

1 HOUSE BILL NO. 640

2 INTRODUCED BY M. HOPKINS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO MARIJUANA;
5 PROHIBITING PERSONS UNDER 21 YEARS OF AGE TO BE IN OR REMAIN IN AN ADULT-USE
6 DISPENSARY; INCREASING FEE DISCOUNT PERCENTAGES IN THE EVENT THE DEPARTMENT OF
7 REVENUE DOES NOT PROCESS A LICENSE WITHIN THE STATUTORY REQUIREMENTS; ~~AND~~
8 AMENDING SECTIONS 16-12-104 AND 16-12-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
9 DATE."

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

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13 **Section 1.** Section 16-12-104, MCA, is amended to read:

14 **"16-12-104. (Effective October 1, 2021) Department responsibilities -- licensure.** (1) The
15 department shall establish and maintain a registry of persons who receive licenses under this chapter. The
16 department shall issue:

17 (a) licenses:

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

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

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

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

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

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

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

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

8 (b) indicate whether an adult-use provider or an adult-use marijuana-infused products provider has an
9 endorsement for manufacturing;

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

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

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

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

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

18 (ii) within 90 days of receiving the application and all related application materials from a new
19 applicant.

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

22 (i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a
23 licensee seeking renewal of a license by ~~5%~~ 10% each week that the application is pending; and

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

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

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

1 administrative rules.

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

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

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

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

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

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

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

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25 **Section 2.** Section 16-12-109, MCA, is amended to read:

26 **"16-12-109. (Effective October 1, 2021) Unlawful conduct by licensees -- penalties.** (1) The
27 department shall revoke and may not reissue a license or endorsement belonging to an individual who:

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

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

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

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

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

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

(c) allows a person that the licensee knows or should know is under 21 years of age to be inside or remain in the adult-use dispensary if the person does not have a registry identification card issued by the department of public health and human services pursuant to 50-46-303;

~~(e)(d)~~ operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing endorsement; or

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

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

(a) a written warning for the first violation;

(b) a 5-day license suspension or a \$500 fine for a second violation;

(c) a 5-day license suspension or a \$1,000 fine for a third violation;

(d) a 30-day license suspension or a \$2,500 fine for a fourth violation; and

(e) a license revocation for a fifth violation.

(4) Except for the license revocations required under this section, a licensee shall choose whether to pay a fine or be subject to a license suspension when a penalty is imposed under this section.

(5) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.

(6) If no other penalty is specified under this chapter, an adult-use provider or adult-use marijuana-infused products provider who violates this chapter is punishable by a civil fine not to exceed \$500, unless otherwise provided in this chapter or unless the violation would constitute a violation of Title 45. An offense

1 constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

2 (7) Review of a department action imposing a fine, suspension, or revocation under this chapter must
3 be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act."

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5 NEW SECTION. SECTION 3. {STANDARD} EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND

6 APPROVAL.

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- END -