



DRAFT RULE REVISIONS

Colorado Marijuana Rules 1 CCR 212-3

NOTES:

These draft rule revisions were presented to the August 31, 2023 and September 18, 2023 stakeholder work groups. The following draft rule revisions have been updated and are intended to solicit stakeholder feedback informing whether the draft rule revision should be incorporated into final proposed rules presented to the State Licensing Authority for final adoption.

Blue highlighting designates additional context that may assist stakeholders in understanding the proposed rule revision and intent of the proposed rule revision.

Yellow highlighting designates revisions made following the September 13, 2023 Permanent Rulemaking Notice rule revisions.

Part 6 – Retail Marijuana Business License Types

6-900 Series – Licensed Hospitality Businesses

Basis and Purpose – 6-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general provisions for Licensed Hospitality Businesses.

6-905 – Licensed Hospitality Businesses: General Provisions

- A. **Privileges Granted.** A Licensed Hospitality Business shall only exercise those privileges granted pursuant to the Marijuana Code and these Rules.
- B. **Local Approval Required.** No Licensed Hospitality Business may operate in a Local Jurisdiction that does not have an ordinance or resolution authorizing the operation of that type of Licensed Hospitality Business within the Local Jurisdiction. A Licensed Hospitality Business must comply with any requirements or restrictions on its operations imposed by the Local Jurisdiction's ordinance or resolution.
- C. **Liability Insurance Required.** Licensed Hospitality Businesses are required to carry general liability insurance. If a Licensed Hospitality Business has not obtained general liability insurance at the time of its initial license application, it must obtain general liability insurance prior to submitting the Licensee's first renewal application.
- D. **Responsible Vendor Training Required.** All Controlling Beneficial Owners and employees of a Licensed Hospitality Business shall have a valid responsible vendor designation as required in section 44-10-609, C.R.S., and described in the 3-500 Series Rules.

E. No Visible Consumption of Regulated Marijuana. A Licensed Hospitality Business shall ensure that the display and consumption of any marijuana is not visible from outside of its Licensed Premises. The requirement in this paragraph (E) also applies to Licensed Hospitality Businesses that operate in an isolated portion of a Retail Food Establishment. See Rule 6-915 – Licensed Hospitality Businesses: Operation Within A Retail Food Establishment.

1. Outdoor Consumption Areas Permitted. A Licensed Hospitality Business may have a Consumption Area outdoors under the following conditions:

- a. The Licensed Hospitality Business shall ensure that all marijuana is kept out of plain sight and is not visible from a public place without the use of optical aids, such as telescopes or binoculars, or aircraft; and
- b. The Licensed Hospitality Business shall ensure that the Consumption Area is surrounded by a sight-obscuring wall, fence, hedge, or other opaque or translucent barrier.

F. Required Signage.

1. Identification of Consumption Area. A Licensed Hospitality Business shall ensure all areas ingress and egress to the Consumption Area(s) be clearly identified by the posting of a sign which shall not be less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Consumption Area – No One Under 21 Years of Age Allowed."

2. Required Warning. Licensed Hospitality Businesses must post, at all times and in a prominent place inside the Consumption Area, a warning that is at minimum twelve inches high and twelve inches wide that reads as follows:

"Must be 21 or older to enter

Marijuana may only be consumed in designated areas out of public view

No consumption of alcohol or tobacco products on site

We reserve the right to refuse entry or service for reasons including visible intoxication

It is against the law to drive while impaired by marijuana"

G. Entry By A Person Under 21 Years Prohibited. A Licensed Hospitality Business shall not allow any individual under 21 years of age to enter its Licensed Premises. A Licensed Hospitality Business shall verify that every individual entering the Licensed Premises has a valid government-issued photo identification showing that the individual is 21 years of age or older. See Rule 3-405 – Acceptable Forms of Identification.

H. Customers in Consumption Area. The Consumption Area must be reasonably monitored supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. A Licensed Hospitality Business shall reasonably monitor consumers in the Consumption Area to ensure compliance with these 6-900 Series Rules.

I. Conduct on the Licensed Premises.

1. Consumption By Intoxicated Patrons Prohibited. A Licensed Hospitality Business shall not permit the Transfer, the use, or consumption of marijuana by any person displaying any visible signs of intoxication.
2. Alcohol Consumption Prohibited. No consumption of alcohol is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the consumption of alcohol within its Licensed Premises.
3. Tobacco Consumption Prohibited. No smoking of tobacco or tobacco products is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the smoking of tobacco and tobacco products within its Licensed Premises.
4. Employee Consumption Prohibited. No employee of a Licensed Hospitality Business who is on duty may use or consume marijuana. A Licensed Hospitality Business is responsible for preventing the use or consumption of marijuana by on-duty employees within its Licensed Premises.
5. Flammable Instrument Restrictions. A Licensed Hospitality Business shall not allow the use of the following devices in the Licensed Premises if prohibited by a local ordinance or resolution:
 - a. Any device using liquid petroleum gas;
 - b. A butane torch;
 - c. A butane lighter; or
 - d. Matches.
6. Orderliness. A Licensed Hospitality Business shall operate the business in a decent, orderly, and respectable manner. A Licensed Hospitality Business shall not knowingly permit any activity or acts of disorderly conduct as defined by and provided for in section 18-9-106, C.R.S., nor shall a Licensed Hospitality Business permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the Licensed Hospitality Business is located.

J. Free Marijuana Prohibited. A Licensed Hospitality Business may not give away marijuana to a consumer for any reason.

K. Food Products Permitted. A Licensed Hospitality Business is permitted to sell or give away consumable products that do not contain marijuana under the following circumstances:

1. The Licensed Hospitality Business operates in an isolated portion of a Retail Food Establishment;
2. A Licensed Hospitality Business that is not a Retail Food Establishment may prepare and serve hot coffee, hot tea, instant hot beverages, and nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling; or
3. A Licensed Hospitality Business that is not a Retail Food Establishment may sell or give away nonpotentially hazardous prepackaged food and commercially prepared,

prepackaged foods requiring no preparation other than the heating of food within its original container or package.

- L. Emergency Entry by Public Safety Personnel. If an emergency requires law enforcement, firefighters, emergency medical service providers, or other public safety personnel to enter the Licensed Premises of a Licensed Hospitality Business, the Licensed Hospitality Business is responsible for ensuring that all consumption and other activities, including sales, if applicable, cease until such personnel have completed their investigation or services and have left the Licensed Premises.
- M. Criminal Activity Reporting Requirements. In addition to other reporting requirements set forth in these Rules, a Licensed Hospitality Business must report directly to the Division any criminal activity requiring an in-person response from law enforcement. Any report required under this Rule must be submitted within 48 hours after an Owner Licensee or Employee Licensee of the Licensed Hospitality Business learns of the event.
- N. Removal of Persons from the Licensed Premises. A Licensed Hospitality Business may remove a person from the Licensed Premises for any reason, including but not limited to, any consumer showing any visible signs of intoxication.
- O. Control and Disposal of Marijuana Left by a Consumer. A Licensed Hospitality Business is responsible for the collection and disposal of any marijuana left on the Licensed Premises by a consumer. When a consumer leaves any marijuana on the Licensed Premises, a Licensed Hospitality Business must promptly collect and remove the marijuana from the Restricted Access Area or Consumption Area and either immediately destroy or store and secure the marijuana in a Limited Access Area or an area inaccessible to consumers in accordance with Rule 6-920(A).
 - 1. Marijuana Consumer Waste. In conjunction with the collecting and securing of any remaining marijuana, a Licensed Hospitality Business may segregate any Marijuana Consumer Waste in order to Transfer the Marijuana Consumer Waste for purposes of recycling in accordance with Rule 3-240 – Collection of Marijuana Consumer Waste.
 - 2. Destruction Required. At, or before, the end of each business day, a Licensed Hospitality Business shall destroy any marijuana left on its Licensed Premises by a consumer in conformance with Rule 3-230 – Waste Disposal. The Licensed Hospitality Business shall document any destruction of Regulated Marijuana in a waste log. See Rule 3-905 – Business Records Required.
- P. Consumer Education Materials. A Licensed Hospitality Business must provide Consumer Education Materials regarding the safe consumption of marijuana. Consumer Education Materials may be made available in print or digital form, may never make claims regarding health or physical benefits of marijuana, and must be prominently displayed. Consumer Education Materials shall at a minimum include the following statement:

“WARNING: Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Create a transportation plan ahead of time. Don’t operate a vehicle impaired.

Impairing effects of marijuana may be delayed.”
- Q. Licensees shall provide consumers with information regarding safe transportation, which must be reflected in the Licensee’s standard operating procedures.

Basis and Purpose – 6-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(1)(k), 44-10-203(2)(v), 44-10-203(2)(z), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to clarify additional license privileges and restrictions for Retail Marijuana Hospitality and Sales Businesses that do not apply to Marijuana Hospitality Businesses.

Please Note: The following proposed rule revisions are in response to feedback from applicants, licensees, and other interested parties who see barriers in the existing rules that create challenges for Licensed Hospitality Businesses to establish or maintain operations. These revisions are intended to adjust certain restrictions on Licensed Hospitality Businesses with an eye towards operability and transparency. The Division is continuing to consider how these potential revisions would impact public health and safety. We are seeking thoughtful feedback on any risks that may be introduced, as well as perceived benefits to fully understand the potential impacts of these changes. The below proposed revisions include considerations regarding sales limitations and automated dispensing machines.

Additionally, the draft rule revisions below reflect updates incorporated based on feedback from work group members and members of the public at the September 18 work group meeting.

6-925 – Retail Marijuana Hospitality and Sales Businesses: Additional License Privileges and Restrictions

- A. Authorized Sources of Retail Marijuana. A Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana that it obtained from another Retail Marijuana Business.
- B. Restriction on Transfers to Consumers. A Retail Marijuana Hospitality and Sales Business and its employees are prohibited from Transferring Retail Marijuana to a consumer if the Retail Marijuana Hospitality and Sales Business' employee knows or reasonably should know that the consumer does not intend to consume at least a portion of the Transferred Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business or previously during the same business day the consumer already received the relevant quantity limitation in this Rule. In determining the imposition of any penalty for violation of this Rule 6-925, the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235.
- C. Inventory Tracking System Requirements. A Retail Marijuana Hospitality and Sales Business must use the Inventory Tracking System in accordance with the requirements of the 3-800 Series Rules.
- D. Samples Provided for Testing. A Retail Marijuana Hospitality and Sales Business may provide Samples of Retail Marijuana for testing purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Hospitality and Sales Business shall maintain the testing results as part of its business books and records. See Rule 3-905 – Business Records Required.
- E. Authorized On-Premises Storage. A Retail Marijuana Hospitality and Sales Business may store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules. See Rule 3-800 Series Rules – Regulated Marijuana Business: Inventory Tracking System.
- F. Authorized Marijuana Transport. A Retail Marijuana Hospitality and Sales Business is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where the transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Hospitality and Sales Business from transporting its own Retail Marijuana to the Licensed Premises of its Retail Marijuana Hospitality and Sales Business.

G. Quantity Limitations on Sales. All Transfers of Retail Marijuana by a Retail Marijuana Hospitality and Sales Business to a consumer shall not exceed the following sales limits in a single day:

- a. More than 14 grams of Retail Marijuana flower;
- b. More than four grams of Retail Marijuana Concentrate;
- c. A Retail Marijuana Product intended for oral consumption containing more than 100 milligrams of active THC. For any Transfer of Retail Marijuana Product containing more than 10 milligrams of active THC, the Retail Marijuana Product must be Transferred to a consumer in separate serving sizes containing no more than 10 milligrams of active THC per serving; or
- d. A Retail Marijuana Product that is a non-edible and non-psychoactive, such as a skin and body product, is exempt from the daily sales limit in subparagraph (G)(1)(c) of this Rule.

2. Consumers are limited to one transaction per day of no more than the sales limit set forth in subparagraph (G)(1). A transaction may consist of multiple Transfers of Retail Marijuana within a single visit to a Retail Marijuana Hospitality and Sales Business. The transaction occurs when the consumer completes their purchase and remits payment to the Retail Marijuana Hospitality and Sales Business.
 - a. Retail Marijuana Hospitality and Sales Business may not make multiple Transfers of Retail Marijuana to the same consumer during separate visits in the same day.
 - b. Each Transfer must be entered in the Inventory Tracking System pursuant Rule 3-805(E)(1).
3. Sales limits shall apply on an individual basis per consumer.
 - a. A Retail Marijuana Hospitality and Sales Business establishment shall identify an individual consumer for each Transfer and apply the amount of Retail Marijuana ordered and Transferred to that individual's sales limit.
 - b. A Retail Hospitality and Sales Business shall include in their Standard Operating Procedures how Employee Licensees will monitor daily sales limits, and ensure all consumers have a transportation plan to leave the Licensed Premises safely.

H. Measurement Procedures and Equipment.

1. A Retail Marijuana Hospitality and Sales Business shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure any Retail Marijuana Product Transferred to a consumer does not exceed the quantity sales limitation and provisions for sharing of Retail Marijuana set forth in subparagraph G(3).
2. A Retail Marijuana Hospitality and Sales Business Transferring Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product to a consumer shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

I. Packaging and Labeling.

1. Packaging and Labeling Not Required at Time of Transfer. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and labeling so long as the Retail Marijuana Hospitality and Sales Business complies with the requirements of Rule 3-1020. See Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.
2. Packaging and Labeling Required Before Retail Marijuana Removed from Licensed Premises. A Retail Marijuana Hospitality and Sales Business shall not permit a consumer to leave the Licensed Premises with any unconsumed marijuana unless the Retail Marijuana Hospitality and Sales Business has ensured unconsumed marijuana is packaged and labeled in accordance with the requirements of Rule 3-1020. See Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

J. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a consumer.

Please Note: The draft rule revision to allow a Retail Marijuana Hospitality & Sales Business to use an automated dispensing machine has been removed from these draft rule revisions based on feedback during the September 18, 2023 work group meeting and public comments.

Basis and Purpose – 6-926

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to clarify additional license privileges and restrictions for Retail Marijuana Hospitality and Sales Businesses that are specific to Spa Business types.

Please Note: The following proposed new rule is in response to feedback from applicants, licensees, and other interested parties who see barriers in the existing rules that create challenges for Licensed Hospitality Businesses to establish or maintain operations. These revisions are intended to adjust certain restrictions on Licensed Hospitality Businesses with an eye towards operability and transparency. The Division is continuing to consider how these potential revisions would impact public health and safety. We are seeking thoughtful feedback on any risks that may be introduced, as well as perceived benefits to fully understand the potential impacts of these changes.

6-926 – Licensed Marijuana Hospitality Businesses: Spa Businesses

- A. All privileges, restrictions on, and requirements of Licensed Marijuana Hospitality Businesses apply in addition to the requirements below.
- B. Massage Therapist. A massage therapist employed by a Licensed Marijuana Hospitality Business must also be licensed pursuant to section 12-235-101 et seq., C.R.S., and rules promulgated therewith, including 3 CCR 722-1.
- C. Employee Consumption Prohibited. A Licensed Marijuana Hospitality Business must have standard operating procedures that include protocols Employee Licensees must follow when providing massage services to prevent against employees consuming Regulated Marijuana on the Licensed Premises.
- D. Consumption Area for Massage Services. The massage therapist may only apply topical Retail Marijuana Product in a Consumption Area of a Licensed Hospitality Business. The massage therapist may also apply non-Regulated Marijuana products. No other consumption of Regulated Marijuana is permitted in a Consumption Area for massage services, other than the application of

topical Regulated Marijuana Product by the massage therapist to the consumer. The Consumption Area of a spa business where a consumer receives massage services shall not overlap with the Restricted Access Area and is not required to be under video surveillance, except all points of ingress and egress must be under video surveillance.

- E. Misconduct Reporting. A Licensed Hospitality Business must notify the Division of any misconduct conducted by its employees, including reports of misconduct to the Colorado Department of Regulatory Agency.
- F. Daily Sales Limits. A Retail Marijuana Hospitality and Sales Business must comply with sales limits in 6-925(G).

Basis and Purpose – 6-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general limitations and prohibited acts for Retail Marijuana Hospitality and Sales Businesses.

6-930 – Retail Marijuana Hospitality and Sales Businesses: General Limitations and Prohibited Acts

- A. Age Verification. Prior to Initiating the Transfer of Retail Marijuana a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older. See Rule 3-405 – Acceptable Forms of Identification.
- B. Purchases Only Within Restricted Access Area. A consumer must be physically present within the Restricted Access Area of the Retail Marijuana Hospitality and Sales Business's Licensed Premises to purchase Retail Marijuana. ~~The consumer must consume or use the Retail Marijuana purchased in the Retail Marijuana Hospitality and Sales Business in that Businesses' Restricted Access Area.~~
 - 1. Application to Retail Marijuana Hospitality and Sales Businesses Operating in a Retail Food Establishment. The requirement of paragraph (B) also applies to all Retail Marijuana Hospitality and Sales Businesses operating in an isolated portion of the Retail Food Establishment. All Transfers of Retail Marijuana may occur only in the Retail Marijuana Hospitality and Sales Business' Restricted Access Area, and not in any other area of the Retail Food Establishment.
 - 2. Application to Retail Marijuana Hospitality and Sales Businesses operating as Spa Business. A Licensed Massage Therapist may apply Retail Marijuana Product in a Consumption Area of the Retail Marijuana Hospitality and Sales Business.
- C. Prohibited Sales and Activity.
 - 1. Sales to Persons Under 21 Years. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring, giving, or distributing Regulated Marijuana to persons under 21 years of age.
 - 2. Alternative Use Products. A Retail Marijuana Hospitality and Sales Business shall not Transfer, or permit the use or consumption of, any Alternative Use Product.
 - 3. Marijuana Not Transferred by the Retail Marijuana Hospitality and Sales Business. A Retail Marijuana Hospitality and Sales Business shall not permit the purchase, use or consumption of any marijuana other than the Retail Marijuana it Transfers pursuant to these rules.

4. Nicotine or Alcohol. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of alcohol would require a license pursuant to articles 3, 4, or 5 of Title 44, C.R.S.
5. Transfer of Expired Product. A Retail Marijuana Hospitality and Sales Business shall not Transfer any expired Retail Marijuana Product to a consumer.
6. Transporter Transfer Restrictions. A Retail Marijuana Hospitality and Sales Business shall not Transfer Retail Marijuana to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana from a Retail Marijuana Transporter.
7. Possession and Transfer of Sampling Units. A Retail Marijuana Hospitality and Sales Business may not possess or Transfer Sampling Units.
8. Research Transfers. A Retail Marijuana Hospitality and Sales Business shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

D. Storage and Display Limitations.

1. A Retail Marijuana Hospitality and Sales Business shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Area or Restricted Access Area.
2. Any product displays that are readily accessible to the customer must be supervised by the Owner Licensee or Employee Licensee at all times when consumers are present.

E. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

F. Adverse Health Event Reporting. A Retail Hospitality and Sales Business must report Adverse Health Events pursuant to Rule 3-920.