

SENATE BILL NO. 74

INTRODUCED BY J. KASSMIER

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING THE DEFINITION OF THE "RETAIL PRICE" OF MARIJUANA FOR TAX PURPOSES; REVISING THE DEFINITIONS OF "CONTROLLING BENEFICIAL OWNER", "EMPLOYEE", AND "FINANCIAL INTEREST"; REVISING LAWS RELATED TO A THIRD-PARTY CONTRACT; REMOVING PROBATIONARY LICENSING OPTIONS FOR MARIJUANA TESTING LABORATORIES; REVISING MARIJUANA HOTLINE REPORTING REQUIREMENTS; REVISING PROVISIONS FOR PROPERTY OWNER PERMISSIONS ON LICENSE RENEWALS; REVISING MARIJUANA MANUFACTURER LICENSING FEES; ALLOWING FOR A VARIANCE IN THE MEASUREMENT OF A MARIJUANA PRODUCT SOLD AS A CAPSULE, TINCTURE, TOPICAL PRODUCT, SUPPOSITORY, TRANSDERMAL PATCH, AND OTHER MARIJUANA PRODUCTS; AMENDING SECTIONS 15-64-101, 16-12-102, 16-12-104, 16-12-125, 16-12-203, 16-12-221, AND 16-12-224, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

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

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

- (1) "Adult-use dispensary" has the meaning provided in 16-12-102.
- (2) "Customer" means a person to whom a sale of marijuana or a marijuana product is made.
- (3) "Department" means the department of revenue provided for in 2-15-1301.
- (4) "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.
- (5) "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana dispensary.
- (6) "Marijuana" has the meaning provided in 16-12-102.
- (7) "Marijuana product" has the meaning provided in 16-12-102.

1 (8) "Medical marijuana dispensary" has the meaning provided in 16-12-102.

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

4 (10) "Retail price" means the established price for which an adult-use dispensary or medical
5 marijuana dispensary sells marijuana or a marijuana product to a purchaser ~~before~~ after any discount or
6 reduction.

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

9

10 **Section 2.** Section 16-12-102, MCA, is amended to read:

11 **"16-12-102. Definitions.** As used in this chapter, the following definitions apply:

12 (1) "Adult-use dispensary" means a licensed premises from which a person licensed by the
13 department may:

14 (a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or
15 other licensee approved under this chapter; and

16 (b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age
17 or older, or both.

18 (2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries,
19 controls or is controlled by, or is under common control with, another person.

20 (3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in
21 accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

22 (4) "Canopy" means the total amount of square footage dedicated to live plant production at a
23 licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

24 (5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or
25 marijuana products for personal use from a licensed dispensary but not for resale.

26 (6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control
27 with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or
28 policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

1 (7) (a) "Controlling beneficial owner" means, except as provided in subsection (7)(b), a person that
2 satisfies one or more of the following:

3 ~~(a)~~(i) is a natural person, an entity that is organized under the laws of and for which its principal
4 place of business is located in one of the states or territories of the United States or District of Columbia, or a
5 publicly traded corporation, and:

6 ~~(i)~~(A) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the
7 owner's interest of a marijuana business;

8 ~~(ii)~~(B) is an affiliate that controls a marijuana business and includes, without limitation, any manager;
9 or

10 ~~(iii)~~(C) is otherwise in a position to control the marijuana business; or

11 ~~(b)~~(ii) is a qualified institutional investor acting alone or acting in concert that owns or acquires
12 beneficial ownership of more than 15% of the owner's interest of a marijuana business.

13 (b) The term does not include a person that has a third-party relationship to perform work for any
14 aspect of a marijuana business.

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

17 (9) "Cultivator" means a person licensed by the department to:

18 (a) plant, cultivate, grow, harvest, and dry marijuana; and

19 (b) package and relabel marijuana produced at the location in a natural or naturally dried form that
20 has not been converted, concentrated, or compounded for sale through a licensed dispensary.

21 (10) "Debilitating medical condition" means:

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

25 (b) cachexia or wasting syndrome;

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

28 (d) intractable nausea or vomiting;

- 1 (e) epilepsy or an intractable seizure disorder;
- 2 (f) multiple sclerosis;
- 3 (g) Crohn's disease;
- 4 (h) painful peripheral neuropathy;
- 5 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;
- 6 (j) admittance into hospice care in accordance with rules adopted by the department; or
- 7 (k) posttraumatic stress disorder.
- 8 (11) "Department" means the department of revenue provided for in 2-15-1301.
- 9 (12) (a) "Employee" means an individual employed to do something for the benefit of an employer.
- 10 (b) The term includes a manager, agent, or director of a partnership, association, company,
- 11 corporation, limited liability company, or organization.
- 12 ~~(c) The term does not include a third party with whom a licensee has a contractual relationship.~~
- 13 (13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or
- 14 indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net
- 15 profits or net worth of the entity in which the interest is held.
- 16 (b) The term includes holders of private loans or convertible securities.
- 17 (c) ~~The term does not include:~~
- 18 (i) ~~interest held by a bank or licensed lending institution or a security interest, lien, or~~
- 19 ~~encumbrance but does include holders of private loans or convertible securities; or~~
- 20 (ii) a person that has a third-party relationship to perform work for any aspect of a marijuana
- 21 business.
- 22 (14) "Former medical marijuana licensee" means a person that was licensed by or had an
- 23 application for licensure pending with the department of public health and human services to provide marijuana
- 24 to individuals with debilitating medical conditions on April 27, 2021.
- 25 (15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a
- 26 permanent structure using artificial light exclusively or to supplement natural sunlight.
- 27 (b) The term may include:
- 28 (i) a greenhouse; or

- 1 (ii) a similar structure that protects the plants from variable temperature, precipitation, and wind.
- 2 (16) "Licensed premises" means all locations related to, or associated with, a specific license that is
3 authorized under this chapter and includes all enclosed public and private areas at the location that are used in
4 the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.
- 5 (17) "Licensee" means a person holding a state license issued pursuant to this chapter.
- 6 (18) "Local government" means a county, a consolidated government, or an incorporated city or
7 town.
- 8 (19) "Manufacturer" means a person licensed by the department to convert or compound marijuana
9 into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or
10 relabel marijuana products as allowed under this chapter.
- 11 (20) (a) "Marijuana" means all plant material from the genus *Cannabis* containing
12 tetrahydrocannabinol (THC) or seeds of the genus capable of germination.
- 13 (b) The term does not include hemp as provided in 80-18-101.
- 14 (c) The term does not include synthetic marijuana products.
- 15 (d) The term does not include a drug approved by the United States food and drug administration
16 pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.
- 17 (21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical
18 marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other
19 business or function that is licensed by the department under this chapter.
- 20 (22) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the
21 resin extracted from any part of the marijuana plant.
- 22 (23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or
23 byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana
24 products.
- 25 (24) "Marijuana product" means a product that contains marijuana and is intended for use by a
26 consumer. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives,
27 and marijuana concentrates, including concentrates intended for use by smoking or vaping.
- 28 (25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana

1 products from one marijuana business to another marijuana business, or to and from a testing laboratory, and
2 to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but
3 is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

4 (26) "Mature marijuana plant" means a harvestable marijuana plant.

5 (27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a
6 cardholder who is registered under Title 16, chapter 12, part 5.

7 (28) "Medical marijuana dispensary" means the location from which a registered cardholder may
8 obtain marijuana or marijuana products.

9 (29) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and
10 environmental conditions including variable temperature, precipitation, and wind.

11 (30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit
12 corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in
13 a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a
14 partnership, and the interest of a member in a limited partnership association.

15 (31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

16 (32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana
17 business that is not otherwise a controlling beneficial owner or in control.

18 (33) "Person" means an individual, partnership, association, company, corporation, limited liability
19 company, or organization.

20 (34) "Qualified institutional investor" means:

21 (a) a bank or banking institution including any bank, trust company, member bank of the federal
22 reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and
23 doing business under the laws of this state, any other state, or the laws of the United States;

24 (b) a bank holding company as defined in 32-1-109;

25 (c) a company organized as an insurance company whose primary and predominant business
26 activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is
27 subject to regulation or oversight by the insurance department of the office of the state auditor or a similar
28 agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their

1 capacity as such an insurance company;

2 (d) an investment company registered under section 8 of the federal Investment Company Act of
3 1940, as amended;

4 (e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income
5 Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an
6 intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

7 (f) a state or federal government pension plan; or

8 (g) any other entity identified by rule by the department.

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

11 (36) "Registry identification card" means a document issued by the department pursuant to 16-12-
12 503 that identifies an individual as a registered cardholder.

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

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

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

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

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

19 (39) "Synthetic cannabinoids" has the meaning ~~provided~~ described in 50-32-222 and includes any
20 cannabinoids produced artificially, whether from chemical synthesis or biosynthesis using recombinant
21 biological agents, including but not limited to yeast and algae.

22 (40) "Synthetic marijuana product" means marijuana or marijuana products that contain synthetic
23 cannabinoids.

24 (41) "Testing laboratory" means a qualified person, licensed under this chapter that:

25 (a) provides testing of representative samples of marijuana and marijuana products; and

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

28 (42) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are

1 appropriate for the use of marijuana by an individual.

2 (b) The term does not include the seeds, stalks, and roots of the plant."

3

4 **Section 3.** Section 16-12-104, MCA, is amended to read:

5 **"16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and
6 maintain a registry of persons who receive licenses under this chapter.

7 (2) (a) The department shall issue the following license types to persons who submit applications
8 meeting the requirements of this chapter:

9 (i) cultivator license;

10 (ii) manufacturer license;

11 (iii) adult-use dispensary license or a medical marijuana dispensary license;

12 (iv) testing laboratory license.

13 (v) marijuana transporter license.

14 (vi) combined-use marijuana license.

15 (b) The department may establish other license types, subtypes, endorsements, and restrictions it
16 considers necessary for the efficient administration of this chapter.

17 (3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

18 (4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the
19 provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

20 (5) The department shall assess applications for licensure or renewal to determine if an applicant,
21 controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria
22 established in this chapter for denial of a license.

23 (6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in
24 rule by the department.

25 (7) (a) ~~Except as provided in subsection (8), the~~ The department shall review the information
26 contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an
27 application:

28 (i) within 60 days of receiving the application or renewal and all related application materials from

1 a former medical marijuana licensee or an existing licensee under this chapter; and

2 (ii) within 120 days of receiving the application and all related application materials from a new
3 applicant.

4 (b) If the department fails to act on a completed application within the time allowed under
5 subsection (7)(a), the department shall:

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

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

9 (c) The department may not take final action on an application for a license or renewal of a license
10 until the department has completed a satisfactory inspection as required by this chapter and related
11 administrative rules.

12 (d) The department shall issue a license or endorsement within 5 days of approving an application
13 or renewal.

14 ~~(8) (a) The department may issue a probationary license under subsection (2)(a)(iv) only if:~~

15 ~~(i) an applicant has completed the International Organization for Standardization application for
16 assessment; and~~

17 ~~(ii) there are no pending corrective actions to obtain International Organization for Standardization
18 accreditation.~~

19 ~~(b) A probationary license is valid for 180 days from the date of issue and may be renewed one
20 time:~~

21 ~~(i) if the application is denied after a good faith application effort; or~~

22 ~~(ii) if the application remains pending International Organization for Standardization accreditation.~~

23 ~~(c) If an applicant voluntarily closes the application process after receiving a probationary license,
24 the applicant may not receive a second probationary license for 2 years.~~

25 ~~(9)(8)~~ (a) Review of a rejection of an application or renewal may be conducted as a contested case
26 hearing before the department's office of dispute resolution pursuant to the provisions of the Montana
27 Administrative Procedure Act.

28 (b) A person may appeal any decision of the department of revenue concerning the issuance,

1 rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in
2 which the person operates or proposes to operate. If a person operates or seeks to operate in more than one
3 county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the
4 counties where it operates or seeks to operate.

5 (c) An appeal pursuant to subsection ~~(9)(b)~~ (8)(b) must be made by filing a complaint setting forth
6 the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of
7 notice of the department's final decision.

8 ~~(10)(9)~~ Licenses issued under this chapter must be renewed annually.

9 ~~(14)(10)~~ (a) The department shall provide the names and phone numbers of persons, including
10 the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where
11 licensed premises are located to the public on the department's website. Except as provided in subsection
12 ~~(14)(b)~~ (10)(b), the department may not disclose the physical location or address of a marijuana business.

13 (b) The department may share the physical location or address of a marijuana business with
14 another state agency, political subdivision, and the state fire marshal.

15 (c) The name of a controlling beneficial owner is not considered confidential information as defined
16 in 2-6-1002.

17 ~~(12)(11)~~ The department may not prohibit a cultivator, manufacturer, or adult-use dispensary
18 licensee operating in compliance with the requirements of this chapter from operating at a shared location with
19 a medical marijuana dispensary.

20 ~~(13)(12)~~ The department may not adopt rules requiring a consumer to provide a licensee with
21 identifying information other than government-issued identification to determine the consumer's age. A licensee
22 that scans a person's driver's license using an electronic reader to determine the person's age:

23 (a) may only use data or metadata from the scan determine the person's age;

24 (b) may not transfer or sell that data or metadata to another party; and

25 (c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise
26 provided for in this chapter or by the department.

27 ~~(14)(13)~~ (a) Except as provided in subsection ~~(14)(b)~~ (13)(b), licenses issued by the department
28 under this chapter are nontransferable.

1 (b) A licensee may sell its marijuana business, including live plants, inventory, and material assets,
 2 to a person who is licensed by the department under the provisions of this chapter. The department may, in its
 3 discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana
 4 business.

5 ~~(15)~~(14) A person who is not a controlling beneficial owner in a licensee may not receive or
 6 otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial
 7 owner unless the licensee notifies, in writing, the department of the proposed transaction and the department
 8 determines that the person qualifies for ownership under the provisions of this chapter."

9

10 **Section 4.** Section 16-12-125, MCA, is amended to read:

11 **"16-12-125. Hotline -- reporting -- referrals.** (1) The department shall create and maintain a hotline
 12 to receive reports of suspected abuse of the provisions of this chapter.

13 (2) ~~An individual making A person may submit a complaint must be a resident and shall provide~~
 14 ~~the individual's name, street address, and phone number~~ to the department alleging a violation of this chapter
 15 and specifying the grounds for the complaint.

16 (3) The department ~~shall~~may provide a copy of the complaint to the person or licensee that is the
 17 subject of the complaint.

18 (4) The department may:

19 (a) investigate reports of suspected abuse of the provisions of this chapter; or

20 (b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area
 21 where the suspected abuse is occurring.

22 ~~(5) Complaints submitted to the department are confidential and not subject to public disclosure~~
 23 ~~unless or until authorized by a district court on a written finding that the demands of individual privacy do not~~
 24 ~~clearly exceed the merits of public disclosure or are confidential criminal justice information pursuant to Title 44,~~
 25 chapter 5.

26 ~~(5)~~(6) The department shall make available to the public complaints about violations of 16-12-117(3),
 27 including:

28 (a) information regarding the types of businesses or products being reported; and

1 (b) any disciplinary action taken against a person in violation of 16-12-117(3).
 2 ~~(6)~~(7) The department reports made to the legislature pursuant to 16-12-110 must include the
 3 number of investigations and complaints the department referred to law enforcement and the complaints'
 4 disposition."

5

6 **Section 5.** Section 16-12-203, MCA, is amended to read:

7 **"16-12-203. Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to
 8 subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person
 9 who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing
 10 laboratory if the person submits to the department:

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

12 (ii) proof that the natural person having day-to-day operational control over the business is a
 13 Montana resident;

14 (iii) a statement, on a form prescribed by the department, that the person:

15 (A) will not divert to any other person the marijuana that the person cultivates or the marijuana
 16 products that the person manufactures for consumers or registered cardholders, unless the marijuana or
 17 marijuana products are sold to another licensee as allowed under this section and by rules of the department;
 18 and

19 (B) has no pending citations for violations occurring under this chapter or the marijuana laws of any
 20 other state or jurisdiction;

21 (iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana
 22 products will be cultivated, manufactured, sold, or tested; and

23 (v) proof that the applicant has source of funding from a suitable source. A lender or other source
 24 of money or credit may be found unsuitable if the source:

25 (A) is a person whose prior financial or other activities or criminal record:

26 (B) poses a threat to the public interest of the state;

27 (C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

28 (D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed

1 business.

2 (b) If the person to be licensed consists of more than one individual, the names of all owners must
3 be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling
4 beneficial ownership interest.

5 (c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the
6 department the following:

7 (i) a complete and accurate organizational chart of the marijuana business disclosing the identity
8 and ownership percentages of its controlling beneficial owners;

9 (ii) whether the applicant has ever filed for bankruptcy;

10 (iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

11 (iv) any financial interests held by the applicant in another marijuana business in any state;

12 (v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial
13 owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the
14 owner's interest in the controlling beneficial owner;

15 (vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial
16 owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the
17 owner's interest in the controlling beneficial owner;

18 (vii) if the controlling beneficial owner is a natural person, the natural person's identifying
19 information;

20 (viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana
21 business; and

22 (ix) any financial interest holder that holds two or more financial interests in the marijuana business
23 or that is contributing over 50% of the operating capital of the marijuana business.

24 (d) The department may request that the marijuana business disclose each beneficial owner and
25 affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded
26 corporation.

27 (e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under
28 penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial

1 interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or
2 otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to
3 exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the
4 department.

5 (f) An applicant or marijuana business that is a publicly traded corporation shall affirm under
6 penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial
7 interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or
8 otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to
9 exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the
10 department.

11 (g) This section does not restrict the department's ability to reasonably request information or
12 records at renewal or as part of any other investigation following initial licensure of a marijuana business.

13 (h) The department shall furnish to the economic affairs interim committee, on request, a list
14 containing the names of all controlling beneficial owners for each licensee.

15 (2) The department may not license a person under this chapter if the person or an owner,
16 including a person with a financial interest:

17 (a) has a felony conviction or a conviction for a drug offense, including but not limited to, a
18 conviction for a violation of any marijuana law in any other state within the past 5 years and, after an
19 investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the
20 public trust;

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

22 (c) has been convicted of a violation under 16-12-302 or of making a fraudulent representation
23 under the former medical marijuana program administered by the department of public health and human
24 services;

25 (d) is under 21 years of age;

26 (e) has failed to:

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

28 (ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or

1 report;

2 (iii) stay out of default on a government-issued student loan;

3 (iv) pay child support; or

4 (v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a
5 government agency;

6 (f) has had a license issued under this chapter or a former medical marijuana license revoked
7 within 3 years of the date of the application; or

8 (g) has resided in Montana for less than 1 year.

9 (3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana
10 unless federal law otherwise allows for the interstate distribution of marijuana.

11 (4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or
12 adult-use dispensary shall:

13 (a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory
14 pursuant to this chapter and administrative rules;

15 (b) allow the department to collect samples of marijuana or marijuana products during inspections
16 of licensed premises for testing as provided by the department by rule; and

17 (c) participate as required by the department by rule in a seed-to-sale tracking system established
18 by the department pursuant to 16-12-105.

19 (5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana
20 products for use by consumers or registered cardholders only at one of the following locations:

21 (i) a property that is owned by the licensee; or

22 (ii) with written permission of the property owner filed with the department when applying for or
23 renewing a license, a property that is rented or leased by the licensee.

24 (b) No portion of the property used for cultivation of marijuana or manufacture of marijuana
25 products or marijuana concentrate may be shared with or rented or leased to another licensee.

26 (c) Marijuana or marijuana products may not be consumed on the premises of any licensed
27 premises.

28 (6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in

1 this chapter and rules adopted by the department:

2 (a) may operate adult-use dispensaries;

3 (b) may engage in manufacturing; and

4 (c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

5 (7) A cultivator or manufacturer licensee:

6 (a) may contract or otherwise arrange for another party that is licensed licensee to process,

7 cultivate, or sell marijuana and marijuana products a cultivator's or manufacturer's marijuana into marijuana

8 products and return the marijuana products to the cultivator or manufacturer for sale; and

9 (b) ~~except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the~~

10 ~~required license and before the department has completed the inspection required under this chapter unless~~

11 ~~permitted to do so pursuant to 16-12-207.~~

12 (b) may contract or otherwise engage a third party to perform work on behalf of any aspect of a

13 marijuana business. All third-party relationships must be disclosed to the department before a third party can

14 begin performing work on behalf of any aspect of the marijuana business. An individual performing work for any

15 aspect of a marijuana business must secure a worker permit pursuant to 16-12-226. A licensee is responsible

16 for ensuring a third party is compliant with marijuana laws and is liable for any violations."

17

18 **Section 6.** Section 16-12-221, MCA, is amended to read:

19 **"16-12-221. Manufacturer -- requirements -- limitations -- fees.** (1) A person licensed as a

20 manufacturer shall:

21 (a) prepare marijuana products at a licensed premises exclusively; and

22 (b) use equipment that is used exclusively for the manufacture and preparation of marijuana

23 products.

24 (2) All licensed premises on which marijuana products are manufactured must meet any applicable

25 standards set by a local board of health for a retail food establishment as defined in 50-50-102.

26 (3) An applicant for a manufacturer license shall demonstrate that the local government approval

27 provisions contained in 16-12-301 have been satisfied in the jurisdiction where each proposed manufacturing

28 facility is located if a proposed facility would be located in a county in which the majority of voters voted against

1 approval of Initiative Measure No. 190 in the November 3, 2020, general election.

2 (4) When evaluating an initial or renewal application, the department shall evaluate each proposed
3 manufacturing facility for compliance with the provisions of 16-12-207 and 16-12-210.

4 (5) Marijuana products may not be considered a food or drug for the purposes of Title 50, chapter
5 31.

6 (6) (a) The department shall charge a manufacturer license fee for an initial application and at
7 each renewal. The license fee is based on the total amount of concentrate produced ~~at a manufacturing facility~~
8 under the manufacturer's license on a monthly basis. The annual fees for licensees are:

9 (i) \$5,000 for ~~each manufacturing facility a manufacturer licensee~~ that produces, on a monthly
10 basis, less than 1 pound of concentrate and up to 10 pounds of concentrate;

11 (ii) \$10,000 for ~~each manufacturing facility a manufacturer licensee~~ that produces, on a monthly
12 basis, between 10 pounds of concentrate and 15 pounds of concentrate; and

13 (iii) \$20,000 for ~~each manufacturing facility a manufacturer licensee~~ that produces, on a monthly
14 basis, 15 pounds or more of concentrate.

15 (b) The department may create additional fee levels as necessary.

16 (c) A manufacturer may apply to advance to the next licensing level in conjunction with a regular
17 renewal application by demonstrating that its proposed additional or expanded manufacturing facility or facilities
18 are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been
19 satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure
20 No. 190 in the November 3, 2020, general election.

21 (7) The department may adopt rules:

22 (a) for the inspection of proposed manufacturing facilities;

23 (b) for investigating the amount of concentrate produced at a manufacturing facility; and

24 (c) for investigating owners or applicants for a determination of beneficial ownership or financial
25 interest."

26

27 **Section 7.** Section 16-12-224, MCA, is amended to read:

28 **"16-12-224. Licensing of dispensaries.** (1) Except as provided in 16-12-201(2), an applicant for a

1 dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been
2 satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be
3 located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the
4 November 3, 2020, general election.

5 (2) When evaluating an initial or renewal application, the department shall evaluate each proposed
6 dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

7 (3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana
8 dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

9 (4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders
10 marijuana, marijuana products, and live marijuana plants.

11 (5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana
12 plants to consumers or registered cardholders.

13 (6) (a) The department shall charge a dispensary license fee for an initial application and at each
14 renewal.

15 (b) The dispensary license fee is \$5,000 for the first location that a licensee operates as an adult-
16 use dispensary or a medical marijuana dispensary. The dispensary license fee increases cumulatively by
17 \$5,000 for each additional location under the same license.

18 (7) The department may adopt rules:

19 (a) for inspection of proposed dispensaries;

20 (b) for investigating owners or applicants for a determination of financial interest; and

21 (c) establishing or limiting the THC content of the marijuana or marijuana products that may be
22 sold at an adult-use dispensary or medical marijuana dispensary.

23 (8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis
24 of the concentration of THC in the products and not by weight.

25 (b) Except as provided in subsection (8)(d), for purposes of this chapter, a single package is
26 limited to:

27 (i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive
28 THC of marijuana flower may not exceed 35%.

1 (ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule
2 and no more than 800 milligrams of THC per package.

3 (iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

4 (iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of
5 THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.

6 (v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and
7 no more than 800 milligrams of THC per package;

8 (vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100
9 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package;
10 and

11 (vii) for any other marijuana product, no more than 800 milligrams of THC.

12 (c) There may be a deviation of 10% above or below the allowed amount under ~~subsection~~
13 ~~(8)(b)(iv)~~ subsections (8)(b)(ii) through (8)(b)(vii).

14 (d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than
15 described in subsection (8) to registered cardholders.

16 (9) A licensee or employee is prohibited from conducting a transaction that would result in a
17 consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-
18 12-515."

19
20 **NEW SECTION. Section 8. Effective dates.** (1) Except as provided in subsection (2), [this act] is
21 effective October 1, 2025.

22 (2) [Sections 1 and 9] and this section are effective on passage and approval.
23

24 **NEW SECTION. Section 9. Applicability.** [Section 1] applies to tax quarters beginning after June 30,
25 2025.

26 - END -