none"> <li>• Removed an exemption from certain offenses relating to marijuana and marijuana concentrate provided for lawfully cultivated medical marijuana. Residential growers of medical marijuana will be subject to the same requirements as other growers unless they are cultivating in an enclosed and locked space.</li> </ul>
	<b>SB 16-090</b> Marijuana Health Effects Data Regional Level	<ul style="list-style-type: none"> <li>• Modified current reporting requirements to allow the Department of Public Health and Environment to report data on changes in marijuana use patterns at a county or regional level as determined by the department.</li> </ul>
	<b>SB 16-191</b> Marijuana Research Marijuana Tax Cash Fund	<ul style="list-style-type: none"> <li>• Appropriated Marijuana Tax Cash Fund money to fund scientific and social science research on marijuana at Colorado State University–Pueblo and to continue marijuana implementation study research by the Department of Public Safety.</li> </ul>
	<b>SB 16-202</b> Increasing Access Effective Substance Use Services	<ul style="list-style-type: none"> <li>• Allowed appropriations from the Marijuana Tax Cash Fund to support the implementation of managed service organizations that provide substance use treatment for designated regions of the state.</li> </ul>
<b>2017</b>	<b>HB 17-1034</b> Medical Marijuana License Issues	<ul style="list-style-type: none"> <li>• Created a medical marijuana business operator license.</li> <li>• Allowed medical marijuana licensees to relocate anywhere in Colorado, once permission is granted by the state and local licensing authorities.</li> <li>• Allowed medical marijuana-infused products manufacturers to buy from and sell to other medical marijuana-infused products manufacturers.</li> <li>• Required the division to give a licensee an opportunity to remediate a product if a test indicates the presence of a microbial in the product.</li> </ul>
	<b>HB 17-1197</b> Exclude Marijuana from Farm Products Definition	<ul style="list-style-type: none"> <li>• Excluded marijuana from the definition of farm products in the Colorado Farm Products Act, exempting marijuana businesses from the agricultural product licensing and bonding requirements.</li> </ul>
	<b>HB 17-1203</b> Local Government Special Sales Tax on Retail Marijuana	<ul style="list-style-type: none"> <li>• Authorized counties and statutory cities to collect voter-approved special sales taxes on retail marijuana.</li> </ul>
	<b>HB 17-1220</b> Prevent Marijuana Diversion to Illegal Market	<ul style="list-style-type: none"> <li>• Limited to 12 the total number of medical or recreational use marijuana plants that can be possessed or grown on a residential property.</li> <li>• If authorized by local law, and with a 24-plant count exception, allowed a medical marijuana patient or primary caregiver to cultivate, grow, or produce up to 24 plants. Violations are subject to criminal penalties.</li> </ul>

**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2017 (cont.)</b>	<b>HB 17-1221</b> Grey and Black Market Marijuana Enforcement Efforts	<ul style="list-style-type: none"> <li>Created the Gray and Black Market Marijuana Enforcement Grant Program in the Department of Local Affairs; and created an offense for a person who is not a primary caregiver for possessing a marijuana plant that he or she is growing on behalf of another person.</li> </ul>
	<b>HB 17-1266</b> Seal Misdemeanor Marijuana Conviction	<ul style="list-style-type: none"> <li>Allowed defendants convicted of a misdemeanor offense for the use or possession of marijuana to petition to seal their criminal records if their offense would not have been a crime if committed on or after December 10, 2012.</li> </ul>
	<b>HB 17-1295</b> Repeal Governor’s Office of Marijuana Coordination	<ul style="list-style-type: none"> <li>Repealed the Office of Marijuana Coordination, effective July 1, 2017.</li> </ul>
	<b>HB 17-1367</b> Authorize Marijuana Clinical Research	<ul style="list-style-type: none"> <li>Created two research licenses in the Medical Marijuana Code.</li> <li>Allowed for up to 1 percent of the available money in the Marijuana Tax Cash Fund to be used for medical marijuana health research grants.</li> <li>Allowed for the transfer of medical and retail marijuana to a medical research facility or pesticide manufacturer for research.</li> <li>Required that marijuana testing labs be certified by the Department of Public Health and Environment and the International Organization for Standardization–International Electrotechnical Commission.</li> </ul>
	<b>SB 17-015</b> Unlawful Marijuana Advertising	<ul style="list-style-type: none"> <li>Created a level 2 drug misdemeanor for attempting to sell marijuana or marijuana concentrate by placing an advertisement in print or online.</li> <li>Exempted a primary caregiver who advertises to prospective clients.</li> </ul>
	<b>SB 17-017</b> Allow Medical Marijuana Use for Stress Disorders	<ul style="list-style-type: none"> <li>Created a statutory right for a patient with post-traumatic stress disorder to use medical marijuana.</li> <li>Specified conditions for the use of medical marijuana by a patient under 18 years of age diagnosed with post-traumatic stress disorder.</li> </ul>
	<b>SB 17-025</b> Marijuana Education Materials Resource Bank	<ul style="list-style-type: none"> <li>Required the Department of Education, with assistance from the Department of Public Health and Environment and the Marijuana Educational Oversight Committee, to create and maintain a resource bank of materials and curricula related to marijuana available free of charge to school districts, charter schools, and Boards of Cooperative Educational Services.</li> </ul>
	<b>SB 17-178</b> Marijuana Use as a Condition of Bond	<ul style="list-style-type: none"> <li>Prohibited a court from requiring, as a condition of any bond, that a person who possesses a valid registry identification card abstain from using medical marijuana.</li> </ul>
	<b>SB 17-187</b> Residency Exemption Marijuana Education-based Occupation	<ul style="list-style-type: none"> <li>Allowed the Marijuana Enforcement Division to exempt someone participating in a marijuana-based education program from the medical or retail marijuana occupational license residency requirement for up to two years.</li> </ul>

**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2017 (cont.)</b>	<b>SB 17-192</b> Marijuana Business Efficiency Measures	<ul style="list-style-type: none"> <li>• Created a local medical marijuana business operator license.</li> <li>• Made changes to the process and provisions for calculating excise taxes on retail marijuana.</li> <li>• Allowed a retail marijuana licensee to retest a product if an initial test indicates the presence of any substance determined to be injurious to health.</li> </ul>
	<b>SB 17-267</b> Sustainability of Rural Colorado	<ul style="list-style-type: none"> <li>• Exempted retail marijuana from the 2.9 percent state sales tax.</li> <li>• Raised the rate of the special sales tax on retail marijuana to 15 percent and adjusted the distribution so that the state receives 90 percent and local governments receive 10 percent of the revenue.</li> <li>• Appropriated certain marijuana tax revenue to the Department of Education for disbursement to schools in rural and small rural school districts.</li> </ul>
<b>2018</b>	<b>HB 18-1023</b> Relocate Title 12 Marijuana to New Title	<ul style="list-style-type: none"> <li>• Relocated the statutes regulating medical and retail marijuana and the Marijuana Enforcement Division in the Department of Revenue from Title 12 to a newly created Title 44 of the Colorado Revised Statutes.</li> </ul>
	<b>HB 18-1101</b> Retail Marijuana Sales Tax Appropriation for Schools	<ul style="list-style-type: none"> <li>• Eliminated the continuous appropriation of state retail marijuana sales tax revenue from the State Public School Fund to the Colorado Department of Education.</li> <li>• Beginning in FY 2019-20, the General Assembly may only appropriate transferred revenue in the fiscal year following the transfer.</li> </ul>
	<b>HB 18-1187</b> FDA Approved CBD Drug Use	<ul style="list-style-type: none"> <li>• Amended the definition of "marijuana" to exclude prescription drug products approved by the federal Food and Drug Administration and dispensed by a pharmacy or prescription drug outlet.</li> </ul>
	<b>HB 18-1259</b> Marijuana Sample for Quality Product Development	<ul style="list-style-type: none"> <li>• Allowed certain cultivation facilities and product manufacturers to provide samples to up to five managers per month for quality control and product development purposes.</li> </ul>
	<b>HB 18-1280</b> Court Appointees for Marijuana Businesses	<ul style="list-style-type: none"> <li>• Required an individual, before being appointed a receiver for a marijuana business, certify that he or she is not prohibited from holding a marijuana license.</li> <li>• If appointed, the receiver must inform the Marijuana Enforcement Division for a temporary appointment that may be subject to administrative action if the appointee fails to comply with state marijuana laws and regulations.</li> </ul>
	<b>HB 18-1286</b> School Nurse Give Medical Marijuana	<ul style="list-style-type: none"> <li>• Allowed a nurse, nurse's designee, or school personnel designated by a parent to administer medical marijuana to a student at school.</li> </ul>
	<b>HB 18-1362</b> Drunk and Impaired Driving Task Force Membership	<ul style="list-style-type: none"> <li>• Added three members to the Colorado Task Force on Drunk and Impaired Driving to include: a representative from the Marijuana Enforcement Division; a community-based representative of the substance use disorder prevention field; and a representative from the medical or retail marijuana industry who is an owner or manager of a retail dispensary.</li> </ul>

**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2018 (cont.)</b>	<b>HB 18-1381</b> Permissive Medical Marijuana Vertical Integration	<ul style="list-style-type: none"> <li>• Permitted a medical marijuana establishment to purchase from any cultivator after a transition period.</li> </ul>
	<b>HB 18-1389</b> Centralized Marijuana Distribution Permit	<ul style="list-style-type: none"> <li>• Created a permit that allows a marijuana cultivation facility to temporarily store marijuana concentrate or marijuana products designated for transfer to the permit holder’s medical marijuana center or retail marijuana store.</li> </ul>
	<b>HB 18-1422</b> Marijuana Testing Facilities Standards	<ul style="list-style-type: none"> <li>• Required medical and retail marijuana testing facilities to be accredited pursuant to the International Organization for Standardization/International Electrotechnical Commission standard for the competence of testing and calibration laboratories.</li> </ul>
	<b>SB 18-088</b> Taxation of Retail Marijuana Sales	<ul style="list-style-type: none"> <li>• Provides legal authority for special districts to levy sales taxes on retail marijuana as long as they levied sales taxes on retail marijuana prior to July 1, 2017, despite the state sales tax exemption on retail marijuana. Local districts must determine if voter approval is required before resuming the tax. Special district sales taxes on retail marijuana that ceased on July 1, 2017, were collected upon signature of the governor, February 22, 2018.</li> </ul>
	<b>SB 18-187</b> Marijuana Waste Recycling	<ul style="list-style-type: none"> <li>• Required the Marijuana Enforcement Division to make rules regarding medical and retail marijuana waste recycling, establishing conditions under which a marijuana licensee may transfer fibrous waste such as roots, stalks, and stems for the purpose of producing industrial fiber products.</li> </ul>
	<b>SB 18-259</b> Local Government Retail Marijuana Taxes	<ul style="list-style-type: none"> <li>• Clarified the collection of a 15 percent excise tax on the first transfer of unprocessed marijuana from a cultivation facility.</li> <li>• Allowed counties to use either the wholesale price or the calculated wholesale price to determine the tax rate.</li> <li>• Clarified that retail marijuana transporting is not a "transfer" of marijuana for tax purposes.</li> <li>• Limited metropolitan districts to levying only a general sales tax and not a special marijuana sales tax on retail marijuana.</li> </ul>
	<b>SB 18-271</b> Improve Funding for Marijuana Research	<ul style="list-style-type: none"> <li>• Allowed a marijuana research and development licensee or cultivation licensee to share premises with a commonly owned medical marijuana-infused products or retail marijuana product manufacturers under a co-location permit.</li> <li>• Authorized \$100,000 for the administration of the Medical Marijuana Research Grant Program which encourages the State Board of Health to prioritize grants that gather objective scientific research regarding the efficacy and safety of administering medical marijuana for ovarian cancer, dementia, and other conditions that the board finds appropriate.</li> </ul>
<b>2019</b>	<b>HB 19-1028</b> Medical Marijuana Condition Autism	<ul style="list-style-type: none"> <li>• Created a statutory right for a patient with a diagnosed autism spectrum disorder to use medical marijuana.</li> <li>• Removed the requirement that a child under the age of 18 be diagnosed with a disabling medical condition by two physicians, one of whom must be a board-certified pediatrician, family physician, or a child and adolescent psychiatrist who attests that he or she is part of the patient's primary care team, in order for the child to be added to the medical marijuana registry. Instead, aligned the law with the constitutional requirement that two physicians diagnose the patient as having a disabling medical condition, and, if the recommending physician is not the patient's</li> </ul>

**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2019 (cont.)</b>	<b>HB 19-1028 (cont.)</b> Medical Marijuana Condition Autism	<p>primary care physician, the recommending physician must review the records of a diagnosing physician or a licensed mental health provider acting within their scope of practice.</p> <ul style="list-style-type: none"> <li>• Encouraged the State Board of Health to prioritize medical marijuana health research grants for studies to gather objective scientific research regarding the efficacy and the safety of administering medical marijuana for ovarian cancer, dementia, and pediatric conditions, including but not limited to autism spectrum disorders and other conditions the board deems suitable.</li> </ul>
	<b>HB 19-1031</b> Child Patient More Than One Primary Caregiver	<ul style="list-style-type: none"> <li>• Allowed a patient who is under the age of 18 to have each parent or guardian act as a primary caregiver effective December 1, 2020. If the patient is under the jurisdiction of the juvenile court, the judge presiding over the case may determine who is the primary caregiver.</li> </ul>
	<b>HB 19-1055</b> Public School Capital Construction Financial Assistance	<ul style="list-style-type: none"> <li>• Required all retail marijuana excise tax revenue to be transferred to the Public School Capital Construction Assistance Fund effective FY 2019-20. Previously, the greater of \$40 million or 90 percent of retail marijuana excise tax revenue annually collected was transferred to the fund to support the Building Excellent Schools Today (BEST) program and the remainder of the revenue was transferred to the Public School Fund.</li> </ul>
	<b>HB 19-1090</b> Publicly Licensed Marijuana Companies	<ul style="list-style-type: none"> <li>• Allowed a publicly traded corporation to invest in a marijuana business or become a marijuana business.</li> <li>• Repealed three ownership types: direct beneficial interest owner; indirect beneficial interest owner; and permitted economic interest; and created three new ownership types effective November 1, 2019: controlling beneficial owner; indirect financial interest holder; and passive beneficial owner. Also removed the limit of 15 out-of-state owners and changed the ownership residency requirement.</li> <li>• Changed disclosure and background requirements, including exemptions for passive beneficial owners and indirect financial interest holders.</li> <li>• Required the Marijuana Enforcement Division to promulgate rules to implement the bill.</li> </ul>
	<b>HB 19-1230</b> Marijuana Hospitality Establishments	<ul style="list-style-type: none"> <li>• Allowed for the operation of marijuana hospitality establishments and retail marijuana hospitality and sales establishments, with local government approval, beginning January 1, 2020, allowing for the consumption of marijuana on the licensed premises.</li> <li>• Set provisions for hospitality establishments, including definitions, licensing, rules, and exceptions to currently illegal acts.</li> <li>• Precluded marijuana hospitality and hospitality and sales licensees from being issued a liquor license.</li> <li>• Allowed for mobile marijuana hospitality establishments.</li> <li>• Required the Marijuana Enforcement Division to promulgate rules to implement the bill.</li> </ul>
	<b>HB 19-1234</b> Regulated Marijuana Delivery	<ul style="list-style-type: none"> <li>• Created a marijuana delivery permit to allow licensed medical marijuana centers, licensed retail marijuana stores, and medical and retail marijuana transporters to deliver marijuana and marijuana products to customers. Medical marijuana center delivery permits are effective January 2, 2020, and retail marijuana store delivery permits and transporter permits are effective January 2, 2021. Permits are valid for one year.</li> <li>• Established marijuana delivery requirements.</li> <li>• Required a \$1 surcharge on each delivery to be remitted to the local government where the business is based for law enforcement purposes.</li> </ul>

**Appendix A (cont.)**  
**Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2019</b> <b>(cont.)</b>	<b>HB 19-1234</b> Regulated Marijuana Delivery (cont.)	<ul style="list-style-type: none"> <li>• Required the Marijuana Enforcement Division to promulgate rules to implement the bill.</li> </ul>
	<b>HB 19-1263</b> Offense Level for Controlled Substance Possession	<ul style="list-style-type: none"> <li>• Changed the classification and sentencing of various drug-related offenses including marijuana possession as follows:               <ul style="list-style-type: none"> <li>○ possession of any quantity of a schedule I, II, III, IV, or V controlled substance is changed from a level 4 drug felony to a level 1 drug misdemeanor, with some exceptions;</li> <li>○ possession of more than 12 ounces of marijuana or more than 3 ounces of marijuana concentrate is changed from a level 4 drug felony to a level 1 drug misdemeanor; and</li> <li>○ possession of less than 3 ounces of marijuana concentrate is changed from a level 1 drug misdemeanor to a level 2 drug misdemeanor.</li> </ul> </li> </ul>
	<b>HB 19-1311</b> Institute of Cannabis Research Role and Mission	<ul style="list-style-type: none"> <li>• Established the Institute of Cannabis Research at the Colorado State University–Pueblo and a governing board, with a role and mission to conduct research related to cannabis, including clinical research, studies related to the efficacy of medical marijuana, biotechnologies, and economic development associated with cannabis in Colorado.</li> <li>• Specified that Marijuana Tax Cash Fund appropriations to the institute may be spent on institute personnel, to conduct research, hold an annual symposium, and for routine facility and administrative costs. Allowed the institute to seek, accept, and expend gifts, grants, and donations from private and public sources, as well as any fee revenue or revenue from the sale or license of intellectual property.</li> </ul>
	<b>SB 19-013</b> Medical Marijuana Condition Opiates Prescribed For	<ul style="list-style-type: none"> <li>• Created a statutory right for a patient to use medical marijuana for a condition for which a physician could prescribe an opioid for pain.</li> <li>• Modified the two physician diagnosis requirement for children identical to House Bill 19-1028.</li> </ul>
	<b>SB 19-213</b> Marijuana Cash Fund Transfer	<ul style="list-style-type: none"> <li>• Transferred \$914,416 from the Marijuana Cash Fund to the Marijuana Tax Cash Fund on July 1, 2019, and \$890,901 on July 1, 2020.</li> </ul>
	<b>SB 19-218</b> Sunset Medical Marijuana Program	<ul style="list-style-type: none"> <li>• Continued the Medical Marijuana Program in the Department of Public Health and Environment until September 1, 2028.</li> <li>• Implemented recommendations from the sunset review which clarified that: only a physician can make a medical marijuana recommendation and if the patient is a minor, the physician must consult with the patient and the patient's parents; a parent can serve as a primary caregiver for a child with a disabling medical condition; caregivers for patients with debilitating medical conditions are extended the same confidentiality protections as caregivers for patients with disabling medical conditions; and medical marijuana registry cards are subject to revocation if a patient is convicted of a drug crime.</li> <li>• Provided the authority to recommend medical marijuana to specific medical professionals with a valid and unrestricted federal controlled substances registration acting within his or her scope of practice.</li> <li>• Directed CDPHE to change the length of time that a medical marijuana registry card is valid through rulemaking.</li> </ul>



**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2019 (cont.)</b>	<b>SB 19-218</b> Sunset Medical Marijuana Program (cont.)	<ul style="list-style-type: none"> <li>• Required financial disclosures from members of the Retail Marijuana Public Health Advisory Committee and expanded the expertise that must be represented on the committee.</li> <li>• Allowed CDPHE to collect Colorado-specific data from the All-Payer Claims Database, hospital discharge data, and available peer-reviewed research studies that involve health outcomes associated with cannabis.</li> </ul>
	<b>SB 19-224</b> Sunset Regulated Marijuana	<ul style="list-style-type: none"> <li>• Continued the regulation of medical and retail marijuana in the Department of Revenue until September 1, 2028.</li> <li>• Combined the Medical Marijuana Code and the Retail Marijuana Code into the Colorado Marijuana Code effective January 1, 2020, incorporating the provisions of other 2019 legislation into the new code.</li> <li>• Made several modifications to licensing, including:               <ul style="list-style-type: none"> <li>○ streamlining the renewal process;</li> <li>○ merging the research and development license and research and development cultivation licenses;</li> <li>○ creating two accelerator licenses and endorsements;</li> <li>○ requiring the Marijuana Enforcement Division to track information on license disqualifications based on criminal history;</li> <li>○ permitting a person to hold a license from both the Marijuana Enforcement Division and the Limited Gaming Division;</li> <li>○ making certain confidential information available to the public on an aggregated and de-identified basis;</li> <li>○ requiring certain licensees to post signage about the risks of marijuana use while pregnant or breastfeeding;</li> <li>○ establishing a permit to allow a cultivation licensee to operate at two locations temporarily while changing locations;</li> <li>○ allowing retail marijuana stores to offer bonuses to employees;</li> <li>○ limiting redundant testing requirements;</li> <li>○ requiring the Marijuana Enforcement Division to establish conditions under which a licensee can recycle electronic cannabis waste;</li> <li>○ aligning medical and retail labeling requirements;</li> <li>○ allowing manufacturing facilities to manufacture products using ingredients from more than five sources; and</li> <li>○ reducing the amount of time after a felony conviction or drug felony conviction for a person to be eligible to apply for licensure.</li> </ul> </li> <li>• Made changes to enforcement, including:               <ul style="list-style-type: none"> <li>○ defining "open and public" consumption;</li> <li>○ authorizing the Marijuana Enforcement Division to seek injunctive relief and investigatory subpoenas from district courts as necessary to enforce the codes against licensees and unlicensed individuals;</li> <li>○ harmonizing the unlawful acts between the two codes; and</li> <li>○ making it unlawful to knowingly adulterate or alter samples to circumvent testing results.</li> </ul> </li> <li>• Made changes that effect only medical marijuana, including:               <ul style="list-style-type: none"> <li>○ requiring the MED to adopt equivalency standards for medical marijuana products and concentrate by July 1, 2020;</li> <li>○ repealing provisions allowing medical research and pesticide manufacturers to obtain medical marijuana without a license;</li> </ul> </li> </ul>

**Appendix A (cont.)  
Marijuana Legislation Enacted into Law, 2000–2020**

Year	Bill Number and Short Title	Description of Legislation
<b>2019 (cont.)</b>	<b>SB 19-224 (cont.)</b> Sunset Regulated Marijuana	<ul style="list-style-type: none"> <li>○ repealing the requirement that a medical marijuana patient show a certified mail receipt as proof of a registry application submission; and</li> <li>○ expanding the applicability of the Colorado Food and Drug Act to medical marijuana.</li> <li>● Made changes addressing industrial hemp products, which include:               <ul style="list-style-type: none"> <li>○ allowing retail marijuana stores to sell industrial hemp consumable products; and</li> <li>○ requiring industrial hemp to be tested prior to being manufactured into regulated marijuana products.</li> </ul> </li> </ul>
<b>2020</b>	<b>HB 20-1080</b> Remove Residency Requirement for Marijuana License	<ul style="list-style-type: none"> <li>● removed the Colorado residency requirement for managers and employees of medical or retail marijuana businesses.</li> </ul>
	<b>HB 20-1217</b> Sunset Marijuana Financial Services Coops	<ul style="list-style-type: none"> <li>● repealed the regulation of marijuana financial services cooperatives by the Department of Regulatory Agencies, effective September 1, 2020.</li> </ul>
	<b>HB 20-1401</b> Marijuana Tax Cash Fund Spending & Transfer	<ul style="list-style-type: none"> <li>● repealed the requirement that funds in the Marijuana Tax Cash Fund only be appropriated in subsequent years after its collection; and</li> <li>● directed the State Treasurer to transfer \$136,989,750 from the Marijuana Tax Cash Fund to the General Fund in FY 2020-21.</li> </ul>
	<b>HB 20-1424</b> Social Equity Licensees in Regulated Marijuana	<ul style="list-style-type: none"> <li>● modified the marijuana accelerator program and delayed implementation of the program until January 1, 2021;</li> <li>● allowed for social equity licensees, who are applicants for marijuana business licenses and meet one of three criteria, including meeting income guidelines, residing in an opportunity zone, or the applicant or the applicant's immediate family having been arrested for or convicted of a marijuana offense; and</li> <li>● allowed the Governor to grant pardons to a class of defendants who were convicted of possession of up to two ounces of marijuana, and exempts such pardons from requirements related to review and consideration of a pardon application.</li> </ul>

*Prepared by Legislative Council Staff.*