

HOUSE BILL NO. 529

INTRODUCED BY T. JACOBSON

1
2
3
4
5
6
7
8
9

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A TAX ON THE SALE OF A MARIJUANA PRODUCT; PROVIDING DEFINITIONS; PROVIDING THE TAX RATE; PROVIDING FOR THE ASSESSMENT AND COLLECTION OF THE TAX; PROVIDING FOR THE DISPOSITION OF THE FUNDS; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 50-46-303, AND 50-46-320, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

10
11

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

12
13

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 10], the following definitions

14 apply:

15
16
17
18
19
20
21
22
23
24
25
26
27

- (1) "Department" means the department of revenue provided for in 2-15-1301.
- (2) "Marijuana product" means marijuana as defined in 50-32-101 and marijuana-infused products as defined in 50-46-302.
- (3) "Marijuana product provider" means provider or a marijuana-infused products provider as those terms are defined in 50-46-302.
- (4) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.
- (5) "Purchaser" means a person to whom a sale of a marijuana product is made.
- (6) "Retail price" means the established price for which a marijuana product provider sells a marijuana product to a purchaser before any discount or reduction.
- (7) "Sale" or "sell" means any transfer of marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means.

28
29
30

NEW SECTION. **Section 2. Marijuana products tax -- tax as debt.** (1) A tax of 6% of the retail price is imposed on sales of all marijuana products. The tax is imposed on the purchaser and must be collected by the marijuana product provider and paid to the department by the marijuana product provider. The marijuana product



1 provider holds all taxes collected in trust for the state.

2 (2) All taxes required to be collected and all taxes collected under [sections 1 through 10] constitute a
3 debt owed to the state of Montana by the marijuana product provider.

4 (3) The tax imposed by [sections 1 through 10] and related interest and penalties are a personal debt
5 of the person required to file a return from the time that the liability arises, regardless of when the time for
6 payment of the liability occurs.

7 (4) For the purpose of determining liability for the filing of statements and the payment of taxes, penalties,
8 and interest owed under [sections 3 through 6]:

9 (a) the officer of a corporation whose responsibility it is to collect, truthfully account for, and pay to the
10 state taxes provided for in [sections 3 through 6] and who fails to pay the taxes is liable to the state for the taxes
11 and the penalty and interest due on the amounts;

12 (b) each officer of the corporation, to the extent that the officer has access to the requisite records, is
13 individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest upon
14 a determination that the officer:

15 (i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

16 (ii) possessed the responsibility on behalf of the corporation for directing the filing of tax statements or
17 the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure
18 to file statements required by [sections 1 through 10] or pay taxes due as required by [sections 1 through 10];

19 (c) each partner of a partnership is jointly and severally liable, along with the partnership, for any
20 statements, taxes, penalties, and interest due while a partner;

21 (d) each member of a limited liability company that is treated as a partnership or as a corporation for
22 income tax purposes is jointly and severally liable, along with the limited liability company, for any statements,
23 taxes, penalties, and interest due while a member;

24 (e) the member of a single-member limited liability company that is disregarded for income tax purposes
25 is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and
26 interest due while a member; and

27 (f) each manager of a manager-managed limited liability company is jointly and severally liable, along
28 with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

29 (5) In determining which corporate officer is liable, the department is not limited to considering the
30 elements set forth in subsection (4)(a) to establish individual liability and may consider any other available

1 information.

2 (6) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of
3 penalty and interest against the corporation. The individual remains liable for any statements and the amount of
4 taxes, penalties, and interest unpaid by the entity.

5

6 **NEW SECTION. Section 3. Returns -- payment -- recordkeeping -- authority of department.** (1)

7 Each marijuana product provider shall file a return, on a form provided by the department, and pay the tax due
8 as follows:

9 (a) for a marijuana product provider whose total tax liability during the preceding lookback period was
10 \$12,000 or more, on or before the last day of each month;

11 (b) for a marijuana product provider whose total tax liability during the preceding lookback period was
12 less than \$12,000, on or before the last day of each quarter;

13 (2) A marijuana product provider who has not complied with the requirements of this section shall, upon
14 written notice by the department, file a return and pay the tax on a monthly schedule.

15 (3) For the calendar year following the lookback period, the marijuana product provider shall comply with
16 one of the remittance schedules in subsection (1) based on the total tax liability paid during the lookback period.
17 For future years, the marijuana product provider shall adjust each year's remittance based on the previous
18 calendar year's total tax liability.

19 (4) A new marijuana product provider with no filing history is subject to the monthly remittance schedule
20 in subsection (1)(a) until the department is able to determine the marijuana product provider's proper remittance
21 schedule by a review of the marijuana product provider's first complete lookback period.

22 (5) A marijuana product provider may elect to remit payments on a more frequent basis than is required
23 by subsection (1).

24 (6) Each return must be authenticated by the person filing the return or by the person's agent authorized
25 in writing to file the return.

26 (7) (a) A person required to collect and pay to the department the taxes imposed by [sections 1 through
27 10] shall keep for 5 years:

28 (i) all invoices of marijuana products purchased;

29 (ii) all receipts issued; and

30 (iii) an accurate record of all sales of marijuana products, showing the name and address of each

1 purchaser, the date of sale, and the quantity, kind, and retail price of each product sold.

2 (b) For the purpose of determining compliance with the provisions of [sections 1 through 10], the
3 department is authorized to examine or cause to be examined any books, papers, records, or memoranda
4 relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda
5 are the property of or in the possession of the person filing the return or another person. In determining
6 compliance, the department may use statistical sampling and other sampling techniques consistent with generally
7 accepted auditing standards. The department may also:

8 (i) require the attendance of a person having knowledge or information relevant to a return;

9 (ii) compel the production of books, papers, records, or memoranda by the person required to attend;

10 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or
11 may be jeopardized because of delay;

12 (iv) take testimony on matters material to the determination; and

13 (v) administer oaths or affirmations.

14 (8) Pursuant to rules established by the department, returns may be computer-generated and
15 electronically filed.

16 (9) For purposes of this section, "lookback period" means the 12-month period ending the preceding
17 June 30.

18

19 **NEW SECTION. Section 4. Deficiency assessment -- penalty and interest -- statute of limitations.**

20 (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return,
21 it shall mail to the marijuana product provider a notice, pursuant to 15-1-211, of the additional tax proposed to
22 be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be
23 filed. The marijuana product provider may seek review of the determination pursuant to 15-1-211.

24 (2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216. The
25 department may waive any penalty pursuant to 15-1-206.

26 (3) The amount of tax due under any return may be determined by the department within 5 years after
27 the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For
28 purposes of this section, a tax return due under [sections 1 through 10] and filed before the last day prescribed
29 by law or rule is considered to be filed on the last day prescribed for filing.

30

1 **NEW SECTION. Section 5. Procedure to compute tax in absence of statement -- estimation of tax**
2 **-- failure to file -- penalty and interest.** (1) If the marijuana product provider fails to file any return required by
3 [section 3] within the time required, the department may, at any time, audit the marijuana product provider or
4 estimate the taxes due from any information in its possession and, based on the audit or estimate, assess the
5 marijuana product provider for the taxes, penalties, and interest due the state.

6 (2) The department shall impose penalty and interest as provided in 15-1-216. The department shall mail
7 to the marijuana product provider a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be
8 assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed.
9 The marijuana product provider may seek review of the determination pursuant to 15-1-211. The department may
10 waive any penalty pursuant to 15-1-206.

11
12 **NEW SECTION. Section 6. Authority to collect delinquent taxes.** (1) (a) The department shall collect
13 taxes that are delinquent as determined under [sections 1 through 10].

14 (b) If a tax imposed by [sections 1 through 10] or any portion of the tax is not paid when due, the
15 department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

16 (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has
17 expired, the department may direct the offset of tax refunds or other funds due the marijuana product provider
18 from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

19 (3) As provided in 15-1-705, the marijuana product provider has the right to a review of the tax liability
20 prior to any offset by the department.

21 (4) The department may file a claim for state funds on behalf of the marijuana product provider if a claim
22 is required before funds are available for offset.

23
24 **NEW SECTION. Section 7. Refunds -- interest -- limitations.** (1) A claim for a refund or credit as a
25 result of overpayment of taxes collected under [sections 1 through 10] must be filed within 5 years of the date that
26 the return was due, without regard to any extension of time for filing.

27 (2) (a) Interest paid by the department on an overpayment must be paid or credited at the same rate as
28 the rate charged on delinquent taxes under 15-1-216.

29 (b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due
30 or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing

1 of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

2 (c) The department is not required to pay interest if:

3 (i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

4 (ii) the amount of overpayment and interest does not exceed \$1.

5

6 **NEW SECTION. Section 8. Disposition of funds -- statutory appropriation.** (1) Except as provided
7 in subsections (2) and (3), all money collected under [sections 1 through 10] must, in accordance with the
8 provisions of 17-2-124, be deposited by the department into the general fund.

9 (2) The department may retain an allowance for refunds under [sections 1 through 10].

10 (3) There is statutorily appropriated, as provided in 17-7-502, from the state general fund to the
11 department of revenue for implementation and ongoing administration of the marijuana products tax, the following:

12 (a) \$575,000 for fiscal year 2017;

13 (b) \$500,000 for fiscal years 2018 and beyond.

14

15 **NEW SECTION. Section 9. Information -- confidentiality -- agreements with another state.** (1) (a)
16 Except as provided in subsections (2) through (5), in accordance with 15-30-2618 and 15-31-511, it is unlawful
17 for an employee of the department or any other public official or public employee to disclose or otherwise make
18 known information that is disclosed in a return or report required to be filed under [sections 1 through 10] or
19 information that concerns the affairs of the person making the return and that is acquired from the person's
20 records, officers, or employees in an examination or audit.

21 (b) This section may not be construed to prohibit the department from publishing statistics if they are
22 classified in a way that does not disclose the identity of a person making a return or the content of any particular
23 report or return. A person violating the provisions of this section is subject to the penalty provided in 15-30-2618
24 or 15-31-511 for violating the confidentiality of individual income tax or corporate income tax information.

25 (2) (a) This section may not be construed to prohibit the department from providing information obtained
26 under [sections 1 through 10] to:

27 (i) the department of justice to be used for the purpose of investigation and prevention of noncompliance,
28 tax evasion, fraud, and abuse under [sections 1 through 10]; or

29 (ii) the department of public health and human services to be used for the purpose of investigation and
30 prevention of noncompliance, fraud, and abuse under the Montana Medical Marijuana Act.

1 (b) The department may enter into an agreement with the taxing officials of another state for the
2 interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax
3 in order to promote fair and equitable administration of the laws and to eliminate double taxation.

4 (c) In order to implement the provisions of [sections 1 through 10], the department may furnish
5 information on a reciprocal basis to the taxing officials of another state if the information remains confidential
6 under statutes within the state receiving the information that are similar to this section.

7 (3) In order to facilitate processing of returns and payment of taxes required by [sections 1 through 10],
8 the department may contract with vendors and may disclose data to the vendors. The data disclosed must be
9 administered by the vendor in a manner consistent with this section.

10 (4) (a) The officers charged with the custody of the reports and returns may not be required to produce
11 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or
12 proceeding:

13 (i) to which the department is a party under the provisions of [sections 1 through 10] or any other taxing
14 act; or

15 (ii) on behalf of a party to any action or proceedings under the provisions of [sections 1 through 10] or
16 other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

17 (b) The court may require the production of and may admit in evidence only as much of the reports or
18 of the facts shown by the reports as are pertinent to the action or proceedings.

19 (5) This section may not be construed to limit the investigative authority of the legislative branch, as
20 provided in 5-11-106, 5-12-303, or 5-13-309.

21
22 **NEW SECTION. Section 10. Department to make rules.** The department of revenue shall prescribe
23 rules necessary to carry out the purposes of imposing and collecting the marijuana product sales tax.

24
25 **Section 11.** Section 17-7-502, MCA, is amended to read:

26 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
27 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
28 need for a biennial legislative appropriation or budget amendment.

29 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
30 of the following provisions:

1 (a) The law containing the statutory authority must be listed in subsection (3).

2 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
3 appropriation is made as provided in this section.

4 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
5 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
6 10-3-314; 10-4-301; 15-1-121; 15-1-218; section 8; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
7 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
8 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
9 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905;
10 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612;
11 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101;
12 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
13 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222;
14 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;
15 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

16 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
17 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
18 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
19 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
20 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
21 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
22 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
23 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
24 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
25 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
26 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion
27 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004
28 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,
29 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;
30 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;

1 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.
2 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.
3 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,
4 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of
5 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of
6 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
7 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates
8 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December
9 31, 2023.)"

10

11 **Section 12.** Section 50-46-303, MCA, is amended to read:

12 **"50-46-303. Department responsibilities -- issuance of cards and licenses -- confidentiality --**

13 **inspections -- reports.** (1) (a) The department shall establish and maintain a program for the issuance of registry
14 identification cards to Montana residents who have debilitating medical conditions and who submit applications
15 meeting the requirements of this part.

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

18 (2) The department shall establish and maintain a program for the licensure of testing laboratories and
19 persons who are named as providers or marijuana-infused products providers by registered cardholders.

20 (3) The department shall conduct criminal history background checks as required by 50-46-307 and
21 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.

22 (4) Registry identification cards issued pursuant to this part must:

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

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

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

28 (d) contain a unique identification number; and

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

30 (5) (a) The department shall review the information contained in an application or renewal submitted

1 pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the
2 application or renewal and all related application materials.

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

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

7 (7) (a) Registry identification cards expire 1 year after the date of issuance unless:

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

9 or

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

11 (b) Licenses issued to providers, marijuana-infused products providers, and testing laboratories must
12 be renewed annually.

13 (8) A registered cardholder shall notify the department of any change in the cardholder's name, address,
14 physician, provider, or marijuana-infused products provider or change in the status of the cardholder's debilitating
15 medical condition within 10 days of the change. If a change occurs and is not reported to the department, the
16 registry identification card is void.

17 (9) The department shall maintain a confidential list of individuals to whom the department has issued
18 registry identification cards. Except as provided in subsection (10), individual names and other identifying
19 information on the list must be confidential and are not subject to disclosure, except to:

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

21 and

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

24 (10) (a) The department shall provide the names of providers and marijuana-infused products providers
25 to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused
26 products providers are located. The law enforcement agency and its employees are subject to the confidentiality
27 requirements of 50-46-332.

28 (b) The department shall provide the names of providers and marijuana-infused products providers to
29 the department of revenue. The department of revenue and its employees are subject to the confidentiality
30 requirements of 50-46-332.

1 (11) The department shall report biannually to the legislature the number of applications for registry
2 identification cards, the number of registered cardholders approved, the nature of the debilitating medical
3 conditions of the cardholders, the number of providers and marijuana-infused products providers licensed, the
4 number of testing laboratories licensed, the number of registry identification cards and licenses revoked, the
5 number of physicians providing written certification for registered cardholders, and the number of written
6 certifications each physician has provided. The report may not provide any identifying information of cardholders,
7 physicians, providers, or marijuana-infused products providers.

8 (12) The board of medical examiners shall report annually to the legislature on the number and types of
9 complaints the board has received involving physician practices in providing written certification for the use of
10 marijuana, pursuant to 37-3-203."

11

12 **Section 13.** Section 50-46-320, MCA, is amended to read:

13 **"50-46-320. (Temporary) Limitations of act.** (1) This part does not permit:

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

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

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

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

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

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

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

23 (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

24 (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

25 (viii) at a public park, public beach, public recreation center, or youth center;

26 (ix) in or on the property of any church, synagogue, or other place of worship;

27 (x) in plain view of or in a place open to the general public; or

28 (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
29 of children.

30 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or

1 manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public
2 area.

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

5 (4) Nothing in this part may be construed to require:

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

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

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

12 (d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products
13 provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

14 (5) Nothing in this part may be construed to:

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

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

19 (6) Nothing in this part may be construed to allow a provider or marijuana-infused products provider to
20 use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses
21 marijuana or paraphernalia for personal use.

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

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

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

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

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

6 (8) A provider or marijuana-infused products provider who violates [section 3] or [section 4] is subject
7 to revocation of the person's license from the date of the violation until a period of up to 1 year after the
8 department of revenue certifies compliance with [section 3] and [section 4].

9 **50-46-320. (Effective June 30, 2017) Limitations of act.** (1) This part does not permit:

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

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

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

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

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

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

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

19 (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

20 (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

21 (viii) at a public park, public beach, public recreation center, or youth center;

22 (ix) in or on the property of any church, synagogue, or other place of worship;

23 (x) in plain view of or in a place open to the general public; or

24 (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
25 of children.

26 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate marijuana
27 or manufacture marijuana-infused products for use by a registered cardholder in a manner that is visible from the
28 street or other public area.

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

1 (4) Nothing in this part may be construed to require:

2 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of
3 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to
4 reimburse an individual for costs associated with the use of marijuana by a registered cardholder;

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

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

8 (d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products
9 provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

10 (5) Nothing in this part may be construed to:

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

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

15 (6) Nothing in this part may be construed to allow a provider or marijuana-infused products provider to
16 use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses
17 marijuana or paraphernalia for personal use.

18 (7) (a) A law enforcement officer who has reasonable cause to believe that an individual with a valid
19 registry identification card is driving under the influence of marijuana may apply for a search warrant to require
20 the individual to provide a sample of the individual's blood for testing pursuant to the provisions of 61-8-405. An
21 individual with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or
22 61-8-411.

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

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

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

30 (c) If an individual's registry identification card or license is subject to renewal during the revocation

1 period, the individual may not renew the card until the full revocation period has elapsed. The card or license may
2 be renewed only if the individual submits all materials required for renewal.

3 (8) A provider or marijuana-infused products provider who violates [section 3] or [section 4] is subject
4 to revocation of the person's license from the date of the violation until a period of up to 1 year after the
5 department of revenue certifies compliance with [section 3] and [section 4]."

6
7 NEW SECTION. Section 14. Codification instruction. [Sections 1 through 10] are intended to be
8 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 10].

9
10 NEW SECTION. Section 15. Effective date. [This act] is effective on passage and approval.

11
12 NEW SECTION. Section 16. Applicability. [This act] applies to sales of marijuana products on or after
13 July 1, 2017.

14 - END -