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# EMERGENCY RULE

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## TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES

### Division 100 – Division of Cannabis Regulation Chapter 1 – Marijuana

#### EMERGENCY RULE

##### 19 CSR 100-1.140 Transportation and Storage

*PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control the storage of, warehouses for, and transportation of marijuana product. This rule explains what regulations apply to all medical and marijuana facility licensees that transport and store marijuana product.*

*EMERGENCY STATEMENT: This emergency rule serves to implement and enforce Article XIV and to ensure the right to, availability, and safe use of marijuana product. This emergency rule is necessary to protect a compelling governmental interest since Amendment 3 to the Missouri Constitution made significant changes to the regulation of marijuana, and new rules will be needed to effectuate those changes. As a result, the Department of Health and Senior Services finds a compelling governmental interest, which requires emergency action. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Health and Senior Services believes this emergency rule is fair to all interested persons and parties under the circumstances. If an emergency is not enacted, there would be no rules explaining how the new provisions of Article XIV of the Missouri Constitution apply, and there would be much confusion as to the processes and procedures related to licensure and regulation of the marijuana industry. This emergency rule was filed January 20, 2023, becomes effective February 3, 2023, and expires August 1, 2023.*

(1) Any medical or marijuana facility licensee transporting or storing marijuana product shall comply with the provisions of this section.

(2) Transfer of Marijuana Product, Generally.

(A) A medical or marijuana facility licensee shall be allowed to transfer marijuana product between facilities, in compliance with the requirements and prohibitions provided in this chapter.

(B) Marijuana product may only be transferred as follows:

1. From a medical facility to another medical facility or testing facility;
2. From a comprehensive facility to another comprehensive facility, medical facility, or testing facility;
3. From a microbusiness facility to another microbusiness facility or testing facility; and
4. Marijuana facility licensees not specifically identified above may transfer marijuana product with Department approval, in compliance with the requirements and prohibitions of this chapter.

(C) Testing facility certificate holders may only transport marijuana product that they intend to test.

(D) The agent transferring marijuana product must –

1. Ensure accuracy of the transportation manifest; and
2. Ensure a secure handoff.

(3) Delivery of Marijuana Product, Generally.

(A) A dispensary facility licensee or a transportation certificate holder shall be allowed to deliver marijuana product

to consumers, qualifying patients, and primary caregivers in compliance with the requirements and prohibitions provided in this chapter.

(B) Marijuana product may only be delivered as follows:

1. From a medical marijuana dispensary facility to a qualifying patient or primary caregiver; or
2. From a comprehensive marijuana dispensary facility or microbusiness dispensary facility to a consumer, qualifying patient, or primary caregiver.

(C) Delivery to a consumer, qualifying patient, or primary caregiver may be completed at any address as directed by the consumer, qualifying patient, or primary caregiver, as long as the address is a location allowing for the legal possession of marijuana product.

(D) At the time of delivery, licensees must –

1. Require production of a qualifying patient or primary caregiver identification card if applicable;
2. Require production of a valid government-issued photo ID confirming the identity of the qualifying patient, primary caregiver, or consumer and that a consumer is at least twenty-one (21) years of age;
3. In the case of marijuana plant purchases, require production of a cultivation identification card; and
4. Record the delivery of product in the statewide track and trace system.

(4) Security Requirements Related to Transportation, except transfers between facility licensees operating on the same premises.

(A) Licensees authorized by the department to transport marijuana product shall transport all marijuana product from an originating facility to an authorized destination within thirty-six (36) hours of taking possession of the marijuana product.

(B) When extenuating circumstances necessitate holding marijuana product longer than thirty-six (36) hours, the licensee transporting the marijuana product shall notify the department of the circumstances and the location of the marijuana product prior to the end of the thirty-six (36) hour transportation deadline.

(C) All transportation must be completed using motor vehicles that are not marked in any way that indicates marijuana product is being transported by that vehicle and that are equipped with at least –

1. A secure lockbox or locking cargo area made of smooth, hard surfaces that are easily cleaned for storing marijuana product during transit;
2. A secure lockbox or lockboxes for storing payments and video monitoring recording equipment during transit;
3. Video monitoring of the driver and passenger compartment and of any space where marijuana product is stored or can be accessed during transit; and
4. GPS tracking.

(D) Facility agents transporting marijuana product shall –

1. Prior to transporting marijuana product, complete and print an inventory manifest for the trip generated from the statewide track and trace system, which shall be provided by the facility from which the marijuana product is transported.
2. During transport –
  - A. Have facility agent identification card(s) accessible at all times;
  - B. Have a valid driver's license accessible at all times;
  - C. Keep a copy of the applicable inventory manifest and trip plan in the transportation vehicle, which shall be within reach of the driver for the duration of the trip; and

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D. Have accessible at all times a cell phone or other means to readily communicate with individuals or entities outside the transport vehicle, including law enforcement and the department;

3. The facility agent transporting the marijuana product shall report any vehicle accidents in which the transport vehicle is involved within one (1) hour to law enforcement and the licensed or certificated entity for whom the agent is transporting; and

4. After transport, revise the trip plan to reflect the actual route taken and the end date and time of transportation, and deliver the revised trip plan to a person designated by the transporting entity for this purpose;

(E) Any vehicle accident, vehicle malfunction, incident of theft, attempted theft, or loss of marijuana product shall be reported to the department within two (2) hours of becoming aware of the incident, in accordance with Department guidance.

(F) All trip plans and revised trip plans shall be maintained by the facility transporting the marijuana product for at least five (5) years.

(G) Video and GPS Monitoring in Transportation Vehicles.

1. Electronic video monitoring for transportation of marijuana product must include video cameras with a recording resolution of at least 1920 x 1080, or the equivalent, at a rate of at least fifteen (15) frames per second, that operates in such a way as to allow identification of people and activities in the monitored space, in all lighting levels, that are that are installed in manner that will prevent the video camera from being readily obstructed, tampered with, or disabled.

2. Video cameras must provide coverage of the driver and passenger compartment of the vehicle, and any space where marijuana product is stored or can be accessed during transit, including any doors that lead to where the marijuana product is stored.

3. Licensees must store all recordings from the video cameras and GPS data for at least sixty (60) days in a secure on-site or off-site location or through a service or network that provides on-demand access to the recordings that allows for providing copies of the recordings to the department upon request, in the requested format, at the expense of the licensee.

(5) Security Requirements Related to Transfers Between Facility Licensees Operating on the Same Premises.

(A) Facility agents transferring marijuana product between facility licensees operating on the same premises shall –

1. Prior to transferring marijuana product, complete and print an inventory manifest generated from the statewide track and trace system, which shall be provided by the facility from which the marijuana product is transferred.

2. During transfer–

A. Have facility agent identification card(s) accessible at all times; and

B. Have a copy of the applicable inventory manifest and trip plan accessible for the duration of the transfer.

(B) Any incident of theft, attempted theft, or loss of marijuana product during transfer shall be reported to the department within two (2) hours of becoming aware of the incident, in accordance with department guidance.

(6) Warehouse Storage, Generally.

(A) A medical or marijuana facility licensee shall be allowed to store marijuana product in compliance with the requirements and prohibitions provided in this chapter.

(B) Transportation facility certificate holders may only store marijuana product for purposes related to the transportation of marijuana product.

(C) Facility licensees shall store all marijuana product –

1. At designated location(s) within the facility where the licensee is approved to operate; or

2. In off-site warehouses that have been approved by the department in writing, pursuant to this chapter.

(D) Facility licensees that utilize one or more off-site warehouses to store marijuana product must apply for and be granted a separate certificate to operate each warehousing premises.

1. Application requirements are included in the facility applications section of this chapter.

2. Approved warehouse certificates shall be associated with an existing facility license.

3. Transportation certificate holders will not be granted a warehouse certificate.

4. Transfers between a licensed facility and its off-site warehouse must comply with the transportation security requirements provided in this rule.

5. Transfers may not be made between a licensed facility and a different licensee's off-site warehouse.

6. Offsite warehouses for dispensary licensees must be located within the congressional district in which the underlying facility license was awarded.

*AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed Jan. 20, 2023, effective Feb. 3, 2023, expires Aug. 1, 2023. An emergency and a proposed rule covering this same material will be published in the March 1, 2023, issue of the **Missouri Register**.*

*PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.*

*PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.*