

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING DRUGS LISTED IN SCHEDULE I OF THE FEDERAL
5 CONTROLLED SUBSTANCES ACT ILLEGAL IN MONTANA; PROVIDING THAT THE PROPOSED ACT BE
6 SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 37-1-136, 37-1-316,
7 37-3-203, 37-3-343, 37-3-347, 39-2-210, 39-2-313, 39-71-407, 41-5-216, 45-9-101, 45-9-102, 45-9-103,
8 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 46-18-202, 50-32-103, 50-32-222, 50-40-103, AND
9 61-11-101, MCA; AND REPEALING SECTIONS 50-46-301, 50-46-302, 50-46-303, 50-46-307, 50-46-308,
10 50-46-309, 50-46-310, 50-46-317, 50-46-318, 50-46-319, 50-46-320, 50-46-327, 50-46-328, 50-46-329,
11 50-46-330, 50-46-331, 50-46-332, 50-46-339, 50-46-340, 50-46-341, 50-46-342, 50-46-343, AND 50-46-344,
12 MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 NEW SECTION. **Section 1. Compliance with Schedule I of federal Controlled Substances Act.** A
17 person may not legally possess, receive, transfer, manufacture, cultivate, traffic, transport, or use in Montana a
18 substance that is listed in Schedule I of the federal Controlled Substances Act, 21 U.S.C. 812.

19
20 **Section 2.** Section 37-1-136, MCA, is amended to read:

21 **"37-1-136. Disciplinary authority of boards -- injunctions.** (1) Subject to 37-1-138, each licensing
22 board allocated to the department has the authority, in addition to any other penalty or disciplinary action provided
23 by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

- 24 (a) revocation of a license;
- 25 (b) suspension of its judgment of revocation on terms and conditions determined by the board;
- 26 (c) suspension of the right to practice for a period not exceeding 1 year;
- 27 (d) placing a licensee on probation;
- 28 (e) reprimand or censure of a licensee; or
- 29 (f) taking any other action in relation to disciplining a licensee as the board in its discretion considers
30 proper.

1 (2) Any disciplinary action by a board shall be conducted as a contested case hearing under the
2 provisions of the Montana Administrative Procedure Act.

3 (3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from
4 engaging in the practice of the occupation or profession regulated by the board until a license to practice is
5 procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

6 ~~(4) An action may not be taken against a person who is in compliance with Title 50, chapter 46.~~

7 ~~(5)(4)~~ Rules adopted under subsection (1) must provide for the provision of public notice as required by
8 37-1-311."

9

10 **Section 3.** Section 37-1-316, MCA, is amended to read:

11 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license
12 applicant governed by this part:

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

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

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

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

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

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

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

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

- 1 (9) revealing confidential information obtained as the result of a professional relationship without the prior
2 consent of the recipient of services, except as authorized or required by law;
- 3 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to
4 the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;
- 5 (11) having a physical or mental disability that renders the licensee or license applicant unable to practice
6 the profession or occupation with reasonable skill and safety;
- 7 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious
8 disease involving serious risk to public health or without taking adequate precautions, including but not limited
9 to informed consent, protective gear, or cessation of practice;
- 10 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
11 regarding the accounting and distribution of a client's property or funds;
- 12 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by
13 the use of threats or harassment against or inducement to a client or witness to prevent them from providing
14 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
15 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being
16 filed, prosecuted, or completed;
- 17 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
18 organization to practice or offer to practice by use of the licensee's license;
- 19 (16) failing to report the institution of or final action on a malpractice action, including a final decision on
20 appeal, against the licensee or of an action against the licensee by a:
- 21 (a) peer review committee;
- 22 (b) professional association; or
- 23 (c) local, state, federal, territorial, provincial, or Indian tribal government;
- 24 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
25 implementing 28-10-103(3)(a); and
- 26 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
27 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act
28 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed
29 to prove conduct that does not meet generally accepted standards.
- 30 ~~(19) the sole use of any electronic means, including teleconferencing, to obtain the information required~~

1 for the written certification and accompanying statements used to apply for a registry identification card pursuant
2 to Title 50, chapter 46, part 3."

3

4 **Section 4.** Section 37-3-203, MCA, is amended to read:

5 **"37-3-203. Powers and duties.** (1) The board may:

6 (a) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair,
7 impartial, and nondiscriminatory.

8 (b) hold hearings and take evidence in matters relating to the exercise and performance of the powers
9 and duties vested in the board;

10 (c) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the
11 prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this
12 chapter;

13 (d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle
14 as provided in 87-2-803(11); and

15 (e) fund additional staff, hired by the department, to administer the provisions of this chapter, by
16 increasing license fees as necessary.

17 (2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who
18 are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual
19 intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness
20 or chronic physical illness.

21 (b) The board shall ensure that a licensee who is required or volunteers to participate in the medical
22 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll
23 in a qualified medical assistance program ~~within~~ in this state and may not require a licensee to enroll in a qualified
24 treatment program outside the state unless the board finds that there is no qualified treatment program in this
25 state.

26 ~~(3) (a) The board shall report annually on the number and types of complaints it has received involving~~
27 ~~physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana for a~~
28 ~~debilitating medical condition provided for in Title 50, chapter 46. The report must contain:~~

29 ~~—— (i) the number of complaints received by the board pursuant to 37-1-308;~~

30 ~~—— (ii) the number of complaints for which a reasonable cause determination was made pursuant to~~

1 ~~37-1-307;~~

2 ~~—— (iii) the general nature of the complaints;~~

3 ~~—— (iv) the number of investigations conducted into physician practices in providing written certification; and~~

4 ~~—— (v) the number of physicians disciplined by the board for their practices in providing written certification~~
5 ~~for the use of marijuana for a debilitating medical condition.~~

6 ~~—— (b) Except as provided in subsection (3)(c), the report may not contain individual identifying information~~
7 ~~regarding the physicians about whom the board received complaints.~~

8 ~~—— (c) For each physician against whom the board takes disciplinary action related to the physician's~~
9 ~~practices in providing written certification for the use of marijuana for a debilitating medical condition, the report~~
10 ~~must include:~~

11 ~~—— (i) the name of the physician;~~

12 ~~—— (ii) the general results of the investigation of the physician's practices; and~~

13 ~~—— (iii) the disciplinary action taken against the physician.~~

14 ~~—— (d) The board shall provide the report to the children, families, health, and human services interim~~
15 ~~committee by August 1 of each year and shall make a copy of the report available on the board's website."~~

16

17 **Section 5.** Section 37-3-343, MCA, is amended to read:

18 **"37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations --**
19 **violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license
20 issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

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

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

28 ~~(4) A telemedicine license may not be used by a physician as a means to obtain the information required~~
29 ~~for the written certification and accompanying statements used to apply for a registry identification card pursuant~~
30 ~~to Title 50, chapter 46, part 3.~~

1 ~~(5)~~(4) A physician who practices telemedicine in this state without a telemedicine license issued pursuant
 2 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
 3 of that license, in violation of the scope of practice allowed by the license, or without a physician's license issued
 4 pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325."
 5

6 **Section 6.** Section 37-3-347, MCA, is amended to read:

7 **"37-3-347. Reasons for denial of license -- alternative route to licensed practice.** (1) The board may
 8 deny an application for a telemedicine license if the applicant:

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

11 ~~(b) plans to use telemedicine as a means to obtain the information required for the written certification~~
 12 ~~and accompanying statements used to apply for a registry identification card pursuant to Title 50, chapter 46, part~~
 13 ~~3;~~

14 ~~(e)~~(b) fails to pay a required fee;

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

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

17 (2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may
 18 apply for a physician's license in order to practice medicine in Montana."
 19

20 **Section 7.** Section 39-2-210, MCA, is amended to read:

21 **"39-2-210. Limitation on adverse action.** ~~Except as provided in 50-46-320, no~~ No adverse action,
 22 including followup testing, may be taken by the employer if the employee presents a reasonable explanation or
 23 medical opinion indicating that the original test results were not caused by illegal use of controlled substances
 24 or by alcohol consumption. If the employee presents a reasonable explanation or medical opinion, the test results
 25 must be removed from the employee's record and destroyed."
 26

27 **Section 8.** Section 39-2-313, MCA, is amended to read:

28 **"39-2-313. Discrimination prohibited for use of lawful product during nonworking hours --**
 29 **exceptions.** (1) For purposes of this section, "lawful product" means a product that is legally consumed, used,
 30 or enjoyed and includes food, beverages, and tobacco.

1 (2) Except as provided in subsections (3) and (4), an employer may not refuse to employ or license and
2 may not discriminate against an individual with respect to compensation, promotion, or the terms, conditions, or
3 privileges of employment because the individual legally uses a lawful product off the employer's premises during
4 nonworking hours.

5 (3) Subsection (2) does not apply to:

6 (a) use of a lawful product, ~~including the use of marijuana for a debilitating medical condition as defined~~
7 ~~in 50-46-302~~, that:

8 (i) affects in any manner an individual's ability to perform job-related employment responsibilities or the
9 safety of other employees; or

10 (ii) conflicts with a bona fide occupational qualification that is reasonably related to the individual's
11 employment;

12 (b) an individual who, on a personal basis, has a professional service contract with an employer and the
13 unique nature of the services provided authorizes the employer, as part of the service contract, to limit the use
14 of certain products; or

15 (c) an employer that is a nonprofit organization that, as one of its primary purposes or objectives,
16 discourages the use of one or more lawful products by the general public.

17 (4) An employer does not violate this section if the employer takes action based on the belief that the
18 employer's actions are permissible under an established substance abuse or alcohol program or policy,
19 professional contract, or collective bargaining agreement.

20 (5) An employer may offer, impose, or have in effect a health, disability, or life insurance policy that
21 makes distinctions between employees for the type or price of coverage based on the employees' use of a
22 product if:

23 (a) differential rates assessed against employees reflect actuarially justified differences in providing
24 employee benefits;

25 (b) the employer provides an employee with written notice delineating the differential rates used by the
26 employer's insurance carriers; and

27 (c) the distinctions in the type or price of coverage are not used to expand, limit, or curtail the rights or
28 liabilities of a party in a civil cause of action."

29

30 **Section 9.** Section 39-71-407, MCA, is amended to read:

1 **"39-71-407. Liability of insurers -- limitations.** (1) For workers' compensation injuries, each insurer
2 is liable for the payment of compensation, in the manner and to the extent provided in this section, to an employee
3 of an employer covered under plan No. 1, plan No. 2, and the state fund under plan No. 3 that it insures who
4 receives an injury arising out of and in the course of employment or, in the case of death from the injury, to the
5 employee's beneficiaries, if any.

6 (2) An injury does not arise out of and in the course of employment when the employee is:

7 (a) on a paid or unpaid break, is not at a worksite of the employer, and is not performing any specific
8 tasks for the employer during the break; or

9 (b) engaged in a social or recreational activity, regardless of whether the employer pays for any portion
10 of the activity. The exclusion from coverage of this subsection (2)(b) does not apply to an employee who, at the
11 time of injury, is on paid time while participating in a social or recreational activity or whose presence at the
12 activity is required or requested by the employer. For the purposes of this subsection (2)(b), "requested" means
13 the employer asked the employee to assume duties for the activity so that the employee's presence is not
14 completely voluntary and optional and the injury occurred in the performance of those duties.

15 (3) (a) An insurer is liable for an injury, as defined in 39-71-119, only if the injury is established by
16 objective medical findings and if the claimant establishes that it is more probable than not that:

17 (i) a claimed injury has occurred; or

18 (ii) a claimed injury has occurred and aggravated a preexisting condition.

19 (b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury
20 aggravated a preexisting condition is not sufficient to establish liability.

21 (4) (a) An employee who suffers an injury or dies while traveling is not covered by this chapter unless:

22 (i) the employer furnishes the transportation or the employee receives reimbursement from the employer
23 for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement and the
24 travel is necessitated by and on behalf of the employer as an integral part or condition of the employment; or

25 (ii) the travel is required by the employer as part of the employee's job duties.

26 (b) A payment made to an employee under a collective bargaining agreement, personnel policy manual,
27 or employee handbook or any other document provided to the employee that is not wages but is designated as
28 an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil, or lodging, and
29 the employee is not covered under this chapter while traveling.

30 (5) ~~Except as provided in subsection (6), an~~ An employee is not eligible for benefits otherwise payable

1 under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major contributing
2 cause of the accident.

3 ~~(6) (a) An employee who has received written certification, as defined in 50-46-302, from a physician for~~
4 ~~the use of marijuana for a debilitating medical condition and who is otherwise eligible for benefits payable under~~
5 ~~this chapter is subject to the limitations of subsections (6)(b) through (6)(d):~~

6 ~~———— (b) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use~~
7 ~~of marijuana for a debilitating medical condition, as defined in 50-46-302, is the major contributing cause of the~~
8 ~~injury or occupational disease:~~

9 ~~———— (c) Nothing in this chapter may be construed to require an insurer to reimburse any person for costs~~
10 ~~associated with the use of marijuana for a debilitating medical condition, as defined in 50-46-302:~~

11 ~~———— (d) In an accepted liability claim, the benefits payable under this chapter may not be increased or~~
12 ~~enhanced due to a worker's use of marijuana for a debilitating medical condition, as defined in 50-46-302. An~~
13 ~~insurer remains liable for those benefits that the worker would qualify for absent the worker's use of marijuana~~
14 ~~for a debilitating medical condition:~~

15 ~~(7)(6)~~ The provisions of subsection (5) do not apply if the employer had knowledge of and failed to
16 attempt to stop the employee's use of alcohol or drugs not prescribed by a physician. ~~This subsection (7) does~~
17 ~~not apply to the use of marijuana for a debilitating medical condition because marijuana is not a prescribed drug:~~

18 ~~(8)(7)~~ If there is no dispute that an insurer is liable for an injury but there is a liability dispute between
19 two or more insurers, the insurer for the most recently filed claim shall pay benefits until that insurer proves that
20 another insurer is responsible for paying benefits or until another insurer agrees to pay benefits. If it is later
21 proven that the insurer for the most recently filed claim is not responsible for paying benefits, that insurer must
22 receive reimbursement for benefits paid to the claimant from the insurer proven to be responsible.

23 ~~(9)(8)~~ If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to
24 the same part of the body, the workers' compensation insurer is not liable for any compensation or medical
25 benefits caused by the subsequent nonwork-related injury.

26 ~~(10)(9)~~ An employee is not eligible for benefits payable under this chapter unless the entitlement to
27 benefits is established by objective medical findings that contain sufficient factual and historical information
28 concerning the relationship of the worker's condition to the original injury.

29 ~~(11)(10)~~ For occupational diseases, every employer enrolled under plan No. 1, every insurer under plan
30 No. 2, or the state fund under plan No. 3 is liable for the payment of compensation, in the manner and to the

1 extent provided in this chapter, to an employee of an employer covered under plan No. 1, plan No. 2, or the state
2 fund under plan No. 3 if the employee is diagnosed with a compensable occupational disease.

3 ~~(12)~~(11) An insurer is liable for an occupational disease only if the occupational disease:

4 (a) is established by objective medical findings; and

5 (b) arises out of or is contracted in the course and scope of employment. An occupational disease is
6 considered to arise out of or be contracted in the course and scope of employment if the events occurring on
7 more than a single day or work shift are the major contributing cause of the occupational disease in relation to
8 other factors contributing to the occupational disease.

9 ~~(13)~~(12) When compensation is payable for an occupational disease, the only employer liable is the
10 employer in whose employment the employee was last injuriously exposed to the hazard of the disease.

11 ~~(14)~~(13) When there is more than one insurer and only one employer at the time that the employee was
12 injuriously exposed to the hazard of the disease, the liability rests with the insurer providing coverage at the
13 earlier of:

14 (a) the time that the occupational disease was first diagnosed by a health care provider; or

15 (b) the time that the employee knew or should have known that the condition was the result of an
16 occupational disease.

17 ~~(15)~~(14) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state
18 or substantially all of the assets of a mine from a person who was an operator of the mine on or after December
19 30, 1969, is liable for and shall secure the payment of all benefits that would have been payable by that person
20 with respect to miners previously employed in the mine if acquisition had not occurred and that person had
21 continued to operate the mine, and the prior operator of the mine is not relieved of any liability under this section.

22 ~~(16)~~(15) As used in this section, "major contributing cause" means a cause that is the leading cause
23 contributing to the result when compared to all other contributing causes."

24

25 **Section 10.** Section 41-5-216, MCA, is amended to read:

26 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
27 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
28 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
29 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
30 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the

1 extended jurisdiction.

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

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

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

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

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

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

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

23 (b) The department of public health and human services and the department shall disassociate the
24 offense and disposition information from the name of the youth in the respective management information system.
25 The offense and disposition information must be maintained separately and may be used only:

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

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

29 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
30 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency

1 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
2 only pursuant to subsection (5).

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

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

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

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

13 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
14 court records within the juvenile probation management information system. Electronic records of the youth court
15 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
16 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
17 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
18 as provided in subsection (2) of this section.

19 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth
20 court records within the department's youth management information system. Electronic records of the
21 department's youth management information system may not be shared except as provided in subsection (5).
22 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department
23 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy
24 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

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

28 (11) This section does not prohibit access to formal or informal youth court records, including electronic
29 records, for purposes of conducting evaluations as required by 41-5-2003.

30 ~~(12) This section does not prohibit the office of court administrator, upon written request from the~~

1 ~~department of public health and human services, from confirming whether a person applying for a registry~~
2 ~~identification card pursuant to 50-46-307 or 50-46-308 is currently under youth court supervision."~~

3

4 **Section 11.** Section 45-9-101, MCA, is amended to read:

5 **"45-9-101. Criminal distribution of dangerous drugs.** (1) ~~Except as provided in Title 50, chapter 46,~~

6 ~~a~~ A person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges,
7 gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

8 (2) A person convicted of criminal distribution of a narcotic drug, as defined in 50-32-101(19)(d), or an
9 opiate, as defined in 50-32-101, shall be imprisoned in the state prison for a term of not less than 2 years or more
10 than life and may be fined not more than \$50,000, except as provided in 46-18-222.

11 (3) (a) A person convicted of criminal distribution of a dangerous drug included in Schedule I or Schedule
12 II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction for
13 criminal distribution of such a drug shall be imprisoned in the state prison for a term of not less than 10 years or
14 more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

15 (b) Upon a third or subsequent conviction for criminal distribution of such a drug, the person shall be
16 imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more
17 than \$50,000, except as provided in 46-18-222.

18 (c) The exception for marijuana or tetrahydrocannabinol in subsection (3)(a) does not apply to synthetic
19 cannabinoids listed as dangerous drugs in 50-32-222.

20 (4) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in
21 subsection (2), (3), or (5) shall be imprisoned in the state prison for a term of not less than 1 year or more than
22 life or be fined an amount of not more than \$50,000, or both.

23 (5) A person who was an adult at the time of distribution and who is convicted of criminal distribution of
24 dangerous drugs to a minor shall be sentenced as follows:

25 (a) If convicted pursuant to subsection (2), the person shall be imprisoned in the state prison for not less
26 than 4 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

27 (b) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to
28 50-32-222 or 50-32-224 and if previously convicted of such a distribution, the person shall be imprisoned in the
29 state prison for not less than 20 years or more than life and may be fined not more than \$50,000, except as
30 provided in 46-18-222.

1 (c) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to
2 50-32-222 or 50-32-224 and if previously convicted of two or more such distributions, the person shall be
3 imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than
4 \$50,000, except as provided in 46-18-222.

5 (d) If convicted pursuant to subsection (4), the person shall be imprisoned in the state prison for not less
6 than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

7 (6) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
8 professional practice are exempt from this section."

9

10 **Section 12.** Section 45-9-102, MCA, is amended to read:

11 **"45-9-102. Criminal possession of dangerous drugs.** (1) ~~Except as provided in Title 50, chapter 46,~~
12 ~~a~~ A person commits the offense of criminal possession of dangerous drugs if the person possesses any
13 dangerous drug, as defined in 50-32-101.

14 (2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate
15 weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a
16 misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in
17 the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended
18 or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable
19 by a fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 1 year or in the state
20 prison for a term not to exceed 3 years or by both. This subsection does not apply to the possession of synthetic
21 cannabinoids listed as dangerous drugs in 50-32-222.

22 (3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first
23 offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by
24 imprisonment in the county jail for not more than 6 months, or both.

25 (4) A person convicted of criminal possession of an opiate, as defined in 50-32-101, shall be imprisoned
26 in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more than
27 \$50,000, except as provided in 46-18-222.

28 (5) (a) A person convicted of a second or subsequent offense of criminal possession of
29 methamphetamine shall be punished by:

30 (i) imprisonment for a term not to exceed 5 years or by a fine not to exceed \$50,000, or both; or

1 (ii) commitment to the department of corrections for placement in an appropriate correctional facility or
2 program for a term of not less than 3 years or more than 5 years. If the person successfully completes a
3 residential methamphetamine treatment program operated or approved by the department of corrections during
4 the first 3 years of a term, the remainder of the term must be suspended. The court may also impose a fine not
5 to exceed \$50,000.

6 (b) During the first 3 years of a term under subsection (5)(a)(ii), the department of corrections may place
7 the person in a residential methamphetamine treatment program operated or approved by the department of
8 corrections or in a correctional facility or program. The residential methamphetamine treatment program must
9 consist of time spent in a residential methamphetamine treatment facility and time spent in a community-based
10 prerelease center.

11 (c) The court shall, as conditions of probation pursuant to subsection (5)(a), order:

12 (i) the person to abide by the standard conditions of probation established by the department of
13 corrections;

14 (ii) payment of the costs of imprisonment, probation, and any methamphetamine treatment by the person
15 if the person is financially able to pay those costs;

16 (iii) that the person may not enter an establishment where alcoholic beverages are sold for consumption
17 on the premises or where gambling takes place;

18 (iv) that the person may not consume alcoholic beverages;

19 (v) the person to enter and remain in an aftercare program as directed by the person's probation officer;

20 and

21 (vi) the person to submit to random or routine drug and alcohol testing.

22 (6) A person convicted of criminal possession of dangerous drugs not otherwise provided for in
23 subsections (2) through (5) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined
24 an amount not to exceed \$50,000, or both.

25 (7) A person convicted of a first violation under this section is presumed to be entitled to a deferred
26 imposition of sentence of imprisonment.

27 (8) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting
28 in the course of a professional practice are exempt from this section."

29

30 **Section 13.** Section 45-9-103, MCA, is amended to read:

1 **"45-9-103. Criminal possession with intent to distribute.** (1) ~~Except as provided in Title 50, chapter~~
2 ~~46, a~~ A person commits the offense of criminal possession with intent to distribute if the person possesses with
3 intent to distribute any dangerous drug as defined in 50-32-101.

4 (2) A person convicted of criminal possession of an opiate, as defined in 50-32-101, with intent to
5 distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and
6 may be fined not more than \$50,000, except as provided in 46-18-222.

7 (3) A person convicted of criminal possession with intent to distribute not otherwise provided for in
8 subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount
9 not to exceed \$50,000, or both.

10 (4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
11 professional practice are exempt from this section."

12

13 **Section 14.** Section 45-9-110, MCA, is amended to read:

14 **"45-9-110. Criminal production or manufacture of dangerous drugs.** (1) ~~Except as provided in Title~~
15 ~~50, chapter 46, a~~ A person commits the offense of criminal production or manufacture of dangerous drugs if the
16 person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a
17 dangerous drug, as defined in 50-32-101.

18 (2) A person convicted of criminal production or manufacture of a narcotic drug, as defined in
19 50-32-101(19)(d), or an opiate, as defined in 50-32-101, shall be imprisoned in the state prison for a term of not
20 less than 5 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

21 (3) A person convicted of criminal production or manufacture of a dangerous drug included in Schedule
22 I of 50-32-222 or Schedule II of 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction
23 that has become final for criminal production or manufacture of a Schedule I or Schedule II drug shall be
24 imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more
25 than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction that has become final for
26 criminal production or manufacture of a Schedule I or Schedule II drug, the person shall be imprisoned in the
27 state prison for a term of not less than 40 years or more than life and may be fined not more than \$50,000, except
28 as provided in 46-18-222. The penalties provided for in this subsection also apply to the criminal production or
29 manufacture of synthetic cannabinoids listed as dangerous drugs in 50-32-222.

30 (4) A person convicted of criminal production or manufacture of marijuana, tetrahydrocannabinol, or a

1 dangerous drug not referred to in subsections (2) and (3) shall be imprisoned in the state prison for a term not
 2 to exceed 10 years and may be fined not more than \$50,000, except that if the dangerous drug is marijuana and
 3 the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned
 4 in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000. "Weight"
 5 means the weight of the dry plant and includes the leaves and stem structure but does not include the root
 6 structure. A person convicted under this subsection who has a prior conviction that has become final for criminal
 7 production or manufacture of a drug under this subsection shall be imprisoned in the state prison for a term not
 8 to exceed twice that authorized for a first offense under this subsection and may be fined not more than \$100,000.

9 (5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
 10 professional practice are exempt from this section."

11

12 **Section 15.** Section 45-9-127, MCA, is amended to read:

13 **"45-9-127. Carrying dangerous drugs on train -- penalty.** (1) ~~Except as provided in Title 50, chapter~~
 14 ~~46, a~~ A person commits the offense of carrying dangerous drugs on a train in this state if the person is knowingly
 15 or purposely in criminal possession of a dangerous drug and boards any train.

16 (2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties
 17 provided in 45-9-102."

18

19 **Section 16.** Section 45-9-203, MCA, is amended to read:

20 **"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under
 21 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall
 22 forward the license and a copy of the sentencing order to the department of justice. The defendant may apply
 23 to the department for issuance of a probationary license under 61-2-302.

24 ~~(2) If a person with a registry identification card issued pursuant to 50-45-307 or 50-46-308 is convicted~~
 25 ~~of an offense under this chapter, the court shall:~~

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

27 ~~—— (b) notify the department of public health and human services of the conviction in order for the~~
 28 ~~department to carry out its duties under 50-46-330."~~

29

30 **Section 17.** Section 45-10-103, MCA, is amended to read:

1 **"45-10-103. Criminal possession of drug paraphernalia.** ~~Except as provided in Title 50, chapter 46,~~
 2 it ~~it~~ is unlawful for a person to use or to possess with intent to use drug paraphernalia to plant, propagate,
 3 cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack,
 4 store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. A
 5 person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county
 6 jail for not more than 6 months, fined an amount of not more than \$500, or both. A person convicted of a first
 7 violation of this section is presumed to be entitled to a deferred imposition of sentence of imprisonment."

8

9 **Section 18.** Section 45-10-107, MCA, is amended to read:

10 **"45-10-107. Exemptions.** Practitioners, as defined in 50-32-101, and agents under their supervision
 11 acting in the course of a professional practice ~~and persons in compliance with Title 50, chapter 46,~~ are exempt
 12 from this part."

13

14 **Section 19.** Section 46-18-202, MCA, is amended to read:

15 **"46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of
 16 the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers
 17 necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

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

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

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

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

22 (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title
 23 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain; or

24 ~~(f) a requirement that the offender surrender any registry identification card issued under 50-46-303;~~

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

27 (2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term
 28 exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole
 29 and participation in the supervised release program while serving that term. If the restriction is to be imposed,
 30 the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is

1 necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the
2 judgment must contain a statement of the reasons for the restriction.

3 ~~(3) If a sentencing judge requires an offender to surrender a registry identification card issued under
4 50-46-303, the court shall return the card to the department of public health and human services and provide the
5 department with information on the offender's sentence. The department shall revoke the card for the duration
6 of the sentence and shall return the card if the offender successfully completes the terms of the sentence before
7 the expiration date listed on the card."~~

8

9 **Section 20.** Section 50-32-103, MCA, is amended to read:

10 **"50-32-103. Board to administer chapter.** (1) The board shall administer this chapter and, except as
11 provided in subsection (2), may add drugs to or delete or reschedule all drugs enumerated in the schedules in
12 50-32-222, 50-32-224, 50-32-226, 50-32-229, or 50-32-232 pursuant to the rulemaking procedures of the
13 Montana Administrative Procedure Act.

14 (2) The board must designate in Schedule I any drug or substance that is included in Schedule I of the
15 federal Controlled Substances Act.

16 ~~(2)(3)~~ (3) The board shall promulgate rules for its administration ~~which that~~ are not inconsistent with this
17 chapter and specifically shall levy and the department shall collect reasonable registration fees relating to the
18 registration and control of the manufacture, distribution, and dispensing of dangerous drugs within the state. The
19 maximum fee for any registration shall not exceed \$100 per year."

20

21 **Section 21.** Section 50-32-222, MCA, is amended to read:

22 **"50-32-222. Specific dangerous drugs included in Schedule I.** Schedule I consists of the drugs and
23 other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section
24 and any drug or substance not listed in this section that is listed in Schedule I of the federal Controlled
25 Substances Act.

26 (1) Opiates. Unless specifically excepted or listed in another schedule, any of the following are opiates,
27 including isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those
28 isomers, esters, ethers, and salts is possible within the specific chemical designation:

29 (a) acetyl-alpha-methylfentanyl, also known as
30 N-(1-(1-methyl-2-phenethyl)-4-piperidinyl)-N-phenylacetamide;

- 1 (b) acetylmethadol, also known as 4-(dimethylamino)-1-ethyl-2,2-diphenylpentyl acetate or methadyl
2 acetate;
- 3 (c) allylprodine, also known as 1-methyl-4-phenyl-3-(prop-2-en-1-yl)piperidin-4-yl propanoate;
- 4 (d) alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol,
5 levomethadyl acetate, or LAAM;
- 6 (e) alphameprodine;
- 7 (f) alphamethadol;
- 8 (g) alpha-methylfentanyl, also known as (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]
9 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- 10 (h) alpha-methylthiofentanyl, also known as
11 N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide;
- 12 (i) benzethidine;
- 13 (j) betacetylmethadol;
- 14 (k) beta-hydroxyfentanyl, also known as
15 N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide;
- 16 (l) beta-hydroxy-3-methylfentanyl, also known as
17 N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- 18 (m) betameprodine;
- 19 (n) betamethadol;
- 20 (o) betaprodine;
- 21 (p) clonitazene;
- 22 (q) dextromoramide;
- 23 (r) diampromide;
- 24 (s) diethylthiambutene;
- 25 (t) difenoxin;
- 26 (u) dimenoxadol;
- 27 (v) dimepheptanol;
- 28 (w) dimethylthiambutene;
- 29 (x) dioxaphetyl butyrate;
- 30 (y) dipipanone;

- 1 (z) ethylmethylthiambutene;
- 2 (aa) etonitazene;
- 3 (bb) etoxeridine;
- 4 (cc) furethidine;
- 5 (dd) hydroxypethidine;
- 6 (ee) ketobemidone;
- 7 (ff) levomoramide;
- 8 (gg) levophenacymorphan;
- 9 (hh) 3-methylfentanyl, also known as N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide;
- 10 (ii) 3-methylthiofentanyl, also known as
- 11 N-[3-methyl-1-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide;
- 12 (jj) morpheridine;
- 13 (kk) MPPP, also known as desmethylprodine and (1-methyl-4-phenyl-4-propionoxypiperidine);
- 14 (ll) noracymethadol;
- 15 (mm) norlevorphanol;
- 16 (nn) normethadone;
- 17 (oo) norpipanone;
- 18 (pp) para-fluorofentanyl, also known as N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide;
- 19 (qq) PEPAP, also known as (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 20 (rr) phenadoxone;
- 21 (ss) phenampromide;
- 22 (tt) phenomorphan;
- 23 (uu) phenoperidine;
- 24 (vv) piritramide;
- 25 (ww) proheptazine;
- 26 (xx) properidine;
- 27 (yy) propiram;
- 28 (zz) racemoramide;
- 29 (aaa) thiofentanyl, also known as N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide;
- 30 (bbb) tilidine; and

1 (ccc) trimeperidine.

2 (2) For the purposes of subsection (1)(hh), the term "isomer" includes the optical, positional, and
3 geometric isomers.

4 (3) Opium derivatives. Unless specifically excepted or listed in another schedule, any of the following
5 are opium derivatives, including salts, isomers, and salts of isomers whenever the existence of those salts,
6 isomers, and salts of isomers is possible within the specific chemical designation:

7 (a) acetorphine;

8 (b) acetyldihydrocodeine;

9 (c) benzylmorphine;

10 (d) codeine methylbromide;

11 (e) codeine-N-oxide;

12 (f) cyprenorphine;

13 (g) desomorphine;

14 (h) dihydromorphine;

15 (i) drotebanol;

16 (j) etorphine, except hydrochloride salt;

17 (k) heroin;

18 (l) hydromorphenol;

19 (m) methyldesorphine;

20 (n) methyldihydromorphine;

21 (o) morphine methylbromide;

22 (p) morphine methylsulfonate;

23 (q) morphine-N-oxide;

24 (r) myorphine;

25 (s) nicocodeine;

26 (t) nicomorphine;

27 (u) normorphine;

28 (v) pholcodine; and

29 (w) thebacon.

30 (4) Hallucinogenic substances. Unless specifically excepted or listed in another schedule, any material,

1 compound, mixture, or preparation that contains any quantity of the following is a hallucinogenic substance,
2 including salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers
3 is possible within the specific chemical designation:

- 4 (a) alpha-ethyltryptamine, also known as etryptamine, monase, alpha-ethyl-1H-indole-3-ethanamine,
5 3-(2-aminobutyl) indole, alpha-ET, and AET;
- 6 (b) alpha-methyltryptamine, also known as AMT;
- 7 (c) 4-bromo-2,5-dimethoxy-amphetamine, also known as 4-bromo-2,
8 5-dimethoxy-alpha-methylphenethylamine, and 4-bromo-2,5-DMA;
- 9 (d) 4-bromo-2,5-dimethoxyphenethylamine, also known as
10 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane, alpha-desmethyl DOB, and 2C-B, Nexus;
- 11 (e) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-alpha-methylphenethylamine and
12 2,5-DMA;
- 13 (f) 2,5-dimethoxy-4-(N)-propylthiophenethylamine, also known as 2C-T-7;
- 14 (g) 3,4-methylenedioxy amphetamine;
- 15 (h) 2,5-dimethoxy-4-ethylamphetamine, also known as is DOET;
- 16 (i) 5-methoxy-N,N-diisopropyltryptamine, also known as 5-MeO-DIPT;
- 17 (j) 5-methoxy-N,N-dimethyltryptamine, also known as 5-MeO-DMT;
- 18 (k) 4-methoxyamphetamine, also known as 4-methoxy-alpha-methylphenethylamine;
- 19 (l) 5-methoxy-3,4-methylenedioxyamphetamine;
- 20 (m) 4-methyl-2,5-dimethoxyamphetamine, also known as 4-methyl-2,
21 5-dimethoxy-alpha-methylphenethylamine, DOM, and STP;
- 22 (n) 3,4-methylenedioxymethamphetamine, also known as MDMA;
- 23 (o) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)
24 phenethylamine, N-ethyl MDA, MDE, and MDEA;
- 25 (p) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4
26 (methylenedioxy)phenethylamine and N-hydroxy MDA;
- 27 (q) 3,4,5-trimethoxyamphetamine;
- 28 (r) bufotenine, also known as 3-(beta-dimethylaminoethyl)-5-hydroxyindole,
29 3-(2-dimethylaminoethyl)-5-indolol, N,N-dimethylserotonin, 5-hydroxy-N,N-dimethyltryptamine, and mappine;
- 30 (s) diethyltryptamine, also known as N,N-diethyltryptamine and DET;

- 1 (t) dimethyltryptamine, also known as DMT;
- 2 (u) hashish;
- 3 (v) ibogaine, also known as 7-ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido
4 [1', 2':1,2] azepine [5,4-b] indole and tabernanthe iboga;
- 5 (w) lysergic acid diethylamide, also known as LSD;
- 6 (x) marijuana;
- 7 (y) mescaline;
- 8 (z) parahexyl, also known as 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,8,9-trimethyl-6H-dibenzo[b,d]pyran
9 and synhexyl;
- 10 (aa) peyote, meaning all parts of the plant presently classified botanically as *lophophora williamsii*
11 *lemaire*, whether growing or not; the seed of the plant; any extract from any part of the plant; and every
12 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed, or extracts;
- 13 (bb) N-ethyl-3-piperidyl benzilate;
- 14 (cc) N-methyl-3-piperidyl benzilate;
- 15 (dd) psilocybin;
- 16 (ee) psilocyn;
- 17 (ff) tetrahydrocannabinols, including synthetic equivalents of the substances contained in the plant or in
18 the resinous extractives of cannabis, or synthetic substances, derivatives, and their isomers with similar chemical
19 structure and pharmacological activity, such as those listed in subsections (4)(ff)(i) through (4)(ff)(iii). Because
20 nomenclature of these substances is not internationally standardized, compounds of these structures, regardless
21 of numerical designation of atomic positions covered, are included in the category as follows:
- 22 (i) delta 1 (delta 9) cis or trans tetrahydrocannabinol and its optical isomers;
- 23 (ii) delta 6 cis or trans tetrahydrocannabinol and its optical isomers; and
- 24 (iii) delta 3,4 cis or trans tetrahydrocannabinol and its optical isomers;
- 25 (gg) ethylamine analog of phencyclidine, also known as N-ethyl-1-phenylcyclohexylamine,
26 (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, and PCE;
- 27 (hh) pyrrolidine analog of phencyclidine, also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, and
28 PHP;
- 29 (ii) thiophene analog of phencyclidine, also known as 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl
30 analog of phencyclidine, TPCP, and TCP;

- 1 (jj) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, also known as TCPy;
- 2 (kk) synthetic cannabinoids, including:
- 3 (i) unless specifically excepted or listed in another schedule, any chemical compound chemically
- 4 synthesized from or structurally similar to any material, compound, mixture, or preparation that contains any
- 5 quantity of a synthetic cannabinoid found in any of the following chemical groups, or any of those groups that
- 6 contain synthetic cannabinoid salts, isomers, or salts of isomers, whenever the existence of those salts, isomers,
- 7 or salts of isomers is possible within the specific chemical designation, including all synthetic cannabinoid
- 8 chemical analogs in the following groups:
- 9 (A) naphthoylindoles, whether or not substituted in the indole ring to any extent or the naphthyl ring to
- 10 any extent;
- 11 (B) naphthylmethyloindoles, whether or not substituted in the indole ring to any extent or the naphthyl ring
- 12 to any extent;
- 13 (C) naphthoylpyrroles, whether or not substituted in the pyrrole ring to any extent or the naphthyl ring
- 14 to any extent;
- 15 (D) naphthylmethyloindenes, whether or not substituted in the indene ring to any extent or the naphthyl
- 16 ring to any extent;
- 17 (E) acetylindoles, whether or not substituted in the indole ring to any extent or the acetyl group to any
- 18 extent;
- 19 (F) cyclohexylphenols, whether or not substituted in the cyclohexyl ring to any extent or the phenyl ring
- 20 to any extent;
- 21 (G) dibenzopyrans, whether or not substituted in the cyclohexyl ring to any extent or the phenyl ring to
- 22 any extent; and
- 23 (H) benzoylindoles, whether or not substituted in the indole ring to any extent or the phenyl ring to any
- 24 extent;
- 25 (ii) any compound that has been demonstrated to have agonist binding activity at one or more
- 26 cannabinoid receptors or is a chemical analog or isomer of a compound that has been demonstrated to have
- 27 agonist binding activity at one or more cannabinoid receptors;
- 28 (iii) 1-pentyl-3-(1-naphthoyl)indole (also known as JWH-018);
- 29 (iv) (6aR,10aR)-9-(hydroxymethyl)-6,
- 30 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (also known as HU-210 or

- 1 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);
- 2 (v) 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol (also known as CP-47,497), and the
- 3 dimethylhexyl, dimethyloctyl, and dimethylnonyl homologues of CP-47,497;
- 4 (vi) 1-butyl-3-(1-naphthoyl)indole (also known as JWH-073);
- 5 (vii) 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole (also known as JWH-200);
- 6 (viii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (also known as JWH-250);
- 7 (ix) 1-hexyl-3-(1-naphthoyl)indole (also known as JWH-019);
- 8 (x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (also known as JWH-398);
- 9 (xi) JWH-081: 1-pentyl-3-(4-methoxy-1-naphthoyl)indole, also known as
- 10 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;
- 11 (xii) the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro
- 12 derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives:
- 13 (A) [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo
- 14 [1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone (also known as WIN-55,212-2);
- 15 (B) 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (also known as HU-243); or
- 16 (C) [9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-
- 17 octahydrophenanthridin-1-yl]acetate;
- 18 (II) *Salvia divinorum*, also known as salvinorin A(2S,4aR,6aR,7R,9S,10aS,10bR)-9-
- 19 (acetyloxy)-2-(3-furanyl)dodehydro-6a,10b-dimethyl-4, 10-dioxo-2H-naphtho[2,1-c] pyran-7-carboxylic acid
- 20 methyl ester;
- 21 (mm) substituted cathinones, including any compound, except bupropion or compounds listed in another
- 22 schedule, structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways:
- 23 (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, hydroxyl,
- 24 or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent
- 25 substituents;
- 26 (ii) by substitution at the 3-position with an alkyl substituent;
- 27 (iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom
- 28 in a cyclic structure; and
- 29 (iv) any lengthening of the propanone chain between carbons 1 and 2 to any extent with alkyl groups,
- 30 whether further substituted or not; and

1 (nn) any compound not listed in this code, in an administrative rule regulating controlled substances or
2 approved for use by the United States food and drug administration that is structurally derived from
3 2-amino-1-phenyl-1-propane by modification in any of the following ways:

4 (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide
5 substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;

6 (ii) by substitution at the 3-position with an alkyl substituent;

7 (iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom
8 in a cyclic structure; and

9 (iv) any lengthening of the propane chain between carbons 1 and 2 to any extent with alkyl groups,
10 whether further substituted or not.

11 (5) (a) For the purposes of subsection (4), the term "isomer" includes the optical, positional, and
12 geometric isomers.

13 (b) Subsection (4)(kk) does not apply to synthetic cannabinoids approved by the United States food and
14 drug administration and obtained by a lawful prescription through a licensed pharmacy. The department of public
15 health and human services shall adopt a rule listing the approved cannabinoids and shall update the rule as
16 necessary to keep the list current.

17 (6) Depressants. Unless specifically excepted or listed in another schedule, any material, compound,
18 mixture, or preparation that contains any quantity of the following substances is a depressant having a depressant
19 effect on the central nervous system, including salts, isomers, and salts of isomers whenever the existence of
20 those salts, isomers, and salts of isomers is possible within the specific chemical designation:

21 (a) gamma-hydroxybutyric acid, also known as gamma-hydroxybutyrate, 4-hydroxybutyrate,
22 4-hydroxybutanoic acid, sodium oxybate, sodium oxybutyrate, and GHB;

23 (b) mecloqualone; and

24 (c) methaqualone.

25 (7) Stimulants. Unless specifically excepted or listed in another schedule, any material, compound,
26 mixture, or preparation that contains any quantity of the following substances is a stimulant having a stimulant
27 effect on the central nervous system, including its salts, isomers, and salts of isomers:

28 (a) aminorex, also known as aminoxaphen, 2-amino-5-phenyl-2-oxazoline, and 4,5-dihydro-
29 5-phenyl-2-oxazolamine;

30 (b) cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,

- 1 2-aminopropiophenone, and norephedrone;
- 2 (c) fenethylamine;
- 3 (d) methcathinone, also known as 2-(methylamino)-propionophenone, alpha-(methylamino)propionophenone,
- 4 2-(methylamino)-1-phenylpropan-1-one, alpha-N-methylaminopropionophenone, monomethylpropion, ephedrone,
- 5 N-methylcathinone, methylcathinone, AL-464, AL-422, AL-463, and UR1432, including its salts, optical isomers,
- 6 and salts of optical isomers;
- 7 (e) 4-Methylaminorex (cis isomer), also known as U4Euh, McN-422;
- 8 (f) (levo-dextro) cis-4-methylaminorex, also known as (levo-dextro) cis-4, 5-dihydro-4-methyl-
- 9 5-phenyl-2-oxazolamine;
- 10 (g) N-benzylpiperazine, also known as 1-benzylpiperazine or BZP;
- 11 (h) N-ethylamphetamine; and
- 12 (i) N,N-dimethylamphetamine, also known as N, N-alpha-trimethyl-benzeneethanamine and
- 13 N, N-alpha-trimethylphenethylamine.
- 14 (8) Substances subject to emergency scheduling. Any material, compound, mixture, or preparation that
- 15 contains any quantity of the following substances is included in this category:
- 16 (a) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts
- 17 of isomers); and
- 18 (b) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts,
- 19 and salts of isomers).
- 20 (9) If prescription or administration is authorized by the Federal Food, Drug and Cosmetic Act, then any
- 21 material, compound, mixture, or preparation containing tetrahydrocannabinols listed in subsection (4) must
- 22 automatically be rescheduled from Schedule I to Schedule II.
- 23 (10) Dangerous drug analogues. Unless specifically excepted or listed in another schedule, this
- 24 designation includes any material, compound, mixture, or preparation defined in 50-32-101 as a dangerous drug
- 25 analogue."

26

27 **Section 22.** Section 50-40-103, MCA, is amended to read:

28 **"50-40-103. Definitions.** As used in this part, the following definitions apply:

29 (1) "Bar" means an establishment with a license issued pursuant to Title 16, chapter 4, that is devoted

30 to serving alcoholic beverages for consumption by guests or patrons on the premises and in which the serving

1 of food is only incidental to the service of alcoholic beverages or gambling operations. The term includes but is
2 not limited to taverns, night clubs, cocktail lounges, and casinos.

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

4 (3) "Enclosed public place" means an indoor area, room, or vehicle that the general public is allowed to
5 enter or that serves as a place of work, including but not limited to the following:

6 (a) restaurants;

7 (b) stores;

8 (c) public and private office buildings and offices, including all office buildings and offices of political
9 subdivisions, as provided for in 50-40-201, and state government;

10 (d) trains, buses, and other forms of public transportation;

11 (e) health care facilities;

12 (f) auditoriums, arenas, and assembly facilities;

13 (g) meeting rooms open to the public;

14 (h) bars;

15 (i) community college facilities;

16 (j) facilities of the Montana university system; and

17 (k) public schools, as provided for in 20-1-220 and 50-40-104.

18 (4) "Establishment" means an enterprise under one roof that serves the public and for which a single
19 person, agency, corporation, or legal entity is responsible.

20 (5) "Incidental to the service of alcoholic beverages or gambling operations" means that at least 60%
21 of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts, or both.

22 (6) "Person" means an individual, partnership, corporation, association, political subdivision, or other
23 entity.

24 (7) "Place of work" means an enclosed room where one or more individuals work.

25 (8) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar, cigarette,
26 pipe, or any smokable product and includes the use of marijuana for a debilitating medical condition as provided
27 for in Title 50, chapter 46."

28

29 **Section 23.** Section 61-11-101, MCA, is amended to read:

30 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**

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

7 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
8 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
9 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
10 the conviction. The court may recommend that the department issue a restricted probationary license on the
11 condition that the individual comply with the requirement that the person attend and complete a chemical
12 dependency education course, treatment, or both, as ordered by the court under 61-8-732.

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

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

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

27 ~~(5) (a) If a person who holds a valid registry identification card issued pursuant to 50-46-307 or~~
28 ~~50-46-308 is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs~~
29 ~~when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or~~
30 ~~61-8-411, the court in which the conviction occurs shall require the person to surrender the registry identification~~

1 card.

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

4

5 NEW SECTION. **Section 24. Repealer.** The following sections of the Montana Code Annotated are
 6 repealed:

- 7 50-46-301. Short title -- purpose.
- 8 50-46-302. Definitions.
- 9 50-46-303. Department responsibilities -- issuance of cards -- confidentiality -- reports.
- 10 50-46-307. Persons with debilitating medical conditions -- requirements -- minors -- limitations.
- 11 50-46-308. Provider types -- requirements -- limitations -- activities.
- 12 50-46-309. Marijuana-infused products provider -- requirements -- allowable activities.
- 13 50-46-310. Written certification -- accompanying statements.
- 14 50-46-317. Registry card to be carried and exhibited on demand -- photo identification required.
- 15 50-46-318. Health care facility procedures for patients with marijuana for use.
- 16 50-46-319. Legal protections -- allowable amounts.
- 17 50-46-320. Limitations of act.
- 18 50-46-327. Prohibitions on physician affiliation with providers and marijuana-infused products providers --
 19 sanctions.
- 20 50-46-328. Local government authority to regulate.
- 21 50-46-329. Inspection procedures.
- 22 50-46-330. Unlawful conduct by cardholders -- penalties.
- 23 50-46-331. Fraudulent representation -- penalties.
- 24 50-46-332. Confidentiality of registry information -- penalty.
- 25 50-46-339. Law enforcement authority.
- 26 50-46-340. Forfeiture.
- 27 50-46-341. Advertising prohibited.
- 28 50-46-342. Hotline.
- 29 50-46-343. Legislative monitoring.
- 30 50-46-344. Rulemaking authority -- fees.

1
2 **NEW SECTION.** **Section 25. Codification instruction.** [Section 1] is intended to be codified as an
3 integral part of Title 45, chapter 9, part 1, and the provisions of Title 45, chapter 9, part 1, apply to [section 1].

4
5 **NEW SECTION.** **Section 26. Submission to electorate.** [This act] shall be submitted to the qualified
6 electors of Montana at the general election to be held in November 2016 by printing on the ballot the full title of
7 [this act] and the following:

8 YES on Legislative Referendum _____.

9 NO on Legislative Referendum _____.

10 - END -