

1 HOUSE BILL NO. 670

2 INTRODUCED BY D. SKEES, A. REGIER, M. REGIER, B. TSCHIDA

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE REGULATION
5 AND TAXATION OF MARIJUANA; TRANSFERRING AUTHORITY OVER THE LICENSING, CULTIVATION,
6 AND SALE OF MEDICAL MARIJUANA TO THE DEPARTMENT OF REVENUE; CREATING A MARIJUANA
7 REVENUE TRUST FUND; DIRECTING TWO-THIRDS OF ADULT-USE MARIJUANA REVENUE TO BE USED
8 TO FUND THE PUBLIC RETIREMENT SYSTEMS; REQUIRING A LOCAL ELECTION TO PROHIBIT THE
9 SALE OF ADULT-USE MARIJUANA TO BE HELD IN CONJUNCTION WITH A REGULAR LOCAL ELECTION;
10 INCREASING THE MEDICAL MARIJUANA TAX RATE TO 5%; DECREASING THE ADULT-USE MARIJUANA
11 TAX RATE TO 15%; ALLOWING MEDICAL MARIJUANA REVENUE TO BE USED FOR THE
12 IMPLEMENTATION OF THE MONTANA MARIJUANA REGULATION AND TAXATION ACT; ALLOWING FOR
13 ELECTRONIC ADVERTISING OF MARIJUANA; REPEALING REPORTING REQUIREMENTS FOR MEDICAL
14 MARIJUANA REGISTRY CARDS; DECREASING THE AMOUNT OF MARIJUANA THAT A PROVIDER MAY
15 PURCHASE AT WHOLESALE; REMOVING CERTAIN RESTRICTIONS AND REPORTING REQUIREMENTS
16 FOR REGISTERED CARDHOLDERS CULTIVATING MARIJUANA FOR PERSONAL USE; REPEALING THE
17 PAIN MANAGEMENT EDUCATION AND TREATMENT SPECIAL REVENUE ACCOUNT; PROVIDING A
18 STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS;
19 AMENDING SECTIONS 5-5-227, 15-64-101, 15-64-102, 15-64-111, 16-12-101, 16-12-102, 16-12-103, 16-12-
20 104, 16-12-105, 16-12-106, 16-12-107, 16-12-108, 16-12-109, 16-12-110, 16-12-112, 16-12-201, 16-12-202,
21 16-12-203, 16-12-204, 16-12-205, 16-12-206, 16-12-207, 16-12-208, 16-12-209, 16-12-210, 16-12-211, 16-12-
22 301, 16-12-302, 17-7-502, 18-7-101, 37-1-136, 37-1-316, 37-3-203, 39-2-210, 39-2-313, 39-71-407, 41-5-216,
23 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 46-18-202, 50-46-303, 50-
24 46-307, 50-46-319, 50-46-345, 53-21-1207, 61-11-101, AND 80-1-104, MCA; AMENDING SECTION 56,
25 INITIATIVE NO. 190, APPROVED NOVEMBER 3, 2020; REPEALING SECTIONS 16-12-111, 16-12-401, 16-
26 12-402, 16-12-403, 16-12-404, 16-12-405, 16-12-406, 16-12-407, 16-12-408, 50-46-301, 50-46-302, 50-46-
27 303, 50-46-304, 50-46-305, 50-46-307, 50-46-308, 50-46-309, 50-46-310, 50-46-311, 50-46-312, 50-46-313,
28 50-46-317, 50-46-318, 50-46-319, 50-46-320, 50-46-326, 50-46-327, 50-46-328, 50-46-329, 50-46-330, 50-46-

1 331, 50-46-332, 50-46-339, 50-46-340, 50-46-341, 50-46-342, 50-46-343, 50-46-344, 50-46-345, 50-46-346,
2 AND 50-46-347, MCA; REPEALING SECTIONS 38, 39, 50, 52, AND 53, INITIATIVE MEASURE NO. 190,
3 APPROVED NOVEMBER 3, 2020; AND PROVIDING EFFECTIVE DATES.”

4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6

7 **NEW SECTION. Section 1. Marijuana revenue trust fund -- interest retention.** (1) There is a
8 marijuana revenue trust fund within the permanent fund type. The trust fund is subject to legislative transfer and
9 appropriation as provided in this section.

10 (2) One-third of all adult-use marijuana tax revenue received pursuant to 15-64-102(1)(b)(i) are
11 deposited in the trust fund.

12 (3) The money must be used for purposes addressing the economic and social costs of marijuana
13 cultivation, processing, and use as determined by the legislature.

14 (4) Interest and income earned on money in the trust fund must be retained within the trust fund
15 except as provided in this section. Until the year 2023, if assets in the trust fund reach the following amounts,
16 money may be appropriated by the legislature and used in the following amounts for the purposes specified in
17 subsection (3):

18 (a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.

19 (b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.

20 (c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.

21 (d) When the fund balance reaches \$150 million, 90% of the interest earned may be appropriated.

22 (5) Appropriation of the principal balance of the fund may be authorized by a two-thirds vote of the
23 members of each house of the legislature.

24

25 **NEW SECTION. Section 2. Marijuana revenue -- appropriation of revenue -- public pensions.**

26 Two-thirds of all adult-use marijuana tax revenue received pursuant to 15-64-102(1)(b)(i) is statutorily
27 appropriated, as provided in 17-7-502, by July 1 each year to the public employee retirement systems as
28 defined in 19-2-303 based on each system's share of total vested enrollees as determined by the most recent

1 actuarial valuation for the retirement systems completed pursuant to 19-2-405.

2

3 **NEW SECTION. Section 3. Medical marijuana state special revenue account.** (1) There is a
4 medical marijuana state special revenue account within the state special revenue fund established in 17-2-102.

5 (2) The account consists of:

6 (a) money deposited into the account pursuant to 16-12-112 and [section 17];

7 (b) the medical marijuana tax collected pursuant to Title 15, chapter 64, part 1; and

8 (c) civil penalties collected under [sections 5 through 17].

9 (3) Money in the account must be used by the department for the purpose of administering [sections 5
10 through 17], the Montana Marijuana Regulation and Taxation Act, and the development and operation of the
11 seed-to-sale tracking system provided for in 16-12-105.

12

13 **NEW SECTION. Section 4. Provider licensing fees -- sale of license.** (1) Annual license fees for
14 providers and marijuana-infused products providers are based on the volume of the provider's production of
15 marijuana and are imposed based on the canopy licensure tiers in 16-12-105.

16 (2) A provider of both marijuana and marijuana-infused products is required to have only one canopy
17 license.

18 (3) The fee required under this part may be imposed based only on the tier of licensure and may not
19 be applied separately to each registered premises used for cultivation under the licensure level or each
20 dispensary operated by a provider or marijuana-infused products provider.

21 (4) Money collected from license fees paid pursuant to this section must be deposited in the medical
22 marijuana state special revenue account provided for in [section 3].

23 (5) The department shall grant a license transfer if the transferee meets the licensing requirements of
24 this chapter. The department shall apply a fee of 1% of the fee for the license tier being transferred.

25

26 **NEW SECTION. Section 5. Purpose.** The purpose of [sections 5 through 17] is to provide a
27 regulatory system for providing marijuana for the use of individuals with debilitating medical conditions,
28 including posttraumatic stress disorder, in order to alleviate the symptoms of the debilitating medical condition

1 that:

2 (1) allows individuals with debilitating medical conditions to purchase marijuana at the tax rate
3 specified in 15-64-102(1)(b)(ii);

4 (2) provides for a registry of individuals with debilitating medical conditions entitled to purchase
5 marijuana at the tax rate specified in 15-64-102(1)(b)(ii); and

6 (3) provides the process for obtaining a registry identification card.
7

8 **NEW SECTION. Section 6. Definitions.** As used in [sections 5 through 17], the following definitions
9 apply:

10 (1) "Debilitating medical condition" means:

11 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune
12 deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the
13 patient's health status;

14 (b) cachexia or wasting syndrome;

15 (c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with
16 daily activities as documented by the patient's treating physician;

17 (d) intractable nausea or vomiting;

18 (e) epilepsy or an intractable seizure disorder;

19 (f) multiple sclerosis;

20 (g) Crohn's disease;

21 (h) painful peripheral neuropathy;

22 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

23 (j) admittance into hospice care in accordance with rules adopted by the department; or

24 (k) posttraumatic stress disorder.

25 (2) "Department" means the department of public health and human services provided for in 2-15-
26 2201.

27 (3) "Marijuana" has the meaning provided in 16-12-102.

28 (4) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the

1 resin extracted from any part of the marijuana plant.

2 (5) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, and
3 byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused
4 products.

5 (6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use
6 by a means other than smoking.

7 (b) The term includes but is not limited to edible products, ointments, and tinctures.

8 (7) "Marijuana-infused products provider" has the meaning provided in 16-12-102.

9 (8) "Person" means an individual, partnership, association, company, corporation, limited liability
10 company, or organization.

11 (9) "Provider" has the meaning provided in 16-12-102.

12 (10) "Referral physician" means an individual who:

13 (a) is licensed under Title 37, chapter 3; and

14 (b) is the physician to whom a patient's treating physician has referred the patient for physical
15 examination and medical assessment.

16 (11) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
17 condition who has received and maintains a valid registry identification card.

18 (12) "Registry identification card" means a document issued by the department pursuant to [section 7]
19 that identifies an individual as a registered cardholder.

20 (13) (a) "Resident" means an individual who meets the requirements of 1-1-215.

21 (b) An individual is not considered a resident for the purposes of this part if the individual:

22 (i) claims residence in another state or country for any purpose; or

23 (ii) is an absentee property owner paying property tax on property in the state.

24 (14) "Standard of care" means, at a minimum, the following activities when undertaken in person or
25 through the use of telemedicine by a patient's treating physician or referral physician if the treating physician or
26 referral physician is providing written certification for a patient with a debilitating medical condition:

27 (a) obtaining the patient's medical history;

28 (b) performing a relevant and necessary physical examination;

- 1 (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- 2 (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the
- 3 debilitating medical condition;
- 4 (e) discussing with the patient and ensuring that the patient understands the advantages,
- 5 disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;
- 6 (f) monitoring the response to treatment and possible adverse effects; and
- 7 (g) creating and maintaining patient records that remain with the physician.
- 8 (15) "Telemedicine" has the meaning provided in 33-22-138.
- 9 (16) "Treating physician" means an individual who:
- 10 (a) is licensed under Title 37, chapter 3; and
- 11 (b) has a bona fide professional relationship with the individual applying to be a registered cardholder.
- 12 (17) "Written certification" means a statement signed by a treating physician or referral physician that
- 13 meets the requirements of [section 9] and is provided in a manner that meets the standard of care.
- 14

15 **NEW SECTION. Section 7. Medical marijuana registry -- department responsibilities -- issuance**

16 **of cards -- confidentiality.** (1) The department shall establish and maintain a registry of persons who receive

17 registry identification cards under [sections 5 through 17].

18 (2) The department shall issue registry identification cards to Montana residents who have debilitating

19 medical conditions and who submit applications meeting the requirements of [sections 5 through 17].

20 (3) An individual who obtains a registry identification card is authorized to purchase marijuana at the

21 tax rate specified in 15-64-102(1)(b)(ii) up to the limit set forth in [section 11].

- 22 (4) (a) Registry identification cards issued pursuant to [sections 5 through 17] must:
- 23 (i) be laminated and produced on a material capable of lasting for the duration of the time period for
- 24 which the card ~~or license~~ is valid;
- 25 (ii) state the name, address, and date of birth of the registered cardholder;
- 26 (iii) state the date of issuance and the expiration date of the registry identification card;
- 27 (iv) contain a unique identification number; and
- 28 (v) contain other information that the department may specify by rule.

1 (b) Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry
2 identification cards issued pursuant to this part must:

3 (i) include a picture of the registered cardholder; and

4 (ii) be capable of being used to track registered cardholder purchases.

5 (c) (i) The department shall issue a temporary registry identification card on receipt of an application.
6 The cards are valid for 60 days and are exempt from the requirements of subsection (4)(b). Printing of the
7 temporary registry identification cards is exempt from the provisions of Title 18, chapter 7.

8 (ii) A card may be issued before an applicant's payment of the fee has cleared. The department shall
9 cancel the temporary registry identification card after 60 days and may not issue a permanent registry
10 identification card until the fee is paid.

11 (5) (a) The department or state laboratory, as applicable, shall review the information contained in an
12 application or renewal submitted pursuant to this part and shall approve or deny an application or renewal
13 within 30 days of receiving the application or renewal and all related application materials.

14 (b) If the department fails to act on a completed application within 30 days of receipt, the department
15 shall refund the fee paid by an applicant for a registry identification card.

16 (c) Applications that are not processed within 30 days of receipt remain active until the department
17 takes final action.

18 (d) The department shall issue a registry identification card within 5 days of approving an application
19 or renewal.

20 (6) Review of a rejection of an application or renewal may be conducted as a contested case hearing
21 pursuant to the provisions of the Montana Administrative Procedure Act.

22 (7) Registry identification cards expire 1 year after the date of issuance unless a physician has
23 provided a written certification stating that a card is valid for a shorter period of time.

24 (8) (a) A registered cardholder shall notify the department of any change in the cardholder's name,
25 address, or physician, or a change in the status of the cardholder's debilitating medical condition within 10 days
26 of the change.

27 (b) If a change occurs and is not reported to the department, the registry identification card is void.

28 (9) The department shall maintain a confidential list of individuals to whom the department has issued

- 1 registry identification cards. Individual names and other identifying information on the list must be confidential
2 and is not subject to disclosure, except to:
- 3 (a) authorized employees of the department as necessary to perform the official duties of the
4 department;
 - 5 (b) authorized employees of state or local government agencies, including law enforcement agencies,
6 only as necessary to verify that an individual is a lawful possessor of a registry identification card;
 - 7 (c) a judge, magistrate, or other authorized judicial officer in response to an order requiring disclosure;
 - 8 (d) another person or entity when the information pertains to a cardholder who has given written
9 consent to the release and has specified:
 - 10 (i) the type of information to be released; and
 - 11 (ii) the person or entity to whom it may be released; and
 - 12 (e) the department of revenue for the purpose of investigation and prevention of noncompliance with
13 tax laws, including but not limited to evasion, fraud, and abuse. The department of revenue and its employees
14 are subject to the confidentiality requirements of 15-64-111(1).

15

16 **NEW SECTION. Section 8. Individuals with debilitating medical conditions -- requirements --**
17 **minors -- limitations.** (1) Except as provided in subsections (2) through (5), the department shall issue a
18 registry identification card to an individual with a debilitating medical condition who submits the following, in
19 accordance with department rules:

- 20 (a) an application on a form prescribed by the department;
- 21 (b) an application fee or a renewal fee;
- 22 (c) the individual's name, street address, and date of birth;
- 23 (d) proof of Montana residency;
- 24 (e) a statement, on a form prescribed by the department, that the individual will not divert to any other
25 individual the marijuana or marijuana-infused products that the individual purchases for the individual's
26 debilitating medical condition;
- 27 (f) the name of the individual's treating physician or referral physician and the street address and
28 telephone number of the physician's office; and

1 (g) the written certification and accompanying statements from the individual's treating physician or
2 referral physician as required pursuant to [section 9].

3 (2) The department shall issue a registry identification card to a minor if the materials required under
4 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health
5 care decisions:

6 (a) provides proof of legal guardianship and responsibility for health care decisions if the individual is
7 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

8 (b) signs and submits a written statement that:

9 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's
10 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of
11 the use of marijuana;

12 (ii) indicates whether the minor's custodial parent or legal guardian will be obtaining marijuana or
13 marijuana-infused products for the minor through the system of licensed providers and marijuana-infused
14 products providers; and

15 (iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

16 (A) consents to the use of marijuana by the minor;

17 (B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of
18 marijuana by the minor; and

19 (C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana; and

20 (c) pledges, on a form prescribed by the department, not to divert to any individual any marijuana
21 purchased for the minor's use in a marijuana-infused product.

22 (3) An application for a registry identification card for a minor must be accompanied by the written
23 certification and accompanying statements required pursuant to [section 9] from a second physician in addition
24 to the minor's treating physician or referral physician.

25 (4) An individual may not be a registered cardholder if the individual is in the custody of or under the
26 supervision of the department of corrections or a youth court.

27 (5) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as
28 allowed under Title 16, chapter 12.

1

2 **NEW SECTION. Section 9. Written certification -- accompanying statements.** (1) The written

3 certification provided by a physician must be made on a form prescribed by the department and signed and
4 dated by the physician. The written certification must:

5 (a) include the physician's name, license number, and office address and telephone number on file
6 with the board of medical examiners and the physician's business e-mail address, if any; and

7 (b) the name, date of birth, and debilitating medical condition of the patient for whom the physician is
8 providing written certification.

9 (2) A treating physician or referral physician who is providing written certification for a patient shall
10 provide a statement initialed by the physician that must:

11 (a) confirm that the physician is:

12 (i) the patient's treating physician and that the patient has been under the physician's ongoing medical
13 care as part of a bona fide professional relationship with the patient; or

14 (ii) the patient's referral physician;

15 (b) confirm that the patient suffers from a debilitating medical condition;

16 (c) describe the debilitating medical condition, why the condition is debilitating, and the extent to
17 which it is debilitating;

18 (d) confirm that the physician has assumed primary responsibility for providing management and
19 routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and
20 conducting a physical examination, whether in person or, in accordance with subsection (4), through the use of
21 telemedicine, that included a personal review of any medical records maintained by other physicians and that
22 may have included the patient's reaction and response to conventional medical therapies;

23 (e) describe the medications, procedures, and other medical options used to treat the condition;

24 (f) state that the medications, procedures, and other medical options have not been effective;

25 (g) confirm that the physician has reviewed all prescription and nonprescription medications and
26 supplements used by the patient and has considered the potential drug interaction with marijuana;

27 (h) state that the physician has a reasonable degree of certainty that the patient's debilitating medical
28 condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit

1 from the use of marijuana;

2 (i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to
3 the patient;

4 (j) list restrictions on the patient's activities due to the use of marijuana;

5 (k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1
6 year;

7 (l) state that the physician will:

8 (i) continue to serve as the patient's treating physician or referral physician; and

9 (ii) monitor the patient's response to the use of marijuana and evaluate the efficacy of the treatment;

10 and

11 (m) contain an attestation that the information provided in the written certification and accompanying
12 statements is true and correct.

13 (3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

14 (a) a statement initialed by the physician that the physician conducted a comprehensive review of the
15 minor's medical records as maintained by the treating physician or referral physician;

16 (b) a statement that in the physician's professional opinion, the potential benefits of the use of
17 marijuana would likely outweigh the health risks for the minor; and

18 (c) an attestation that the information provided in the written certification and accompanying
19 statements is true and correct.

20 (4) A physician who is providing written certification through the use of telemedicine:

21 (a) shall comply with the administrative rules adopted for telemedicine by the board of medical
22 examiners provided for in 2-15-1731; and

23 (b) may not use an audio-only visit unless the physician has first established a physician-patient
24 relationship through an in-person encounter.

25 (5) If the written certification states that marijuana should be used for less than 1 year, the department
26 shall issue a registry identification card that is valid for the period specified in the written certification.

27

28 **NEW SECTION. Section 10. Registry identification card to be exhibited at point of sale -- photo**

1 **identification required.** (1) A registered cardholder shall present the individual's registry identification card
2 when purchasing marijuana or marijuana-infused products.

3 (2) An individual who fails to display a valid registry identification card and a valid photo identification
4 at the point of sale:

5 (a) must be charged the adult-use tax rate in 15-64-102(1)(b)(ii); and

6 (b) if the individual is under 21 years of age, may not purchase marijuana or marijuana-infused
7 products.

8

9 **NEW SECTION. Section 11. Purchase limitations for registered cardholders -- legal**

10 **protections.** (1) (a) Except as provided in subsection (1)(b), a registered cardholder may purchase at the tax
11 rate set forth in 15-64-102(1)(b)(ii) a maximum of:

12 (i) 5 ounces of marijuana a month, except that not more than 2.5 ounces a month may be in a
13 concentrated form; and

14 (ii) 1 ounce of marijuana a day, except that not more than 8 grams a day may be in a concentrated
15 form.

16 (b) (i) A registered cardholder may petition the department for an exception to the monthly limit on
17 purchases. The request must be accompanied by a confirmation from the physician who signed the
18 cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an
19 amount exceeding the monthly limit.

20 (ii) If the department approves an exception to the monthly limit, the approval must establish the
21 monthly amount of marijuana that the cardholder may purchase and the limit must be entered into the seed-to-
22 sale tracking system.

23 (2) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
24 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
25 department of labor and industry, solely for providing written certification for a patient with a debilitating medical
26 condition.

27 (3) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
28 professional licensing board or the department of labor and industry if:

- 1 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or
2 (b) a physician violates the standard of care or other requirements of this part.
3 (4) Possession of or application for a registry identification card does not alone constitute probable
4 cause to search the person or individual or the property of the person or individual or otherwise subject the
5 person or individual or property of the person or individual possessing or applying for the card to inspection by
6 any government agency, including a law enforcement agency.

7
8 **NEW SECTION. Section 12. Unlawful conduct by cardholders -- penalties.** (1) The department
9 shall revoke and may not reissue the registry identification card of an individual who:

- 10 (a) is convicted of a drug offense; or
11 (b) allows another individual to be in possession of the individual's registry identification card.
12 (2) If no other penalty is specified under [sections 5 through 17], a registered cardholder who violates
13 [sections 5 through 17] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term
14 not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a
15 violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to
16 the provisions of Title 45.
17 (3) Review of a department action imposing a fine, suspension, or revocation under this section must
18 be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

19
20 **NEW SECTION. Section 13. Fraudulent representation -- penalties.** (1) In addition to any other
21 penalties provided by law, an individual who fraudulently represents to a law enforcement official that the
22 individual is a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for a
23 term not to exceed 1 year or a fine not to exceed \$1,000, or both.

24 (2) A physician who purposely and knowingly misrepresents any information required under [section
25 9] is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a
26 fine not to exceed \$1,000, or both.

27 (3) An individual convicted under this section may not be licensed as a provider or marijuana-infused
28 products provider under Title 16, chapter 12.

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NEW SECTION. Section 14. Confidentiality of registry information -- penalty. (1) Except as provided in 37-3-203, a person, including an employee or official of the department, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of this part.

(2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both.

NEW SECTION. Section 15. Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions. (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a patient who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a registered premises or a testing laboratory.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the individual the same fee that the physician charges other patients for providing a similar level of medical care.

(2) A provider or marijuana-infused products provider licensed pursuant to Title 16, chapter 12, may not:

(a) arrange for a physician to conduct a physical examination or review of medical records required under this part, either in the physician's office or at another location; or

(b) pay all or a portion of the costs for an individual to be seen by a physician for the purposes of obtaining a written certification.

(3) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this part, or has not met the standard of care required under this part, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review

1 pursuant to 37-1-308 and shall also notify the department of revenue.

2 (4) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of
3 medical examiners finds that a physician has violated this section, the board shall restrict the physician's
4 authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the
5 department of the sanction.

6 (5) If the board of medical examiners believes a physician's practices may harm the public health,
7 safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the
8 use of marijuana for a debilitating medical condition.

9 (6) (a) If the department of revenue has reason to believe a provider or marijuana-infused products
10 provider has violated this section, the department of revenue shall refer the matter to the law enforcement entity
11 and county attorney having jurisdiction where the provider or marijuana-infused products provider is doing
12 business and shall also inform the department.

13 (b) If a provider or marijuana-infused products provider is found to have violated the provisions of this
14 section, the department of revenue shall revoke the provider's or marijuana-infused products provider's license.
15 A person whose license has been revoked for a violation of this section is prohibited from reapplying for
16 licensure under Title 16, chapter 12.

17 (7) A law enforcement entity or county attorney who investigates a suspected violation of this section
18 shall report the results of the investigation to the department and the department of revenue.

19
20 **NEW SECTION. Section 16. Law enforcement authority.** Nothing in this chapter may be construed
21 to limit a law enforcement agency's ability to investigate unlawful activity in relation to an individual with a
22 registry identification card.

23
24 **NEW SECTION. Section 17. Rulemaking authority -- fees.** The department may adopt rules only
25 as authorized in this section to specify:

26 (1) the manner in which the department will consider applications for registry identification cards for
27 individuals with debilitating medical conditions and renewal of ~~licenses, endorsements, and~~ registry
28 identification cards;

- 1 (2) the acceptable forms of proof of Montana residency;
- 2 (3) notice and contested case hearing procedures for fines or registry identification card revocation,
- 3 suspension, or modification; and
- 4 (4) the fees for cardholders. The annual cardholder license fee may not be less than \$20.

5

6 **Section 18.** Section 5-5-227, MCA, is amended to read:

7 **"5-5-227. Revenue interim committee -- powers and duties -- revenue estimating and use of**

8 **estimates.** (1) The revenue interim committee has administrative rule review, draft legislation review, program

9 evaluation, and monitoring functions for the state tax appeal board established in 2-15-1015 and for the

10 department of revenue and the entities attached to the department for administrative purposes, except the

11 ~~division~~ divisions of the department that ~~administers~~ administer the Montana Alcoholic Beverage Code and the

12 Montana Marijuana Regulation and Taxation Act.

13 (2) (a) The committee must have prepared by December 1 for introduction during each regular

14 session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue

15 projected to be available for legislative appropriation.

16 (b) The committee may prepare for introduction during a special session of the legislature in which a

17 revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The

18 revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

19 (3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current

20 revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the

21 legislature's estimates and the assumptions underlying the estimates will be used by all agencies with

22 responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

23 (4) The legislative services division shall provide staff assistance to the committee. The committee

24 may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the

25 department of revenue, and any other agency that has information regarding any of the tax or revenue bases of

26 the state.

27 (5) The committee shall review tax credits [scheduled to expire] as provided in 15-30-2303."

28

1 **Section 19.** Section 15-64-101, MCA, is amended to read:

2 **"15-64-101. Definitions.** As used in this part, the following definitions apply:

3 (1) "Department" means the department of revenue provided for in 2-15-1301.

4 (2) "Marijuana product" means marijuana ~~as defined in 50-32-101~~ and marijuana-infused products as
5 those terms are defined in ~~50-46-302~~ 16-12-102.

6 (3) "Marijuana product provider" means a provider or a marijuana-infused products provider as those
7 terms are defined in ~~50-46-302~~ 16-12-102.

8 (4) "Person" means an individual, firm, partnership, corporation, association, company, committee,
9 other group of persons, or other business entity, however formed.

10 (5) "Purchaser" means a person to whom a sale of a marijuana product is made.

11 (6) "Retail price" means the established price for which a marijuana product provider sells a marijuana
12 product to a purchaser before any discount or reduction.

13 (7) "Sale" or "sell" means any transfer of marijuana products for consideration, exchange, barter, gift,
14 offer for sale, or distribution in any manner or by any means."
15

16 **Section 20.** Section 15-64-102, MCA, is amended to read:

17 **"15-64-102. Tax on marijuana product providers -- medical and adult-use tax rates.** (1) (a)

18 There is a tax equal to the applicable percentage provided in subsection (1)(b) on a marijuana product
19 provider's gross sales of marijuana products for consumption, use, or resale in the regular course of business
20 under the provisions of Title 16, chapter 12, that is payable four times a year.

21 ~~(b) The percentage of tax on gross sales in subsection (1)(a) is as follows:~~

22 ~~(i) for gross sales during the calendar quarters beginning October 1, 2019, and ending September 30,~~
23 ~~2021, the amount is 4%; and~~

24 ~~(ii) for gross sales during the calendar quarters beginning October 1, 2021, and thereafter, the amount~~
25 ~~is 2%.~~

26 ~~(b) (i) Except as provided in subsection (1)(b)(ii), the tax in subsection (1)(a) is imposed at the adult-~~
27 ~~use marijuana tax rate of 15% of the retail price.~~

28 ~~(A) One-third of the adult-use marijuana tax revenue collected under subsection (1)(b)(i) must be~~

1 deposited in the marijuana revenue trust fund established in [section 1] within the permanent fund type
 2 established in 17-2-102.

3 (B) Two-thirds of the adult-use marijuana tax revenue collected under subsection (1)(b)(i) is statutorily
 4 appropriated as provided in [section 2].

5 (ii) For sales of marijuana products for use for a debilitating medical condition, as defined in 16-12-102,
 6 to an individual in possession of and displaying a registry identification card issued pursuant to [sections 5
 7 through 17], the tax in subsection (1)(a) is imposed at the medical marijuana rate of 5% of the retail price and
 8 must be deposited in the medical marijuana state special revenue account provided for in [section 3].

9 (2) A marijuana product provider shall submit a quarterly report to the department listing the total
 10 dollar amount of sales from any registered premises, as defined in ~~50-46-302~~ 16-12-102, operated by the
 11 marijuana product provider, including dispensaries, and the percentage of sales subject to each tax rate listed
 12 in subsection (1)(b). The report must be:

13 (a) made on forms prescribed by the department; and

14 (b) submitted within 15 days of the end of each calendar quarter.

15 (3) At the time the report is filed, the marijuana product provider shall submit:

16 (a) a payment equal to the percentage provided in subsection (1)(b)(i) of the total dollar amount of
 17 sales; and

18 (b) a payment equal to the percentage provided in subsection (1)(b)(ii) of the total dollar amount of
 19 sales.

20 ~~(4) The department shall deposit the taxes paid under this section in the medical marijuana state~~
 21 ~~special revenue account provided for in 50-46-345.~~

22 ~~(5)(4)~~ (4) The tax imposed by this part and related interest and penalties are a personal debt of the
 23 person required to file a return from the time that the liability arises, regardless of when the time for payment of
 24 the liability occurs.

25 ~~(6)(5)~~ (5) For the purpose of determining liability for the filing of statements and the payment of taxes,
 26 penalties, and interest owed under 15-64-103 through 15-64-106:

27 (a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state
 28 taxes provided for in 15-64-103 through 15-64-106 and who fails to pay the taxes is liable to the state for the

1 taxes and the penalty and interest due on the amounts;

2 (b) each officer of the corporation, to the extent that the officer has access to the requisite records, is
3 individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest
4 upon a determination that the officer:

5 (i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

6 (ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or the
7 payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to
8 file statements required by this part or pay taxes due as required by this part;

9 (c) each partner of a partnership is jointly and severally liable, along with the partnership, for any
10 statements, taxes, penalties, and interest due while a partner;

11 (d) each member of a limited liability company that is treated as a partnership or as a corporation for
12 income tax purposes is jointly and severally liable, along with the limited liability company, for any statements,
13 taxes, penalties, and interest due while a member;

14 (e) the member of a single-member limited liability company that is disregarded for income tax
15 purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes,
16 penalties, and interest due while a member; and

17 (f) each manager of a manager-managed limited liability company is jointly and severally liable, along
18 with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

19 ~~(7)~~(6) In determining which corporate officer is liable, the department is not limited to considering the
20 elements set forth in subsection ~~(6)(a)~~ (5)(a) to establish individual liability and may consider any other
21 available information.

22 ~~(8)~~(7) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of
23 penalty and interest against the corporation. The individual remains liable for any statements and the amount of
24 taxes, penalties, and interest unpaid by the entity."
25

26 **Section 21.** Section 15-64-111, MCA, is amended to read:

27 **"15-64-111. Information -- confidentiality -- agreements with another state.** (1) (a) Except as
28 provided in subsections (2) through (5), in accordance with 15-30-2618 and 15-31-511, it is unlawful for an

1 employee of the department or any other public official or public employee to disclose or otherwise make known
2 information that is disclosed in a return or report required to be filed under this part or information that concerns
3 the affairs of the person making the return and that is acquired from the person's records, officers, or
4 employees in an examination or audit.

5 (b) This section may not be construed to prohibit the department from publishing statistics if they are
6 classified in a way that does not disclose the identity of a person making a return or the content of any
7 particular report or return. A person violating the provisions of this section is subject to the penalty provided in
8 15-30-2618 or 15-31-511 for violating the confidentiality of individual income tax or corporate income tax
9 information.

10 (2) (a) This section may not be construed to prohibit the department from providing information
11 obtained under this part to:

12 (i) the department of justice or law enforcement to be used for the purpose of investigation and
13 prevention of noncompliance, tax evasion, fraud, and abuse under this part; or

14 (ii) the department of public health and human services to be used for the purpose of investigation and
15 prevention of noncompliance, fraud, and abuse under ~~the Montana Medical Marijuana Act~~ sections 5 through
16 17.

17 (b) The department may enter into an agreement with the taxing officials of another state for the
18 interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax
19 in order to promote fair and equitable administration of the laws and to eliminate double taxation.

20 (c) In order to implement the provisions of this part, the department may furnish information on a
21 reciprocal basis to the taxing officials of another state if the information remains confidential under statutes
22 within the state receiving the information that are similar to this section.

23 (3) In order to facilitate processing of returns and payment of taxes required by this part, the
24 department may contract with vendors and may disclose data to the vendors. The data disclosed must be
25 administered by the vendor in a manner consistent with this section.

26 (4) (a) The officers charged with the custody of the reports and returns may not be required to
27 produce them or evidence of anything contained in them in an action or proceeding in a court, except in an
28 action or proceeding:

- 1 (i) to which the department is a party under the provisions of this part or any other taxing act; or
 2 (ii) on behalf of a party to any action or proceedings under the provisions of this part or other taxes
 3 when the reports or facts shown by the reports are directly involved in the action or proceedings.

4 (b) The court may require the production of and may admit in evidence only as much of the reports or
 5 of the facts shown by the reports as are pertinent to the action or proceedings.

6 (5) This section may not be construed to limit the investigative authority of the legislative branch, as
 7 provided in 5-11-106, 5-12-303, or 5-13-309."

8

9 **Section 22.** Section 16-12-101, MCA, is amended to read:

10 **"16-12-101. (~~Effective October 1, 2021~~ Effective March 15, 2022) Short title -- purpose.** (1) This
 11 chapter may be cited as the "Montana Marijuana Regulation and Taxation Act".

12 (2) The purpose of this chapter is to:

13 (a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years of
 14 age or older and individuals with debilitating medical conditions;

15 (b) provide for the licensure and regulation of ~~commercial~~the cultivation, manufacture, production,
 16 distribution, and sale of marijuana and marijuana-infused products;

17 (c) allow for limited cultivation, manufacture, delivery, and possession of marijuana as permitted by
 18 this chapter;

19 (d) eliminate the illicit market for marijuana and marijuana-infused products;

20 (e) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age
 21 except for registered cardholders;

22 (f) ensure the safety of marijuana and marijuana-infused products;

23 (g) ensure the security of registered premises and ~~adult-use~~ dispensaries;

24 (h) establish reporting requirements for ~~adult-use~~ providers and ~~adult-use~~ marijuana-infused products
 25 providers;

26 (i) establish inspection requirements for registered premises, including data collection on energy use,
 27 chemical use, water use, and packaging waste to ensure a clean and healthy environment;

28 (j) provide for the testing of marijuana by licensed testing laboratories;

1 (k) give local governments a role in establishing standards for the cultivation, manufacture, and sale
2 of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions;

3 (l) tax the sale of marijuana and marijuana-infused products to generate revenue for the state ~~and~~
4 ~~provide compensation for the economic and social costs of past and current marijuana cultivation, processing,~~
5 ~~and use, by directing funding to:~~

6 ~~(i) conservation programs to offset the use of water and soil in marijuana cultivation;~~

7 ~~(ii) substance abuse treatment and prevention programs;~~

8 ~~(iii) veterans' services and support;~~

9 ~~(iv) health care;~~

10 ~~(v) localities where marijuana is sold; and~~

11 ~~(vi) the state general fund; and~~

12 (m) authorize courts to resentence persons who are currently serving sentences for acts that are
13 permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge
14 those offenses from the criminal records of persons who have completed their sentences as set forth in this
15 chapter."

16

17 **Section 23.** Section 16-12-102, MCA, is amended to read:

18 **"16-12-102. (Effective October 1, 2021 Effective March 15, 2022) Definitions.** As used in this
19 chapter, the following definitions apply:

20 ~~(1) "Adult use dispensary" means a registered premises from which a licensed adult use provider or~~
21 ~~adult use marijuana infused products provider is approved by the department to dispense marijuana or~~
22 ~~marijuana infused products to a consumer.~~

23 ~~(2) "Adult use marijuana infused products provider" means a person licensed by the department to~~
24 ~~manufacture and provide marijuana infused products for consumers as allowed by this chapter.~~

25 ~~(3) "Adult use provider" means a person licensed by the department to cultivate and process~~
26 ~~marijuana for consumers as allowed by this chapter.~~

27 ~~(4)~~(1) "Canopy" means the total amount of square footage dedicated to live plant production at a
28 registered premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

1 ~~(5)~~(2) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or
 2 marijuana-infused products for personal use or for use by persons who are at least 21 years of age, but not for
 3 resale.

4 ~~(6)~~(3) "Correctional facility or program" means a facility or program that is described in 53-1-202 and
 5 to which an individual may be ordered by any court of competent jurisdiction.

6 (4) "Debilitating medical condition" has the meaning provided in [section 6].

7 ~~(7)~~(5) "Department" means the department of revenue provided for in 2-15-1301.

8 (6) "Dispensary" means a registered premises from which a licensed provider or marijuana-infused
 9 products provider is approved by the department to dispense marijuana or marijuana-infused products to a
 10 consumer.

11 ~~(8)~~(7) (a) "Employee" means an individual employed to do something for the benefit of an employer.

12 (b) The term includes a manager, agent, or director of a partnership, association, company,
 13 corporation, limited liability company, or organization.

14 (c) The term does not include a third party with whom a licensee has a contractual relationship.

15 ~~(9)~~(8) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or
 16 indirectly through a business, an investment, or a spouse, parent, or child relationship, to 1% or more of the net
 17 profits or net worth of the entity in which the interest is held.

18 (b) The term does not include interest held by a bank or licensed lending institution or a security
 19 interest, lien, or encumbrance.

20 (9) "INDOOR CULTIVATION" MEANS LIVE PLANTS GROWING IN AN ENCLOSED AREA THAT IS:

21 (A) WITHIN A PERMANENT STRUCTURE USING ARTIFICIAL LIGHT EXCLUSIVELY OR TO SUPPLEMENT NATURAL
 22 SUNLIGHT; OR

23 (B) A GREENHOUSE, HOOP HOUSE, OR SIMILAR STRUCTURE THAT PROTECTS THE PLANTS FROM VARIABLE
 24 TEMPERATURE, PRECIPITATION, AND WIND.

25 ~~(10)~~(9) (10) "Licensee" means a person holding a state license issued pursuant to this chapter.

26 ~~(11)~~(10) (11) "Local government" means a county, a consolidated government, or an incorporated city
 27 or town.

28 ~~(12)~~(11) (12) "Manufacturing" means the production of marijuana concentrate.

1 ~~(13)~~~~(12)~~ (13) (a) "Marijuana" means all plant material from the genus Cannabis containing
2 tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

3 (b) The term does not include hemp, including any part of that plant, including the seeds and all
4 derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a
5 delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or
6 products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral
7 administrations, food, drink, or other products.

8 ~~(14)~~~~(13)~~ (14) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part
9 of the resin extracted from any part of the marijuana plant.

10 ~~(15)~~~~(14)~~ (15) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers,
11 resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-
12 infused products.

13 ~~(16)~~~~(15)~~ (16) "Marijuana-infused product" means a product that contains marijuana and is intended for
14 use by a consumer by a means other than smoking. The term includes but is not limited to edible products,
15 ointments, and tinctures.

16 (17) "Marijuana-infused products provider" means a person licensed by the department to manufacture
17 and provide marijuana-infused products for consumers and registered cardholders as allowed by this chapter.

18 (18) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

19 (19) "Owner" means a principal officer, director, board member, or individual who has a financial
20 interest or voting interest of 10% or greater in ~~an adult-use~~ a dispensary, ~~adult-use~~ provider, or ~~adult-use~~
21 marijuana-infused products provider.

22 ~~(19)~~

23 (20) "OUTDOOR CULTIVATION" MEANS LIVE PLANTS GROWING IN AN AREA EXPOSED TO NATURAL SUNLIGHT
24 AND ENVIRONMENTAL CONDITIONS INCLUDING VARIABLE TEMPERATURE, PRECIPITATION, AND WIND.(21)

25 "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

26 (22) "Person" means an individual, partnership, association, company, corporation, limited liability
27 company, or organization.

28 (23) "Provider" means a person licensed by the department to cultivate and process marijuana for

1 consumers and registered cardholders as allowed by this chapter.

2 (24) "Registered cardholder" means a Montana resident with a debilitating medical condition who has
 3 received and maintains a valid registry identification card.

4 ~~(24)(23)~~ (25) "Registered premises" means a location that is licensed pursuant to this chapter and
 5 includes:

6 all enclosed public and private areas at the location that are used in the business operated pursuant
 7 to a license, including offices, kitchens, restrooms, and storerooms; ~~and~~

8 ~~(b) if the department has specifically licensed a location for outdoor cultivation, production,~~
 9 ~~manufacturing, wholesale sale, or retail sale of adult-use marijuana and adult-use marijuana-infused products,~~
 10 ~~the entire unit of land that is created by subsection or partition of land that the licensee owns, leases, or has the~~
 11 ~~right to occupy.~~

12 (26) "Registry identification card" means a document issued by the department pursuant to [section 7]
 13 that identifies an individual as a registered cardholder.

14 ~~(22)(25)~~ (27) (a) "Resident" means an individual who meets the requirements of 1-1-215.

15 (b) An individual is not considered a resident for the purposes of this chapter if the individual:

16 (i) claims residence in another state or country for any purpose; or

17 (ii) is an absentee property owner paying property tax on property in Montana.

18 ~~(23)(26)~~ (28) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in
 19 height and 12 inches in diameter.

20 ~~(24)(27)~~ (29) "State laboratory" means the laboratory operated by the department of public health and
 21 human services to conduct environmental analyses.

22 ~~(25)(28)~~ (30) "Testing laboratory" ~~has the meaning as provided in 50-46-302~~ means a qualified person,
 23 licensed by the department, who meets the requirements of 16-12-206 and:

24 (a) provides testing of representative samples of marijuana and marijuana-infused products; and

25 (b) provides information regarding the chemical composition, the potency of a sample, and the
 26 presence of molds, pesticides, or other contaminants in a sample.

27 ~~(26)(29)~~ (31) "Unduly burdensome" means requiring such a high investment of money, time, or any
 28 other resource or asset to achieve compliance that a reasonably prudent businessperson would not operate."

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Section 24. Section 16-12-103, MCA, is amended to read:

"16-12-103. (~~Effective October 1, 2021~~ Effective March 15, 2022) Department authority. (1) The department shall license and regulate the cultivation, manufacture, transport, and sale of marijuana as allowed by this chapter and shall administer and enforce this chapter.

(2) Marijuana is not an agricultural product and is not subject to regulation by the department of agriculture."

Section 25. Section 16-12-104, MCA, is amended to read:

"16-12-104. (~~Effective October 1, 2021~~ Effective March 15, 2022) Department responsibilities -- licensure. (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter. The department shall issue:

(a) licenses:

(i) to persons who apply to operate as ~~adult-use~~ providers or ~~adult-use~~ marijuana-infused products providers and who submit applications meeting the requirements of this chapter; and

(ii) for ~~adult-use~~ dispensaries established by ~~adult-use~~ providers or ~~adult-use~~ marijuana-infused products providers; and

(b) endorsements for manufacturing to an ~~adult-use~~ a provider or an ~~adult-use~~ marijuana-infused products provider that applies for a manufacturing endorsement and meets requirements established by the department by rule.

(2) A person who obtains an ~~adult-use~~ a provider license, ~~adult-use~~ marijuana-infused products provider license, or ~~adult-use~~ dispensary license or an employee of a licensed ~~adult-use~~ provider or ~~adult-use~~ marijuana-infused products provider is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed by this chapter.

(3) A person who obtains a testing laboratory license or an employee of a licensed testing laboratory is authorized to possess, test, and transport marijuana as allowed by this chapter.

(4) The department shall conduct criminal history background checks as required by ~~50-46-307~~ and ~~50-46-308~~ 16-12-203 before issuing a license to a person named as a provider or marijuana-infused products

1 provider.

2 (5) Licenses issued pursuant to this chapter must:

3 (a) be laminated and produced on a material capable of lasting for the duration of the time period for
4 which the license is valid;

5 (b) indicate whether ~~an adult-use~~ a provider or ~~an adult-use~~ marijuana-infused products provider has
6 an endorsement for manufacturing;

7 (c) state the date of issuance and the expiration date of the license; and

8 (d) contain other information that the department may specify by rule.

9 (6) (a) The department shall make application forms available and begin accepting applications for
10 licensure and endorsement under this chapter on ~~or before January 1, 2022~~ March 15, 2022.

11 (b) The department shall review the information contained in an application or renewal submitted
12 pursuant to this chapter and shall approve or deny an application:

13 (i) ~~within 30 days of receiving the application or renewal and all related application materials from an~~
14 ~~existing licensed provider or marijuana-infused products provider; and~~

15 (ii) ~~within 90 days of receiving the application and all related application materials from a new~~
16 applicant.

17 (c) If the department fails to act on a completed application within the time allowed under subsection
18 (6)(b), the department shall:

19 (i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a
20 licensee seeking renewal of a license by 5% each week that the application is pending; and

21 (ii) allow a licensee to continue operation until the department takes final action.

22 (d) Applications that are not processed within the time allowed under subsection (6)(b) remain active
23 until the department takes final action.

24 (e) (i) The department may not take final action on an application for a license or renewal of a license
25 until the department has completed a satisfactory inspection as required by this chapter and related
26 administrative rules.

27 (ii) Failure by the department to complete the required inspection within the time allowed under
28 subsection (6)(b) does not prevent an application from being considered complete for the purpose of subsection

1 (6)(c).

2 (f) The department shall issue a license or endorsement within 5 days of approving an application or
3 renewal.

4 (7) Review of a rejection of an application or renewal may be conducted as a contested case hearing
5 pursuant to the provisions of the Montana Administrative Procedure Act.

6 (8) Licenses and endorsements issued to ~~adult-use~~ providers and ~~adult-use~~ marijuana-infused
7 products providers must be renewed annually.

8 (9) The department shall provide the names and phone numbers of ~~adult-use~~ providers and ~~adult-use~~
9 marijuana-infused products providers and the city, town, or county where registered premises and testing
10 laboratories are located to the public on the department's website. The department may not disclose the
11 physical location or address of an ~~adult-use~~ a provider, ~~adult-use~~ marijuana-infused products provider, ~~adult-~~
12 ~~use~~ dispensary, or testing laboratory.

13 ~~(10) The department may not prohibit an adult-use provider, adult-use marijuana-infused products~~
14 ~~provider, or adult-use dispensary licensee from operating at a shared location with a provider, marijuana-~~
15 ~~infused products provider, or dispensary as defined in 50-46-302 if the provider, marijuana-infused products~~
16 ~~provider, or dispensary is owned by the same person.~~

17 (10) Beginning on March 15, 2022, a dispensary may sell marijuana and marijuana-infused products to
18 consumers at the adult-use marijuana tax rate set forth in 15-64-102(1)(b)(i) and registered cardholders at the
19 medical marijuana tax rate set forth in 15-64-102(1)(b)(ii).

20 (11) ~~The~~(a) Except as provided in subsection (11)(b), the department may not adopt rules requiring a
21 consumer to provide an ~~adult-use~~ a provider, ~~adult-use~~ marijuana-infused products provider, or ~~adult-use~~
22 dispensary licensee with identifying information other than identification to determine the consumer's age or
23 require the recording of personal information about consumers other than information typically required in a
24 retail transaction.

25 (b) The department shall adopt rules in accordance with 16-12-105 to ensure that a registered
26 cardholder may not purchase more marijuana than permitted under [section 11] at the medical marijuana tax
27 rate set forth in 15-64-102(1)(b)(ii)."

28

1 **Section 26.** Section 16-12-105, MCA, is amended to read:

2 "**16-12-105. (~~Effective October 1, 2021~~ Effective March 15, 2022) Department responsibility to**
3 **monitor and assess marijuana production, testing, sales, and license revocation.** (1) ~~(a)~~ The department
4 shall implement a system for tracking marijuana, marijuana concentrate, and marijuana-infused products from
5 either the seed or the seedling stage until the marijuana, marijuana concentrate, or marijuana-infused product is
6 sold to a consumer. The system must:

7 ~~(i)(a)~~ (i)(a) ensure that the marijuana, marijuana concentrate, or marijuana-infused product cultivated,
8 manufactured, possessed, and sold under this chapter is not sold or otherwise provided to an individual who is
9 under 21 years of age and who is not a medical marijuana registered cardholder; ~~and~~

10 ~~(ii)(b)~~ (ii)(b) be made available to ~~adult-use providers, adult-use marijuana-infused products providers,~~
11 ~~adult-use dispensaries, and testing laboratories at no additional cost; and~~

12 (c) be capable of notifying providers, marijuana-infused products providers, and dispensaries, before
13 a sale is made, of the amount of marijuana a registered cardholder may purchase before reaching the
14 maximum monthly amount of marijuana allowed under [section 11].

15 ~~(b) The department may implement the same system that is used to track marijuana, marijuana~~
16 ~~concentrate, and marijuana-infused products pursuant to 50-46-304.~~

17 (2) The department shall assess applications for ~~an adult-use a~~ provider or ~~adult-use~~ marijuana-
18 infused products provider license to determine if a person with a financial interest in the applicant meets any of
19 the criteria established in 16-12-203 for denial of a license.

20 (3) Before issuing or renewing a license, the department shall inspect the REGISTERED PREMISES OR
21 proposed registered premises of an adult-use a provider or ~~adult-use~~ marijuana-infused products provider ~~and~~
22 ~~shall inspect the property to be used~~ to ensure an applicant for licensure or license renewal is in compliance
23 with this chapter. The department may not issue or renew a license if the applicant does not meet the
24 requirements of this chapter.

25 (4) (a) The department shall license providers and marijuana-infused products providers according to
26 a tiered canopy system.

27 (b) (i) The system ~~shall~~ MUST include, at a minimum, the following license types, ALL RESTRICTED TO
28 INDOOR CULTIVATION:

1 (A) A micro tier canopy license allows for a canopy of up to 250 square feet at one registered
2 premises.

3 (B) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one registered premises.
4 A minimum of 500 square feet must be equipped for cultivation.

5 (C) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two registered
6 premises. A minimum of 1,100 square feet must be equipped for cultivation.

7 (D) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three registered
8 premises. A minimum of 2,600 square feet must be equipped for cultivation.

9 (E) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four registered
10 premises. A minimum of 5,100 square feet must be equipped for cultivation.

11 (F) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five registered
12 premises. A minimum of 7,750 square feet must be equipped for cultivation.

13 (G) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five registered
14 premises. A minimum of 10,250 square feet must be equipped for cultivation.

15 (H) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five registered
16 premises. A minimum of 13,250 square feet must be equipped for cultivation.

17 (I) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five registered
18 premises. A minimum of 15,250 square feet must be equipped for cultivation.

19 (J) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six registered
20 premises. A minimum of 17,775 square feet must be equipped for cultivation.

21 (K) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven registered
22 premises. A minimum of 24,000 square feet must be equipped for cultivation.

23 (L) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to seven registered
24 premises. A minimum of 32,000 square feet must be equipped for cultivation.

25 (M) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to seven registered
26 premises. A minimum of 40,000 square feet must be equipped for cultivation.

27 (ii) As used in this subsection (4)(b), "equipped for cultivation" means that the space is either ready for
28 cultivation or in use for cultivation.

1 (c) ~~An adult-use~~A provider or ~~adult-use-marijuana-infused products provide~~ provider who has
2 reached capacity under the existing license may apply to advance to the next licensing tier. The department:

3 (i) may increase a licensure level by only one tier at a time; and

4 (ii) shall conduct an inspection of the ~~adult-use-provider or adult-use-marijuana-infused products~~
5 provider's registered premises and proposed premises within 30 days of receiving the application and before
6 approving the application.

7 (d) The department may create additional licensing tiers by rule if a provider with a tier ~~40~~ 12 canopy
8 license petitions the department to create a new licensure level and:

9 (i) the producer or provider demonstrates that the licensee is using the full amount of canopy currently
10 authorized; and

11 (ii) the tracking system shows the licensee is selling at least 80% of the marijuana or marijuana-infused
12 products produced by the square footage of the licensee's existing license over the 2 previous quarters or the
13 licensee can otherwise demonstrate to the department that there is a market for the marijuana or marijuana-
14 infused products it seeks to produce.

15 (e) The department is authorized to create additional tiers as necessary, ~~including an adjusted tier~~
16 ~~system to account for outdoor cultivation.~~

17 (f) The registered premises limitations for each tier of licensing apply only to registered premises at
18 which marijuana is cultivated. The limitations do not apply to the number of ~~adult-use-dispensaries an adult-use~~
19 ~~a~~ provider or ~~adult-use-marijuana-infused products~~ provider may have.

20 (g) The department shall require evidence that the licensee is able to successfully cultivate the
21 minimum amount of space allowed for the tier and sell the amount of marijuana produced by the minimum
22 cultivation level before allowing a licensee to move up a tier. Annual licensing fees must be prorated based on
23 the time licensed at a specific tier if less than 1 year.

24 (h) No person may be initially licensed greater than a tier 2 unless the person is purchasing a
25 business licensed at a tier higher than tier 2 ~~or the person is already licensed at higher than tier 2 under Title~~
26 ~~50, chapter 46, part 3, and is applying for the equivalent size tier under this chapter."~~

27

28 **Section 27.** Section 16-12-106, MCA, is amended to read:

1 **"16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in
2 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local
3 government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain,
4 search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the
5 laws of any local government for a person who is 21 years of age or older or is a registered cardholder:

6 (a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of
7 marijuana, except that not more than 8 grams may be in a concentrated form;

8 (b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or
9 older, 1 ounce or less of marijuana, except that not more than 8 grams may be in a concentrated form;

10 (c) in or on the grounds of a private residence, possessing, planting, or cultivating up to four mature
11 marijuana plants and four seedlings and possessing, harvesting, drying, processing, or manufacturing the
12 marijuana, provided that:

13 (i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a
14 locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision
15 from a public place;

16 (ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be
17 cultivated in or on the grounds of a single private residence simultaneously;

18 (iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private
19 residence where the plants are cultivated and stored or obtain written permission to cultivate and store
20 marijuana from the owner of the private residence; and

21 (iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana-
22 infused products for personal use may be shared with, rented, or leased to ~~an adult-use a~~ provider or ~~an adult-~~
23 ~~use~~-marijuana-infused products provider;

24 (d) assisting another person who is at least 21 years of age or is a registered cardholder in any of the
25 acts permitted by this section, including allowing another person to use one's personal residence for any of the
26 acts described in this section; and

27 (e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to
28 persons 18 years of age or older paraphernalia relating to marijuana.

1 (2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public
2 place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding \$250 and forfeiture of the
3 marijuana.

4 (3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject
5 to a civil fine not exceeding \$250 and forfeiture of the marijuana.

6 (4) A person who smokes marijuana in a public place, other than in an area licensed for that activity
7 by the department, is subject to a civil fine not exceeding \$50.

8 (5) For a person who is under 21 years of age and is not a registered cardholder, possession, use,
9 ingestion, inhalation, transportation, delivery without consideration, or distribution without consideration of 1
10 ounce or less of marijuana is punishable by forfeiture of the marijuana and the underage person's choice
11 between:

12 (a) a civil fine not to exceed \$100; or

13 (b) up to 4 hours of drug education or counseling in lieu of the fine.

14 (6) For a person who is under 18 years of age and is not a registered cardholder, possession, use,
15 transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is
16 punishable by forfeiture of the marijuana paraphernalia and the underage person's choice between:

17 (a) a civil fine not to exceed \$100; or

18 (b) up to 4 hours of drug education or counseling in lieu of the fine.

19 (7) Unless otherwise permitted under ~~the provisions of Title 50, chapter 46, part 3, this chapter,~~ the
20 possession, production, delivery without consideration to a person 21 years of age or older, or possession with
21 intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16
22 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

23 (a) for a first violation, the person's choice between a civil fine not exceeding \$200 or completing up to
24 4 hours of community service in lieu of the fine;

25 (b) for a second violation, the person's choice between a civil fine not exceeding \$300 or completing
26 up to 6 hours of community service in lieu of the fine;

27 (c) for a third or subsequent violation, the person's choice between a civil fine not exceeding \$500 or
28 completing up to 8 hours of community service in lieu of the fine; and

1 (d) for a person under 21 years of age, the person's choice between a civil fine not to exceed \$200 or
2 attending up to 8 hours of drug education or counseling in lieu of the fine.

3 (8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for
4 conduct that is permitted by this chapter.

5 (9) A person may not be denied access to or priority for an organ transplant or denied access to
6 health care solely for conduct that is permitted by this chapter.

7 ~~(10) A person currently under parole, probation, or other state supervision or released awaiting trial or
8 other hearing may not be punished or otherwise penalized solely for conduct that is permitted by this chapter.~~

9 ~~(11)~~(10) A holder of a professional or occupational license may not be subjected to professional
10 discipline for providing advice or services arising out of or related to conduct that is permitted by this chapter
11 solely on the basis that marijuana is prohibited by federal law.

12 ~~(12)~~(11) It is the public policy of the state of Montana that contracts related to the operation of
13 licensees be enforceable."
14

15 **Section 28.** Section 16-12-107, MCA, is amended to read:

16 **"16-12-107. (Effective October 1, 2021 Effective March 15, 2022) Legal protections -- allowable**
17 **amounts.** (1) ~~An adult-use~~ A provider or ~~adult-use~~ marijuana-infused products provider may have the canopy
18 allotment allowed by the department. The canopy allotment is a cumulative total for all of the ~~adult-use~~
19 provider's or ~~adult-use~~ marijuana-infused products provider's registered premises.

20 (2) Except as provided in 16-12-108, a person licensed under this chapter may not be arrested,
21 prosecuted, penalized, or denied any right or privilege, including but not limited to civil fine or disciplinary action
22 by a professional licensing board or the department of labor and industry, solely because the person cultivates,
23 manufactures, possesses, or transports marijuana in the amounts allowed under this chapter.

24 (3) A person may not be arrested or prosecuted for possession, conspiracy as provided in 45-4-102,
25 or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana-infused
26 products as permitted under this chapter.

27 (4) Except as provided in 16-12-210, possession of or application for a license does not solely
28 constitute probable cause to search a person or the property of a person or otherwise subject a person or

1 property of a person to inspection by any governmental agency, including a law enforcement agency.

2 (5) The provisions of this section relating to protection from arrest or prosecution do not apply to a
3 person unless the person has obtained a license prior to an arrest or the filing of a criminal charge. It is not a
4 defense to a criminal charge that a person obtains a license after an arrest or the filing of a criminal charge.

5 (6) ~~An adult-use~~ A provider or ~~adult-use~~ marijuana-infused products provider is presumed to be
6 engaged in the use of marijuana as allowed by this chapter if the person is in possession of an amount of
7 marijuana that does not exceed the amount permitted under this chapter."

8

9 **Section 29.** Section 16-12-108, MCA, is amended to read:

10 **"16-12-108. Limitations of act.** (1) This chapter does not permit:

11 (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train,
12 aircraft, motorboat, or other motorized form of transport while under the influence of marijuana;

13 (b) consumption of marijuana while operating or being in physical control of a motor vehicle, train,
14 aircraft, motorboat, or other motorized form of transport while it is being operated;

15 (c) smoking marijuana while riding in the passenger seat within an enclosed compartment of a motor
16 vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

17 (d) delivery or distribution of marijuana, with or without consideration, to a person under 21 years of
18 age;

19 (e) purchase, consumption, or use of marijuana by a person under 21 years of age;

20 (f) possession or transport of marijuana by a person under 21 years of age unless the underage
21 person is at least 18 years of age and is an employee of ~~an adult-use~~ a provider, ~~adult-use~~ marijuana-infused
22 products provider, or ~~adult-use~~ dispensary and engaged in work activities;

23 (g) possession or consumption of marijuana or possession of marijuana paraphernalia:

24 (i) on the grounds of any property owned or leased by a school district, a public or private preschool,
25 school, or postsecondary school as defined in 20-5-402;

26 (ii) in a school bus;

27 (iii) in a health care facility as defined in 50-5-101; ~~or~~

28 (iv) on the grounds of any correctional facility;

- 1 (v) at a public park, beach, recreation center, or youth center;
2 (vi) in or on the property of a place of worship; or
3 (vii) where exposure to marijuana smoke significantly affects the health, safety, or welfare of children;
4 (h) smoking marijuana in a location where smoking tobacco is prohibited;
5 (i) consumption of marijuana in a public place, except as allowed by the department;
6 (j) conduct that endangers others;
7 (k) undertaking any task while under the influence of marijuana if doing so would constitute
8 negligence or professional malpractice; or
9 (l) performing solvent-based extractions on marijuana using solvents other than water, glycerin,
10 propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.
11 (2) Nothing in this chapter may be construed to:
12 (a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any
13 workplace or on the employer's property;
14 (b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for
15 working while intoxicated by marijuana;
16 (c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an
17 adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of
18 employment because of the individual's violation of a workplace drug policy or intoxication by marijuana while
19 working;
20 (d) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
21 discrimination pursuant to 49-1-102;
22 (e) require a school or postsecondary school to allow a registered cardholder to participate in
23 extracurricular activities; or
24 (f) require a government medical assistance program, a group benefit plan that is covered by the
25 provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-
26 71-116 to reimburse an individual for costs associated with the use of marijuana by a registered cardholder.
27 (3) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise
28 regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana-infused

1 products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages,
 2 except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully
 3 possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain
 4 federal funding.

5 ~~(4) Nothing in this chapter limits the rights, privileges, immunities, or defenses provided under Title~~
 6 ~~50, chapter 46, part 3.~~

7 ~~(5)(4) An adult-use~~A provider or ~~adult-use~~ marijuana-infused products provider who violates 15-64-
 8 103 or 15-64-104 is subject to revocation of the person's license from the date of the violation until a period of
 9 up to 1 year after the department of revenue certifies compliance with 15-64-103 or 15-64-104."
 10

10

11 **Section 30.** Section 16-12-109, MCA, is amended to read:

12 "**16-12-109. (Effective October 1, 2021 March 15, 2022) Unlawful conduct by licensees --**

13 **penalties.** (1) The department shall revoke and may not reissue a license or endorsement belonging to an
 14 individual who:

15 (a) is convicted of a felony drug offense;

16 (b) allows another individual not authorized or lawfully allowed to be in possession of the individual's
 17 license; or

18 (c) fails to cooperate with the department concerning an investigation or inspection if the individual is
 19 licensed and cultivating marijuana, engaging in manufacturing, or manufacturing marijuana-infused products.

20 (2) The department shall revoke a license issued under this chapter if the licensee:

21 (a) purchases marijuana from an unauthorized source in violation of this chapter;

22 (b) sells marijuana, marijuana concentrate, or marijuana-infused products to a person the licensee
 23 knows or should know is under 21 years of age;

24 (c) operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing
 25 endorsement; or

26 (d) transports marijuana or marijuana-infused products outside of Montana, unless allowed by federal
 27 law.

28 (3) A licensee who violates the advertising restrictions imposed under 16-12-211 is subject to:

- 1 (a) a written warning for the first violation;
- 2 (b) a 5-day license suspension or a \$500 fine for a second violation;
- 3 (c) a 5-day license suspension or a \$1,000 fine for a third violation;
- 4 (d) a 30-day license suspension or a \$2,500 fine for a fourth violation; and
- 5 (e) a license revocation for a fifth violation.
- 6 (4) Except for the license revocations required under this section, a licensee shall choose whether to
- 7 pay a fine or be subject to a license suspension when a penalty is imposed under this section.
- 8 (5) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the
- 9 revocation.
- 10 (6) If no other penalty is specified under this chapter, ~~an adult-use~~ a provider or ~~adult-use~~ marijuana-
- 11 infused products provider who violates this chapter is punishable by a civil fine not to exceed \$500, unless
- 12 otherwise provided in this chapter or unless the violation would constitute a violation of Title 45. An offense
- 13 constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.
- 14 (7) Review of a department action imposing a fine, suspension, or revocation under this chapter must
- 15 be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act."

16

17 **Section 31.** Section 16-12-110, MCA, is amended to read:

18 **"16-12-110. (Effective October 1, 2021 Effective March 15, 2022) Legislative monitoring --**

19 **marijuana regulation and taxation interim committee.** (1) The ~~revenue~~ marijuana regulation and taxation

20 interim committee shall provide oversight of the department's activities pursuant to this chapter, including but

21 not limited to monitoring of:

22 (a) the number of licensees;

23 (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; and

24 (c) the development, implementation, and use of the seed-to-sale tracking system established in

25 accordance with 16-12-105.

26 (2) The ~~revenue~~ marijuana regulation and taxation interim committee shall:

27 (a) identify issues likely to require future legislative attention and develop legislation to present to the

28 next regular session of the legislature; and

1 **(b) provide administrative rule review for the division of the department of revenue that administers**
 2 **the Montana Marijuana Regulation and Taxation Act.**

3 (3) (a) The department shall periodically report to the ~~revenue-marijuana regulation and taxation~~
 4 interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons
 5 who are licensed or ~~registered~~ pursuant to 16-12-203. The report must include:

6 (i) the number of ~~adult-use~~ providers, ~~adult-use~~ marijuana-infused products providers, and ~~adult-use~~
 7 dispensaries licensed pursuant to this chapter;

8 (ii) the number of endorsements approved for manufacturing;

9 (iii) the number of licenses revoked; and

10 (iv) the amount of marijuana cultivated and sold pursuant to this chapter.

11 (b) The report may not provide any identifying information of ~~adult-use~~ providers, ~~adult-use~~ marijuana-
 12 infused products providers, or ~~adult-use~~ dispensaries.

13 (4) The report on inspections required under 16-12-210 must include, at a minimum, the following
 14 information for both announced and unannounced inspections:

15 (a) the number of inspections conducted, by canopy licensure tier;

16 (b) the number of ~~adult-use~~ providers or ~~adult-use~~ marijuana-infused products providers that were
 17 inspected more than once during the year;

18 (c) the number of inspections that were conducted because of complaints made to the department;

19 and

20 (d) the types of enforcement actions taken as a result of the inspections.

21 **(5) The president of the senate and the speaker of the house shall select the membership of the**
 22 **committee from the session standing committees as follows:**

23 **(a) one member from the senate or house taxation committees;**

24 **(b) one member from the senate or house education committees;**

25 **(c) one member from the senate or house local government committees;**

26 **(d) one member from the senate fish and game committee or the house fish, wildlife, and parks**
 27 **committee;**

28 **(e) one member from the senate or house natural resources committees;**

- 1 (f) one member from the senate public health, welfare, and safety committee or the house human
 2 services committee;
- 3 (g) one member from the senate highways and transportation committee or the house transportation
 4 committee;
- 5 (h) one member from the senate energy and telecommunications committee or the house energy,
 6 technology, and federal relations committee;
- 7 (i) one member from the senate or house judiciary committees;
- 8 (j) one member from the senate finance and claims committee; and
- 9 (k) one member from the house appropriations committee.

10 ~~(5)~~(6) The reports provided for in this section must also be provided to the transportation interim
 11 committee provided for in 5-5-233."

12

13 **Section 32.** Section 16-12-112, MCA, is amended to read:

14 "**16-12-112. (~~Effective October 1, 2021~~ Effective March 15, 2022) Rulemaking authority -- fees.**

15 (1) The department may adopt rules to implement and administer this chapter, including:

- 16 (a) the manner in which the department will consider applications for licenses and endorsements and
 17 renewal of licenses and endorsements;
- 18 (b) the acceptable forms of proof of Montana residency;
- 19 (c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background
 20 checks required under 16-12-203;
- 21 (d) the security and operating requirements for ~~adult-use~~ dispensaries;
- 22 (e) the security and operating requirements for manufacturing, including but not limited to
 23 requirements for:
- 24 (i) safety equipment;
- 25 (ii) extraction methods, including solvent-based and solvent-free extraction; and
- 26 (iii) post-processing procedures;
- 27 (f) notice and contested case hearing procedures for fines or license and endorsement revocations,
 28 suspensions, or modifications;

1 (g) implementation of a system to allow the tracking of marijuana and marijuana-infused products as
2 required by 16-12-105;

3 (h) labeling standards that protect public health by requiring the listing of pharmacologically active
4 ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD) and other cannabinoid
5 content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package,
6 and quantity limits per sale to comply with the allowable possession amount;

7 (i) requirements that packaging and labels may not be made to be attractive to children, required
8 warning labels, and that marijuana and marijuana-infused products be sold in resealable, child-resistant
9 packaging to protect public health as provided in 16-12-208;

10 (j) requirements and standards for the testing and retesting of marijuana and marijuana-infused
11 products, including testing of samples collected during the department's inspections of registered premises;

12 (k) the amount of variance allowable in the results of raw testing data that would warrant a
13 departmental investigation of inconsistent results as provided in 16-12-202;

14 (l) requirements and standards to prohibit or limit marijuana, marijuana-infused products, and
15 marijuana accessories that are unsafe or contaminated;

16 (m) the activities that constitute advertising in violation of 16-12-211 and requirements and standards
17 for electronic advertising as permitted under 16-12-211;

18 (n) requirements and incentives to promote renewable energy, reduce water usage, and reduce
19 packaging waste to maintain a clean and healthy environment in Montana; and

20 (o) the fees for endorsements for manufacturing, testing laboratories, additional canopy licensure tiers
21 created in accordance with 16-12-105, and the fingerprint-based and name-based background checks required
22 under 16-12-203. The fees listed in this subsection (1)(o), together with revenue deposited in the medical
23 marijuana state special revenue account in [section 3], and other revenue collected through the taxes paid
24 under 16-12-401, civil penalties imposed pursuant to this chapter, and the licensing fees established by rule
25 and in 16-12-204 [section 4] must be sufficient to offset the expenses of administering this chapter but may not
26 exceed the amount necessary to cover the costs to the department of implementing and enforcing this chapter,
27 including all implementation and enforcement.

28 (2) The department may not adopt any rule or regulation that is unduly burdensome or undermines

1 the purposes of this chapter.

2 (3) The department may consult or contract with other public agencies in carrying out its duties under
3 this chapter."

4

5 **Section 33.** Section 16-12-201, MCA, is amended to read:

6 **"16-12-201. (Effective October 1, 2024) Licensing of providers, marijuana-infused products**

7 **providers, and dispensaries for adult use -- license transfer from department of public health and**

8 **human services.** (1) No later than ~~October 4~~ December 31, 2021, the department shall promulgate rules and

9 regulations to administer and enforce this chapter ~~and shall begin accepting applications for and issuing~~

10 ~~licenses.~~ The rules may not be unduly burdensome. ~~For the first 12 months after the department begins to~~

11 ~~receive applications, the department shall only accept applications from and issue licenses to providers,~~

12 ~~marijuana-infused products providers, and dispensaries licensed under Title 50, chapter 46, part 3, that are in~~

13 ~~good standing with the department of public health and human services and in compliance with this chapter and~~

14 ~~rules adopted by the department.~~

15 (2) On March 15, 2022, the department shall begin accepting applications for licenses and allowing

16 the sale of marijuana and marijuana-infused products to consumers at the adult-use marijuana tax rate set forth

17 in 15-64-102(1)(b)(i).

18 (3) A provider, marijuana-infused products provider, or dispensary that was licensed under the former

19 medical marijuana program administered by the department of public health and human services as of [the

20 effective date of this act] may sell marijuana to consumers at the adult-use marijuana tax rate set forth in 15-64-

21 102(1)(b)(i) under the provider's, marijuana-infused products provider's, or dispensary's existing license

22 beginning on March 15, 2022.

23 (4) (a) On March 14, 2022, the department of public health and human services shall transfer to the

24 department the existing license for any provider, marijuana-infused products provider, or dispensary licensee

25 who is in good standing with the department of public health and human services.

26 (b) Existing licenses must be accepted and administered by the department of revenue until those

27 licenses expire or are canceled, reduced, modified, revoked, or renewed by the department."

28

1 **Section 34.** Section 16-12-202, MCA, is amended to read:

2 "~~16-12-202. (Effective October 1, 2021~~ Effective March 15, 2022) **Testing laboratories --**

3 **licensing -- inspection -- dual licensure -- state laboratory responsibility.** (1) (a) The state laboratory shall
4 license testing laboratories to perform the testing required under 16-12-206 and 16-12-209.

5 (b) (i) The state laboratory shall inspect a testing laboratory before issuing or renewing a license and
6 may not issue or renew a license if the applicant does not meet the requirements of 16-12-206 and this section.

7 (ii) The state laboratory may not issue a temporary license while an inspection is pending.

8 (iii) Inspections conducted under this section must include the review provided for in ~~50-46-311(1)(b)~~
9 16-12-206(1)(b).

10 (2) The state laboratory shall:

11 (a) use the criteria established under ~~50-46-311~~ 16-12-206 in evaluating and approving licenses
12 issued under this section;

13 (b) ~~use the criteria established under 50-46-304(6)~~ to establish and enforce standard operating
14 procedures and testing standards for testing laboratories to ensure that consumers and registered cardholders
15 receive consistent and uniform information about the potency and quality of the marijuana and marijuana-
16 infused products they receive; ~~and~~

17 ~~(c) investigate inconsistent test results using the procedure provided for in 50-46-304(7).~~

18 (c) consult with independent national or international organizations that establish testing standards for
19 marijuana and marijuana-infused products;

20 (d) require testing laboratories to follow uniform standards and protocols for the samples accepted for
21 testing and the processes used for testing the samples; and

22 (e) track and analyze the raw data for the results of testing conducted by testing laboratories to
23 ensure that the testing laboratories are providing consistent and uniform results.

24 (3) If an analysis of raw testing data indicates that licensees are providing test results that vary among
25 testing laboratories by an amount determined by the state laboratory by rule, the department shall investigate
26 the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that
27 each testing laboratory provides accurate and consistent results.

28 (4) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent

1 results, the state laboratory shall suspend the testing laboratory's license until additional testing determines
2 whether the results are consistent.

3 (5) The state laboratory shall revoke a testing laboratory's license upon a determination that the
4 laboratory is:

5 (a) providing test results that are fraudulent; or

6 (b) providing test results without having:

7 (i) the equipment needed to test marijuana, marijuana concentrates, or marijuana-infused products; or

8 (ii) the equipment required under this chapter to conduct the tests for which the laboratory is providing
9 results.

10 (6) A revocation under this section is subject to judicial review.

11 ~~(7) The state laboratory:~~

12 ~~(a) may license a testing laboratory to perform both the testing required under this chapter and under
13 Title 50, chapter 46; and~~

14 ~~(b) shall use the same administrative rules for testing laboratories licensed under this chapter and
15 under Title 50, chapter 46."~~

16

17 **Section 35.** Section 16-12-203, MCA, is amended to read:

18 **"16-12-203. (Effective October 1, 2021 Effective March 15, 2022) Provider types -- requirements**

19 **-- limitations -- activities.** (1) (a) Subject to subsections (1)(b) and (3), the department shall issue a license to
20 or renew a license for a person who is applying to be ~~an adult-use~~ a provider or ~~adult-use~~ marijuana-infused
21 products provider if the person submits to the department:

22 (i) the person's name, date of birth, and street address on a form prescribed by the department;

23 (ii) proof that the person is a Montana resident;

24 (iii) fingerprints meeting the requirements for a fingerprint-based background check by the department
25 of justice and the federal bureau of investigation:

26 (A) with the application for initial licensure; and

27 (B) every 3 years thereafter;

28 (iv) a statement, on a form prescribed by the department, that the person will not divert to any other

1 person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures
2 for consumers, unless the marijuana or marijuana-infused products are sold to another ~~adult-use~~ provider or as
3 part of a sale of a business as allowed under this section;

4 (v) the street address of the location at which marijuana, marijuana concentrates, or marijuana-
5 infused products will be cultivated or manufactured; and

6 (vi) a fee as determined by the department not to exceed the costs of required background checks and
7 associated administrative costs of processing the license.

8 (b) If the person to be licensed consists of more than one individual, the names of all owners must be
9 submitted along with the fingerprints and date of birth of each.

10 (2) The department shall conduct:

11 (a) a fingerprint-based background check in association with an application for initial licensure and
12 every 3 years thereafter; and

13 (b) a name-based background check in association with an application for initial licensure and each
14 year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based
15 background check.

16 (3) The department may not license a person under this chapter if the person or an owner:

17 ~~(a) has a felony conviction involving fraud, deceit, or embezzlement or for distribution of drugs to a
18 minor within the past 5 years and, after an investigation, the department finds that the applicant has not been
19 sufficiently rehabilitated as to warrant the public trust;~~

20 (a) has a felony conviction or a conviction for a drug offense other than an offense that is
21 decriminalized under 16-12-113;

22 (b) is in the custody or under the supervision of the department of corrections or a youth court;

23 (c) has been convicted of a violation under 16-12-302;

24 (d) has failed to:

25 (i) pay any taxes, interest, penalties, or judgments due to a government agency;

26 (ii) stay out of default on a government-issued student loan;

27 (iii) pay child support; or

28 (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a

1 government agency;

2 ~~(d)~~(e) has resided in Montana for less than 1 year; or

3 ~~(e)~~(f) is under ~~18~~ 21 years of age.

4 (4) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana ~~until~~
5 ~~federal law allows for the interstate distribution of marijuana.~~

6 (5) Except as provided in 16-12-209, ~~an adult-use~~ a provider or ~~adult-use~~ marijuana-infused products
7 provider shall:

8 (a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories
9 pursuant to this chapter and administrative rules;

10 (b) allow the department to collect samples of marijuana or marijuana-infused products during
11 inspections of registered premises for testing as provided by the department by rule; and

12 (c) participate as required by the department by rule in a seed-to-sale tracking system established by
13 the department pursuant to 16-12-105; ~~and~~

14 ~~(d) obtain the license from the department of agriculture if required by 80-7-106 for the adult-use~~
15 ~~provider or adult-use marijuana-infused products provider that sells live plants as part of a sale of the adult-use~~
16 ~~provider's business. An adult-use provider or adult-use marijuana-infused products provider required to obtain a~~
17 ~~nursery license is subject to the inspection requirements of 80-7-108.~~

18 (6) (a) Except as provided in 16-12-205, a person licensed under this section may cultivate marijuana
19 and manufacture marijuana-infused products for use by consumers only at one of the following locations:

20 (i) a property that is owned by the ~~adult-use~~ provider or ~~adult-use~~ marijuana-infused products
21 provider; or

22 (ii) with written permission of the property owner, a property that is rented or leased by the ~~adult-use~~
23 provider or ~~adult-use~~ marijuana-infused products provider.

24 (b) Except as provided in 16-12-205, no portion of the property used for cultivation of marijuana or
25 manufacture of marijuana-infused products or marijuana concentrate may be shared with or rented or leased to
26 another ~~adult-use~~ provider, ~~adult-use~~ marijuana-infused products provider, or testing laboratory.

27 (7) A licensed ~~adult-use~~ provider or ~~adult-use~~ marijuana-infused products provider ~~may~~:

28 (a) MAY, in accordance with rules adopted by the department:

1 (i) operate ~~adult-use~~ dispensaries; and

2 (ii) engage in manufacturing;

3 (b) MAY employ employees to cultivate marijuana, manufacture marijuana concentrates and
4 marijuana-infused products, and dispense and transport marijuana and marijuana-infused products;

5 (c) MAY provide a small amount of marijuana, marijuana concentrate, or marijuana-infused product
6 cultivated or manufactured on the registered premises to a licensed testing laboratory ~~or the department of~~
7 agriculture;

8 (d) MAY sell the ~~adult-use~~ provider's business, including live plants, inventory, material assets, and all
9 licenses in accordance with [section 4] and rules adopted by the department; ~~and~~

10 ~~(e) hold a provider or marijuana-infused products provider license issued pursuant to Title 50, chapter~~
11 ~~46, part 3~~

12 (e) MAY sell marijuana and marijuana-infused products to consumers at the tax rate in 15-64-
13 102(1)(b)(i) and to registered cardholders at the tax rate in 15-64-102(1)(b)(ii); AND

14 (F) MAY NOT ENGAGE IN OUTDOOR CULTIVATION OF MARIJUANA.

15 (8) (a) Except as provided in subsection (8)(b), ~~an adult-use~~ a provider or ~~adult-use~~ marijuana-
16 infused products provider:

17 (i) shall sell marijuana the ~~adult-use~~ provider has cultivated or marijuana products derived from
18 marijuana the ~~adult-use~~ marijuana-infused products provider has cultivated for at least 50% 65% of the
19 provider's total annual sales;

20 (ii) may sell marijuana or marijuana-infused products to another ~~adult-use~~ provider for subsequent
21 resale for up to 50% 35% of the ~~adult-use~~ provider's total annual sales;

22 (iii) may contract or otherwise arrange for another party that is licensed to process the ~~adult~~ provider's
23 or ~~adult~~ marijuana-infused products provider's marijuana into marijuana-infused products or marijuana
24 concentrates and return the marijuana-infused products or marijuana concentrates to the ~~adult-use~~ provider for
25 sale; and

26 (iv) except as allowed pursuant to 16-12-207, may not open a dispensary or allow for any on-site use
27 before obtaining the required license or before the department has completed the inspection required under this
28 chapter unless permitted to do so pursuant to 16-12-207.

1 (b) The department may adjust the percentages set forth in subsection (8)(a) for an individual license
2 holder based on unforeseen circumstances leading to the loss of plants or products."

3

4 **Section 36.** Section 16-12-204, MCA, is amended to read:

5 "~~16-12-204. (Effective October 1, 2021~~ Effective March 15, 2022) ~~Adult-use marijuana-infused~~
6 Marijuana-infused products provider. (1) A person licensed as an ~~adult-use~~ a marijuana-infused products
7 provider shall:

8 (a) prepare marijuana-infused products at a registered premises; and

9 (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused
10 products.

11 (2) ~~An adult-use~~ A marijuana-infused products provider:

12 (a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

13 (b) may not provide a consumer with marijuana in a form that may be used for smoking unless the
14 ~~adult-use~~ marijuana-infused products provider is also a licensed ~~adult-use~~ provider.

15 (3) All registered premises on which marijuana-infused products are manufactured must meet any
16 applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.

17 (4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50,
18 chapter 31."

19

20 **Section 37.** Section 16-12-205, MCA, is amended to read:

21 "~~16-12-205. (Effective October 1, 2021~~ Effective March 15, 2022) **Contracted services.** (1) An
22 ~~adult-use~~ A marijuana-infused products provider may contract with another ~~adult-use~~ marijuana-infused
23 products provider to perform extraction or manufacturing services for the provider. The ~~adult-use~~ marijuana-
24 infused products provider who is providing the services must hold a provider license for at least a tier 1 canopy.

25 (2) ~~An adult-use~~ A marijuana-infused products provider who has contracted for services under this
26 section may deliver the marijuana to be used for extraction or manufacturing or the provider who is contracted
27 to provide the services may pick up and transport the marijuana.

28 (3) ~~An adult-use~~ A marijuana-infused products provider who offers extraction or manufacturing

1 services may not keep any marijuana-infused product or plant material from the extraction or manufacturing or
 2 transfer or sell the marijuana-infused product or plant material to another provider who has contracted for
 3 similar services with the same provider except as permitted under 16-12-203."

4

5 **Section 38.** Section 16-12-206, MCA, is amended to read:

6 **"16-12-206. (Effective October 1, 2021 ~~Effective March 15, 2022~~) Testing laboratories --**

7 **licensing inspections.** (1) (a) The state laboratory shall license testing laboratories that meet the requirements
 8 of this part. The state laboratory shall inspect a testing laboratory before issuing or renewing a license. The
 9 state laboratory may not issue a temporary license while an inspection is pending.

10 (b) Inspections conducted for licensure or renewal of licensure must include a review of an applicant's
 11 or testing laboratory's:

12 (i) physical premises where testing will be conducted;

13 (ii) instrumentation;

14 (iii) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

15 (iv) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

16 (v) vehicles used for transporting marijuana or marijuana-infused products samples for testing

17 purposes.

18 (2) A testing laboratory licensed pursuant to Title 50, chapter 46, part 3, shall:

19 (a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic
 20 acid content of marijuana and marijuana-infused products; and

21 (b) test marijuana and marijuana-infused products for pesticides, solvents, moisture levels, mold,
 22 mildew, and other contaminants. A testing laboratory may transport samples to be tested.

23 ~~(2) The analytical laboratory services provided by the department of agriculture pursuant to 80-1-~~

24 ~~104 may be used for the testing provided for in this section.~~

25 (3) A person with a financial interest in a licensed testing laboratory may not have a financial interest
 26 in any entity involved in the cultivation of marijuana or manufacture of a marijuana-infused product or marijuana
 27 concentrate for whom testing services are performed.

28 (4) Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring

1 the achievement and maintenance of quality standards of practice. The scientific director must have the
 2 following minimum qualifications:

3 (a) a doctorate in chemical or biological sciences from a college or university accredited by a national
 4 or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

5 (b) a master's degree in chemical or biological sciences from a college or university accredited by a
 6 national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

7 (5) All owners and employees of a testing laboratory shall submit fingerprints to the state laboratory to
 8 facilitate a fingerprint and background check by the department of justice and the federal bureau of
 9 investigation. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted
 10 of a felony offense.

11 (6) To qualify for licensure, a testing laboratory shall demonstrate that:

12 (a) staff members are proficient in operation of the laboratory equipment; and

13 (b) the laboratory:

14 (i) maintains the equipment and instrumentation required by rule;

15 (ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance
 16 testing requirements established by rule, including the ability to certify results at the required level of sensitivity;

17 (iii) meets insurance and bonding requirements established by rule;

18 (iv) has the capacity and ability to serve rural areas of the state; and

19 (v) has passed a relevant proficiency program that demonstrates it is able to meet all testing

20 requirements. The state laboratory shall establish by rule the proficiency programs considered relevant for the
 21 purposes of this section.

22 ~~(4)(7)~~ Except as provided in 16-12-209, a testing laboratory shall conduct tests of:

23 (a) samples of marijuana, marijuana concentrate, and marijuana-infused products submitted by ~~adult-~~
 24 ~~use-providers and adult-use-~~marijuana-infused products providers pursuant to 16-12-209 and related
 25 administrative rules prior to sale of the marijuana or marijuana-infused products;

26 (b) samples of marijuana or marijuana-infused products collected by the department during
 27 inspections of registered premises; and

28 (c) samples submitted by consumers."

1

2 **Section 39.** Section 16-12-207, MCA, is amended to read:3 "~~16-12-207. (Effective October 1, 2021~~ Effective March 15, 2022) **Licensing as privilege --**4 **criteria.** (1) ~~An adult-use provider~~ A provider license, ~~adult-use-marijuana-infused products provider license,~~
5 ~~adult-use-dispensary license,~~ or endorsement for manufacturing is a privilege that the state may grant to an
6 applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall
7 consider:

8 (a) the qualifications of the applicant; and

9 (b) the suitability of the proposed registered premises.

10 (2) The department may deny or revoke a license based on proof that the applicant made a ~~knowing~~
11 ~~and material~~ false statement in any part of the original application or renewal application.12 (3) The department may deny ~~an adult-use~~ a provider license, ~~adult-use-marijuana-infused products~~
13 ~~provider license,~~ ~~adult-use-dispensary license,~~ or endorsement for manufacturing if the applicant's proposed
14 registered premises is situated within a zone of a locality where an activity related to the use of marijuana
15 conflicts with an ordinance, a certified copy of which has been filed with the department.16 (4) (a) The department may deny a license for ~~an adult-use~~ a provider, ~~adult-use-marijuana-infused~~
17 ~~products provider,~~ or ~~adult-use-dispensary~~ or an endorsement for manufacturing if the applicant's proposed
18 registered premises:

19 (i) is not approved by local building, health, or fire officials; or

20 (ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue,
21 or other place of worship or as a school or postsecondary school other than a commercially operated school,
22 unless the locality allows for a reduced distance. This distance must be measured in a straight line from the
23 center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's
24 premises.25 (b) For the purposes of this subsection (4), "school" and "postsecondary school" have the meanings
26 provided in 20-5-402.27 ~~(5) An adult-use provider, adult-use-marijuana-infused products provider, or adult-use-dispensary~~
28 ~~licensee may operate at a shared location with a provider, marijuana-infused products provider, or dispensary~~

1 as defined in 50-46-302 if the provider, marijuana-infused products provider, or dispensary is owned by the same
2 person."

3

4 **Section 40.** Section 16-12-208, MCA, is amended to read:

5 **"16-12-208. (Effective October 1, 2021 ~~Effective March 15, 2022~~) Restrictions.** (1) ~~An adult-use A~~
6 ~~provider or adult-use marijuana-infused products provider~~ may not cultivate marijuana or manufacture
7 marijuana concentrates or marijuana-infused products in a manner that is visible from the street or other public
8 area without the use of binoculars, aircraft, or other optical aids.

9 (2) ~~An adult-use A~~ provider or ~~adult-use~~ marijuana-infused products provider may not cultivate,
10 process, test, or store marijuana at any location other than the registered premises approved by the department
11 and within an enclosed area that is secured in a manner that prevents access by unauthorized persons.

12 (3) ~~An adult-use A~~ provider or ~~adult-use~~ marijuana-infused products provider shall secure the
13 provider's inventory and equipment during and after operating hours to deter and prevent theft of marijuana.

14 (4) ~~An adult-use A~~ provider or ~~adult-use~~ marijuana-infused products provider shall make the
15 registered premises, books, and records available to the department for inspection and audit under 16-12-210
16 during normal business hours.

17 (5) ~~An adult-use A~~ provider or ~~adult-use~~ marijuana-infused products provider may not allow a person
18 under 18 years of age to volunteer or work for the licensee.

19 (6) Edible marijuana-infused candy may not be sold in shapes or packages that are attractive to
20 children or that are easily confused with commercially sold candy that does not contain marijuana.

21 (7) (a) Marijuana or a marijuana-infused product must be sold or otherwise transferred in resealable,
22 child-resistant packaging designed to be significantly difficult for children under 5 years of age to open and not
23 difficult for adults to use properly.

24 (b) Subsection (7)(a) does not apply to marijuana consumed on the premises where it is sold, if
25 permitted by department rule.

26 (8) ~~An adult-use A~~ provider or ~~adult-use~~ marijuana-infused products provider may not sell or
27 otherwise transfer tobacco or alcohol from a registered premises."

28

1 **Section 41.** Section 16-12-209, MCA, is amended to read:

2 "**16-12-209. (Effective October 1, 2021 Effective March 15, 2022) Testing of marijuana and**
3 **marijuana-infused products.** (1) ~~An adult-use A~~ provider or ~~adult-use~~ marijuana-infused products provider
4 may not sell marijuana or marijuana-infused products until the marijuana or products have been tested by a
5 testing laboratory ~~or the department of agriculture~~ and meet the requirements of ~~50-46-326~~ this section.

6 (2) ~~An adult-use A~~ provider or ~~adult-use~~ marijuana-infused products provider shall submit material that
7 has been collected in accordance with a sampling protocol established by the state laboratory by rule. The
8 protocol must address the division of marijuana and marijuana-infused products into batch sizes for testing.
9 Each batch must be tested in the following categories:

- 10 (a) flower;
11 (b) concentrate; and
12 (c) marijuana-infused product.

13 (3) ~~The state laboratory shall apply the same rules adopted pursuant to Title 50, chapter 46, part 3,~~
14 adopt rules regarding the types of tests, inspections, analysis, and certification that must be performed to
15 ensure product safety and consumer protection to marijuana and marijuana products tested pursuant to this
16 chapter. Rules must include but are not limited to testing for:

- 17 (a) the potency of the cannabinoids present; and
18 (b) the presence of contaminants.
19 (4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of
20 levels of foreign matter, debris, insects, and visible mold.

21 (5) The state laboratory shall establish by rule the acceptable levels of moisture, pesticides, residual
22 solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana-infused products
23 may contain.

24 (6) The testing laboratory shall:

- 25 (a) issue a certificate of analysis certifying the test results; and
26 (b) report the results to the seed-to-sale tracking system as set forth in 16-12-105.

27 ~~(4)(7)~~ ~~An adult-use A~~ provider or ~~adult-use~~ marijuana-infused products provider may request that
28 material that has failed to pass the required tests be retested in accordance with the rules adopted by the state

1 laboratory providing for retesting parameters and requirements.

2 ~~(5)(8)~~ Marijuana or a marijuana-infused product must include a label indicating that the marijuana or
3 marijuana-infused product has been tested.

4 (9) The testing standards adopted pursuant to this section may be developed by the state laboratory."

5

6 **Section 42.** Section 16-12-210, MCA, is amended to read:

7 **"16-12-210. (~~Effective October 1, 2024~~ Effective March 15, 2022) Inspections -- procedures --**

8 **prohibition on inspector affiliation with licensees.** (1) The department shall conduct unannounced
9 inspections of registered premises.

10 (2) (a) The department shall inspect annually each registered premises.

11 (b) The department may collect samples during the inspection of a registered premises and submit
12 the samples to all registered testing laboratories for testing as provided by the department by rule.

13 (3) (a) Each ~~adult-use~~ provider and ~~adult-use~~ marijuana-infused products provider shall keep a
14 complete set of records necessary to show all transactions with consumers. The records must be open for
15 inspection by the department or state laboratory, as appropriate, and state or local law enforcement agencies
16 during normal business hours.

17 (b) Each testing laboratory shall keep:

18 (i) a complete set of records necessary to show all transactions with ~~adult-use~~ providers and ~~adult-~~
19 ~~use~~ marijuana-infused products providers; and

20 (ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana-infused
21 products.

22 (c) The records and data required under this subsection (3) must be open for inspection by the
23 department and state or local law enforcement agencies during normal business hours.

24 (d) The department may require ~~an adult-use~~ a provider, ~~adult-use~~ marijuana-infused products
25 provider, or testing laboratory to furnish information that the department considers necessary for the proper
26 administration of this chapter.

27 (4) (a) Registered premises, including any places of storage, where marijuana is cultivated,
28 manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement

1 agencies for the purpose of inspection or investigation during normal business hours.

2 (b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused
3 products provider shall make the area available for inspection immediately upon request of the department or
4 state or local law enforcement officials.

5 (5) The state laboratory shall conduct the inspections of testing laboratories required under this
6 section.

7 (6) A provider or marijuana-infused products provider shall maintain records showing the names and
8 registry identification numbers of registered cardholders to whom mature plants, seedlings, marijuana, or
9 marijuana-infused products were sold or transferred and the quantities sold or transferred to each cardholder.

10 ~~(5)(7)~~ If the department conducts an inspection because of a complaint against a licensee or
11 registered premises and does not find a violation of this chapter, the department shall give the licensee a copy
12 of the complaint with the name of the complainant redacted.

13 ~~(6)(8)~~ The department may not hire or contract with a person to be an inspector if the person has
14 worked during the previous 4 years for a Montana business or facility operating under this chapter or ~~Title 50,~~
15 ~~chapter 46, part 3~~ that operated under the former medical marijuana program administered by the department
16 of public health and human services.

17 ~~(7)(9)~~ In addition to any other penalties provided under this chapter, the department may revoke,
18 suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon
19 inspection and subsequent notice to the licensee, the department finds that any of the following circumstances
20 exist:

21 (a) a cause for which issuance of the license or endorsement could have been rejected had it been
22 known to the department at the time of issuance;

23 (b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

24 (c) noncompliance with any provision of this chapter.

25 ~~(8)(10)~~ The department may suspend or modify a license or endorsement without advance notice upon
26 a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the
27 licensee, or members of the public.

28 ~~(9)(11)~~ Review of a department action imposing a suspension, revocation, or other modification under

1 this chapter must be conducted as a contested case hearing under the provisions of the Montana
2 Administrative Procedure Act.

3 ~~(40)(12)~~ The department shall establish a training protocol to ensure uniform application and
4 enforcement of the requirements of this chapter.

5 ~~(44)(13)~~ The department shall report biennially in accordance with 5-11-210 to the ~~revenue~~ marijuana
6 regulation and taxation interim committee concerning the results of inspections conducted under this section.
7 The report must include the information required under 16-12-110."

8

9 **Section 43.** Section 16-12-211, MCA, is amended to read:

10 **"16-12-211. (~~Effective October 1, 2021~~ Effective March 15, 2022) Advertising prohibited**

11 **Limitations on advertising -- rulemaking.** (1) ~~Persons~~ Except as provided in subsection (3), persons with
12 licenses may not advertise marijuana or marijuana-related products ~~in any medium, including electronic media.~~

13 (2) A listing in a directory of businesses authorized under this chapter is not advertising for the
14 purposes of this section.

15 ~~(3) A licensee may have a website but may not:~~

16 ~~(a) include prices on the website; or~~

17 ~~(b) actively solicit consumers or out-of-state consumers through the website.~~

18 (3) A licensee may engage in electronic advertising such as maintaining a website and advertising on
19 web applications, provided that no electronic advertisement produced by the licensee contains a statement or
20 illustration that:

21 (a) is false or misleading;

22 (b) promotes overconsumption of marijuana or marijuana-related products;

23 (c) depicts the actual consumption of marijuana or marijuana-related products;

24 (d) depicts a person under 21 years of age consuming marijuana;

25 (e) makes any health, therapeutic, or medicinal claims about marijuana or marijuana-related products;

26 or

27 (f) is designed in a way that is likely to appeal to minors and includes cartoons, animals, children, or
28 any other likeness to images, characters, or phrases that are designed in any manner to be appealing or to

1 encourage consumption of marijuana by persons under 21 years of age.

2 (4) The department shall adopt rules to clearly identify the activities that constitute advertising that are
3 prohibited under this section."
4

5 **Section 44.** Section 16-12-301, MCA, is amended to read:

6 **"16-12-301. (~~Effective October 1, 2021~~ Effective March 15, 2022) Local government authority to**

7 **regulate.** (1) (a) To protect the public health, safety, or welfare, a local government may by ordinance or
8 resolution regulate ~~an adult-use~~ a provider or ~~adult-use~~ marijuana-infused products provider that operates
9 within the local government's jurisdictional area. The regulations may include but are not limited to inspections
10 of registered premises and testing laboratories in order to ensure compliance with any public health, safety, and
11 welfare requirements established by the department ~~or the local government.~~

12 (b) A local government may not adopt ordinances or regulations that are unduly burdensome.

13 (2) The qualified electors of an incorporated municipality, county, or consolidated city-county may
14 request an election on whether to prohibit by ordinance ~~adult-use~~ dispensaries from being located within the
15 jurisdiction of the local government by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137.

16 (3) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed
17 in accordance with Title 13, chapter 1, part 4.

18 ~~(b) Except as provided in subsection (3)(c), an election held pursuant to this section may not be held~~
19 ~~within 70 days before or after a primary, general, or regular local election.~~

20 ~~(c)~~(b) An election pursuant to this section ~~may~~ must be held in conjunction with a regular election of
21 the governing body, general election, or a regular local or special election.

22 (4) If the qualified electors of an incorporated municipality, county, or consolidated city-county vote to
23 prohibit ~~adult-use~~ dispensaries from being located in the jurisdiction, the governing body shall enter the
24 prohibition into the records of the local government and notify the department of the election results.

25 (5) (a) If an election is held pursuant to this section in a county that contains within its limits a
26 municipality of more than 5,000 persons according to the most recent federal decennial census:

27 (i) it is not necessary for the registered qualified electors in the municipality to file a separate petition
28 asking for a separate or different vote on the question of whether to prohibit ~~adult-use~~ dispensaries from being

1 located in the municipality; and

2 (ii) the county shall conduct the election in a manner that separates the votes in the municipality from
3 those in the remaining parts of the county.

4 (b) If a majority of the qualified electors in the county, including the qualified electors in the
5 municipality, vote to prohibit ~~adult-use~~ dispensaries from being located in the county, the county may not allow
6 ~~adult-use~~ dispensaries to operate in the county.

7 (c) If a majority of the qualified electors in the municipality vote to prohibit ~~adult-use~~ dispensaries from
8 being located in the municipality, the municipality may not allow ~~adult-use~~ dispensaries to operate in the
9 municipality.

10 (d) Nothing contained in this subsection (5) prevents any municipality from having a separate election
11 under the terms of this section.

12 (6) (a) An incorporated municipality, county, or consolidated city-county that has voted to prohibit
13 ~~adult-use~~ dispensaries from being located in the jurisdiction may vote to discontinue the prohibition and to allow
14 the previously prohibited operations within the incorporated municipality, county, or consolidated city-county.

15 (b) A vote overturning a prohibition on operation of ~~adult-use~~ dispensaries is effective on the 90th day
16 after the local election is held.

17 (7) A local government may temporarily prohibit retail sales regulated under this chapter from being
18 located within its jurisdiction through local ordinance until an election can be held pursuant to this section.

19 (8) A local government may not prohibit the transportation of marijuana within or through its
20 jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this
21 chapter."

22

23 **Section 45.** Section 16-12-302, MCA, is amended to read:

24 "**16-12-302. (Effective October 1, 2021 Effective March 15, 2022) Fraudulent representation --**

25 **penalties.** (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a
26 law enforcement official that the individual is ~~an adult-use~~ a provider or ~~an adult-use~~ marijuana-infused products
27 provider is guilty of a civil fine not to exceed \$1,000.

28 (2) An individual convicted under this section may not be licensed as ~~an adult-use~~ a provider or ~~adult-~~

1 use-marijuana-infused products provider under 16-12-203."

2

3 **Section 46.** Section 17-7-502, MCA, is amended to read:

4 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
5 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
6 the need for a biennial legislative appropriation or budget amendment.

7 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with
8 both of the following provisions:

9 (a) The law containing the statutory authority must be listed in subsection (3).

10 (b) The law or portion of the law making a statutory appropriation must specifically state that a
11 statutory appropriation is made as provided in this section.

12 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-
13 407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;
14 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108;
15 15-36-332; [section 2]; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-
16 509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404;
17 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-
18 203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-
19 1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-
20 113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-
21 113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-
22 1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-
23 2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-
24 526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

25 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
26 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
27 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
28 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined

1 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
 2 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
 3 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
 4 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
 5 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
 6 benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion
 7 of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115
 8 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
 9 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 10 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates
 11 December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023;
 12 pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to
 13 sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L.
 14 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the
 15 inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017,
 16 the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-
 17 103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates
 18 September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029;
 19 pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027;
 20 pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5,
 21 Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

22

23 **Section 47.** Section 18-7-101, MCA, is amended to read:

24 "**18-7-101. Power to contract for printing -- exceptions.** (1) Except as provided in 1-11-301 and ~~50-~~
 25 ~~46-303~~, 16-12-104, and [section 7], the department has exclusive power, subject to the approval of the
 26 governor, to contract for all printing for any purpose used by the state in any state office (elective or appointive),
 27 agency, or institution.

28 (2) The department shall supervise and attend to all public printing of the state as provided in this

1 chapter and shall prevent duplication and unnecessary printing.

2 (3) Unless otherwise provided by law, the department, in letting contracts as provided in this chapter,
3 for the printing, binding, and publishing of all laws, journals, and reports of the state agencies and institutions
4 may determine the quantity, quality, style, and grade of all such printing, binding, and publishing.

5 (4) The provisions of this chapter do not apply to the state compensation insurance fund for purposes
6 of external marketing or educational materials."

7

8 **Section 48.** Section 37-1-136, MCA, is amended to read:

9 **"37-1-136. Disciplinary authority of boards -- injunctions.** (1) Subject to 37-1-138, each licensing
10 board allocated to the department has the authority, in addition to any other penalty or disciplinary action
11 provided by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

12 (a) revocation of a license;

13 (b) suspension of its judgment of revocation on terms and conditions determined by the board;

14 (c) suspension of the right to practice for a period not exceeding 1 year;

15 (d) placing a licensee on probation;

16 (e) reprimand or censure of a licensee; or

17 (f) taking any other action in relation to disciplining a licensee as the board in its discretion considers
18 proper.

19 (2) Any disciplinary action by a board shall be conducted as a contested case hearing under the
20 provisions of the Montana Administrative Procedure Act.

21 (3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person
22 from engaging in the practice of the occupation or profession regulated by the board until a license to practice is
23 procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

24 ~~(4) An action may not be taken against a person who is in compliance with Title 50, chapter 46.~~

25 ~~(5)~~(4) Rules adopted under subsection (1) must provide for the provision of public notice as required
26 by 37-1-311."

27

28 **Section 49.** Section 37-1-316, MCA, is amended to read:

1 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or
2 license applicant governed by this part:

3 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
4 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or
5 theft, whether or not an appeal is pending;

6 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to
7 licensure or certification;

8 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting
9 in securing a license or license renewal or in taking an examination required for licensure;

10 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the
11 licensee knows or reasonably ought to know contains a false or misleading statement;

12 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct
13 of the profession or occupation;

14 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government
15 employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local
16 law, rule, or ordinance governing the licensee's profession or occupation;

17 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a
18 licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not
19 on appeal, under judicial review, or has been satisfied;

20 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;

21 (9) revealing confidential information obtained as the result of a professional relationship without the
22 prior consent of the recipient of services, except as authorized or required by law;

23 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32,
24 to the extent that the use impairs the user physically or mentally in the performance of licensed professional
25 duties;

26 (11) having a physical or mental disability that renders the licensee or license applicant unable to
27 practice the profession or occupation with reasonable skill and safety;

28 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious

1 disease involving serious risk to public health or without taking adequate precautions, including but not limited
2 to informed consent, protective gear, or cessation of practice;

3 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
4 regarding the accounting and distribution of a client's property or funds;

5 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts,
6 by the use of threats or harassment against or inducement to a client or witness to prevent them from providing
7 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
8 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from
9 being filed, prosecuted, or completed;

10 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
11 organization to practice or offer to practice by use of the licensee's license;

12 (16) failing to report the institution of or final action on a malpractice action, including a final decision
13 on appeal, against the licensee or of an action against the licensee by a:

14 (a) peer review committee;

15 (b) professional association; or

16 (c) local, state, federal, territorial, provincial, or Indian tribal government;

17 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
18 implementing 28-10-103(3)(a);

19 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
20 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act
21 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to
22 prove conduct that does not meet generally accepted standards.

23 (19) the sole use of any electronic means, including teleconferencing, to obtain the information
24 required for the written certification and accompanying statements used to apply for a registry identification card
25 pursuant to ~~Title 50, chapter 46, part 3~~ sections 5 through 17."

26

27 **Section 50.** Section 37-3-203, MCA, is amended to read:

28 **"37-3-203. Powers and duties -- rulemaking authority.** (1) The board may:

1 (a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1
2 through 4, and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency
3 care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. Rules adopted for
4 emergency care providers with an endorsement to provide community-integrated health care must address the
5 scope of practice, competency requirements, and educational requirements.

6 (b) hold hearings and take evidence in matters relating to the exercise and performance of the powers
7 and duties vested in the board;

8 (c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter
9 as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers
10 licensed by the board. The board also may assist the county attorneys of this state in the prosecution of
11 persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection
12 (1)(c).

13 (d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle
14 as provided in 87-2-803(11); and

15 (e) fund additional staff, hired by the department, to administer the provisions of this chapter, by
16 increasing license fees as necessary.

17 (2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees
18 who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by
19 habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by
20 mental illness or chronic physical illness.

21 (b) The board shall ensure that a licensee who is required or volunteers to participate in the medical
22 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to
23 enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a
24 qualified treatment program outside the state unless the board finds that there is no qualified treatment program
25 in this state.

26 ~~(3) (a) The board shall report annually on the number and types of complaints it has received~~
27 ~~involving physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana~~
28 ~~for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:~~

- 1 ~~(i) the number of complaints received by the board pursuant to 37-1-308;~~
- 2 ~~(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-~~
- 3 ~~307;~~
- 4 ~~(iii) the general nature of the complaints;~~
- 5 ~~(iv) the number of investigations conducted into physician practices in providing written certification;~~
- 6 and
- 7 ~~(v) the number of physicians disciplined by the board for their practices in providing written~~
- 8 ~~certification for the use of marijuana for a debilitating medical condition.~~
- 9 ~~(b) Except as provided in subsection (3)(c), the report may not contain individual identifying~~
- 10 ~~information regarding the physicians about whom the board received complaints.~~
- 11 ~~(c) For each physician against whom the board takes disciplinary action related to the physician's~~
- 12 ~~practices in providing written certification for the use of marijuana for a debilitating medical condition, the report~~
- 13 ~~must include:~~
- 14 ~~(i) the name of the physician;~~
- 15 ~~(ii) the general results of the investigation of the physician's practices; and~~
- 16 ~~(iii) the disciplinary action taken against the physician.~~
- 17 ~~(d) The board shall provide the report to the children, families, health, and human services interim~~
- 18 ~~committee by August 1 of each year and shall make a copy of the report available on the board's website.~~
- 19 ~~(4)(3)~~ The board may enter into agreements with other states for the purposes of mutual recognition
- 20 of licensing standards and licensing of physicians and emergency care providers from other states under the
- 21 terms of a mutual recognition agreement."

22

23 **Section 51.** Section 39-2-210, MCA, is amended to read:

24 "**39-2-210. Limitation on adverse action.** Except as provided in ~~50-46-320~~ 16-12-108, no adverse

25 action, including followup testing, may be taken by the employer if the employee presents a reasonable

26 explanation or medical opinion indicating that the original test results were not caused by illegal use of

27 controlled substances or by alcohol consumption. If the employee presents a reasonable explanation or

28 medical opinion, the test results must be removed from the employee's record and destroyed."

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Section 52. Section 39-2-313, MCA, is amended to read:

"39-2-313. Discrimination prohibited for use of lawful product during nonworking hours -- exceptions. (1) For purposes of this section, "lawful product" means a product that is legally consumed, used, or enjoyed and includes food, beverages, ~~and tobacco,~~ and marijuana.

(2) Except as provided in subsections (3) and (4), an employer may not refuse to employ or license and may not discriminate against an individual with respect to compensation, promotion, or the terms, conditions, or privileges of employment because the individual legally uses a lawful product off the employer's premises during nonworking hours.

(3) Subsection (2) does not apply to:

(a) use of a lawful product, ~~including the use of marijuana for a debilitating medical condition as defined in 50-46-302,~~ that:

(i) affects in any manner an individual's ability to perform job-related employment responsibilities or the safety of other employees; or

(ii) conflicts with a bona fide occupational qualification that is reasonably related to the individual's employment;

(b) an individual who, on a personal basis, has a professional service contract with an employer and the unique nature of the services provided authorizes the employer, as part of the service contract, to limit the use of certain products; or

(c) an employer that is a nonprofit organization that, as one of its primary purposes or objectives, discourages the use of one or more lawful products by the general public.

(4) An employer does not violate this section if the employer takes action based on the belief that the employer's actions are permissible under an established substance abuse or alcohol program or policy, professional contract, or collective bargaining agreement.

(5) An employer may offer, impose, or have in effect a health, disability, or life insurance policy that makes distinctions between employees for the type or price of coverage based on the employees' use of a product if:

(a) differential rates assessed against employees reflect actuarially justified differences in providing

1 employee benefits;

2 (b) the employer provides an employee with written notice delineating the differential rates used by
3 the employer's insurance carriers; and

4 (c) the distinctions in the type or price of coverage are not used to expand, limit, or curtail the rights or
5 liabilities of a party in a civil cause of action."

6

7 **Section 53.** Section 39-71-407, MCA, is amended to read:

8 **"39-71-407. (Temporary) Liability of insurers -- limitations.** (1) For workers' compensation
9 injuries, each insurer is liable for the payment of compensation, in the manner and to the extent provided in this
10 section, to an employee of an employer covered under plan No. 1, plan No. 2, and the state fund under plan
11 No. 3 that it insures who receives an injury arising out of and in the course of employment or, in the case of
12 death from the injury, to the employee's beneficiaries, if any.

13 (2) An injury does not arise out of and in the course of employment when the employee is:

14 (a) on a paid or unpaid break, is not at a worksite of the employer, and is not performing any specific
15 tasks for the employer during the break; or

16 (b) engaged in a social or recreational activity, regardless of whether the employer pays for any
17 portion of the activity. The exclusion from coverage of this subsection (2)(b) does not apply to an employee
18 who, at the time of injury, is on paid time while participating in a social or recreational activity or whose
19 presence at the activity is required or requested by the employer. For the purposes of this subsection (2)(b),
20 "requested" means the employer asked the employee to assume duties for the activity so that the employee's
21 presence is not completely voluntary and optional and the injury occurred in the performance of those duties.

22 (3) (a) Subject to subsection (3)(c), an insurer is liable for an injury, as defined in 39-71-119, only if
23 the injury is established by objective medical findings and if the claimant establishes that it is more probable
24 than not that:

25 (i) a claimed injury has occurred; or

26 (ii) a claimed injury has occurred and aggravated a preexisting condition.

27 (b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury
28 aggravated a preexisting condition is not sufficient to establish liability.

1 (c) Objective medical findings are sufficient for a presumptive occupational disease as defined in 39-
2 71-1401 but may be overcome by a preponderance of the evidence.

3 (4) (a) An employee who suffers an injury or dies while traveling is not covered by this chapter
4 unless:

5 (i) the employer furnishes the transportation or the employee receives reimbursement from the
6 employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement
7 and the travel is necessitated by and on behalf of the employer as an integral part or condition of the
8 employment; or

9 (ii) the travel is required by the employer as part of the employee's job duties.

10 (b) A payment made to an employee under a collective bargaining agreement, personnel policy
11 manual, or employee handbook or any other document provided to the employee that is not wages but is
12 designated as an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil,
13 or lodging, and the employee is not covered under this chapter while traveling.

14 (5) Except as provided in subsection (6), an employee is not eligible for benefits otherwise payable
15 under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major
16 contributing cause of the accident.

17 (6) (a) An employee who has received written certification, as defined in ~~50-46-302~~ [section 6], from a
18 physician for the use of marijuana for a debilitating medical condition and who is otherwise eligible for benefits
19 payable under this chapter is subject to the limitations of subsections (6)(b) through (6)(d).

20 (b) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use
21 of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~ [section 6], is the major contributing
22 cause of the injury or occupational disease.

23 (c) Nothing in this chapter may be construed to require an insurer to reimburse any person for costs
24 associated with the use of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~ [section 6].

25 (d) In an accepted liability claim, the benefits payable under this chapter may not be increased or
26 enhanced due to a worker's use of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~
27 [section 6]. An insurer remains liable for those benefits that the worker would qualify for absent the worker's use
28 of marijuana for a debilitating medical condition.

1 (7) The provisions of subsection (5) do not apply if the employer had knowledge of and failed to
2 attempt to stop the employee's use of alcohol or drugs not prescribed by a physician. This subsection (7) does
3 not apply to the use of marijuana for a debilitating medical condition because marijuana is not a prescribed
4 drug.

5 (8) If there is no dispute that an insurer is liable for an injury but there is a liability dispute between two
6 or more insurers, the insurer for the most recently filed claim shall pay benefits until that insurer proves that
7 another insurer is responsible for paying benefits or until another insurer agrees to pay benefits. If it is later
8 proven that the insurer for the most recently filed claim is not responsible for paying benefits, that insurer must
9 receive reimbursement for benefits paid to the claimant from the insurer proven to be responsible.

10 (9) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to
11 the same part of the body, the workers' compensation insurer is not liable for any compensation or medical
12 benefits caused by the subsequent nonwork-related injury.

13 (10) Except for cases of presumptive occupational disease as provided in 39-71-1401 and 39-71-1402,
14 an employee is not eligible for benefits payable under this chapter unless the entitlement to benefits is
15 established by objective medical findings that contain sufficient factual and historical information concerning the
16 relationship of the worker's condition to the original injury.

17 (11) (a) For occupational diseases, every employer enrolled under plan No. 1, every insurer under
18 plan No. 2, or the state fund under plan No. 3 is liable for the payment of compensation, in the manner and to
19 the extent provided in this chapter, to an employee of an employer covered under plan No. 1, plan No. 2, or the
20 state fund under plan No. 3 if the employee is diagnosed with a compensable occupational disease.

21 (b) The provisions of subsection (11)(a) apply to presumptive occupational disease if the employee is
22 diagnosed and meets the conditions of 39-71-1401 and 39-71-1402.

23 (12) An insurer is liable for an occupational disease only if the occupational disease:

24 (a) is established by objective medical findings; and

25 (b) arises out of or is contracted in the course and scope of employment. An occupational disease is
26 considered to arise out of or be contracted in the course and scope of employment if the events occurring on
27 more than a single day or work shift are the major contributing cause of the occupational disease in relation to
28 other factors contributing to the occupational disease. For the purposes of this subsection (12), an occupational

1 disease is not the same as a presumptive occupational disease.

2 (13) When compensation is payable for an occupational disease or a presumptive occupational
3 disease, the only employer liable is the employer in whose employment the employee was last injuriously
4 exposed to the hazard of the disease.

5 (14) When there is more than one insurer and only one employer at the time that the employee was
6 injuriously exposed to the hazard of the disease, the liability rests with the insurer providing coverage at the
7 earlier of:

8 (a) the time that the occupational disease or presumptive occupational disease was first diagnosed by
9 a health care provider; or

10 (b) the time that the employee knew or should have known that the condition was the result of an
11 occupational disease or a presumptive occupational disease.

12 (15) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state or
13 substantially all of the assets of a mine from a person who was an operator of the mine on or after December
14 30, 1969, is liable for and shall secure the payment of all benefits that would have been payable by that person
15 with respect to miners previously employed in the mine if acquisition had not occurred and that person had
16 continued to operate the mine, and the prior operator of the mine is not relieved of any liability under this
17 section.

18 (16) As used in this section, "major contributing cause" means a cause that is the leading cause
19 contributing to the result when compared to all other contributing causes. (Void on occurrence of contingency--
20 sec. 7, Ch. 158, L. 2019.)

21 **39-71-407. (Effective on occurrence of contingency) Liability of insurers -- limitations.** (1) For
22 workers' compensation injuries, each insurer is liable for the payment of compensation, in the manner and to
23 the extent provided in this section, to an employee of an employer covered under plan No. 1, plan No. 2, and
24 the state fund under plan No. 3 that it insures who receives an injury arising out of and in the course of
25 employment or, in the case of death from the injury, to the employee's beneficiaries, if any.

26 (2) An injury does not arise out of and in the course of employment when the employee is:

27 (a) on a paid or unpaid break, is not at a worksite of the employer, and is not performing any specific
28 tasks for the employer during the break; or

1 (b) engaged in a social or recreational activity, regardless of whether the employer pays for any
2 portion of the activity. The exclusion from coverage of this subsection (2)(b) does not apply to an employee
3 who, at the time of injury, is on paid time while participating in a social or recreational activity or whose
4 presence at the activity is required or requested by the employer. For the purposes of this subsection (2)(b),
5 "requested" means the employer asked the employee to assume duties for the activity so that the employee's
6 presence is not completely voluntary and optional and the injury occurred in the performance of those duties.

7 (3) (a) An insurer is liable for an injury, as defined in 39-71-119, only if the injury is established by
8 objective medical findings and if the claimant establishes that it is more probable than not that:

9 (i) a claimed injury has occurred; or

10 (ii) a claimed injury has occurred and aggravated a preexisting condition.

11 (b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury
12 aggravated a preexisting condition is not sufficient to establish liability.

13 (4) (a) An employee who suffers an injury or dies while traveling is not covered by this chapter
14 unless:

15 (i) the employer furnishes the transportation or the employee receives reimbursement from the
16 employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement
17 and the travel is necessitated by and on behalf of the employer as an integral part or condition of the
18 employment; or

19 (ii) the travel is required by the employer as part of the employee's job duties.

20 (b) A payment made to an employee under a collective bargaining agreement, personnel policy
21 manual, or employee handbook or any other document provided to the employee that is not wages but is
22 designated as an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil,
23 or lodging, and the employee is not covered under this chapter while traveling.

24 (5) Except as provided in subsection (6), an employee is not eligible for benefits otherwise payable
25 under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major
26 contributing cause of the accident.

27 (6) (a) An employee who has received written certification, as defined in ~~50-46-302~~ section 6, from a
28 physician for the use of marijuana for a debilitating medical condition and who is otherwise eligible for benefits

1 payable under this chapter is subject to the limitations of subsections (6)(b) through (6)(d).

2 (b) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use
3 of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~ [section 6], is the major contributing
4 cause of the injury or occupational disease.

5 (c) Nothing in this chapter may be construed to require an insurer to reimburse any person for costs
6 associated with the use of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~ [section 6].

7 (d) In an accepted liability claim, the benefits payable under this chapter may not be increased or
8 enhanced due to a worker's use of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~
9 [section 6]. An insurer remains liable for those benefits that the worker would qualify for absent the worker's use
10 of marijuana for a debilitating medical condition.

11 (7) The provisions of subsection (5) do not apply if the employer had knowledge of and failed to
12 attempt to stop the employee's use of alcohol or drugs not prescribed by a physician. This subsection (7) does
13 not apply to the use of marijuana for a debilitating medical condition because marijuana is not a prescribed
14 drug.

15 (8) If there is no dispute that an insurer is liable for an injury but there is a liability dispute between two
16 or more insurers, the insurer for the most recently filed claim shall pay benefits until that insurer proves that
17 another insurer is responsible for paying benefits or until another insurer agrees to pay benefits. If it is later
18 proven that the insurer for the most recently filed claim is not responsible for paying benefits, that insurer must
19 receive reimbursement for benefits paid to the claimant from the insurer proven to be responsible.

20 (9) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to
21 the same part of the body, the workers' compensation insurer is not liable for any compensation or medical
22 benefits caused by the subsequent nonwork-related injury.

23 (10) An employee is not eligible for benefits payable under this chapter unless the entitlement to
24 benefits is established by objective medical findings that contain sufficient factual and historical information
25 concerning the relationship of the worker's condition to the original injury.

26 (11) For occupational diseases, every employer enrolled under plan No. 1, every insurer under plan
27 No. 2, or the state fund under plan No. 3 is liable for the payment of compensation, in the manner and to the
28 extent provided in this chapter, to an employee of an employer covered under plan No. 1, plan No. 2, or the

1 state fund under plan No. 3 if the employee is diagnosed with a compensable occupational disease.

2 (12) An insurer is liable for an occupational disease only if the occupational disease:

3 (a) is established by objective medical findings; and

4 (b) arises out of or is contracted in the course and scope of employment. An occupational disease is
5 considered to arise out of or be contracted in the course and scope of employment if the events occurring on
6 more than a single day or work shift are the major contributing cause of the occupational disease in relation to
7 other factors contributing to the occupational disease.

8 (13) When compensation is payable for an occupational disease, the only employer liable is the
9 employer in whose employment the employee was last injuriously exposed to the hazard of the disease.

10 (14) When there is more than one insurer and only one employer at the time that the employee was
11 injuriously exposed to the hazard of the disease, the liability rests with the insurer providing coverage at the
12 earlier of:

13 (a) the time that the occupational disease was first diagnosed by a health care provider; or

14 (b) the time that the employee knew or should have known that the condition was the result of an
15 occupational disease.

16 (15) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state or
17 substantially all of the assets of a mine from a person who was an operator of the mine on or after December
18 30, 1969, is liable for and shall secure the payment of all benefits that would have been payable by that person
19 with respect to miners previously employed in the mine if acquisition had not occurred and that person had
20 continued to operate the mine, and the prior operator of the mine is not relieved of any liability under this
21 section.

22 (16) As used in this section, "major contributing cause" means a cause that is the leading cause
23 contributing to the result when compared to all other contributing causes."
24

24

25 **Section 54.** Section 41-5-216, MCA, is amended to read:

26 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
27 **access to records.** (1) Formal and informal youth court records, law enforcement records, and department
28 records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by

1 this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the
2 court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon
3 termination of the extended jurisdiction.

4 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this
5 section are sealed, an agency, other than the department, that has in its possession copies of the sealed
6 records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to
7 contempt of court.

8 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
9 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

10 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints,
11 DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all
12 requirements of the court's judgment or disposition, records referred to in 42-3-203, or the information referred
13 to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to
14 Title 46, chapter 23, part 5.

15 (5) After formal and informal youth court records, law enforcement records, and department records
16 are sealed, they are not open to inspection except, upon order of the youth court, for good cause to:

- 17 (a) those persons and agencies listed in 41-5-215(2); and
18 (b) adult probation and parole staff preparing a presentence report on an adult with an existing sealed
19 youth court record.

20 (6) (a) When formal youth court records, law enforcement records, and department records are
21 sealed under subsection (1), the electronic records of the management information system maintained by the
22 office of court administrator and by the department relating to the youth whose records are being sealed must
23 be preserved for the express purpose of research and program evaluation.

24 (b) The department of public health and human services, the office of court administrator, and the
25 department shall disassociate the offense and disposition information from the name of the youth in the
26 respective management information system. The offense and disposition information must be maintained
27 separately and may be used only:

- 28 (i) for research and program evaluation authorized by the office of court administrator or by the

1 department and subject to any applicable laws; and

2 (ii) as provided in Title 5, chapter 13.

3 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
4 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
5 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be
6 inspected only pursuant to subsection (5).

7 (b) The informal youth court records are confidential and may be shared only with those persons and
8 agencies listed in 41-5-215(2).

9 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
10 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
11 in hard-copy form must be destroyed and any electronic records in the youth court management information
12 system must disassociate the offense and disposition information from the name of the youth and may be used
13 only for the following purposes:

14 (i) for research and program evaluation authorized by the office of the court administrator and subject
15 to any applicable laws; and

16 (ii) as provided in Title 5, chapter 13.

17 (8) Nothing in this section prohibits the sharing of formal or informal youth court records within the
18 juvenile probation management information system to a person or agency listed in 41-5-215(2).

19 (9) This section does not prohibit the sharing of formal or informal youth court records within the
20 department's youth management information system. Electronic records of the department's youth
21 management information system may not be shared except as provided in subsection (5). A person or agency
22 receiving the youth court record shall destroy the record after it has fulfilled its purpose.

23 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-
24 term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon
25 placement of a youth within the facility.

26 (11) This section does not prohibit access to formal or informal youth court records, including
27 electronic records, for purposes of conducting evaluations as required by 41-5-2003 and studies conducted
28 between individuals and agencies listed in 41-5-215(2).

1 (12) This section does not prohibit the office of court administrator, upon written request from the
2 department of public health and human services, from confirming whether a person applying for a registry
3 identification card pursuant to ~~50-46-307~~ [section 7] or a license pursuant to ~~50-46-308~~ 16-12-203 is currently
4 under youth court supervision."

5

6 **Section 55.** Section 45-9-101, MCA, is amended to read:

7 **"45-9-101. Criminal distribution of dangerous drugs.** (1) Except as provided in Title 16, chapter
8 12, ~~or Title 50, chapter 46,~~ a person commits the offense of criminal distribution of dangerous drugs if the
9 person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous
10 drug, as defined in 50-32-101.

11 (2) A person convicted of criminal distribution of dangerous drugs involving giving away or sharing
12 any dangerous drug, as defined in 50-32-101, shall be sentenced as provided in 45-9-102.

13 (3) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in
14 subsection (1), (2), or (4) shall be imprisoned in the state prison for a term not to exceed 25 years or be fined
15 an amount of not more than \$50,000, or both.

16 (4) A person who was an adult at the time of distribution and who is convicted of criminal distribution
17 of dangerous drugs to a minor shall be sentenced as follows:

18 (a) For a first offense, the person shall be imprisoned in the state prison for a term not to exceed 40
19 years and may be fined not more than \$50,000.

20 (b) For a second or subsequent offense, the person shall be imprisoned in the state prison for a term
21 not to exceed life and may be fined not more than \$50,000.

22 (5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
23 professional practice are exempt from this section."

24

25 **Section 56.** Section 45-9-102, MCA, is amended to read:

26 **"45-9-102. Criminal possession of dangerous drugs.** (1) Except as provided in Title 16, chapter
27 12, ~~or 50-32-609, or Title 50, chapter 46,~~ a person commits the offense of criminal possession of dangerous
28 drugs if the person possesses any dangerous drug, as defined in 50-32-101, [in an amount] greater than

1 permitted or for which a penalty is not specified under Title 16, chapter 12.

2 (2) A person convicted of criminal possession of dangerous drugs shall be imprisoned in the state
3 prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both.

4 (3) A person convicted of a first violation under this section is presumed to be entitled to a deferred
5 imposition of sentence of imprisonment.

6 (4) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision
7 acting in the course of a professional practice are exempt from this section."

8

9 **Section 57.** Section 45-9-103, MCA, is amended to read:

10 **"45-9-103. Criminal possession with intent to distribute.** (1) Except as provided in Title 16,
11 chapter 12, ~~or Title 50, chapter 46,~~ a person commits the offense of criminal possession with intent to distribute
12 if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101 [in an amount]
13 greater than permitted or for which a penalty is not specified under Title 16, chapter 12.

14 (2) A person convicted of criminal possession with intent to distribute shall be imprisoned in the state
15 prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

16 (3) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
17 professional practice are exempt from this section."

18

19 **Section 58.** Section 45-9-110, MCA, is amended to read:

20 **"45-9-110. Criminal production or manufacture of dangerous drugs.** (1) Except as provided in
21 Title 16, chapter 12, ~~or Title 50, chapter 46,~~ a person commits the offense of criminal production or manufacture
22 of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates,
23 compounds, or processes a dangerous drug, as defined in 50-32-101.

24 (2) A person convicted of criminal production or manufacture of dangerous drugs, as defined in 50-
25 32-101, shall be imprisoned in the state prison for a term of not more than 25 years and may be fined an
26 amount not to exceed \$50,000.

27 (3) A person convicted of production of marijuana or tetrahydrocannabinol in an amount greater than
28 permitted or for which a penalty is not specified under Title 16, chapter 12, ~~or Title 50, chapter 46,~~ or

1 manufacture without the appropriate license and endorsement pursuant to Title 16, chapter 12, ~~or Title 50,~~
 2 ~~chapter 46,~~ shall be imprisoned in the state prison for a term of not more than 5 years and may be fined an
 3 amount not to exceed \$5,000, except that if the total weight is more than a pound or the number of plants is
 4 more than 30, the person shall be imprisoned in the state prison for a term of not more than 25 years and may
 5 be fined an amount not to exceed \$50,000. "Weight" means the weight of the dry plant and includes the leaves
 6 and stem structure but does not include the root structure.

7 (4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
 8 professional practice are exempt from this section."

9

10 **Section 59.** Section 45-9-127, MCA, is amended to read:

11 **"45-9-127. Carrying dangerous drugs on train -- penalty.** (1) Except as provided in Title 16,
 12 chapter 12, ~~or Title 50, chapter 46,~~ a person commits the offense of carrying dangerous drugs on a train in this
 13 state if the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

14 (2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties
 15 provided in 45-9-102."

16

17 **Section 60.** Section 45-9-203, MCA, is amended to read:

18 **"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under 45-9-
 19 202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall
 20 forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to
 21 the department for issuance of a probationary license under 61-2-302.

22 (2) If a person with a registry identification card issued pursuant to [section 7] or license issued
 23 pursuant to ~~50-46-307 or 50-46-308~~ 16-12-203 is convicted of an offense under this chapter, the court shall:

24 (a) at the time of sentencing, require the person to surrender the registry identification card; and

25 (b) notify the department of revenue or the department of public health and human services of the
 26 conviction in order for the department to carry out its duties under ~~50-46-330~~ 16-12-109 or [section 16] as
 27 applicable."

28

1 **Section 61.** Section 45-10-103, MCA, is amended to read:

2 "**45-10-103. Criminal possession of drug paraphernalia.** Except as provided in Title 16, chapter 12,
3 ~~or 50-32-609, or Title 50, chapter 46,~~ it is unlawful for a person to use or to possess with intent to use drug
4 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process,
5 prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into
6 the human body a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon
7 conviction shall be imprisoned in the county jail for not more than 6 months, fined an amount of not more than
8 \$500, or both. A person convicted of a first violation of this section is presumed to be entitled to a deferred
9 imposition of sentence of imprisonment."

10

11 **Section 62.** Section 45-10-107, MCA, is amended to read:

12 "**45-10-107. Exemptions.** The provisions of this part do not apply to:

13 (1) practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
14 professional practice;

15 ~~(2) persons acting in compliance with Title 50, chapter 46;~~

16 ~~(3)~~(2) persons acting in compliance with Title 16, chapter 12; or

17 ~~(4)~~(3) persons acting as employees or volunteers of an organization, including a nonprofit community-
18 based organization, local health department, or tribal health department, that provides needle and syringe
19 exchange services to prevent and reduce the transmission of communicable diseases."

20

21 **Section 63.** Section 46-18-202, MCA, is amended to read:

22 "**46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of
23 the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers
24 necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

25 (a) prohibition of the offender's holding public office;

26 (b) prohibition of the offender's owning or carrying a dangerous weapon;

27 (c) restrictions on the offender's freedom of association;

28 (d) restrictions on the offender's freedom of movement;

1 (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title
2 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

3 (f) a requirement that the offender surrender any registry identification card issued under [section 7] or
4 license issued under ~~50-46-303~~ 16-12-203;

5 (g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the
6 victim and society.

7 (2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term
8 exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole
9 and participation in the supervised release program while serving that term. If the restriction is to be imposed,
10 the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is
11 necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the
12 judgment must contain a statement of the reasons for the restriction.

13 (3) If a sentencing judge requires an offender to surrender a registry identification card issued under
14 [section 7] or license issued under ~~50-46-303~~ 16-12-203, the court shall return the card or license to the
15 department of public health and human services or the department of revenue and provide the applicable
16 department with information on the offender's sentence. The department of public health and human services
17 shall revoke ~~the a registry identification~~ card for the duration of the sentence and shall return the card if the
18 offender successfully completes the terms of the sentence before the expiration date listed on the card."
19

20 **Section 64.** Section 50-46-303, MCA, is amended to read:

21 **"50-46-303. Medical marijuana registry -- department responsibilities -- issuance of cards and**
22 **licenses -- confidentiality.** (1) The department shall establish and maintain a registry of persons who receive
23 registry identification cards or licenses under this part. The department shall issue:

24 (a) registry identification cards to Montana residents who have debilitating medical conditions and
25 who submit applications meeting the requirements of this part;

26 (b) licenses:

27 (i) to persons who apply to operate as providers or marijuana-infused products providers and who
28 submit applications meeting the requirements of this part;

1 (ii) for dispensaries established by providers or marijuana-infused products providers; and

2 (iii) through the state laboratory, to testing laboratories that submit applications meeting the
3 requirements of this part; and

4 (c) endorsements for chemical manufacturing to a provider or a marijuana-infused products provider
5 who applies for a chemical manufacturing endorsement and meets requirements established by the department
6 by rule.

7 ~~(2) (a) An individual who obtains a registry identification card and indicates the individual will not use~~
8 ~~the system of licensed providers and marijuana-infused products providers to obtain marijuana or marijuana-~~
9 ~~infused products is authorized to cultivate, manufacture, possess, and transport marijuana as allowed by this~~
10 ~~part.~~

11 ~~(b) An individual who obtains a registry identification card and indicates the individual will use the~~
12 ~~system of licensed providers and marijuana-infused products providers to obtain marijuana or marijuana-~~
13 ~~infused products is authorized to possess marijuana as allowed by this part.~~

14 ~~(c)(a)~~ A person who obtains a provider, marijuana-infused products provider, or dispensary license or
15 an employee of a licensed provider or marijuana-infused products provider is authorized to cultivate,
16 manufacture, possess, sell, and transport marijuana as allowed by this part.

17 ~~(d)(b)~~ A person who obtains a testing laboratory license or an employee of a licensed testing
18 laboratory is authorized to possess, test, and transport marijuana as allowed by this part.

19 (3) The department shall conduct criminal history background checks as required by 50-46-307 and
20 50-46-308 before issuing a license to a provider or marijuana-infused products provider.

21 (4) (a) Registry identification cards and licenses issued pursuant to this part must:

22 (i) be laminated and produced on a material capable of lasting for the duration of the time period for
23 which the card or license is valid;

24 (ii) state the name, address, and date of birth of the registered cardholder;

25 (iii) indicate whether the cardholder is obtaining marijuana and marijuana-infused products through the
26 system of licensed providers and marijuana-infused products providers;

27 (iv) indicate whether a provider or marijuana-infused products provider has an endorsement for
28 chemical manufacturing;

1 (v) state the date of issuance and the expiration date of the registry identification card or license;

2 (vi) contain a unique identification number; and

3 (vii) contain other information that the department may specify by rule.

4 (b) Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry
5 identification cards issued pursuant to this part must:

6 (i) include a picture of the registered cardholder; and

7 (ii) be capable of being used to track registered cardholder purchases.

8 (c) (i) The department shall issue temporary registry identification cards upon receipt of an
9 application. The cards are valid for 60 days and are exempt from the requirements of subsection (4)(b). Printing
10 of the temporary identification cards is exempt from the provisions of Title 18, chapter 7.

11 (ii) The cards may be issued before an applicant's payment of the fee has cleared. The department
12 shall cancel the temporary card after 60 days and may not issue a permanent card until the fee is paid.

13 (5) (a) The department or state laboratory, as applicable, shall review the information contained in an
14 application or renewal submitted pursuant to this part and shall approve or deny an application or renewal
15 within 30 days of receiving the application or renewal and all related application materials.

16 (b) If the department fails to act on a completed application within 30 days of receipt, the department
17 shall:

18 (i) refund the fee paid by an applicant for a registry identification card;

19 (ii) reduce the cost of the licensing fee for a new applicant for licensure or for a licensee seeking
20 renewal of a license by 5% each week that the application is pending; and

21 (iii) if a licensee is unable to operate because a license renewal application has not been acted on,
22 reimburse the licensee 50% of the gross sales the licensee reported in the most recent quarter for the purpose
23 of the tax provided for in 15-64-102.

24 (c) Applications that are not processed within 30 days of receipt remain active until the department
25 takes final action.

26 (d) An application for a license or renewal of a license is not considered complete until the department
27 has completed a satisfactory inspection as required by this part and related administrative rules.

28 (e) The department shall issue a registry identification card, license, or endorsement within 5 days of

1 approving an application or renewal.

2 (6) Review of a rejection of an application or renewal may be conducted as a contested case hearing
3 pursuant to the provisions of the Montana Administrative Procedure Act.

4 (7) (a) Registry identification cards expire 1 year after the date of issuance unless a physician has
5 provided a written certification stating that a card is valid for a shorter period of time.

6 (b) Licenses and endorsements issued to providers, marijuana-infused products providers, and
7 testing laboratories must be renewed annually.

8 (8) (a) A registered cardholder shall notify the department of any change in the cardholder's name,
9 address, or physician or change in the status of the cardholder's debilitating medical condition within 10 days of
10 the change.

11 ~~(b) A registered cardholder who possesses mature plants or seedlings under 50-46-319(1) shall notify~~
12 ~~the department of the location of the plants and seedlings or any change of location of plants or seedlings. The~~
13 ~~department shall provide the names and locations of cardholders who possess mature plants or seedlings to~~
14 ~~the local law enforcement agency having jurisdiction in the area in which the plants or seedlings are located.~~
15 ~~The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.~~

16 ~~(e)(b)~~ If a change occurs and is not reported to the department, the registry identification card is void.

17 (9) The department shall maintain a confidential list of individuals to whom the department has issued
18 registry identification cards. Except as provided in ~~subsections (8)(b) and subsection~~ (10), individual names and
19 other identifying information on the list must be confidential and are not subject to disclosure, except to:

20 (a) authorized employees of the department as necessary to perform the official duties of the
21 department;

22 (b) authorized employees of state or local government agencies, including law enforcement agencies,
23 only as necessary to verify that an individual is a lawful possessor of a registry identification card;

24 (c) a judge, magistrate, or other authorized judicial officer in response to an order requiring disclosure;
25 and

26 (d) another person or entity when the information pertains to a cardholder who has given written
27 consent to the release and has specified:

28 (i) the type of information to be released; and

1 (ii) the person or entity to whom it may be released.

2 (10) The department shall provide the names and phone numbers of providers and marijuana-infused
3 products providers and the city, town, or county where registered premises and testing laboratories are located
4 to the public on the department's website. The department may not disclose the physical location or address of
5 a provider, marijuana-infused products provider, dispensary, or testing laboratory.

6 (11) The department may share only information about providers, marijuana-infused products
7 providers, dispensaries, and testing laboratories with the department of revenue for the purpose of investigation
8 and prevention of noncompliance with tax laws, including but not limited to evasion, fraud, and abuse. The
9 department of revenue and its employees are subject to the confidentiality requirements of 15-64-111(1)."

10

11 **Section 65.** Section 50-46-307, MCA, is amended to read:

12 **"50-46-307. Individuals with debilitating medical conditions -- requirements -- minors --**

13 **limitations.** (1) Except as provided in subsections (2) through (5), the department shall issue a registry
14 identification card to an individual with a debilitating medical condition who submits the following, in accordance
15 with department rules:

16 (a) an application on a form prescribed by the department;

17 (b) an application fee or a renewal fee;

18 (c) the individual's name, street address, and date of birth;

19 (d) proof of Montana residency;

20 ~~(e) a statement that the individual will be cultivating marijuana and manufacturing marijuana-infused~~

21 ~~products for the individual's use or will be obtaining marijuana or marijuana-infused products through the~~

22 ~~system of licensed providers and marijuana-infused products providers;~~

23 ~~(f)~~(e) a statement, on a form prescribed by the department, that the individual will not divert to any

24 other individual the marijuana or marijuana-infused products that the individual ~~cultivates, manufactures, or~~

25 obtains for the individual's debilitating medical condition through the system of licensed providers and

26 marijuana-infused products providers;

27 ~~(g)~~(f) the name of the individual's treating physician or referral physician and the street address and

28 telephone number of the physician's office;

1 ~~(h)~~(g) the street address where the individual is cultivating marijuana or manufacturing marijuana-
2 infused products if the individual is cultivating marijuana or manufacturing marijuana-infused products for the
3 individual's own use; and

4 ~~(i)~~(h) the written certification and accompanying statements from the individual's treating physician or
5 referral physician as required pursuant to 50-46-310.

6 (2) The department shall issue a registry identification card to a minor if the materials required under
7 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health
8 care decisions:

9 (a) provides proof of legal guardianship and responsibility for health care decisions if the individual is
10 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

11 (b) signs and submits a written statement that:

12 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's
13 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of
14 the use of marijuana;

15 (ii) indicates whether the parent or legal guardian will be obtaining marijuana or marijuana-infused
16 products for the minor through the system of licensed providers and marijuana-infused products providers; and

17 (iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

18 (A) consents to the use of marijuana by the minor;

19 (B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of
20 marijuana by the minor;

21 (C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

22 (c) if the parent or guardian will be serving as the minor's provider, undergoes background checks in
23 accordance with subsection (3). The parent or legal guardian shall pay the costs of the background check and
24 may not obtain a license as a marijuana-infused products provider if the parent or legal guardian does not meet
25 the requirements of 50-46-308.

26 (d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana
27 cultivated or obtained for the minor's use in a marijuana-infused product.

28 (3) A parent serving as a minor's provider shall submit fingerprints to facilitate a fingerprint and

1 background check by the department of justice and federal bureau of investigation upon the minor's initial
 2 application for a registry identification card and every 3 years after that. The department shall conduct a name-
 3 based background check in years when a fingerprint background check is not required.

4 (4) An application for a registry identification card for a minor must be accompanied by the written
 5 certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition
 6 to the minor's treating physician or referral physician.

7 (5) An individual may not be a registered cardholder if the individual is in the custody of or under the
 8 supervision of the department of corrections or a youth court.

9 ~~(6) A registered cardholder who elects to obtain marijuana or marijuana-infused products through the~~
 10 ~~system of licensed providers and marijuana-infused products providers may not cultivate marijuana or~~
 11 ~~manufacture marijuana-infused products for the cardholder's use unless the registered cardholder is a licensed~~
 12 ~~provider or marijuana-infused products provider.~~

13 ~~(7) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as~~
 14 ~~allowed under 50-46-319 only:~~

15 ~~(a) at a property that is owned by the cardholder; or~~

16 ~~(b) with written permission of the property owner, at a property that is rented or leased by the~~
 17 ~~cardholder.~~

18 ~~(8) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused~~
 19 ~~products for use by the registered cardholder may be shared with or rented or leased to a provider, a~~
 20 ~~marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased~~
 21 ~~by cardholders who are related to each other by the second degree of kinship by blood or marriage."~~

22

23 **Section 66.** Section 50-46-319, MCA, is amended to read:

24 **"50-46-319. Legal protections -- allowable amounts.** (1) (a) A registered cardholder ~~who has~~
 25 ~~elected to obtain marijuana and marijuana-infused products through the system of licensed providers and~~
 26 ~~marijuana-infused products providers may:~~

27 (i) possess up to 1 ounce of usable marijuana; and

28 (ii) purchase a maximum of 5 ounces of usable marijuana a month and no more than 1 ounce of

1 usable marijuana a day.

2 ~~(b) (i) A registered cardholder who has elected not to use the system of licensed providers and~~
3 ~~marijuana-infused products providers may possess up to 4 mature plants, 4 seedlings, and the amount of~~
4 ~~usable marijuana allowed by the department by rule.~~

5 ~~(ii) If two or more registered cardholders share a residence and have elected not to use the system of~~
6 ~~licensed providers and marijuana-infused products providers, the cardholders may have a maximum of 8~~
7 ~~mature plants, 8 seedlings, and the amount of usable marijuana allowed by the department by rule. The limits in~~
8 ~~this subsection (1)(b)(ii) apply regardless of the location of the plants and seedlings.~~

9 ~~(iii) A registered cardholder who possesses mature plants or seedlings shall notify the department of~~
10 ~~the location of the plants and seedlings pursuant to 50-46-303(8)(b).~~

11 ~~(e)(b)~~ A provider or marijuana-infused products provider may have the canopy allowed by the
12 department for the provider or marijuana-infused products provider. The canopy allotment is a cumulative total
13 for all of the provider's or marijuana-infused products provider's registered premises and may not be interpreted
14 as an allotment for each premises.

15 ~~(d)(c)~~ (i) A registered cardholder may petition the department for an exception to the monthly limit on
16 purchases. The request must be accompanied by a confirmation from the physician who signed the
17 cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an
18 amount exceeding the monthly limit.

19 (ii) If the department approves an exception to the cap, the approval must establish the monthly
20 amount of usable marijuana that the cardholder may purchase and the limit must be entered into the seed-to-
21 sale tracking system.

22 (2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an
23 individual who possesses a registry identification card or license issued pursuant to this part may not be
24 arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to
25 civil penalty or disciplinary action by a professional licensing board or the department of labor and industry,
26 solely because:

27 (a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed
28 under this section; or

1 (b) the registered cardholder acquires or uses marijuana.

2 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
3 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
4 department of labor and industry, solely for providing written certification for a patient with a debilitating medical
5 condition.

6 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
7 professional licensing board or the department of labor and industry if:

8 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

9 (b) a physician violates the standard of care or other requirements of this part.

10 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as
11 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
12 of the use of marijuana and marijuana-infused products as permitted under this part.

13 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity
14 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not
15 a registered cardholder.

16 (6) Except as provided in 50-46-329, possession of or application for a license or registry identification
17 card does not alone constitute probable cause to search the person or individual or the property of the person
18 or individual or otherwise subject the person or individual or property of the person or individual possessing or
19 applying for the license or card to inspection by any governmental agency, including a law enforcement agency.

20 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
21 individual unless the individual has obtained a license or registry identification card prior to an arrest or the filing
22 of a criminal charge. It is not a defense to a criminal charge that an individual obtains a license or registry
23 identification card after an arrest or the filing of a criminal charge.

24 (8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to
25 be engaged in the use of marijuana as allowed by this part if the person:

26 (i) is in possession of a valid registry identification card or license; and

27 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this
28 part.

1 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
2 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."

3
4 **Section 67.** Section 50-46-345, MCA, is amended to read:

5 **"50-46-345. Medical marijuana state special revenue account -- operating reserve -- transfer of**
6 **excess funds.** (1) There is a medical marijuana state special revenue account within the state special revenue
7 fund established in 17-2-102.

8 (2) The account consists of:

9 (a) money deposited into the account pursuant to 50-46-344 and 50-46-347;

10 (b) the medical marijuana tax collected pursuant to Title 15, chapter 64, part 1; and

11 (c) civil penalties collected under this part.

12 (3) ~~Except as provided in subsection (4), money~~Money in the account must be used by the
13 department and the department of revenue for the purpose of administering the Montana Medical Marijuana
14 Act, implementation of the Montana Marijuana Regulation and Taxation Act, and tracking system development.

15 ~~(4) (a) At the end of each fiscal year, the department shall transfer funds in excess of a \$250,000~~
16 ~~operating reserve as provided in this subsection (4).~~

17 ~~(b) At the end of fiscal year 2019:~~

18 ~~(i) the first \$2.5 million in excess funds must be transferred to the mental health services special~~
19 ~~revenue account provided for in 53-21-1207; and~~

20 ~~(ii) any remaining excess funds must be transferred to the pain management education and treatment~~
21 ~~special revenue account provided for in 50-46-346.~~

22 ~~(c) At the end of fiscal year 2020 and subsequent fiscal years, any excess funds must be transferred~~
23 ~~to the pain management education and treatment special revenue account provided for in 50-46-346."~~

24
25 **Section 68.** Section 53-21-1207, MCA, is amended to read:

26 **"53-21-1207. Mental health services special revenue account.** (1) There is a mental health
27 services special revenue account within the state special revenue fund established in 17-2-102.

28 (2) The account consists of:

- 1 (a) money transferred into the account ~~as provided in 50-46-345~~; and
2 (b) money appropriated by the legislature.
3 (3) Money in the account must be used by the department to pay for services provided by behavioral
4 health peer support specialists pursuant to 53-6-101."

5

6 **Section 69.** Section 61-11-101, MCA, is amended to read:

7 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses --**

8 **surrender of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8,
9 makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the
10 person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's
11 licenses then held by the convicted person. The court shall, within 5 days after the conviction, forward the
12 license and a record of the conviction to the department. If the person does not possess a driver's license, the
13 court shall indicate that fact in its report to the department.

14 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
15 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
16 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days
17 after the conviction. The court may recommend that the department issue a restricted probationary license on
18 the condition that the individual comply with the requirement that the person attend and complete a chemical
19 dependency education course, treatment, or both, as ordered by the court under 61-8-732.

20 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
21 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
22 upon which it is based to the department within 5 days on forms furnished by the department.

23 (4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's
24 license or who is required to hold a commercial driver's license, a court may not take any action, including
25 deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic
26 control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the
27 person's driving record. The provisions of this subsection (4)(a) apply only to the conviction of a person who
28 holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to

1 the conviction of a person who holds any other type of driver's license.

2 (b) For purposes of this subsection (4), "who is required to hold a commercial driver's license" refers
3 to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle
4 at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
5 subsection (1).

6 (5) (a) If a person who holds a valid registry identification card issued pursuant to [section 7] or
7 license issued pursuant to ~~50-46-307 or 50-46-308~~ 16-12-203 is convicted of or pleads guilty to any offense
8 related to driving under the influence of alcohol or drugs when the initial offense with which the person was
9 charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411, the court in which the conviction occurs
10 shall require the person to surrender the registry identification card or license.

11 (b) Within 5 days after the conviction, the court shall forward the registry identification card and a copy
12 of the conviction to the department of public health and human services."
13

14 **Section 70.** Section 80-1-104, MCA, is amended to read:

15 **"80-1-104. (Bracketed language effective October 1, 2021) Analytical laboratory services --**
16 **rulemaking authority -- deposit of fees.** (1) The department is authorized to provide analytical laboratory
17 services for:

18 (a) programs it operates under this title;

19 (b) other state or federal agencies; and

20 ~~(c) providers and marijuana-infused products providers as those terms are defined in 50-46-302;~~

21 ~~[(d) adult use marijuana providers and adult use marijuana-infused products providers as those terms~~
22 ~~are defined in 16-12-102;]~~

23 ~~(e) the department of public health and human services for the purposes of [Title 16, chapter 12, and]~~
24 ~~Title 50, chapter 46, part 3, as allowed by federal law; and~~

25 ~~(f)~~(c) private parties.

26 (2) The department may enter into a contract or a memorandum of understanding for the space and
27 equipment necessary for operation of the analytical laboratory.

28 (3) (a) The department may adopt rules establishing fees for testing services required under this title

1 or provided to another state agency, a federal agency, or a private party.

2 (b) Money collected from the fees must be deposited in the appropriate related account in the state
3 special revenue fund to the credit of the department to pay costs related to analytical laboratory services
4 provided pursuant to this section."
5

6 **Section 71.** Section 56, Initiative Measure No. 190, approved November 3, 2020, is amended to read:

7 **"Section 56. Effective dates.** (1) [Sections 8, 16, 23, 36, and 40 through 49] are effective January 1,
8 2021.

9 (2) Except as provided in subsection (1), [this act] is effective ~~on October 1, 2021~~ March 15, 2022."
10

11 **NEW SECTION. Section 72. Repealer.** The following sections of the Montana Code Annotated are
12 repealed:

- 13 16-12-111. (Effective October 1, 2021) Marijuana compensation special revenue account.
14 16-12-401. (Effective October 1, 2021) Tax on marijuana sales.
15 16-12-402. (Effective October 1, 2021) Returns -- payment -- recordkeeping -- authority of department.
16 16-12-403. (Effective October 1, 2021) Deficient assessment -- penalty and interest -- statute of limitations.
17 16-12-404. (Effective October 1, 2021) Procedure to compute tax in absence of statement -- estimation of
18 tax -- failure to file -- penalty and interest.
19 16-12-405. (Effective October 1, 2021) Authority to collect delinquent taxes.
20 16-12-406. (Effective October 1, 2021) Refunds -- interest -- limitations.
21 16-12-407. (Effective October 1, 2021) Information -- confidentiality -- agreements with another state.
22 16-12-408. (Effective October 1, 2021) Department to make rules.
23 50-46-301. Short title -- purpose.
24 50-46-302. Definitions.
25 50-46-303. Medical marijuana registry -- department responsibilities -- issuance of cards and licenses —
26 confidentiality.
27 50-46-304. Department responsibility to monitor and assess medical marijuana production, testing, and
28 sales -- license revocation.

- 1 50-46-305. Canopy tiers -- requirements.
- 2 50-46-307. Individuals with debilitating medical conditions -- requirements -- minors -- limitations.
- 3 50-46-308. Provider types -- requirements -- limitations -- activities.
- 4 50-46-309. Marijuana-infused products provider -- requirements -- allowable activities.
- 5 50-46-310. Written certification -- accompanying statements.
- 6 50-46-311. Testing laboratories -- licensing inspections.
- 7 50-46-312. License as privilege -- criteria.
- 8 50-46-313. Terminated.
- 9 50-46-317. Registry card or license to be exhibited on demand -- photo identification required.
- 10 50-46-318. Health care facility procedures for patients with marijuana for use.
- 11 50-46-319. Legal protections -- allowable amounts.
- 12 50-46-320. Limitations of act.
- 13 50-46-326. Testing of marijuana and marijuana-infused products.
- 14 50-46-327. Prohibitions on physician affiliation with providers and marijuana-infused products providers --
- 15 sanctions.
- 16 50-46-328. Local government authority to regulate.
- 17 50-46-329. Inspections -- procedures -- prohibition on inspector affiliation with licensees.
- 18 50-46-330. Unlawful conduct by cardholders or licensees -- penalties.
- 19 50-46-331. Fraudulent representation -- penalties.
- 20 50-46-332. Confidentiality of registry information -- penalty.
- 21 50-46-339. Law enforcement authority.
- 22 50-46-340. Forfeiture.
- 23 50-46-341. Advertising prohibited.
- 24 50-46-342. Hotline.
- 25 50-46-343. Legislative monitoring.
- 26 50-46-344. Rulemaking authority -- fees.
- 27 50-46-345. Medical marijuana state special revenue account -- operating reserve -- transfer of excess
- 28 funds.

1 50-46-346. Pain management education and treatment special revenue account.

2 50-46-347. Provider licensing fees.

3

4 NEW SECTION. Section 73. Repealer. Sections 38, 39, 50, 52, and 53, Initiative Measure No. 190,
5 approved November 3, 2020, are repealed.

6

7 NEW SECTION. Section 74. Direction to the department of revenue and department of public
8 health and human services -- notification to legislature -- transition. (1) The legislature directs the
9 department of revenue to adopt rules to implement the Marijuana Regulation and Taxation Act.

10 (2) The legislature directs the department of public health and human services to assist the
11 department of revenue with the transfer of information, materials, personnel, and any other marijuana-related
12 asset that the department of revenue deems necessary to implement the regulation and taxation of marijuana in
13 the state and exercise authority over the regulation of all types of marijuana licenses in the state.

14 (3) (a) On March 14, 2022, the department of health and human services shall transfer to the
15 department of revenue the existing license for any provider, marijuana-infused products provider, or dispensary
16 licensee who is in good standing with the department of public health and human services on that date.

17 (b) Existing licenses shall be accepted and administered by the department of revenue until those
18 licenses expire or are canceled, reduced, modified, revoked, or renewed by the department.

19 (4) A provider, marijuana-infused products provider, or dispensary whose license is transferred
20 pursuant to subsection (3) may sell marijuana to consumers at the adult-use marijuana tax rate set forth in 15-
21 64-102(1)(b)(i) under the provider's, marijuana-infused products provider's, or dispensary's existing license
22 beginning on March 15, 2022.

23 (5) Funds in the medical marijuana state special account may be used for implementation of the
24 merge of the medical and adult-use marijuana programs.

25

26 NEW SECTION. Section 75. Notification to tribal governments. The secretary of state shall send a
27 copy of [this act] to each federally recognized tribal government in Montana.

28

