

1 HOUSE BILL NO. 878
2 INTRODUCED BY T. BROCKMAN, S. KERNS, G. NIKOLAKAKOS, A. BUCKLEY, G. FRAZER, R.
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4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MEDICAL MARIJUANA LAWS TO ALLOW VETERANS
6 TO PURCHASE MARIJUANA AT THE MEDICAL MARIJUANA TAX RATE; PROVIDING RULEMAKING
7 AUTHORITY; PROVIDING A DEFINITION; AMENDING SECTION SECTIONS 15-64-102, AND 16-12-224,
8 MCA; AND PROVIDING AN EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11

12 NEW SECTION. Section 1. Veteran benefit for tax on marijuana -- identification required --
13 **rulemaking.** (1) An eligible veteran may purchase marijuana, marijuana products, and live marijuana plants at
14 a medical marijuana dispensary or an adult-use dispensary at the medical marijuana tax rate imposed in 15-64-
15 102(1).

16 (2) To qualify for the medical marijuana tax rate, the eligible veteran shall present proof of the
17 individual's veteran status, such as a DD form 214, a U.S. department of veterans affairs identification card, or
18 a driver's license indicating the person's veteran status.

19 (3) The department may adopt rules to implement the provisions of this section.

20 (4) "Eligible veteran" means an honorably discharged individual who served on active duty, other
21 than for training, with the United States armed forces, including an individual who served with the United States
22 coast guard. The term includes individuals who served with the first special service force and the American
23 merchant marine in oceangoing service during the period of armed conflict from December 7, 1941, to August
24 15, 1945. The term also includes an individual who has been a member or reserve member of the Montana
25 army or air national guard.
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27 **Section 2.** Section 15-64-102, MCA, is amended to read:

28 **"15-64-102. Tax on marijuana sales.** (1) For a medical marijuana dispensary, there is a 4% tax on

1 the retail price of marijuana, marijuana products, and live marijuana plants for use by individuals with
2 debilitating medical conditions and eligible veterans in accordance with [section 1].

3 (2) (a) For an adult use-dispensary, there is a 20% tax on the retail price of marijuana, marijuana
4 products, and live marijuana plants.

5 (b) In accordance with [section 1], an eligible veteran may purchase marijuana, marijuana
6 products, and live marijuana plants at an adult-use dispensary at the rate provided in subsection (1).

7 (3) The taxes set forth in subsections (1) and (2) are imposed on the purchaser and must be
8 collected at the time of the sale and paid by the seller to the department for deposit in the marijuana state
9 special revenue account provided for in 16-12-111.

10 (4) A dispensary licensed under Title 16, chapter 12, shall submit a quarterly report to the
11 department listing the total dollar amount of sales. The report must be:

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

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

14 (5) At the time the report is filed, the dispensary shall submit a payment equal to the percentage
15 provided in subsection (1) or (2) of the total dollar amount of sales.

16 (6) The department shall deposit the taxes paid under this section in the state special revenue
17 account provided for in 16-12-111 within the state special revenue fund established in 17-2-102.

18 (7) The tax imposed by this part and related interest and penalties are a personal debt of the
19 person required to file a return from the time that the liability arises, regardless of when the time for payment of
20 the liability occurs.

21 (8) For the purpose of determining liability for the filing of statements and the payment of taxes,
22 penalties, and interest owed under 15-64-103 through 15-64-106:

23 (a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state
24 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
25 taxes and the penalty and interest due on the amounts;

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

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

2 (ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or

3 the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure

4 to file statements required by this part or pay taxes due as required by this part;

5 (c) each partner of a partnership is jointly and severally liable, along with the partnership, for any

6 statements, taxes, penalties, and interest due while a partner;

7 (d) each member of a limited liability company that is treated as a partnership or as a corporation

8 for income tax purposes is jointly and severally liable, along with the limited liability company, for any

9 statements, taxes, penalties, and interest due while a member;

10 (e) the member of a single-member limited liability company that is disregarded for income tax

11 purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes,

12 penalties, and interest due while a member; and

13 (f) each manager of a manager-managed limited liability company is jointly and severally liable,

14 along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

15 (9) In determining which corporate officer is liable, the department is not limited to considering the

16 elements set forth in subsection (8)(a) to establish individual liability and may consider any other available

17 information.

18 (10) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of

19 penalty and interest against the corporation. The individual remains liable for any statements and the amount of

20 taxes, penalties, and interest unpaid by the entity.

21 (11) The tax levied pursuant to this section is separate from and in addition to any general state and

22 local sales and use taxes that apply to retail sales, which must continue to be collected and distributed as

23 provided by law.

24 (12) The tax levied under this section must be used as designated in 16-12-111."

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26 **Section 3.** Section 16-12-224, MCA, is amended to read:

27 **"16-12-224. Licensing of dispensaries.** (1) Except as provided in 16-12-201(2), an applicant for a

28 dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been

1 satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be
2 located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the
3 November 3, 2020, general election.

4 (2) When evaluating an initial or renewal application, the department shall evaluate each proposed
5 dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

6 (3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana
7 dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

8 (4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders and
9 to veterans eligible under [section 1] marijuana, marijuana products, and live marijuana plants.

10 (5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana
11 plants to consumers or registered cardholders.

12 (6) The department shall charge a dispensary license fee for an initial application and at each
13 renewal. The dispensary license fee is \$5,000 for each location that a licensee operates as an adult-use
14 dispensary or a medical marijuana dispensary.

15 (7) The department may adopt rules:

16 (a) for inspection of proposed dispensaries;

17 (b) for investigating owners or applicants for a determination of financial interest; and

18 (c) establishing or limiting the THC content of the marijuana or marijuana products that may be
19 sold at an adult-use dispensary or medical marijuana dispensary.

20 (8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis
21 of the concentration of THC in the products and not by weight.

22 (b) Except as provided in subsection (8)(c), for purposes of this chapter, a single package is limited
23 to:

24 (i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive
25 THC of marijuana flower may not exceed 35%.

26 (ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule
27 and no more than 800 milligrams of THC per package.

28 (iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

- 1 (iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of
- 2 THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.
- 3 (v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and
- 4 no more than 800 milligrams of THC per package;
- 5 (vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100
- 6 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package;
- 7 and
- 8 (vii) for any other marijuana product, no more than 800 milligrams of THC.
- 9 (c) A dispensary may sell marijuana or marijuana products having higher THC potency levels than
- 10 described in subsection (8) to registered cardholders.
- 11 (9) A licensee or employee is prohibited from conducting a transaction that would result in a
- 12 consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-
- 13 12-515."

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15 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
16 integral part of Title 16, chapter 12, part 1, and the provisions of Title 16, chapter 12, part 1, apply to [section 1].

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18 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2023.

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