

1 SENATE BILL NO. 209

2 INTRODUCED BY T. JACOBSON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING CULTIVATION OF COMMERCIALY GROWN
5 MARIJUANA TO INDOOR SETTINGS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-
6 12-102, 16-12-105, 16-12-203, 50-46-302, 50-46-305, AND 50-46-308, MCA; AND PROVIDING AN
7 IMMEDIATE EFFECTIVE DATE."

8

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

10

11 **Section 1.** Section 16-12-102, MCA, is amended to read:

12 **"16-12-102. (Effective October 1, 2021) Definitions.** As used in this chapter, the following definitions
13 apply:

14 (1) "Adult-use dispensary" means a registered premises from which a licensed adult-use provider or
15 adult-use marijuana-infused products provider is approved by the department to dispense marijuana or
16 marijuana-infused products to a consumer.

17 (2) "Adult-use marijuana-infused products provider" means a person licensed by the department to
18 manufacture and provide marijuana-infused products for consumers as allowed by this chapter.

19 (3) "Adult-use provider" means a person licensed by the department to cultivate and process
20 marijuana for consumers as allowed by this chapter.

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

23 (5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or
24 marijuana-infused products for personal use or for use by persons who are at least 21 years of age, but not for
25 resale.

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

28 (7) "Department" means the department of revenue provided for in 2-15-1301.

1 (8) (a) "Employee" means an individual employed to do something for the benefit of an employer.

2 (b) The term includes a manager, agent, or director of a partnership, association, company,
3 corporation, limited liability company, or organization.

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

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

8 (b) The term does not include interest held by a bank or licensed lending institution or a security
9 interest, lien, or encumbrance.

10 (10) "Indoor cultivation" means live plants growing in an enclosed area that is:

11 (a) within a permanent structure using artificial light exclusively or to supplement natural sunlight; or

12 (b) a greenhouse, hoop house, or similar structure that protects the plants from variable temperature,
13 precipitation, and wind.

14 ~~(10)(11)~~ "Licensee" means a person holding a state license issued pursuant to this chapter.

15 ~~(11)(12)~~ "Local government" means a county, a consolidated government, or an incorporated city or
16 town.

17 ~~(12)(13)~~ "Manufacturing" means the production of marijuana concentrate.

18 ~~(13)(14)~~ (a) "Marijuana" means all plant material from the genus Cannabis containing
19 tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

20 (b) The term does not include hemp, including any part of that plant, including the seeds and all
21 derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a
22 delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or
23 products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral
24 administrations, food, drink, or other products.

25 ~~(14)(15)~~ "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of
26 the resin extracted from any part of the marijuana plant.

27 ~~(15)(16)~~ "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or
28 byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused

1 products.

2 ~~(16)~~(17) "Marijuana-infused product" means a product that contains marijuana and is intended for use
3 by a consumer by a means other than smoking. The term includes but is not limited to edible products,
4 ointments, and tinctures.

5 ~~(17)~~(18) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

6 (19) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and
7 environmental conditions including variable temperature, precipitation, and wind.

8 ~~(18)~~(20) "Owner" means a principal officer, director, board member, or individual who has a financial
9 interest or voting interest of 10% or greater in an adult-use dispensary, adult-use provider, or adult-use
10 marijuana-infused products provider.

11 ~~(19)~~(21) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

12 ~~(20)~~(22) "Person" means an individual, partnership, association, company, corporation, limited liability
13 company, or organization.

14 ~~(21)~~(23) "Registered premises" means a location that is licensed pursuant to this chapter and includes:

15 ~~(a)~~—all enclosed public and private areas at the location that are used in the business operated
16 pursuant to a license, including offices, kitchens, restrooms, and storerooms; ~~and~~

17 ~~(b)~~—if the department has specifically licensed a location for outdoor cultivation, production,
18 manufacturing, wholesale sale, or retail sale of adult-use marijuana and adult-use marijuana-infused products,
19 the entire unit of land that is created by subsection or partition of land that the licensee owns, leases, or has the
20 right to occupy.

21 ~~(22)~~(24) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

25 ~~(23)~~(25) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height
26 and 12 inches in diameter.

27 ~~(24)~~(26) "State laboratory" means the laboratory operated by the department of public health and
28 human services to conduct environmental analyses.

1 ~~(25)~~(27) "Testing laboratory" has the meaning as provided in 50-46-302.

2 ~~(26)~~(28) "Unduly burdensome" means requiring such a high investment of money, time, or any other
3 resource or asset to achieve compliance that a reasonably prudent businessperson would not operate."
4

5 **Section 2.** Section 16-12-105, MCA, is amended to read:

6 **"16-12-105. (Effective October 1, 2021) Department responsibility to monitor and assess**

7 **marijuana production, testing, sales, and license revocation.** (1) (a) The department shall implement a
8 system for tracking marijuana, marijuana concentrate, and marijuana-infused products from either the seed or
9 the seedling stage until the marijuana, marijuana concentrate, or marijuana-infused product is sold to a
10 consumer. The system must:

11 (i) ensure that the marijuana, marijuana concentrate, or marijuana-infused product cultivated,
12 manufactured, possessed, and sold under this chapter is not sold or otherwise provided to an individual who is
13 under 21 years of age and who is not a medical marijuana registered cardholder; and

14 (ii) be made available to adult-use providers, adult-use marijuana-infused products providers, adult-use
15 dispensaries, and testing laboratories at no additional cost.

16 (b) The department may implement the same system that is used to track marijuana, marijuana
17 concentrate, and marijuana-infused products pursuant to 50-46-304.

18 (2) The department shall assess applications for an adult-use provider or adult-use marijuana-infused
19 products provider license to determine if a person with a financial interest in the applicant meets any of the
20 criteria established in 16-12-203 for denial of a license.

21 (3) Before issuing or renewing a license, the department shall inspect the registered premises or
22 proposed registered premises of an adult-use provider or adult-use marijuana-infused products provider ~~and~~
23 ~~shall inspect the property to be used~~ to ensure an applicant for licensure or license renewal is in compliance
24 with this chapter. The department may not issue or renew a license if the applicant does not meet the
25 requirements of this chapter.

26 (4) (a) The department shall license providers and marijuana-infused products providers according to
27 a tiered canopy system.

28 (b) (i) The system ~~shall~~ must include, at a minimum, the following license types, all restricted to

1 indoor cultivation:

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

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

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

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

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

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

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

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

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

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

22 (K) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven registered
23 premises. A minimum of 24,000 square feet must be equipped for cultivation.

24 (ii) As used in this subsection (4)(b), "equipped for cultivation" means that the space is either ready for
25 cultivation or in use for cultivation.

26 (c) An adult-use provider or adult-use marijuana-infused products provide) who has reached capacity
27 under the existing license may apply to advance to the next licensing tier. The department:

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

1 (ii) shall conduct an inspection of the adult-use provider or adult-use marijuana-infused products
2 provider's registered premises and proposed premises within 30 days of receiving the application and before
3 approving the application.

4 (d) The department may create additional licensing tiers by rule if a provider with a tier 10 canopy
5 license petitions the department to create a new licensure level and:

6 (i) the producer or provider demonstrates that the licensee is using the full amount of canopy currently
7 authorized; and

8 (ii) the tracking system shows the licensee is selling at least 80% of the marijuana or marijuana-infused
9 products produced by the square footage of the licensee's existing license over the 2 previous quarters or the
10 licensee can otherwise demonstrate to the department that there is a market for the marijuana or marijuana-
11 infused products it seeks to produce.

12 (e) The department is authorized to create additional tiers as necessary, ~~including an adjusted tier~~
13 ~~system to account for outdoor cultivation.~~

14 (f) The registered premises limitations for each tier of licensing apply only to registered premises at
15 which marijuana is cultivated. The limitations do not apply to the number of adult-use dispensaries an adult-use
16 provider or adult-use marijuana-infused products provider may have.

17 (g) The department shall require evidence that the licensee is able to successfully cultivate the
18 minimum amount of space allowed for the tier and sell the amount of marijuana produced by the minimum
19 cultivation level before allowing a licensee to move up a tier. Annual licensing fees must be prorated based on
20 the time licensed at a specific tier if less than 1 year.

21 (h) No person may be initially licensed greater than a tier 2 unless the person is purchasing a
22 business licensed at a tier higher than tier 2 or the person is already licensed at higher than tier 2 under Title
23 50, chapter 46, part 3, and is applying for the equivalent size tier under this chapter."

24

25 **Section 3.** Section 16-12-203, MCA, is amended to read:

26 **"16-12-203. (Effective October 1, 2021) Provider types -- requirements -- limitations -- activities.**

27 (1) (a) Subject to subsections (1)(b) and (3), the department shall issue a license to or renew a license for a
28 person who is applying to be an adult-use provider or adult-use marijuana-infused products provider if the

1 person submits to the department:

2 (i) the person's name, date of birth, and street address on a form prescribed by the department;

3 (ii) proof that the person is a Montana resident;

4 (iii) fingerprints meeting the requirements for a fingerprint-based background check by the department
5 of justice and the federal bureau of investigation:

6 (A) with the application for initial licensure; and

7 (B) every 3 years thereafter;

8 (iv) a statement, on a form prescribed by the department, that the person will not divert to any other
9 person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures
10 for consumers, unless the marijuana or marijuana-infused products are sold to another adult-use provider or as
11 part of a sale of a business as allowed under this section;

12 (v) the street address of the location at which marijuana, marijuana concentrates, or marijuana-
13 infused products will be cultivated or manufactured; and

14 (vi) a fee as determined by the department not to exceed the costs of required background checks and
15 associated administrative costs of processing the license.

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

18 (2) The department shall conduct:

19 (a) a fingerprint-based background check in association with an application for initial licensure and
20 every 3 years thereafter; and

21 (b) a name-based background check in association with an application for initial licensure and each
22 year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based
23 background check.

24 (3) The department may not license a person under this chapter if the person or an owner:

25 (a) has a felony conviction within the past 5 years involving fraud, deceit, or embezzlement or for
26 distribution of drugs to a minor ~~within the past 5 years~~ and, after an investigation, the department finds that the
27 applicant has not been sufficiently rehabilitated as to warrant the public trust;

28 (b) is in the custody of the department of corrections or a youth court;

1 (c) has been convicted of a violation under 16-12-302;

2 (d) has resided in Montana for less than 1 year; or

3 (e) is under 18 years of age.

4 (4) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana until
5 federal law allows for the interstate distribution of marijuana.

6 (5) Except as provided in 16-12-209, an adult-use provider or adult-use marijuana-infused products
7 provider shall:

8 (a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories
9 pursuant to this chapter and administrative rules;

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

12 (c) participate as required by the department by rule in a seed-to-sale tracking system established by
13 the department pursuant to 16-12-105; and

14 (d) obtain the license from the department of agriculture if required by 80-7-106 for the adult-use
15 provider or adult-use marijuana-infused products provider that sells live plants as part of a sale of the adult-use
16 provider's business. An adult-use provider or adult-use marijuana-infused products provider required to obtain a
17 nursery license is subject to the inspection requirements of 80-7-108.

18 (6) (a) Except as provided in 16-12-205, a person licensed under this section may cultivate marijuana
19 and manufacture marijuana-infused products for use by consumers only at one of the following locations:

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

22 (ii) with written permission of the property owner, a property that is rented or leased by the adult-use
23 provider or adult-use marijuana-infused products provider.

24 (b) Except as provided in 16-12-205, no portion of the property used for cultivation of marijuana or
25 manufacture of marijuana-infused products or marijuana concentrate may be shared with or rented or leased to
26 another adult-use provider, adult-use marijuana-infused products provider, or testing laboratory.

27 (7) A licensed adult-use provider or adult-use marijuana-infused products provider ~~may~~:

28 (a) may, in accordance with rules adopted by the department:

- 1 (i) operate adult-use dispensaries; and
- 2 (ii) engage in manufacturing;
- 3 (b) may employ employees to cultivate marijuana, manufacture marijuana concentrates and
- 4 marijuana-infused products, and dispense and transport marijuana and marijuana-infused products;
- 5 (c) may provide a small amount of marijuana, marijuana concentrate, or marijuana-infused product
- 6 cultivated or manufactured on the registered premises to a licensed testing laboratory or the department of
- 7 agriculture;
- 8 (d) may sell the adult-use provider's business, including live plants, inventory, material assets, and all
- 9 licenses in accordance with rules adopted by the department; ~~and~~
- 10 (e) may hold a provider or marijuana-infused products provider license issued pursuant to Title 50,
- 11 chapter 46, part 3; and
- 12 (f) may not engage in outdoor cultivation of marijuana.
- 13 (8) (a) Except as provided in subsection (8)(b), an adult-use provider or adult-use marijuana-infused
- 14 products provider:
- 15 (i) shall sell marijuana the adult-use provider has cultivated or marijuana products derived from
- 16 marijuana the adult-use marijuana-infused products provider has cultivated for at least 50% of the provider's
- 17 total annual sales;
- 18 (ii) may sell marijuana or marijuana-infused products to another adult-use provider for subsequent
- 19 resale for up to 50% of the adult-use provider's total annual sales;
- 20 (iii) may contract or otherwise arrange for another party that is licensed to process the adult provider's
- 21 or adult marijuana-infused products provider's marijuana into marijuana-infused products or marijuana
- 22 concentrates and return the marijuana-infused products or marijuana concentrates to the adult-use provider for
- 23 sale; and
- 24 (iv) except as allowed pursuant to 16-12-207, may not open a dispensary or allow for any on-site use
- 25 before obtaining the required license or before the department has completed the inspection required under this
- 26 chapter unless permitted to do so pursuant to 16-12-207.
- 27 (b) The department may adjust the percentages set forth in subsection (8)(a) for an individual license
- 28 holder based on unforeseen circumstances leading to the loss of plants or products."

1

2 **Section 4.** Section 50-46-302, MCA, is amended to read:

3 **"50-46-302. Definitions.** As used in this part, the following definitions apply:

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

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

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

9 (4) "Debilitating medical condition" means:

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

13 (b) cachexia or wasting syndrome;

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

16 (d) intractable nausea or vomiting;

17 (e) epilepsy or an intractable seizure disorder;

18 (f) multiple sclerosis;

19 (g) Crohn's disease;

20 (h) painful peripheral neuropathy;

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

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

23 (k) posttraumatic stress disorder.

24 (5) "Department" means the department of public health and human services provided for in 2-15-
25 2201.

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

1 (7) (a) "Employee" means an individual employed to do something for the benefit of an employer.

2 (b) The term includes a manager, agent, or director of a partnership, association, company,
3 corporation, limited liability company, or organization.

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

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

8 (9) "Indoor cultivation" means live plants growing in an enclosed area that is:

9 (a) within a permanent structure using artificial light exclusively or to supplement natural sunlight; or

10 (b) a greenhouse, hoop house, or similar structure that protects the plants from variable temperature,
11 precipitation, and wind.

12 ~~(9)(10)~~ "Local government" means a county, a consolidated government, or an incorporated city or
13 town.

14 ~~(10)(11)~~ "Marijuana" has the meaning provided in 50-32-101.

15 ~~(11)(12)~~ "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of
16 the resin extracted from any part of the marijuana plant.

17 ~~(12)(13)~~ "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin,
18 and byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-
19 infused products.

20 ~~(13)(14)~~ (a) "Marijuana-infused product" means a product that contains marijuana and is intended for
21 use by a registered cardholder by a means other than smoking.

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

23 ~~(14)(15)~~ (a) "Marijuana-infused products provider" means a person licensed by the department to
24 manufacture and provide marijuana-infused products for a registered cardholder.

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

26 ~~(15)(16)~~ "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

27 (17) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and
28 environmental conditions including variable temperature, precipitation, and wind.

1 ~~(16)~~(18) "Paraphernalia" has the meaning provided in 45-10-101.

2 ~~(17)~~(19) "Person" means an individual, partnership, association, company, corporation, limited liability
3 company, or organization.

4 ~~(18)~~(20) (a) "Provider" means a person licensed by the department to assist a registered cardholder
5 as allowed under this part.

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

7 ~~(19)~~(21) "Referral physician" means an individual who:

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

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

11 ~~(20)~~(22) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
12 condition who has received and maintains a valid registry identification card.

13 ~~(21)~~(23) "Registered premises" means the location at which a provider or marijuana-infused products
14 provider:

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

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

19 ~~(22)~~(24) "Registry identification card" means a document issued by the department pursuant to 50-46-
20 303 that identifies an individual as a registered cardholder.

21 ~~(23)~~(25) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

25 ~~(24)~~(26) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son,
26 daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-
27 law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister,
28 stepson, stepdaughter, stepgrandparent, or stepgrandchild.

1 ~~(25)~~(27) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height
2 and 12 inches in diameter.

3 ~~(26)~~(28) "Standard of care" means, at a minimum, the following activities when undertaken in person or
4 through the use of telemedicine by a patient's treating physician or referral physician if the treating physician or
5 referral physician is providing written certification for a patient with a debilitating medical condition:

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

7 (b) performing a relevant and necessary physical examination;

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

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

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

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

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

15 ~~(27)~~(29) "State laboratory" means the laboratory operated by the department to conduct environmental
16 analyses.

17 ~~(28)~~(30) "Telemedicine" has the meaning provided in 33-22-138.

18 ~~(29)~~(31) "Testing laboratory" means a qualified person, licensed by the department, who meets the
19 requirements of 50-46-311 and:

20 (a) provides testing of representative samples of marijuana and marijuana-infused products; and

21 (b) provides information regarding the chemical composition, the potency of a sample, and the
22 presence of molds, pesticides, or other contaminants in a sample.

23 ~~(30)~~(32) "Treating physician" means an individual who:

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

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

26 ~~(31)~~(33) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any
27 marijuana derivatives that are appropriate for the use of marijuana by an individual with a debilitating medical
28 condition.

1 (b) The term does not include the seeds, stalks, and roots of the plant.
2 ~~(32)~~(34) "Written certification" means a statement signed by a treating physician or referral physician
3 that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care."
4

5 **Section 5.** Section 50-46-305, MCA, is amended to read:

6 **"50-46-305. Canopy tiers -- requirements.** The department shall license providers and marijuana-
7 infused products providers according to a tiered canopy system, all restricted to indoor cultivation.

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

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

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

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

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

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

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

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

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

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

28 (11) A provider or marijuana-infused products provider who has reached capacity under the provider's

1 existing license may apply to advance to the next licensing tier. The department:

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

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

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

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

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

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

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

17 (15) A provider or marijuana-infused products provider that has not been issued a license before
18 January 1, 2020, must be initially licensed under a micro tier canopy license or a tier 1 canopy license. The
19 provider or marijuana-infused products provider may apply to advance to the next licensing tier as provided in
20 subsection (11)."

21

22 **Section 6.** Section 50-46-308, MCA, is amended to read:

23 **"50-46-308. Provider types -- requirements -- limitations -- activities.** (1) (a) Subject to
24 subsections (1)(b) and (3), the department shall issue a license to or renew a license for a person who is
25 applying to be a provider or marijuana-infused products provider if the person submits to the department:

26 (i) the person's name, date of birth, and street address on a form prescribed by the department;

27 (ii) proof that the person is a Montana resident;

28 (iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the

1 federal bureau of investigation upon initial licensure and every 3 years after that;

2 (iv) a statement, on a form prescribed by the department, that the person will not divert to any other
3 person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures
4 for registered cardholders;

5 (v) the street address of the location at which marijuana, marijuana concentrates, or marijuana-
6 infused products will be cultivated or manufactured; and

7 (vi) a fee as determined by the department to cover the costs of required background checks and
8 associated administrative costs of processing the license.

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

11 (2) The department shall conduct a name-based background check for license renewal in the years
12 that an applicant is not required to submit fingerprints for a fingerprint and background check.

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

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

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

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

18 (d) has failed to:

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

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

21 (iii) pay child support; or

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

24 (e) (i) before July 1, 2021, has resided in Montana for fewer than 3 years except if the provider or
25 marijuana-infused products provider was named by a registered cardholder by June 30, 2017; and

26 (ii) on or after July 1, 2021, has resided in Montana for less than 1 year; or

27 (f) is under 18 years of age.

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

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

3 (6) Except as provided in 50-46-326(1)(b), a provider or marijuana-infused products provider shall:

4 (a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories
5 pursuant to 50-46-311, 50-46-326, and related administrative rules;

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

8 (c) participate as required by the department by rule in a seed-to-sale tracking system established by
9 the department pursuant to 50-46-304; and

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

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

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

18 (ii) with written permission of the property owner, a property that is rented or leased by the provider or
19 marijuana-infused products provider.

20 (b) (i) No portion of the property used for cultivation of marijuana or manufacture of marijuana-infused
21 products or marijuana concentrate may be shared with or rented or leased to another provider, marijuana-
22 infused products provider, testing laboratory, or registered cardholder.

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

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

27 (a) in accordance with rules adopted by the department:

28 (i) operate dispensaries; and

1 (ii) engage in chemical manufacturing;

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

4 (c) provide a small amount of marijuana, marijuana concentrate, or marijuana-infused products
5 cultivated or manufactured on the registered premises to a licensed testing laboratory or the department of
6 agriculture; and

7 (d) sell the provider's business, including live plants.

8 (9) A provider or marijuana-infused products provider:

9 (a) may sell only marijuana the provider has cultivated or marijuana products derived from marijuana
10 the provider has cultivated;

11 (b) may not sell marijuana or marijuana-infused products to another provider for subsequent resale to
12 another provider or cardholder;

13 (c) may not contract or otherwise arrange for another party to process the provider's or marijuana-
14 infused products provider's marijuana into marijuana-infused products or marijuana concentrates; ~~and~~

15 (d) may not open a dispensary before obtaining the required license or before the department has
16 completed the inspection required under this part; and

17 (e) may not engage in outdoor cultivation of marijuana."

18

19 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

20

- END -