

January 8, 2014

INDUSTRY-WIDE BULLETIN: 14-01

RE: TIME SENSITIVE INFORMATION FROM THE MARIJUANA ENFORCEMENT DIVISION REGARDING INDUSTRY COMPLIANCE

Dear Retail Marijuana Establishment or Medical Marijuana Business Licensee:

Please review all of the information contained within this Industry-Wide Bulletin and ensure that your business is compliant with all laws, rules and regulations.

Child-Resistant Packaging:

Based upon the Marijuana Enforcement Division's (the "Division") field enforcement efforts, the Division is offering further guidance and clarification to assist the industry regarding the requirements for child-resistant packaging. The Division is providing the following guidance and attached document to ensure the industry has all of the information it needs to comply with Rules R 103, R 1005, R 1006, R 1007, M 103, M 1001 and M 1003. To be clear, a violation of the packaging rules shall be considered a violation affecting public safety and can result in severe sanctions against your license.

All Retail Marijuana Stores and Medical Marijuana Centers must be in compliance with the packaging rules without exception. In order to be in compliance, a licensee must follow all rules, which include the following conditions:

- For packaging to be considered Child-Resistant, it must meet all of the requirements of the definition of Child-Resistant, which can be found in Rules R 103 and M 103.
- All *Retail Marijuana*, *Retail Marijuana Concentrate*, *Retail Marijuana Product*, *Medical Marijuana* and *Medical Marijuana Concentrate* must be sold in Child-Resistant packaging.
- All *Medical Marijuana-Infused Product* must be sold in either Child-Resistant Packaging or labeled with the statement "Medicinal Product – keep out of reach of children" pursuant to Colorado Revised Statute 12-43.4-202(2)(a)(XIV.5).
- In order to comply with the Child-Resistant packaging requirement, a Retail Marijuana Store must place Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in a Child-Resistant Container, immediate packaging, or a Child-Resistant Exit Package, shopping bag. However, a Medical Marijuana Center may not use a Child-Resistant Exit Package and must sell Medical Marijuana and Medical Marijuana Concentrate in a Child-Resistant Container.
- The definition of Child-Resistant requires the packaging to be "opaque so that the product cannot be seen from outside the packaging." Therefore, a licensee will not be in compliance if Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Product, Medical Marijuana or Medical Marijuana Concentrate can be seen from outside of the Child-Resistant packaging.
- In order for packaging to meet the definition of Child-Resistant, any product that is intended for more than a single use must also be placed into packaging that is recloseable. Once reclosed, the packaging must again meet the ASTM standard (i.e. must be child-resistant).
 - For example, a pharmaceutical pill bottle that reseals after each opening could be used to meet this requirement.
 - In contrast, a heat-sealed perforated bag with a zip-lock seal below the perforation could **NOT** be used to meet this requirement.

Labeling of Converted Product:

It has also come to the Division's attention through field enforcement efforts that Medical Marijuana-Infused Product that has been converted to Retail Marijuana Product is being sold to consumers without the required Retail Marijuana labeling. To be clear, whether converted from Medical Marijuana-Infused Product or not, all Retail Marijuana Product must be labeled in accordance with Rule R 1006 prior to sale to a consumer and must meet all of the other requirements for Retail Marijuana Product.

Dual-Facilities:

The Division wants to ensure that all facilities that are currently operating as a Medical Marijuana Center and Retail Marijuana Store are in full compliance with the rules. A Medical Marijuana Center and Retail Marijuana Store that admits patients under the age of 21 must maintain a physically separate Licensed Premises, including entrances and exits, inventory, point of sale operations and record keeping. A Medical Marijuana Center and Retail Marijuana Store that prohibits the admittance of patients under the age of 21 must comply with all signage requirements and maintain clear virtual separation, which must include the ability to clearly delineate between medical and retail inventory. To facilitate and expedite on-site inspections, the Division recommends that all licensees ensure that all Medical and Retail inventories are physically separated and all business transactions, including Point of Sales data and sales tax data, are clearly delineated by license regardless of whether virtual separation is permitted.

Excise Tax Bond:

A Retail Marijuana Cultivation Facility must file evidence of a surety bond with the Colorado Department of Revenue. The bond must be equal to two (2) months of the Retail Marijuana Cultivation Facility's anticipated Retail Marijuana excise tax liability. Form DR 0420, titled Retail Marijuana Excise Tax Surety Bond, is required to be submitted with evidence of the surety bond and can be found at the Department's website at www.TaxColorado.com by clicking on the "Other Taxes" tab and then "Marijuana Tax Information" tab.

Sales Tax Licenses:

Each Retail Marijuana Store must obtain a retail sales tax for its Licensed Premises regardless of whether there is a commonly-owned Medical Marijuana Center at the same location.

A Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility or Medical Marijuana-Infused Products Manufacturer does not need to obtain a wholesales tax license if it is operated out of the same location as a commonly-owned Retail Marijuana Store or Medical Marijuana Center. However, if a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility or Medical Marijuana-Infused Products Manufacturer is not operated out of the same location as a commonly-owned Retail Marijuana Store or Medical Marijuana Center, then the licensee must obtain a wholesale sales tax license.

The application for a retail sales tax license or a wholesale sales tax license, form CR100, can be found at www.TaxColorado.com under the "forms" tab.

Regards,

Ron Kammerzell
Senior Director of Enforcement

John Vecchiarelli
Senior Director of Taxation

Lewis Koski
MED Chief of Investigations