

HOUSE BILL NO. 343

INTRODUCED BY K. MCCARTHY

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A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING INSPECTION AND RECORDKEEPING REQUIREMENTS FOR INDIVIDUALS WHO PROVIDE MARIJUANA AND MARIJUANA-INFUSED PRODUCTS TO INDIVIDUALS WITH DEBILITATING MEDICAL CONDITIONS; AMENDING SECTIONS 50-46-301 AND 50-46-319, MCA; REPEALING SECTION 50-46-329, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 50-46-301, MCA, is amended to read:

**"50-46-301. Short title -- purpose.** (1) This part may be cited as the "Montana Marijuana Act".

(2) The purpose of this part is to:

(a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by this part by persons who obtain registry identification cards;

(c) allow individuals to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or marijuana-infused products; and

~~(d) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; and~~

~~(e)~~(d) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions."

**Section 2.** Section 50-46-319, MCA, is amended to read:

**"50-46-319. Legal protections -- allowable amounts.** (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered

1 cardholder's provider.

2 (2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an  
3 individual who possesses a registry identification card issued pursuant to this part may not be arrested,  
4 prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty  
5 or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

6 (a) the individual cultivates, manufactures, possesses, or transports marijuana in the amounts allowed  
7 under this section; or

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

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

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

15 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

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

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

20 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity  
21 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not  
22 a registered cardholder.

23 (6) ~~Except as provided in 50-46-329, possession~~ Possession of or application for a registry identification  
24 card does not alone constitute probable cause to search the individual or the property of the individual possessing  
25 or applying for the registry identification card or otherwise subject the individual or property of the individual  
26 possessing or applying for the card to inspection by any governmental agency, including a law enforcement  
27 agency.

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

1 arrest or the filing of a criminal charge.

2 (8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be  
3 engaged in the use of marijuana as allowed by this part if the person:

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

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

6 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the  
7 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."  
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9 NEW SECTION. **Section 3. Repealer.** The following section of the Montana Code Annotated is  
10 repealed:

11 50-46-329. Inspection procedures.  
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13 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.  
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