

STATE OF COLORADO

DEPARTMENT OF REVENUE
Marijuana Enforcement Division
455 Sherman Street Suite 390
Denver CO 80203



September 17, 2014

Rachel Gillette, Esq.
103 East Simpson St., Ste. 200
Lafayette, CO 80026

Dear Ms. Gillette:

This letter is in response to your request for a position statement pursuant to Rules M 104(A), 1 CCR 212-1 (214) and R 104(A), 1-CCR 212-2, (2014) received in our office on August 18, 2014.

1. **“Clarification of what types of products may be sold in a Recreational Marijuana Store.”**

a. “May a Retail Marijuana Store sell a product which is a box or package containing individual ingredients that, when combined by the consumer, and with marijuana flower or oil, (also contained in the box or package), create a “marijuana infused food item, such as a brownie, cake or dinner. (By way of example, a brownie mix, where the marijuana or flower oil is included in the package, but a separate ingredient.)”

No. Rule R402(I) expressly precludes this activity.

b. What is the definition of a “consumable product”?

MED subscribes to a common interpretation of consumable to mean it is generally intended to be ingested, as by eating or drinking, or applied topically or otherwise, in a fashion that the product is used up or depleted.

c. May a Retail Marijuana Store sell non-marijuana items such as art, jewelry, books, eye-drops, or clothing?

Rule R 402(I) expressly disallows the sale of a consumable product that is not a Retail Marijuana Product. MED interprets that to include any items intended to be ingested or applied topically, such as over-the-counter eye-drops or lip balm. Generally speaking art, jewelry, books and clothing are not subject to this prohibition under Rule R402(I).

MED cannot represent that other law or regulation outside of the medical and retail marijuana regulatory frameworks would not present other potential constraints.

2. **“Clarification of what types of products may be sold in a Medical Marijuana Store.”**

a. “May a Medical Marijuana Store sell a product which is a box or package containing individual ingredients that, when combined by the consumer, and with marijuana flower or oil, (also contained in the box or package), create a “marijuana infused food item, such as a brownie, cake or dinner. (By way of example, a brownie mix, where the marijuana or flower oil is included in the package, but a separate ingredient.)”

There is no express language contained within CRS 12-43.3 or 1 CCR 212-1 Rules, on Medical Marijuana Centers, that prohibits the sale of the kind of product outlined above, although there may be other legal constraints.

3. **Clarification of Rules M204 and R204, Ownership.**

a. “Would a company, regularly engaged in the practice of leasing and/or financing commercial equipment throughout the United States, be considered an “owner” of a marijuana business if the Company leased or financed commercial equipment to a Colorado marijuana business, at reasonable market rates, and filed a commercial lien (leased or financed equipment as collateral) to protect its financial interest in the equipment? Noting, commercial lenders and lessors regularly protect financial interests through UCC filings on, for example, consumer goods, commercial equipment, farm equipment and products, and fixtures?”

Yes, because leases or financing involving a lien filed on the equipment, shall constitute a direct financial interest. [(Rule M 204(D) and Rule R 204(D)]

b. “If the Company referenced above, within its lease or financing contract with the marijuana business, explicitly disclaimed any ownership in the marijuana business and any other assets of the marijuana business, would that suffice to ensure the Department of Revenue Marijuana Enforcement Division, that no “ownership” or direct financial interests in the marijuana business existed.?”

While MED will need to consider all facts and circumstances submitted with an application in order to make a final determination of ownership, if a lien is filed in conjunction with a lease or financing arrangement, an express disclaimer of interest or contingent interest in the marijuana business or any other assets of the business, would likely still demonstrate ownership.

Sincerely,



Lewis Koski
Director