

Marijuana Enforcement Division
SB19-224 Accelerator Program Rulemaking
Proposed Separate Premises Model - Seeking Stakeholder Feedback

Dear Stakeholders:

The Division is reaching out to solicit feedback from industry stakeholders and other interested parties in the rulemaking and implementation of the Accelerator Program pursuant to SB19-224.

As part of the Division's implementation of the Accelerator Program, the Division facilitated work group meetings on September 13, 2019 and February 14, 2020, where stakeholders engaged in a series of small-group and open-forum sessions regarding details of the program. These discussions were based on an expectation that program participation would be limited to a "shared premises" model, where an accelerator licensee may only conduct operations on the same licensed premises of the Regulated Marijuana Business possessing the required endorsement. However, based on feedback from these work group meetings, the Division is exploring additional avenues to incentivize both endorsement holder participation and accelerator participation.

In response to work group members' concerns with implementing an effective and economically viable accelerator program that requires the accelerator licensee and endorsement holder to share a licensed premises, the Division is considering adopting rules that will establish two accelerator program models participants can choose between:

1. Accelerator Shared Premises Model; and
2. Accelerator Separate Premises Model.

Summary of Proposed Accelerator Separate Premises Model

Currently, proposed rules implementing the Accelerator Program contemplate the accelerator licensee sharing the licensed premises of the endorsement holder. The Division is evaluating the establishment of an alternative model that will allow an endorsement holder to provide a separate premises for an accelerator licensee's operations.

The Division contemplates certain components of this alternative "separate premises" model will be **similar to a franchisor-franchisee business relationship**. For example, under the "separate premises" model, the accelerator licensee would share in the branding, advertising, intellectual property, and business model of the endorsement holder, and the accelerator licensee could operate as an affiliate of the endorsement holder in exchange for a fee. Further, prior to entering this relationship, the endorsement holder would be required to provide certain disclosures to the accelerator licensee. The Division is considering the following mandatory disclosure requirements:

- The owner(s) of the accelerator-endorsed licensee (endorsement holder), the parent company, if any, and any affiliates;
- Business experience of the endorsement holder, including any administrative actions in the previous two years and the resolutions of those actions;
- Estimate of accelerator licensee's initial investment, if any;
- Estimate of endorsement holder's initial investment;
- Any anticipated fees for which the accelerator licensee will be responsible;
- Restrictions on the accelerator licensee's business (including any restrictions on sources of products);
- Obligations of the accelerator licensee (for example, non-compete expectations);

- Assistance provided by the endorsement holder to the accelerator licensee (including assistance in installing required security; hiring and training employees; providing necessary equipment; establishing prices; establishing administrative procedures, bookkeeping, accounting, and inventory control procedures);
- Advertising that will benefit the accelerator licensee;
- Use of the endorsement holder's brand, trade name, or trademarks;
- Total number of licenses and locations of businesses the endorsement holder owns, operates, or is affiliated with;
- Terms of the financing arrangement, including leases and installment contracts offered directly or indirectly to the accelerator licensee;
- Terms of renewal, termination, transfer, and dispute resolution procedures;
- All proposed agreements, including any leases; and
- The endorsement holder's total annual revenue and fair financial projections of the accelerator licensee.

The Division expects that any rules to establish this proposed "separate premises" model will require the endorsement holder to make a premises (owned or possessed by the endorsement holder) available to the accelerator licensee. Depending on stakeholder feedback, rules could require the endorsement holder to provide these premises at a waived or reduced cost monthly or annual rental rate. Rules implementing the proposed accelerator "separate premises" model may also address the following topics:

- Prohibiting the amount of equity the endorsement holder can hold in the accelerator licensee's business;
- Limitations or restrictions on the percentage of income or amount of annual fee that the accelerator licensee is required to pay the endorsement holder;
- Severed liability for accelerator licensees operating at a separate licensed premises; and
- Severed custodianship of all retail marijuana or retail marijuana products produced by the accelerator licensee.

Available incentives for accelerator-endorsed licensees to support the "separate premises" model may also include fee reductions resulting from increased financial assistance and no-cost rent arrangements, and reduced accelerator-endorsed licensee liability.

Request for Input

In addition to the [proposed accelerator rules](#), the Division is soliciting feedback regarding the "separate premises" model described above. Stakeholders may submit comments and rule proposals at any time, as follows:

- Email submissions to dor_medrulecomments@state.co.us
- Submit via [Written Comment Google Form](#)

The information you provide will be incorporated into the rulemaking record and will be used to inform the final version of Accelerator Program rules to be presented to the State Licensing Authority for adoption.

For questions regarding the Division's rulemaking process, please contact Danielle Henry at Danielle.Henry@state.co.us.

As Senate Bill 19-224 requires the implementation of an Accelerator Program by July 1, 2020, the Division plans to adopt rules on an emergency basis. Any such adoption of emergency rules for the Accelerator Program will be coupled with a permanent rulemaking proceeding. The Division has tentatively scheduled its permanent rulemaking hearing for Thursday, July 30, 2020, which will be open to the public. Further, due to COVID-19-related public health risks, the Division is planning for a virtual permanent rulemaking hearing. Additional rulemaking materials

from previous work group meetings, including the recordings of previous meetings, are available on the [Division's 2020 Rulemaking page](#). Interested parties can also [subscribe](#) to receive rulemaking updates.

Sincerely,
The Marijuana Enforcement Division