

SENATE BILL NO. 417

INTRODUCED BY D. SANDS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSURE OF INDIVIDUALS INVOLVED IN
5 PROVIDING AND TESTING MARIJUANA UNDER THE MONTANA MARIJUANA ACT; ESTABLISHING
6 LICENSING REQUIREMENTS AND FEES; REQUIRING A STUDY OF LICENSING AND REGULATION;
7 CREATING A SPECIAL REVENUE ACCOUNT; TRANSFERRING FUNDS; AMENDING SECTIONS 41-5-216,
8 45-9-203, 46-18-202, 50-46-301, 50-46-302, 50-46-303, 50-46-307, 50-46-308, 50-46-309, 50-46-317, 50-46-318,
9 50-46-319, 50-46-320, 50-46-327, 50-46-328, 50-46-329, 50-46-330, 50-46-331, 50-46-332, 50-46-339,
10 50-46-340, 50-46-341, 50-46-342, 50-46-343, 50-46-344, AND 61-11-101, MCA; AND PROVIDING AN
11 EFFECTIVE DATE AND A CONTINGENT TERMINATION DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 **Section 1.** Section 41-5-216, MCA, is amended to read:

16 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
17 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are
18 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must
19 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency
20 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the
21 extended jurisdiction.

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

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

28 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
29 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements
30 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the

1 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
2 offender pursuant to Title 46, chapter 23, part 5.

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

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

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

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

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

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

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

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

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

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

30 (i) for research and program evaluation authorized by the office of the court administrator and subject

1 to any applicable laws; and

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

3 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
4 court records within the juvenile probation management information system. Electronic records of the youth court
5 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
6 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
7 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
8 as provided in subsection (2) of this section.

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

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

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

20 (12) This section does not prohibit the office of court administrator, upon written request from the
21 department of public health and human services or the department of revenue, from confirming whether a person
22 applying for a registry identification card or license pursuant to 50-46-307, ~~or 50-46-308~~, [section 11], or [section
23 12] is currently under youth court supervision."

24

25 **Section 2.** Section 45-9-203, MCA, is amended to read:

26 **"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under
27 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall
28 forward the license and a copy of the sentencing order to the department of justice. The defendant may apply
29 to the department for issuance of a probationary license under 61-2-302.

30 (2) If a person with a registry identification card issued pursuant to ~~50-45-307~~ 50-46-307 or a license

1 issued pursuant to 50-46-308, [section 11], or [section 12] is convicted of an offense under this chapter, the court
2 shall:

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

4 and

5 (b) notify the department of public health and human services or the department of revenue, as
6 appropriate, of the conviction in order for the department to carry out its duties under 50-46-330."

7

8 **Section 3.** Section 46-18-202, MCA, is amended to read:

9 **"46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of
10 the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers
11 necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

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

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

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

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

16 (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title
17 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

18 (f) a requirement that the offender surrender ~~any a~~ registry identification card issued under ~~50-46-303~~
19 50-46-307 or a license issued under 50-46-308, [section 11], or [section 12];

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

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

28 (3) If a sentencing judge requires an offender to surrender a registry identification card issued under
29 ~~50-46-303~~ 50-46-307 or a license issued under 50-46-308, [section 11], or [section 12], the court shall return the
30 card to the department of public health and human services or the license to the department of revenue and

1 provide the department with information on the offender's sentence. The department shall revoke the card or
2 license for the duration of the sentence and shall return the card or license if the offender successfully completes
3 the terms of the sentence before the expiration date listed on the card."

4

5 **Section 4.** Section 50-46-301, MCA, is amended to read:

6 **"50-46-301. Short title -- purpose.** (1) This part may be cited as the "Montana Marijuana Act".

7 (2) The purpose of this part is to:

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

10 (b) allow for the limited cultivation, manufacture, delivery, transportation, testing, and possession of
11 marijuana as permitted by this part by persons who obtain registry identification cards or licenses as provided
12 in this part;

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

15 (d) establish reporting requirements for production, transportation, and testing of marijuana and
16 marijuana-infused products and inspection requirements for premises; and

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

19

20 **Section 5.** Section 50-46-302, MCA, is amended to read:

21 **"50-46-302. Definitions.** As used in this part, the following definitions apply:

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

24 (2) "Courier" means a Montana resident who meets the requirements of this part and is licensed to
25 transport and deliver marijuana or marijuana-infused products from a registered premises to a registered
26 cardholder.

27 ~~(2)(3)~~ "Debilitating medical condition" means:

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

1 (b) cachexia or wasting syndrome;

2 (c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily
3 activities as documented by the patient's treating physician and by:

4 (i) objective proof of the etiology of the pain, including relevant and necessary diagnostic tests that may
5 include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance
6 imaging; or

7 (ii) confirmation of that diagnosis from a second physician who is independent of the treating physician
8 and who conducts a physical examination;

9 (d) intractable nausea or vomiting;

10 (e) epilepsy or an intractable seizure disorder;

11 (f) multiple sclerosis;

12 (g) Crohn's disease;

13 (h) painful peripheral neuropathy;

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

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

16 (k) any other medical condition or treatment for a medical condition approved by the legislature.

17 ~~(3)~~(4) "Department" means the department of public health and human services provided for in
18 2-15-2201.

19 (5) "Licensee" means a courier, provider, marijuana-infused products provider, or testing laboratory that
20 has received a license pursuant to this part.

21 ~~(4)~~(6) "Local government" means a county, a consolidated government, or an incorporated city or town.

22 ~~(5)~~(7) "Marijuana" has the meaning provided in 50-32-101.

23 ~~(6)~~(8) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use
24 by a registered cardholder by a means other than smoking.

25 (b) The term includes but is not limited to edible products, ointments, and tinctures.

26 ~~(7)~~(9) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements
27 of this part and who has applied for and received a ~~registry identification card~~ license to manufacture and provide
28 marijuana-infused products for a registered cardholder.

29 (b) The term does not include the cardholder's treating or referral physician.

30 ~~(8)~~(10) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

1 ~~(9)~~(11) "Paraphernalia" has the meaning provided in 45-10-101.

2 ~~(10)~~(12) (a) "Provider" means a Montana resident 18 years of age or older who is ~~authorized by the~~
3 ~~department~~ licensed to assist a registered cardholder as allowed under this part.

4 (b) The term does not include the cardholder's treating physician or referral physician.

5 ~~(11)~~(13) "Referral physician" means a person who:

6 (a) is licensed under Title 37, chapter 3;

7 (b) has an established office in Montana; and

8 (c) is the physician to whom a patient's treating physician has referred the patient for physical
9 examination and medical assessment.

10 ~~(12)~~(14) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
11 condition who has received and maintains a valid registry identification card.

12 ~~(13)~~(15) "Registered premises" means the location at which a provider, ~~or~~ marijuana-infused products
13 provider, ~~or testing laboratory~~ has indicated the ~~person~~ licensee will cultivate or manufacture marijuana for a
14 registered cardholder ~~or test marijuana or marijuana-infused products as allowed under this part.~~

15 ~~(14)~~(16) "Registry identification card" means a document issued by the department pursuant to 50-46-303
16 that identifies a person as a registered cardholder, ~~provider, or marijuana-infused products provider.~~

17 ~~(15)~~(17) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

21 ~~(16)~~(18) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son,
22 daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law,
23 daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson,
24 stepdaughter, stepgrandparent, or stepgrandchild.

25 ~~(17)~~(19) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and
26 12 inches in diameter.

27 ~~(18)~~(20) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's
28 treating physician or referral physician if the treating physician or referral physician is providing written certification
29 for a patient with a debilitating medical condition:

30 (a) obtaining the patient's medical history;

- 1 (b) performing a relevant and necessary physical examination;
- 2 (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- 3 (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating
- 4 medical condition;
- 5 (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,
- 6 alternatives, potential adverse effects, and expected response to the recommended treatment;
- 7 (f) monitoring the response to treatment and possible adverse effects; and
- 8 (g) creating and maintaining patient records that remain with the physician.

9 (21) "State licensing authority" means the department of revenue provided for in 2-15-1301.

10 (22) "Testing laboratory" means a person licensed to test marijuana or marijuana-infused products at a

11 registered premises as allowed under this part.

12 ~~(19)~~(23) "Treating physician" means a person who:

- 13 (a) is licensed under Title 37, chapter 3;
- 14 (b) has an established office in Montana; and
- 15 (c) has a bona fide professional relationship with the person applying to be a registered cardholder.

16 ~~(20)~~(24) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any

17 mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person

18 with a debilitating medical condition.

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

20 ~~(24)~~(25) "Written certification" means a statement signed by a treating physician or referral physician that

21 meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care."

22

23 **Section 6.** Section 50-46-303, MCA, is amended to read:

24 **"50-46-303. Department responsibilities -- issuance of cards -- confidentiality -- reports.** (1) (a)

25 The department shall establish and maintain a program for the issuance of registry identification cards to Montana

26 residents who:

- 27 ~~——~~(i) have debilitating medical conditions and who submit applications meeting the requirements of this
- 28 ~~part; and~~
- 29 ~~——~~(ii) ~~are named as providers or marijuana-infused products providers by persons who obtain registry~~
- 30 ~~identification cards for their debilitating medical conditions.~~

1 (b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess,
2 and transport marijuana as allowed by this part.

3 ~~(2) The department shall conduct criminal history background checks as required by 50-46-307 and~~
4 ~~50-46-308 before issuing a registry identification card for a person named as a provider or marijuana-infused~~
5 ~~products provider.~~

6 ~~(3)(2)~~ Registry identification cards issued pursuant to this part must:

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

9 (b) state the name, address, and date of birth of the registered cardholder and of the cardholder's
10 provider or marijuana-infused products provider, if any;

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

12 (d) contain a unique identification number; and

13 ~~(e) easily identify whether the card is for a person with a debilitating medical condition, a provider, or a~~
14 ~~marijuana-infused products provider; and~~

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

16 ~~(4)(3)~~ (a) The department shall review the information contained in an application or renewal submitted
17 pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the
18 application or renewal and all related application materials.

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

21 ~~(5)(4)~~ Rejection of an application or renewal is considered a final department action, subject to judicial
22 review.

23 ~~(6)(5)~~ ~~(a)~~ Registry identification cards expire 1 year after the date of issuance unless:

24 ~~(i) a physician has provided a written certification stating that a card is valid for a shorter period of time;~~

25 ~~or~~

26 ~~(ii) a registered cardholder changes providers or marijuana-infused products providers.~~

27 ~~(b) A provider's or marijuana-infused products provider's registry identification card expires at the time~~
28 ~~the department issues a card to a new provider or new marijuana-infused products provider named by a~~
29 ~~registered cardholder.~~

30 ~~(7)(6)~~ (a) A registered cardholder shall notify the department of any change in the cardholder's name,

1 address, physician, provider, or marijuana-infused products provider or change in the status of the cardholder's
 2 debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the
 3 department, the registry identification card is void.

4 (b) The department shall notify the state licensing authority of changes to a cardholder's named provider
 5 or marijuana-infused products provider.

6 ~~(6)(7)~~ The department shall maintain a confidential list of persons to whom the department has issued
 7 registry identification cards. ~~Except as provided in subsection (9), individual~~ Individual names and other identifying
 8 information on the list must be confidential and are not subject to disclosure, except to:

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

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

13 ~~(9) The department shall provide the names of providers and marijuana-infused products providers to~~
 14 ~~the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused~~
 15 ~~products providers are located. The law enforcement agency and its employees are subject to the confidentiality~~
 16 ~~requirements of 50-46-332.~~

17 ~~(10)(8)~~ (a) The department shall provide the board of medical examiners with the name of any physician
 18 who provides written certification for 25 or more patients within a 12-month period. The board of medical
 19 examiners shall review the physician's practices in order to determine whether the practices meet the standard
 20 of care.

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

22 ~~(11)(9)~~ The department shall report biannually to the legislature the number of applications for registry
 23 identification cards, the number of registered cardholders approved, the nature of the debilitating medical
 24 conditions of the cardholders, ~~the number of providers and marijuana-infused products providers approved;~~ the
 25 number of registry identification cards revoked, the number of physicians providing written certification for
 26 registered cardholders, and the number of written certifications each physician has provided. The report may not
 27 provide any identifying information of cardholders; ~~or physicians, providers, or marijuana-infused products~~
 28 ~~providers.~~

29 ~~(12)(10)~~ The board of medical examiners shall report annually to the legislature on:

30 (a) the number and types of complaints the board has received involving physician practices in providing

1 written certification for the use of marijuana, pursuant to 37-3-203; and

2 (b) the number of physicians whose names were provided to the board by the department as required
3 under subsection ~~(40)~~ (8). The report must include information on whether a physician whose practices were
4 reviewed by the board pursuant to subsection ~~(40)~~ (8) met the standard of care when providing written
5 certifications."

6
7 **NEW SECTION. Section 7. State licensing authority -- powers and duties -- rulemaking authority.**

8 The state licensing authority shall:

9 (1) grant or refuse state licenses for cultivation, manufacture, distribution, transportation, and testing of
10 marijuana for debilitating medical conditions as allowed under this part;

11 (2) suspend, restrict, or revoke licenses upon violation of this part or a rule adopted pursuant to this part;

12 (3) impose fines and penalties as authorized by this part or a rule adopted pursuant to this chapter;

13 (4) propose and adopt rules and adopt rulings and findings as necessary for the proper regulation and
14 control of the cultivation, manufacture, transportation, and testing of marijuana and for enforcement of this part;

15 (5) hear and determine at a public hearing:

16 (a) an appeal of a state license denial; or

17 (b) a complaint against a licensee;

18 (6) maintain the confidentiality of reports obtained from a licensee showing the volume or quantity of
19 marijuana provided to a registered cardholder or any other records that are exempt from public inspection
20 pursuant to state law;

21 (7) develop the forms, licenses, identification cards, and applications necessary for the administration
22 of its duties under this part; and

23 (8) report annually to the legislature the number of applications received and granted for each type of
24 license, the geographic locations of licensees, the number of registered cardholders served by each licensee,
25 and the number and types of licenses revoked by the state licensing authority. The report may not provide any
26 identifying information of licensees.

27
28 **Section 8.** Section 50-46-307, MCA, is amended to read:

29 **"50-46-307. Persons with debilitating medical conditions -- requirements -- minors -- limitations.**

30 (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to

- 1 a person with a debilitating medical condition who submits the following, in accordance with department rules:
- 2 (a) an application on a form prescribed by the department;
- 3 (b) an application fee or a renewal fee;
- 4 (c) the person's name, street address, and date of birth;
- 5 (d) proof of Montana residency;
- 6 (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or
- 7 will be obtaining marijuana from a provider or a marijuana-infused products provider;
- 8 (f) a statement, on a form prescribed by the department, that the person will not divert to any other
- 9 person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical
- 10 condition;
- 11 (g) the name of the person's treating physician or referral physician and the street address and telephone
- 12 number of the physician's office;
- 13 (h) the street address where the person is cultivating or manufacturing marijuana if the person is
- 14 cultivating or manufacturing marijuana for the person's own use;
- 15 (i) the name, date of birth, and street address of the individual the person has selected as a provider or
- 16 marijuana-infused products provider, if any; and
- 17 (j) the written certification and accompanying statements from the person's treating physician or referral
- 18 physician as required pursuant to 50-46-310.
- 19 (2) The department shall issue a registry identification card to a minor if the materials required under
- 20 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care
- 21 decisions:
- 22 (a) provides proof of legal guardianship and responsibility for health care decisions if the person is
- 23 submitting an application as the minor's legal guardian with responsibility for health care decisions; and
- 24 (b) signs and submits a written statement that:
- 25 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's
- 26 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of
- 27 the use of marijuana; and
- 28 (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:
- 29 (A) consents to the use of marijuana by the minor;
- 30 (B) agrees to serve as the minor's marijuana-infused products provider;

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

3 (D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

4 (c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and
5 federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may
6 not obtain a ~~registry identification card license~~ as a marijuana-infused products provider if the parent or legal
7 guardian does not meet the requirements of 50-46-308.

8 (d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated
9 or manufactured for the minor's use in a marijuana-infused product.

10 (3) An application for a registry identification card for a minor must be accompanied by the written
11 certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition
12 to the minor's treating physician or referral physician.

13 (4) A person may not be a registered cardholder if the person is in the custody of or under the
14 supervision of the department of corrections or a youth court.

15 (5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products
16 provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered cardholder
17 is the provider or marijuana-infused products provider.

18 (6) A registered cardholder may cultivate or manufacture marijuana as allowed under 50-46-319 only:

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

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

21 (7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered
22 cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a
23 registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each
24 other by the second degree of kinship by blood or marriage.

25 (8) The department shall provide the state licensing authority, for licensing purposes, with the names,
26 street addresses, and dates of birth of providers and marijuana-infused products providers named by registered
27 cardholders."

28

29 **Section 9.** Section 50-46-308, MCA, is amended to read:

30 **"50-46-308. Provider types -- requirements -- limitations -- activities.** (1) The department state

1 licensing authority shall issue a ~~registry identification card~~ license to or renew a ~~card~~ license for the person who
 2 is named as a provider or marijuana-infused products provider in a registered cardholder's approved application
 3 if the person submits to the department:

4 (a) the person's name, date of birth, and street address on a form prescribed by the ~~department~~ state
 5 licensing authority;

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

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

9 (d) a written agreement signed by the registered cardholder that indicates whether the person will act
 10 as the cardholder's provider or marijuana-infused products provider;

11 (e) a statement, on a form prescribed by the ~~department~~ state licensing authority, that the person will
 12 not divert to any other person the marijuana that the person cultivates or manufactures for a registered
 13 cardholder;

14 (f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered
 15 cardholder at only one location as provided in subsection (7). The location must be identified by street address.

16 (g) ~~a the fee as determined by the department to cover the costs of the fingerprint and background check~~
 17 ~~and associated administrative costs of processing the registration provided for in [section 13].~~

18 (2) The ~~department~~ state licensing authority may not ~~register~~ license a person under this section if the
 19 person:

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

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

22 (c) has been convicted of a violation under 50-46-331;

23 (d) has failed to:

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

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

26 (iii) pay child support; or

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

29 (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in
 30 the person's application for a card issued under 50-46-307.

1 (3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered
2 cardholders.

3 (ii) A person who is ~~registered~~ licensed as both a provider and a marijuana-infused products provider may
4 assist no more than three registered cardholders.

5 (b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or
6 marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider
7 or marijuana-infused products provider.

8 (4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only
9 for the provider's application or renewal fee for a ~~registry identification card~~ license issued under this section.

10 (5) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.

11 (6) A provider or marijuana-infused products provider may not:

12 (a) accept anything of value, including monetary remuneration, for any services or products provided to
13 a registered cardholder;

14 (b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or
15 marijuana-infused products; or

16 (c) use marijuana unless the person is also a registered cardholder.

17 (7) (a) A person ~~registered~~ licensed under this section may cultivate and manufacture marijuana for use
18 by a registered cardholder only at one of the following locations:

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

20 (ii) with written permission of the landlord, a property that is rented or leased by the provider or
21 marijuana-infused products provider; or

22 (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of
23 50-46-307.

24 (b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or
25 rented or leased to another provider or marijuana-infused products provider or another registered cardholder."

26

27 **Section 10.** Section 50-46-309, MCA, is amended to read:

28 **"50-46-309. Marijuana-infused products provider -- requirements -- allowable activities.** (1) An
29 individual ~~registered~~ licensed as a marijuana-infused products provider shall:

30 (a) prepare marijuana-infused products at a premises registered with the ~~department~~ state licensing

- 1 authority that is used for the manufacture and preparation of marijuana-infused products; and
- 2 (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused
- 3 products.
- 4 (2) A marijuana-infused products provider:
- 5 (a) may cultivate marijuana only for the purpose of making marijuana-infused products; and
- 6 (b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the
- 7 marijuana-infused products provider is also a ~~registered~~ licensed provider and is providing the marijuana to a
- 8 registered cardholder who has selected the person as the person's ~~registered~~ licensed provider.
- 9 (3) All registered premises on which marijuana-infused products are manufactured must meet any
- 10 applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.
- 11 (4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50,
- 12 chapter 31."

- 13
- 14 **NEW SECTION. Section 11. Couriers -- requirements -- limitations.** (1) (a) The state licensing
- 15 authority may issue a courier license to a person to transport usable marijuana or marijuana-infused products
- 16 from a licensed provider or marijuana-infused products provider to a registered cardholder or testing laboratory.
- 17 (b) A courier license is valid for 1 year from the date of issuance.
- 18 (2) An applicant for a courier license shall provide:
- 19 (a) the person's name, date of birth, and street address on a form prescribed by the state licensing
- 20 authority;
- 21 (b) proof that the person is a Montana resident;
- 22 (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the
- 23 federal bureau of investigation;
- 24 (d) a statement, on a form prescribed by the state licensing authority, that the person will not divert to
- 25 any other person the marijuana that the person transports; and
- 26 (e) the fee provided for in [section 13].
- 27 (3) The state licensing authority may not license a person under this section if the person:
- 28 (a) has a felony conviction or a conviction for a drug offense;
- 29 (b) is in the custody of or under the supervision of the department of corrections or a youth court;
- 30 (c) has been convicted of a violation under 50-46-331;

- 1 (d) has failed to:
2 (i) pay any taxes, interest, penalties, or judgments due to a government agency;
3 (ii) stay out of default on a government-issued student loan;
4 (iii) pay child support; or
5 (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government
6 agency.

7 (4) Before a courier transports or delivers marijuana to a registered cardholder or testing laboratory, the
8 courier shall notify the local law enforcement agencies having jurisdiction in the areas where the courier will obtain
9 and deliver the marijuana. The courier shall specify the licensee from whom the courier is obtaining marijuana
10 or marijuana-infused products and the registered cardholder or testing laboratory to whom the courier is delivering
11 the marijuana or products.

12 (5) The state licensing authority may grant a courier license to a provider or a marijuana-infused products
13 provider under exceptional circumstances as established by rule. Exceptional circumstances include but are not
14 limited to the proximity of a registered cardholder to a provider or marijuana-infused products provider.

15
16 **NEW SECTION. Section 12. Testing laboratories -- requirements -- limitations.** (1) The state
17 licensing authority may issue a license to a person to test marijuana or marijuana-infused products for a provider,
18 marijuana-infused products provider, or registered cardholder. The department shall adopt administrative rules
19 establishing criteria for licensure.

20 (2) An applicant for a testing laboratory license shall submit:

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

23 (b) proof that the applicant is a Montana resident; and

24 (c) other information as required by the department by rule.

25 (3) A testing laboratory shall test for mold, pesticides, and other contaminants as specified by the state
26 licensing authority by rule. A laboratory shall report the name of a provider or marijuana-infused products provider
27 to the state licensing authority if the laboratory finds that mold, pesticides, or other contaminants are present in
28 a product submitted for testing.

29 (4) A testing laboratory shall test marijuana and marijuana-infused products for tetrahydrocannabinol
30 and cannabinoid levels and shall recommend dosages for the marijuana or products submitted for testing.

1 (5) A testing laboratory may receive reasonable compensation for testing services.

2 (6) A testing laboratory may not:

3 (a) be affiliated with a provider, a marijuana-infused products provider, a courier, or a physician who
4 provides written certifications pursuant to 50-46-310;

5 (b) have direct contact with a registered cardholder unless the cardholder requests testing of the
6 cardholder's usable marijuana; or

7 (c) sell or transfer marijuana plants or seedlings, usable marijuana, or marijuana-infused products that
8 are in the laboratory's possession.

9 (7) A testing laboratory is subject to inspection as provided in 50-46-329 and must keep records as
10 required by 50-46-329 and by the state licensing authority as provided by rule. A testing laboratory shall retain
11 copies of all testing results for 3 years, including the names of the registered cardholder, provider, or
12 marijuana-infused products provider that submitted marijuana or marijuana-infused products for testing, the
13 product tested, and the results of the testing.

14

15 **NEW SECTION. Section 13. Licensing fees.** (1) The state licensing authority shall annually assess
16 the following licensing fees:

17 (a) a provider fee equal to \$250 plus \$20 for each registered cardholder for whom a provider cultivates
18 marijuana;

19 (b) except as provided in subsection (2), \$2,500 for a marijuana-infused products provider or testing
20 laboratory license; and

21 (c) \$500 for a courier license.

22 (2) A custodial parent or legal guardian who is acting as a marijuana-infused products provider only for
23 a minor is exempt from the marijuana-infused products provider fee.

24 (3) Fees collected under this section must be deposited in the special revenue account provided for in
25 [section 14].

26 (4) The state licensing authority shall provide each appropriate law enforcement agency with the name
27 and street address of each licensee in the agency's jurisdiction. The law enforcement agency may disclose the
28 information to authorized employees of the agency as necessary to verify that a person in possession of
29 marijuana or marijuana-infused products is licensed and is in compliance with the provisions of this part.

30

1 **NEW SECTION. Section 14. Special revenue account.** (1) There is an account in the state special
2 revenue fund to the credit of the state licensing authority for the deposit of fees collected pursuant to [section 13].

3 (2) The money must be used to pay for the costs of issuing licenses and carrying out the state licensing
4 authority's duties under this part.

5 (3) Money in the account that exceeds the state licensing authority's costs under this part must be
6 transferred to the general fund within 30 days of the end of each fiscal year.

7

8 **Section 15.** Section 50-46-317, MCA, is amended to read:

9 **"50-46-317. Registry card or license to be carried and exhibited on demand -- photo identification**
10 **required.** A registered cardholder, ~~provider, or marijuana-infused products provider~~ or licensee shall keep the
11 person's registry identification card or license in the person's immediate possession at all times. The person shall
12 display the registry identification card or license and a valid photo identification upon demand of a law
13 enforcement officer, justice of the peace, or city or municipal judge."

14

15 **Section 16.** Section 50-46-318, MCA, is amended to read:

16 **"50-46-318. Health care facility procedures for patients with marijuana for use.** (1) (a) Except for
17 hospices and residential care facilities that allow the use of marijuana as provided in 50-46-320, a health care
18 facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder
19 has marijuana in the patient's possession upon admission to the health care facility:

20 (i) require the patient to remove the marijuana from the premises before the patient is admitted if the
21 patient is able to do so; or

22 (ii) make a reasonable effort to contact the patient's provider, marijuana-infused products provider,
23 courier, court-appointed guardian, or person with a power of attorney, if any.

24 (b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an
25 individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having
26 jurisdiction in the area where the facility is located.

27 (2) A provider, marijuana-infused products provider, courier, court-appointed guardian, or person with
28 a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the
29 patient's residence.

30 (3) A law enforcement agency contacted by a health care facility shall respond by removing and

1 destroying the marijuana.

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

4

5 **Section 17.** Section 50-46-319, MCA, is amended to read:

6 **"50-46-319. Legal protections -- allowable amounts.** (1) (a) A registered cardholder may possess up
7 to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

8 (b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and
9 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered
10 cardholder's provider.

11 (c) A courier may possess:

12 (i) if delivering to one or more registered cardholders, the amount of usable marijuana or
13 marijuana-infused products allowed for each cardholder; or

14 (ii) if delivering to a testing laboratory, the amount of marijuana determined by the state licensing authority
15 by rule.

16 (d) A testing laboratory may possess the amount of marijuana allowed by the state licensing authority
17 by rule.

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

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

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

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

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

- 1 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or
 2 (b) a physician violates the standard of care or other requirements of this part.
- 3 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as
 4 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
 5 of the use of marijuana as permitted under this part.
- 6 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity
 7 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not
 8 a registered cardholder.
- 9 (6) Except as provided in 50-46-329, possession of or application for a registry identification card or
 10 license does not alone constitute probable cause to search the individual or the property of the individual
 11 possessing or applying for the registry identification card or license or otherwise subject the individual or property
 12 of the individual possessing or applying for the card or license to inspection by any governmental agency,
 13 including a law enforcement agency.
- 14 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
 15 individual unless the individual has obtained a registry identification card or license prior to an arrest or the filing
 16 of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card
 17 or license after an arrest or the filing of a criminal charge.
- 18 (8) (a) A registered cardholder, ~~a provider, or a marijuana-infused products provider~~ or licensee is
 19 presumed to be engaged in the use of marijuana as allowed by this part if the person:
- 20 (i) is in possession of a valid registry identification card or license; and
 21 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.
- 22 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
 23 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."
 24
- 25 **Section 18.** Section 50-46-320, MCA, is amended to read:
 26 **"50-46-320. Limitations of act.** (1) This part does not permit:
 27 (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control
 28 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or
 29 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:
 30 (i) in a health care facility as defined in 50-5-101;

- 1 (ii) in a school or a postsecondary school as defined in 20-5-402;
- 2 (iii) on or in any property owned by a school district or a postsecondary school;
- 3 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
- 4 used for school-related purposes;
- 5 (v) in a school bus or other form of public transportation;
- 6 (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;
- 7 (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
- 8 (viii) at a public park, public beach, public recreation center, or youth center;
- 9 (ix) in or on the property of any church, synagogue, or other place of worship;
- 10 (x) in plain view of or in a place open to the general public; or
- 11 (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
- 12 of children.
- 13 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or
- 14 manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public
- 15 area.
- 16 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows
- 17 use of marijuana by a registered cardholder.
- 18 (4) Nothing in this part may be construed to require:
- 19 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of
- 20 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to
- 21 reimburse a person for costs associated with the use of marijuana by a registered cardholder;
- 22 (b) an employer to accommodate the use of marijuana by a registered cardholder;
- 23 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
- 24 activities; or
- 25 (d) a landlord to allow a tenant who is a registered cardholder, ~~provider, or marijuana-infused products~~
- 26 ~~provider or licensee~~ to cultivate, ~~or manufacture, store, or test~~ marijuana or to allow a registered cardholder to
- 27 use marijuana.
- 28 (5) Nothing in this part may be construed to:
- 29 (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for
- 30 a debilitating medical condition; or

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

3 (6) Nothing in this part may be construed to allow a ~~provider or marijuana-infused products provider~~
4 licensee to use marijuana or to prevent criminal prosecution of a ~~provider or marijuana-infused products provider~~
5 licensee who uses marijuana or paraphernalia for personal use.

6 (7) (a) A law enforcement officer who has reasonable cause to believe that a person with a valid registry
7 identification card is driving under the influence of marijuana may apply for a search warrant to require the person
8 to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a
9 delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or 61-8-411.

10 (b) A registered cardholder, ~~provider, or marijuana-infused products provider~~ or licensee who violates
11 subsection (1)(a) is subject to revocation of the person's registry identification card or license if the individual is
12 convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the
13 initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411.
14 A revocation under this section must be for the period of suspension or revocation set forth:

15 (i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or

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

17 (c) If a person's registry identification card or license is subject to renewal during the revocation period,
18 the person may not renew the card or license until the full revocation period has elapsed. The card or license may
19 be renewed only if the person submits all materials required for renewal."
20

21 **Section 19.** Section 50-46-327, MCA, is amended to read:

22 **"50-46-327. Prohibitions on physician affiliation with ~~providers and marijuana-infused products~~**
23 **~~providers~~ licensees -- sanctions.** (1) (a) A physician who provides written certifications may not:

24 (i) accept or solicit anything of value, including monetary remuneration, from a ~~provider or~~
25 ~~marijuana-infused products provider~~ licensee;

26 (ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular ~~provider~~
27 ~~or marijuana-infused products provider~~ licensee; or

28 (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where
29 marijuana to be used for a debilitating medical condition is cultivated, ~~or manufactured,~~ stored, or tested or where
30 marijuana-infused products are made.

1 (b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to
 2 a provider or marijuana-infused products provider if the physician charges the person the same fee that the
 3 physician charges other patients for providing a similar level of medical care.

4 (2) If the department or state licensing authority has cause to believe that a physician has violated this
 5 section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care
 6 required under this chapter, the department or state licensing authority may refer the matter to the board of
 7 medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

8 (3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical
 9 examiners finds that a physician has violated this section, the board shall restrict the physician's authority to
 10 provide written certification for the use of marijuana. The board of medical examiners shall notify the department
 11 of the sanction.

12 (4) If the board of medical examiners believes a physician's practices may harm the public health, safety,
 13 or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of
 14 marijuana for a debilitating medical condition."
 15

16 **Section 20.** Section 50-46-328, MCA, is amended to read:

17 **"50-46-328. Local government authority to regulate.** (1) To protect the public health, safety, or
 18 welfare, a local government may by ordinance or resolution regulate a ~~provider or marijuana-infused products~~
 19 ~~provider~~ licensee that operates within the local government's jurisdictional area. The regulations may include but
 20 are not limited to inspections of locations where marijuana is cultivated, ~~or~~ manufactured, stored, or tested in
 21 order to ensure compliance with any public health, safety, and welfare requirements established by the
 22 ~~department~~ state licensing authority or the local government.

23 (2) A local government may adopt an ordinance or resolution prohibiting ~~providers and marijuana-infused~~
 24 ~~products providers~~ licensees from operating as storefront businesses."
 25

26 **Section 21.** Section 50-46-329, MCA, is amended to read:

27 **"50-46-329. Inspection procedures.** (1) (a) The ~~department~~ state licensing authority and state or local
 28 law enforcement agencies may conduct unannounced inspections of registered premises.

29 (b) The state licensing authority shall conduct announced inspections of registered premises at least
 30 twice a year.

1 (2) (a) Each ~~provider and marijuana-infused products provider~~ licensee shall keep a complete set of
 2 records necessary to show all transactions with registered cardholders. The records must be open for inspection
 3 by the ~~department~~ state licensing authority and state or local law enforcement agencies during normal business
 4 hours.

5 (b) The ~~department~~ state licensing authority may require a ~~provider or marijuana-infused products~~
 6 ~~provider~~ licensee to furnish information that the ~~department~~ licensing authority considers necessary for the proper
 7 administration of this part.

8 (3) (a) A registered premises, including any places of storage, where marijuana is cultivated,
 9 manufactured, ~~or stored, or tested~~ is subject to entry by the ~~department~~ state licensing authority or state or local
 10 law enforcement agencies for the purpose of inspection or investigation during normal business hours.

11 (b) If any part of the registered premises consists of a locked area, the ~~provider or marijuana-infused~~
 12 ~~products provider~~ licensee shall make the area available for inspection without delay upon request of the
 13 ~~department~~ state licensing authority or state or local law enforcement officials.

14 (4) A ~~provider or marijuana-infused products provider~~ licensee shall maintain records showing:

15 (a) the names and registry identification numbers of registered cardholders to whom mature plants,
 16 seedlings, usable marijuana, or marijuana-infused products were transferred; ~~and~~

17 (b) the quantities transferred to each cardholder; ~~and~~

18 (c) other information as required by the state licensing authority by rule."

19

20 **Section 22.** Section 50-46-330, MCA, is amended to read:

21 **"50-46-330. Unlawful conduct by cardholders and licensees -- penalties.** (1) The department ~~or state~~
 22 licensing authority shall revoke and may not reissue the registry identification card ~~or license~~ of a person who:

23 (a) is convicted of a drug offense;

24 (b) allows another person to be in possession of the person's:

25 (i) registry identification card ~~or license~~; or

26 (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

27 (c) fails to cooperate with the department ~~or state licensing authority~~ concerning an investigation or
 28 inspection if the person is registered ~~or licensed under this part~~ and cultivating, ~~or manufacturing, transporting,~~
 29 or testing marijuana.

30 (2) A registered cardholder, ~~provider, or marijuana-infused products provider~~ or licensee who violates

1 this part is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed
 2 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title
 3 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of
 4 Title 45."

5

6 **Section 23.** Section 50-46-331, MCA, is amended to read:

7 **"50-46-331. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by
 8 law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder,
 9 ~~provider, or marijuana-infused products provider~~ or licensee is guilty of a misdemeanor punishable by
 10 imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

11 (2) A physician who purposely and knowingly misrepresents any information required under 50-46-310
 12 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine
 13 not to exceed \$1,000, or both.

14 (3) A person convicted under this section may not be ~~registered~~ licensed as a provider, ~~or~~
 15 marijuana-infused products provider, courier, or testing laboratory under ~~50-46-308~~ this part."

16

17 **Section 24.** Section 50-46-332, MCA, is amended to read:

18 **"50-46-332. Confidentiality of registry information -- penalty.** (1) Except as provided in 37-3-203, a
 19 person, including an employee or official of the department or state licensing authority, commits the offense of
 20 disclosure of confidential information related to registry and licensee information if the person knowingly or
 21 purposely discloses confidential information in violation of this part.

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

24

25 **Section 25.** Section 50-46-339, MCA, is amended to read:

26 **"50-46-339. Law enforcement authority.** Nothing in this chapter may be construed to limit a law
 27 enforcement agency's ability to investigate unlawful activity in relation to a ~~person with a registry identification~~
 28 ~~card~~ registered cardholder or licensee."

29

30 **Section 26.** Section 50-46-340, MCA, is amended to read:

1 **"50-46-340. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other property seized by
 2 a law enforcement official from a person claiming the protections of this part in connection with the cultivation,
 3 manufacture, possession, transportation, distribution, testing, or use of marijuana must be returned to the person
 4 immediately upon a determination that the person is in compliance with the provisions of this part.

5 (2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence
 6 is not responsible for the care and maintenance of the plants or seedlings."
 7

8 **Section 27.** Section 50-46-341, MCA, is amended to read:

9 **"50-46-341. Advertising prohibited.** Persons with valid registry identification cards and licensees may
 10 not advertise marijuana or marijuana-related products in any medium, including electronic media."
 11

12 **Section 28.** Section 50-46-342, MCA, is amended to read:

13 **"50-46-342. Hotline.** (1) The ~~department~~ state licensing authority shall create and maintain a hotline to
 14 receive reports of suspected abuse of the provisions of this part. The licensing authority shall refer:

15 (a) reports involving registered cardholders to the department; and

16 (b) reports involving physician practices under this part to the board of medical examiners.

17 (2) The state licensing authority, department, and board of medical examiners may:

18 (a) investigate reports of suspected abuse of the provisions of this part by individuals that they register
 19 or license; or

20 (b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where
 21 the suspected abuse is occurring."
 22

23 **Section 29.** Section 50-46-343, MCA, is amended to read:

24 **"50-46-343. Legislative monitoring.** (1) The children, families, health, and human services interim
 25 committee shall provide oversight of the department's activities related to registering individuals pursuant to this
 26 part and of issues related to ~~the cultivation, manufacture, and use of marijuana pursuant to this part~~ written
 27 certification provided by physicians.

28 (2) The revenue and transportation interim committee shall provide oversight of the state licensing
 29 authority's activities under this part relating to licensing providers, marijuana-infused products providers, couriers,
 30 and testing laboratories and of issues related to the cultivation, manufacture, transportation, and testing of

1 marijuana pursuant to this part.

2 ~~(2)~~(3) The ~~committee~~ committees shall identify issues likely to require future legislative attention and
3 develop legislation to present to the next regular session of the legislature."

4

5 **Section 30.** Section 50-46-344, MCA, is amended to read:

6 **"50-46-344. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary for the
7 implementation and administration of its duties under this part. The rules must include but are not limited to:

8 (a) the manner in which the department will consider applications for registry identification cards for
9 ~~providers and marijuana-infused products providers and~~ for persons with debilitating medical conditions and
10 renewal of registry identification cards;

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

12 ~~(c) the procedures for obtaining fingerprints for the fingerprint and background check required under~~
13 ~~50-46-307 and 50-46-308;~~

14 ~~(d)~~(c) other rules necessary to implement the purposes of this part.

15 (2) The department's rules must establish application and renewal fees for registered cardholders that
16 generate revenue sufficient to offset ~~all~~ the department's expenses of implementing and administering its duties
17 under this part."

18

19 **Section 31.** Section 61-11-101, MCA, is amended to read:

20 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender**
21 **of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory
22 the suspension or revocation of the driver's license or commercial driver's license of the person by the
23 department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then
24 held by the convicted person. The court shall, within 5 days after the conviction, forward the license and a record
25 of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that
26 fact in its report to the department.

27 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
28 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
29 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after
30 the conviction. The court may recommend that the department issue a restricted probationary license on the

1 condition that the individual comply with the requirement that the person attend and complete a chemical
2 dependency education course, treatment, or both, as ordered by the court under 61-8-732.

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

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

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

17 (5) (a) If a person who holds a valid registry identification card issued pursuant to 50-46-307 or a license
18 issued pursuant to 50-46-308, [section 11], or [section 12] is convicted of or pleads guilty to any offense related
19 to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was
20 a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411, the court in which the conviction occurs shall require
21 the person to surrender the registry identification card or license.

22 (b) Within 5 days after the conviction, the court shall forward the registry identification card or license
23 and a copy of the conviction to the department of public health and human services or department of revenue,
24 as appropriate."

25
26 **NEW SECTION. Section 32. Interim study of marijuana regulation.** (1) (a) The department of
27 revenue shall conduct a study of marijuana regulation during the 2015-2016 interim to select a regulatory model
28 for a system that allows for cultivation, manufacture, and distribution of marijuana to individuals with debilitating
29 medical conditions as authorized under this chapter.

30 (b) The state licensing authority shall consult with the revenue and transportation interim committee on

1 the scope of the study and provide regular reports to the interim committee on the status and results of the study.

2 (2) The study shall examine:

3 (a) the optimal quantities of marijuana plants, usable marijuana, and marijuana-infused products that
4 should be cultivated, sold, and possessed under this chapter;

5 (b) auditing requirements for persons engaged in cultivation, manufacture, transportation, and testing
6 of marijuana and marijuana-infused products;

7 (c) the potential for establishing a board or commission to monitor the regulatory system;

8 (d) the responsibility of physicians in the written certification process and the manner in which physician
9 practices are examined or audited to ensure that physicians comply with the law;

10 (e) financial issues related to the cultivation, manufacture, and sale of marijuana under this chapter,
11 including issues related to financial institutions and to taxation; and

12 (f) models used in other states to regulate the cultivation, manufacture, and sale of medical marijuana,
13 including the effectiveness of those systems in ensuring that patients have access to the products and the
14 effectiveness of the products.

15 (3) The department of revenue shall report to the legislature as provided in 5-11-210 on the results,
16 including any recommendations, of the study.

17
18 **NEW SECTION. Section 33. Transfer of funds.** There is transferred \$525,000 from the state special
19 revenue fund credited to the department of public health and human services for the medical marijuana registry
20 to the special revenue account provided for in [section 14] for the biennium beginning July 1, 2015. The money
21 is to be used by the department of revenue for the purposes of carrying out its responsibilities under [this act],
22 including the study provided for in [section 31].

23
24 **NEW SECTION. Section 34. Effective date.** [This act] is effective July 1, 2015.

25
26 **NEW SECTION. Section 35. Codification instruction.** [Sections 7 and 11 through 14] are intended
27 to be codified as an integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3,
28 apply to [sections 7 and 11 through 14].

29
30 **NEW SECTION. Section 36. Contingent termination.** (1) If the Montana supreme court reverses the

1 portions of the January 6, 2015, decision from the first judicial district court relating to the number of registered
2 cardholders to whom a provider or marijuana-infused provider may provide marijuana or marijuana-infused
3 products and to compensation for providing marijuana as allowed under Title 50, chapter 46, then [this act]
4 terminates 30 days after the supreme court decision is issued.

5 (2) The department of revenue shall notify the code commissioner of the occurrence of the contingency
6 provided for in subsection (1).

7 - END -