



## Department of Revenue, Marijuana Enforcement Division Accelerator Program – Outline for Proposed Rules October 7, 2019

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### Introduction:

The Colorado Department of Revenue's Marijuana Enforcement Division (MED) is in the process of developing an "Accelerator Program" pursuant to [Senate Bill 19-224](#) (the "Sunset Bill"). The Sunset Bill provides specific rulemaking authority for the implementation of the Accelerator Program, including rules on the following areas:

- Severed liability for licensees operating on the same physical premises;
- Severed custodianship of regulated products;
- Protections of the intellectual property of the accelerator licensee;
- Incentives for licensees endorsed as accelerators; and
- Additional requirements if a person applying for an accelerator endorsement has less than two years' experience operating a licensed facility.

The Sunset Bill extends the Accelerator Program to retail marijuana cultivation and products manufacturing activities, allowing eligible licensees to host and offer technical and capital support to accelerator licensees [persons residing in an "opportunity zone" as designated by [the Office of Economic Development and International Trade \("OEDIT"\)](#)].

### Implementation Timeline:

Under the Sunset Bill, the MED shall begin accepting applications for accelerator licenses on **July 1, 2020**.

On September 13, 2019, the MED facilitated a series of small group discussions on specific areas of rulemaking, intended to solicit stakeholder recommendations and feedback on (a) application requirements and eligibility considerations; (b) incentives for program participants; (c) severed liability and custodianship; (d) protections of intellectual property; and (e) requirements on technical, compliance, and capital assistance provided to accelerator licensees, among other matters. Work group materials and recordings can be accessed at the MED website's [2019 Rulemaking page](#).

Although the MED is finalizing regulatory updates required to implement other statutory changes from the 2018 legislative session, the Sunset Bill's July 1, 2020 implementation date for the Accelerator Program will allow the MED to continue its stakeholder engagement, outreach, and rule drafting process on the details of the program.

To receive rulemaking announcements regarding the MED's ongoing development of the Accelerator Program and other industry-wide updates (including industry bulletins and compliance tips), please consider subscribing to the Division's [email service](#). For questions regarding the MED's ongoing development of the Accelerator Program, please contact Danielle Henry, Policy Advisor, at [danielle.henry@state.co.us](mailto:danielle.henry@state.co.us).

## **Accelerator Program - Preliminary Rule Outline**

The MED is providing the following proposed rule outline to inform its ongoing engagement with stakeholders on the establishment of an Accelerator Program with an effective date of July 1, 2020:

### **1-115 - Definitions**

Definitions. The following definitions of terms, in addition to those set forth in section 44-10-103, C.R.S., apply to all rules promulgated pursuant to the Marijuana Code, unless the context requires otherwise:

“Accelerator Cultivator” means a natural person qualified as an Accelerator Licensee pursuant to these rules and is licensed to cultivate on the Licensed Premises of a Retail Marijuana Cultivation Facility and to distribute Retail Marijuana to Retail Marijuana Products Manufacturers and Retail Marijuana Stores.

“Accelerator Endorsement” means an endorsement issued by the State Licensing Authority to a Retail Marijuana Cultivation Facility Licensee or Retail Marijuana Products Manufacturer Licensee authorizing the licensee to exercise the privileges of an Accelerator-Endorsed Licensee.

“Accelerator-Endorsed Licensee” means a Retail Marijuana Cultivation Facility Licensee or Retail Marijuana Products Manufacturer Licensee who has, pursuant to these rules, been endorsed to host and offer technical and capital support to an Accelerator Licensee operating on its Licensed Premises.

“Accelerator License” means a license issued by the State Licensing Authority to a natural person authorizing the person to exercise the privileges of an Accelerator Licensee.

“Accelerator Licensee” means a natural person who has resided in a census tract designated by the Office of Economic Development and International Trade as an opportunity zone for five of the ten years prior to application and has not been the Beneficial Owner of a license issued pursuant to the Marijuana Code.

“Accelerator Manufacturer” means a natural person qualified as an Accelerator Licensee pursuant to these rules and is licensed to manufacture and distribute Retail Marijuana Concentrate and Retail Marijuana Product on the Licensed Premises of an Accelerator-Endorsed Manufacturer Licensee.

## **Part 2 – Applications and Licenses**

### **[2-XXX] Accelerator Endorsements and Licenses**

#### **A. Accelerator Endorsement Application, Qualification, and Eligibility**

1. Beginning July 1, 2020, a Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturer Licensee may apply for an Accelerator Endorsement. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.
2. Qualifications and Eligibility. The State Licensing Authority may consider the following facts and circumstances for purposes of determining qualifications and eligibility
  - a. The applicant has not, in the previous year, been subject to an administrative action issued by the State Licensing Authority for rule violations affecting public safety.

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- b. Information demonstrating the applicant operated its license for at least two years prior to the date of application; or if the applicant is unable to demonstrate operations for a period of at least two years, it must satisfy the following additional requirements:
  - i. The applicant possesses a valid commercial marijuana license issued in another state and has operated such license for the preceding two years;
  - ii. For the preceding two years the applicant has participated in a similar accelerator or social equity program that may, but is not required to be, associated with the commercial marijuana industry; or
  - iii. The applicant demonstrates training, education, or similar experience relevant to the privileges of an Accelerator-Endorsed licensee.
- 3. Application Requirements. In addition to other application requirements, an application for an Accelerator Endorsement must include the following:
  - a. Equity Assistance Plan. An equity assistance plan detailing the technical, compliance, and/or capital assistance the applicant intends to provide an Accelerator Licensee. The equity assistance plan must, at a minimum, include the following:
    - i. The types of assistance the applicant intends to provide, which may include but is not limited to the following types of assistance:
      - A. Accounting
      - B. Business Services (e.g. Sales and Marketing)
      - C. Financial Support
      - D. Human Resources Support
      - E. Information Technology Support
      - F. Legal Services
      - G. Regulatory Compliance Support
    - ii. Whether the applicant intends to subcontract with any third parties to provide technical or compliance assistance, and the identity of the prospective third parties, if known;
    - iii. Any applicable timelines associated with the provisions of the assistance the applicant intends to provide;
    - iv. Whether the applicant intends to charge rent for a prospective Accelerator Licensee's use of the applicant's Licensed Premises, and the amount of rent and required deposits, if applicable;
    - v. How the applicant plans to prevent or minimize negative impacts on a prospective Accelerator Licensee in the event of a change of owner of the applicant's license;

- vi. How the applicant plans to prevent or minimize negative impacts on a prospective Accelerator Licensee in the event of a change of location of the applicant's Licensed Premises.

4. Accelerator Endorsement Renewal.

- a. An Accelerator Endorsement must be renewed annually.
- b. At the time of renewal, an Accelerator-Endorsed Licensee must submit the following information:
  - i. The name and license number of any Accelerator Licensee for which it served as an Accelerator-Endorsed Licensee during the previous year;
  - ii. If applicable, an equity assistance plan reflecting any updates or amendments to the prior submitted plan; and
  - iii. Copies of any agreements between the Accelerator-Endorsed Licensee Accelerator Licensees, including the equity partnership agreement.
- c. In addition to any other basis for denial of renewal application, the State Licensing Authority may also consider the following facts and circumstances as an additional basis for denial of an Accelerator Endorsement renewal application:
  - i. The Accelerator-Endorsed Licensee failed to comply with the terms of any equity partnership agreement it entered into with an Accelerator Licensee;
  - ii. The Accelerator-Endorsed Licensee provided false or misleading statements or produced false or misleading records to an Accelerator Licensee.

B. Accelerator License Application, Qualification, and Eligibility.

1. License Issuance and Privileges.

- a. Beginning July 1, 2020, a natural person may apply for an Accelerator License. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.
- b. An Accelerator license may be issued to a person to exercise the privileges of a Retail Marijuana Cultivation Facility on the Licensed Premises of a Retail Marijuana Cultivation Facility Licensee possessing a valid Accelerator Endorsement.
- c. An Accelerator license may be issued to a person to exercise the privileges of a Retail Marijuana Products Manufacturer on the Licensed Premises of a Retail Marijuana Products Manufacturer Licensee possessing a valid Accelerator Endorsement.

2. Qualifications and Eligibility.

- a. To qualify for an Accelerator License, the applicant must be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempt by these Rules, and must satisfy the following minimum eligibility requirements:

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- i. The applicant resided in a census tract designated by the Office of Economic Development and International Trade as an “opportunity zone” for at least five of the ten years prior to application;
    - ii. The applicant has not been the Beneficial Owner of a license issued pursuant to the Marijuana Code; and
    - iii. The State Licensing Authority may consider additional facts and circumstances for purposes of determining qualifications and eligibility for an Accelerator License.
  - b. The State Licensing Authority will not deny an Accelerator License on the sole basis of a marijuana-related conviction.
- 3. Application Requirements. In addition to other application requirements, an application for an Accelerator License must include the following:
  - a. Information necessary to establish the applicant resided in a census tract designated by the Office of Economic Development and International Trade as an “opportunity zone” for at least five of the ten years prior to application;
  - b. Affirmation that the applicant has not been the Beneficial Owner of a license issued pursuant to the Marijuana Code.
- 4. Accelerator License Renewal.
  - a. An Accelerator License must be renewed annually.
  - b. At the time of renewal, an Accelerator Licensee must disclose to the Division the following information regarding any Accelerator-Endorsed Licensee under which it operated during the previous year:
    - i. Copies of any agreements between the Accelerator Licensee and an Accelerator-Endorsed Licensee.

**Part 3 – Regulated Marijuana Business Operations**

**[3-XXX] Retail Marijuana Accelerator Program**

- A. Licensed Premises. An Accelerator Licensee may share, and operate at, the same Licensed Premises of a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturer with a valid Accelerator Endorsement.
- B. Accelerator Endorsement Equity Assistance Plan.
  - 1. An Accelerator-Endorsed Licensee must provide its equity assistance plan to the Division for publication on the Division’s website, and must make its equity assistance plan accessible on its website, to the extent it maintains a website.
- C. Equity Partnership Agreement.
  - 1. An Accelerator-Endorsed Licensee’s equity assistance plan that includes the information required by this Rule may also serve as its equity partnership agreement.

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2. Prior to hosting or offering technical and/or capital support to an Accelerator Licensee, an Accelerator-Endorsed Licensee must first enter into an equity partnership agreement with the Accelerator Licensee to which it intends to host or offer technical and/or capital support. The equity partnership agreement must be executed by both the Accelerator-Endorsed Licensee and Accelerator Licensee, must represent the full legal and business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee, and shall at a minimum, include the following:
    - a. A description of the types of technical, compliance, and/or capital assistance the Accelerator-Endorsed Licensee is providing to the Accelerator Licensee;
    - b. The timeline associated with the provisions of the assistance the Accelerator-Endorsed Licensee is providing;
    - c. If the Accelerator-Endorsed Licensee is charging rent for the Accelerator Licensee's use of the Licensed Premises, the rent amount, any required deposits, and length of lease;
    - d. How the Accelerator-Endorsed Licensee will prevent or minimize negative impacts on the Accelerator Licensee in the event of a change of owner of the Accelerator-Endorsed Licensee's license;
    - e. How the Accelerator-Endorsed Licensee will prevent or minimize negative impacts on the Accelerator Licensee in the event of a change of location of the Accelerator-Endorsed Licensee's Licensed Premises;
    - f. Conditions for amendments to the plan; and
    - g. Conditions for dissolution of the plan.
  3. An Accelerator-Endorsed Licensee must provide technical, compliance, and/or capital assistance to an Accelerator Licensee pursuant to its equity partnership agreement with an Accelerator Licensee. An Accelerator-Endorsed Licensee may provide technical and/or compliance assistance to an Accelerator Licensee through third parties. However, an equity partnership agreement cannot require an Accelerator Licensee to receive such assistance from a specific provider.
- D. Division of Liability.
1. Shared Equipment
  2. Shared Ingredients and/or Co-Mingling of Inventory
  3. Inventory Tracking and Record Keeping
  4. Security and Surveillance
  5. Other
- E. Dissolution of Business Relationship Between Accelerator-Endorsed Licensee and Accelerator Licensee. If the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee dissolves, both parties are required to notify the Division within 10 business days. The notification of dissolution must include the reasons for the dissolution of the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee.

F. Additional License Privileges for Accelerator-Endorsed Licensees.

1. Social Equity Leader Designation. A Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturer Licensee holding a valid Accelerator Endorsement and that is operating under an equity partnership agreement with an Accelerator Licensee shall be designated by the Division as a Social Equity Leader during the period of its active endorsement. A Social Equity Leader may use a logo or symbol created or approved by the Division to indicate its leadership status.
2. Mitigation. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturer Licensee's Accelerator Endorsement shall be considered a mitigating factor by the Division and State Licensing Authority when determining the initiation of administrative action or assessment of penalties.
2. Compliance Assistance and Education Engagement. For an Accelerator-Endorsed Licensee operating under an equity partnership agreement with an Accelerator Licensee, the Division will conduct an on-site compliance assistance and education engagement with the Accelerator-Endorsed Licensee at least once annually for purposes of supporting the licensee's activities as an Accelerator-Endorsed Licensee.
3. Application and License Fee Exemptions. An Accelerator-Endorsed Licensee may submit a request to the State Licensing Authority for an exemption from application and license fees for a change of owner, change of location, or modification of premises that is directly related to its participation in the accelerator program.
  - a. The request for an exemption may be included with the submission of the application for which it is requesting an exemption from fees. The request for exemption must include any information demonstrating the application is directly related to its participation in the accelerator program, including but not limited to, the positive impact to the Accelerator Licensee.
  - b. If a request for an exemption is denied, the applicant shall submit required fees within 10 days from notice that the fee exemption request was denied. Failure to submit required fees may result in denial of the application.