
EMERGENCY RULE

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 100 – Division of Cannabis Regulation Chapter 1 – Marijuana

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19 CSR 100-1.190 Microbusinesses

PURPOSE: Under Article XIV, Section 2 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control marijuana microbusiness facilities and licensees. This rule explains what regulations apply only to microbusiness facilities and licensees.

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) Microbusiness Facilities, Generally.

(A) Entities must obtain a license to cultivate, manufacture, and dispense marijuana product in Missouri as a Marijuana Microbusiness. Application requirements are outlined in the application section of this chapter.

1. An entity may apply for, obtain, and be an owner of only one license to operate a marijuana microbusiness facility, which may be either a microbusiness dispensary facility or a microbusiness wholesale facility.

(B) Applicants for a marijuana microbusiness license shall be majority owned and operated by individuals who each meet at least one of the following qualifications:

1. Have a net worth of less than two hundred fifty thousand dollars (\$250,000) and have had an income below two hundred fifty percent (250%) of the federal poverty level, or a successor level, as set forth in the applicable calendar year's federal poverty income guidelines published by the U.S. Department of Health and Human Services or its successor agency, for at least three (3) of the ten (10) calendar years prior to applying for a marijuana microbusiness facility license;

2. Have a valid service-connected disability card issued by the United States Department of Veterans Affairs, or successor agency;

3. Be a person who has been, or a person whose parent, guardian, or spouse has been arrested for, prosecuted for, or convicted of a non-violent marijuana offense at least one (1) year prior to the effective date of this section, unless the conviction –

- A. Involved provision of marijuana to a minor; or
- B. Was for driving under the influence of marijuana;

4. Reside in a ZIP code or census tract area where –

A. Thirty percent (30%) or more of the population lives below the federal poverty level;

B. The rate of unemployment is fifty percent (50%) higher than the state average rate of unemployment; or

C. The historic rate of incarceration for marijuana-related offenses is fifty percent (50%) higher than the rate for the entire state; or

5. Graduated from a school district that was unaccredited, or had a similar successor designation, at the time of graduation, or has lived in a ZIP code containing an unaccredited school district, or similar successor designation, for three (3) of the past five (5) years.

(C) Once an individual owner of a licensed microbusiness facility is deemed eligible for qualifying majority ownership under this rule, subsequent change in circumstances will not affect eligibility.

(D) An owner of a marijuana microbusiness facility may not also be an owner of another licensed marijuana or medical facility, except –

1. A microbusiness licensee may apply for a medical or marijuana facility license during an application window. If the microbusiness licensee is granted one (1) or more of these licenses, the microbusiness facility shall transition licensed operations on a reasonably practical timetable established by the department, and surrender its microbusiness facility license; and

2. An owner of a microbusiness facility who wishes to become an owner in an existing marijuana or medical facility must relinquish ownership interest in the microbusiness facility license prior to or at the time of department approval of the ownership change for the existing marijuana or medical facility.

(E) Microbusiness facilities and licensees must comply with all applicable sections within this chapter.

(2) Microbusiness Dispensary Facility Licensees, Generally.

(A) A microbusiness dispensary facility is licensed to engage in the process of dispensing marijuana product for medical or adult use, in compliance with the dispensary facility rule in this chapter. A licensed microbusiness dispensary facility may choose to do all or only a subset of the activities authorized under its license.

(B) Microbusiness dispensary licensees shall only acquire marijuana product from a microbusiness wholesale licensee or another microbusiness dispensary licensee.

(3) Microbusiness Wholesale Licensees, Generally.

(A) A microbusiness wholesale facility is licensed to engage in the process of cultivating and manufacturing marijuana product for medical or adult use, in compliance with the cultivation facility and manufacturing facility rules in this chapter. A licensed microbusiness wholesale facility may choose to do all or only a subset of the activities authorized under its license.

(B) A microbusiness wholesale licensee may only transfer its products to a testing facility, transportation facility, microbusiness dispensary licensee, or to another microbusiness wholesale licensee.

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 rule 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

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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.