

SENATE BILL NO. 255

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO RECREATIONAL MARIJUANA; REQUIRING A PERSON TO OBTAIN A MARIJUANA IDENTIFICATION CARD IN ORDER TO PURCHASE RECREATIONAL MARIJUANA OR MARIJUANA PRODUCTS; PROVIDING ELIGIBILITY REQUIREMENTS; PROVIDING FOR A MARIJUANA IDENTIFICATION CARD FEE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-12-101, 16-12-102, 16-12-104, 16-12-105, 16-12-106, 16-12-108, 16-12-109, 16-12-110, 16-12-111, 16-12-201, 16-12-202, 16-12-203, 16-12-206, 16-12-208, 16-12-210, 16-12-222, 16-12-224, 16-12-503, 16-12-513, 16-12-515, 16-12-533, 18-7-101, 41-5-216, 45-9-203, 46-18-202, AND 61-11-101, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Marijuana identification card -- rules. (1) The department shall establish and maintain a registry of persons who receive marijuana identification cards under this section.

(2) The department shall issue a marijuana identification card to an individual who is 21 years of age or older and who submits the following, in accordance with department rules:

- (a) an application on a form prescribed by the department;
- (b) an application fee or a renewal fee of \$200;
- (c) the individual's name, street address, and date of birth; and
- (d) proof of Montana residency.

- (3) (a) Marijuana identification cards issued pursuant to this section must:
- (i) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;
 - (ii) state the name, address, and date of birth of the marijuana cardholder;
 - (iii) state the date of issuance and the expiration date of the marijuana identification card;
 - (iv) contain a unique identification number; and

- 1 (v) contain other information that the department may specify by rule.
- 2 (b) Except as provided in subsection (3)(c), in addition to complying with subsection (3)(a),
3 marijuana identification cards issued pursuant to this section must:
- 4 (i) include a picture of the marijuana cardholder; and
- 5 (ii) be capable of being used to track marijuana cardholder purchases.
- 6 (c) (i) The department shall issue a temporary marijuana identification card on receipt of an
7 application. The cards are valid for 60 days and are exempt from the requirements of subsection (3)(b). Printing
8 of the temporary marijuana identification cards is exempt from the provisions of Title 18, chapter 7.
- 9 (ii) A card may be issued before an applicant's payment of the fee has cleared. The department
10 shall cancel the temporary marijuana identification card after 60 days and may not issue a permanent
11 marijuana identification card until the fee is paid.
- 12 (4) (a) The department shall review the information contained in an application or renewal
13 submitted pursuant to this section and shall approve or deny an application or renewal within 30 days of
14 receiving the application or renewal and all related application materials.
- 15 (b) If the department fails to act on a completed application within 30 days of receipt, the
16 department shall refund the fee paid by an applicant for a marijuana identification card.
- 17 (c) Applications that are not processed within 30 days of receipt remain active until the department
18 takes final action.
- 19 (d) The department shall issue a marijuana identification card within 5 days of approving an
20 application or renewal.
- 21 (5) Review of a rejection of an application or renewal may be conducted as a contested case
22 hearing pursuant to the provisions of the Montana Administrative Procedure Act.
- 23 (6) Marijuana identification cards expire 1 year after the date of issuance.
- 24 (7) (a) A marijuana cardholder shall notify the department of any change in the cardholder's name
25 or address within 10 days of the change.
- 26 (b) If a change occurs and is not reported to the department, the marijuana identification card is
27 void.
- 28 (8) The department shall maintain a confidential list of individuals to whom the department has

1 issued marijuana identification cards. Individual names and other identifying information on the list must be
2 confidential and is not subject to disclosure, except to:

3 (a) authorized employees of the department as necessary to perform the official duties of the
4 department;

5 (b) authorized employees of state or local government agencies, including law enforcement
6 agencies, only as necessary to verify that an individual is a lawful possessor of a marijuana identification card;

7 (c) a judge, magistrate, or other authorized judicial officer in response to an order requiring
8 disclosure; and

9 (d) another person or entity when the information pertains to a marijuana cardholder who has
10 given written consent to the release and has specified:

11 (i) the type of information to be released; and

12 (ii) the person or entity to whom it may be released.

13 (9) A marijuana cardholder shall keep the individual's marijuana identification card in the
14 individual's immediate possession at all times. The marijuana identification card and a valid photo identification
15 must be displayed on demand of a law enforcement officer, justice of the peace, or city or municipal judge.

16 (10) The department shall ensure that law enforcement officers have access to accurate and up-to-
17 date information on marijuana cardholders.

18 (11) The license fee provided for in subsection (2)(b) must be deposited in the account provided for
19 in 16-12-111.

20
21 **Section 2.** Section 16-12-101, MCA, is amended to read:

22 **"16-12-101. Short title -- purpose.** (1) This chapter may be cited as the "Montana Marijuana
23 Regulation and Taxation Act".

24 (2) The purpose of this chapter is to:

25 (a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years
26 ~~of age or older~~ marijuana cardholders and registered cardholders;

27 (b) provide for the licensure and regulation of the cultivation, manufacture, production, distribution,
28 transportation, and sale of marijuana and marijuana products;

- 1 (c) eliminate the illicit market for marijuana and marijuana products;
- 2 (d) prevent the manufacture and distribution of synthetic marijuana products;
- 3 (e) prevent the distribution of marijuana sold under this chapter to persons ~~under 21 years of age~~
- 4 who are not marijuana cardholders or registered cardholders;
- 5 (f) ensure the safety of marijuana and marijuana products;
- 6 (g) ensure the security of licensed premises;
- 7 (h) establish reporting requirements for licensees;
- 8 (i) establish inspection requirements for licensees, including data collection on energy use,
- 9 chemical use, water use, and packaging waste to ensure a clean and healthy environment;
- 10 (j) provide for the testing of marijuana and marijuana products by licensed testing laboratories;
- 11 (k) give local governments authority to allow for the operation of marijuana businesses in their
- 12 community and establishing standards for the cultivation, manufacture, and sale of marijuana that protect the
- 13 public health, safety, and welfare of residents within their jurisdictions;
- 14 (l) tax the sale of marijuana and marijuana products to provide compensation for the economic
- 15 and social costs of marijuana;
- 16 (m) authorize courts to resentence persons who are currently serving sentences for acts that are
- 17 permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge
- 18 those offenses from the criminal records of persons who have completed their sentences as set forth in this
- 19 chapter; and
- 20 (n) preserve and protect Montana's well-established hemp industry by drawing a clear distinction
- 21 between those participants and programs and the participants and programs associated with the marijuana
- 22 industry.
- 23 (3) Marijuana and marijuana products are not agricultural products, and the cultivation, processing,
- 24 manufacturing or selling of marijuana or marijuana products is not considered agriculture subject to regulation
- 25 by the department of agriculture unless expressly provided."
- 26

27 **Section 3.** Section 16-12-102, MCA, is amended to read:

28 **"16-12-102. Definitions.** As used in this chapter, the following definitions apply:

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

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

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

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

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

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

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

~~(6)~~(5) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

~~(7)~~(6) "Controlling beneficial owner" means a person that satisfies one or more of the following:

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

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

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

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

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

1 ~~(8)(7)~~ "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or
2 (3) and to which an individual may be ordered by any court of competent jurisdiction.

3 ~~(9)(8)~~ "Cultivator" means a person licensed by the department to:

- 4 (a) plant, cultivate, grow, harvest, and dry marijuana; and
5 (b) package and relabel marijuana produced at the location in a natural or naturally dried form that
6 has not been converted, concentrated, or compounded for sale through a licensed dispensary.

7 ~~(10)(9)~~ "Debilitating medical condition" means:

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

11 (b) cachexia or wasting syndrome;

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

14 (d) intractable nausea or vomiting;

15 (e) epilepsy or an intractable seizure disorder;

16 (f) multiple sclerosis;

17 (g) Crohn's disease;

18 (h) painful peripheral neuropathy;

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

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

21 (k) posttraumatic stress disorder.

22 ~~(11)(10)~~ "Department" means the department of revenue provided for in 2-15-1301.

23 ~~(12)(11)~~ (a) "Employee" means an individual employed to do something for the benefit of an employer.

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

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

27 ~~(13)(12)~~ (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or
28 indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net

1 profits or net worth of the entity in which the interest is held.

2 (b) The term does not include interest held by a bank or licensed lending institution or a security
3 interest, lien, or encumbrance but does include holders of private loans or convertible securities.

4 ~~(14)~~(13) "Former medical marijuana licensee" means a person that was licensed by or had an
5 application for licensure pending with the department of public health and human services to provide marijuana
6 to individuals with debilitating medical conditions on April 27, 2021.

7 ~~(15)~~(14) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a
8 permanent structure using artificial light exclusively or to supplement natural sunlight.

9 (b) The term may include:

10 (i) a greenhouse; or

11 (ii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

12 ~~(16)~~(15) "Licensed premises" means all locations related to, or associated with, a specific license that is
13 authorized under this chapter and includes all enclosed public and private areas at the location that are used in
14 the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

15 ~~(17)~~(16) "Licensee" means a person holding a state license issued pursuant to this chapter.

16 ~~(18)~~(17) "Local government" means a county, a consolidated government, or an incorporated city or
17 town.

18 ~~(19)~~(18) "Manufacturer" means a person licensed by the department to convert or compound marijuana
19 into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or
20 relabel marijuana products as allowed under this chapter.

21 ~~(20)~~(19) (a) "Marijuana" means all plant material from the genus Cannabis containing
22 tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

23 (b) The term does not include hemp as provided in 80-18-101.

24 (c) The term does not include synthetic marijuana products.

25 (d) The term does not include a drug approved by the United States food and drug administration
26 pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

27 ~~(24)~~(20) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical
28 marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other

1 business or function that is licensed by the department under this chapter.

2 (21) "Marijuana cardholder" means a Montana resident who has received and maintains a valid
3 marijuana identification card.

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

6 (23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or
7 byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana
8 products.

9 (24) "Marijuana identification card" means a document issued by the department pursuant to
10 [section 1] that identifies an individual as a marijuana cardholder.

11 ~~(24)~~(25) "Marijuana product" means a product that contains marijuana and is intended for use by a
12 ~~consumer~~ marijuana cardholder or a registered cardholder. The term includes but is not limited to edible
13 products, ointments, tinctures, marijuana derivatives, and marijuana concentrates, including concentrates
14 intended for use by smoking or vaping.

15 ~~(25)~~(26) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana
16 products from one marijuana business to another marijuana business, or to and from a testing laboratory, and
17 to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but
18 is not authorized to sell marijuana or marijuana products to ~~consumers~~ marijuana cardholders under any
19 circumstances.

20 ~~(26)~~(27) "Mature marijuana plant" means a harvestable marijuana plant.

21 ~~(27)~~(28) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a
22 cardholder who is registered under Title 16, chapter 12, part 5.

23 ~~(28)~~(29) "Medical marijuana dispensary" means the location from which a registered cardholder may
24 obtain marijuana or marijuana products.

25 ~~(29)~~(30) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and
26 environmental conditions including variable temperature, precipitation, and wind.

27 ~~(30)~~(31) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit
28 corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in

1 a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a
2 partnership, and the interest of a member in a limited partnership association.

3 ~~(34)~~(32)"Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

4 ~~(32)~~(33)"Passive beneficial owner" means any person acquiring an owner's interest in a marijuana
5 business that is not otherwise a controlling beneficial owner or in control.

6 ~~(33)~~(34)"Person" means an individual, partnership, association, company, corporation, limited liability
7 company, or organization.

8 ~~(34)~~(35)"Qualified institutional investor" means:

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

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

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

18 (d) an investment company registered under section 8 of the federal Investment Company Act of
19 1940, as amended;

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

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

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

25 ~~(35)~~(36)"Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
26 condition who has received and maintains a valid registry identification card.

27 ~~(36)~~(37)"Registry identification card" means a document issued by the department pursuant to 16-12-
28 503 that identifies an individual as a registered cardholder.

(37)(38)(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.

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

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

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

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

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

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

(42)(43)(a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual.

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

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

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

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

(i) cultivator license;

(ii) manufacturer license;

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

(iv) testing laboratory license.

1 (v) marijuana transporter license.

2 (vi) combined-use marijuana license.

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

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

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

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

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

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

15 (i) within 60 days of receiving the application or renewal and all related application materials from
16 a former medical marijuana licensee or an existing licensee under this chapter; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

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

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

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

(b) The department may share the physical location or address of a marijuana business with

1 another state agency, political subdivision, and the state fire marshal.

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

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

7 (13) The department may not adopt rules requiring a ~~consumer-marijuana cardholder~~ to provide a
8 licensee with identifying information other than ~~government-issued identification to determine the consumer's~~
9 ~~age a~~ marijuana identification card. A licensee that scans a person's ~~driver's license~~ marijuana identification
10 card using an electronic reader ~~to determine the person's age~~:

11 (a) may only use data or metadata from the scan ~~to determine the person's age~~ eligibility to
12 purchase marijuana or marijuana products;

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

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

16 (14) (a) Except as provided in subsection (14)(b), licenses issued by the department under this
17 chapter are nontransferable.

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

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

26

27 **Section 5.** Section 16-12-105, MCA, is amended to read:

28 **"16-12-105. Department responsibility to monitor and assess marijuana production, testing,**

1 **sales, and license revocation.** (1) (a) The department shall implement a system for tracking marijuana and
2 marijuana products from either the seed or the seedling stage until it is sold to a ~~consumer~~ marijuana
3 cardholder or a registered cardholder.

4 (b) The system must ensure that marijuana and marijuana products cultivated, manufactured,
5 possessed, and sold under this chapter are not sold or otherwise provided to an individual who is ~~under 21~~
6 ~~years of age unless that person is not a~~ marijuana cardholder or a registered cardholder.

7 (c) The system must be made available to licensees, except that licensees shall bear the
8 responsibility and cost for procuring unique identification tracking tags to facilitate the tracking of marijuana and
9 marijuana products.

10 (2) The department shall, if technology allows, require use of a mandatory semicashless payment
11 system occurring at the point of sale for all dispensaries. Adult-use dispensaries and medical marijuana
12 dispensaries are required to utilize a semicashless point-of-sale system when selling marijuana and marijuana
13 products to ~~consumers~~ marijuana cardholders or registered cardholders. The department may establish by rule
14 the requirements, standards, and private company that a licensee must use when utilizing such a system in a
15 dispensary. The semicashless processor is authorized to make deposits to an account specified by the
16 department for tax collection.

17 (3) The department is authorized to share seed-to-sale information with the licensee's depository
18 institution, any other government agency, or the semicashless processor."

19
20 **Section 6.** Section 16-12-106, MCA, is amended to read:

21 **"16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in
22 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local
23 government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain,
24 search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the
25 laws of any local government for a person who is ~~21 years of age or older~~ a marijuana cardholder or a
26 registered cardholder:

27 (a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of
28 usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800

1 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

2 (b) transferring, delivering, or distributing without consideration, to a person who is ~~21 years of age~~
3 ~~or older~~ a marijuana cardholder or a registered cardholder, 1 ounce or less of usable marijuana, except that not
4 more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible
5 marijuana products meant to be eaten or swallowed in solid form;

6 (c) in or on the grounds of a private residence, possessing, planting, or cultivating up to two
7 mature marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered
8 cardholder, and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:

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

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

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

17 (iv) no portion of a private residence used for cultivation of marijuana and manufacture of
18 marijuana products for personal use may be shared with, rented, or leased to a marijuana business;

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

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

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

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

(4) 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) For a person who ~~is under 21 years of age and is not a~~ marijuana cardholder or a registered cardholder, possession, use, delivery without consideration, or distribution without consideration of marijuana is punishable in accordance with 45-5-624.

(6) 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 8 hours of drug education or counseling.

(7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession, production, delivery without consideration to a person ~~21 years of age or older who is not a~~ marijuana cardholder, 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 marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

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

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

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

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

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

Section 7. Section 16-12-108, MCA, is amended to read:

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

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

1 products;

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

4 (c) smoking or consuming marijuana while riding in the passenger seat within an enclosed
5 compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being
6 operated;

7 (d) production, delivery, distribution, purchase, or consumption of synthetic marijuana products;

8 (e) delivery or distribution of marijuana or marijuana products, with or without consideration, to a
9 person ~~under 21 years of age~~, unless the person is a marijuana cardholder or a registered cardholder;
10 (f) purchase, consumption, or use of marijuana or marijuana products by a person ~~under 21 years~~
11 ~~of age~~, unless the person is a marijuana cardholder or a registered cardholder;

12 (g) possession or transport of marijuana or marijuana products by a person ~~under 21 years of age~~
13 ~~unless the underage person is who is not a~~ marijuana cardholder or a registered cardholder or is at least 18
14 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work
15 activities;

16 (h) possession or consumption of marijuana or marijuana products or possession of marijuana
17 paraphernalia:

18 (i) on the grounds of any property owned or leased by a school district, a public or private
19 preschool, school, or postsecondary school as defined in 20-5-402;

20 (ii) in a school bus;

21 (iii) in a health care facility as defined in 50-5-101; or

22 (iv) on the grounds of any correctional facility;

23 (i) using marijuana or marijuana products in a location where smoking tobacco is prohibited;

24 (j) smoking marijuana in a hotel or motel room, except for a hotel or motel room that is designated
25 as a smoking room and rented to a guest;

26 (k) consumption of marijuana or marijuana products:

27 (i) in a public place, except as allowed by the department; or

28 (ii) on trains, buses, or other forms of public transportation.

1 (l) conduct that endangers others;

2 (m) undertaking any task while under the influence of marijuana or marijuana products if doing so
3 would constitute negligence or professional malpractice; or

4 (n) performing solvent-based extractions on marijuana using solvents other than water, glycerin,
5 propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

6 (2) (a) A violation of subsections (1)(h)(i) through (1)(h)(iii) and (1)(i) through (1)(k) is subject to the
7 penalties provided for in 50-40-115.

8 (b) In addition to the penalties provided for in 50-40-115, a person in violation of subsection
9 (1)(h)(iv) may be subject to administrative action by the department of corrections and the department of
10 justice, and a violation of subsection (1)(h)(iv) may be subject to the penalties provided for in 45-7-307.

11 (c) A violation of subsection (1)(n) is subject to the penalties provided for in 45-9-110(3).

12 (3) A person may not cultivate marijuana in a manner that is visible from the street or other public
13 area.

14 (4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that
15 allows use of marijuana by a registered cardholder.

16 (5) Nothing in this chapter may be construed to:

17 (a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in
18 any workplace or on the employer's property;

19 (b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or
20 for working while intoxicated by marijuana or marijuana products;

21 (c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an
22 adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of
23 employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or
24 marijuana products while working;

25 (d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana
26 for a debilitating medical condition; or

27 (e) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
28 discrimination pursuant to 49-1-102.

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

(7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the department under Title 15 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

(8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the conduct of ~~consumers~~, licensees, marijuana cardholders, and registered cardholders."

Section 8. Section 16-12-109, MCA, is amended to read:

"16-12-109. Unlawful conduct by licensees -- penalties. (1) If the department has reasonable cause to believe that a licensee has violated a provision of this chapter or a rule of the department, it may, in its discretion and in addition to any other penalties prescribed:

- (a) reprimand a licensee;
- (b) revoke the license of the licensee;
- (c) suspend the license for a period of up to 1 year;
- (d) refuse to grant a renewal of the license after its expiration; or
- (e) impose a civil penalty not to exceed \$3,000.

(2) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

- (a) compliance with the provisions of this chapter within the prior 3 years;
- (b) the licensee has made good faith efforts to prevent a violation; or
- (c) the licensee has cooperated in the investigation of the violation and the licensee or an employee or agent of the licensee accepts responsibility.

(3) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

- (a) prior warnings about compliance problems;
- (b) prior violations of the provisions of this chapter within the past 3 years;
- (c) lack of written policies governing employee conduct;
- (d) additional violations revealed during the course of the investigation;
- (e) efforts to conceal a violation;
- (f) intentional violations; or
- (g) involvement of more than one patron or employee in a violation.

(4) For each licensing program regulated by the department under this chapter, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

(5) The department shall revoke and may not reissue a license or endorsement belonging to a person:

- (a) whose controlling beneficial owner is an individual convicted of a felony drug offense;
- (b) who allows another person not authorized or lawfully allowed to be in possession of the license;
- (c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by federal law;
- (d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing license;
- (e) who purchases marijuana from an unauthorized source in violation of this chapter; or
- (f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows or should know is under 21 years of age, unless the person is not a marijuana cardholder or a registered cardholder.

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

1 the revocation.

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

5 (b) A person may appeal any decision of the department concerning the issuance, rejection,
6 suspension, or revocation of a license provided for by this chapter to the district court in the county in which the
7 person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the
8 person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties
9 where it operates or seeks to operate.

10 (c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the
11 grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of
12 notice of the department's final decision."
13

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

15 **"16-12-110. Legislative monitoring.** (1) The economic affairs interim committee shall provide
16 oversight of activities pursuant to this chapter, including but not limited to monitoring of:

- 17 (a) the number of licensees;
18 (b) (i) the total square footage of canopy licensed in the state; and
19 (ii) the percentage of total canopy in production;
20 (c) issues related to the cultivation, manufacture, sale, testing, and use of marijuana;
21 (d) the development, implementation, and use of the seed-to-sale tracking system established in
22 accordance with 16-12-105;
23 (e) the number of marijuana cardholders and registered cardholders;
24 (f) the number and type of violations committed by registered cardholders, together with the
25 penalties imposed on registered cardholders by the department; and
26 (g) laboratory testing procedures performed by the department in accordance with this chapter.
27 (2) The economic affairs interim committee shall identify issues likely to require future legislative
28 attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-12-203 and 16-12-503. The report must include:

- (i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;
- (ii) the number and type of violations committed by licensees;
- (iii) the number of licenses revoked;
- (iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter;
- (v) the number of applications for registry identification cards and the number of registered cardholders approved;
- (vi) the nature of the debilitating medical conditions of the registered cardholders;
- (vii) the number of registry identification cards revoked; and
- (viii) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.

(b) The report may not provide any identifying information of registered cardholders or physicians.

(4) The report on inspections required under 16-12-210 must include, at a minimum, the following information for both announced and unannounced inspections:

- (a) the number of inspections conducted, by canopy licensure tier;
- (b) the number of licensees that were inspected more than once during the year;
- (c) the number of inspections that were conducted because of complaints made to the department;

and

- (d) the types of enforcement actions taken as a result of the inspections.

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

(6) Pursuant to 37-3-203, the board of medical examiners shall report annually in accordance with 5-11-210 to the economic affairs interim committee on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana."

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

1 **"16-12-111. Marijuana state special revenue account -- operating reserve -- transfer of excess**
2 **funds.** (1) There is a dedicated marijuana state special revenue account within the state special revenue fund
3 established in 17-2-102, to be administered by the department.

4 (2) The account consists of:

5 (a) money deposited into the account pursuant to this chapter;

6 (b) the taxes collected pursuant to Title 15, chapter 64, part 1;

7 (c) license fees, marijuana cardholder fees, and registered cardholder fees deposited into the
8 account pursuant to this chapter;

9 (d) taxes deposited into the account pursuant to 16-12-310; and

10 (e) civil penalties collected under this chapter.

11 (3) Except as provided in subsection (4), money in the account must be used by the department
12 for the purpose of administering the provisions of this chapter.

13 (4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month
14 operating reserve necessary to fund operating costs at the beginning of the next fiscal year in the following
15 order:

16 (a) an amount not to exceed \$6 million must be transferred to the healing and ending addiction
17 through recovery and treatment (HEART) account established in 16-12-122;

18 (b) the net balance remaining after distribution to the HEART account must be distributed as
19 follows:

20 (i) 20% to the credit of the department of fish, wildlife, and parks to be used solely as funding for
21 wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209;

22 (ii) 4% to the state park account established in 23-1-105(1);

23 (iii) 4% to the trails and recreational facilities account established in 23-2-108;

24 (iv) 4% to the nongame wildlife account established in 87-5-121;

25 (v) 3% or \$200,000, whichever is less, to the veterans and surviving spouses state special
26 revenue account provided for in 10-2-108;

27 (vi) for the biennium beginning July 1, 2021, \$300,000 to the department of justice to administer
28 grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug

1 detection canines and canine handlers, including canines owned by local law enforcement agencies to replace
2 canines who were trained to detect marijuana;

3 (vii) \$150,000 to the board of crime control to fund crisis intervention team training as provided in
4 44-7-110; and

5 (viii) the remainder to the general fund. (Subsection (4)(b)(vi) terminates June 30, 2025--sec.
6 117(2), Ch. 576, L. 2021.)"

7

8 **Section 11.** Section 16-12-201, MCA, is amended to read:

9 **"16-12-201. Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between January
10 1, 2022, and June 30, 2025, the department may only accept applications from and issue licenses to former
11 medical marijuana licensees that were licensed by or had an application pending with the department of public
12 health and human services on April 27, 2021, and are in good standing with the department and in compliance
13 with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of
14 January 1, 2022.

15 (b) The department shall begin accepting applications for and issuing licenses to cultivate,
16 manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana
17 licensees under subsection (1)(a) on or after July 1, 2025.

18 (2) (a) The department shall adopt rules to govern the operation of former medical marijuana
19 licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate
20 license under this chapter with a minimum of disruption to business operations.

21 (b) ~~Beginning January 1, 2022, a~~ A former medical marijuana licensee may sell marijuana and
22 marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to ~~consumers~~
23 marijuana cardholders at the adult-use marijuana tax rate set forth in 15-64-102 under the licensee's existing
24 license in a jurisdiction that allows for the operation of marijuana businesses pursuant to 16-12-301 until the
25 former medical marijuana licensee's next license renewal date, by which time the former medical licensee must
26 have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an
27 extension of time is granted by the department.

28 (c) (i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2),

1 "appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary
2 license, and, if applicable, a manufacturer license.

3 (ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to
4 registered cardholders is not required to obtain an adult-use dispensary license.

5 (3) The department may amend or issue licenses to provide for staggered expiration dates. The
6 department may provide for initial license terms of greater than 12 months but no more than 23 months in
7 adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term
8 implementing staggered license terms may be prorated by the department."

9

10 **Section 12.** Section 16-12-202, MCA, is amended to read:

11 **"16-12-202. Testing laboratories -- licensing -- inspection.** (1) (a) A person who obtains a testing
12 laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana
13 as allowed by this chapter.

14 (b) A person who is a controlling beneficial owner of a testing laboratory or holds a financial
15 interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in
16 any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing
17 services are performed.

18 (2) (a) The department shall endorse a testing laboratory to perform the testing required under 16-
19 12-206 and 16-12-209 before a testing laboratory may apply for licensure or renewal with the department.

20 (b) (i) The department shall inspect a testing laboratory before endorsing a testing laboratory for
21 licensure or renewal and may not endorse a testing laboratory for licensure or renewal if the applicant does not
22 meet the requirements of 16-12-206 and this section.

23 (ii) The department may not issue a temporary license while an inspection is pending.

24 (3) An inspection conducted for licensure or renewal of a license must include a review of an
25 applicant's or testing laboratory's:

26 (a) physical premises where testing will be conducted;

27 (b) instrumentation;

28 (c) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

1 (d) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

2 (e) vehicles used for transporting marijuana or marijuana product samples for testing purposes.

3 (4) On receiving an endorsement from the department for licensure or annual renewal, a testing
4 laboratory must apply for licensure or renewal with the department by submitting to the department:

5 (a) the information required by 16-12-203; and

6 (b) a fee that the department shall establish by rule.

7 (5) The department shall:

8 (a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic
9 acid content of marijuana and marijuana products;

10 (b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew,
11 and other contaminants; and

12 (c) establish and enforce standard operating procedures and testing standards for testing
13 laboratories to ensure that ~~consumers~~ marijuana cardholders and registered cardholders receive consistent and
14 uniform information about the potency and quality of the marijuana and marijuana products they receive. The
15 department shall:

16 (i) consult with independent national or international organizations that establish testing standards
17 for marijuana and marijuana products;

18 (ii) require testing laboratories to follow uniform standards and protocols for the samples accepted
19 for testing and the processes used for testing the samples; and

20 (iii) track and analyze the raw data for the results of testing conducted by testing laboratories to
21 ensure that the testing laboratories are providing consistent and uniform results.

22 (6) The department may retain the services of the analytical laboratory provided by the department
23 of agriculture pursuant to 80-1-104 for the testing contemplated in this section.

24 (7) If an analysis of raw testing data indicates that licensees are providing test results that vary
25 among testing laboratories by an amount determined by the department by rule, the department shall
26 investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to
27 ensure that each testing laboratory provides accurate and consistent results.

28 (8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent

1 results, the department may suspend the testing laboratory's license. A suspension must be based on rules
2 adopted by the department.

3 (9) The department shall revoke a testing laboratory's license upon a determination that the
4 laboratory is:

5 (a) providing test results that are fraudulent or misleading; or

6 (b) providing test results without having:

7 (i) the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or

8 (ii) the equipment required under this chapter to conduct the tests for which the laboratory is
9 providing results.

10 (10) (a) Review of a rejection of an application or renewal may be conducted as a contested case
11 hearing before the department's office of dispute resolution pursuant to the provisions of the Montana
12 Administrative Procedure Act.

13 (b) A person may appeal any decision of the department concerning the issuance, rejection,
14 suspension, or revocation of a license provided for in this chapter to the district court in the county in which the
15 person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the
16 person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties
17 where it operates or seeks to operate.

18 (c) An appeal pursuant to subsection (10)(b) must be made by filing a complaint setting forth the
19 grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of
20 notice of the department's final decision."

21
22 **Section 13.** Section 16-12-203, MCA, is amended to read:

23 **"16-12-203. Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to
24 subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person
25 who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing
26 laboratory if the person submits to the department:

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

28 (ii) proof that the natural person having day-to-day operational control over the business is a

1 Montana resident;

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

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

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

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

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

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

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

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

16 (D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed
17 business.

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

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

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

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

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

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

28 (v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial

owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (d) is under 21 years of age;

14 (e) has failed to:

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

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

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

19 (iv) pay child support; or

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in
18 this chapter and rules adopted by the department:

19 (a) may operate adult-use dispensaries;

20 (b) may engage in manufacturing; and

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

22 (7) A cultivator or manufacturer:

23 (a) may contract or otherwise arrange for another party that is licensed to process a cultivator's or
24 manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or
25 manufacturer for sale; and

26 (b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the
27 required license and before the department has completed the inspection required under this chapter unless
28 permitted to do so pursuant to 16-12-207."

1

2 **Section 14.** Section 16-12-206, MCA, is amended to read:

3 **"16-12-206. Testing laboratories -- licensing inspections.** (1) A testing laboratory may:

4 (a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic
5 acid content of marijuana and marijuana products; and

6 (b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew,
7 and other contaminants. A testing laboratory may transport samples to be tested.

8 (2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring
9 the achievement and maintenance of quality standards of practice. A scientific director must have the following
10 minimum qualifications:

11 (a) a doctorate in chemical or biological sciences from a college or university accredited by a
12 national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

13 (b) a master's degree in chemical or biological sciences from a college or university accredited by
14 a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

15 (3) All owners and employees of a testing laboratory shall submit fingerprints to the department to
16 facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned,
17 operated, or staffed by a person who has been convicted of a felony offense.

18 (4) To qualify for licensure, a testing laboratory shall demonstrate that:

19 (a) staff members are proficient in operation of the laboratory equipment; and

20 (b) the laboratory:

21 (i) maintains the equipment and instrumentation required by rule;

22 (ii) has all equipment and instrumentation necessary to certify results that meet the quality
23 assurance testing requirements established by rule, including the ability to certify results at the required level of
24 sensitivity;

25 (iii) meets insurance and bonding requirements established by rule;

26 (iv) has the capacity and ability to serve rural areas of the state; and

27 (v) has passed a proficiency program approved by the department that demonstrates it is able to
28 meet all testing requirements.

- 1 (5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of:
- 2 (a) samples of marijuana and marijuana products submitted by cultivators and manufacturers
- 3 pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;
- 4 (b) samples of marijuana or marijuana products collected by the department during inspections of
- 5 licensed premises; and
- 6 (c) samples submitted by ~~consumers~~ marijuana cardholders or registered cardholders."
- 7

8 **Section 15.** Section 16-12-208, MCA, is amended to read:

9 **"16-12-208. Restrictions.** (1) A cultivator or manufacturer may not cultivate marijuana or manufacture

10 marijuana products in a manner that is visible from the street or other public area without the use of binoculars,

11 aircraft, or other optical aids.

12 (2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location

13 other than the licensed premises approved by the department and within an enclosed area that is secured in a

14 manner that prevents access by unauthorized persons.

15 (3) A licensee shall make the licensed premises, books, and records available to the department

16 for inspection and audit under 16-12-210 during normal business hours.

17 (4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee.

18 (5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that

19 are attractive to children or that are easily confused with commercially sold candy that does not contain

20 marijuana.

21 (6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-

22 resistant exit packaging that complies with federal child resistance standards and is designed to be significantly

23 difficult for children under 5 years of age to open and not difficult for adults to use properly.

24 (b) (i) Packaging of individual products may contain only the following design elements and

25 language on a white label:

26 (A) the seller's business name and any accompanying logo or design mark;

27 (B) the name of the product; and

28 (C) the THC content or CBD content, health warning messages as provided in 16-12-215, and

1 ingredients.

2 (ii) All packaging and outward labeling, including business logos and design marks, must also
3 comply with any standards or criteria established by the department, including but not limited to allowable
4 symbols and imagery.

5 (7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer
6 hemp flower, hemp plants, synthetic cannabinoids, or alcohol from a licensed premises.

7 (8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for
8 ultimate sale to a ~~consumer~~ marijuana cardholder or a registered cardholder, a licensee or license applicant
9 shall submit both a package and a label application, in a form prescribed by the department, to receive approval
10 from the department.

11 (b) The initial submission must be made electronically if required by the department. The licensee
12 or license applicant shall submit a physical prototype upon request by the department.

13 (c) If a license applicant submits packages and labels for preapproval, final determination for
14 packages and labels may not be made until the applicant has been issued a license.

15 (d) A packaging and label application must include:

16 (i) a fee provided for in rule by the department;

17 (ii) documentation that all exit packaging has been certified as child-resistant by a federally
18 qualified third-party child-resistant package testing firm;

19 (iii) a picture or rendering of and description of the item to be placed in each package; and

20 (iv) for label applications for inhalable marijuana products that contain nonmarijuana additives:

21 (A) the nonmarijuana additive's list of ingredients; and

22 (B) in a form and manner prescribed by the department, information regarding the additive or
23 additives and the manufacturer of the additive or additives.

24 (9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified
25 receptacle into which marijuana or marijuana products already within a container are placed at the retail point of
26 sale."

27

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

1 **"16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees. (1)**

2 (a) The department shall conduct unannounced inspections of licensed premises.

3 (b) The department may not conduct more than two unannounced inspections of a licensed
4 premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or
5 there is other just and reasonable cause.

6 (2) (a) The department shall inspect annually each premises operated by a licensee.

7 (b) The department may collect samples during the inspection of a licensed premises and submit
8 the samples to a testing laboratory or the analytical laboratory authorized by 80-1-104 for testing as provided by
9 the department by rule.

10 (3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with
11 consumers marijuana cardholders and registered cardholders. The records must be open for inspection by the
12 department and state or local law enforcement agencies.

13 (b) Each testing laboratory shall keep:

14 (i) a complete set of records necessary to show all transactions with a licensee; and

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

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

19 (d) The department may require a licensee to furnish information that the department considers
20 necessary for the proper administration of this chapter.

21 (4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated,
22 manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement
23 agencies for the purpose of inspection or investigation.

24 (b) If any part of a licensed premises consists of a locked area, the licensee shall make the area
25 available for inspection immediately upon request of the department or state or local law enforcement officials.

26 (5) The department may not hire or contract with a person to be an inspector if the person, during
27 the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former
28 medical marijuana licensee.

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

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

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

(c) noncompliance with any provision of this chapter.

(7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of ~~consumers~~ marijuana cardholders, registered cardholders, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances.

(8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

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

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

(10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under 16-12-110."

1

2 **Section 17.** Section 16-12-222, MCA, is amended to read:

3 **"16-12-222. Licensing of marijuana transporters.** (1) (a) A marijuana transporter license may be
4 issued to a person to provide logistics, distribution, delivery, and storage of marijuana and marijuana products.
5 A marijuana transporter license is valid for 2 years. A licensed marijuana transporter is responsible for the
6 marijuana and marijuana products after it takes control of the marijuana or marijuana product.

7 (b) A marijuana transporter may contract with multiple licensed marijuana businesses.

8 (c) Except as otherwise provided in this section, all persons who transport marijuana or marijuana
9 products must hold a valid marijuana transporter license.

10 (d) The department shall establish by rule the requirements for licensure and the applicable fee for
11 a marijuana transporter license or the renewal of a transporter license. The department may not license a
12 person to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license
13 under 16-12-203(2).

14 (2) A person who is not licensed under this chapter shall apply for and obtain a marijuana
15 transporter license in order to transport marijuana or marijuana products.

16 (3) A registered cardholder or ~~consumer~~-marijuana cardholder is not required to possess a
17 marijuana transporter license when purchasing marijuana or marijuana products at a dispensary.

18 (4) A person who obtains a cultivator license, manufacturer license, adult-use dispensary license,
19 medical marijuana dispensary license, or testing laboratory license or is an employee of one of those licensees,
20 may:

21 (a) transport marijuana or marijuana products between other licensed premises without a
22 transporter license so long as the transportation:

23 (i) complies with rules implementing the seed-to-sale tracking system set forth in 16-12-105; and

24 (ii) includes a printed manifest containing information as required by the department; and

25 (b) deliver marijuana from a dispensary to a registered cardholder provided that the person
26 delivering the marijuana or marijuana products:

27 (i) complies with rules adopted by the department; and

28 (ii) includes a printed delivery manifest from a dispensary to a registered cardholder containing the

1 registered cardholder's address and cardholder number and the dispensary's address and license number.

2 (5) (a) A marijuana transporter licensee may maintain a licensed premises to temporarily store
3 marijuana and marijuana products and to use as a centralized distribution point in a jurisdiction where the local
4 government approval provisions contained in 16-12-301 have been satisfied or in a county in which the majority
5 of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

6 (b) The licensed premises must be located in a jurisdiction that permits the operation of a
7 marijuana business and comply with rules adopted by the department.

8 (c) A marijuana transporter may store and distribute marijuana and marijuana products from this
9 location. A storage facility must meet the same security requirements that are required to obtain a license under
10 this chapter.

11 (6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-
12 12-105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products
13 throughout the state.

14 (7) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or
15 registered cardholders only and may not make deliveries of marijuana or marijuana products to individual
16 consumers marijuana cardholders.

17 (8) A person delivering marijuana or marijuana products for a marijuana transporter must possess
18 a valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana
19 transporter licensee."

20
21 **Section 18.** Section 16-12-224, MCA, is amended to read:

22 **"16-12-224. Licensing of dispensaries.** (1) Except as provided in 16-12-201(2), an applicant for a
23 dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been
24 satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be
25 located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the
26 November 3, 2020, general election.

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

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

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

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

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

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

(7) The department may adopt rules:

(a) for inspection of proposed dispensaries;

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

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

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

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

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

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

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

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

(v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and

- 1 no more than 800 milligrams of THC per package;
- 2 (vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100
- 3 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package;
- 4 and
- 5 (vii) for any other marijuana product, no more than 800 milligrams of THC.
- 6 (c) There may be a deviation of 10% above or below the allowed amount under subsection
- 7 (8)(b)(iv).
- 8 (d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than
- 9 described in subsection (8) to registered cardholders.
- 10 (9) A licensee or employee is prohibited from conducting a transaction that would result in a
- 11 ~~consumer~~ marijuana cardholder or registered cardholder exceeding the personal possession amounts set forth
- 12 in 16-12-106 and 16-12-515."

13

14 **Section 19.** Section 16-12-503, MCA, is amended to read:

15 **"16-12-503. Medical marijuana registry -- department responsibilities -- issuance of cards --**

16 **confidentiality.** (1) The department shall establish and maintain a registry of persons who receive registry

17 identification cards under this part.

18 (2) The department shall issue registry identification cards to Montana residents who have

19 debilitating medical conditions and who submit applications meeting the requirements of this part.

20 (3) (a) Registry identification cards issued pursuant to this part must:

21 (i) be laminated and produced on a material capable of lasting for the duration of the time period

22 for which the card is valid;

23 (ii) state the name, address, and date of birth of the registered cardholder;

24 (iii) indicate whether the registered cardholder is obtaining marijuana and marijuana products

25 through the system of licensed cultivators, manufacturers, or dispensaries;

26 (iv) state the date of issuance and the expiration date of the registry identification card;

27 (v) contain a unique identification number; and

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

1 (b) Except as provided in subsection (3)(c), in addition to complying with subsection (3)(a), registry
2 identification cards issued pursuant to this part must:

3 (i) include a picture of the registered cardholder; and

4 (ii) be capable of being used to track registered cardholder purchases.

5 (c) (i) The department shall issue a temporary registry identification card on receipt of an
6 application. The cards are valid for 60 days and are exempt from the requirements of subsection (3)(b). Printing
7 of the temporary registry identification cards is exempt from the provisions of Title 18, chapter 7.

8 (ii) A card may be issued before an applicant's payment of the fee has cleared. The department
9 shall cancel the temporary registry identification card after 60 days and may not issue a permanent registry
10 identification card until the fee is paid.

11 (4) (a) The department shall review the information contained in an application or renewal
12 submitted pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving
13 the application or renewal and all related application materials.

14 (b) If the department fails to act on a completed application within 30 days of receipt, the
15 department shall refund the fee paid by an applicant for a registry identification card.

16 (c) Applications that are not processed within 30 days of receipt remain active until the department
17 takes final action.

18 (d) The department shall issue a registry identification card within 5 days of approving an
19 application or renewal.

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

22 (6) Registry identification cards expire 1 year after the date of issuance unless a physician has
23 provided a written certification stating that a card is valid for a shorter period of time.

24 (7) (a) A registered cardholder shall notify the department of any change in the registered
25 cardholder's name, address, or physician or a change in the status of the registered cardholder's debilitating
26 medical condition within 10 days of the change.

27 (b) If a change occurs and is not reported to the department, the registry identification card is void.

28 (8) The department shall maintain a confidential list of individuals to whom the department has

1 issued registry identification cards. Individual names and other identifying information on the list must be
2 confidential and is not subject to disclosure, except to:

3 (a) authorized employees of the department as necessary to perform the official duties of the
4 department;

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

7 (c) a judge, magistrate, or other authorized judicial officer in response to an order requiring
8 disclosure; and

9 (d) another person or entity when the information pertains to a registered cardholder who has
10 given written consent to the release and has specified:

11 (i) the type of information to be released; and

12 (ii) the person or entity to whom it may be released."
13

14 **Section 20.** Section 16-12-513, MCA, is amended to read:

15 **"16-12-513. Registry identification card to be exhibited on demand -- photo identification**
16 **required.** (1) A registered cardholder shall keep the individual's registry identification card in the individual's
17 immediate possession at all times. The registry identification card and a valid photo identification must be
18 displayed upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

19 (2) The department shall ensure that law enforcement officers have access to accurate and up-to-
20 date information on persons registered under this part.

21 (3) Beginning on January 1, 2022, a registered cardholder may request, at their next annual
22 renewal, that the department include on his or her registry identification card the name of up to two individuals
23 who are authorized to acquire and deliver marijuana or marijuana products to the registered cardholder from a
24 licensed dispensary. Any individual so identified must be at least 21 years of age, possess the registry
25 identification card at all relevant times, and otherwise comply with the daily possession limits set forth in this
26 chapter and rules adopted by the department."
27

28 **Section 21.** Section 16-12-515, MCA, is amended to read:

1 **"16-12-515. Legal protections -- allowable amounts.** (1) (a) A registered cardholder who has
2 elected to obtain marijuana and marijuana products through the system of licensed cultivators, manufacturers,
3 or dispensaries may:

4 (i) possess up to 1 ounce of usable marijuana; and

5 (ii) purchase a maximum of 5 ounces of usable marijuana a month and no more than 1 ounce of
6 usable marijuana a day.

7 (b) (i) A registered cardholder may petition the department for an exception to the monthly limit on
8 purchases. The request must be accompanied by a confirmation from the physician who signed the registered
9 cardholder's written certification that the registered cardholder's debilitating medical condition warrants
10 purchase of an amount exceeding the monthly limit.

11 (ii) If the department approves an exception to the limit, the approval must establish the monthly
12 amount of usable marijuana that the registered cardholder may purchase and the limit must be entered into the
13 seed-to-sale tracking system.

14 (2) Except as provided in 16-12-108 and subject to the provisions of subsection (7) of this section,
15 an individual who possesses a registry identification card issued pursuant to this part may not be arrested,
16 prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil
17 penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely
18 because:

19 (a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts
20 allowed under this section; or

21 (b) the registered cardholder acquires or uses marijuana.

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

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

28 (a) a registered cardholder's use of marijuana impairs the registered cardholder's job-related

1 performance; or

2 (b) a physician violates the standard of care or other requirements of this part.

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

6 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the
7 vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana in
8 excess of the amounts otherwise provided in this chapter and is not a registered cardholder.

9 (6) Possession of or application for a registry identification card does not alone constitute probable
10 cause to search the person or individual or the property of the person or individual or otherwise subject the
11 person or individual or property of the person or individual possessing or applying for the card to inspection by
12 any governmental agency, including a law enforcement agency.

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

17 (8) (a) A registered cardholder is presumed to be engaged in the use of marijuana as allowed by
18 this part if the person:

19 (i) is in possession of a valid registry identification card; and

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

22 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
23 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition and
24 exceeded the allowable amount of marijuana otherwise provided for in this part."

25

26 **Section 22.** Section 16-12-533, MCA, is amended to read:

27 **"16-12-533. Rulemaking authority -- fees.** The department may adopt rules to implement this part
28 as authorized in this section to specify:

(1) the manner in which the department will consider applications for registry identification cards for individuals with debilitating medical conditions and renewal of registry identification cards;

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

(3) notice and contested case hearing procedures for fines or registry identification card revocation, suspension, or modification;

(4) the procedures for obtaining fingerprints for the fingerprint and background check required under 16-12-508;

(5) the amount of usable marijuana that a registered cardholder who has elected not to use the system of licensees provided for under this chapter may possess; and

(6) the fees for registered cardholders. The annual registered cardholder license fee may not be less than \$20."

Section 23. Section 18-7-101, MCA, is amended to read:

"18-7-101. Power to contract for printing -- exceptions. (1) Except as provided in 1-11-301, 16-12-104, [section 1], and 16-12-503, the department has exclusive power, subject to the approval of the governor, to contract for all printing for any purpose used by the state in any state office (elective or appointive), agency, or institution.

(2) The department shall supervise and attend to all public printing of the state as provided in this chapter and shall prevent duplication and unnecessary printing.

(3) Unless otherwise provided by law, the department, in letting contracts as provided in this chapter, for the printing, binding, and publishing of all laws, journals, and reports of the state agencies and institutions may determine the quantity, quality, style, and grade of all such printing, binding, and publishing.

(4) The provisions of this chapter do not apply to the state compensation insurance fund for purposes of external marketing or educational materials."

Section 24. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal and informal youth court records, law enforcement records, and department

1 records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by
2 this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the
3 court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon
4 termination of the extended jurisdiction.

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

9 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records
10 with the consent of the youth court judge or county attorney after 10 years from the date of sealing. However,
11 records relating to the adjudication of a youth for a sexual offense as defined in 46-23-502 may not be
12 destroyed without the consent of the victim. Consent may not be obtained from the victim until after the victim
13 has attained 18 years of age.

14 (4) The requirements for sealed records in this section do not apply to medical records,
15 fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not
16 fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, or the information
17 referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender
18 pursuant to Title 46, chapter 23, part 5.

19 (5) After formal and informal youth court records, law enforcement records, and department
20 records are sealed, they are not open to inspection except, on order of the youth court, for good cause to:

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

22 (b) adult probation and parole staff preparing a presentence report on an adult with an existing
23 sealed youth court record; and

24 (c) for records relating to the adjudication of a youth for a sexual offense as defined in 46-23-502,
25 the victim of the offense.

26 (6) (a) When formal youth court records, law enforcement records, and department records are
27 sealed under subsection (1), the electronic records of the management information system maintained by the
28 office of court administrator and by the department relating to the youth whose records are being sealed must

1 be preserved for the express purpose of research and program evaluation.

2 (b) The department of public health and human services, the office of court administrator, and the
3 department shall disassociate the offense and disposition information from the name of the youth in the
4 respective management information system. The offense and disposition information must be maintained
5 separately and may be used only:

6 (i) for research and program evaluation authorized by the office of court administrator or by the
7 department and subject to any applicable laws; and

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

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

13 (b) The informal youth court records are confidential and may be shared only with those persons
14 and agencies listed in 41-5-215(2).

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

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

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

23 (8) Nothing in this section prohibits the sharing of formal or informal youth court records within the
24 juvenile probation management information system to a person or agency listed in 41-5-215(2).

25 (9) This section does not prohibit the sharing of formal or informal youth court records within the
26 department's youth management information system. Electronic records of the department's youth
27 management information system may not be shared except as provided in subsection (5). A person or agency
28 receiving the youth court record shall destroy the record after it has fulfilled its purpose.

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

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003 and studies conducted between individuals and agencies listed in 41-5-215(2).

(12) This section does not prohibit the office of court administrator, upon written request from the department of revenue, from confirming whether a person applying for a marijuana identification card under [section 1], a registry identification card pursuant to 16-12-503, or a license pursuant to 16-12-203 is currently under youth court supervision.

(13) The fee for a person to inspect youth court records under subsection (5)(c) is \$5."

Section 25. Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a marijuana identification card, a registry identification card, or a license issued pursuant to [section 1], 16-12-203, or 16-12-503 is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of revenue of the conviction in order for the department to carry out its duties under 16-12-109 or 16-12-523."

Section 26. Section 46-18-202, MCA, is amended to read:

"46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

(a) prohibition of the offender's holding public office;

1 (b) prohibition of the offender's owning or carrying a dangerous weapon;
2 (c) restrictions on the offender's freedom of association;
3 (d) restrictions on the offender's freedom of movement;
4 (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of
5 Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;
6 (f) a requirement that the offender surrender any marijuana identification card issued under
7 [section 1], registry identification card issued under 16-12-503, or license issued under 16-12-203;
8 (g) any other limitation reasonably related to the objectives of rehabilitation and the protection of
9 the victim and society.

10 (2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a
11 term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for
12 parole and participation in the supervised release program while serving that term. If the restriction is to be
13 imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the
14 restriction is necessary for the protection of society, the judge shall impose the restriction as part of the
15 sentence and the judgment must contain a statement of the reasons for the restriction.

16 (3) If a sentencing judge requires an offender to surrender a registry identification card issued
17 under 16-12-503 or license issued under 16-12-203, the court shall return the card or license to the department
18 of revenue and provide the department with information on the offender's sentence. The department shall
19 revoke the card for the duration of the sentence and shall return the card if the offender successfully completes
20 the terms of the sentence before the expiration date listed on the card."

21
22 **Section 27.** Section 61-11-101, MCA, is amended to read:

23 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses --**
24 **surrender of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8,
25 makes mandatory the revocation of the driver's license or commercial driver's license of the person by the
26 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
27 held by the convicted person. The court shall forward the conviction to the department and destroy the driver's
28 licenses.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-1009.

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

(4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (4)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (4), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(5) (a) If a person who holds a valid marijuana identification card, registry identification card, or license issued pursuant to [section 1], 16-12-203, or 16-12-508 is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-1002, the court in which the conviction occurs shall require the person to surrender the marijuana identification card, registry identification card, or license.

(b) Within 5 days after the conviction, the court shall forward the registry identification card and a copy of the conviction to the department of revenue."

