

1 SENATE BILL NO. 377

2 INTRODUCED BY D. WANZENRIED

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA MARIJUANA ACT TO
5 CREATE THE MONTANA MEDICINAL CANNABIS ACT; REVISING REQUIREMENTS FOR PROVIDERS AND
6 INFUSED-PRODUCTS PROVIDERS; ALLOWING REGISTRATION OF AND ESTABLISHING REQUIREMENTS
7 FOR COURIERS, CANNABIS EXCHANGE BROKERS, AND CANNABIS TESTING FACILITIES;
8 ESTABLISHING FEES; ESTABLISHING AN ADVISORY COUNCIL; PROVIDING DEFINITIONS; PROVIDING
9 RULEMAKING AUTHORITY; CREATING A SPECIAL REVENUE ACCOUNT; AMENDING SECTIONS 7-1-111,
10 37-3-203, 39-2-313, 39-71-407, 41-5-216, 50-40-103, 50-46-301, 50-46-302, 50-46-303, 50-46-307, 50-46-308,
11 50-46-309, 50-46-310, 50-46-317, 50-46-318, 50-46-319, 50-46-320, 50-46-327, 50-46-328, 50-46-329,
12 50-46-330, 50-46-331, 50-46-332, 50-46-339, 50-46-340, 50-46-343, 50-46-344, AND 61-11-101, MCA; AND
13 REPEALING SECTION 50-46-341, MCA."

14

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

16

17 **Section 1.** Section 7-1-111, MCA, is amended to read:18 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
19 exercising the following:20 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
21 exercise of an independent self-government power;22 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective
23 bargaining for public employees, unemployment compensation, or workers' compensation), except that subject
24 to those provisions, it may exercise any power of a public employer with regard to its employees;25 (3) any power that applies to or affects the public school system, except that a local unit may impose an
26 assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise
27 any power that it is required by law to exercise regarding the public school system;

28 (4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;

29 (5) any power that establishes a rate or price otherwise determined by a state agency;

30 (6) any power that applies to or affects any determination of the department of environmental quality with

1 regard to any mining plan, permit, or contract;

2 (7) any power that applies to or affects any determination by the department of environmental quality
3 with regard to a certificate of compliance;

4 (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense
5 as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'
6 imprisonment, or both, except as specifically authorized by statute;

7 (9) any power that applies to or affects the right to keep or bear arms, except that a local government
8 has the power to regulate the carrying of concealed weapons;

9 (10) any power that applies to or affects a public employee's pension or retirement rights as established
10 by state law, except that a local government may establish additional pension or retirement systems;

11 (11) any power that applies to or affects the standards of professional or occupational competence
12 established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession
13 or occupation;

14 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title
15 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);

16 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended
17 to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,
18 chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords
19 to comply with ordinances or provisions that are applicable to all other businesses or residences within the local
20 government's jurisdiction.

21 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

22 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
23 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may
24 enter into a cooperative agreement with the department of agriculture concerning the use and application of
25 commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
26 government from adopting or implementing zoning regulations or fire codes governing the physical location or
27 siting of fertilizer manufacturing, storage, and sales facilities.

28 (16) except as provided in 50-46-328, any power that prohibits the medicinal use of cannabis pursuant
29 to Title 50, chapter 46."

30

1 **Section 2.** Section 37-3-203, MCA, is amended to read:

2 **"37-3-203. Powers and duties.** (1) The board may:

3 (a) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair,
4 impartial, and nondiscriminatory.

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

7 (c) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the
8 prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this
9 chapter;

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

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

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

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

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

27 (i) the number of complaints received by the board pursuant to 37-1-308;

28 (ii) the number of complaints for which a reasonable cause determination was made pursuant to
29 37-1-307;

30 (iii) the general nature of the complaints;

1 (iv) the number of investigations conducted into physician and physician assistant practices in providing
2 written certification; and

3 (v) the number of physicians and physician assistants disciplined by the board for their practices in
4 providing written certification for the medicinal use of ~~marijuana~~ cannabis ~~for a debilitating medical condition~~.

5 (b) Except as provided in subsection (3)(c), the report may not contain individual identifying information
6 regarding the physicians about whom the board received complaints.

7 (c) For each physician against whom the board takes disciplinary action related to the physician's
8 practices in providing written certification for the use of ~~marijuana~~ cannabis for a debilitating medical condition,
9 the report must include:

10 (i) the name of the physician;

11 (ii) the general results of the investigation of the physician's practices; and

12 (iii) the disciplinary action taken against the physician.

13 (d) The board shall provide the report to the children, families, health, and human services interim
14 committee by August 1 of each year and shall make a copy of the report available on the board's website."
15

16 **Section 3.** Section 39-2-313, MCA, is amended to read:

17 **"39-2-313. Discrimination prohibited for use of lawful product during nonworking hours --**
18 **exceptions.** (1) For purposes of this section, "lawful product" means a product that is legally consumed, used,
19 or enjoyed and includes food, beverages, and tobacco.

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

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

25 (a) use of a lawful product, including the use of ~~marijuana~~ cannabis for a debilitating medical condition
26 as defined in ~~50-46-302~~ allowed under Title 50, chapter 46, that:

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

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

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

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

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

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

12 (a) differential rates assessed against employees reflect actuarially justified differences in providing
13 employee benefits;

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

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

18

19 **Section 4.** Section 39-71-407, MCA, is amended to read:

20 **"39-71-407. Liability of insurers -- limitations.** (1) For workers' compensation injuries, each insurer
21 is liable for the payment of compensation, in the manner and to the extent provided in this section, to an employee
22 of an employer covered under plan No. 1, plan No. 2, and the state fund under plan No. 3 that it insures who
23 receives an injury arising out of and in the course of employment or, in the case of death from the injury, to the
24 employee's beneficiaries, if any.

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

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

28 (b) engaged in a social or recreational activity, regardless of whether the employer pays for any portion
29 of the activity. The exclusion from coverage of this subsection (2)(b) does not apply to an employee who, at the
30 time of injury, is on paid time while participating in a social or recreational activity or whose presence at the

1 activity is required or requested by the employer. For the purposes of this subsection (2)(b), "requested" means
 2 the employer asked the employee to assume duties for the activity so that the employee's presence is not
 3 completely voluntary and optional and the injury occurred in the performance of those duties.

4 (3) (a) An insurer is liable for an injury, as defined in 39-71-119, only if the injury is established by
 5 objective medical findings and if the claimant establishes that it is more probable than not that:

6 (i) a claimed injury has occurred; or

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

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

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

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

14 (ii) the travel is required by the employer as part of the employee's job duties.

15 (b) A payment made to an employee under a collective bargaining agreement, personnel policy manual,
 16 or employee handbook or any other document provided to the employee that is not wages but is designated as
 17 an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil, or lodging, and
 18 the employee is not covered under this chapter while traveling.

19 (5) Except as provided in subsection (6), an employee is not eligible for benefits otherwise payable under
 20 this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major contributing cause
 21 of the accident.

22 (6) (a) An employee who has received written certification, as defined in 50-46-302, from a physician for
 23 the use of ~~marijuana~~ cannabis for a debilitating medical condition and who is otherwise eligible for benefits
 24 payable under this chapter is subject to the limitations of subsections (6)(b) through (6)(d).

25 (b) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use
 26 of ~~marijuana~~ cannabis for a debilitating medical condition, as defined in 50-46-302, is the major contributing cause
 27 of the injury or occupational disease.

28 (c) Nothing in this chapter may be construed to require an insurer to reimburse any person for costs
 29 associated with the medicinal use of ~~marijuana~~ cannabis ~~for a debilitating medical condition, as defined in~~
 30 ~~50-46-302~~ as allowed under Title 50, chapter 46.

1 (d) In an accepted liability claim, the benefits payable under this chapter may not be increased or
2 enhanced due to a worker's use of ~~marijuana~~ cannabis for a debilitating medical condition, as defined in
3 50-46-302. An insurer remains liable for those benefits that the worker would qualify for absent the worker's use
4 of ~~marijuana~~ cannabis for a debilitating medical condition.

5 (7) The provisions of subsection (5) do not apply if the employer had knowledge of and failed to attempt
6 to stop the employee's use of alcohol or drugs not prescribed by a physician. This subsection (7) does not apply
7 to the use of ~~marijuana~~ cannabis for a debilitating medical condition because ~~marijuana~~ cannabis is not a
8 prescribed drug.

9 (8) If there is no dispute that an insurer is liable for an injury but there is a liability dispute between two
10 or more insurers, the insurer for the most recently filed claim shall pay benefits until that insurer proves that
11 another insurer is responsible for paying benefits or until another insurer agrees to pay benefits. If it is later
12 proven that the insurer for the most recently filed claim is not responsible for paying benefits, that insurer must
13 receive reimbursement for benefits paid to the claimant from the insurer proven to be responsible.

14 (9) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to the
15 same part of the body, the workers' compensation insurer is not liable for any compensation or medical benefits
16 caused by the subsequent nonwork-related injury.

17 (10) An employee is not eligible for benefits payable under this chapter unless the entitlement to benefits
18 is established by objective medical findings that contain sufficient factual and historical information concerning
19 the relationship of the worker's condition to the original injury.

20 (11) For occupational diseases, every employer enrolled under plan No. 1, every insurer under plan No.
21 2, or the state fund under plan No. 3 is liable for the payment of compensation, in the manner and to the extent
22 provided in this chapter, to an employee of an employer covered under plan No. 1, plan No. 2, or the state fund
23 under plan No. 3 if the employee is diagnosed with a compensable occupational disease.

24 (12) An insurer is liable for an occupational disease only if the occupational disease:

25 (a) is established by objective medical findings; and

26 (b) arises out of or is contracted in the course and scope of employment. An occupational disease is
27 considered to arise out of or be contracted in the course and scope of employment if the events occurring on
28 more than a single day or work shift are the major contributing cause of the occupational disease in relation to
29 other factors contributing to the occupational disease.

30 (13) When compensation is payable for an occupational disease, the only employer liable is the employer

1 in whose employment the employee was last injuriously exposed to the hazard of the disease.

2 (14) When there is more than one insurer and only one employer at the time that the employee was
3 injuriously exposed to the hazard of the disease, the liability rests with the insurer providing coverage at the
4 earlier of:

5 (a) the time that the occupational disease was first diagnosed by a health care provider; or

6 (b) the time that the employee knew or should have known that the condition was the result of an
7 occupational disease.

8 (15) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state or
9 substantially all of the assets of a mine from a person who was an operator of the mine on or after December 30,
10 1969, is liable for and shall secure the payment of all benefits that would have been payable by that person with
11 respect to miners previously employed in the mine if acquisition had not occurred and that person had continued
12 to operate the mine, and the prior operator of the mine is not relieved of any liability under this section.

13 (16) As used in this section, "major contributing cause" means a cause that is the leading cause
14 contributing to the result when compared to all other contributing causes."
15

16 **Section 5.** Section 41-5-216, MCA, is amended to read:

17 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
18 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
19 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
20 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
21 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the
22 extended jurisdiction.

23 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section
24 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall
25 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of
26 court.

27 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
28 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

29 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
30 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements

1 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
2 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
3 offender pursuant to Title 46, chapter 23, part 5.

4 (5) After formal youth court records, law enforcement records, and department records are sealed, they
5 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits
6 a new offense, to:

7 (a) those persons and agencies listed in 41-5-215(2); and

8 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
9 age of majority.

10 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
11 under subsection (1), the electronic records of the management information system maintained by the department
12 of public health and human services and by the department relating to the youth whose records are being sealed
13 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

14 (b) The department of public health and human services and the department shall disassociate the
15 offense and disposition information from the name of the youth in the respective management information system.
16 The offense and disposition information must be maintained separately and may be used only:

17 (i) for research and program evaluation authorized by the department of public health and human
18 services or by the department and subject to any applicable laws; and

19 (ii) as provided in Title 5, chapter 13.

20 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
21 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
22 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
23 only pursuant to subsection (5).

24 (b) The informal youth court records may be maintained and inspected only by youth court personnel
25 upon a new offense prior to the youth's 18th birthday.

26 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
27 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
28 in hard-copy form must be destroyed and any electronic records in the youth court management information
29 system must disassociate the offense and disposition information from the name of the youth and may be used
30 only for the following purposes:

1 (i) for research and program evaluation authorized by the office of the court administrator and subject
2 to any applicable laws; and

3 (ii) as provided in Title 5, chapter 13.

4 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
5 court records within the juvenile probation management information system. Electronic records of the youth court
6 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy
7 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
8 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
9 as provided in subsection (2) of this section.

10 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth
11 court records within the department's youth management information system. Electronic records of the
12 department's youth management information system may not be shared except as provided in subsection (5).
13 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department
14 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy
15 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

16 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term
17 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement
18 of a youth within the facility.

19 (11) This section does not prohibit access to formal or informal youth court records, including electronic
20 records, for purposes of conducting evaluations as required by 41-5-2003.

21 ~~(12) This section does not prohibit the office of court administrator, upon written request from the~~
22 ~~department of public health and human services, from confirming whether a person applying for a registry~~
23 ~~identification card pursuant to 50-46-307 or 50-46-308 is currently under youth court supervision."~~

24

25 **Section 6.** Section 50-40-103, MCA, is amended to read:

26 **"50-40-103. Definitions.** As used in this part, the following definitions apply:

27 (1) "Bar" means an establishment with a license issued pursuant to Title 16, chapter 4, that is devoted
28 to serving alcoholic beverages for consumption by guests or patrons on the premises and in which the serving
29 of food is only incidental to the service of alcoholic beverages or gambling operations, including but not limited
30 to taverns, night clubs, cocktail lounges, and casinos.

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

2 (3) "Enclosed public place" means an indoor area, room, or vehicle that the general public is allowed to
3 enter or that serves as a place of work, including but not limited to the following:

4 (a) restaurants;

5 (b) stores;

6 (c) public and private office buildings and offices, including all office buildings and offices of political
7 subdivisions, as provided for in 50-40-201, and state government;

8 (d) trains, buses, and other forms of public transportation;

9 (e) health care facilities;

10 (f) auditoriums, arenas, and assembly facilities;

11 (g) meeting rooms open to the public;

12 (h) bars;

13 (i) community college facilities;

14 (j) facilities of the Montana university system; and

15 (k) public schools, as provided for in 20-1-220 and 50-40-104.

16 (4) "Establishment" means an enterprise under one roof that serves the public and for which a single
17 person, agency, corporation, or legal entity is responsible.

18 (5) "Incidental to the service of alcoholic beverages or gambling operations" means that at least 60%
19 of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts, or both.

20 (6) "Person" means an individual, partnership, corporation, association, political subdivision, or other
21 entity.

22 (7) "Place of work" means an enclosed room where one or more individuals work.

23 (8) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar, cigarette,
24 pipe, or any smokable product, including ~~marijuana~~ cannabis intended for ~~medical~~ medicinal use as provided for
25 in Title 50, chapter 46."

26

27 **Section 7.** Section 50-46-301, MCA, is amended to read:

28 **"50-46-301. Short title -- purpose.** (1) This part may be cited as the "Montana ~~Marijuana~~ Medicinal
29 Cannabis Act".

30 (2) The purpose of this part is to:

1 (a) provide legal protections to persons with debilitating medical conditions who engage in the medicinal
 2 use of ~~marijuana~~ cannabis to alleviate the symptoms of the debilitating medical condition;

3 (b) provide legal protections for health care providers who provide written certification for medicinal use
 4 of cannabis;

5 ~~(b)(c) allow for the limited acquisition, cultivation, manufacture, delivery, and possession, transportation,~~
 6 delivery, transfer, and sale of marijuana cannabis as permitted by this part by persons who ~~obtain registry~~
 7 identification cards register with the department;

8 ~~(e)(d) allow individuals to assist a limited number of registered cardholders with the acquisition,~~
 9 cultivation, and manufacture, transportation, transfer, and testing of marijuana cannabis or marijuana-infused
 10 cannabis-infused products;

11 ~~(d)(e) establish reporting requirements for production, transfer, and testing of marijuana cannabis and~~
 12 marijuana-infused cannabis-infused products and inspection requirements for premises; and

13 ~~(e)(f) give state and local governments a role in establishing standards for the cultivation, manufacture,~~
 14 and use of marijuana medicinal cannabis that protect the public health, safety, and welfare of residents within
 15 their jurisdictions."
 16

17 **Section 8.** Section 50-46-302, MCA, is amended to read:

18 **"50-46-302. Definitions.** As used in this part, the following definitions apply:

19 (1) (a) "Cannabis" means all plant material from the genus Cannabis containing tetrahydrocannabinol
 20 (THC).

21 (b) The term includes hashish and seeds of the genus Cannabis that are capable of germination.

22 (2) "Cannabis exchange broker" means a person registered to arrange for and carry out the transfer of
 23 usable cannabis, mature cannabis plants, and vegetative cannabis plants.

24 (3) (a) "Cannabis-infused product" means a product that contains medicinal cannabis and is intended
 25 for use by a means other than smoking.

26 (b) The term includes oils, lotions, tinctures, and balms.

27 (4) "Cannabis-infused products provider" means a person registered to produce cannabis-infused
 28 products.

29 (5) "Cannabis testing facility" means a person registered to test cannabis and cannabis-infused products.

30 (6) "Courier" means a person who is registered to transport or deliver usable cannabis, mature cannabis

1 plants, and vegetative cannabis plants.

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

4 ~~(2)~~(7) "Debilitating medical condition" means:

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

8 (b) cachexia or wasting syndrome;

9 (c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily
10 activities as documented by the patient's ~~treating physician~~ health care provider and by:

11 (i) objective proof of the etiology of the pain, including relevant and necessary diagnostic tests that may
12 include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance
13 imaging; or

14 (ii) confirmation of that diagnosis from a second ~~physician~~ health care provider who is independent of the
15 ~~treating physician~~ health care provider signing the written certification and who conducts a physical examination;

16 (d) intractable nausea or vomiting;

17 (e) epilepsy or an intractable seizure disorder;

18 (f) multiple sclerosis;

19 (g) Crohn's disease;

20 (h) painful peripheral neuropathy;

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

22 (j) posttraumatic stress disorder;

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

24 ~~(k)~~(l) any other medical condition or treatment for a medical condition;

25 (i) approved by the legislature; or

26 (ii) adopted by the department by rule.

27 ~~(3)~~(8) "Department" means the department of public health and human services provided for in
28 2-15-2201.

29 (9) "Health care provider" means an individual who is:

30 (a) licensed under Title 37, chapter 3, 12, 17, 20, or 26; or

1 (b) licensed under Title 37 and who has prescriptive authority.

2 ~~(4)(10) "Local government" means a county, a consolidated government, or an incorporated city or town.~~

3 ~~(5) "Marijuana" has the meaning provided in 50-32-101.~~

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

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

7 ~~(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements~~
8 ~~of this part and who has applied for and received a registry identification card to manufacture and provide~~
9 ~~marijuana-infused products for a registered cardholder.~~

10 ~~_____ (b) The term does not include the cardholder's treating or referral physician.~~

11 ~~(8)(11) "Mature marijuana cannabis plant" means a harvestable female marijuana cannabis plant that~~
12 ~~is flowering.~~

13 (12) "Medicinal use" means the activities provided for in [section 10].

14 ~~(9)(13) "Paraphernalia" has the meaning provided in 45-10-101.~~

15 (14) (a) "Person" means an individual, partnership, association, company, corporation, limited liability
16 company, or organization.

17 (b) The term includes a manager, agent, owner, director, servant, officer, or employee of a partnership,
18 association, company, corporation, limited liability company, or organization.

19 ~~(10)(15) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the~~
20 ~~department to assist a registered cardholder as allowed under this part person who has agreed to undertake~~
21 ~~responsibility for managing the well-being of a registered cardholder with respect to the medicinal use of~~
22 ~~cannabis.~~

23 ~~(b) The term does not include the cardholder's treating physician or referral physician registered~~
24 ~~cardholder's health care provider.~~

25 ~~(11) "Referral physician" means a person who:~~

26 ~~_____ (a) is licensed under Title 37, chapter 3;~~

27 ~~_____ (b) has an established office in Montana; and~~

28 ~~_____ (c) is the physician to whom a patient's treating physician has referred the patient for physical~~
29 ~~examination and medical assessment.~~

30 ~~(12)(16) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical~~

1 condition who has received and maintains a valid registry identification card.

2 ~~(13)~~(17) "Registered premises" means the location at which a provider, ~~or marijuana-infused products~~
3 ~~provider~~ cannabis-infused products provider, cannabis exchange broker, or cannabis testing facility has indicated
4 ~~the person will cultivate or manufacture marijuana for a registered cardholder~~ that cannabis or cannabis-infused
5 products will be cultivated, manufactured, delivered, transferred, sold, or tested as allowed under this part.

6 ~~(14)~~(18) "Registry identification card" means a document issued by the department pursuant to 50-46-303
7 that identifies ~~a person~~ an individual as a registered cardholder, provider, ~~or marijuana-infused products provider~~
8 cannabis-infused products provider, courier, or cannabis exchange broker.

9 ~~(15)~~(19) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

13 ~~(16) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son,~~
14 ~~daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law,~~
15 ~~daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson,~~
16 ~~stepdaughter, stepgrandparent, or stepgrandchild.~~

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

19 ~~(18)~~(20) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's
20 ~~treating physician or referral physician~~ health care provider if the ~~treating physician or referral physician~~ health
21 care provider is providing written certification for a patient with a debilitating medical condition:

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

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

24 (c) reviewing prior treatment and treatment response for the debilitating medical condition;

25 (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating
26 medical condition;

27 (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,
28 alternatives, potential adverse effects, and expected response to the recommended treatment;

29 (f) monitoring the response to treatment and possible adverse effects; and

30 (g) creating and maintaining patient records that remain with the ~~physician~~ health care provider.

1 ~~(19)~~ "Treating physician" means a person who:

2 ~~— (a) is licensed under Title 37, chapter 3;~~

3 ~~— (b) has an established office in Montana; and~~

4 ~~— (c) has a bona fide professional relationship with the person applying to be a registered cardholder.~~

5 ~~(20)~~(21) (a) "Usable marijuana cannabis" means the seeds, dried leaves, and flowers of the marijuana

6 cannabis plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use

7 of marijuana by a person with a debilitating medical condition cannabis plant.

8 (b) The term includes hashish and nonedible products containing cannabis.

9 ~~(b)(c)~~ The term does not include the ~~seeds, stalks, and or~~ roots of the plant.

10 (22) "Vegetative cannabis plant" means:

11 (a) a clone of a cannabis plant that contains roots; or

12 (b) a rooted plant that is not flowering.

13 ~~(24)~~(23) "Written certification" means a patient's medical records or a statement signed by a treating

14 physician or referral physician health care provider that meets the requirements of 50-46-310 and is provided in

15 a manner that meets the standard of care stating that in the health care provider's opinion, after having completed

16 a full assessment of the patient's medical history and current medical condition made in the course of a bona fide

17 relationship between the health care provider and the patient, the patient has a debilitating medical condition and

18 the potential benefits of the medicinal use of cannabis would likely outweigh the risks to the patient."

19

20 **Section 9.** Section 50-46-303, MCA, is amended to read:

21 **"50-46-303. Department responsibilities -- issuance of cards -- confidentiality -- reports.** (1) (a)

22 The department shall establish and maintain a program ~~for the issuance of registry identification cards to Montana~~

23 ~~residents who:~~

24 ~~— (i) have debilitating medical conditions and who submit applications meeting the requirements of this~~

25 ~~part; and~~

26 ~~— (ii) are named as providers or marijuana-infused products providers by persons who obtain registry~~

27 ~~identification cards for their debilitating medical conditions~~ to register persons who meet the requirements of this

28 part. The department shall provide documentation of the person's registration under this part.

29 ~~(b) Persons who obtain registry identification cards~~ are registered pursuant to this part are authorized

30 ~~to cultivate, manufacture, possess, and transport marijuana~~ participate in the medicinal use of cannabis as

1 allowed by this part.

2 (2) The department shall conduct ~~criminal history background checks as required by 50-46-307 and~~
 3 ~~50-46-308 before issuing a registry identification card for a person named as a provider or marijuana-infused~~
 4 ~~products provider~~ a named-based criminal history background check before registering a person as a provider,
 5 a cannabis-infused products provider, a courier, or a cannabis exchange broker.

6 (3) Registry identification cards issued ~~pursuant to this part~~ to an individual with a debilitating medical
 7 condition must:

8 ~~(a) be laminated and produced on a material capable of lasting for the duration of the time period for~~
 9 ~~which the card is valid;~~

10 ~~(b)(a) state the name, address, and date of birth of the registered cardholder; and~~

11 ~~(b) state the name, street address, and date of birth of the cardholder's provider or marijuana-infused~~
 12 ~~cannabis-infused products provider, if any;~~

13 ~~(c) state the date of issuance and the expiration date of the registry identification card; and~~

14 ~~(d) contain a unique identification number;~~

15 ~~— (e) easily identify whether the card is for a person with a debilitating medical condition, a provider, or a~~
 16 ~~marijuana-infused products provider; and~~

17 ~~(f)(d) contain other information that the department may specify by rule.~~

18 (4) Registry identification cards issued to an individual named as a provider, a cannabis-infused products
 19 provider, a courier, or a cannabis exchange broker must:

20 (a) state the individual's name, street address, and date of birth; and

21 (b) indicate whether the individual is registered to operate as a provider, cannabis-infused products
 22 provider, courier, or cannabis exchange broker.

23 (5) The department shall provide documentation in accordance with [section 11] to indicate that:

24 (a) a person other than an individual is registered pursuant to this chapter as a provider,
 25 cannabis-infused products provider, courier, cannabis exchange broker, or cannabis testing facility; and

26 (b) a premises is registered pursuant to [section 25].

27 ~~(4)(6)~~ (a) The department shall ~~review~~ verify the information contained in an application or renewal
 28 submitted pursuant to this part and shall approve or deny an application or renewal within ~~30~~ 15 days of receiving
 29 the application or renewal ~~and all related application materials.~~

30 (b) The department shall issue ~~a registry identification card~~ documentation of a person's registry status

1 within 5 days of approving an application or renewal.

2 ~~(5)(7)~~ Rejection of an application or renewal is considered a final department action, subject to judicial
3 review.

4 ~~(6)(8) (a) Registry identification cards expire~~ A registration expires 1 year after the date of issuance
5 unless:

6 ~~_____ (i) a physician has provided a written certification stating that a card is valid for a shorter period of time;~~
7 ~~or~~

8 ~~_____ (ii) a registered cardholder changes providers or marijuana-infused products providers~~ cannabis-infused
9 products providers.

10 ~~(b) A provider's or marijuana-infused products provider's registry identification card expires at the time~~
11 ~~the department issues a card to a new provider or new marijuana-infused products provider named by a~~
12 ~~registered cardholder.~~

13 (9) (a) A change in providers is effective upon receipt of a certified mail confirmation that the change has
14 been received by the department if the provider is already registered with the department.

15 (b) A provider named in an application to change providers may not begin acquiring or cultivating
16 cannabis for a patient until the provider has received a registry identification card.

17 ~~(7)(10)~~ A registered cardholder shall notify the department of any change in the cardholder's name,
18 address, ~~physician~~ health care provider, provider, or ~~marijuana-infused~~ cannabis-infused products provider or
19 any change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a
20 change occurs and is not reported to the department, the registry identification card is void.

21 ~~(8)(11)~~ The department shall maintain a confidential list of persons ~~to whom the department has issued~~
22 ~~registry identification cards~~ registered under this part. ~~Except as provided in subsection (9), individual~~ Individual
23 names and other identifying information on the list must be confidential and are not subject to disclosure, except
24 to:

25 (a) authorized employees of the department as necessary to perform the official duties of the department;
26 and

27 (b) authorized employees of state or local government agencies, including law enforcement agencies,
28 only as necessary to verify that an individual is a lawful possessor of a registry identification card.

29 ~~(9) The department shall provide the names of providers and marijuana-infused products providers to~~
30 ~~the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused~~

1 products providers are located. The law enforcement agency and its employees are subject to the confidentiality
2 requirements of 50-46-332.

3 ~~(10) (a) The department shall provide the board of medical examiners with the name of any physician
4 who provides written certification for 25 or more patients within a 12-month period. The board of medical
5 examiners shall review the physician's practices in order to determine whether the practices meet the standard
6 of care.~~

7 ~~_____ (b) The physician whose practices are under review shall pay the costs of the board's review activities.~~

8 ~~(11)(12) The department shall report biannually annually to the legislature the number of applications for
9 registry identification cards registration under this part, the number of registered cardholders approved, the nature
10 of the debilitating medical conditions of the cardholders, the number of ~~providers and marijuana-infused products~~
11 ~~providers and types of other registrations~~ approved, the number of registry identification cards or registrations
12 revoked, the number of ~~physicians~~ health care providers providing written certification for registered cardholders,
13 and the number of written certifications each ~~physician~~ health care provider has provided. The report may not
14 provide any identifying information of cardholders, ~~physicians~~ health care providers, providers, ~~or~~
15 ~~marijuana-infused products providers~~ cannabis-infused products providers, couriers, cannabis exchange brokers,
16 cannabis testing facilities, or registered premises.~~

17 ~~(12)(13) The board of medical examiners appropriate licensing board established pursuant to Title 37
18 shall report annually to the legislature on:~~

19 ~~_____ (a) the number and types of complaints the board has received involving physician health care provider
20 practices in providing written certification for the medicinal use of ~~marijuana~~ cannabis, pursuant to 37-3-203; and~~

21 ~~_____ (b) the number of physicians whose names were provided to the board by the department as required
22 under subsection (10). The report must include information on whether a physician whose practices were
23 reviewed by the board pursuant to subsection (10) met the standard of care when providing written certifications."~~

24
25 **NEW SECTION. Section 10. Medicinal use of cannabis -- allowable activities.** (1) The following
26 activities constitute the medicinal use of cannabis when carried out in accordance with the provisions of this part:

27 (a) acquisition, cultivation, manufacture, possession, transportation, or use of cannabis or
28 cannabis-infused products by a registered cardholder;

29 (b) acquisition, cultivation, manufacture, possession, transportation, delivery, transfer, or sale of cannabis
30 or cannabis-infused products by a provider or a cannabis-infused products provider;

1 (c) possession, transportation, delivery, transfer, or sale of usable cannabis, cannabis-infused products,
2 mature cannabis plants, and vegetative cannabis plants by a courier;

3 (d) acquisition, possession, transportation, delivery, and transfer of usable cannabis, cannabis-infused
4 products, mature cannabis plants, and vegetative cannabis plants by a cannabis exchange broker; and

5 (e) acquisition, cultivation, manufacture, possession, and transportation of cannabis or cannabis-infused
6 products by a cannabis testing facility.

7 (2) An employee working for a person registered under this part may acquire, cultivate, manufacture,
8 possess, transport, deliver, transfer, or sell cannabis or cannabis-infused products if the employee is directly
9 supervised by a person registered under this part.

10
11 **NEW SECTION. Section 11. Assisting with medicinal use -- types of registration -- requirements**

12 **-- prohibitions.** (1) (a) The department shall register persons who acquire, cultivate, manufacture, possess,
13 transport, deliver, transfer, sell, or test cannabis or cannabis-infused products to assist with a registered
14 cardholder's medicinal use of cannabis. The department may register a person as a:

15 (i) provider;

16 (ii) cannabis-infused products provider;

17 (iii) courier;

18 (iv) cannabis exchange broker; or

19 (v) cannabis testing facility.

20 (b) An individual who is under 18 years of age may not be registered under this section.

21 (2) Except as provided in [section 17], a person may obtain more than one type of registration.

22 (3) A person registering under this section shall submit:

23 (a) the person's name and street address on a form prescribed by the department;

24 (b) proof as required by the department that the person is a Montana resident;

25 (c) if registering as a provider, cannabis-infused products provider, or courier, documentation as required
26 by the department by rule that the applicant has been named:

27 (i) by a registered cardholder as a provider or cannabis-infused products provider; or

28 (ii) by a registered provider or cannabis-infused products provider as a courier;

29 (d) a statement on a form prescribed by the department that the person will not divert to any other person
30 the mature cannabis plants, vegetative cannabis plants, or usable cannabis that the person is allowed to acquire,

1 cultivate, manufacture, possess, transport, deliver, transfer, sell, or test under this part;

2 (e) a statement acknowledging that the person will undertake activities allowed under this part only at
3 a location registered with the department pursuant to [section 24]. The location must be identified by street
4 address.

5 (f) the fees established in [section 37].

6 (4) An individual registering under this section shall provide the department with the individual's date of
7 birth.

8 (5) (a) The department shall issue a registry identification card as provided in 50-46-303 to an individual
9 registered under this part. The department shall determine by rule the type of documentation to be issued to other
10 persons registered under this chapter. The documentation shall:

11 (i) state the person's name and street address; and

12 (ii) indicate the type of registration the person has applied for and received.

13 (b) An individual shall carry the registry identification card in accordance with 50-46-317. Other persons
14 shall display the department's document proving registration under this part at their registered premises.

15 (6) The department may not register a person under this section if the person:

16 (a) has been convicted of a felony drug offense;

17 (b) is in the custody of a youth court; or

18 (c) has been convicted of a violation of 50-46-331.

19 (7) A person registered under this section may not:

20 (a) acquire, manufacture, possess, transport, deliver, transfer, sell, or test cannabis that is not cultivated
21 in Montana by a licensed provider or cannabis-infused products provider for medicinal use; or

22 (b) manufacture, sell, or test a cannabis-related product unless the product is made from cannabis
23 cultivated and manufactured in Montana by a registered cardholder, provider, or cannabis-infused products
24 provider.

25

26 **Section 12.** Section 50-46-307, MCA, is amended to read:

27 **"50-46-307. Persons with debilitating medical conditions -- requirements -- minors -- limitations.**

28 (1) Except as provided in ~~subsections (2) through (4)~~ subsection (2), the department shall issue a registry
29 identification card to a person with a debilitating medical condition who submits the following, in accordance with
30 department rules:

- 1 (a) an application on a form prescribed by the department;
- 2 (b) an application fee or a renewal fee;
- 3 (c) the person's name, street address, and date of birth;
- 4 (d) proof of Montana residency;
- 5 ~~(e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or~~
6 ~~will be obtaining marijuana from a provider or a marijuana-infused products provider;~~
- 7 ~~(f)~~(e) a statement, on a form prescribed by the department, that the person will not divert to any other
8 person the ~~marijuana~~ cannabis that the person cultivates, manufactures, or obtains for the person's debilitating
9 medical condition;
- 10 ~~(g)~~(f) the name of the person's ~~treating physician or referral physician~~ health care provider and the street
11 address and telephone number of the ~~physician's~~ health care provider's office;
- 12 ~~(h) the street address where the person is cultivating or manufacturing marijuana if the person is~~
13 ~~cultivating or manufacturing marijuana for the person's own use;~~
- 14 ~~(i)~~(g) the name, date of birth, and street address of the ~~individual~~ person the ~~person~~ applicant has
15 selected as a provider or ~~marijuana-infused~~ cannabis-infused products provider, if any; and
- 16 ~~(j)~~(h) the written certification and accompanying statements from the person's ~~treating physician or~~
17 ~~referral physician~~ health care provider as required pursuant to 50-46-310.
- 18 (2) The department shall issue a registry identification card to a minor if the materials required under
19 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care
20 decisions:
- 21 ~~—— (a) provides proof of legal guardianship and responsibility for health care decisions if the person is~~
22 ~~submitting an application as the minor's legal guardian with responsibility for health care decisions; and~~
- 23 ~~(b)~~ signs and submits a written statement that:
- 24 ~~(i)~~(a) the minor's ~~treating physician or referral physician~~ health care provider has explained to the minor
25 and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks
26 and benefits of the medicinal use of ~~marijuana~~ cannabis; and
- 27 ~~(ii)~~(b) the minor's custodial parent or legal guardian with responsibility for health care decisions:
- 28 ~~(A)~~(i) consents to the medicinal use of ~~marijuana~~ cannabis by the minor;
- 29 ~~(B)~~(ii) ~~agrees to serve as the minor's marijuana-infused products provider~~ will provide the minor's
30 cannabis for medicinal use or will name a provider or cannabis-infused products provider; and

1 ~~(C)(iii)~~ agrees to control the acquisition of marijuana cannabis and the dosage and frequency of the
2 medicinal use of marijuana cannabis by the minor;.

3 ~~———(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;~~

4 ~~———(c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and
5 federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may
6 not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian
7 does not meet the requirements of 50-46-308.~~

8 ~~(d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated
9 or manufactured for the minor's use in a marijuana-infused product.~~

10 ~~(3) An application for a registry identification card for a minor must be accompanied by the written
11 certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition
12 to the minor's treating physician or referral physician.~~

13 ~~(3) (a) A custodial parent or legal guardian who chooses to have a provider or cannabis-infused products
14 provider provide the minor's cannabis for medicinal use may not also cultivate or otherwise obtain cannabis for
15 medicinal use by the minor.~~

16 ~~(b) If the custodial parent or legal guardian indicates that a provider or cannabis-infused products
17 provider will be providing the minor's cannabis for medicinal use, the parent or guardian shall:~~

18 ~~(i) provide the department with name, street address, and date of birth, if applicable, of the provider or
19 cannabis-infused products provider; and~~

20 ~~(ii) directly acquire from the provider the minor's cannabis for medicinal use.~~

21 ~~(4) A provider or cannabis-infused products provider named by a custodial parent or legal guardian
22 pursuant to subsection (2) may not engage in any direct transaction with the minor.~~

23 ~~(4)(5) A person may not be a registered cardholder if the person is in the custody of or under the
24 supervision of the department of corrections or a youth court.~~

25 ~~———(5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products
26 provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered cardholder
27 is the provider or marijuana-infused products provider.~~

28 ~~———(6) A registered cardholder may cultivate or manufacture marijuana as allowed under 50-46-319 only:~~

29 ~~———(a) at a property that is owned by the cardholder; or~~

30 ~~———(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.~~

1 ~~———— (7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered~~
 2 ~~cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a~~
 3 ~~registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each~~
 4 ~~other by the second degree of kinship by blood or marriage.~~

5 (6) A registered cardholder may have both a designated provider and a cannabis-infused products
 6 provider at the same time, but may have only one of each type of provider at a time."

7

8 **Section 13.** Section 50-46-308, MCA, is amended to read:

9 **"50-46-308. Provider types -- requirements Providers -- limitations -- activities.** ~~(1) The department~~
 10 ~~shall issue a registry identification card to or renew a card for the person who is named as a provider or~~
 11 ~~marijuana-infused products provider in a registered cardholder's approved application if the person submits to~~
 12 ~~the department:~~

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

14 ~~———— (b) proof that the person is a Montana resident;~~

15 ~~———— (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the~~
 16 ~~federal bureau of investigation;~~

17 ~~———— (d) a written agreement signed by the registered cardholder that indicates whether the person will act~~
 18 ~~as the cardholder's provider or marijuana-infused products provider;~~

19 ~~———— (e) a statement, on a form prescribed by the department, that the person will not divert to any other~~
 20 ~~person the marijuana that the person cultivates or manufactures for a registered cardholder;~~

21 ~~———— (f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered~~
 22 ~~cardholder at only one location as provided in subsection (7). The location must be identified by street address.~~

23 ~~———— (g) a fee as determined by the department to cover the costs of the fingerprint and background check~~
 24 ~~and associated administrative costs of processing the registration.~~

25 ~~———— (2) The department may not register a person under this section if the person:~~

26 ~~———— (a) has a felony conviction or a conviction for a drug offense;~~

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

28 ~~———— (c) has been convicted of a violation under 50-46-331;~~

29 ~~———— (d) has failed to:~~

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

- 1 ~~_____ (ii) stay out of default on a government-issued student loan;~~
 2 ~~_____ (iii) pay child support; or~~
 3 ~~_____ (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government~~
 4 ~~agency; or~~
 5 ~~_____ (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in~~
 6 ~~the person's application for a card issued under 50-46-307.~~
 7 ~~_____ (3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered~~
 8 ~~cardholders.~~
 9 ~~_____ (ii) A person who is registered as both a provider and a marijuana-infused products provider may assist~~
 10 ~~no more than three registered cardholders.~~
 11 ~~_____ (b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or~~
 12 ~~marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider~~
 13 ~~or marijuana-infused products provider.~~
 14 ~~(4)(1) A provider or marijuana-infused products provider may:~~
 15 ~~(a) accept reasonable reimbursement from a cardholder only for the provider's application or renewal~~
 16 ~~fee for a registry identification card issued under this section for services provided to assist with the medicinal~~
 17 ~~use of cannabis by the cardholder;~~
 18 ~~(b) at the premises registered pursuant to [section 24], undertake any of the activities specified for the~~
 19 ~~medicinal use of cannabis in [section 10];~~
 20 ~~(c) hire a courier to deliver cannabis as allowed under [section 16];~~
 21 ~~(d) supply a small amount of cannabis cultivated on the provider's registered premises to a cannabis~~
 22 ~~testing facility;~~
 23 ~~(e) provide usable cannabis, mature cannabis plants, or vegetative cannabis plants to another provider~~
 24 ~~or obtain usable cannabis or plants from another provider if:~~
 25 ~~(i) the cannabis or plants are transferred through a cannabis exchange broker pursuant to [section 17];~~
 26 ~~and~~
 27 ~~(ii) the transfers are documented by the provider and the cannabis exchange broker; and~~
 28 ~~(f) provide a cannabis-infused products provider with an amount of cannabis necessary to manufacture~~
 29 ~~cannabis-infused products.~~
 30 ~~(2) A provider shall obtain from the department a tag for each mature cannabis plant and vegetative~~

1 cannabis plant the provider is cultivating.

2 ~~(5) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.~~

3 ~~(6)(3) A provider or marijuana-infused products provider may not: provide a registered cardholder with~~
4 ~~more than 2.5 ounces of usable cannabis every 14 days unless:~~

5 ~~(a) the provider documents that a greater amount was necessary; and~~

6 ~~(b) the cardholder's health care provider has provided supporting documentation of the need for the~~
7 ~~cardholder to receive more than 2.5 ounces of usable cannabis every 14 days.~~

8 ~~(a) accept anything of value, including monetary remuneration, for any services or products provided to~~
9 ~~a registered cardholder;~~

10 ~~—— (b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or~~
11 ~~marijuana-infused products; or~~

12 ~~—— (c) use marijuana unless the person is also a registered cardholder.~~

13 ~~(7) (a) A person registered under this section may cultivate and manufacture marijuana for use by a~~
14 ~~registered cardholder only at one of the following locations:~~

15 ~~—— (i) a property that is owned by the provider or marijuana-infused products provider;~~

16 ~~—— (ii) with written permission of the landlord, a property that is rented or leased by the provider or~~
17 ~~marijuana-infused products provider; or~~

18 ~~—— (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of~~
19 ~~50-46-307.~~

20 ~~—— (b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or~~
21 ~~rented or leased to another provider or marijuana-infused products provider or another registered cardholder."~~

22

23 **Section 14.** Section 50-46-309, MCA, is amended to read:

24 **"50-46-309. ~~Marijuana-infused~~ Cannabis-infused products provider -- requirements -- allowable**
25 **activities.** (1) A person named by a registered cardholder or a registered provider may be registered as a
26 cannabis-infused products provider in accordance with the requirements of [section 11].

27 (2) An individual registered as a ~~marijuana-infused~~ cannabis-infused products provider shall:

28 ~~—— (a) prepare marijuana-infused products~~ prepare all products in a commercial facility located at a
29 premises registered with the department. Equipment in the facility must be used exclusively that is used for the
30 manufacture and preparation of ~~marijuana-infused~~ cannabis-infused products; and

1 ~~_____ (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused~~
2 ~~products.~~

3 ~~(2) A marijuana-infused products provider:~~

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

5 ~~_____ (b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the~~
6 ~~marijuana-infused products provider is also a registered provider and is providing the marijuana to a registered~~
7 ~~cardholder who has selected the person as the person's registered provider.~~

8 ~~(3) A cannabis-infused products provider may:~~

9 ~~(a) at the premises registered with the department, undertake the activities specified for the medicinal~~
10 ~~use of cannabis in [section 10];~~

11 ~~(b) receive usable cannabis from a registered cardholder or a provider for manufacture of~~
12 ~~cannabis-infused products;~~

13 ~~(c) receive reasonable compensation for services provided to assist with the medicinal use of cannabis~~
14 ~~by a registered cardholder; and~~

15 ~~(d) supply a small amount of a cannabis-infused product manufactured on the registered premises to~~
16 ~~a cannabis testing facility.~~

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

19 ~~(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50,~~
20 ~~chapter 34.~~

21 ~~(4) A cannabis-infused products provider receiving usable cannabis or any parts of a cannabis plant from~~
22 ~~a patient or provider shall:~~

23 ~~(a) keep records as required by department rule of the amount received and the dates on which the~~
24 ~~transfers occurred;~~

25 ~~(b) include in the quarterly reports required by [section 38] the amount of any transfer made or received~~
26 ~~during a calendar quarter;~~

27 ~~(c) provide to the department or any state or local law enforcement agency upon request the records~~
28 ~~of the transfers made and received;~~

29 ~~(d) in accordance with rules adopted by the department, label all products with information about the~~
30 ~~amount of tetrahydrocannabinol, cannabidiol, and cannabitol that the product contains; and~~

1 (e) retain copies of all records for 3 years."

2

3 **Section 15.** Section 50-46-310, MCA, is amended to read:

4 **"50-46-310. Written certification -- accompanying statements.** (1) The written certification provided
5 by a physician health care provider must be made on a form prescribed by the department and signed and dated
6 by the physician health care provider. The written certification must include:

7 (a) include the physician's health care provider's name, license number, and office address and
8 telephone number on file with the board of medical examiners board that licensed the health care provider under
9 Title 37 and the physician's health care provider's business e-mail address, if any; and

10 (b) the name, date of birth, and debilitating medical condition of the person individual for whom the
11 physician health care provider is providing written certification.

12 (2) A treating physician or referral physician health care provider who is providing written certification
13 for a patient shall provide:

14 (a) a statement initialed by the physician health care provider that must the health care provider:

15 ~~(a) confirm that the physician is:~~

16 ~~—— (i) the person's treating physician and that the person has been under the physician's ongoing medical~~
17 ~~care as part of~~

18 ~~(i) has a bona fide professional relationship with the person patient; or~~

19 ~~—— (ii) the person's referral physician;~~

20 ~~(b) confirm that the person suffers from a debilitating medical condition;~~

21 ~~—— (c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which~~
22 ~~it is debilitating;~~

23 ~~(d)(ii) confirm that the physician has assumed primary responsibility for providing management and~~
24 ~~routine care of the person's patient's debilitating medical condition after obtaining a comprehensive medical~~
25 ~~history and conducting a physical examination that included a personal review of any medical records maintained~~
26 ~~by other physicians health care providers and that may have included the person's patient's reaction and~~
27 ~~response to conventional medical therapies;~~

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

29 ~~—— (f) state that the medications, procedures, or other medical options have not been effective;~~

30 ~~(g)(iii) confirm that the physician has reviewed all prescription and nonprescription medications and~~

1 supplements used by the ~~person~~ patient and has considered the potential drug interaction with marijuana
2 cannabis;

3 ~~(h) state that the physician has a reasonable degree of certainty that the person's debilitating medical~~
4 ~~condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit~~
5 ~~from the use of marijuana;~~

6 ~~(i)(iv) confirm that the physician has explained the potential risks and benefits of the medicinal use of~~
7 ~~marijuana cannabis to the ~~person~~ patient; and~~

8 ~~(j) list restrictions on the person's activities due to the use of marijuana;~~

9 ~~_____ (k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1~~
10 ~~year;~~

11 ~~_____ (l) state that the physician will:~~

12 ~~_____ (i) continue to serve as the person's treating physician or referral physician; and~~

13 ~~(ii)(v) monitor the person's response to the use of marijuana and evaluate the efficacy of the treatment;~~
14 ~~and plans to continue to assess the patient and the patient's medicinal use of cannabis during the course of the~~
15 ~~health care provider's relationship with the patient;~~

16 ~~(b) a statement that in the health care provider's professional opinion the potential benefits of the~~
17 ~~medicinal use of cannabis would likely outweigh the health risks for the patient; and~~

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

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

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

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

25 ~~_____ (c) an attestation that the information provided in the written certification and accompanying statements~~
26 ~~is true and correct.~~

27 ~~_____ (4) If the written certification states that marijuana should be used for less than 1 year, the department~~
28 ~~shall issue a registry identification card that is valid for the period specified in the written certification."~~

29
30 NEW SECTION. Section 16. Couriers -- allowable activities. (1) An individual who is registered as

1 a courier pursuant to the requirements of [section 11] may transport and deliver usable cannabis, mature
2 cannabis plants, and vegetative cannabis plants for a provider or cannabis-infused products provider with whom
3 the courier is affiliated. The provider or cannabis-infused products provider shall notify the department of the
4 courier's affiliation with the provider or cannabis-infused products provider in a manner determined by the
5 department by rule.

6 (2) A courier may:

7 (a) transport and deliver usable cannabis, mature cannabis plants, or vegetative plants only to a
8 registered cardholder who has designated the provider or cannabis-infused products provider as the cardholder's
9 provider;

10 (b) receive reasonable compensation for the courier's services; and

11 (c) possess an amount of usable cannabis or plants that the provider or infused-products provider is
12 allowed to possess under this part.

13

14 **NEW SECTION. Section 17. Cannabis exchange brokers -- requirements -- allowable activities.**

15 (1) (a) A person registered as a cannabis exchange broker pursuant to the requirements of [section 11] may
16 arrange for the transfer or sale of usable cannabis, mature cannabis plants, or vegetative cannabis plants
17 between two providers.

18 (b) A cannabis exchange broker may not also be registered as a provider or cannabis-infused products
19 provider.

20 (2) A cannabis exchange broker may receive reasonable compensation for the activities allowed under
21 this section.

22 (3) A cannabis exchange broker shall conduct a transfer or sale in a manner that prevents direct contact
23 or exchanges between the providers involved in the transfer or sale.

24 (4) A cannabis exchange broker shall:

25 (a) keep records as required by rule of the amount of cannabis or cannabis-infused products transferred
26 to or among providers and cannabis-infused products providers and the dates on which the transfers occurred;

27 (b) include in the quarterly reports required by [section 38] the amount of any transfers made or received
28 during a calendar quarter; and

29 (c) provide to the department or any state or local law enforcement agency upon request the records
30 of the transfers made and received.

1
2 **NEW SECTION. Section 18. Cannabis testing facilities -- allowable activities -- prohibitions. (1)**

3 A cannabis testing facility may at its registered premises:

4 (a) cultivate up to 10 cannabis plants;

5 (b) test usable cannabis or cannabis-infused products for a provider, a cannabis-infused products
6 provider, or a registered cardholder for mold, pesticides, and tetrahydrocannabinol and cannabinoid levels; and

7 (c) receive reasonable compensation for testing services.

8 (2) A testing facility may not:

9 (a) have direct contact with a registered cardholder unless the cardholder requests testing of the
10 cardholder's usable cannabis; or

11 (b) sell or transfer cannabis, cannabis-infused products, mature cannabis plants, or vegetative cannabis
12 plants in the facility's possession.

13 (3) A testing facility shall:

14 (a) keep records as required by rule of the amount of cannabis or cannabis-infused products received
15 for testing;

16 (b) include in the quarterly reports required by [section 38] the amount of cannabis or cannabis-infused
17 products received during a calendar quarter;

18 (c) provide to the department or any state or local law enforcement agency upon request the records
19 kept pursuant to this section; and

20 (d) retain for 3 years copies of all testing results, including the name of the registered cardholder,
21 provider, or cannabis-infused products provider that submitted cannabis or cannabis-infused products for testing,
22 the product tested, and the results of the testing.

23

24 **Section 19.** Section 50-46-317, MCA, is amended to read:

25 **"50-46-317. Registry card to be carried and exhibited on demand -- photo identification required.**

26 (1) A registered cardholder, provider, or marijuana-infused products provider or other individual registered
27 pursuant to this part shall keep the person's individual's registry identification card in the person's individual's
28 immediate possession at all times. The person individual shall display the registry identification card and a valid
29 photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

30 (2) An individual charged with violating this section may not be convicted if the individual produces in

1 court or in the office of the arresting officer a valid registry identification card, license, or registration and photo
 2 identification, but the individual may be subject to a civil penalty."

3

4 **Section 20.** Section 50-46-318, MCA, is amended to read:

5 **"50-46-318. Health care facility procedures for patients with marijuana cannabis for medicinal**
 6 **use.** (1) (a) Except for hospices and residential care facilities that allow the medicinal use of marijuana cannabis
 7 as provided in 50-46-320, a health care facility as defined in 50-5-101 shall take the following measures when
 8 a patient who is a registered cardholder has marijuana cannabis in the patient's possession upon admission to
 9 the health care facility:

10 (i) require the patient to remove the marijuana cannabis from the premises before the patient is admitted
 11 if the patient is able to do so; or

12 (ii) make a reasonable effort to contact the patient's provider, marijuana-infused cannabis-infused
 13 products provider, court-appointed guardian, or person with a power of attorney, if any.

14 (b) If a patient is unable to remove the marijuana cannabis or the health care facility is unable to contact
 15 an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having
 16 jurisdiction in the area where the facility is located.

17 (2) A provider, marijuana-infused cannabis-infused products provider, court-appointed guardian, or
 18 person with a power of attorney, if any, contacted by a health care facility shall remove the marijuana cannabis
 19 and deliver it to the patient's residence.

20 (3) A law enforcement agency contacted by a health care facility shall respond by removing and
 21 destroying the marijuana cannabis and storing it in a secure location until the cardholder, the cardholder's
 22 provider, or the cardholder's cannabis-infused products provider retrieves it.

23 (4) A health care facility may not be charged for costs related to removal of the marijuana cannabis from
 24 the facility's premises."

25

26 **Section 21.** Section 50-46-319, MCA, is amended to read:

27 **"50-46-319. Legal protections -- allowable amounts -- presumption of medicinal use.** (1) (a) A
 28 registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

29 ~~———— (b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and~~
 30 ~~1 ounce of usable marijuana for each registered cardholder who has named the person as the registered~~

1 cardholder's provider.

2 ~~(2)(1) Except as provided in 50-46-320, and subject to the provisions of subsection (7) of this section,~~
 3 ~~an individual who possesses a registry identification card issued~~ a person registered pursuant to this part may
 4 not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not
 5 limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and
 6 industry, ~~solely because if:~~

7 (a) ~~the individual~~ person acquires, cultivates, manufactures, possesses, or transports, delivers, transfers,
 8 or sells marijuana cannabis in the amounts allowed under this section; or

9 (b) ~~the registered cardholder acquires or~~ registered cardholder uses marijuana cannabis.

10 (2) (a) A registered cardholder and the cardholder's designated provider may each possess 6 mature
 11 cannabis plants and 12 vegetative cannabis plants.

12 (b) (i) A registered cardholder may possess 2.5 ounces of usable cannabis.

13 (ii) Except as provided in 50-46-308, a registered cardholder may not acquire more than 2.5 ounces of
 14 usable cannabis from the cardholder's designated provider every 14 days.

15 (c) A provider may possess the amount of usable cannabis produced by the number of plants the
 16 provider is allowed to possess under this part.

17 (d) A cannabis testing facility may cultivate 10 mature cannabis plants and may possess an amount of
 18 usable cannabis necessary to conduct testing.

19 (3) ~~A physician~~ health care provider may not be arrested, prosecuted, or penalized in any manner or be
 20 denied any right or privilege, including but not limited to civil penalty or disciplinary action by ~~the board of medical~~
 21 ~~examiners~~ a professional licensing board or the department of labor and industry, ~~solely~~ for providing written
 22 certification for a patient with a debilitating medical condition.

23 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
 24 professional or occupational licensing board or the department of labor and industry if:

25 (a) a registered cardholder's use of marijuana cannabis impairs the cardholder's job-related performance;

26 or

27 (b) a ~~physician~~ health care provider violates the standard of care or other requirements of this part.

28 (5) ~~(a)~~ An individual may not be arrested or prosecuted for constructive possession, conspiracy as
 29 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
 30 of the medicinal use of marijuana cannabis as permitted under this part.

1 ~~(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity~~
2 ~~of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not~~
3 ~~a registered cardholder.~~

4 (6) ~~Except as provided in 50-46-329, possession~~ Possession of or application for a registry identification
5 card or registration under this part does not alone constitute probable cause to search the individual person or
6 the property of the individual person possessing or applying for the registry identification card or registration or
7 otherwise subject the individual person or property of the individual person possessing or applying for the card
8 or registration to inspection by any governmental agency, including a law enforcement agency.

9 ~~(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an~~
10 ~~individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal~~
11 ~~charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an~~
12 ~~arrest or the filing of a criminal charge.~~

13 ~~(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be~~
14 ~~engaged in the use of marijuana as allowed by this part if the person:~~

15 ~~—— (i) is in possession of a valid registry identification card; and~~

16 ~~—— (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.~~

17 ~~(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the~~
18 ~~purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.~~

19 (7) A registered cardholder or person registered under this part is acting in accordance with the
20 provisions of this part and may not be subject to prosecution if:

21 (a) the person provides usable cannabis, cannabis-infused products, mature cannabis plants, or
22 vegetative cannabis plants to a registered cardholder as long as the person does not provide the items to anyone
23 for a use that is not a medicinal use;

24 (b) the person charged with the offense is a registered cardholder or otherwise registered under this part
25 and is in compliance with the provisions of this part; or

26 (c) the person charged with the offense is:

27 (i) a registered cardholder; and

28 (ii) in possession of 2.5 ounces or less of usable cannabis unless the cardholder's health care provider
29 has provided documentation that the cardholder needs more than 2.5 ounces to alleviate the symptoms or effects
30 of the cardholder's debilitating medical condition.

1 (8) Nothing in this part prohibits a person from bringing into evidence at trial facts relating to the
 2 medicinal use of cannabis if the charge involves marijuana."

3
 4 **Section 22.** Section 50-46-320, MCA, is amended to read:

5 **"50-46-320. Limitations of the act.** (1) This part does not permit:

6 (a) any person, ~~including a registered cardholder,~~ to operate, navigate, or be in actual physical control
 7 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana cannabis; or

8 (b) ~~except as provided in subsection (3);~~ the use smoking of marijuana cannabis by a registered
 9 cardholder:

10 ~~(i) in a health care facility as defined in 50-5-101;~~

11 ~~——(ii) in a school or a postsecondary school as defined in 20-5-402;~~

12 ~~(iii)(i) on or in any property owned by a school district or a postsecondary school grounds;~~

13 ~~(iv) on or in any property leased by a school district or a postsecondary school when the property is being~~
 14 ~~used for school-related purposes;~~

15 ~~(v)(ii) in a school bus or other form of public transportation;~~

16 ~~(vi)(iii) when ordered by any court of competent jurisdiction into in a correctional facility or program;~~

17 ~~(vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;~~

18 ~~(viii)(iv) at a public park, public beach, public recreation center, or youth center; or~~

19 ~~(ix) in or on the property of any church, synagogue, or other place of worship;~~

20 ~~——(x) in plain view of or in a place open to the general public; or~~

21 ~~(xi)(v) where exposure to the marijuana cannabis smoke significantly adversely affects the health, safety,~~
 22 ~~or welfare of children.~~

23 (2) A ~~registered cardholder, provider, or marijuana-infused products provider~~ person registered under
 24 this part may not cultivate or manufacture marijuana cannabis for use by a registered cardholder in a manner that
 25 is visible from the street or other public area.

26 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows
 27 the medicinal use of marijuana cannabis by a registered cardholder.

28 (4) Nothing in this part may be construed to require:

29 (a) a government medical assistance program, ~~a group benefit plan that is covered by the provisions of~~
 30 ~~Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an~~ or a private health insurer as defined

1 in ~~39-71-116~~ to reimburse a person for costs associated with the medicinal use of marijuana cannabis by a
 2 registered cardholder; or

3 (b) an employer to accommodate the medicinal use of marijuana by a registered cardholder cannabis
 4 in a workplace where prescription medications have been restricted and where the medicinal use of cannabis may
 5 constitute a safety concern;

6 (c) ~~a school or postsecondary school to allow a registered cardholder to participate in extracurricular~~
 7 ~~activities; or~~

8 ~~_____ (d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products~~
 9 ~~provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.~~

10 (5) ~~Nothing in this part may be construed to:~~

11 ~~_____ (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for~~
 12 ~~a debilitating medical condition; or~~

13 ~~_____ (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or~~
 14 ~~discrimination pursuant to 49-1-102.~~

15 (6)(5) Nothing in this part may be construed to allow a provider, or marijuana-infused cannabis-infused
 16 products provider, courier, or cannabis exchange broker to use marijuana cannabis or to prevent criminal
 17 prosecution of a provider, or marijuana-infused cannabis-infused products provider, courier, or
 18 cannabis-exchange broker who uses marijuana cannabis or paraphernalia for personal use unless the individual
 19 is also a registered cardholder.

20 (7) (a) ~~A law enforcement officer who has reasonable cause to believe that a person with a valid registry~~
 21 ~~identification card is driving under the influence of marijuana may apply for a search warrant to require the person~~
 22 ~~to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a~~
 23 ~~tetrahydrocannabinol (THC) level of 5 ng/ml may be charged with a violation of 61-8-401.~~

24 ~~_____ (b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection~~
 25 ~~(1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads~~
 26 ~~guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which~~
 27 ~~the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section~~
 28 ~~must be for the period of suspension or revocation set forth:~~

29 ~~_____ (i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or~~

30 ~~_____ (ii) in 61-8-410 for a violation of 61-8-410.~~

1 ~~_____ (c) If a person's registry identification card is subject to renewal during the revocation period, the person~~
 2 ~~may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person~~
 3 ~~submits all materials required for renewal."~~

4
 5 **NEW SECTION. Section 23. Reciprocity for out-of-state patients.** (1) An individual with the
 6 equivalent of a registry identification card issued by another state, district, territory, commonwealth, or insular
 7 possession of the United States or a country recognized by the United States that allows the individual to use
 8 cannabis for a medical condition may use cannabis in accordance with the provisions of this part if the individual:

9 (a) is not a resident of Montana or has been a resident for less than 30 days; and

10 (b) registers with and obtains usable cannabis from a provider.

11 (2) The individual shall register with a provider using a form prescribed by the department. The provider
 12 shall mail the form to the department within 3 business days of the person's registration with the provider.

13 (3) When registering with a provider, the individual shall provide a valid photo identification card or its
 14 equivalent that was issued pursuant to the laws of another state, district, territory, commonwealth, or insular
 15 possession of the United States or a country recognized by the United States.

16 (4) The provider shall advise the individual in writing that:

17 (a) cannabis obtained in Montana for medicinal use may be used only in Montana; and

18 (b) the provisions of the Montana Medicinal Cannabis Act and related administrative rules apply to a
 19 nonresident using cannabis because of a medical condition.

20
 21 **NEW SECTION. Section 24. Registered premises -- requirements -- exception -- fees.** (1) (a) The
 22 department shall register premises at which cannabis for medicinal use is acquired, cultivated, manufactured,
 23 delivered, transferred, sold, or tested by a registered cardholder or a person registered as a provider,
 24 cannabis-infused products provider, courier, cannabis exchange broker, or cannabis testing facility.

25 (b) The registration shall authorize a person to undertake activities as allowed under this part for the type
 26 of registration the person holds.

27 (2) A person applying to register a premises shall:

28 (a) submit proof that the person has been a resident of Montana for at least 1 year;

29 (b) provide the street address and physical description of existing or proposed buildings and other
 30 information related to the premises as required by the department; and

1 (c) sign a statement acknowledging that registration of the premises does not allow the applicant to
2 engage in the use of cannabis or to use paraphernalia for any purpose other than cultivating, manufacturing,
3 transporting, delivering, or transferring cannabis for use by a registered cardholder unless the applicant is also
4 a registered cardholder.

5 (3) (a) Except as provided in subsection (3)(b), each applicant for a registered premises shall pay the
6 fee established in [section 37].

7 (b) The department may waive the fee or establish a lower fee for an individual who is the custodial
8 parent or legal guardian of a minor with a valid registry identification card if the parent or guardian is acting as
9 a provider only for the minor.

10 (4) (a) If the person applying to register a premises is a partnership or if more than one person has a
11 financial interest in the business operated under the registration, the names of all persons in the partnership or
12 with a financial interest of 10% or more must appear on the registration. Each individual named on the application
13 must meet the requirements of [section 11] and this section before the premises may be registered.

14 (b) This subsection (4) does not apply to a financial institution as defined in 32-6-103.

15 (5) Upon receipt of a completed application, the department shall determine whether:

16 (a) the applicant is qualified for registration;

17 (b) the premises are suitable for the proposed business use; and

18 (c) the requirements of this part and administrative rules adopted pursuant to this part are met.

19 (6) A registration issued under this section must state:

20 (a) the name of the person to whom it is issued;

21 (b) the street address of the premises where cannabis for medicinal use will be cultivated or where other
22 activities involving the medicinal use of cannabis will be undertaken. If no street address exists, the registration
23 must contain a specific description of the location of the premises.

24 (c) other information as required by the department.

25 (7) (a) Except as provided in subsection (7)(b), a registration issued pursuant to this section is valid for
26 1 year.

27 (b) A registration expires in less than 1 year if the individuals who have named the applicant as a
28 provider:

29 (i) no longer have valid registry identification cards; or

30 (ii) have named another provider as the person who will assist with their medicinal use of cannabis.

1 (8) (a) A person with a registered premises may hire employees. An employee does not have to be
2 registered with the department or otherwise meet the requirements of this part unless the employee is a courier.

3 (b) Upon request, the person with the registered premises shall supply the department with the names
4 of all individuals employed to work at the registered premises.

5
6 **NEW SECTION. Section 25. Change of location of registered premises.** (1) A registered cardholder,
7 provider, cannabis-infused products provider, courier, cannabis exchange broker, or cannabis testing facility may
8 apply to the department to change the location of a registered premises to a different premises within the city,
9 town, or county in which the premises was registered if:

- 10 (a) major loss or damage has occurred because of unforeseen natural causes;
11 (b) the lease of the registered premises has expired;
12 (c) in the case of a rented premises, the landlord has evicted the person or increased the rent; or
13 (d) the applicant has proposed a transfer to premises that are as substantially suited for activities related
14 to the medicinal use of cannabis as the currently registered premises.

15 (2) The department may not allow a change of location to different premises if the sanitary, health, and
16 service facilities are less satisfactory than the facilities on the currently licensed premises.

17 (3) The department shall establish by rule the fee for an application for a change of location.

18
19 **NEW SECTION. Section 26. Registration renewal -- revocation -- suspension.** (1) (a) A provider,
20 cannabis-infused products provider, courier, cannabis exchange broker, or cannabis testing facility shall apply
21 for renewal of a registry identification card or other registration issued pursuant to this part at least 30 days before
22 the expiration date of the existing registration.

23 (b) An applicant for renewal must meet the criteria established in [section 11].

24 (2) (a) The department shall suspend a registry identification card or registration if the applicant has not:

25 (i) applied for renewal before the expiration date of the existing card or registration; or

26 (ii) paid the application or registration fees required under this part.

27 (b) The department shall notify the person by the most expedient means available of the suspension and
28 the steps the person is required to take to maintain licensure.

29 (3) The department shall revoke a registration if the registration has been suspended and the person
30 fails to submit an application for renewal or to pay the appropriate fees within 5 business days after receiving

1 notice of the suspension.

2 (4) (a) The department shall revoke registration for a premises if the person holding the registration:

3 (i) violates any provision of this part or an administrative rule adopted pursuant to this part; or

4 (ii) is convicted of a felony offense after registering the premises.

5 (b) A revocation under subsection (4)(a)(i) is subject to an opportunity for a hearing under Title 2, chapter
6 4, part 6.

7

8 **Section 27.** Section 50-46-327, MCA, is amended to read:

9 **"50-46-327. Prohibitions on physician health care provider affiliation with providers and
10 marijuana-infused products providers registered persons -- sanctions.** (1) (a) A physician health care
11 provider who provides written certifications may not:

12 (i) accept or solicit anything of value, including monetary remuneration, from a provider, or
13 marijuana-infused cannabis-infused products provider, courier, cannabis exchange broker, or cannabis testing
14 facility;

15 (ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider,
16 or marijuana-infused cannabis-infused products provider, courier, cannabis exchange broker, or cannabis testing
17 facility; or

18 (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where
19 medical marijuana cannabis for medicinal use is acquired, cultivated, or manufactured, delivered, transferred,
20 sold, or tested or where marijuana-infused cannabis-infused products are made; or

21 (iv) hold an economic interest in an enterprise engaged in the medicinal use of cannabis if the health care
22 provider certifies the debilitating medical condition of a person who applies for a registry identification card.

23 (b) Subsection (1)(a) does not prevent a physician health care provider from accepting a fee for providing
24 medical care to a provider or marijuana-infused products provider an individual registered under this part if the
25 physician health care provider charges the person individual the same fee that the physician health care provider
26 charges other patients for providing a similar level of medical care.

27 (2) If the department has cause to believe that a physician health care provider has violated this section,
28 has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required
29 under this chapter, the department may refer the matter to the board of medical examiners provided for in
30 2-15-1734 appropriate licensing board for review pursuant to 37-1-308.

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

5 (4) If ~~the board of medical examiners~~ a professional licensing board believes that a physician's health
 6 care provider's practices may harm the public health, safety, or welfare, the board may summarily restrict a
 7 physician's the provider's authority to provide written certification for the ~~medical~~ medicinal use of ~~marijuana~~
 8 cannabis."

9

10 **Section 28.** Section 50-46-328, MCA, is amended to read:

11 "**50-46-328. Local government authority to regulate.** (1) To protect the public health, safety, or
 12 welfare, a local government may by ordinance or resolution regulate a provider, ~~or marijuana-infused~~
 13 cannabis-infused products provider, courier, cannabis exchange broker, or cannabis testing facility that operates
 14 within the local government's jurisdictional area. The regulations may include but are not limited to:

15 (a) restrictions on numbers and location;

16 (b) business licensing requirements;

17 (c) building codes and standards; and

18 (d) ~~inspections of locations where marijuana is cultivated or manufactured~~ inspection of businesses in
 19 order to ensure compliance with any public health, safety, and welfare sanitary requirements established by the
 20 department ~~or the local government~~.

21 (2) A person subject to regulation under this section that is in lawful operation at the time an ordinance,
 22 resolution, or licensing requirement is enacted as provided in subsection (1) and that is not in compliance with
 23 the ordinance, resolution, or requirement at the time of enactment may not be required to come into compliance.

24 ~~(2)(3)~~ (3) A local government, ~~including a local government with self-governing powers,~~ may not adopt an
 25 ordinance or resolution prohibiting ~~providers and marijuana-infused products providers from operating as~~
 26 ~~storefront businesses~~ the medicinal use of cannabis."

27

28 **Section 29.** Section 50-46-329, MCA, is amended to read:

29 "**50-46-329. Inspection procedures.** (1) ~~The~~ Except as provided in subsection (2), the department and
 30 ~~state or local law enforcement agencies may conduct unannounced inspections of registered premises~~ shall

1 inspect registered premises on an annual basis. The inspections must include but are not limited to:

2 (a) a determination that the cultivation and manufacture of cannabis for medicinal use meets agricultural
3 and public health and safety standards established by the department by rule;

4 (b) a comparison of the number of plants and amount of usable cannabis to the number of registered
5 cardholders who have identified the provider as the person cultivating cannabis for medicinal use;

6 (c) a determination of whether the number of plants and amount of usable cannabis the provider,
7 cannabis-infused products provider, or cannabis testing facility is authorized to possess reconcile with the
8 information provided in the quarterly reports required under [section 38]. The determination must take into
9 consideration the number of registered cardholders who have identified the provider or cannabis-infused products
10 provider as the person providing cannabis for medicinal use.

11 (d) any other criteria established by the department by rule.

12 (2) The premises of a registered cardholder are not subject to the inspection required under this section.

13 ~~(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records~~
14 ~~necessary to show all transactions with registered cardholders. The records must be open for inspection by the~~
15 ~~department and state or local law enforcement agencies during normal business hours:~~

16 ~~———— (b) The department may require a provider or marijuana-infused products provider to furnish information~~
17 ~~that the department considers necessary for the proper administration of this part.~~

18 ~~———— (3) (a) A registered premises, including any places of storage, where marijuana is cultivated,~~
19 ~~manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the~~
20 ~~purpose of inspection or investigation during normal business hours:~~

21 ~~———— (b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused~~
22 ~~products provider shall make the area available for inspection without delay upon request of the department or~~
23 ~~state or local law enforcement officials.~~

24 ~~———— (4) A provider or marijuana-infused products provider shall maintain records showing the names and~~
25 ~~registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana,~~
26 ~~or marijuana-infused products were transferred and the quantities transferred to each cardholder.~~

27 (3) In developing administrative rules under this section, the department shall consult with the
28 department of agriculture provided for in 2-15-3001 to determine appropriate agricultural standards.

29 (4) The department may contract with the department of agriculture for development of proposed
30 administrative rules or for the inspections required under this section.

1 (5) The department shall establish penalties for violation of agricultural or public health or safety
 2 standards, up to and including revocation of the registration of a provider, cannabis-infused products provider,
 3 courier, cannabis exchange broker, cannabis testing facility, or registered premises.

4 (6) Inspections conducted under this section may not be carried out in a manner that would damage
 5 cannabis plants at any point in the growing cycle. The department may adopt rules specifying procedures for
 6 inspections."

7

8 **Section 30.** Section 50-46-330, MCA, is amended to read:

9 **"50-46-330. Unlawful conduct by cardholders -- penalties.** (1) The department shall revoke and may
 10 not reissue the registry identification card or other registration document of a person who:

11 (a) is convicted of a drug offense; or

12 (b) allows another person to be in possession of the person's:

13 ~~—— (i) registry identification card or registration document for any purpose other than a necessary purpose;~~

14 ~~or~~

15 ~~—— (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or~~

16 ~~—— (c) fails to cooperate with the department concerning an investigation or inspection if the person is~~
 17 ~~registered and cultivating or manufacturing marijuana.~~

18 (2) A registered cardholder, provider, ~~or marijuana-infused~~ cannabis-infused products provider ~~who,~~
 19 courier, cannabis exchange broker, or the operator of a cannabis testing facility that violates this part is
 20 punishable by a fine not to exceed ~~\$500~~ \$1,000 or by imprisonment in a county jail for a term not to exceed 6
 21 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title
 22 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of
 23 Title 45."

24

25 **Section 31.** Section 50-46-331, MCA, is amended to read:

26 **"50-46-331. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by
 27 law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder,
 28 provider, ~~or marijuana-infused~~ cannabis-infused products provider, courier, cannabis exchange broker, or the
 29 operator of a cannabis testing facility is guilty of a misdemeanor punishable by imprisonment in a county jail for
 30 a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

1 (2) A physician health care provider who purposely and knowingly misrepresents any information
 2 required under 50-46-310 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not
 3 to exceed 1 year or a fine not to exceed \$1,000, or both.

4 (3) A person convicted under this section may not be registered ~~as a provider of marijuana-infused~~
 5 ~~products provider under 50-46-308~~ under this part."

6

7 **Section 32.** Section 50-46-332, MCA, is amended to read:

8 **"50-46-332. Confidentiality of registry information -- penalty.** (1) Except as provided in 37-3-203, a
 9 person, including an employee or official of the department, another state agency, or a local government agency
 10 commits the offense of disclosure of confidential information related to ~~registry information~~ the medicinal use of
 11 cannabis if the person knowingly or purposely discloses confidential information in violation of this part.

12 (2) A person convicted of ~~a violation of this section~~ disclosure of confidential information relating to the
 13 medicinal use of cannabis shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to
 14 exceed 6 months, or both."

15

16 **Section 33.** Section 50-46-339, MCA, is amended to read:

17 **"50-46-339. Law enforcement authority.** Nothing in this chapter may be construed to limit a law
 18 enforcement agency's ability to investigate unlawful activity in relation to a person ~~with a registry identification~~
 19 ~~card~~ registered pursuant to this part."

20

21 **Section 34.** Section 50-46-340, MCA, is amended to read:

22 **"50-46-340. Forfeiture.** (1) ~~Marijuana~~ Cannabis, paraphernalia relating to ~~marijuana~~ cannabis, or other
 23 property seized by a law enforcement official from a person claiming the protections of this part in connection with
 24 the acquisition, cultivation, manufacture, possession, transportation, ~~distribution~~, delivery, transfer, sale, testing,
 25 or use of ~~marijuana~~ cannabis or cannabis-infused products must be returned to the person immediately upon a
 26 determination that the person is in compliance with the provisions of this part.

27 (2) A law enforcement agency in possession of mature ~~marijuana~~ cannabis plants or ~~seedlings~~
 28 vegetative cannabis plants seized as evidence is not responsible for the care and maintenance of the plants ~~or~~
 29 ~~seedlings.~~"

30

1 **Section 35.** Section 50-46-343, MCA, is amended to read:

2 **"50-46-343. Legislative monitoring.** (1) The children, families, health, and human services interim
3 committee shall provide oversight of the department's activities related to ~~registering individuals~~ registrations
4 issued pursuant to this part and of issues related to the acquisition, cultivation, manufacture, transportation,
5 delivery, transfer, sale, testing, and use of marijuana cannabis pursuant to this part.

6 (2) The committee shall identify issues likely to require future legislative attention and develop legislation
7 to present to the next regular session of the legislature."
8

9 **Section 36.** Section 50-46-344, MCA, is amended to read:

10 **"50-46-344. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary for the
11 implementation and administration of this part. The rules must include but are not limited to:

12 (a) the manner in which the department will consider applications for and renewals of registry
13 identification cards for providers and marijuana-infused products providers and for persons with debilitating
14 medical conditions and renewal of registry identification cards registrations under this part;

15 (b) the acceptable forms of proof of Montana residency;

16 (c) ~~the procedures for obtaining fingerprints for the fingerprint and background check required under~~
17 ~~50-46-307 and 50-46-308;~~

18 (c) the documentation to be issued to persons other than individuals registered under this part;

19 (d) the manner in which inspections must be conducted, including provisions for contracting with another
20 state agency to conduct inspections;

21 (e) recordkeeping rules for providers, cannabis-infused products providers, couriers, cannabis exchange
22 brokers, and cannabis testing facilities, including the length of time that records related to sales and transfers
23 must be kept;

24 (f) registration and operational requirements for cannabis-infused products providers and cannabis
25 testing facilities;

26 (g) penalties for violations of this part, including suspension or revocation of a license;

27 (h) the formula to be used in distributing grants to local governments from the special revenue account
28 created pursuant to [section 40]; and

29 ~~(d)~~(i) other rules necessary to implement the purposes of this part.

30 (2) (a) The department's rules must establish application and renewal fees that generate revenue

1 sufficient to offset all expenses of implementing and administering this part.

2 (b) The department may vary the application and renewal fees for a person with a debilitating medical
3 condition along a sliding scale that takes into account the person's income."

4
5 **NEW SECTION. Section 37. Registration fees.** (1) The department shall determine by rule the fees
6 to be collected quarterly by the department. The fees must be sufficient to cover costs related to carrying out the
7 provisions of this part and, except as provided in subsection (2), must at a minimum be:

8 (a) \$1,500 for a person registered as a cannabis exchange broker;

9 (b) \$1,000 for each location operated by a cannabis infused-products provider;

10 (c) \$1,000 for each location operated as a cannabis testing facility;

11 (d) \$100 for each person registered as a courier; and

12 (e) for a provider:

13 (i) \$15 for each registered cardholder who has selected the person as a provider based on the provider's
14 cardholder count at the close of the prior calendar quarter; and

15 (ii) \$1 for each plant in production from the time the plant is bearing roots as determined by the number
16 of tags issued by the department during the calendar quarter.

17 (2) A provider named by a registered cardholder to replace a previously named provider shall pay a \$10
18 fee for each registered cardholder who chooses the provider as a replacement.

19 (3) Revenue from the fees provided for in this section must be deposited in the special revenue account
20 provided for in [section 40] and used for carrying out the provisions of this part. Revenue in excess of the costs
21 of carrying out the provisions of this part must be distributed in accordance with the provisions of [section 40].

22 (4) The fees provided for in this section may be increased as necessary to pay for the costs of carrying
23 out the provisions of this part but may not raise an amount that is 10% greater than the department's costs of
24 meeting the requirements of this part.

25
26 **NEW SECTION. Section 38. Required reports.** (1) Within 15 days of the end of each calendar quarter,
27 each provider, cannabis-infused products provider, cannabis exchange broker, and cannabis testing facility shall
28 submit to the department a report on forms prescribed by the department listing information that includes but is
29 not limited to:

30 (a) a summary of production for the calendar quarter;

- 1 (b) a summary of the inventory on hand at the conclusion of the calendar quarter;
- 2 (c) the amount and types of items sold, including but not limited to the number of mature and vegetative
- 3 cannabis plants, the ounces of usable cannabis, and other cannabis-related or business-related products;
- 4 (d) the price charged for each item; and
- 5 (e) the amount of any cannabis transferred through a cannabis exchange broker.
- 6 (2) The department may modify reporting procedures requirements.

7

8 **NEW SECTION. Section 39. Medicinal cannabis advisory council -- duties -- membership.** (1)

9 There is a medicinal cannabis advisory council to provide advice to the department on carrying out the provisions

10 of this part. Advisory council duties include but are not limited to providing guidance to the department on:

- 11 (a) educational requirements for persons registered pursuant to this part;
- 12 (b) standards of professional conduct and ethics for providers, cannabis-infused products providers,
- 13 couriers, cannabis exchange brokers, and cannabis testing facilities;
- 14 (c) sanctions for persons who violate provisions of this part or standards of professional conduct and
- 15 ethics;
- 16 (d) standards for the cultivation of medicinal cannabis. The council may consult with the department of
- 17 agriculture to recommend standards for cultivation protocols.
- 18 (e) guidelines for the manner in which a registered cardholder may change providers;
- 19 (f) the establishment and collection of fees;
- 20 (g) a protocol for a provider to report a registered cardholder who may be selling cannabis to individuals
- 21 who have not obtained a registry identification card;
- 22 (h) a method for the department to investigate potential revocation of the registry identification card of
- 23 a registered cardholder;
- 24 (i) development of an electronic online reporting and monitoring system that includes a means for
- 25 notifying each provider on a monthly basis of the number of registered cardholders who have named the provider
- 26 as the person that will assist the registered cardholder in the medicinal use of cannabis;
- 27 (j) development of a system for tracking the production and distribution of cannabis for medicinal use
- 28 to ensure that cannabis produced for medicinal use, including seeds, plants, usable cannabis, and
- 29 cannabis-infused products, is produced and distributed by individuals only as provided in this part; and
- 30 (k) inspection guidelines for persons registered pursuant to this part that include but are not limited to

1 guidelines for compliance and protocols for ensuring the safety and quality of cannabis plants and
2 cannabis-infused products. The guidelines may be developed in consultation with the department of agriculture.

3 (2) The department shall appoint the advisory council members and determine:

4 (a) the number and types of members;

5 (b) the length of time for which members are appointed; and

6 (c) the number of meetings to be held each year.

7

8 **NEW SECTION. Section 40. Special revenue account.** (1) There is an account in the state special
9 revenue fund to the credit of the department for the purposes of carrying out its responsibilities under this part
10 and for the purposes established in subsection (2). The account consists of:

11 (a) application and renewal fees paid pursuant to this part;

12 (b) any other fees or penalties paid pursuant to this part; and

13 (c) interest earned on the account.

14 (2) Revenue in excess of the department's costs of carrying out the provisions of this part must be
15 distributed as follows:

16 (a) 25% to the department to be used for grants to the governing body of a city, town, or county
17 according to a formula based on the number of registered providers and cannabis-infused products providers in
18 each city, town, or county and to be used for infrastructure improvements that include but are not limited to
19 sewers, roads, curbs, and sidewalks;

20 (b) 25% to the department to be used for:

21 (i) home and community-based medicaid waiver services provided to people who are 65 years of age
22 or older or who are served pursuant to Title 53, chapter 19; and

23 (ii) nonmedicaid services provided by entities designated as area agencies pursuant to 52-3-103;

24 (c) 25% to the school facility and technology account provided for in 20-9-516; and

25 (d) 25% to the department of fish, wildlife, and parks to improve state parks and state recreation areas.

26

27 **Section 41.** Section 61-11-101, MCA, is amended to read:

28 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**
29 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory
30 the suspension or revocation of the driver's license or commercial driver's license of the person by the

1 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
2 held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license
3 and a record of the conviction to the department. If the person does not possess a driver's license, the court shall
4 indicate that fact in its report to the department.

5 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
6 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
7 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
8 the conviction becomes final. The court may recommend that the department issue a restricted probationary
9 license on the condition that the individual comply with the requirement that the person attend and complete a
10 chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

11 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
12 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
13 upon which it is based to the department within 5 days on forms furnished by the department.

14 (4) A conviction becomes final for the purposes of this part upon the later of:

15 (a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

16 (b) forfeiture of bail that is not vacated; or

17 (c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended
18 execution of a sentence.

19 (5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license
20 or who is required to hold a commercial driver's license, a court may not take any action, including deferring
21 imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or
22 ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving
23 record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial
24 driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a
25 person who holds any other type of driver's license.

26 (b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to
27 a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at
28 the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
29 subsection (1).

30 ~~(6) (a) If a person who holds a valid registry identification card issued pursuant to 50-46-307 or~~

1 ~~50-46-308 is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs~~
2 ~~when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410,~~
3 ~~the court in which the conviction occurs shall require the person to surrender the registry identification card.~~
4 ~~—— (b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card~~
5 ~~and a copy of the conviction to the department of public health and human services."~~

6
7 **NEW SECTION. Section 42. Repealer.** The following section of the Montana Code Annotated is
8 repealed:

9 50-46-341. Advertising prohibited.

10
11 **NEW SECTION. Section 43. Codification instruction.** [Sections 10, 11, 16 through 18, 23 through
12 26, and 37 through 40] are intended to be codified as an integral part of Title 50, chapter 46, part 3, and the
13 provisions of Title 50, chapter 46, part 3, apply to [sections 10, 11, 16 through 18, 23 through 26, and 37 through
14 40].

15
16 **NEW SECTION. Section 44. Severability.** If a part of [this act] is invalid, all valid parts that are
17 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
18 the part remains in effect in all valid applications that are severable from the invalid applications.

19 - END -