

HOUSE BILL NO. 707

INTRODUCED BY B. TSCHIDA, M. BLASDEL, M. BINKLEY, M. NOLAND, B. PHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING MARIJUANA TAXATION LAWS TO PROVIDE THAT TAXATION OCCURS AT THE WHOLESALE LEVEL; REQUIRING SEPARATION BETWEEN THE MANUFACTURE, WHOLESALE, AND RETAIL SALE OF MARIJUANA; CREATING MARIJUANA WHOLESALE LICENSES; AMENDING SECTIONS 16-12-101, 16-12-102, 16-12-104, 16-12-105, 16-12-106, 16-12-108, 16-12-110, 16-12-111, 16-12-112, 16-12-201, 16-12-203, 16-12-204, 16-12-205, 16-12-207, 16-12-209, 16-12-210, 16-12-302, 16-12-401, 16-12-402, 16-12-403, 16-12-404, 16-12-405, 23-1-105, 23-2-108, 53-6-1201, 87-1-242, AND 87-5-121, MCA; AMENDING SECTION 56, INITIATIVE MEASURE NO. 190, APPROVED NOVEMBER 3, 2020; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the statutory scheme relating to adult-use marijuana allows for an entity to control the manufacture, distribution, and retail sale of marijuana with taxation primarily occurring at the consumer level; and

WHEREAS, this act intends to construct adult-use marijuana around three separate tiers: the manufacture, the wholesale and distribution, and the retail sale of marijuana; and

WHEREAS, this act seeks to change the taxation structure of adult-use marijuana to require taxation strictly at the wholesale level.

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

NEW SECTION. Section 1. Recreational marijuana -- manufacture -- sales -- tax -- deposit in state special revenue fund. (1) All adult-use marijuana in the state must:

(a) be grown in the state only by licensed adult-use marijuana-infused products providers and adult-use providers;

(b) be sold by licensed adult-use marijuana-infused products providers and adult-use providers to

1 licensed marijuana wholesalers operating warehouses and methods of distribution of marijuana;

2 (c) be sold by marijuana wholesalers to licensed adult-use dispensaries; and

3 (d) be purchased by the public only through adult-use dispensaries.

4 (2) It is the intent of this section to require the taxation of marijuana at the wholesale level when the
5 licensed marijuana wholesalers sell marijuana to the licensed adult-use dispensaries as provided in Title 16,
6 chapter 12, part 4. The excise tax is imposed at a rate of 20% of the wholesale price and reported to the
7 department. The department shall deposit the tax in the general fund. All fees charged by the department as
8 provided in this chapter must be used by the department for administrative costs. The wholesale price of
9 marijuana must be determined by the licensed marijuana manufacturer, and the excise tax as provided in this
10 section must be based on that price.

11
12 **NEW SECTION. Section 2. Purple card -- licensure -- violations.** (1) A person must obtain
13 licensure through the department to grow marijuana for personal use. The license may be referred to as a
14 purple card. A person may not grow marijuana for personal use without possessing a purple card. This section
15 is in addition to the provisions on marijuana cultivation as provided in 16-12-106.

16 (2) A person holding a purple card is authorized to grow up to four marijuana plants only for personal
17 use.

18 (3) The department shall issue a license to or renew a license for a person who is applying to be an
19 adult-use provider or adult-use marijuana-infused products provider if the person submits to the department:

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

21 (b) proof that the person is a Montana resident; and

22 (c) an application fee of \$25.

23 (4) (a) A person may not sell any marijuana grown with a purple card. Any use of marijuana that is
24 not solely for personal use of the person constitutes a violation of this section and this chapter.

25 (b) Sales of marijuana as prohibited under this section for amounts exceeding \$1,000 of the market
26 price of the marijuana constitutes a felony and must be prosecuted through the department of justice. A person
27 convicted under this subsection must be sentenced to up to 5 years in prison with no possibility of parole in
28 addition to a fine as provided in subsection (5).

(5) (a) The department of justice and state and local government units have the authority to prosecute infractions of this chapter:

(i) by issuing a fine that is five times the amount of the current market price of the marijuana that is subject to the violation;

(ii) by restricting the person's future use of marijuana for up to a year; and

(iii) by suspending or revoking a person's purple card.

(b) The state and local government units shall provide a list of persons found to have violated this section to highway patrol officers, county sheriffs, and city police departments on request.

(c) All fines must be paid in full in order to reinstate a person's purple card.

(d) Money from fines must be deposited with the local government where the violation of this section occurred. The money may be used by the local government for drug treatment, rehabilitation, or education programs.

Section 3. Section 16-12-101, MCA, is amended to read:

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

(2) It is the policy of the state to effectuate and ensure the entire control of the manufacture, distribution, and sale of recreational marijuana within the boundaries of the state. To effectuate this policy, this chapter places marijuana oversight and control of the state through the department of revenue to ensure that it has complete regulatory control of the sale of recreational marijuana in this state.

(3) The purpose of this chapter is to:

(a) promote temperance, create orderly markets, and aid in the collection of taxes on recreational marijuana;

(b) authorize the state to control adult-use marijuana from seed, to manufacture, to wholesale, to sale to the public;

(c) license persons who will sell products at retail to the public;

(d) license persons who are limited to four homegrown plants that are for personal use only and issue a license as provided in [section 2];

- 1 (e) inspect the seed to retail sale process; and
- 2 (f) have policing power through the total process for the protection of the welfare, health, peace,
- 3 morals, and safety of the people of the state;
- 4 (g) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years of
- 5 age or older;
- 6 ~~(b)~~(h) provide for the licensure and regulation of commercial cultivation, manufacture, production,
- 7 distribution, wholesale, and sale of marijuana and marijuana-infused products;
- 8 ~~(e)~~(i) allow for limited cultivation, manufacture, delivery, and possession of marijuana as permitted by
- 9 this chapter;
- 10 ~~(d)~~(j) eliminate the illicit market for marijuana and marijuana-infused products;
- 11 ~~(e)~~(k) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age;
- 12 ~~(f)~~(l) ensure the safety of marijuana and marijuana-infused products;
- 13 ~~(g)~~(m) ensure the security of registered premises and adult-use dispensaries;
- 14 ~~(h)~~(n) establish reporting requirements for adult-use providers and adult-use marijuana-infused
- 15 products providers;
- 16 ~~(i)~~(o) establish inspection requirements for registered premises, including data collection on energy
- 17 use, chemical use, water use, and packaging waste to ensure a clean and healthy environment;
- 18 ~~(j)~~(p) provide for the testing of marijuana by licensed testing laboratories;
- 19 ~~(k)~~(q) give local governments a role in establishing standards for the cultivation, manufacture, and
- 20 sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions;
- 21 ~~(l)~~(r) tax the sale of marijuana at the wholesale price as provided in [section 1]; and ~~and marijuana-~~
- 22 infused products to generate revenue for the state and provide compensation for the economic and social costs
- 23 of past and current marijuana cultivation, processing, and use, by directing funding to:
- 24 ~~(i) conservation programs to offset the use of water and soil in marijuana cultivation;~~
- 25 ~~(ii) substance abuse treatment and prevention programs;~~
- 26 ~~(iii) veterans' services and support;~~
- 27 ~~(iv) health care;~~
- 28 ~~(v) localities where marijuana is sold; and~~

1 ~~(vi) the state general fund;~~

2 ~~(m)(s)~~ authorize courts to resentence persons who are currently serving sentences for acts that are
3 permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge
4 those offenses from the criminal records of persons who have completed their sentences as set forth in this
5 chapter."
6

7 **Section 4.** Section 16-12-102, MCA, is amended to read:

8 **"16-12-102. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Definitions.** As used in this chapter, the
9 following definitions apply:

10 (1) "Adult-use dispensary" means a registered premises from which a licensed ~~adult-use provider or~~
11 ~~adult-use marijuana-infused products provider~~ person is approved by the department to dispense marijuana or
12 marijuana-infused products to a consumer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) "Marijuana wholesaler" means an entity licensed by the department to purchase marijuana from adult-use marijuana-infused products providers and adult-use providers and sell marijuana at wholesale to adult-use dispensaries. Marijuana wholesalers are responsible for the purchase of marijuana from adult-use marijuana products providers and adult-use providers and for the transportation and sale of marijuana to the adult-use dispensaries.

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

~~(17)~~(18) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

~~(18)~~(19) "Owner" means a principal officer, director, board member, or individual who has a financial interest or voting interest of 10% or greater in an adult-use dispensary, adult-use provider, marijuana wholesaler, or adult-use marijuana-infused products provider.

~~(19)~~(20) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

~~(20)~~(21) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

~~(21)~~(22) "Registered premises" means a location that is licensed pursuant to this chapter and includes:

(a) all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, ~~and storerooms~~, and warehouses operated by marijuana wholesalers; and

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

~~(22)~~(23) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

~~(23)~~(24) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(24)~~(25) "State laboratory" means the laboratory operated by the department of public health and human services to conduct environmental analyses.

~~(25)~~(26) "Testing laboratory" has the meaning as provided in 50-46-302.

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

Section 5. Section 16-12-104, MCA, is amended to read:

1 **"16-12-104. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Department responsibilities -- licensure.**

2 (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

3 The department shall issue:

4 (a) licenses:

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

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

9 (iii) marijuana wholesalers as provided in [section 1]; and

10 (iv) purple card holders as provided in [section 2]; and

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

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

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

20 (4) The department shall conduct criminal history background checks as required by 50-46-307 and
21 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) The department shall provide the names and phone numbers of adult-use providers and adult-use

1 marijuana-infused products providers and the city, town, or county where registered premises and testing
2 laboratories are located to the public on the department's website. The department may not disclose the
3 physical location or address of an adult-use provider, adult-use marijuana-infused products provider, adult-use
4 dispensary, or testing laboratory.

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

9 ~~(11)(10)~~ The department may not adopt rules requiring a consumer to provide an ~~adult-use provider,~~
10 ~~adult-use marijuana-infused products provider, or adult-use dispensary licensee~~ with identifying information
11 other than identification to determine the consumer's age or require the recording of personal information about
12 consumers other than information typically required in a retail transaction."

13
14 **Section 6.** Section 16-12-105, MCA, is amended to read:

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

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

23 (ii) be made available to adult-use providers, adult-use marijuana-infused products providers,
24 marijuana wholesalers, adult-use dispensaries, and testing laboratories at no additional cost.

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

27 (2) The department shall assess applications for an adult-use provider or adult-use marijuana-infused
28 products provider license to determine if a person with a financial interest in the applicant meets any of the

criteria established in 16-12-203 for denial of a license.

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

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

(b) (i) The system shall include, at a minimum, the following license types:

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

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

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

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

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

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

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

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

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

(J) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six registered

premises. A minimum of 17,775 square feet must be equipped for cultivation.

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

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

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

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

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

(d) The department may create additional licensing tiers by rule if a provider with a tier 10 canopy license petitions the department to create a new licensure level and:

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

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

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

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

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

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

Section 7. Section 16-12-106, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(4) A person who cultivates marijuana without obtaining purple card licensure as provided in [section 2] is subject to civil and criminal penalties as provided in this chapter.

~~(4)(5)~~ A person who smokes marijuana in a public place, ~~other than in an area licensed for that activity by the department,~~ is subject to a civil fine not exceeding \$50.

~~(5)(6)~~ For a person who is under 21 years of age and is not a registered cardholder, possession, use, ingestion, inhalation, transportation, delivery without consideration, or distribution without consideration of 1 ounce or less of marijuana is punishable by forfeiture of the marijuana and the underage person's choice between:

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

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

~~(6)(7)~~ For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and the underage person's choice between:

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

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

~~(7)(8)~~ Unless otherwise permitted under the provisions of Title 50, chapter 46, part 3, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of

1 marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

2 (a) for a first violation, the person's choice between a civil fine not exceeding \$200 or completing up to
3 4 hours of community service in lieu of the fine;

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

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

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

10 ~~(8)(9)~~ A person may not be denied adoption, custody, or visitation rights relative to a minor solely for
11 conduct that is permitted by this chapter.

12 ~~(9)(10)~~ A person may not be denied access to or priority for an organ transplant or denied access to
13 health care solely for conduct that is permitted by this chapter.

14 ~~(10)(11)~~ A person currently under parole, probation, or other state supervision or released awaiting trial
15 or other hearing may not be punished or otherwise penalized solely for conduct that is permitted by this
16 chapter.

17 ~~(11)(12)~~ A holder of a professional or occupational license may not be subjected to professional
18 discipline for providing advice or services arising out of or related to conduct that is permitted by this chapter
19 solely on the basis that marijuana is prohibited by federal law.

20 ~~(12)(13)~~ It is the public policy of the state of Montana that contracts related to the operation of
21 licensees be enforceable."

22

23 **Section 8.** Section 16-12-108, MCA, is amended to read:

24 **"16-12-108. Limitations of act.** (1) This chapter does not permit:

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

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

- (c) smoking marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (d) delivery or distribution of marijuana, with or without consideration, to a person under 21 years of age;
- (e) purchase, consumption, or use of marijuana by a person under 21 years of age;
- (f) possession or transport of marijuana by a person under 21 years of age unless the underage person is at least 18 years of age and is an employee of an adult-use provider, adult-use marijuana-infused products provider, marijuana wholesaler, or adult-use dispensary and engaged in work activities;
- (g) possession or consumption of marijuana or possession of marijuana paraphernalia:
- (i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in 20-5-402;
- (ii) in a school bus;
- (iii) in a health care facility as defined in 50-5-101; or
- (iv) on the grounds of any correctional facility;
- (h) smoking marijuana in a location where smoking tobacco is prohibited;
- (i) consumption of marijuana in a public place, except as allowed by the department;
- (j) conduct that endangers others;
- (k) undertaking any task while under the influence of marijuana if doing so would constitute negligence or professional malpractice; or
- (l) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.
- (2) Nothing in this chapter may be construed to:
- (a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;
- (b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana;
- (c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of

1 employment because of the individual's violation of a workplace drug policy or intoxication by marijuana while
2 working.

3 (3) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise
4 regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana-infused
5 products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages,
6 except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully
7 possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain
8 federal funding.

9 (4) Nothing in this chapter limits the rights, privileges, immunities, or defenses provided under Title
10 50, chapter 46, part 3.

11 (5) An adult-use provider or adult-use marijuana-infused products provider who violates 15-64-103 or
12 15-64-104 is subject to revocation of the person's license from the date of the violation until a period of up to 1
13 year after the department of revenue certifies compliance with 15-64-103 or 15-64-104."
14

15 **Section 9.** Section 16-12-110, MCA, is amended to read:

16 **"16-12-110. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Legislative monitoring.** (1) The revenue
17 interim committee shall provide oversight of the department's activities pursuant to this chapter, including but
18 not limited to monitoring of:

19 (a) the number of licensees;
20 (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; and
21 (c) the development, implementation, and use of the seed-to-sale tracking system established in
22 accordance with 16-12-105.

23 (2) The revenue interim committee shall identify issues likely to require future legislative attention and
24 develop legislation to present to the next regular session of the legislature.

25 (3) (a) The department shall periodically report to the revenue interim committee and submit a report
26 to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to
27 16-12-203. The report must include:

28 (i) the number of adult-use providers, adult-use marijuana-infused products providers, marijuana

- 1 wholesalers, and adult-use dispensaries licensed pursuant to this chapter;
- 2 (ii) the number of endorsements approved for manufacturing;
- 3 (iii) the number of licenses revoked; and
- 4 (iv) the amount of marijuana cultivated and sold pursuant to this chapter.
- 5 (b) The report may not provide any identifying information of adult-use providers, adult-use marijuana-
- 6 infused products providers, marijuana wholesalers, or adult-use dispensaries.
- 7 (4) The report on inspections required under 16-12-210 must include, at a minimum, the following
- 8 information for both announced and unannounced inspections:
- 9 (a) the number of inspections conducted, by canopy licensure tier;
- 10 (b) the number of adult-use providers or adult-use marijuana-infused products providers that were
- 11 inspected more than once during the year;
- 12 (c) the number of inspections that were conducted because of complaints made to the department;
- 13 and
- 14 (d) the types of enforcement actions taken as a result of the inspections.
- 15 (5) The reports provided for in this section must also be provided to the transportation interim
- 16 committee provided for in 5-5-233."

17

18 **Section 10.** Section 16-12-111, MCA, is amended to read:

- 19 **"16-12-111. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Marijuana ~~compensation~~ state special**
- 20 **revenue account.** (1) There is a dedicated marijuana ~~compensation~~ state special revenue account within the
- 21 state special revenue fund established in 17-2-102, to be administered by the department.
- 22 (2) Marijuana sales taxes collected under the provisions of ~~part 4 of [section 1]~~ and this chapter must,
- 23 in accordance with the provisions of 17-2-124, be deposited into the account along with any interest and
- 24 income earned on the account.
- 25 (3) ~~Funds deposited into the account must be transferred in the following amounts to provide funding~~
- 26 ~~as set out below:~~ The 20% excise tax collected is to be deposited in the general fund to be appropriated as the
- 27 legislature considers appropriate.
- 28 (4) All other fees charged under this chapter must be used by the department to defray administrative

1 costs.

2 ~~(a) 4.125% of the funds to be deposited into the nongame wildlife account established in 87-5-121;~~

3 ~~(b) 4.125% of the funds to be deposited into the state park account established in 23-1-105(1);~~

4 ~~(c) 4.125% of the funds to be deposited into the trails and recreational facilities account established~~
5 ~~in 23-2-108;~~

6 ~~(d) 37.125% of the funds to be deposited to the credit of the department of fish, wildlife, and parks to~~
7 ~~be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242(3) and~~
8 ~~used pursuant to 87-1-209;~~

9 ~~(e) 10.5% to the state general fund; and~~

10 ~~(f) the remainder in the subaccounts provided for in this subsection (3)(f). There are subaccounts in~~
11 ~~the marijuana compensation special revenue account established by subsection (1). Funding deposited into this~~
12 ~~account under subsection (2) is further deposited into subaccounts to be used only as follows:~~

13 ~~(i) 10% of the funds to be deposited into a subaccount to be administered by the department of public~~
14 ~~health and human services to provide grants to existing agencies and not-for-profit organizations, whether~~
15 ~~government or community-based, to increase access to evidence-based low-barrier drug addiction treatment,~~
16 ~~prioritizing medically proven treatment and overdose prevention and reversal methods and public or private~~
17 ~~treatment options with an emphasis on reintegrating recipients into their local communities, to support overdose~~
18 ~~prevention education, and to support job placement, housing, and counseling for those with substance use~~
19 ~~disorders;~~

20 ~~(ii) 10% of the funds to be deposited into a subaccount to be administered by the department of~~
21 ~~commerce for distribution to the local government representing the locality where the retail sales occurred;~~

22 ~~(iii) 10% of the funds to be deposited into a subaccount to be administered by the veterans' affairs~~
23 ~~division of the department of military affairs to provide services and assistance for all Montana veterans and~~
24 ~~surviving spouses and dependents; and~~

25 ~~(iv) 10% of the funds to be deposited into a subaccount to be administered by the Montana department~~
26 ~~of public health and human services to administer medicaid rate increases that provide for a wage increase to~~
27 ~~health care workers who provide direct medicaid-funded home and community health services for elderly and~~
28 ~~disabled persons.~~

~~(4) (a) Funds transferred from the accounts and subaccounts provided in subsection (3) may be used only to increase revenue for the purposes specified and may not be used to supplant other sources of revenue used for these purposes.~~

~~(b) Funds deposited into the account provided in subsection (1) may be used only to increase revenue to each special revenue account or subaccount set forth in subsection (3) and may not be used to supplant other sources of revenue for these purposes."~~

Section 11. Section 16-12-112, MCA, is amended to read:

"16-12-112. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Rulemaking authority -- fees. (1) The department may adopt rules to implement and administer this chapter, including:

(a) the manner in which the department will consider applications for licenses and endorsements and renewal of licenses and endorsements;

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

(c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under 16-12-203;

(d) the security and operating requirements for adult-use dispensaries;

(e) the security and operating requirements for manufacturing, including but not limited to requirements for:

(i) safety equipment;

(ii) extraction methods, including solvent-based and solvent-free extraction; and

(iii) post-processing procedures;

(f) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications;

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

(h) labeling standards that protect public health by requiring the listing of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD) and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package,

1 and quantity limits per sale to comply with the allowable possession amount;

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

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

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

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

11 (m) the activities that constitute advertising in violation of 16-12-211;

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

14 (o) the fees for endorsements for manufacturing, testing laboratories, additional canopy licensure tiers
15 created in accordance with 16-12-105, and the fingerprint-based and name-based background checks required
16 under 16-12-203. The fees and other revenue collected through the taxes paid under 16-12-401 and [section 1],
17 civil penalties imposed pursuant to this chapter, and the licensing fees established by rule and in 16-12-201
18 must be sufficient to offset the expenses of administering this chapter but may not exceed the amount
19 necessary to cover the costs to the department of implementing and enforcing this chapter.

20 (2) The department may not adopt any rule or regulation that is unduly burdensome or undermines
21 the purposes of this chapter.

22 (3) The department may consult or contract with other public agencies in carrying out its duties under
23 this chapter."
24

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

26 **"16-12-201. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Licensing of providers, marijuana-**
27 **~~infused products providers, and dispensaries for adult use.~~ No later than ~~October 1, 2021~~ MARCH 1, 2022,**
28 **the department shall promulgate rules and regulations to administer and enforce this chapter and shall begin**

1 accepting applications for and issuing licenses. The rules may not be unduly burdensome. ~~For~~Except for
2 marijuana wholesaler applications, for the first 12 months after the department begins to receive applications,
3 the department shall only accept applications from and issue licenses to providers, marijuana-infused products
4 providers, and dispensaries licensed under Title 50, chapter 46, part 3, that are in good standing with the
5 department of public health and human services and in compliance with this chapter and rules adopted by the
6 department."

7
8 **Section 13.** Section 16-12-203, MCA, is amended to read:

9 **"16-12-203. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Provider types -- requirements --**
10 **limitations -- activities.** (1) (a) Subject to subsections (1)(b) and (3), the department shall issue a license to or
11 renew a license for a person who is applying to be an adult-use provider, ~~or~~ adult-use marijuana-infused
12 products provider, or marijuana wholesaler if the person submits to the department:

13 (i) the person's name, date of birth, and street address on a form prescribed by the department;
14 (ii) proof that the person is a Montana resident;
15 (iii) fingerprints meeting the requirements for a fingerprint-based background check by the department
16 of justice and the federal bureau of investigation:

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

18 (B) every 3 years thereafter;

19 (iv) 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 the marijuana-infused products that the person manufactures
21 for consumers, unless the marijuana or marijuana-infused products are sold to another adult-use provider or as
22 part of a sale of a business as allowed under this section;

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

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

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

1 (2) The department shall conduct:

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

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

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

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

11 (b) is in the custody of the department of corrections or a youth court;

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

13 (d) has resided in Montana for less than 1 year; or

14 (e) is under 18 years of age.

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

17 (5) Except as provided in 16-12-209, an adult-use provider or adult-use marijuana-infused products
18 provider shall:

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

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

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

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

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

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

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

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

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

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

(i) ~~operate adult-use dispensaries~~ cultivate marijuana; and

(ii) engage in manufacturing;

(b) employ employees to cultivate marijuana, manufacture marijuana concentrates and marijuana-infused products, and ~~dispense and transport~~ sell marijuana and marijuana-infused products to marijuana wholesalers;

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

(d) sell the adult-use provider's business, including live plants, inventory, material assets, and all licenses in accordance with rules adopted by the department; and

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

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

~~(i) shall sell marijuana the adult-use provider has cultivated or marijuana products derived from marijuana the adult-use marijuana-infused products provider has cultivated~~ to a licensed marijuana wholesaler.
~~for at least 50% of the provider's total annual sales;~~

1 ~~(ii) may sell marijuana or marijuana-infused products to another adult-use provider for subsequent~~
2 ~~resale for up to 50% of the adult-use provider's total annual sales;~~
3 ~~(iii) may contract or otherwise arrange for another party that is licensed to process the adult provider's~~
4 ~~or adult marijuana-infused products provider's marijuana into marijuana-infused products or marijuana~~
5 ~~concentrates and return the marijuana-infused products or marijuana concentrates to the adult-use provider for~~
6 ~~sale; and~~
7 ~~(iv) except as allowed pursuant to 16-12-207, may not open a dispensary or allow for any on-site use~~
8 ~~before obtaining the required license or before the department has completed the inspection required under this~~
9 ~~chapter unless permitted to do so pursuant to 16-12-207.~~

10 ~~(b) The department may adjust the percentages set forth in subsection (8)(a) for an individual license~~
11 ~~holder based on unforeseen circumstances leading to the loss of plants or products."~~
12

13 **Section 14.** Section 16-12-204, MCA, is amended to read:

14 **"16-12-204. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Adult-use marijuana-infused products**
15 **provider.** (1) A person licensed as an adult-use marijuana-infused products provider shall:

16 (a) prepare marijuana-infused products at a registered premises; and
17 (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused
18 products.

19 (2) An adult-use marijuana-infused products provider:

20 (a) may cultivate marijuana only for the purpose of making marijuana-infused products; and
21 (b) may not provide a consumer with marijuana ~~in a form that may be used for smoking unless the~~
22 ~~adult-use marijuana-infused products provider is also a licensed adult-use provider.~~

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

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

27
28 **Section 15.** Section 16-12-205, MCA, is amended to read:

1 **"16-12-205. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Contracted services.** (1) An adult-use

2 marijuana-infused products provider may contract with another adult-use marijuana-infused products provider
3 to perform extraction or manufacturing services for the provider. The adult-use marijuana-infused products
4 provider who is providing the services must hold a provider license for at least a tier 1 canopy.

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

8 (3) An adult-use marijuana-infused products provider who offers extraction or manufacturing services
9 may not keep any marijuana-infused product or plant material from the extraction or manufacturing or transfer
10 or sell the marijuana-infused product or plant material to another provider who has contracted for similar
11 services with the same provider ~~except as permitted under 16-12-203.~~"

12
13 **Section 16.** Section 16-12-207, MCA, is amended to read:

14 **"16-12-207. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Licensing as privilege -- criteria.** (1) An
15 adult-use provider license, adult-use marijuana-infused products provider license, marijuana wholesaler, adult-
16 use dispensary license, or endorsement for manufacturing is a privilege that the state may grant to an applicant
17 and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

- 18 (a) the qualifications of the applicant; and
19 (b) the suitability of the proposed registered premises.

20 (2) The department may deny or revoke a license based on proof that the applicant made a knowing
21 and material false statement in any part of the original application or renewal application.

22 (3) The department may deny an adult-use provider license, adult-use marijuana-infused products
23 provider license, marijuana wholesaler, adult-use dispensary license, or endorsement for manufacturing if the
24 applicant's proposed registered premises is situated within a zone of a locality where an activity related to the
25 use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the department.

26 (4) (a) The department may deny a license for an adult-use provider, adult-use marijuana-infused
27 products provider, or adult-use dispensary or an endorsement for manufacturing if the applicant's proposed
28 registered premises:

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

(ii) is within 500 feet of and on the same street as a building used ~~exclusively~~ as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school, day care, recreational facility, or park, unless the locality the local government allows for a reduced distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.

(b) For the purposes of this subsection (4), "school" and "postsecondary school" have the meanings provided in 20-5-402.

~~(5) An adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary licensee may operate at a shared location with a provider, marijuana-infused products provider, or dispensary as defined in 50-46-302 if the provider, marijuana-infused products provider, or dispensary is owned by the same person."~~

Section 17. Section 16-12-209, MCA, is amended to read:

"16-12-209. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Testing of marijuana and marijuana-infused products. (1) An adult-use provider or adult-use marijuana-infused products provider may not sell marijuana or marijuana-infused products to a marijuana wholesaler until the marijuana or products have been tested by a testing laboratory or the department of agriculture and meet the requirements of 50-46-326.

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

(a) flower;

(b) concentrate; and

(c) marijuana-infused product.

(3) The state laboratory shall apply the same rules adopted pursuant to Title 50, chapter 46, part 3, regarding the types of tests, inspections, analysis, and certification that must be performed to ensure product safety and consumer protection to marijuana and marijuana products tested pursuant to this chapter.

(4) An adult-use provider or adult-use marijuana-infused products provider may request that material that has failed to pass the required tests be retested in accordance with the rules adopted by the state laboratory providing for retesting parameters and requirements.

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

Section 18. Section 16-12-210, MCA, is amended to read:

"16-12-210. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Inspections -- procedures -- prohibition on inspector affiliation with licensees. (1) The department shall conduct unannounced inspections of registered premises.

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

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

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

(b) Each testing laboratory shall keep:

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

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

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

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

(4) (a) Registered premises, including any places of storage, where marijuana is cultivated,

1 manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement
2 agencies for the purpose of inspection or investigation during normal business hours.

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

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

9 (6) The department may not hire or contract with a person to be an inspector if the person has worked
10 during the previous 4 years for a Montana business or facility operating under this chapter or Title 50, chapter
11 46, part 3.

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

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

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

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

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

23 (9) Review of a department action imposing a suspension, revocation, or other modification under this
24 chapter must be conducted as a contested case hearing under the provisions of the Montana Administrative
25 Procedure Act.

26 (10) The department shall establish a training protocol to ensure uniform application and enforcement
27 of the requirements of this chapter.

28 (11) The department shall report biennially to the revenue interim committee concerning the results of

inspections conducted under this section. The report must include the information required under 16-12-110."

Section 19. Section 16-12-302, MCA, is amended to read:

"16-12-302. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Fraudulent representation -- penalties. (1)

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

(2) An individual convicted under this section may not be licensed as an adult-use provider or adult-use marijuana-infused products provider under 16-12-203 or a marijuana wholesaler provided under [section 1] and will have their license suspended for 12 months from the date of the infraction. The individual's suspended license must be put on file at the department of revenue and held until reissued. A list of persons or entities restricted is available to highway patrol officers, county sheriffs, and city police departments on request. All fines must be paid in full and the year of suspension requirement met to be eligible for a new license to be issued."

Section 20. Section 16-12-401, MCA, is amended to read:

"16-12-401. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Tax on marijuana sales. (1) A tax on the purchase of marijuana and marijuana-infused products for consumption, use, or any purpose other than for use for a debilitating medical condition as provided in Title 50, chapter 46, part 3, or for resale in the regular course of business under the provisions of this chapter is imposed on the purchaser and must be collected at the time of ~~the sale~~ the wholesale purchase by the adult-use dispensary as provided in [section 1] and paid by the seller wholesaler to the department for deposit in the marijuana ~~compensation~~ state special revenue account provided for in 16-12-111. The tax is imposed at a rate of ~~20% of the retail price~~ 20% of the wholesale price. The tax must be deposited in the general fund by the department.

(2) Adult-use marijuana providers and adult-use marijuana-infused products providers shall submit quarterly reports to the department listing the total dollar amount of sales to ~~consumers~~ wholesalers from any registered premises, ~~as defined in 16-12-102, operated by the adult-use marijuana providers or adult-use marijuana-infused products providers, including dispensaries.~~ The report must be:

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

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

3 (3) At the time the report is filed, the ~~licensee~~ wholesaler shall submit a payment equal to the
4 percentage provided in subsection (1) of the total dollar amount of sales.

5 (4) The department shall deposit the taxes paid under this section in the dedicated marijuana
6 ~~compensation~~ state special revenue account established in 16-12-111 within the state special revenue fund
7 established in 17-2-102.

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

11 (6) For the purpose of determining liability for the filing of statements and the payment of taxes by
12 wholesalers, penalties, and interest owed under 16-12-402 through 16-12-405:

13 (a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state
14 taxes provided for in 16-12-402 through 16-12-405 and who fails to pay the taxes is liable to the state for the
15 taxes and the penalty and interest due on the amounts;

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

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

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

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

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

28 (e) the member of a single-member limited liability company that is disregarded for income tax

purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

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

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

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

(9) The tax levied pursuant to this section is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which must continue to be collected and distributed as provided by law.

(10) The tax levied under this section must be used, as designated in 16-12-111, for purposes that provide compensation for the economic and social costs of past and current marijuana cultivation, processing, and use, including funding of conservation programs to offset the use of water and soil in marijuana cultivation, funding to offset costs of provisions of health care associated with prior uses and health impacts of unregulated marijuana, funding for substance abuse treatment and prevention, funding of veterans' programs to offset prior uses of unregulated marijuana in ways that harmed veterans, funding to localities where marijuana is sold to offset the costs associated with marijuana regulation, and funding for the general fund to account for any costs to the state from marijuana use and regulation."

Section 21. Section 16-12-402, MCA, is amended to read:

**"16-12-402. (Effective ~~October 1, 2021~~ MARCH 1, 2022) ~~Intent -- Returns -- payment --~~
~~recordkeeping -- authority of department.~~ (1) ~~Each adult-use marijuana provider and adult-use marijuana-~~
~~infused products provider shall file a return, on a form provided by the department, and pay the tax due as~~
~~provided in 16-12-401.~~**

~~(2) Each return must be authenticated by the person filing the return or by the person's agent~~

1 authorized in writing to file the return.

2 ~~(3) (a) A person required to pay to the department the taxes imposed by this part shall keep for 5~~
3 ~~years: (1) It is the intention of the state to be involved from seed to sale, collecting the tax of the adult-use~~
4 ~~marijuana at the wholesale level as provided in [section 1]. It is not the state's intention to be involved in the~~
5 ~~details of the retail side of entrepreneur's decisions on how to market and what approved products are sold on~~
6 ~~the retail side of this process.~~

7 ~~(2) All adult-use marijuana sold in the state must be Montana grown and bought through an agency~~
8 ~~adult-use marijuana wholesale store or a state-licensed wholesale or distributor center.~~

9 ~~(i) all receipts issued; and~~
10 ~~(ii) an accurate record of all sales of marijuana products showing the name and address of each~~
11 ~~purchaser, the date of sale, and the quantity, kind, and retail price of each product sold.~~

12 ~~(b)(3)~~ For the purpose of determining compliance with the provisions of this part, the department is
13 authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making
14 a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property
15 of or in the possession of the person filing the return or another person. In determining compliance, the
16 department may use statistical sampling and other sampling techniques consistent with generally accepted
17 auditing standards. The department may also:

- 18 (i) require the attendance of a person having knowledge or information relevant to a return;
19 (ii) compel the production of books, papers, records, or memoranda by the person required to attend;
20 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is
21 or may be jeopardized because of delay;
22 (iv) take testimony on matters material to the determination; and
23 (v) administer oaths or affirmations.

24 (4) Pursuant to rules established by the department, returns may be computer-generated and
25 electronically filed."
26

27 **Section 22.** Section 16-12-403, MCA, is amended to read:

28 **"16-12-403. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Deficient assessment -- penalty and**

1 **interest -- statute of limitations.** (1) If the department determines that the amount of the tax due is greater
2 than the amount disclosed by a return, it shall mail to the ~~adult-use marijuana provider or adult-use marijuana-~~
3 ~~infused products provider~~ marijuana wholesaler a notice, pursuant to 15-1-211, of the additional tax proposed to
4 be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be
5 filed. The ~~adult-use marijuana provider or adult-use marijuana-infused products provider~~ marijuana wholesaler
6 may seek review of the determination pursuant to 15-1-211.

7 (2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216. The
8 department may waive any penalty pursuant to 15-1-206.

9 (3) The amount of tax due under any return may be determined by the department within 5 years after
10 the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For
11 purposes of this section, a return due under this part and filed before the last day prescribed by law or rule is
12 considered to be filed on the last day prescribed for filing."

13
14 **Section 23.** Section 16-12-404, MCA, is amended to read:

15 **"16-12-404. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Procedure to compute tax in absence of**
16 **statement -- estimation of tax -- failure to file -- penalty and interest.** (1) If the ~~adult-use marijuana provider~~
17 ~~or adult-use marijuana-infused~~ marijuana wholesaler products provider fails to file any return required by 16-12-
18 402 or [section 1] within the time required, the department may, at any time, audit the adult-use marijuana
19 provider or adult-use marijuana-infused products provider or estimate the taxes due from any information in its
20 possession and, based on the audit or estimate, assess the ~~adult-use marijuana provider or adult-use~~
21 ~~marijuana-infused products provider~~ marijuana wholesaler for the taxes, penalties, and interest due the state.

22 (2) The department shall impose penalty and interest as provided in 15-1-216. The department shall
23 mail to the ~~adult-use marijuana provider or adult-use marijuana-infused products provider~~ marijuana wholesaler
24 a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The notice must
25 contain a statement that if payment is not made, a warrant for distraint may be filed. The ~~adult-use marijuana~~
26 ~~provider or adult-use marijuana-infused products provider~~ marijuana wholesaler may seek review of the
27 determination pursuant to 15-1-211. The department may waive any penalty pursuant to 15-1-206."

1 **Section 24.** Section 16-12-405, MCA, is amended to read:

2 **"16-12-405. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Authority to collect delinquent taxes. (1)**

3 (a) The department shall collect taxes that are delinquent as determined under this part.

4 (b) If a tax imposed by this part or any portion of the tax is not paid when due, the department may
5 issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

6 (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has
7 expired, the department may direct the offset of tax refunds or other funds due the ~~adult-use marijuana provider~~
8 ~~or adult-use marijuana-infused products provider~~ marijuana wholesaler from the state, except wages subject to
9 the provisions of 25-13-614 and retirement benefits.

10 (3) As provided in 15-1-705, the ~~adult-use marijuana provider or adult-use marijuana-infused products~~
11 ~~provider~~ marijuana wholesaler has the right to a review of the tax liability prior to any offset by the department.

12 (4) The department may file a claim for state funds on behalf of the ~~adult-use marijuana provider or~~
13 ~~adult-use marijuana-infused products provider~~ marijuana wholesaler if a claim is required before funds are
14 available for offset."

15
16 **Section 25.** Section 23-1-105, MCA, is amended to read:

17 **"23-1-105. (Temporary) Fees and charges -- use of motor vehicle registration fee. (1)** The

18 department may levy and collect reasonable fees or other charges for the use of privileges and conveniences
19 that may be provided and to grant concessions that it considers advisable, except as provided in subsections
20 (2) and (6). All money derived from the activities of the department, except as provided in subsection (5), must
21 be deposited in the state treasury in a state special revenue fund to the credit of the department.

22 (2) Overnight camping fees established by the department under subsection (1) must be discounted
23 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and is:

24 (a) 62 years of age or older;

25 (b) certified as disabled in accordance with rules adopted by the department; or

26 (c) a veteran of the armed forces. While camping at a discounted rate, the veteran shall carry proof of
27 the person's veteran status, such as a DD form 214, U.S. department of veterans affairs identification card, or a
28 driver's license indicating the person's veteran status.

(3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that time, the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing state park visitor services revenue. The fund is to be used by the department to serve the recreating public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise and other related goods and services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided in this subsection.

(6) In recognition of the fact that individuals support state parks through the payment of certain motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to pay a day-use fee for access to state parks. Other fees for the use of state parks and fishing access sites, such as overnight camping fees, are still chargeable and may be collected by the department.

(7) Any increase in the motor vehicle registration fee collected pursuant to 61-3-321(19)(a) on or after January 1, 2012, that is dedicated to state parks must be used by the department for maintenance and operation of state parks.

23-1-105. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Fees and charges -- use of motor vehicle registration fee. (1) (a) The department may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided and to grant concessions that it considers advisable, except as provided in subsections (2) and (6).

(b) There must be deposited into a state special revenue fund in the state treasury to the credit of the department:

~~(i) all money derived from the activities of the department, except as provided in subsection (5); and~~

~~(ii) money from marijuana taxes deposited under 16-12-111.~~

(2) Overnight camping fees established by the department under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and is:

(a) 62 years of age or older;

(b) certified as disabled in accordance with rules adopted by the department; or

(c) a veteran of the armed forces. While camping at a discounted rate, the veteran shall carry proof of the person's veteran status, such as a DD form 214, U.S. department of veterans affairs identification card, or a driver's license indicating the person's veteran status.

(3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that time, the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing state park visitor services revenue. The fund is to be used by the department to serve the recreating public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise and other related goods and services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided in this subsection.

(6) In recognition of the fact that individuals support state parks through the payment of certain motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to pay a day-use fee for access to state parks. Other fees for the use of state parks and fishing access sites, such as overnight camping fees, are still chargeable and may be collected by the department.

(7) Any increase in the motor vehicle registration fee collected pursuant to 61-3-321(19)(a) on or after January 1, 2012, that is dedicated to state parks must be used by the department for maintenance and operation of state parks."

Section 26. Section 23-2-108, MCA, is amended to read:

"23-2-108. (Temporary) Trails and recreational facilities account. (1) There is a trails and recreational facilities account in the state special revenue fund established in 17-2-102.

(2) There must be paid into the account money collected pursuant to 61-3-321(19)(a)(iii).

(3) Money in the account may only be used by the department to provide trails and recreational facilities grants pursuant to 23-2-109.

(4) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

23-2-108. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Trails and recreational facilities account.

(1) There is a trails and recreational facilities account in the state special revenue fund established in 17-2-102.

(2) There must be paid into the account:

~~(a) money collected pursuant to 61-3-321(19)(a)(iii); and~~

~~(b) money from marijuana taxes deposited under 16-12-111.~~

(3) Money in the account may only be used by the department to provide trails and recreational facilities grants pursuant to 23-2-109.

(4) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account."

Section 27. Section 53-6-1201, MCA, is amended to read:

"53-6-1201. (Subsection (2)(c) effective ~~October 1, 2021~~ MARCH 1, 2022) Special revenue fund --

1 **health and medicaid initiatives.** (1) There is a health and medicaid initiatives account in the state special
2 revenue fund established by 17-2-102. This account is to be administered by the department of public health
3 and human services.

4 (2) There must be deposited in the account:

5 (a) money from cigarette taxes deposited under 16-11-119(2)(c);

6 (b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(4)(b);

7 and

8 ~~(c) money from marijuana taxes deposited under 16-12-111; and~~

9 ~~(d)(c)~~ any interest and income earned on the account.

10 (3) This account may be used only to provide funding for:

11 (a) the state funds necessary to take full advantage of available federal matching funds in order to
12 administer the plan and maximize enrollment of eligible children under the healthy Montana kids plan, provided
13 for under Title 53, chapter 4, part 11, and to provide outreach to the eligible children;

14 (b) a new need-based prescription drug program established by the legislature for children, seniors,
15 chronically ill, and disabled persons that does not supplant similar services provided under any existing
16 program;

17 (c) increased medicaid services and medicaid provider rates. The increased revenue is intended to
18 increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended
19 traditional level of appropriation for medicaid services and medicaid provider rates.

20 (d) an offset to loss of revenue to the general fund as a result of new tax credits; and

21 (e) grants to schools for suicide prevention activities, for the biennium beginning July 1, 2017.

22 (4) (a) On or before July 1, the budget director shall calculate a balance required to sustain each
23 program in subsection (3) for each fiscal year of the biennium. If the budget director certifies that the reserve
24 balance will be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the
25 budget director determines that the reserve balance of the revenue will not support the level of appropriation,
26 the budget director shall notify each agency. Upon receipt of the notification, the agency shall adjust the
27 operating budget for the program to reflect the available revenue as determined by the budget director.

28 (b) Until the programs or credits described in subsections (3)(b) and (3)(d) are established, the

1 funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c).

2 (5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the
3 appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility
4 standards, services authorized, and payment amount during the past five biennial budgets.

5 (6) The department of public health and human services may adopt rules to implement this section."
6

7 **Section 28.** Section 87-1-242, MCA, is amended to read:

8 **"87-1-242. (Bracketed language in subsection (3) effective ~~October 1, 2021~~ MARCH 1, 2022)**

9 **Funding for wildlife habitat.** (1) The amount of money specified in this subsection from the sale of each
10 hunting license or permit listed must be used exclusively by the commission to secure, develop, and maintain
11 wildlife habitat, subject to appropriation by the legislature:

12 (a) Class B-10, nonresident combination, \$77;

13 (b) Nonresident antelope, \$20;

14 (c) Nonresident moose, \$20;

15 (d) Nonresident mountain goat, \$20;

16 (e) Nonresident mountain sheep, \$20;

17 (f) Class D-1, nonresident mountain lion, \$20;

18 (g) Nonresident black bear, \$20;

19 (h) Nonresident wild turkey, \$10;

20 (i) Class AAA, combination sports, \$7;

21 (j) Class B-11 nonresident deer combination, \$200.

22 (2) Twenty percent of any increase in the fee for the Class B-7 license or any license or permit listed
23 in subsection (1) must be allocated for use as provided in subsection (1).

24 (3) Eighty percent of the money allocated by this section, ~~together with money from marijuana taxes~~
25 ~~deposited under 16-12-111 and~~ together with the interest and income from the money, must be used to secure
26 wildlife habitat pursuant to 87-1-209.

27 (4) Twenty percent of the money allocated by this section must be used as follows:

28 (a) up to 50% a year may be used for development and maintenance of real property used for wildlife

1 habitat; and

2 (b) the remainder and any money not allocated for development and maintenance under subsection
3 (4)(a) by the end of each odd-numbered fiscal year must be credited to the account created by 87-1-601(5) for
4 use in the manner prescribed for the development and maintenance of real property used for wildlife habitat."
5

6 **Section 29.** Section 87-5-121, MCA, is amended to read:

7 **"87-5-121. (Temporary) Nongame wildlife account.** (1) There is a nongame wildlife account in the
8 state special revenue fund provided for in 17-2-102.

9 (2) All money collected under 15-30-2387 and all interest earned by the fund before being expended
10 under this section must be deposited in the account.

11 (3) Money in the account must be used by the department, upon the approval of the commission as
12 determined under 87-5-122, to provide adequate funding for:

13 (a) research and education programs on nongame wildlife in Montana, as provided for in 87-5-104;
14 and

15 (b) any management programs for nongame wildlife approved by the legislature under 87-5-105 as
16 species or subspecies in need of management.

17 (4) The money is available to the department in the same manner as provided in 87-1-601, except
18 that money collected under 15-30-2387 may not be used:

19 (a) for the purchase of any real property; or

20 (b) in such a way as to interfere with the production on or management of private property.

21 **87-5-121. (Effective ~~October 1, 2021~~ MARCH 1, 2022) Nongame wildlife account.** (1) There is a
22 nongame wildlife account in the state special revenue fund provided for in 17-2-102.

23 (2) There must be deposited into the account:

24 ~~(a) all money collected under 15-30-2387 and all interest earned by the fund before being expended~~
25 ~~under this section; and~~

26 ~~(b) money from marijuana taxes deposited under 16-12-111.~~

27 (3) Money in the account must be used by the department, upon the approval of the commission as
28 determined under 87-5-122, to provide adequate funding for:

- 1 (a) research and education programs on nongame wildlife in Montana, as provided for in 87-5-104;
2 and
3 (b) any management programs for nongame wildlife approved by the legislature under 87-5-105 as
4 species or subspecies in need of management.
- 5 (4) The money is available to the department in the same manner as provided in 87-1-601, except
6 that money collected under 15-30-2387 may not be used:
- 7 (a) for the purchase of any real property; or
8 (b) in such a way as to interfere with the production on or management of private property."

9
10 **SECTION 30.** SECTION 56, INITIATIVE MEASURE NO. 190, APPROVED NOVEMBER 3, 2020, IS AMENDED TO
11 READ:

12 "Section 56. Effective Dates. (1) [Sections 8, 16, 23, 36, and 40 through 49] are effective January 1,
13 2021.

14 (2) Except as provided in subsection (1), [this act] is effective on ~~October 1, 2021~~ March 1, 2022."

15
16 **NEW SECTION.** Section 31. Codification instruction. [Sections 1 and 2] are intended to be codified
17 as an integral part of Title 16, chapter 12, and the provisions of Title 16, chapter 12, apply to [sections 1 and 2].

18
19 **NEW SECTION.** Section 32. Severability. If a part of [this act] is invalid, all valid parts that are
20 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
21 the part remains in effect in all valid applications that are severable from the invalid applications.

22
23 **NEW SECTION.** Section 33. Effective date. [This act] is effective ~~January~~ MARCH 1, 2022.

24 - END -