

HOUSE BILL NO. 688

INTRODUCED BY B. MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO LOCAL GOVERNMENT AND MARIJUANA DISPENSARIES; REQUIRING CERTAIN LANGUAGE ON A BALLOT FORM REGARDING PROHIBITION OF CERTAIN MARIJUANA BUSINESSES; AND AMENDING SECTION 16-12-301, MCA."

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

**Section 1.** Section 16-12-301, MCA, is amended to read:

**"16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until:

(i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection (3) or (4); and

(ii) the business is licensed by the department pursuant to this chapter.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6).

(c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with the department.

1 (d) For the purpose of this section, the marijuana business categories that must be approved by a  
2 local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against  
3 approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may  
4 operate are:

5 (i) cultivator;

6 (ii) manufacturer;

7 (iii) medical marijuana dispensary, except as provided in subsection (1)(b);

8 (iv) adult-use dispensary;

9 (v) combined-use marijuana licensee;

10 (vi) testing laboratory; and

11 (vii) marijuana transporter facility.

12 (e) Marijuana businesses located in counties in which the majority of voters voted to approve  
13 Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government  
14 approval process under subsections (3) through (6).

15 (2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or  
16 otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The  
17 regulations may include but are not limited to inspections of licensed premises, including but not limited to  
18 indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure  
19 compliance with any public health, safety, and welfare requirements established by the department or the local  
20 government.

21 (b) A former medical marijuana licensee that does not apply for licensure as an adult-use  
22 dispensary is exempt from complying with any local governmental regulations that are adopted under this  
23 subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the  
24 expiration of any grace period granted by the locality, whichever is later.

25 (3) An election regarding whether to approve any or all of the marijuana business categories listed  
26 in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance  
27 with 7-5-131 through 7-5-135 and 7-5-137 by:

28 (a) the qualified electors of a county; or

1 (b) the qualified electors of a municipality.

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

4 (b) An election pursuant to this section may be held in conjunction with a regular election of the  
5 governing body, general election, or a regular local or special election.

6 (5) If the qualified electors of a county vote to approve a type of marijuana business to be located  
7 in the jurisdiction, the governing body shall enter the approval into the records of the local government and  
8 notify the department of the election results.

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

11 (i) it is not necessary for the registered qualified electors in the municipality to file a separate  
12 petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana  
13 business from being located in the municipality; and

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

16 (b) If a majority of the qualified electors in the county, including the qualified electors in the  
17 municipality, vote to approve a category of marijuana business to be located in the county, the county may  
18 allow that category of marijuana business to operate in the county.

19 (c) (i) If a majority of the qualified electors in the municipality vote to approve a category of  
20 marijuana business to be located in the municipality, the municipality may allow that type of marijuana business  
21 to operate in the municipality.

22 (ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana  
23 business from being located in the municipality, the municipality may not allow that type of marijuana business  
24 to operate in the municipality.

25 (d) Nothing contained in this subsection (6) prevents any municipality from having a separate  
26 election under the terms of this section.

27 (7) (a) A-Upon approval by a majority of the governing body of a county, consolidated city-county,  
28 or an incorporated municipality, a county or municipality that has voted to approve a category of marijuana

1 business to be located in the jurisdiction or a county in which the majority of voters voted to approve Initiative  
2 Measure No. 190 in the November 3, 2020, general election may vote to prohibit the previously approved or  
3 allowed operations within the jurisdiction.

4 (b) The form of the ballot question regarding whether to prohibit a marijuana business as  
5 described in subsection (1)(d)(i) for an election pursuant to this subsection (7) must read in a form similar to the  
6 following:

7  FOR banning marijuana cultivation in (name of county or municipality).

8  AGAINST banning marijuana cultivation in (name of county or municipality).

9 (c) The form of the ballot question regarding whether to prohibit a marijuana business as  
10 described in subsection (1)(d)(ii) for an election pursuant to this subsection (7) must read in a form similar to the  
11 following:

12  FOR banning marijuana manufacturing in (name of county or municipality).

13  AGAINST banning marijuana manufacturing in (name of county or municipality).

14 (d) A vote overturning the approval of a category of marijuana business or prohibiting the  
15 previously permitted operation of marijuana businesses is effective on the 90th day after the local election is  
16 held.

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

20 - END -