SENATE BILL NO. 423

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE SENATE JUDICIARY STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA ~~THERAPEUTIC~~ MARIJUANA ACT AND REVISING LAWS RELATING TO THE USE OF MARIJUANA; CREATING A ~~SYSTEM OF LICENSING~~ REGISTRY PROGRAM FOR THE CULTIVATION, MANUFACTURE, TRANSPORTATION, AND TRANSFER OF MARIJUANA ~~FOR THERAPEUTIC USE~~ BY CERTAIN INDIVIDUALS; REQUIRING REPORTING; ALLOWING INSPECTIONS; REQUIRING LEGISLATIVE MONITORING; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ~~CREATING A SPECIAL REVENUE ACCOUNT;~~ ESTABLISHING A TRANSITION PROCESS; AMENDING SECTIONS ~~37-1-101, 37-1-136,~~ 37-1-316, 37-3-343, 37-3-347, 41-5-216, ~~45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 50-46-201, 50-46-202,~~ 45-9-203, 46-18-202, 50-46-201, 50-46-202, AND 61-11-101, ~~69-1-114, AND 69-1-401,~~ MCA; REPEALING SECTIONS 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, AND 50-46-210, MCA; AND PROVIDING EFFECTIVE DATES."

~~WHEREAS, THE STATE OF MONTANA UNDERSTANDS THAT MANUFACTURING, DISTRIBUTING, OR DISPENSING A CONTROLLED SUBSTANCE OR POSSESSING A CONTROLLED SUBSTANCE WITH INTENT TO MANUFACTURE, DISTRIBUTE, OR DISPENSE THE SUBSTANCE IS A VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT; AND~~

~~WHEREAS, MARIJUANA IS LISTED AS A SCHEDULE I CONTROLLED SUBSTANCE UNDER THAT ACT; AND~~

~~WHEREAS, BY ALLOWING THE LIMITED USE OF MARIJUANA UNDER THE MONTANA MARIJUANA ACT, THE STATE OF MONTANA DOES NOT CONDONE THE COMMISSION OF A CRIMINAL VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT.~~

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

(Refer to Third Reading -- Blue Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1. Short title -- purpose.** (1) [Sections 1 through ~~17~~ 23] may be cited as the "Montana Marijuana Act".

(2) The purpose of [sections 1 through ~~17~~ 23] 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 [sections 1 through ~~17~~ 23] by persons who obtain registry identification cards; ~~and~~

(C) ALLOW INDIVIDUALS TO ASSIST A LIMITED NUMBER OF REGISTERED CARDHOLDERS WITH THE CULTIVATION AND MANUFACTURE OF MARIJUANA OR MARIJUANA-INFUSED PRODUCTS;

(D) ESTABLISH REPORTING REQUIREMENTS FOR PRODUCTION OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS AND INSPECTION REQUIREMENTS FOR PREMISES; AND

~~(c)~~(E) 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.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through ~~17~~ 23], the following definitions apply:

(1) "CORRECTIONAL FACILITY OR PROGRAM" MEANS A FACILITY OR PROGRAM THAT IS DESCRIBED IN 53-1-202 AND TO WHICH A PERSON MAY BE ORDERED BY ANY COURT OF COMPETENT JURISDICTION.

~~(1)~~(2) "Debilitating medical condition" means: ~~a medical condition determined by a physician to be debilitating for the person diagnosed with the condition~~

(A) CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY VIRUS, OR ACQUIRED IMMUNE DEFICIENCY SYNDROME WHEN THE CONDITION OR DISEASE RESULTS IN SYMPTOMS THAT SERIOUSLY AND ADVERSELY AFFECT THE PATIENT'S HEALTH STATUS;

(B) CACHEXIA OR WASTING SYNDROME;

(C) SEVERE CHRONIC PAIN THAT IS PERSISTENT PAIN OF SEVERE INTENSITY THAT SIGNIFICANTLY INTERFERES WITH DAILY ACTIVITIES AS DOCUMENTED BY THE PATIENT'S TREATING PHYSICIAN AND BY:

(I) OBJECTIVE PROOF OF THE ETIOLOGY OF THE PAIN, INCLUDING DIAGNOSTIC TESTS THAT MAY INCLUDE BUT ARE NOT LIMITED TO THE RESULTS OF AN X-RAY, COMPUTERIZED TOMOGRAPHY SCAN, OR MAGNETIC RESONANCE IMAGING; OR

(II) CONFIRMATION OF THAT DIAGNOSIS FROM A SECOND PHYSICIAN WHO IS INDEPENDENT OF THE TREATING PHYSICIAN AND WHO CONDUCTS A PHYSICAL EXAMINATION;

(D) INTRACTABLE NAUSEA OR VOMITING;

(E) EPILEPSY OR AN INTRACTABLE SEIZURE DISORDER;

(F) MULTIPLE SCLEROSIS;

(G) CROHN'S DISEASE;

(H) PAINFUL PERIPHERAL NEUROPATHY;

(I) A CENTRAL NERVOUS SYSTEM DISORDER RESULTING IN CHRONIC, PAINFUL SPASTICITY OR MUSCLE SPASMS;

(J) ADMITTANCE INTO HOSPICE CARE IN ACCORDANCE WITH RULES ADOPTED BY THE DEPARTMENT; OR

(K) ANY OTHER MEDICAL CONDITION OR TREATMENT FOR A MEDICAL CONDITION APPROVED BY THE LEGISLATURE.

~~(2)~~(3) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(3)~~(4) "Local government" means a county, a consolidated government, or an incorporated city or town.

~~(4)~~(5) "Marijuana" has the meaning provided in 50-32-101.

(6) (A) "MARIJUANA-INFUSED PRODUCT" MEANS A PRODUCT THAT CONTAINS MARIJUANA AND IS INTENDED FOR USE BY A REGISTERED CARDHOLDER BY A MEANS OTHER THAN SMOKING.

(B) THE TERM INCLUDES BUT IS NOT LIMITED TO EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(7) (A) "MARIJUANA-INFUSED PRODUCTS PROVIDER" MEANS A MONTANA RESIDENT WHO MEETS THE REQUIREMENTS OF [SECTIONS 1 THROUGH 23] AND WHO HAS APPLIED FOR AND RECEIVED A REGISTRY IDENTIFICATION CARD TO MANUFACTURE AND PROVIDE MARIJUANA-INFUSED PRODUCTS FOR A REGISTERED CARDHOLDER.

(B) THE TERM DOES NOT INCLUDE THE CARDHOLDER'S TREATING OR REFERRAL PHYSICIAN.

~~(5)~~(8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

~~(6)~~(9) "Paraphernalia" has the meaning provided in 45-10-101.

~~(7) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office located in Montana.~~

~~(8)~~(10) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department to ~~cultivate, manufacture, possess, or transport marijuana for use by~~ ASSIST a registered cardholder AS ALLOWED UNDER [SECTIONS 1 THROUGH 23].

(b) The term does not include the cardholder's TREATING PHYSICIAN OR REFERRAL physician.

(11) "REFERRAL PHYSICIAN" MEANS A PERSON WHO:

(A) IS LICENSED UNDER TITLE 37, CHAPTER 3;

(B) HAS AN ESTABLISHED OFFICE IN MONTANA; AND

(C) IS THE PHYSICIAN TO WHOM A PATIENT'S TREATING PHYSICIAN HAS REFERRED THE PATIENT FOR PHYSICAL

EXAMINATION AND MEDICAL ASSESSMENT.

~~(9)~~(12) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(13) "REGISTERED PREMISES" MEANS THE LOCATION AT WHICH A REGISTERED CARDHOLDER, PROVIDER, OR MARIJUANA-INFUSED PRODUCTS PROVIDER HAS INDICATED THE PERSON WILL CULTIVATE OR MANUFACTURE MARIJUANA FOR A REGISTERED CARDHOLDER.

~~(10)~~(14) "Registry identification card" means a document issued by the department pursuant to [section 3] that identifies a person as a registered cardholder ~~or~~, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

~~(11)~~(15) (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 [sections 1 through ~~17~~ 23] 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.

(16) "SECOND DEGREE OF KINSHIP BY BLOOD OR MARRIAGE" MEANS A MOTHER, FATHER, BROTHER, SISTER, SON, DAUGHTER, SPOUSE, GRANDPARENT, GRANDCHILD, MOTHER-IN-LAW, FATHER-IN-LAW, BROTHER-IN-LAW, SISTER-IN-LAW, SON-IN-LAW, DAUGHTER-IN-LAW, GRANDPARENT-IN-LAW, GRANDCHILD-IN-LAW, STEPFATHER, STEPMOTHER, STEPBROTHER, STEPSISTER, STEPSON, STEPDAUGHTER, STEPGRANDPARENT, OR STEPGRANDCHILD.

~~(12)~~(17) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(13)~~(18) "Standard of care" means ~~the standard established by rule by the board of medical examiners~~, AT A MINIMUM, THE FOLLOWING ACTIVITIES WHEN UNDERTAKEN BY A PATIENT'S TREATING PHYSICIAN OR REFERRAL PHYSICIAN IF THE TREATING PHYSICIAN OR REFERRAL PHYSICIAN IS PROVIDING WRITTEN CERTIFICATION FOR A PATIENT WITH A DEBILITATING MEDICAL CONDITION:

(A) OBTAINING THE PATIENT'S MEDICAL HISTORY;

(B) PERFORMING A RELEVANT PHYSICAL EXAMINATION;

(C) REVIEWING PRIOR TREATMENT AND TREATMENT RESPONSE FOR THE DEBILITATING MEDICAL CONDITION;

(D) OBTAINING AND REVIEWING RELEVANT DIAGNOSTIC TEST RESULTS RELATED TO THE DEBILITATING MEDICAL CONDITION;

(E) DISCUSSING WITH THE PATIENT AND ENSURING THAT THE PATIENT UNDERSTANDS THE ADVANTAGES, DISADVANTAGES, ALTERNATIVES, POTENTIAL ADVERSE EFFECTS, AND EXPECTED RESPONSE TO THE RECOMMENDED

TREATMENT;

(F) MONITORING THE RESPONSE TO TREATMENT AND POSSIBLE ADVERSE EFFECTS; AND

(G) CREATING AND MAINTAINING PATIENT RECORDS THAT REMAIN WITH THE PHYSICIAN.

(19) "TREATING PHYSICIAN" MEANS A PERSON WHO:

(A) IS LICENSED UNDER TITLE 37, CHAPTER 3;

(B) HAS AN ESTABLISHED OFFICE IN MONTANA; AND

(C) HAS A BONA FIDE PROFESSIONAL RELATIONSHIP WITH THE PERSON APPLYING TO BE A REGISTERED CARDHOLDER.

~~(14)~~(20) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a debilitating medical condition.

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

~~(15)~~(21) "Written certification" means a statement signed by a treating physician OR REFERRAL PHYSICIAN that meets the requirements of [section ~~6~~ 7] and is provided in a manner that meets the standard of care.

NEW SECTION. **Section 3. Department responsibilities -- issuance of cards -- confidentiality -- reports.** (1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

(i) have debilitating medical conditions and who submit applications meeting the requirements of [sections 1 through ~~17~~ 23]; and

(ii) are named as providers OR MARIJUANA-INFUSED PRODUCTS PROVIDERS by persons who obtain registry identification cards for their debilitating medical conditions.

(b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by [sections 1 through ~~17~~ 23].

(2) The department shall conduct criminal history background checks as required by [sections 4 and 5] before issuing a registry identification card for a person named as a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

(3) Registry identification cards issued pursuant to [sections 1 through ~~17~~ 23] must:

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

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER, if any;

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

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition ~~or for~~, a provider, OR A MARIJUANA-INFUSED PRODUCTS PROVIDER; and

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

(4) (a) The department shall verify the information contained in an application or renewal submitted pursuant to [sections 1 through ~~17~~ 23] and shall approve or deny an application or renewal within ~~15~~ 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within ~~15~~ 5 days of approving an application or renewal.

(5) REJECTION OF AN APPLICATION OR RENEWAL IS CONSIDERED A FINAL DEPARTMENT ACTION, SUBJECT TO JUDICIAL REVIEW.

~~(5)~~(6) (A) Registry identification cards expire 1 year after the date of issuance unless:

(I) A PHYSICIAN HAS PROVIDED A WRITTEN CERTIFICATION STATING THAT A CARD IS VALID FOR A SHORTER PERIOD OF TIME; OR

(II) a registered cardholder changes providers OR MARIJUANA-INFUSED PRODUCTS PROVIDERS.

(B) A provider's OR MARIJUANA-INFUSED PRODUCTS PROVIDER'S registry identification card expires at the time the department issues a card to a new provider OR NEW MARIJUANA-INFUSED PRODUCTS PROVIDERS named by a registered cardholder.

~~(6)~~(7) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, ~~or~~ provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

~~(7)~~(8) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection ~~(8)~~ (9), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

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

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

~~(8)~~(9) The department shall provide the names of registered cardholders ~~and~~, providers, AND MARIJUANA-INFUSED PRODUCTS PROVIDERS to the local law enforcement agency having jurisdiction in the area in which the cardholders ~~or~~, providers, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS ~~live~~ ARE LOCATED. The law enforcement agency and its employees are subject to the confidentiality requirements of [section ~~14~~ 17].

~~(9)~~(10) (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for 15 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

~~(10)~~(11) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers AND MARIJUANA-INFUSED PRODUCTS PROVIDERS approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders ~~or~~, physicians, PROVIDERS, OR MARIJUANA-INFUSED PRODUCTS PROVIDERS.

(12) THE BOARD OF MEDICAL EXAMINERS SHALL REPORT ANNUALLY TO THE LEGISLATURE ON:

(A) THE NUMBER AND TYPES OF COMPLAINTS THE BOARD HAS RECEIVED INVOLVING PHYSICIAN PRACTICES IN PROVIDING WRITTEN CERTIFICATION FOR THE USE OF MARIJUANA, PURSUANT TO 37-3-203; AND

(B) THE NUMBER OF PHYSICIANS WHOSE NAMES WERE PROVIDED TO THE BOARD BY THE DEPARTMENT AS REQUIRED UNDER SUBSECTION (10). THE REPORT MUST INCLUDE INFORMATION ON WHETHER A PHYSICIAN WHOSE PRACTICES WERE REVIEWED BY THE BOARD PURSUANT TO SUBSECTION (10) MET THE STANDARD OF CARE WHEN PROVIDING WRITTEN CERTIFICATIONS.

NEW SECTION. **Section 4. Persons with debilitating medical conditions -- requirements -- minors -- limitations.** (1) Except as provided in subsections (2) and (3), the department shall issue a registry identification card to a person with a debilitating medical condition 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;

(c) the person's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider OR A MARIJUANA-INFUSED PRODUCTS PROVIDER;

(F) A STATEMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE PERSON WILL NOT DIVERT TO ANY OTHER PERSON THE MARIJUANA THAT THE PERSON CULTIVATES, MANUFACTURES, OR OBTAINS FOR THE PERSON'S DEBILITATING MEDICAL CONDITION;

~~(f)~~(G) the name of the person's treating physician OR REFERRAL PHYSICIAN and the street address and telephone number of the physician's office;

~~(g)~~(H) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;

~~(h)~~(I) the name, date of birth, and street address of the individual the person has selected as a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER, if any; and

~~(i)~~(J) ~~a statement~~ THE WRITTEN CERTIFICATION AND ACCOMPANYING STATEMENTS from the person's treating physician OR REFERRAL PHYSICIAN as required pursuant to [section ~~6~~ 7].

(2) The department shall issue a registry identification card to a minor if the materials required under subsection ~~(2)~~ (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) PROVIDES PROOF OF LEGAL GUARDIANSHIP AND RESPONSIBILITY FOR HEALTH CARE DECISIONS IF THE PERSON IS SUBMITTING AN APPLICATION AS THE MINOR'S LEGAL GUARDIAN WITH RESPONSIBILITY FOR HEALTH CARE DECISIONS; AND

(B) signs and submits a written statement that:

~~(a)~~(I) the minor's TREATING physician OR REFERRAL PHYSICIAN has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

~~(b)~~(II) the minor's custodial parent or legal guardian with responsibility for health care decisions:

~~(i)~~(A) consents to the use of marijuana by the minor;

~~(ii)~~(B) agrees to serve as the minor's MARIJUANA-INFUSED PRODUCTS provider;

~~(iii)~~(C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; ~~and~~

(D) AGREES THAT THE MINOR WILL USE ONLY MARIJUANA-INFUSED PRODUCTS AND WILL NOT SMOKE MARIJUANA;

~~(iv)~~(C) ~~undergoes a name-based~~ SUBMITS FINGERPRINTS TO FACILITATE A FINGERPRINT AND background check BY THE DEPARTMENT OF JUSTICE AND FEDERAL BUREAU OF INVESTIGATION. The parent or legal guardian shall pay the costs of the background check AND MAY NOT OBTAIN A REGISTRY IDENTIFICATION CARD AS A MARIJUANA-INFUSED PRODUCTS PROVIDER IF THE PARENT OR LEGAL GUARDIAN DOES NOT MEET THE REQUIREMENTS OF [SECTION 5].

(D) PLEDGES, ON A FORM PRESCRIBED BY THE DEPARTMENT, NOT TO DIVERT TO ANY PERSON ANY MARIJUANA CULTIVATED OR MANUFACTURED FOR THE MINOR'S USE IN A MARIJUANA-INFUSED PRODUCT.

(3) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections ~~or,~~ OR a youth court~~, A DISTRICT COURT, OR A COURT OF LIMITED JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM~~.

(4) A registered cardholder who elects to obtain marijuana from a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may not cultivate or manufacture marijuana for the cardholder's use UNLESS THE REGISTERED CARDHOLDER IS THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

(5) A registered cardholder may cultivate or manufacture marijuana as allowed under [section ~~9~~ 10] only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(6) No portion of the property used for cultivation and manufacture of marijuana for use by the registered cardholder may be shared with or rented or leased to a provider ~~or to~~, A MARIJUANA-INFUSED PRODUCTS PROVIDER, OR a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage.

NEW SECTION. **Section 5. ~~Providers~~ PROVIDER TYPES -- requirements -- limitations -- ACTIVITIES.** (1) The department shall issue a registry identification card to OR RENEW A CARD FOR the person who is named as a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER in a registered cardholder's approved application if the person submits to the department:

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

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

(c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(d) a written agreement signed by the registered cardholder THAT INDICATES WHETHER THE PERSON WILL ACT AS THE CARDHOLDER'S PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

(E) A STATEMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE PERSON WILL NOT DIVERT TO ANY OTHER PERSON THE MARIJUANA THAT THE PERSON CULTIVATES OR MANUFACTURES FOR A REGISTERED CARDHOLDER;

~~(e)~~(F) a statement ~~indicating whether~~ ACKNOWLEDGING THAT the person will cultivate and manufacture marijuana for the registered cardholder at ~~a property owned, rented, or leased by the cardholder or by the person; and~~ ONLY ONE LOCATION AS PROVIDED IN SUBSECTION (7). THE LOCATION MUST BE IDENTIFIED BY STREET ADDRESS.

~~(f)~~(G) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person ~~as a provider~~ UNDER THIS SECTION if the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court~~, A DISTRICT COURT, OR A COURT OF LIMITED JURISDICTION OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM~~;

(C) HAS BEEN CONVICTED OF A VIOLATION UNDER [SECTION 16];

~~(c)~~(D) has failed to:

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

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

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; OR

(E) IS A REGISTERED CARDHOLDER WHO HAS DESIGNATED A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IN THE PERSON'S APPLICATION FOR A CARD ISSUED UNDER [SECTION 4].

(3) (A) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may assist ~~only one registered cardholder unless the provider is simultaneously caring for up to three cardholders and two of the cardholders are related to the provider by the second degree of kinship by blood or marriage~~ A MAXIMUM OF THREE REGISTERED

CARDHOLDERS.

(B) IF THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IS A REGISTERED CARDHOLDER, THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER MAY ASSIST A MAXIMUM OF TWO REGISTERED CARDHOLDERS OTHER THAN THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER.

(4) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER MAY ACCEPT REIMBURSEMENT FROM A CARDHOLDER ONLY FOR THE PROVIDER'S APPLICATION OR RENEWAL FEE FOR A REGISTRY IDENTIFICATION CARD ISSUED UNDER THIS SECTION.

~~(4)~~(5) Marijuana for use pursuant to [sections 1 through ~~17~~ 23] must be cultivated and manufactured in Montana.

~~(5)~~(6) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER may not:

(a) accept ~~compensation~~ ANYTHING OF VALUE, INCLUDING MONETARY REMUNERATION, for any services or products provided to a registered cardholder;

(B) BUY OR SELL MATURE MARIJUANA PLANTS, SEEDLINGS, CUTTINGS, CLONES, USABLE MARIJUANA, OR MARIJUANA-INFUSED PRODUCTS; OR

~~(b)~~(C) use marijuana UNLESS THE PERSON IS ALSO A REGISTERED CARDHOLDER; or

~~(c)~~(D) be ~~a~~ registered ~~cardholder~~ AS BOTH A PROVIDER AND A MARIJUANA-INFUSED PRODUCTS PROVIDER.

~~(6)~~(7) (a) A ~~provider~~ PERSON REGISTERED UNDER THIS SECTION may cultivate and manufacture marijuana for use by a registered cardholder only at ONE OF THE FOLLOWING LOCATIONS:

(i) a property that is owned by the provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

(ii) with written permission of the landlord, a property that is rented or leased by the provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER or another registered cardholder.

NEW SECTION. **SECTION 6. MARIJUANA-INFUSED PRODUCTS PROVIDER -- REQUIREMENTS -- ALLOWABLE ACTIVITIES.** (1) AN INDIVIDUAL REGISTERED AS A MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL:

(A) PREPARE MARIJUANA-INFUSED PRODUCTS AT A PREMISES REGISTERED WITH THE DEPARTMENT THAT IS USED FOR THE MANUFACTURE AND PREPARATION OF MARIJUANA-INFUSED PRODUCTS; AND

(B) USE EQUIPMENT THAT IS USED EXCLUSIVELY FOR THE MANUFACTURE AND PREPARATION OF MARIJUANA-INFUSED PRODUCTS.

(2) A MARIJUANA-INFUSED PRODUCTS PROVIDER:

(A) MAY CULTIVATE MARIJUANA ONLY FOR THE PURPOSE OF MAKING MARIJUANA-INFUSED PRODUCTS; AND

(B) MAY NOT PROVIDE A CARDHOLDER WITH MARIJUANA IN A FORM THAT MAY BE USED FOR SMOKING.

(3) ALL REGISTERED PREMISES ON WHICH MARIJUANA-INFUSED PRODUCTS ARE MANUFACTURED MUST MEET ANY APPLICABLE STANDARDS SET BY A LOCAL BOARD OF HEALTH FOR A FOOD SERVICE ESTABLISHMENT AS DEFINED IN 50-50-102.

(4) MARIJUANA-INFUSED PRODUCTS MAY NOT BE CONSIDERED A FOOD OR DRUG FOR THE PURPOSES OF TITLE 50, CHAPTER 31.

NEW SECTION. **Section 7.** ~~**Physician statement**~~ **WRITTEN CERTIFICATION -- ACCOMPANYING STATEMENTS.** (1) The written certification provided by a physician must BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT AND SIGNED AND DATED BY THE PHYSICIAN. THE WRITTEN CERTIFICATION MUST:

(A) INCLUDE THE PHYSICIAN'S NAME, LICENSE NUMBER, AND OFFICE ADDRESS AND TELEPHONE NUMBER ON FILE WITH THE BOARD OF MEDICAL EXAMINERS AND THE PHYSICIAN'S BUSINESS E-MAIL ADDRESS, IF ANY; AND

(B) THE NAME, DATE OF BIRTH, AND DEBILITATING MEDICAL CONDITION OF THE PERSON FOR WHOM THE PHYSICIAN IS PROVIDING WRITTEN CERTIFICATION.

(2) A TREATING PHYSICIAN OR REFERRAL PHYSICIAN WHO IS PROVIDING WRITTEN CERTIFICATION FOR A PATIENT SHALL PROVIDE A STATEMENT INITIALED BY THE PHYSICIAN THAT MUST:

(a) confirm that the physician is:

(I) the person's treating physician and that the person has been under the physician's ONGOING medical care ~~and supervision~~ AS PART OF A BONA FIDE PROFESSIONAL RELATIONSHIP WITH THE PERSON; OR

(II) THE PERSON'S REFERRAL PHYSICIAN;

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(D) CONFIRM THAT THE PHYSICIAN HAS ASSUMED PRIMARY RESPONSIBILITY FOR PROVIDING MANAGEMENT AND ROUTINE CARE OF THE PERSON'S DEBILITATING MEDICAL CONDITION AFTER OBTAINING A COMPREHENSIVE MEDICAL HISTORY AND CONDUCTING A PHYSICAL EXAMINATION THAT INCLUDED A PERSONAL REVIEW OF ANY MEDICAL RECORDS

MAINTAINED BY OTHER PHYSICIANS AND THAT MAY HAVE INCLUDED THE PERSON'S REACTION AND RESPONSE TO CONVENTIONAL MEDICAL THERAPIES;

~~(d)~~(E) describe the medications, procedures, and other medical options used to treat the condition;

~~(e)~~(F) state that the medications, procedures, or other medical options have not been effective;

(G) CONFIRM THAT THE PHYSICIAN HAS REVIEWED ALL PRESCRIPTION AND NONPRESCRIPTION MEDICATIONS AND SUPPLEMENTS USED BY THE PERSON AND HAS CONSIDERED THE POTENTIAL DRUG INTERACTION WITH MARIJUANA;

~~(f)~~(H) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(I) CONFIRM THAT THE PHYSICIAN HAS EXPLAINED THE POTENTIAL RISKS AND BENEFITS OF THE USE OF MARIJUANA TO THE PERSON;

~~(g)~~(J) list restrictions on the person's activities due to the use of marijuana;

~~(h)~~(K) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year; ~~and~~

~~(i)~~(L) state that the physician will:

(i) continue to serve as the person's treating physician OR REFERRAL PHYSICIAN; and

(ii) ~~supervise~~ MONITOR the person's RESPONSE TO THE use of marijuana and evaluate the efficacy of the treatment; AND

(M) CONTAIN AN ATTESTATION THAT THE INFORMATION PROVIDED IN THE WRITTEN CERTIFICATION AND ACCOMPANYING STATEMENTS IS TRUE AND CORRECT.

(2) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification.

NEW SECTION. **Section 8. Registry card to be carried and exhibited on demand -- photo identification required.** A registered cardholder ~~or~~, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER shall keep the ~~cardholder's or provider's~~ PERSON'S registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

NEW SECTION. **Section 9. Health care facility procedures for patients with marijuana for use.** (1)

Except for hospices that allow the use of marijuana as provided in [section ~~10~~ 11], a health care facility as defined in 50-5-101 shall take the following measures in the order listed when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(a) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so;

(b) make a reasonable effort to contact the patient's provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER, if any; or

(c) contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

NEW SECTION. **Section 10. 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 ~~the amounts allowed under subsection (1)(a)~~ 4 MATURE PLANTS, 12 SEEDLINGS, AND 1 OUNCE OF USABLE MARIJUANA for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section ~~10~~ 11] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through ~~17~~ 23] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the ~~registered cardholder or provider~~ INDIVIDUAL cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

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

condition.

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

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

(b) a physician violates the standard of care or other requirements of [sections 1 through ~~17~~ 23].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through ~~17~~ 23].

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

(6) ~~Possession~~ EXCEPT AS PROVIDED IN [SECTION 14], POSSESSION of or application for a registry identification card does not alone constitute probable cause to search the individual or the property of the individual possessing or applying for the registry identification card or otherwise subject the individual or property of the individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

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

(8) (A) A REGISTERED CARDHOLDER, A PROVIDER, OR A MARIJUANA-INFUSED PRODUCTS PROVIDER IS PRESUMED TO BE ENGAGED IN THE USE OF MARIJUANA AS ALLOWED BY [SECTIONS 1 THROUGH 23] IF THE PERSON:

(I) IS IN POSSESSION OF A VALID REGISTRY IDENTIFICATION CARD; AND

(II) IS IN POSSESSION OF AN AMOUNT OF MARIJUANA THAT DOES NOT EXCEED THE AMOUNT PERMITTED UNDER [SECTIONS 1 THROUGH 23].

(B) THE PRESUMPTION MAY BE REBUTTED BY EVIDENCE THAT THE POSSESSION OF MARIJUANA WAS NOT FOR THE PURPOSE OF ALLEVIATING THE SYMPTOMS OR EFFECTS OF A REGISTERED CARDHOLDER'S DEBILITATING MEDICAL CONDITION.

NEW SECTION. **Section 11. Limitations of the act.** (1) [Sections 1 through ~~17~~ 23] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) ~~in~~ WHEN ORDERED BY ANY COURT OF COMPETENT JURISDICTION INTO a correctional facility~~, INCLUDING ALL FACILITIES DESCRIBED IN 53-1-203~~ OR PROGRAM;

(VII) IF A COURT HAS IMPOSED RESTRICTIONS ON THE CARDHOLDER'S USE PURSUANT TO 46-18-202;

~~(vii)~~(VIII) at a public park, public beach, public recreation center, or youth center;

~~(viii)~~(IX) in or on the property of any church, synagogue, or other place of worship;

~~(ix)~~(X) in plain view of or in a place open to the general public; ~~or~~ OR

~~(x)~~(XI) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children~~; OR~~

~~(XI) WHO IS UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS OR A YOUTH COURT OR IS ORDERED BY A COURT TO PARTICIPATE IN ANY STATE, COUNTY, OR LOCAL GOVERNMENT CRIMINAL SUPERVISION OR ENFORCEMENT PROGRAM~~.

(2) A registered cardholder ~~or a~~, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice OR RESIDENTIAL CARE FACILITY licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through ~~17~~ 23] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a ~~person with a debilitating medical condition~~ REGISTERED CARDHOLDER;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder ~~or a~~, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in [sections 1 through ~~17~~ 23] may be construed to:

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

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

(6) Nothing in [sections 1 through ~~17~~ 23] may be construed to allow a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER to use marijuana or to prevent criminal prosecution of a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a ~~registered cardholder or provider~~ PERSON WITH A VALID REGISTRY IDENTIFICATION CARD is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of ~~3.5~~ 5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder ~~or~~, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual 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 individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal.

NEW SECTION. **SECTION 12. PROHIBITIONS ON PHYSICIAN AFFILIATION WITH PROVIDERS AND**

MARIJUANA-INFUSED PRODUCTS PROVIDERS -- SANCTIONS. (1) (A) A PHYSICIAN WHO PROVIDES WRITTEN CERTIFICATIONS MAY NOT:

(I) ACCEPT OR SOLICIT ANYTHING OF VALUE, INCLUDING MONETARY REMUNERATION, FROM A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER;

(II) OFFER A DISCOUNT OR ANY OTHER THING OF VALUE TO A PERSON WHO USES OR AGREES TO USE A PARTICULAR PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER; OR

(III) EXAMINE A PATIENT FOR THE PURPOSES OF DIAGNOSING A DEBILITATING MEDICAL CONDITION AT A LOCATION WHERE MEDICAL MARIJUANA IS CULTIVATED OR MANUFACTURED OR WHERE MARIJUANA-INFUSED PRODUCTS ARE MADE.

(B) SUBSECTION (1)(A) DOES NOT PREVENT A PHYSICIAN FROM ACCEPTING A FEE FOR PROVIDING MEDICAL CARE TO A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER IF THE PHYSICIAN CHARGES THE PERSON THE SAME FEE THAT THE PHYSICIAN CHARGES OTHER PATIENTS FOR PROVIDING A SIMILAR LEVEL OF MEDICAL CARE.

(2) IF THE DEPARTMENT HAS CAUSE TO BELIEVE THAT A PHYSICIAN HAS VIOLATED THIS SECTION, HAS VIOLATED A PROVISION OF RULES ADOPTED PURSUANT TO THIS CHAPTER, OR HAS NOT MET THE STANDARD OF CARE REQUIRED UNDER THIS CHAPTER, THE DEPARTMENT MAY REFER THE MATTER TO THE BOARD OF MEDICAL EXAMINERS PROVIDED FOR IN 2-15-1731 FOR REVIEW PURSUANT TO 37-1-308.

(3) A VIOLATION OF THIS SECTION CONSTITUTES UNPROFESSIONAL CONDUCT UNDER 37-1-316. IF THE BOARD OF MEDICAL EXAMINERS FINDS THAT A PHYSICIAN HAS VIOLATED THIS SECTION, THE BOARD SHALL RESTRICT THE PHYSICIAN'S AUTHORITY TO PROVIDE WRITTEN CERTIFICATION FOR THE USE OF MARIJUANA. THE BOARD OF MEDICAL EXAMINERS SHALL NOTIFY THE DEPARTMENT OF THE SANCTION.

(4) IF THE BOARD OF MEDICAL EXAMINERS BELIEVES A PHYSICIAN'S PRACTICES MAY HARM THE PUBLIC HEALTH, SAFETY, OR WELFARE, THE BOARD MAY SUMMARILY RESTRICT A PHYSICIAN'S AUTHORITY TO PROVIDE WRITTEN CERTIFICATION FOR THE MEDICAL USE OF MARIJUANA.

NEW SECTION. **Section 13. Local government authority to regulate.** (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider OR MARIJUANA-INFUSED PRODUCTS PROVIDER that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE OR RESOLUTION PROHIBITING PROVIDERS AND

MARIJUANA-INFUSED PRODUCTS PROVIDERS FROM OPERATING AS STOREFRONT BUSINESSES.

NEW SECTION. **SECTION 14. INSPECTION PROCEDURES.** (1) THE DEPARTMENT AND STATE OR LOCAL LAW ENFORCEMENT AGENCIES MAY CONDUCT FREQUENT, UNANNOUNCED INSPECTIONS OF REGISTERED PREMISES.

(2) (A) EACH PROVIDER AND MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL KEEP A COMPLETE SET OF RECORDS NECESSARY TO SHOW ALL TRANSACTIONS WITH REGISTERED CARDHOLDERS. THE RECORDS MUST BE OPEN FOR INSPECTION BY THE DEPARTMENT AND STATE OR LOCAL LAW ENFORCEMENT AGENCIES AT ANY TIME.

(B) THE DEPARTMENT MAY REQUIRE A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER TO FURNISH INFORMATION THAT THE DEPARTMENT CONSIDERS NECESSARY FOR THE PROPER ADMINISTRATION OF [SECTIONS 1 THROUGH 23].

(3) (A) A REGISTERED PREMISES, INCLUDING ANY PLACES OF STORAGE, WHERE MARIJUANA IS CULTIVATED, MANUFACTURED, OR STORED IS SUBJECT TO ENTRY BY THE DEPARTMENT OR STATE OR LOCAL LAW ENFORCEMENT AGENCIES FOR THE PURPOSE OF INSPECTION OR INVESTIGATION.

(B) IF ANY PART OF THE REGISTERED PREMISES CONSISTS OF A LOCKED AREA, THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL MAKE THE AREA AVAILABLE FOR INSPECTION WITHOUT DELAY UPON REQUEST OF THE DEPARTMENT OR STATE OR LOCAL LAW ENFORCEMENT OFFICIALS.

(4) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER SHALL MAINTAIN RECORDS SHOWING THE NAMES AND REGISTRY IDENTIFICATION NUMBERS OF REGISTERED CARDHOLDERS TO WHOM MATURE PLANTS, SEEDLINGS, USABLE MARIJUANA, OR MARIJUANA-INFUSED PRODUCTS WERE TRANSFERRED AND THE QUANTITIES TRANSFERRED TO EACH CARDHOLDER.

NEW SECTION. **Section 15. Unlawful conduct by cardholders -- penalties.** (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense; or

(b) allows another person to be in possession of the ~~cardholder's~~ PERSON'S:

(i) registry identification card; or

(ii) MATURE marijuana plants ~~or~~, SEEDLINGS, usable marijuana, OR MARIJUANA-INFUSED PRODUCTS.

(2) A registered cardholder ~~or a~~, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER who violates [sections 1 through ~~17~~ 23] is punishable by a fine not to exceed $500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through ~~17~~ 23] or unless the violation

would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

NEW SECTION. **Section 16. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder ~~or a~~, provider, OR MARIJUANA-INFUSED PRODUCTS PROVIDER is guilty of a ~~felony~~ MISDEMEANOR punishable by imprisonment in ~~the state prison~~ A COUNTY JAIL for A TERM not ~~less than~~ TO EXCEED 1 year ~~or not more than 5 years~~ or a fine not to exceed ~~$50,000~~ $1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under [section ~~6~~ 7] is guilty of a ~~felony~~ MISDEMEANOR punishable by imprisonment in ~~the state prison~~ A COUNTY JAIL for ~~not less than~~ A TERM NOT TO EXCEED 1 year ~~or not more than 5 years~~ or a fine not to exceed ~~$50,000~~ $1,000, or both.

(3) A PERSON CONVICTED UNDER THIS SECTION MAY NOT BE REGISTERED AS A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER UNDER [SECTION 5].

NEW SECTION. **Section 17. Confidentiality of registry information -- penalty.** (1) ~~A~~ EXCEPT AS PROVIDED IN 37-3-203, A person, including an employee or official of the department of public health and human services, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of [sections 1 through ~~17~~ 23].

(2) A person convicted of a violation of this section shall be fined not to exceed $1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both.

NEW SECTION. **Section 18. Law enforcement authority.** Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a ~~debilitating medical condition or the person's provider~~ REGISTRY IDENTIFICATION CARD.

NEW SECTION. **Section 19. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [sections 1 through ~~17~~ 23] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of [sections 1 through ~~17~~ 23].

(2) A law enforcement agency in possession of MATURE marijuana plants OR SEEDLINGS seized as evidence is not responsible for the care and maintenance of the plants OR SEEDLINGS.

NEW SECTION. **SECTION 20. ADVERTISING PROHIBITED.** PERSONS WITH VALID REGISTRY IDENTIFICATION CARDS MAY NOT ADVERTISE MARIJUANA OR MARIJUANA-RELATED PRODUCTS IN ANY MEDIUM, INCLUDING ELECTRONIC MEDIA.

NEW SECTION. **SECTION 21. HOTLINE.** (1) THE DEPARTMENT SHALL CREATE AND MAINTAIN A HOTLINE TO RECEIVE REPORTS OF SUSPECTED ABUSE OF THE PROVISIONS OF [SECTIONS 1 THROUGH 23].

(2) THE DEPARTMENT MAY:

(A) INVESTIGATE REPORTS OF SUSPECTED ABUSE OF THE PROVISIONS OF [SECTIONS 1 THROUGH 23]; OR

(B) REFER REPORTS OF SUSPECTED ABUSE TO THE LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN THE AREA WHERE THE SUSPECTED ABUSE IS OCCURRING.

NEW SECTION. **SECTION 22. LEGISLATIVE MONITORING.**(1) THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE SHALL PROVIDE OVERSIGHT OF THE DEPARTMENT'S ACTIVITIES RELATED TO REGISTERING INDIVIDUALS PURSUANT TO [SECTIONS 1 THROUGH 23] AND OF ISSUES RELATED TO THE CULTIVATION, MANUFACTURE, AND USE OF MARIJUANA PURSUANT TO [SECTIONS 1 THROUGH 23].

(2) THE COMMITTEE SHALL IDENTIFY ISSUES LIKELY TO REQUIRE FUTURE LEGISLATIVE ATTENTION AND DEVELOP LEGISLATION TO PRESENT TO THE NEXT REGULAR SESSION OF THE LEGISLATURE.

NEW SECTION. **Section 23. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through ~~17~~ 23]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for providers AND MARIJUANA-INFUSED PRODUCTS PROVIDERS and for persons with debilitating medical conditions and renewal of registry identification cards ~~for providers and registered cardholders~~;

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

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under ~~[section 5]~~ [SECTIONS 4 AND 5]; ~~and~~

(d) other rules necessary to implement the purposes of [sections 1 through ~~17~~ 23].

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through ~~17~~ 23].

Section 24. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice

the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards;

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification ~~that is~~ AND ACCOMPANYING STATEMENTS used to apply for a registry identification card pursuant to [sections 1 through ~~17~~ 23]."

Section 25. Section 37-3-343, MCA, is amended to read:

"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --

violations and penalty. (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the information required for the written certification ~~that is~~ AND ACCOMPANYING STATEMENTS used to apply for a registry identification card pursuant to [sections 1 through ~~17~~ 23].

~~(4)~~(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."

Section 26. Section 37-3-347, MCA, is amended to read:

"37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means to obtain the information required for the written certification ~~that is~~ AND ACCOMPANYING STATEMENTS used to apply for a registry identification card pursuant to [sections 1 through ~~17~~ 23];

~~(b)~~(c) fails to pay a required fee;

~~(c)~~(d) does not possess the qualifications or character required by this chapter; or

~~(d)~~(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana."

Section 27. 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 youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

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

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

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

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the

offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

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

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

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

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

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

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

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy

the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(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.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services, from confirming whether a person applying for a registry identification card pursuant to [section 4 or 5] is currently under youth court supervision."

Section 28. 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 registry identification card issued pursuant to [section 4 or 5] 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 public health and human services of the conviction in order for the department to carry out its duties under [section ~~12~~ 15]."

SECTION 29. 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;

(b) prohibition of the offender's owning or carrying a dangerous weapon;

(c) restrictions on the offender's freedom of association;

(d) restrictions on the offender's freedom of movement;

(e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title

44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

(f) a requirement that the offender surrender any registry identification card issued under [section 3];

~~(f)~~(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

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

(3) If a sentencing judge requires an offender to surrender a registry identification card issued under [section 3], the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."

SECTION 30. SECTION 50-46-201, MCA, IS AMENDED TO READ:

"50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use. (1) A person who possesses a registry identification card issued ~~pursuant to 50-46-103~~ before [the effective date of this section] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

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

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

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

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

SECTION 31. SECTION 50-46-202, MCA, IS AMENDED TO READ:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty. (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:

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

(b) state or local law enforcement agencies only as necessary to verify that a person is a lawful

possessor of a registry identification card.

~~(1)~~(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ this section.

~~(2)~~(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed $1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 32. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(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 becomes final. 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 61-8-732.

(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 conviction becomes final for the purposes of this part upon the later of:

(a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

(b) forfeiture of bail that is not vacated; or

(c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (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 (5)(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 (5), "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).

(6) (a) If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] 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 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card.

(b) Within 5 days after the conviction becomes final, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."

NEW SECTION. **SECTION 33. EMERGENCY RULEMAKING.** THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SHALL ADOPT EMERGENCY RULES AS PROVIDED IN 2-4-303 TO ALLOW FOR ISSUANCE OF REGISTRY IDENTIFICATION CARDS IN ACCORDANCE WITH THE PROVISIONS OF [SECTIONS 1 THROUGH 23] BEGINNING JUNE 1, 2011.

NEW SECTION. **Section 34. Repealer.** The following sections of the Montana Code Annotated are repealed:

50-46-101. Short title.

50-46-102. Definitions.

50-46-103. Procedures -- minors -- confidentiality -- report to legislature.

50-46-201. Medical use of marijuana -- legal protections -- limits on amount -- presumption of medical use.

50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.

50-46-205. Limitations of Medical Marijuana Act.

50-46-206. Affirmative defense.

50-46-207. Fraudulent representation of medical use of marijuana -- penalty.

50-46-210. Rulemaking -- fees.

NEW SECTION. **Section 35. Transition.** (1) Registry identification cards issued to persons with debilitating medical conditions prior to [the effective date of this ~~act~~ SECTION] are valid until the expiration date listed on the card.

(2) (A) THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MAY ISSUE REGISTRY IDENTIFICATION CARDS TO PERSONS WITH DEBILITATING MEDICAL CONDITIONS AND TO THE PERSONS NAMED AS PROVIDERS OR MARIJUANA-INFUSED PRODUCTS PROVIDERS BEGINNING JUNE 1, 2011, UNDER EMERGENCY RULES ADOPTED PURSUANT TO [SECTION 33].

(B) UNTIL OCTOBER 1, 2011, THE DEPARTMENT MAY ISSUE CARDS TO PERSONS APPLYING AS PROVIDERS OR MARIJUANA-INFUSED PRODUCTS PROVIDERS BEFORE THE DEPARTMENT HAS OBTAINED THE RESULTS OF THE FINGERPRINT AND BACKGROUND CHECK REQUIRED UNDER [SECTIONS 4 AND 5].

(C) A PERSON WHO OBTAINS A REGISTRY IDENTIFICATION CARD AS A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER BEFORE OCTOBER 1, 2011, SHALL SUBMIT FINGERPRINTS AS REQUIRED BY [SECTIONS 4 AND 5] NO LATER THAN OCTOBER 1, 2011.

(3) (A) THE DEPARTMENT SHALL REVOKE THE REGISTRY IDENTIFICATION CARD ISSUED TO A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER UNDER SUBSECTION (2) IF:

(I) THE PERSON FAILS TO SUBMIT FINGERPRINTS BY OCTOBER 1, 2011; OR

(II) THE RESULTS OF A FINGERPRINT AND BACKGROUND CHECK CONDUCTED AFTER ISSUANCE OF THE CARD SHOWS THAT THE PERSON IS INELIGIBLE FOR THE CARD.

(B) THE DEPARTMENT SHALL NOTIFY THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER AND THE REGISTERED CARDHOLDER WHO NAMED THE PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER THAT THE PERSON MAY NO LONGER ASSIST THE REGISTERED CARDHOLDER WITH THE USE OF MARIJUANA TO ALLEVIATE THE SYMPTOMS OF THE CARDHOLDER'S DEBILITATING MEDICAL CONDITION.

~~(2)~~(4) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before ~~July 1, 2011,~~ [THE EFFECTIVE DATE OF THIS SECTION] may not be in possession of MATURE marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011, IF THE PERSON HAS NOT OBTAINED A REGISTRY IDENTIFICATION CARD PURSUANT TO THE PROVISIONS OF [SECTIONS 1 THROUGH 23] AS PROVIDED FOR IN SUBSECTION (2). Before July 1, 2011, ~~the~~ A caregiver WHO HAS NOT OBTAINED A REGISTRY

IDENTIFICATION CARD PURSUANT TO [SECTIONS 1 THROUGH 23] shall take ~~the items~~ ANY MATURE MARIJUANA PLANTS, SEEDLINGS, CUTTINGS, CLONES, USABLE MARIJUANA, OR MARIJUANA-RELATED PRODUCTS STILL IN THE CAREGIVER'S POSSESSION to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the items.

NEW SECTION. **Section 36. Codification instruction.** [Sections 1 through ~~17~~ 23] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through ~~17~~ 23].

COORDINATION SECTION. **Section 37. Coordination instruction.** ~~(1) If both House Bill No. 161 and [this act] are passed and approved, then [this act] is void.~~

~~(2)~~ If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101, 50-46-102, 50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill No. 175 is void.

NEW SECTION. **Section 38. Instructions to code commissioner.** (1) Wherever a reference to "medical use of marijuana" or "medical marijuana" appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to "use of marijuana for a debilitating medical condition".

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section ~~7~~ 11 of Senate Bill No. 423].

NEW SECTION. **Section 39. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 40. Effective ~~date~~ DATES.** ~~[This act]~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT] is effective July 1, 2011.

(2) [SECTIONS 20, 30, 31, 33, THE REPEAL OF 50-46-103 PROVIDED FOR IN SECTION 34, AND SECTIONS 35 AND

38], AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND APPROVAL.

- END -