

HOUSE BILL NO. 229

INTRODUCED BY M. HOPKINS, C. FRIEDEL

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA LAWS; ALLOWING FOR A PROBATIONARY LICENSE FOR TESTING LABORATORIES; RESTRICTING THE TRANSPORTATION OF LABORATORY SAMPLES TO TESTING LABORATORIES; ALLOWING FOR A VARIANCE IN THE MEASUREMENT OF A SINGLE-SERVE EDIBLE MARIJUANA PRODUCT; AND AMENDING SECTIONS 16-12-104, 16-12-206, AND 16-12-224, MCA."

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

Section 1. Section 16-12-104, MCA, is amended to read:

"16-12-104. Department responsibilities -- licensure. (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

(2) (a) The department shall issue the following license types to persons who submit applications meeting the requirements of this chapter:

- (i) cultivator license;
- (ii) manufacturer license;
- (iii) adult-use dispensary license or a medical marijuana dispensary license;
- (iv) testing laboratory license.
- (v) marijuana transporter license.
- (vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

(3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

(4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

(5) The department shall assess applications for licensure or renewal to determine if an applicant,

1 controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria
2 established in this chapter for denial of a license.

3 (6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in
4 rule by the department.

5 (7) (a) ~~The Except as provided in subsection (8), the~~ department shall review the information
6 contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an
7 application:

8 (i) within 60 days of receiving the application or renewal and all related application materials from
9 a former medical marijuana licensee or an existing licensee under this chapter; and

10 (ii) within 120 days of receiving the application and all related application materials from a new
11 applicant.

12 (b) If the department fails to act on a completed application within the time allowed under
13 subsection (7)(a), the department shall:

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

16 (ii) allow a licensee to continue operation until the department takes final action.

17 (c) The department may not take final action on an application for a license or renewal of a license
18 until the department has completed a satisfactory inspection as required by this chapter and related
19 administrative rules.

20 (d) The department shall issue a license or endorsement within 5 days of approving an application
21 or renewal.

22 ~~(8) (a) The department may issue a probationary license under subsection (2)(a)(iv) only if:~~

23 ~~(i) an applicant has completed the International Organization for Standardization accreditor initial~~
24 ~~assessment; and~~

25 ~~(ii) there are no pending corrective actions to obtain International Organization for Standardization~~
26 ~~accreditation.~~

27 ~~(b) A probationary license is valid for 90-180 days from the date of issue and is not eligible for~~
28 ~~renewal.~~ MAY BE RENEWED ONE TIME:

1 (I) IF THE APPLICATION IS DENIED AFTER A GOOD FAITH APPLICATION EFFORT; OR

2 (II) IF THE APPLICATION REMAINS PENDING INTERNATIONAL ORGANIZATION FOR STANDARDIZATION
3 ACCREDITATION.

4 (C) IF AN APPLICANT VOLUNTARILY CLOSES THE APPLICATION PROCESS AFTER RECEIVING A
5 PROBATIONARY LICENSE, THE APPLICANT MAY NOT RECEIVE A SECOND PROBATIONARY LICENSE FOR 2 YEARS.

6 ~~(8)(9)~~ (a) Review of a rejection of an application or renewal may be conducted as a contested case
7 hearing before the department's office of dispute resolution pursuant to the provisions of the Montana
8 Administrative Procedure Act.

9 (b) A person may appeal any decision of the department of revenue concerning the issuance,
10 rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in
11 which the person operates or proposes to operate. If a person operates or seeks to operate in more than one
12 county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the
13 counties where it operates or seeks to operate.

14 (c) An appeal pursuant to subsection ~~(8)(b)~~ (9)(b) must be made by filing a complaint setting forth
15 the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of
16 notice of the department's final decision.

17 ~~(9)(10)~~ Licenses issued under this chapter must be renewed annually.

18 ~~(10)(11)~~ (a) The department shall provide the names and phone numbers of persons licensed under
19 this chapter and the city, town, or county where licensed premises are located to the public on the department's
20 website. Except as provided in subsection ~~(10)(b)~~ (11)(b), the department may not disclose the physical
21 location or address of a marijuana business.

22 (b) The department may share the physical location or address of a marijuana business with
23 another state agency, political subdivision, and the state fire marshal.

24 ~~(11)(12)~~ The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee
25 operating in compliance with the requirements of this chapter from operating at a shared location with a medical
26 marijuana dispensary.

27 ~~(12)(13)~~ The department may not adopt rules requiring a consumer to provide a licensee with
28 identifying information other than government-issued identification to determine the consumer's age. A licensee

1 that scans a person's driver's license using an electronic reader to determine the person's age:
2 (a) may only use data or metadata from the scan determine the person's age;
3 (b) may not transfer or sell that data or metadata to another party; and
4 (c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise
5 provided for in this chapter or by the department.

6 ~~(13)(14)~~ (a) Except as provided in subsection ~~(13)(b)~~ (14)(b), licenses issued by the department under
7 this chapter are nontransferable.

8 (b) A licensee may sell its marijuana business, including live plants, inventory, and material assets,
9 to a person who is licensed by the department under the provisions of this chapter. The department may, in its
10 discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana
11 business.

12 ~~(14)(15)~~ A person who is not a controlling beneficial owner in a licensee may not receive or otherwise
13 obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner
14 unless the licensee notifies, in writing, the department of the proposed transaction and the department
15 determines that the person qualifies for ownership under the provisions of this chapter."
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17 **Section 2.** Section 16-12-206, MCA, is amended to read:

18 **"16-12-206. Testing laboratories -- licensing inspections.** (1) A testing laboratory may:

19 (a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic
20 acid content of marijuana and marijuana products; and

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

23 (2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring
24 the achievement and maintenance of quality standards of practice. A scientific director must have the following
25 minimum qualifications:

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

28 (b) a master's degree in chemical or biological sciences from a college or university accredited by

1 a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

2 (3) All owners and employees of a testing laboratory shall submit fingerprints to the department to
3 facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned,
4 operated, or staffed by a person who has been convicted of a felony offense.

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

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

7 (b) the laboratory:

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

9 (ii) has all equipment and instrumentation necessary to certify results that meet the quality
10 assurance testing requirements established by rule, including the ability to certify results at the required level of
11 sensitivity;

12 (iii) meets insurance and bonding requirements established by rule;

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

14 (v) has passed a proficiency program approved by the state laboratory that demonstrates it is able
15 to meet all testing requirements.

16 (5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of:

17 (a) samples of marijuana and marijuana products submitted by cultivators and manufacturers
18 pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;

19 (b) samples of marijuana or marijuana products collected by the department during inspections of
20 licensed premises; and

21 (c) samples submitted by consumers or registered cardholders.

22 ~~(6) All samples submitted under subsections SUBSECTION (5)(a) and (5)(b) must be collected by an~~
23 ~~employee of the testing lab. A COMMERCIAL testing lab may not use a third-party marijuana transporter for~~
24 ~~samples submitted under subsections (5)(a) and (5)(b)."~~

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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
9 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)~~ (8)(d), for purposes of this chapter, a single package is
23 limited 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) ~~There may be a deviation of 10% above or below the allowed amount on a single serving of an~~
10 ~~edible marijuana product under subsection (8)(a)(iv) (8)(B)(IV).~~

11 ~~(e)(d)~~ A dispensary may sell marijuana or marijuana products having higher THC potency levels than
12 described in subsection (8) to registered cardholders.

13 (9) A licensee or employee is prohibited from conducting a transaction that would result in a
14 consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-
15 12-515."

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