



AN ACT REVISING THE MONTANA MEDICAL MARIJUANA ACT; REQUIRING SEED-TO-SALE TRACKING; REQUIRING LICENSING OF DISPENSARIES AND ENDORSEMENTS FOR CHEMICAL MANUFACTURING; ESTABLISHING REQUIREMENTS FOR TESTING LABORATORIES; REVISING ALLOWABLE AMOUNTS; REQUIRING TESTING OF SAMPLES COLLECTED DURING INSPECTIONS; ELIMINATING THE REQUIREMENT FOR A PARENT TO SERVE AS A MINOR'S PROVIDER; ESTABLISHING A TAX ON PROVIDERS; ESTABLISHING A FEE FOR DISPENSARIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 41-5-216, 50-46-302, 50-46-303, 50-46-307, 50-46-308, 50-46-311, 50-46-312, 50-46-319, 50-46-320, 50-46-327, 50-46-328, 50-46-329, 50-46-330, 50-46-343, 50-46-344, 50-46-345, AND 80-1-104, MCA; AND PROVIDING EFFECTIVE DATES.

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

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

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

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

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

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA

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

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

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

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

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

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

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

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

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

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

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information

system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

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

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

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

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

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

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

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

Section 2. Section 50-46-302, MCA, is amended to read:

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

(1) "Canopy" means the total amount of square footage dedicated to live plant production at a registered premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(2) "Chemical manufacturing" means the production of marijuana concentrate.

~~(1)~~(3) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which an individual may be ordered by any court of competent jurisdiction.

~~(2)~~(4) "Debilitating medical condition" means:

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

(b) cachexia or wasting syndrome;

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

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

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

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

(k) posttraumatic stress disorder; ~~or~~

~~(l) any other medical condition or treatment for a medical condition approved by the legislature.~~

~~(3)~~(5) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(4)~~(6) "Dispensary" means a registered ~~location~~ premises from which a provider or marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a registered cardholder.

~~(5)~~(7) (a) "Employee" means an individual employed to do something for the benefit of an employer or a third person.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation,

limited liability company, or organization.

~~(6)~~(8) "Local government" means a county, a consolidated government, or an incorporated city or town.

~~(7)~~(9) "Marijuana" has the meaning provided in 50-32-101.

(10) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(11) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, and byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused products.

~~(8)~~(12) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

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

~~(9)~~(13) (a) "Marijuana-infused products provider" means a person licensed by the department to manufacture and provide marijuana-infused products for a registered cardholder.

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

~~(10)~~(14) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

~~(11)~~(15) "Paraphernalia" has the meaning provided in 45-10-101.

~~(12)~~(16) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

~~(13)~~(17) (a) "Provider" means a person licensed by the department to assist a registered cardholder as allowed under this part.

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

~~(14)~~(18) "Referral physician" means an individual who:

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

(b) has an established office in Montana; and

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

~~(15)~~(19) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

~~(16)~~(20) "Registered premises" means the location at which a provider or marijuana-infused products

provider:

(a) has indicated that marijuana will be cultivated, chemical manufacturing will occur, or marijuana-infused products will be manufactured for a registered cardholder; or

(b) has established a dispensary for sale of marijuana or marijuana-infused products to a registered cardholder.

~~(17)~~(21) "Registry identification card" means a document issued by the department pursuant to 50-46-303 that identifies an individual as a registered cardholder .

~~(18)~~(22) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

~~(19)~~(23) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

~~(20)~~(24) "Seedling" means a marijuana plant that has no flowers and is less than ~~12~~ 12 inches in height and 12 inches in diameter.

~~(21)~~(25) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

(a) obtaining the patient's medical history;

(b) performing a relevant and necessary physical examination;

(c) reviewing prior treatment and treatment response for the debilitating medical condition;

(d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician.

~~(22)~~(26) "Testing laboratory" means a qualified person, licensed by the department, who meets the requirements of 50-46-311 and:

- (a) provides testing of small samples of marijuana and marijuana-infused products; and
- (b) provides information regarding the chemical composition, the potency of a sample, and the presence of molds or pesticides in a sample.

~~(23)~~(27) "Treating physician" means an individual who:

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

~~(24)~~(28) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any ~~mixtures or preparations of the dried leaves and flowers~~ marijuana derivatives that are appropriate for the use of marijuana by an individual with a debilitating medical condition.

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

~~(25)~~(29) "Written certification" means a statement signed by a treating physician or referral physician that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care."

Section 3. Section 50-46-303, MCA, is amended to read:

"50-46-303. Department responsibilities -- issuance of cards and licenses -- confidentiality -- inspections -- reports. (1) ~~(a)~~ The department shall establish and maintain a program for:

(a) the issuance of registry identification cards to Montana residents who have debilitating medical conditions and who submit applications meeting the requirements of this part;

(b) the issuance of licenses:

(i) to persons who apply to operate as providers, marijuana-infused products providers, or testing laboratories and who submit applications meeting the requirements of this part; and

(ii) for dispensaries established by providers or marijuana-infused products providers;

(c) the issuance of endorsements for chemical manufacturing to a provider or a marijuana-infused products provider who applies for a chemical manufacturing endorsement and meets requirements established by the department by rule; and

(d) the tracking of marijuana and marijuana-infused products from either the seed or the immature plant

stage until the marijuana or marijuana-infused product is sold to a registered cardholder to ensure that the marijuana or marijuana-infused product cultivated, manufactured, possessed, and sold under this part is not sold or otherwise provided to an individual who is not authorized under this part to possess the item. The tracking system must be provided to providers, marijuana-infused products providers, dispensaries, and testing laboratories at no additional cost.

~~(b)(2)~~ (a) ~~Individuals who obtain registry identification cards are~~ An individual who obtains a registry identification card and does not name a provider or marijuana-infused products provider is authorized to cultivate, manufacture, possess, and transport marijuana as allowed by this part.

(b) An individual who obtains a registry identification card and names a provider or marijuana-infused products provider is authorized to possess marijuana as allowed by this part.

(c) A person who obtains a provider, marijuana-infused products provider, or dispensary license or an employee of a licensee is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed by this part.

(d) A person who obtains a testing laboratory license or an employee of a licensee is authorized to possess, test, and transport marijuana as allowed by this part.

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

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

(4) (a) Registry identification cards and licenses issued pursuant to this part must:

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

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

(iii) indicate whether a provider or marijuana-infused products provider has an endorsement for chemical manufacturing;

~~(c)~~(iv) state the date of issuance and the expiration date of the registry identification card or license;

~~(d)~~(v) contain a unique identification number; and

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

(b) Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry identification cards issued pursuant to this part must:

- (i) include a picture of the registered cardholder; and
- (ii) be capable of being used to track registered cardholder purchases.

(c) The department may issue temporary identification cards valid for 60 days that do not meet the requirements of subsection (4)(b).

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

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

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

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

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

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

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

(8) (a) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused products provider or change in the status of the cardholder's debilitating medical condition within 10 days of the change.

(b) A registered cardholder who possesses mature plants or seedlings under 50-46-319(1) shall notify the department of the location of the plants and seedlings or any change of location of plants or seedlings. The department shall provide the names and locations of cardholders who possess mature plants or seedlings to the local law enforcement agency having jurisdiction in the area in which the plants or seedlings are located. The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.

(c) If a change occurs and is not reported to the department, the registry identification card is void.

(9) The department shall maintain a confidential list of individuals to whom the department has issued

registry identification cards. Except as provided in ~~subsection~~ subsections (8)(b) and (10), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

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

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

~~(10) The department shall provide the names and phone numbers of providers and marijuana-infused products providers and the city, town, or county where registered premises and testing laboratories are located to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused products providers are located. The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332 public on the department's website. The department may not disclose the physical location or address of a provider, marijuana-infused products provider, dispensary, or testing laboratory.~~

~~(11) The department may share only information about providers, marijuana-infused products providers, dispensaries, and testing laboratories with the department of revenue for the purpose of investigation and prevention of noncompliance with tax laws, including but not limited to evasion, fraud, and abuse. The department of revenue and its employees are subject to the confidentiality requirements of [section 25(1)].~~

~~(11)(12) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers licensed, the number of endorsements approved for chemical manufacturing, the number of testing laboratories licensed, the number of dispensaries licensed, the number of registry identification cards and licenses revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders, physicians, providers, or marijuana-infused products providers, dispensaries, or testing laboratories.~~

~~(12)(13) The board of medical examiners shall report annually to the legislature on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203."~~

Section 4. Section 50-46-307, MCA, is amended to read:

"50-46-307. (Temporary) Persons with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

- (a) an application on a form prescribed by the department;
- (b) an application fee or a renewal fee;
- (c) the person's name, street address, and date of birth;
- (d) proof of Montana residency;
- (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;
- (f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;
- (g) the name of the person's treating physician or referral physician and the street address and telephone number of the physician's office;
- (h) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;
- (i) the name, date of birth, and street address of the individual the person has selected as a provider or marijuana-infused products provider, if any; and
- (j) the written certification and accompanying statements from the person's treating physician or referral physician as required pursuant to 50-46-310.

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

- (a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and
- (b) signs and submits a written statement that:
 - (i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of

the use of marijuana; and

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

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

~~(B) agrees to serve as the minor's marijuana-infused products provider;~~

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

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

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

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

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

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

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

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

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

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

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

50-46-307. (Effective June 30, 2017) Individuals with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:

- (a) an application on a form prescribed by the department;
- (b) an application fee or a renewal fee;
- (c) the individual's name, street address, and date of birth;
- (d) proof of Montana residency;
- (e) a statement that the individual will be cultivating marijuana and manufacturing marijuana-infused products for the individual's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;
- (f) a statement, on a form prescribed by the department, that the individual will not divert to any other individual the marijuana or marijuana-infused products that the individual cultivates, manufactures, or obtains for the individual's debilitating medical condition;
- (g) the name of the individual's treating physician or referral physician and the street address and telephone number of the physician's office;
- (h) the street address where the individual is cultivating marijuana or manufacturing marijuana-infused products if the individual is cultivating marijuana or manufacturing marijuana-infused products for the individual's own use;
- (i) the name, date of birth, and street address of the person the individual has selected as a provider or marijuana-infused products provider, if any; and
- (j) the written certification and accompanying statements from the individual's treating physician or referral physician as required pursuant to 50-46-310.

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

- (a) provides proof of legal guardianship and responsibility for health care decisions if the individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and
- (b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

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

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

~~(B) agrees to serve as the minor's marijuana-infused products provider;~~

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

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

(c) if the parent or guardian will be serving as the minor's provider, submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a license as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of 50-46-308.

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

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

(4) An individual may not be a registered cardholder if the individual is in the custody of or under the supervision of the department of corrections or a youth court.

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

(6) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as allowed under 50-46-319 only:

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

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

(7) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused products for use by the registered cardholder may be shared with or rented or leased to a provider, a

marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage."

Section 5. Section 50-46-308, MCA, is amended to read:

~~"50-46-308. (Temporary) Provider types -- requirements -- limitations -- activities. (1) The department shall issue a registry identification card to or renew a card for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:~~

- ~~—— (a) the person's name, date of birth, and street address on a form prescribed by the department;~~
- ~~—— (b) proof that the person is a Montana resident;~~
- ~~—— (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;~~
- ~~—— (d) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;~~
- ~~—— (e) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or manufactures for a registered cardholder;~~
- ~~—— (f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered cardholder at only one location as provided in subsection (7). The location must be identified by street address.~~
- ~~—— (g) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.~~

~~—— (2) The department may not register a person under this section if the person:~~

- ~~—— (a) has a felony conviction or a conviction for a drug offense;~~
- ~~—— (b) is in the custody of or under the supervision of the department of corrections or a youth court;~~
- ~~—— (c) has been convicted of a violation under 50-46-331;~~
- ~~—— (d) has failed to:~~
 - ~~—— (i) pay any taxes, interest, penalties, or judgments due to a government agency;~~
 - ~~—— (ii) stay out of default on a government-issued student loan;~~
 - ~~—— (iii) pay child support; or~~
 - ~~—— (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government~~

agency; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~_____ 50-46-308. (Effective June 30, 2017) Provider types -- requirements -- limitations -- activities. (1) (a)~~

Subject to subsections (1)(b) and (2), the department shall issue a license to or renew a license for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:

- (i) the person's name, date of birth, and street address on a form prescribed by the department;
- (ii) proof that the person is a Montana resident;
- (iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;
- (iv) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;
- (v) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures for a registered cardholder;
- (vi) a statement acknowledging that the person will cultivate marijuana and manufacture marijuana-infused products for the registered cardholder at only one location as provided in subsection ~~(5)~~ (6). The location must be identified by street address.
- (vii) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the license.

(b) If the person to be licensed consists of more than one individual, the names of all individuals must be submitted along with the fingerprints and date of birth of each.

(2) The department may not license a person under this section if the person or an individual with a financial interest in the person:

- (a) has a felony conviction or a conviction for a drug offense;
- (b) is in the custody of or under the supervision of the department of corrections or a youth court;
- (c) has been convicted of a violation under 50-46-331;
- (d) has failed to:
 - (i) pay any taxes, interest, penalties, or judgments due to a government agency;
 - (ii) stay out of default on a government-issued student loan;
 - (iii) pay child support; or
 - (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government

agency;

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

(f) (i) before July 1, 2020, has resided in Montana for fewer than 3 years except if the provider or marijuana-infused products provider was named by a registered cardholder by June 30, 2017; and

(ii) on or after July 1, 2020, has resided in Montana for less than 1 year 1 year; or

(g) is under 18 years of age.

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

(4) A provider or marijuana-infused products provider may not use marijuana unless the person is also a registered cardholder.

(5) Except as provided in [section 8(1)(b)], a provider or marijuana-infused products provider shall:

(a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories pursuant to 50-46-311, [section 8], and related administrative rules;

(b) allow the department to collect samples of marijuana or marijuana-infused products during inspections of registered premises for testing as provided by the department by rule;

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 50-46-303; and

(d) obtain the license provided for in 80-7-106 from the department of agriculture if the provider or marijuana-infused products provider sells live plants. A provider or marijuana-infused products provider required to obtain a nursery license is subject to the inspection requirements of 80-7-108. The department of agriculture and its employees are subject to the confidentiality requirements of 50-46-332.

~~(5)~~(6) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana-infused products for use by a registered cardholder only at one of the following locations:

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

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

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

(b) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused

products may be shared with or rented or leased to another provider or marijuana-infused products provider or a registered cardholder.

~~(6)~~(7) A licensed provider or marijuana-infused products provider may:

(a) ~~operate dispensaries in accordance with rules adopted by the department;~~

(i) operate dispensaries; and

(ii) engage in chemical manufacturing;

(b) employ employees to cultivate marijuana, manufacture marijuana concentrates and marijuana-infused products, and dispense and transport marijuana and marijuana-infused products; and

(c) provide a small amount of marijuana or marijuana-infused products cultivated or manufactured on the registered premises to a licensed testing laboratory or the department of agriculture."

Section 6. Section 50-46-311, MCA, is amended to read:

"50-46-311. (Effective June 30, 2017) Testing laboratories. (1) (a) The department shall license testing laboratories that meet the requirements of this part to measure the tetrahydrocannabinol and cannabidiol content of marijuana and marijuana-infused products and to test marijuana and marijuana-infused products for ~~toxins pesticides, solvents, water levels, and mold, and other contaminants. A testing laboratory may transport samples to be tested.~~

(b) The analytical laboratory services provided by the department of agriculture pursuant to 80-1-104 may be used for the testing provided for in this section.

(2) A person with a financial interest in a licensed testing laboratory may not have a financial interest in a provider for whom testing services are performed.

(3) Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. The scientific director must have ~~the following~~ minimum qualifications:

~~—— (a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or~~

~~—— (b) a master's~~ the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience and a minimum of 4 years of postdegree laboratory experience.

(4) All owners and employees of a testing laboratory shall submit fingerprints to the department to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation. A laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.

(5) To qualify for licensure, a testing laboratory shall demonstrate that:

(a) staff members are proficient in operation of the laboratory equipment;

(b) the laboratory maintains the equipment and instrumentation required by rule;

(c) the laboratory meets insurance and bonding requirements established by rule; and

(d) the laboratory has passed a relevant proficiency program. The department shall establish by rule the proficiency programs considered relevant for the purposes of this section.

(6) Except as provided in [section 8(1)(b)], a testing laboratory shall conduct tests of:

(a) samples of marijuana, marijuana concentrate, and marijuana-infused products submitted by providers and marijuana-infused products providers pursuant to [section 8] and related administrative rules prior to sale of the marijuana or marijuana-infused products;

(b) samples of marijuana or marijuana-infused products collected by the department during inspections of registered premises; and

(c) samples submitted by registered cardholders."

Section 7. Section 50-46-312, MCA, is amended to read:

"50-46-312. (Effective June 30, 2017) License as privilege -- criteria. (1) A provider, marijuana-infused products provider, dispensary, or testing laboratory license or an endorsement for chemical manufacturing is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed registered premises.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) ~~(a)~~ The department may deny a license if the applicant's proposed registered premises:

~~(i)~~(a) is situated within a zone of a city, town, or county where an activity related to the medical use of marijuana is prohibited by ordinance or resolution, a certified copy of which has been filed with the department;
or

~~(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.~~

~~(iii) is not approved by local building, health, or fire officials; or~~

~~(iv)~~(b) will adversely affect the welfare of the people residing in or of retail businesses located in the vicinity.

(4) (a) The department may deny a license or endorsement if the applicant's proposed registered premises or testing laboratory:

(i) is not approved by local building, health, or fire officials; or

(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.

(b) The department may not approve a license for a provider, marijuana-infused products provider, or dispensary if a local government has adopted an ordinance or resolution prohibiting the operation of dispensaries or storefront businesses as allowed under 50-46-328.

~~(b)~~(c) For the purposes of this subsection ~~(3)~~ (4), "school" and "postsecondary school" have the meanings provided in 20-5-402."

Section 8. Testing of marijuana and marijuana-infused products. (1) (a) Except as provided in subsection (1)(b), a provider or marijuana-infused products provider may not sell marijuana or marijuana-infused products until the marijuana or products have been tested by a testing laboratory or the department of agriculture and met the requirements of this section.

(b) A provider or marijuana-infused products provider who has been named as a provider by 10 or fewer

registered cardholders is exempt from the testing requirements of this section until April 30, 2020.

(2) A provider or marijuana-infused products provider shall submit material that has been collected in accordance with a sampling protocol established by the department by rule. The protocol must address the division of marijuana and marijuana-infused products into lot sizes for testing. Each lot must be tested in the following categories:

- (a) flower;
- (b) concentrate; and
- (c) marijuana-infused product.

(3) The department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

- (a) the potency of the cannabinoid present; and
- (b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each lot to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The department shall establish by rule the acceptable levels of pesticides, residual solvents, mold, foreign matter, debris, insects, and other contaminants that marijuana-infused products may contain.

(6) The laboratory shall:

- (a) issue a certificate of analysis certifying the test results; and
- (b) report the results to the seed-to-sale tracking system established pursuant to 50-46-303.

(7) A provider or marijuana-infused products provider may request that material that has failed to pass the required tests be retested. The department shall adopt rules that provide for retesting parameters and requirements.

(8) Marijuana or a marijuana-infused product must include a label indicating whether the marijuana or marijuana-infused product has been tested.

Section 9. Section 50-46-319, MCA, is amended to read:

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

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and

1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

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

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

(b) the registered cardholder acquires or uses marijuana.

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

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

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

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

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

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

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

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an

individual unless the individual has obtained a registry identification card or license prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card or license after an arrest or the filing of a criminal charge.

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

- (i) is in possession of a valid registry identification card or license; and
- (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

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

50-46-319. (Effective June 30, 2017) Legal protections -- allowable amounts. (1) (a) A registered cardholder who has named a provider may possess up to ~~4 mature plants, 12 seedlings, and~~ 1 ounce of usable marijuana.

(b) (i) A registered cardholder who has not named a provider may possess up to 4 mature plants, 4 seedlings, and the amount of usable marijuana allowed by the department by rule.

(ii) If two or more registered cardholders share a residence and have not named providers, the cardholders may have a maximum of 8 mature plants, 8 seedlings, and the amount of usable marijuana allowed by the department by rule. The limits in this subsection (1)(b)(ii) apply regardless of the location of the plants and seedlings.

(iii) A registered cardholder who possesses mature plants or seedlings shall notify the department of the location of the plants and seedlings pursuant to 50-46-303(8)(b).

(b)(c) A provider or marijuana-infused products provider may possess ~~4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider~~ have the canopy allowed by the department for the provider or marijuana-infused products provider. The canopy allotment is a cumulative total for all of the provider's or marijuana-infused products provider's registered premises and may not be interpreted as an allotment for each premises.

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

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

(b) the registered cardholder acquires or uses marijuana.

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

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

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

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

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

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

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

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

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

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

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

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

Section 10. Section 50-46-320, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to

reimburse a person for costs associated with the use of marijuana by a registered cardholder;

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

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

(d) a landlord to allow a tenant who is a registered cardholder, provider, ~~or~~ marijuana-infused products provider, dispensary, or testing laboratory to cultivate, ~~or~~ manufacture, dispense, sell, or test marijuana or marijuana-infused products or to allow a registered cardholder to use marijuana.

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

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

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

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

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

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

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

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

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

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

- (a) any individual, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or
- (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:
 - (i) in a health care facility as defined in 50-5-101;
 - (ii) in a school or a postsecondary school as defined in 20-5-402;
 - (iii) on or in any property owned by a school district or a postsecondary school;
 - (iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;
 - (v) in a school bus or other form of public transportation;
 - (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;
 - (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
 - (viii) at a public park, public beach, public recreation center, or youth center;
 - (ix) in or on the property of any church, synagogue, or other place of worship;
 - (x) in plain view of or in a place open to the general public; or
 - (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

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

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

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

- (a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse an individual for costs associated with the use of marijuana by a registered cardholder;
- (b) an employer to accommodate the use of marijuana by a registered cardholder;
- (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder, provider, ~~or~~ marijuana-infused products provider, dispensary, or testing laboratory to cultivate, ~~or~~ manufacture, dispense, sell, or test marijuana, marijuana concentrates, or marijuana-infused products or to allow a registered cardholder to use marijuana.

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

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

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

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

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

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

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

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

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

(8) A provider or marijuana-infused products provider who violates [section 20] or [section 21] is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department of revenue certifies compliance with [section 20] or [section 21]."

Section 11. Section 50-46-327, MCA, is amended to read:

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

- (i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;
- (ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or
- (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a ~~location where marijuana to be used for a debilitating medical condition is cultivated or manufactured or where marijuana-infused products are made~~ registered premises or a testing laboratory.

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

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

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

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

50-46-327. (Effective June 30, 2017) Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions. (1) (a) A physician who provides written certifications may not:

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

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

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a ~~location where marijuana to be used for a debilitating medical condition is cultivated or where marijuana-infused products are produced~~ registered premises or a testing laboratory.

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

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

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

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

Section 12. Section 50-46-328, MCA, is amended to read:

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

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

Section 13. Section 50-46-329, MCA, is amended to read:

"50-46-329. (Temporary) Inspection procedures. (1) The department and state or local law enforcement agencies may conduct unannounced inspections of registered premises.

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

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of this part.

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

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

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder.

50-46-329. (Effective June 30, 2017) Inspection procedures. (1) The department ~~may~~ shall conduct unannounced inspections of registered premises, ~~dispensaries,~~ and testing laboratories. The department shall report biennially to the children, families, health, and human services interim committee concerning the results of unannounced inspections.

(2) (a) The department shall inspect annually each ~~dispensary,~~ registered premises, and testing laboratory.

(b) The department shall collect samples during the inspection of registered premises and submit them to a testing laboratory for testing as provided by the department by rule.

(3) (a) Each provider and marijuana-infused products provider shall keep a complete set of records

necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of this part.

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

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

(5) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were sold or transferred and the quantities sold or transferred to each cardholder.

(6) The department may establish penalties, including financial penalties and license revocation, for the violation of agricultural or public health standards."

Section 14. Section 50-46-330, MCA, is amended to read:

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

- (a) is convicted of a drug offense;
- (b) allows another person to be in possession of the person's:
 - (i) registry identification card or license; or
 - (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or
- (c) fails to cooperate with the department concerning an investigation or inspection if the person is registered or licensed and cultivating or manufacturing marijuana.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

50-46-330. (Effective June 30, 2017) Unlawful conduct by cardholders or licensees -- penalties.

(1) The department shall revoke and may not reissue the registry identification card, license, or endorsement of an individual who:

- (a) is convicted of a drug offense;
- (b) allows another individual to be in possession of the individual's:
 - (i) registry identification card or license; or
 - (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or
- (c) fails to cooperate with the department concerning an investigation or inspection if the individual is registered or licensed and cultivating marijuana, engaging in chemical manufacturing, or manufacturing marijuana-infused products.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."

Section 15. Section 50-46-343, MCA, is amended to read:

"50-46-343. Legislative monitoring. (1) The children, families, health, and human services interim committee shall provide oversight of the department's activities ~~related to registering individuals~~ pursuant to this part, including but not limited to monitoring of:

- (a) the number of registered cardholders and licensees ~~and of;~~
- (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana ~~pursuant to this part;~~
and
- (c) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 50-46-303.

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

Section 16. Section 50-46-344, MCA, is amended to read:

"50-46-344. Rulemaking authority -- fees. (1) The department shall adopt rules necessary for the

implementation and administration of this part. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for licenses and endorsements and applications for registry identification cards ~~for providers and marijuana-infused products providers and~~ for individuals with debilitating medical conditions and renewal of licenses, endorsements, and registry identification cards;

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

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

(d) the security and operating requirements for dispensaries;

(e) the security and operating requirements for chemical manufacturing, including but not limited to requirements for:

(i) safety equipment;

(ii) extraction methods, including solvent-based and solvent-free extraction; and

(iii) postprocessing procedures;

(f) the amount of usable marijuana that a registered cardholder who has not named a provider or marijuana-infused products provider may possess;

(g) the canopy for which a provider or marijuana-infused products provider is licensed;

(h) implementation of a system to allow the tracking of marijuana and marijuana-infused products as required by 50-46-303;

(i) requirements and standards for the testing and retesting of marijuana and marijuana-infused products, including testing of samples collected during the department's inspections of registered premises; and

~~(j)~~ (j) other rules necessary to implement the purposes of this part.

(2) In establishing the canopy for a provider or marijuana-infused products provider, the department shall take into consideration:

(a) safety and security issues;

(b) the provision of adequate access to usable marijuana to accommodate the needs of registered cardholders; and

(c) economies of scale and their effect on the ability of licensees to comply with regulatory requirements and undercut illegal market prices.

~~(2) License fees for providers and marijuana-infused products providers may not exceed \$1,000 for 10 or fewer registered cardholders or \$5,000 for more than 10 registered cardholders. A provider of both marijuana and marijuana-infused products is required to have only one license.~~

(3) (a) Except as provided in subsection (3)(b), license fees for providers and marijuana-infused products providers are \$1,000 for 10 or fewer registered cardholders and \$5,000 for more than 10 registered cardholders.

(b) The department may revise the fee provided for in subsection (3)(a) as needed to adequately fund the administration of the Montana Medical Marijuana Act and the seed-to-sale tracking system, including operating reserve funds of \$250,000. The department shall establish revised fees by rule.

(c) A provider of both marijuana and marijuana-infused products is required to have only one license.

~~(3) License fees for testing laboratories may not exceed \$1,200.~~

(4) The department shall establish by rule the fees for dispensaries, endorsements for chemical manufacturing, and testing laboratories.

~~(4)(5) All fees and civil penalties collected under this part must be deposited in the medical marijuana state special revenue account established in 50-46-345.~~

~~(5)(6) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering this part."~~

Section 17. Section 50-46-345, MCA, is amended to read:

"50-46-345. (Effective June 30, 2017) Medical marijuana state special revenue account. (1) There is a medical marijuana state special revenue account within the state special revenue fund established in 17-2-102.

(2) ~~Money~~ The account consists of:

(a) money deposited into the account pursuant to ~~50-46-344(4)~~ 50-46-344; and

(b) the tax collected pursuant to [sections 18 through 26].

(3) Money in the account must be used by the department for the purpose of administering the Montana Medical Marijuana Act and tracking system development."

Section 18. Definitions. As used in [sections 18 through 26], the following definitions apply:

(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.

Section 19. Tax on marijuana product providers. (1) (a) There is a tax equal to the percentage provided in subsection (1)(b) on a marijuana product provider's gross sales that is payable four times a year.

(b) The percentage of tax on gross sales in subsection (1)(a) is as follows:

(i) for gross sales during the calendar quarters beginning July 1, 2017, and ending June 30, 2018, the amount is 4%; and

(ii) for gross sales during the calendar quarters beginning July 1, 2018, and thereafter, the amount is 2%.

(2) A marijuana product provider shall submit a quarterly report to the department listing the total dollar amount of sales from any registered premises, as defined in 50-46-302, operated by the marijuana product provider, including dispensaries. The report must be:

(a) made on forms prescribed by the department; and

(b) submitted within 15 days of the end of each calendar quarter.

(3) At the time the report is filed, the marijuana product provider shall submit a payment equal to the percentage provided in subsection (1)(b) of the total dollar amount of sales.

(4) The department shall deposit the taxes paid under this section in the medical marijuana state special revenue account provided for in 50-46-345.

(5) The tax imposed by [sections 18 through 26] and related interest and penalties are a personal debt of the person required to file a return from the time that the liability arises, regardless of when the time for

payment of the liability occurs.

(6) For the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest owed under [sections 20 through 23]:

(a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state taxes provided for in [sections 20 through 23] and who fails to pay the taxes is liable to the state for the taxes and the penalty and interest due on the amounts;

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

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

(ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by [sections 18 through 26] or pay taxes due as required by [sections 18 through 26];

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

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

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

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

(7) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (6)(a) to establish individual liability and may consider any other available information.

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

Section 20. Returns -- payment -- recordkeeping -- authority of department. (1) Each marijuana product provider shall file a return, on a form provided by the department, and pay the tax due as provided in [section 19].

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

(3) (a) A person required to pay to the department the taxes imposed by [sections 18 through 26] shall keep for 5 years:

(i) all receipts issued; and

(ii) an accurate record of all sales of marijuana products, showing the name and address of each purchaser, the date of sale, and the quantity, kind, and retail price of each product sold.

(b) For the purpose of determining compliance with the provisions of [sections 18 through 26], the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

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

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

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

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

(v) administer oaths or affirmations.

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

Section 21. Deficiency assessment -- penalty and interest -- statute of limitations. (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return, it shall mail to the marijuana product provider a notice, pursuant to 15-1-211, of the additional tax proposed to be

assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The marijuana product provider may seek review of the determination pursuant to 15-1-211.

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

(3) The amount of tax due under any return may be determined by the department within 5 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For purposes of this section, a return due under [sections 18 through 26] and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

Section 22. Procedure to compute tax in absence of statement -- estimation of tax -- failure to file -- penalty and interest. (1) If the marijuana product provider fails to file any return required by [section 20] within the time required, the department may, at any time, audit the marijuana product provider or estimate the taxes due from any information in its possession and, based on the audit or estimate, assess the marijuana product provider for the taxes, penalties, and interest due the state.

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

Section 23. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under [sections 18 through 26].

(b) If a tax imposed by [sections 18 through 26] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

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

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

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

Section 24. Refunds -- interest -- limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under [sections 18 through 26] must be filed within 5 years of the date that the return was due, without regard to any extension of time for filing.

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

(b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

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

- (i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or
- (ii) the amount of overpayment and interest does not exceed \$1.

Section 25. Information -- confidentiality -- agreements with another state. (1) (a) Except as provided in subsections (2) through (5), in accordance with 15-30-2618 and 15-31-511, it is unlawful for an employee of the department or any other public official or public employee to disclose or otherwise make known information that is disclosed in a return or report required to be filed under [sections 18 through 26] or information that concerns the affairs of the person making the return and that is acquired from the person's records, officers, or employees in an examination or audit.

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

(2) (a) This section may not be construed to prohibit the department from providing information obtained under [sections 18 through 26] to:

(i) the department of justice or law enforcement to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under [sections 18 through 26]; or

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

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

(c) In order to implement the provisions of [sections 18 through 26], the department may furnish information on a reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within the state receiving the information that are similar to this section.

(3) In order to facilitate processing of returns and payment of taxes required by [sections 18 through 26], the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

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

(i) to which the department is a party under the provisions of [sections 18 through 26] or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of [sections 18 through 26] or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

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

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

Section 26. Department to make rules. The department of revenue shall prescribe rules necessary to carry out the purposes of imposing and collecting the marijuana tax on gross sales on marijuana product providers.

Section 27. Section 80-1-104, MCA, is amended to read:

"80-1-104. Analytical laboratory services -- rulemaking authority -- deposit of fees. (1) The

department is authorized to provide analytical laboratory services for:

(a) programs it operates under this title;

(b) other state or federal agencies;

(c) providers and marijuana-infused products providers as those terms are defined in 50-46-302, and the department of public health and human services for the purposes of Title 50, chapter 46, part 3, as allowed by federal law; and

~~(e)~~(d) private parties.

(2) The department may enter into a contract or a memorandum of understanding for the space and equipment necessary for operation of the analytical laboratory.

(3) (a) The department may adopt rules establishing fees for testing services required under this title or provided to another state agency, a federal agency, or a private party.

(b) Money collected from the fees must be deposited in the appropriate related account in the state special revenue fund to the credit of the department to pay costs related to analytical laboratory services provided pursuant to this section."

Section 28. Appropriation. (1) There is appropriated \$1.96 million from the state special revenue account provided for in 50-46-345 to the department of public health and human services for fiscal years 2018 and 2019 for the administration of the Montana Medical Marijuana Act.

(2) There is appropriated \$722,000 from the state special revenue account provided for in 50-46-345 to the department of revenue for fiscal years 2018 and 2019 for administration of the tax provided for in [sections 18 through 26].

Section 29. Codification instruction. (1) [Section 8] is intended to be codified as an integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3, apply to [section 8].

(2) [Sections 18 through 26] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 18 through 26].

Section 30. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in

all valid applications that are severable from the invalid applications.

Section 31. Effective dates -- direction to department of public health and human services. (1)

Except as provided in subsections (2) through (4), [this act] is effective on passage and approval.

(2) [Sections 6 and 7] are effective June 30, 2017.

(3) [Sections 18 through 26] are effective July 1, 2017.

(4) [Section 8] and the amendments to [sections 3(4)(b) through (4)(c), 5(5)(a) through (5)(c), 6(6), 9(1)(b)(i), 9(1)(b)(ii), 9(1)(c), and 13(2)(b)] are effective on the earlier of:

(a) April 30, 2018; or

(b) the date that the department of public health and human services certifies to the code commissioner that the department is able to carry out the requirements of [sections 3(4)(b) through (4)(c), 5(5)(a) through (5)(c), 6(6), 8, 9(1)(b)(i), 9(1)(b)(ii), 9(1)(c), and 13(2)(b)].

(5) The department must notify all licensed providers, marijuana-infused products providers, and testing laboratories of the effective date of [sections 3(4)(b) through (4)(c), 5(5)(a) through (5)(c), 6(6), 8, 9(1)(b)(i), 9(1)(b)(ii), 9(1)(c), and 13(2)(b)] at least 2 months before the date the provisions of those sections will go into effect.

- END -

I hereby certify that the within bill,
SB 0333, originated in the Senate.

President of the Senate

Signed this _____ day
of _____, 2017.

Secretary of the Senate

Speaker of the House

Signed this _____ day
of _____, 2017.

SENATE BILL NO. 333

INTRODUCED BY M. CAFERRO, Z. BROWN, A. HERTZ, B. SMITH, S. STEWART-PEREGOY,
F. THOMAS, D. ZOLNIKOV

AN ACT REVISING THE MONTANA MEDICAL MARIJUANA ACT; REQUIRING SEED-TO-SALE TRACKING; REQUIRING LICENSING OF DISPENSARIES AND ENDORSEMENTS FOR CHEMICAL MANUFACTURING; ESTABLISHING REQUIREMENTS FOR TESTING LABORATORIES; REVISING ALLOWABLE AMOUNTS; REQUIRING TESTING OF SAMPLES COLLECTED DURING INSPECTIONS; ELIMINATING THE REQUIREMENT FOR A PARENT TO SERVE AS A MINOR'S PROVIDER; ESTABLISHING A TAX ON PROVIDERS; ESTABLISHING A FEE FOR DISPENSARIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 41-5-216, 50-46-302, 50-46-303, 50-46-307, 50-46-308, 50-46-311, 50-46-312, 50-46-319, 50-46-320, 50-46-327, 50-46-328, 50-46-329, 50-46-330, 50-46-343, 50-46-344, 50-46-345, AND 80-1-104, MCA; AND PROVIDING EFFECTIVE DATES.