



AN ACT GENERALLY REVISING THE MONTANA MEDICAL MARIJUANA ACT; TEMPORARILY INCREASING THE TAX ON GROSS SALES TO 4%; ELIMINATING THE REQUIREMENT THAT MEDICAL MARIJUANA PROVIDERS AND MARIJUANA-INFUSED PRODUCTS PROVIDERS BE NAMED BY A REGISTERED CARDHOLDER; ESTABLISHING REQUIREMENTS FOR ISSUANCES OF REGISTRY IDENTIFICATION CARDS AND LICENSES; ESTABLISHING REQUIREMENTS FOR TESTING LABS AND INSPECTION OF REGISTERED PREMISES; PROVIDING FOR THE ADDITIONAL RELEASE OF INFORMATION; ESTABLISHING CANOPY TIERS AND LICENSING FEES; ESTABLISHING A TEMPORARY MORATORIUM ON PROVIDER LICENSING; ESTABLISHING LIMITS ON CARDHOLDER PURCHASES; CLARIFYING THE PROHIBITION ON PHYSICIAN-PROVIDER AFFILIATIONS; ALLOWING USE OF TELEMEDICINE FOR WRITTEN CERTIFICATIONS; CLARIFYING ADVERTISING RESTRICTIONS; ESTABLISHING PENALTIES; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR THE TRANSFER OF FUNDS; AMENDING SECTIONS 15-64-102, 18-7-101, 50-46-302, 50-46-303, 50-46-307, 50-46-308, 50-46-309, 50-46-310, 50-46-311, 50-46-317, 50-46-319, 50-46-320, 50-46-326, 50-46-327, 50-46-329, 50-46-330, 50-46-341, 50-46-343, 50-46-344, AND 50-46-345, MCA; AND PROVIDING EFFECTIVE DATES, AN APPLICABILITY DATE, AND A CONTINGENT TERMINATION DATE.

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

**Section 1.** Section 15-64-102, MCA, is amended to read:

**"15-64-102. 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~~ October 1, 2019, and ending ~~June 30, 2018~~ September 30, 2021, the amount is 4%; and

(ii) for gross sales during the calendar quarters beginning ~~July 1, 2018~~ October 1, 2021, 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 this part 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 15-64-103 through 15-64-106:

(a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state taxes provided for in 15-64-103 through 15-64-106 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 this part or pay taxes due as required by this part;

(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 2.** Section 18-7-101, MCA, is amended to read:

**"18-7-101. Power to contract for printing -- ~~exception~~ exceptions.** (1) Except as provided in 1-11-301 and 50-46-303, the department has exclusive power, subject to the approval of the governor, to contract for all printing for any purpose used by the state in any state office (elective or appointive), agency, or institution.

(2) The department shall supervise and attend to all public printing of the state as provided in this chapter and shall prevent duplication and unnecessary printing.

(3) Unless otherwise provided by law, the department, in letting contracts as provided in this chapter, for the printing, binding, and publishing of all laws, journals, and reports of the state agencies and institutions may determine the quantity, quality, style, and grade of all such printing, binding, and publishing.

(4) The provisions of this chapter do not apply to the state compensation insurance fund for purposes of external marketing or educational materials."

**Section 3.** 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.

(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.

(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.

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

(6) "Dispensary" means a registered 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.

(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.

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(8) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 1% or more of the net profits or net worth of the entity in which the interest is held.

~~(8)~~(9) "Local government" means a county, a consolidated government, or an incorporated city or town.

~~(9)~~(10) "Marijuana" has the meaning provided in 50-32-101.

~~(10)~~(11) "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)~~(12) "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.

~~(12)~~(13) (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.

~~(13)~~(14) (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.

~~(14)~~(15) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

~~(15)~~(16) "Paraphernalia" has the meaning provided in 45-10-101.

~~(16)~~(17) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

~~(17)~~(18) (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.

~~(18)~~(19) "Referral physician" means an individual who:

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

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

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

~~(19)~~(20) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

~~(20)~~(21) "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.

~~(24)~~(22) "Registry identification card" means a document issued by the department pursuant to 50-46-303 that identifies an individual as a registered cardholder.

~~(22)~~(23) (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.

~~(23)~~(24) "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.

~~(24)~~(25) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(25)~~(26) "Standard of care" means, at a minimum, the following activities when undertaken in person or through the use of telemedicine 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.

(27) "State laboratory" means the laboratory operated by the department of public health and human

services to conduct environmental analyses.

(28) "Telemedicine" has the meaning provided in 33-22-138.

~~(26)~~(29) "Testing laboratory" means a qualified person, licensed by the department, who meets the requirements of 50-46-311 and:

- (a) provides testing of ~~small~~ representative 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,~~ or other contaminants in a sample.

~~(27)~~(30) "Treating physician" means an individual who:

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

~~(28)~~(31) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any 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.

~~(29)~~(32) "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 4.** 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.

(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.

(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.

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

(6) "Dispensary" means a registered 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.

(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.

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(8) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 1% or more of the net profits or net worth of the entity in which the interest is held.

~~(9)~~(9) "Local government" means a county, a consolidated government, or an incorporated city or town.

~~(10)~~(10) "Marijuana" has the meaning provided in 50-32-101.

~~(11)~~(11) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

~~(12)~~(12) "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.

~~(12)~~(13) (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.

~~(13)~~(14) (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.

~~(14)~~(15) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

~~(15)~~(16) "Paraphernalia" has the meaning provided in 45-10-101.

~~(16)~~(17) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

~~(17)~~(18) (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.

~~(18)~~(19) "Referral physician" means an individual who:

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

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

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

~~(19)~~(20) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

~~(20)~~(21) "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~~ cardholders; or

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

~~(21)~~(22) "Registry identification card" means a document issued by the department pursuant to 50-46-303 that identifies an individual as a registered cardholder.

~~(22)~~(23) (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.

~~(23)~~(24) "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.

~~(24)~~(25) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(25)~~(26) "Standard of care" means, at a minimum, the following activities when undertaken in person or through the use of telemedicine 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.

(27) "State laboratory" means the laboratory operated by the department of public health and human services to conduct environmental analyses.

(28) "Telemedicine" has the meaning provided in 33-22-138.

~~(26)~~(29) "Testing laboratory" means a qualified person, licensed by the department, who meets the requirements of 50-46-311 and:

- (a) provides testing of ~~small~~ representative 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, or other contaminants in a sample.

~~(27)~~(30) "Treating physician" means an individual who:

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

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

~~(c)~~(b) has a bona fide professional relationship with the individual applying to be a registered cardholder.

~~(28)~~(31) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any 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.

~~(29)~~(32) "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 5.** Section 50-46-303, MCA, is amended to read:

**"50-46-303. Department Medical marijuana registry -- department responsibilities -- issuance of cards and licenses -- confidentiality -- inspections -- reports.** (1) The department shall establish and maintain a program for registry of persons who receive registry identification cards or licenses under this part. The department shall issue:

(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; or 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; and

(iii) through the state laboratory, to testing laboratories that submit applications meeting the requirements of this part; and

(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.~~

(2) (a) 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~~ licensed provider or marijuana-infused products provider 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~~ licensed testing laboratory is authorized to possess, test, and transport marijuana as allowed by this part.

(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:

(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;

(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;

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

(v) contain a unique identification number; and

(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) (i) The department ~~may~~ shall issue temporary registry identification cards upon receipt of an application. The cards are valid for 60 days that do not meet and are exempt from the requirements of subsection (4)(b). Printing of the temporary identification cards is exempt from the provisions of Title 18, chapter 7.

(ii) The cards may be issued before an applicant's payment of the fee has cleared. The department shall cancel the temporary card after 60 days and may not issue a permanent card until the fee is paid.

(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) If the department fails to act on a completed application within 30 days of receipt, the department shall:

(i) refund the fee paid by an applicant for a registry identification card;

(ii) reduce the cost of the licensing fee for a new applicant for licensure or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(iii) if a licensee is unable to operate because a license renewal application has not been acted on, reimburse the licensee 50% of the gross sales the licensee reported in the most recent quarter for the purpose of the tax provided for in 15-64-102.

(c) Applications that are not processed within 30 days of receipt remain active until the department takes final action.

(d) An application for a license or renewal of a license is not considered complete until the department has completed a satisfactory inspection as required by this part and related administrative rules.

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

~~(6) Rejection~~ Review of a rejection of an application or renewal is considered a final department action, subject to judicial review may be conducted as a contested case hearing pursuant to the provisions of the Montana Administrative Procedure Act.

(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 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;

(c) a judge, magistrate, or other authorized judicial officer in response to an order requiring disclosure;

and

(d) another person or entity when the information pertains to a cardholder who has given written consent to the release and has specified:

(i) the type of information to be released; and

(ii) the person or entity to whom it may be released.

(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 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 15-64-111(1).

~~(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, marijuana-infused products providers, dispensaries, or testing laboratories.~~

~~————(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 6.** Section 50-46-303, MCA, is amended to read:

**"50-46-303. Department Medical marijuana registry -- department responsibilities -- issuance of cards and licenses -- confidentiality -- inspections -- reports.** (1) The department shall establish and maintain a program for registry of persons who receive registry identification cards or licenses under this part. The department shall issue:

(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; or 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; and

(iii) through the state laboratory, to testing laboratories that submit applications meeting the requirements

of this part; and

(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.~~

(2) (a) An individual who obtains a registry identification card and ~~does not name a provider or marijuana-infused products provider~~ indicates the individual will not use the system of licensed providers and marijuana-infused products providers to obtain marijuana or marijuana-infused products 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~~ indicates the individual will use the system of licensed providers and marijuana-infused products providers to obtain marijuana or marijuana-infused products 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~~ licensed provider or marijuana-infused products provider 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~~ licensed testing laboratory is authorized to possess, test, and transport marijuana as allowed by this part.

(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:

(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;

(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 the cardholder is obtaining marijuana and marijuana-infused products through the system of licensed providers and marijuana-infused products providers;

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

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

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

~~(vi)~~(vii) 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) (i) The department ~~may~~ shall issue temporary registry identification cards upon receipt of an application. The cards are valid for 60 days that do not meet and are exempt from the requirements of subsection (4)(b). Printing of the temporary identification cards is exempt from the provisions of Title 18, chapter 7.

(ii) The cards may be issued before an applicant's payment of the fee has cleared. The department shall cancel the temporary card after 60 days and may not issue a permanent card until the fee is paid.

(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) If the department fails to act on a completed application within 30 days of receipt, the department shall:

(i) refund the fee paid by an applicant for a registry identification card;

(ii) reduce the cost of the licensing fee for a new applicant for licensure or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(iii) if a licensee is unable to operate because a license renewal application has not been acted on, reimburse the licensee 50% of the gross sales the licensee reported in the most recent quarter for the purpose of the tax provided for in 15-64-102.

(c) Applications that are not processed within 30 days of receipt remain active until the department takes

final action.

(d) An application for a license or renewal of a license is not considered complete until the department has completed a satisfactory inspection as required by this part and related administrative rules.

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

~~(6) Rejection~~ Review of a rejection of an application or renewal ~~is considered a final department action, subject to judicial review~~ may be conducted as a contested case hearing pursuant to the provisions of the Montana Administrative Procedure Act.

(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, ~~or 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 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;

(c) a judge, magistrate, or other authorized judicial officer in response to an order requiring disclosure;

and

(d) another person or entity when the information pertains to a cardholder who has given written consent to the release and has specified:

(i) the type of information to be released; and

(ii) the person or entity to whom it may be released.

(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 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 15-64-111(1).

~~(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, marijuana-infused products providers, dispensaries, or testing laboratories.~~

~~————(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 7. Department responsibility to monitor and assess medical marijuana production, testing, and sales -- license revocation.** (1) The department shall implement a system for tracking marijuana,

marijuana concentrate, and marijuana-infused products from either the seed or the seedling stage until the marijuana, marijuana concentrate, or marijuana-infused product is sold to a registered cardholder. The system must:

(a) ensure that the marijuana, marijuana concentrate, 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;

(b) be capable of notifying providers and marijuana-infused products providers, before a sale is made, of the amount of usable marijuana a registered cardholder may purchase before reaching the maximum amount of usable marijuana allowed under this part; and

(c) be made available to providers, marijuana-infused products providers, dispensaries, and testing laboratories at no additional cost.

(2) The department shall assess applications for a provider or marijuana-infused products provider license to determine if a person with a financial interest in the applicant meets any of the criteria established in 50-46-308(3) for denial of a license.

(3) The state laboratory shall assess applications for and monitor the operations of testing laboratories to ensure that:

(a) a person with a financial interest in the laboratory is complying with the requirements of 50-46-311(4); and

(b) an owner or employee is not in violation of 50-46-311(6).

(4) Before issuing or renewing a license, the department shall inspect the proposed registered premises of a provider or marijuana-infused products provider and the state laboratory shall inspect the property to be used by a testing laboratory to ensure an applicant for licensure or license renewal is in compliance with this part. The department or state laboratory may not issue or renew a license if the applicant does not meet the requirements of this part.

(5) The department shall develop a tiered licensing system for providers and marijuana-infused products providers in accordance with [section 16].

(6) The state laboratory shall establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that cardholders receive consistent and uniform information about the potency and quality of the marijuana and marijuana-infused products they receive. The state laboratory shall:

(a) consult with independent national or international organizations that establish testing standards for marijuana and marijuana-infused products;

(b) require testing laboratories to follow uniform standards and protocols for the samples accepted for testing and the processes used for testing the samples; and

(c) track and analyze the raw data for the results of testing conducted by testing laboratories to ensure that the testing laboratories are providing consistent and uniform results.

(7) If the analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the state laboratory by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the state laboratory shall suspend the testing laboratory's license until additional testing determines whether the results are consistent.

(9) The department shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent; or

(b) providing test results without having:

(i) the equipment needed to test marijuana, marijuana concentrates, or marijuana-infused products; or

(ii) the equipment required under this part to conduct the tests for which the laboratory is providing results.

(10) A revocation under this section is subject to judicial review.

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

**"50-46-307. Individuals with debilitating medical conditions -- requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through ~~(4)~~ (5), 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 control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;

(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~~ undergoes background checks in accordance with subsection (3). 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) A parent serving as a minor's provider shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation upon the minor's initial application for a registry identification card and every 3 years after that. The department shall conduct a name-based background check in years when a fingerprint background check is not required.

~~(3)~~(4) 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)~~(5) 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)~~(6) 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)~~(7) 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~~ property owner, at a property that is rented or leased by the cardholder.

~~(7)~~(8) 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 9.** Section 50-46-307, MCA, is amended to read:

**"50-46-307. Individuals with debilitating medical conditions -- requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through ~~(4)~~ (5), 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 or marijuana-infused products through the system of licensed providers and marijuana-infused products providers;~~
- (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; and
- ~~—— (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)~~(i) 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) indicates whether the parent or legal guardian will be obtaining marijuana or marijuana-infused products for the minor through the system of licensed providers and marijuana-infused products providers; and

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

(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~~ undergoes background checks in accordance with subsection (3). 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 or obtained for the minor's use in a marijuana-infused product.

(3) A parent serving as a minor's provider shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation upon the minor's initial application for a registry identification card and every 3 years after that. The department shall conduct a name-based background check in years when a fingerprint background check is not required.

~~(3)~~(4) 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)~~(5) 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)(6)~~ A registered cardholder who elects to obtain marijuana ~~from a provider~~ or marijuana-infused products ~~provider~~ through the system of licensed providers and marijuana-infused products providers may not cultivate marijuana or manufacture marijuana-infused products for the cardholder's use unless the registered cardholder is ~~the~~ a licensed provider or marijuana-infused products provider.

~~(6)(7)~~ 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~~ property owner, at a property that is rented or leased by the cardholder.

~~(7)(8)~~ 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 10.** Section 50-46-308, MCA, is amended to read:

**"50-46-308. Provider types -- requirements -- limitations -- activities.** (1) (a) Subject to subsections (1)(b) and ~~(2)~~ (3), 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 upon initial licensure and every 3 years after that;

(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 (6). The location must be identified by the street address of the location at which marijuana, marijuana concentrates, or marijuana-infused products will be cultivated or manufactured;~~ and

(vii) a fee as determined by the department to cover the costs of ~~the fingerprint and background check required background checks~~ 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 shall conduct a name-based background check for license renewal in the years that an applicant is not required to submit fingerprints for a fingerprint and background check.

~~(2)(3)~~ 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~~ 2021, 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~~ 2021, has resided in Montana for less than 1 year; or

(g) is under 18 years of age.

~~(3)(4)~~ Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.

~~(4)(5)~~ A provider or marijuana-infused products provider may not use marijuana unless the person is also a registered cardholder.

~~(5)~~(6) Except as provided in 50-46-326 (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, 50-46-326, 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~~ [section 7]; 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 as part of a sale of the provider's business. 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.

~~(6)~~(7) (a) ~~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~~ property owner, 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) (i) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused products or manufacture of marijuana-infused products or marijuana concentrate may be shared with or rented or leased to another provider, or marijuana-infused products provider, testing laboratory, or a registered cardholder.

(ii) No portion of a registered premises used to manufacture a marijuana-infused product or marijuana concentrate may be shared with, rented, or leased to another provider, marijuana-infused products provider, testing laboratory, or registered cardholder.

~~(7)~~(8) A licensed provider or marijuana-infused products provider may:

(a) 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, marijuana concentrate, or marijuana-infused products cultivated or manufactured on the registered premises to a licensed testing laboratory or the department of agriculture; and
- (d) sell the provider's business, including live plants.
- (9) A provider or marijuana-infused products provider:
  - (a) may sell only marijuana the provider has cultivated or marijuana products derived from marijuana the provider has cultivated;
  - (b) may not sell marijuana or marijuana-infused products to another provider for subsequent resale to another provider or cardholder;
  - (c) may not contract or otherwise arrange for another party to process the provider's or marijuana-infused products provider's marijuana into marijuana-infused products or marijuana concentrates; and
  - (d) may not open a dispensary before obtaining the required license and paying the fee required in [section 32(5)] or before the department has completed the inspection required under this part."

**Section 11.** Section 50-46-308, MCA, is amended to read:

**"50-46-308. Provider types -- requirements -- limitations -- activities.** (1) (a) Subject to subsections (1)(b) and ~~(2)~~ (3), the department shall issue a license to or renew a license for ~~the~~ a person who is ~~named as~~ applying to be 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 upon initial licensure and every 3 years after that;
- ~~(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)~~ (iv) 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~~ cardholders;

~~(vi)(v)~~ 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 (6). The location must be identified by the street address of the location at which marijuana, marijuana concentrates, or marijuana-infused products will be cultivated or manufactured; and

~~(vii)(vi)~~ a fee as determined by the department to cover the costs of ~~the fingerprint and background check~~ required background checks 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 shall conduct a name-based background check for license renewal in the years that an applicant is not required to submit fingerprints for a fingerprint and background check.

~~(2)(3)~~ 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)(e)~~ (i) before July 1, ~~2020~~ 2021, 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~~ 2021, has resided in Montana for less than 1 year; or

~~(g)(f)~~ is under 18 years of age.

~~(3)(4)~~ Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.

~~(4)~~(5) A provider or marijuana-infused products provider may not use marijuana unless the person is also a registered cardholder.

~~(5)~~(6) Except as provided in 50-46-326 (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, 50-46-326, 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~~ [section 7]; 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 as part of a sale of the provider's business. 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.

~~(6)~~(7) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana-infused products for use by ~~a registered cardholder~~ cardholders only at one of the following locations:

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

(ii) with written permission of the ~~landlord~~ property owner, 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) (i) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused products or manufacture of marijuana-infused products or marijuana concentrate may be shared with or rented or leased to another provider, or marijuana-infused products provider, testing laboratory, or a registered cardholder.

(ii) No portion of a registered premises used to manufacture a marijuana-infused product or marijuana concentrate may be shared with, rented, or leased to another provider, marijuana-infused products provider, testing laboratory, or registered cardholder.

~~(7)~~(8) A licensed provider or marijuana-infused products provider may:

- (a) 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, marijuana concentrate, or marijuana-infused products cultivated or manufactured on the registered premises to a licensed testing laboratory or the department of agriculture; and
- (d) sell the provider's business, including live plants.
- (9) A provider or marijuana-infused products provider:
  - (a) may sell only marijuana the provider has cultivated or marijuana products derived from marijuana the provider has cultivated;
  - (b) may not sell marijuana or marijuana-infused products to another provider for subsequent resale to another provider or cardholder;
  - (c) may not contract or otherwise arrange for another party to process the provider's or marijuana-infused products provider's marijuana into marijuana-infused products or marijuana concentrates; and
  - (d) may not open a dispensary before obtaining the required license or before the department has completed the inspection required under this part."

**Section 12.** Section 50-46-309, MCA, is amended to read:

**"50-46-309. Marijuana-infused products provider -- requirements -- allowable activities.** (1) A person licensed as a marijuana-infused products provider shall:

- (a) prepare marijuana-infused products at a registered premises; and
- (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.
- (2) A marijuana-infused products provider:
  - (a) may cultivate marijuana only for the purpose of making marijuana-infused products; ~~and~~
  - (b) may not enter into a contract or other arrangement to provide services through the provider's commercial kitchen or chemical extraction facilities to another marijuana-infused products provider; and
  - ~~(b)~~(c) may not provide a cardholder with marijuana in a form that may be used for smoking unless the



marijuana-infused products provider is also a licensed provider and is providing the marijuana to a registered cardholder who has selected the person as the registered cardholder's licensed provider.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31."

**Section 13.** Section 50-46-309, MCA, is amended to read:

**"50-46-309. Marijuana-infused products provider -- requirements -- allowable activities.** (1) A person licensed as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a registered premises; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products; ~~and~~

(b) may not enter into a contract or other arrangement to provide services through the provider's commercial kitchen or chemical extraction facilities to another marijuana-infused products provider; and

~~(b)(c) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a licensed provider and is providing the marijuana to a registered cardholder who has selected the person as the registered cardholder's licensed provider.~~

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31."

**Section 14.** Section 50-46-310, MCA, is amended to read:

**"50-46-310. Written certification -- accompanying statements.** (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician.

The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the patient for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:

(a) confirm that the physician is:

(i) the patient's treating physician and that the patient has been under the physician's ongoing medical care as part of a bona fide professional relationship with the patient; or

(ii) the patient's referral physician;

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

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

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination, whether in person or, in accordance with subsection (4), through the use of telemedicine, that included a personal review of any medical records maintained by other physicians and that may have included the patient's reaction and response to conventional medical therapies;

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

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

(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the patient and has considered the potential drug interaction with marijuana;

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

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the patient;

(j) list restrictions on the patient's activities due to the use of marijuana;

(k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1

year;

(l) state that the physician will:

(i) continue to serve as the patient's treating physician or referral physician; and

(ii) monitor the patient's response to the use of marijuana and evaluate the efficacy of the treatment; and

(m) contain an attestation that the information provided in the written certification and accompanying

statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) A physician who is providing written certification through the use of telemedicine:

(a) shall comply with the administrative rules adopted for telemedicine by the board of medical examiners provided for in 2-15-1731; and

(b) may not use an audio-only visit unless the physician has first established a physician-patient relationship through an in-person encounter.

~~(4)~~(5) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification."

**Section 15.** Section 50-46-311, MCA, is amended to read:

**"50-46-311. Testing laboratories -- licensing inspections.** (1) (a) ~~The department state laboratory~~ shall license testing laboratories that meet the requirements of this part. The state laboratory shall inspect a testing laboratory before issuing or renewing a license. The state laboratory may not issue a temporary license while an inspection is pending.

(b) Inspections conducted for licensure or renewal of licensure must include a review of an applicant's or testing laboratory's:

(i) physical premises where testing will be conducted;

(ii) instrumentation;

(iii) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

(iv) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

(v) vehicles used for transporting marijuana or marijuana-infused products samples for testing purposes.

(2) A testing laboratory shall:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, and cannabidiol, and cannabidiolic acid content of marijuana and marijuana-infused products; and to

(b) test marijuana and marijuana-infused products for pesticides, solvents, water moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested.

~~(b)~~(3) 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)~~(4) A person with a financial interest in a licensed testing laboratory may not have a financial interest in ~~a provider~~ any entity involved in the cultivation of marijuana or manufacture of a marijuana-infused product or marijuana concentrate for whom testing services are performed.

~~(3)~~(5) 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 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.

~~(4)~~(6) 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)~~(7) To qualify for licensure, a testing laboratory shall demonstrate that:

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

(b) the laboratory;

(i) maintains the equipment and instrumentation required by rule;

(ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance

testing requirements established by rule, including the ability to certify results at the required level of sensitivity;

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

(iv) has the capacity and ability to serve rural areas of the state; and

~~(d)(v) the laboratory~~ has passed a relevant proficiency program that demonstrates it is able to meet all testing requirements. The ~~department~~ state laboratory shall establish by rule the proficiency programs considered relevant for the purposes of this section.

~~(6)(8)~~ Except as provided in 50-46-326(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 50-46-326 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 16. Canopy tiers -- requirements.** The department shall license providers and marijuana-infused products providers according to a tiered canopy system.

(1) A micro tier canopy license allows for a canopy of up to 250 square feet at one registered premises.

(2) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one registered premises. A minimum of 500 square feet must be equipped for cultivation.

(3) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two registered premises. A minimum of 1,100 square feet must be equipped for cultivation.

(4) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three registered premises. A minimum of 2,600 square feet must be equipped for cultivation.

(5) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four registered premises. A minimum of 5,100 square feet must be equipped for cultivation.

(6) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five registered premises. A minimum of 7,750 square feet must be equipped for cultivation.

(7) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five registered premises. A minimum of 10,250 square feet must be equipped for cultivation.

(8) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five registered premises. A minimum of 13,250 square feet must be equipped for cultivation.

(9) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five registered premises. A minimum of 15,250 square feet must be equipped for cultivation.

(10) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six registered premises. A minimum of 17,775 square feet must be equipped for cultivation.

(11) A provider or marijuana-infused products provider who has reached capacity under the provider's existing license may apply to advance to the next licensing tier. The department:

(a) may only increase a licensure level by one tier at a time; and

(b) shall conduct an inspection of the provider's or marijuana-infused products provider's registered premises and proposed premises before approving the application.

(12) The department may create additional licensing tiers by rule if a provider with a tier 9 canopy license petitions the department to create a new licensure level and:

(a) the provider demonstrates that the provider is using the full amount of canopy currently authorized; and

(b) the tracking system shows the provider is selling at least 80% of the marijuana or marijuana-infused products produced by the square footage of the provider's existing license.

(13) The registered premises limitations for each tier of licensing apply only to registered premises at which marijuana is cultivated. The limitations do not apply to the number of dispensaries a provider or marijuana-infused products provider may have.

(14) The department's application for the canopy system must require evidence that the provider is able to successfully cultivate the minimum amount of space allowed for the tier and sell the amount of marijuana produced by the minimum cultivation level.

(15) A provider or marijuana-infused products provider that has not been issued a license before [the effective date of this section] must be initially licensed under a micro tier canopy license or a tier 1 canopy license. The provider or marijuana-infused products provider may apply to advance to the next licensing tier as provided in subsection (11).

**Section 17.** Section 50-46-317, MCA, is amended to read:

**"50-46-317. Registry card or license to be exhibited on demand -- photo identification required.**

(1) A registered cardholder, provider, or marijuana-infused products provider shall keep the individual's registry identification card or license in the individual's or person's immediate possession at all times. The registry identification card or license and a valid photo identification must be displayed upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

(2) The department shall ensure that law enforcement officers have access to accurate and up-to-date information on persons registered or licensed under this part."

**Section 18.** Section 50-46-319, MCA, is amended to read:

**"50-46-319. Legal protections -- allowable amounts.** (1) (a) A registered cardholder who has named a provider may:

(i) possess up to 1 ounce of usable marijuana; and

(ii) purchase a maximum of 5 ounces of usable marijuana a month and no more than 1 ounce of usable marijuana a day.

(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).

(c) A provider or marijuana-infused products provider may 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.

(d) (i) A registered cardholder may petition the department for an exception to the monthly limit on purchases. The request must be accompanied by a confirmation from the physician who signed the cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an amount exceeding

the monthly limit.

(ii) If the department approves an exception to the cap, the approval must establish the monthly amount of usable marijuana that the cardholder may purchase and the limit must be entered into the seed-to-sale tracking system.

(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 19.** Section 50-46-319, MCA, is amended to read:

**"50-46-319. Legal protections -- allowable amounts.** (1) (a) A registered cardholder who has ~~named a provider~~ elected to obtain marijuana and marijuana-infused products through the system of licensed providers and marijuana-infused products providers may:

- (i) possess up to 1 ounce of usable marijuana; and
- (ii) purchase a maximum of 5 ounces of usable marijuana a month and no more than 1 ounce of usable marijuana a day.

(b) (i) A registered cardholder who has ~~not named a provider~~ elected not to use the system of licensed providers and marijuana-infused products providers 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~~ elected not to use the system of licensed providers and marijuana-infused products 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).

(c) A provider or marijuana-infused products provider may 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.

(d) (i) A registered cardholder may petition the department for an exception to the monthly limit on purchases. The request must be accompanied by a confirmation from the physician who signed the cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an amount exceeding the monthly limit.

(ii) If the department approves an exception to the cap, the approval must establish the monthly amount of usable marijuana that the cardholder may purchase and the limit must be entered into the seed-to-sale tracking system.

(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 20.** Section 50-46-320, MCA, is amended to read:

**"50-46-320. 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~~ property owner to allow a tenant who is a registered cardholder, provider, marijuana-infused products provider, dispensary, or testing laboratory to cultivate, 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, marijuana-infused products provider, or employee of a licensee to use marijuana or to prevent criminal prosecution of a provider, 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 15-64-103 or 15-64-104 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 15-64-103 or 15-64-104."

**Section 21.** Section 50-46-326, MCA, is amended to read:

**"50-46-326. 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~~ batch sizes for testing. Each ~~lot~~ batch must be tested

in the following categories:

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

(3) The ~~department~~ state laboratory 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~~ cannabinoids present; and
- (b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each ~~lot~~ batch 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 moisture, pesticides, residual solvents, mold, mildew, 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~~ [section 7].

(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.

(9) The testing standards adopted pursuant to this section may be developed by the state laboratory."

**Section 22.** Section 50-46-327, MCA, is amended to read:

**"50-46-327. 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 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) A provider or marijuana-infused products provider may not:

(a) arrange for a physician to conduct a physical examination or review of medical records required under this part, either in the physician's office or at another location; or

(b) pay all or a portion of the costs for an individual to be seen by a physician for the purposes of obtaining a written certification.

~~(2)~~(3) 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)~~(4) 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)~~(5) 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.

(6) (a) If the department has reason to believe a provider or marijuana-infused products provider has violated this section, the department shall refer the matter to the law enforcement entity and county attorney having jurisdiction where the provider or marijuana-infused products provider is doing business.

(b) If a provider or marijuana-infused products provider is found to have violated the provisions of this section, the department shall revoke the provider's or marijuana-infused products provider's license. A person whose license has been revoked for a violation of this section is prohibited from reapplying for licensure under this part.

(7) A law enforcement entity or county attorney who investigates a suspected violation of this section shall report the results of the investigation to the department."

**Section 23.** Section 50-46-329, MCA, is amended to read:

**"50-46-329. Inspection Inspections -- procedures -- prohibition on inspector affiliation with licensees.** (1) The department shall conduct unannounced inspections of registered premises 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 registered premises and testing laboratory.

(b) The department shall collect samples during the inspection of registered premises and submit them to ~~a one or more testing laboratory~~ laboratories for testing as provided in [section 7] and by the department by rule.

(c) The department may collect samples during the inspection of a registered premises and submit the samples to all registered testing laboratories 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) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with providers and marijuana-infused products providers; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana-infused products.

(c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

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

(4) (a) ~~A registered~~ Registered premises and testing laboratories, including any places of storage, where marijuana is cultivated, manufactured, sold, ~~or stored,~~ is or tested are 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 testing laboratory consists of a locked area, the provider, or marijuana-infused products provider, or testing laboratory 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) If the department conducts an inspection because of a complaint against a licensee or registered premises and does not find a violation of this part, the department shall give the licensee a copy of the complaint with the name of the complainant redacted.

(7) The department may not hire or contract with a person to be an inspector if the person has worked during the previous 4 years for a Montana business or facility operating under this part.

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

(8) In addition to any other penalties provided under this part, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this part if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this part; or

(c) noncompliance with any provision of this part.

(9) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of registered cardholders, employees of the licensee, or members of the public.

(10) Review of a department action imposing a suspension, revocation, or other modification under this part must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(11) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this part.

(12) The department shall report biennially to the children, families, health, and human services interim committee concerning the results of inspections conducted under this section. The report must include the information required under 50-46-343."

**Section 24.** Section 50-46-330, MCA, is amended to read:

**"50-46-330. 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) In addition to any other penalty provided by law, the department shall revoke a license issued under this part if the licensee:

- (a) purchases marijuana from an unauthorized source in violation of this part;
- (b) sells marijuana, marijuana concentrate, or marijuana-infused products to anyone other than a registered cardholder to whom the licensee is legally authorized to sell marijuana, marijuana concentrate, or marijuana-infused products;
- (c) operates a carbon dioxide or hydrocarbon extraction system without obtaining a chemical manufacturing endorsement; or
- (d) transports marijuana or marijuana-infused products outside of Montana.

(3) A testing laboratory that fails to meet the ISO certification requirement established by the department by rule is subject to:

- (a) a fine of \$500 a week for the first 4 weeks that the laboratory fails to meet the requirement; and
- (b) a fine of \$1,000 a week for each subsequent week the laboratory fails to meet the requirement.

(4) A licensee who violates the advertising restrictions imposed under 50-46-341 is subject to:

- (a) a written warning for the first violation;

- (b) a 5-day license suspension or a \$500 fine for a second violation;
- (c) a 5-day license suspension or a \$1,000 fine for a third violation;
- (d) a 30-day license suspension or a \$2,500 fine for a fourth violation; and
- (e) a license revocation for a fifth violation.

(5) Except for the license revocations required under this section, a licensee shall choose whether to pay a fine or be subject to a license suspension when a penalty is imposed under this section.

(6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.

~~(2)(7)~~ ▲ If no other penalty is specified under this part, 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.

(8) Review of a department action imposing a fine, suspension, or revocation under this section must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act."

**Section 25.** Section 50-46-330, MCA, is amended to read:

**"50-46-330. 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) In addition to any other penalty provided by law, the department shall revoke a license issued under this part if the licensee:

- (a) purchases marijuana from an unauthorized source in violation of this part;

(b) sells marijuana, marijuana concentrate, or marijuana-infused products to anyone other than a registered cardholder;

(c) operates a carbon dioxide or hydrocarbon extraction system without obtaining a chemical manufacturing endorsement; or

(d) transports marijuana or marijuana-infused products outside of Montana.

(3) A testing laboratory that fails to meet the ISO certification requirement established by the department by rule is subject to:

(a) a fine of \$500 a week for the first 4 weeks that the laboratory fails to meet the requirement; and

(b) a fine of \$1,000 a week for each subsequent week the laboratory fails to meet the requirement.

(4) A licensee who violates the advertising restrictions imposed under 50-46-341 is subject to:

(a) a written warning for the first violation;

(b) a 5-day license suspension or a \$500 fine for a second violation;

(c) a 5-day license suspension or a \$1,000 fine for a third violation;

(d) a 30-day license suspension or a \$2,500 fine for a fourth violation; and

(e) a license revocation for a fifth violation.

(5) Except for the license revocations required under this section, a licensee shall choose whether to pay a fine or be subject to a license suspension when a penalty is imposed under this section.

(6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.

~~(2)~~(7) A If no other penalty is specified under this part, 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.

(8) Review of a department action imposing a fine, suspension, or revocation under this section must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act."

**Section 26.** Section 50-46-341, MCA, is amended to read:

**"50-46-341. Advertising prohibited.** (1) Persons with licenses and individuals with valid registry

identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media.

(2) A listing in a directory of business authorized under this part is not advertising for the purposes of this section.

(3) A licensee may have a website but may not:

(a) include prices on the website; or

(b) actively solicit customers or out-of-state consumers through the website.

(4) The department shall adopt rules to clearly identify the activities that constitute advertising and are prohibited under this section."

**Section 27.** 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 pursuant to this part, including but not limited to monitoring of:

(a) the number of registered cardholders and licensees;

(b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; and

(c) the development, implementation, and use of the seed-to-sale tracking system established in accordance with ~~50-46-303~~ [section 7].

(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.

(3) (a) The department shall periodically report to the children, families, health, and human services interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 50-46-303. The report must include:

(i) the number of applications for registry identification cards and the number of registered cardholders approved;

(ii) the nature of the debilitating medical conditions of the cardholders;

(iii) the number of providers, marijuana-infused products providers, dispensaries, and testing laboratories licensed pursuant to this part;

(iv) the number of endorsements approved for chemical manufacturing;

(v) the number of registry identification cards and licenses revoked; and

(vi) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.

(b) The report may not provide any identifying information of cardholders, physicians, providers, marijuana-infused products providers, dispensaries, or testing laboratories.

(4) The report on inspections required under 50-46-329 must include, at a minimum, the following information for both announced and unannounced inspections:

(a) the number of inspections conducted, by canopy licensure tier;

(b) the number of providers or marijuana-infused products providers who were inspected more than once during the year;

(c) the number of inspections that were conducted because of complaints made to the department; and

(d) the types of enforcement actions taken as a result of the inspections.

(5) The board of medical examiners shall report annually to the children, families, health, and human services interim committee 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.

(6) The reports provided for in subsections (3) through (5) must also be provided to the revenue and transportation interim committee provided for in 5-5-227."

**Section 28.** Section 50-46-344, MCA, is amended to read:

**"50-46-344. Rulemaking authority -- fees.** (1) The department ~~shall~~ may adopt rules ~~necessary for the implementation and administration of this part. The rules must include but are not limited~~ only as authorized in this section to specify:

(a) the manner in which the department will consider applications for licenses and endorsements and applications for registry identification cards 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) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications;

~~(f)(g)~~ (g) 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)(h)~~ (h) implementation of a system to allow the tracking of marijuana and marijuana-infused products as required by 50-46-303 [section 7];

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

(j) the amount of variance allowable in the results of raw testing data that would warrant a departmental investigation of inconsistent results as provided in [section 7(7)];

(k) the activities that constitute advertising in violation of 50-46-341; and

(l) the fees for cardholders, endorsements for chemical manufacturing, testing laboratories, additional canopy licensure tiers created in accordance with [section 16], and the fingerprint and background checks required under 50-46-308 and 50-46-311. The fees and other revenues collected through the taxes paid under 15-64-102, civil penalties imposed pursuant to this part, and the licensing fees established by rule and in [section 32] must be sufficient to offset the expenses of administering this part. The annual cardholder license fee may not be less than \$20.

(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 need to avoid overproduction of marijuana and marijuana-infused products;

~~(b)(c)~~ (c) the provision of adequate access to usable marijuana to accommodate the needs of registered

cardholders; and

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

(3) The administrative rules promulgated under this part for testing laboratories must be developed and proposed by the state laboratory.

~~————(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.~~

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

~~————(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.~~

~~————(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 29.** Section 50-46-344, MCA, is amended to read:

**"50-46-344. Rulemaking authority -- fees.** (1) The department shall may adopt rules necessary for the implementation and administration of this part. The rules must include but are not limited only as authorized in this section to specify:

(a) the manner in which the department will consider applications for licenses and endorsements and applications for registry identification cards 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) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications;

~~(f)(g) the amount of usable marijuana that a registered cardholder who has not named a provider or marijuana-infused products provider~~ elected not to use the system of licensed providers and marijuana-infused products providers 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~~ [section 7];

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

(j) the amount of variance allowable in the results of raw testing data that would warrant a departmental investigation of inconsistent results as provided in [section 7(7)];

(k) the activities that constitute advertising in violation of 50-46-341; and

(l) the fees for cardholders, endorsements for chemical manufacturing, testing laboratories, additional canopy licensure tiers created in accordance with [section 16], and the fingerprint and background checks required under 50-46-308 and 50-46-311. The fees and other revenues collected through the taxes paid under 15-64-102, civil penalties imposed pursuant to this part, and the licensing fees established by rule and in [section 32] must be sufficient to offset the expenses of administering this part. The annual cardholder license fee may not be less than \$20.

(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 need to avoid overproduction of marijuana and marijuana-infused products;

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

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

(3) The administrative rules promulgated under this part for testing laboratories must be developed and proposed by the state laboratory.

~~———— (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.~~

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

~~———— (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.~~

~~———— (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 30.** Section 50-46-345, MCA, is amended to read:

**"50-46-345. Medical marijuana state special revenue account -- operating reserve -- transfer of excess funds.** (1) There is a medical marijuana state special revenue account within the state special revenue fund established in 17-2-102.

(2) The account consists of:

- (a) money deposited into the account pursuant to 50-46-344 and [section 32]; and
- (b) the tax collected pursuant to Title 15, chapter 64, part 1; and
- (c) civil penalties collected under this part.

(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.

(4) If the fees provided for in this section raise more than the amount of money needed to fund the administration of the Montana Medical Marijuana Act, including the seed-to-sale tracking system and an operating reserve of no more than \$250,000 in unencumbered funds at the end of each fiscal year, the department shall transfer the excess funds to the pain management education and treatment special revenue account provided for in [section 31]."

**Section 31. Pain management education and treatment special revenue account.** (1) There is a pain management education and treatment account in the state special revenue fund provided for in 17-2-102 to the credit of the department.

(2) The account consists of money transferred into the account as provided in 50-46-345.

(3) Money in the account must be used by the department for:

(a) efforts to educate the public about using pain management techniques and treatments that do not involve the use of opioid drugs; and

(b) a block grant program to pay the costs of the following alternative pain management treatments for individuals who have no other payment source for the treatments:

(i) acupuncture;

(ii) chiropractic;

(iii) physical therapy; and

(iv) naturopathic physician services.

(4) The block grant program must be operated in accordance with criteria established by the department as allowed under 53-24-204.

**Section 32. Provider licensing fees.** (1) Unless reduced as allowed under 50-46-303(5)(b), annual license fees for providers and marijuana-infused products providers are based on the volume of the provider's production of marijuana.

(2) Annual fees for providers and marijuana-infused products providers are:

(a) \$500 for a provider with a micro tier canopy license;

(b) \$1,000 for a provider with a tier 1 canopy license;

(c) \$2,500 for a provider with a tier 2 canopy license;

- (d) \$5,000 for a provider with a tier 3 canopy license;
- (e) \$7,500 for a provider with a tier 4 canopy license;
- (f) \$10,000 for a provider with a tier 5 canopy license;
- (g) \$13,000 for a provider with a tier 6 canopy license;
- (h) \$15,000 for a provider with a tier 7 canopy license;
- (i) \$17,500 for a provider with a tier 8 canopy license; and
- (j) \$20,000 for a provider with a tier 9 canopy license.

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

(4) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each registered premises used for cultivation under the licensure level.

(5) The department shall charge an annual dispensary license fee in addition to the canopy license fee provided for in subsection (2). The dispensary license fee is based on the total number of registered premises used as dispensaries as follows:

- (a) one registered premises, \$500;
- (b) two or three registered premises, \$5,000
- (c) four or five registered premises, \$25,000; and
- (d) six or more registered premises, \$100,000.

(6) Money collected from license fees paid pursuant to this section must be deposited in the special revenue account provided for in 50-46-345.

**Section 33. Moratorium on provider licensing.** The department may not issue new provider licenses until all currently licensed providers are properly enrolled in and compliant with the seed-to-sale tracking system. The department may renew licenses for currently licensed providers who continue to meet licensing requirements.

**Section 34. Transition.** The department shall make applications for tier-based licenses available no later than October 1, 2019, for providers who were issued licenses or had applications pending in 2018.

**Section 35. Codification instruction.** [Sections 7, 16, 31, 32, and 33] are 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 [sections 7, 16, 31, 32, and 33].

**Section 36. Coordination instruction.** If both Senate Bill No. 30 and [this act] are passed and approved and both bills contain a section amending 50-46-345, the sections amending 50-46-345 are void and 50-46-345 must be amended as follows:

**"50-46-345. Medical marijuana state special revenue account -- operating reserve -- transfer of excess funds.** (1) There is a medical marijuana state special revenue account within the state special revenue fund established in 17-2-102.

(2) The account consists of:

- (a) money deposited into the account pursuant to 50-46-344 and [section 32 of this act]; and
- (b) the tax collected pursuant to Title 15, chapter 64, part 1; and
- (c) civil penalties collected under this part.

(3) Money Except as provided in subsection (4), money in the account must be used by the department for the purpose of administering the Montana Medical Marijuana Act and tracking system development.

(4) (a) At the end of each fiscal year, the department shall transfer funds in excess of a \$250,000 operating reserve as provided in this subsection (4).

(b) At the end of fiscal year 2019:

(i) the first \$2.5 million in excess funds must be transferred to the mental health services special revenue account provided for in [section 1 of Senate Bill No. 30]; and

(ii) any remaining excess funds must be transferred to the pain management education and treatment special revenue account provided for in [section 31 of this act].

(c) At the end of fiscal year 2020 and subsequent fiscal years, any excess funds must be transferred to the pain management education and treatment special revenue account provided for in [section 31 of this act]."

**Section 37. Effective date -- contingency -- direction to department of public health and human services.** (1) Except as provided in subsections (2) through (5), [this act] is effective October 1, 2019.

(2) [Sections 30 and 31] are effective July 1, 2019.

(3) [Sections 16 and 32] are effective January 1, 2020.

(4) [Sections 4, 6, 7(1)(b), 9, 11, 13, 19, 25, and 29] are effective on the earlier of July 1, 2020, or the date that the department of public health and human services certifies to the code commissioner that the seed-to-sale tracking system is able to:

(a) track a registered cardholder's purchases of marijuana and marijuana-infused products from any provider or marijuana-infused products provider, not just the provider that the cardholder has named in the cardholder's applications for a registry identification card;

(b) alert all providers and marijuana-infused products providers that a registered cardholder has reached the maximum daily or monthly purchase limit; and

(c) prevent additional sales to a cardholder who has reached the daily or monthly maximum purchase limit.

(5) [Sections 2; 3; 5(4)(c), (5)(d), (6), (9)(c), and (9)(d); 8(1)(i) and (7)(b); 10(1)(a)(vi), (6)(d), (7), (9)(c), and (9)(d); 12; 20; 22; 23(8) through (10); 24(8); 28(1)(f); and 33 through 39] are effective on passage and approval.

(6) The department shall notify all licensed providers, marijuana-infused products providers, and registered cardholders of the date on which cardholders no longer need to name a provider or marijuana-infused products provider.

**Section 38. Applicability.** (1) [Section 23(7)] applies to persons hired on or after the effective date of [section 23(7)].

(2) [Section 33] applies to provider applications submitted on or after [the effective date of section 33].

**Section 39. Contingent termination.** (1) [Section 33] terminates on the date that the director of the department of public health and human services certifies to the governor that all providers licensed on [the effective date of this section] are properly enrolled in and compliant with the seed-to-sale tracking system.

(2) The governor shall transmit a copy of the certification to the code commissioner.

- END -

I hereby certify that the within bill,  
SB 0265, originated in the Senate.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

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Secretary of the Senate

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

SENATE BILL NO. 265

INTRODUCED BY T. JACOBSON

AN ACT GENERALLY REVISING THE MONTANA MEDICAL MARIJUANA ACT; TEMPORARILY INCREASING THE TAX ON GROSS SALES TO 4%; ELIMINATING THE REQUIREMENT THAT MEDICAL MARIJUANA PROVIDERS AND MARIJUANA-INFUSED PRODUCTS PROVIDERS BE NAMED BY A REGISTERED CARDHOLDER; ESTABLISHING REQUIREMENTS FOR ISSUANCES OF REGISTRY IDENTIFICATION CARDS AND LICENSES; ESTABLISHING REQUIREMENTS FOR TESTING LABS AND INSPECTION OF REGISTERED PREMISES; PROVIDING FOR THE ADDITIONAL RELEASE OF INFORMATION; ESTABLISHING CANOPY TIERS AND LICENSING FEES; ESTABLISHING A TEMPORARY MORATORIUM ON PROVIDER LICENSING; ESTABLISHING LIMITS ON CARDHOLDER PURCHASES; CLARIFYING THE PROHIBITION ON PHYSICIAN-PROVIDER AFFILIATIONS; ALLOWING USE OF TELEMEDICINE FOR WRITTEN CERTIFICATIONS; CLARIFYING ADVERTISING RESTRICTIONS; ESTABLISHING PENALTIES; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR THE TRANSFER OF FUNDS; AMENDING SECTIONS 15-64-102, 18-7-101, 50-46-302, 50-46-303, 50-46-307, 50-46-308, 50-46-309, 50-46-310, 50-46-311, 50-46-317, 50-46-319, 50-46-320, 50-46-326, 50-46-327, 50-46-329, 50-46-330, 50-46-341, 50-46-343, 50-46-344, AND 50-46-345, MCA; AND PROVIDING EFFECTIVE DATES, AN APPLICABILITY DATE, AND A CONTINGENT TERMINATION DATE.