

HOUSE BILL NO. 903

INTRODUCED BY M. HOPKINS

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO MARIJUANA; ALLOWING A COMBINED-USE LICENSE TO INCREASE CANOPY TIERS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 16-12-223 AND 16-12-225, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 16-12-223, MCA, is amended to read:

"16-12-223. Licensing of cultivators. (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility.

(b) Except as provided in subsection (6), the system ~~shall~~must include, at a minimum, the following license types:

(i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities.

(vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities.

1 (vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor
2 cultivation facilities.

3 (viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor
4 cultivation facilities.

5 (ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor
6 cultivation facilities.

7 (x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor
8 cultivation facilities.

9 (xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor
10 cultivation facilities.

11 (xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor
12 cultivation facilities.

13 (xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor
14 cultivation facilities.

15 (c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have
16 been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located
17 if a proposed facility would be located in a county in which the majority of voters voted against approval of
18 Initiative Measure No. 190 in the November 3, 2020, general election.

19 (d) When evaluating an initial or renewal license application, the department shall evaluate each
20 proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

21 (e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the
22 existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application
23 by demonstrating that:

24 (A) the cultivator is using the full amount of canopy currently authorized;

25 (B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by
26 the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can
27 otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

28 (C) its proposed additional or expanded indoor cultivation facility or facilities are located in a

1 jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that
2 they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the
3 November 3, 2020, general election.

4 (ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by
5 only one tier at a time.

6 ~~(iii) Between January 1, 2022, and June 30, 2023, a cultivator may increase its licensure level by more
7 than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections
8 (1)(e)(i)(A) and (1)(e)(i)(B).~~

9 (iii) A cultivator under a combined-use license may increase its licensure level by more than one
10 tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and
11 (1)(e)(i)(B).

12 (iv) The department shall conduct an inspection of the cultivator's registered premises and
13 proposed premises within 30 days of receiving the application and before approving the application.

14 (f) A marijuana business that has not been issued a license before July 1, 2023, must be initially
15 licensed at a tier 2 canopy license or lower.

16 (2) The department is authorized to create additional tiers as necessary.

17 (3) The department may adopt rules:

18 (a) for inspection of proposed indoor cultivation facilities under subsection (1);

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

20 (c) in consultation with the department of agriculture and based on well-supported science, to
21 require licensees to adopt practices consistent with the prevention, introduction, and spread of insects,
22 diseases, and other plant pests into Montana.

23 (4) Initial licensure and annual fees for these licensees are:

24 (a) \$1,000 for a cultivator with a micro tier canopy license;

25 (b) \$2,500 for a cultivator with a tier 1 canopy license;

26 (c) \$5,000 for a cultivator with a tier 2 canopy license;

27 (d) \$7,500 for a cultivator with a tier 3 canopy license;

28 (e) \$10,000 for a cultivator with a tier 4 canopy license;

- 1 (f) \$13,000 for a cultivator with a tier 5 canopy license;
- 2 (g) \$15,000 for a cultivator with a tier 6 canopy license;
- 3 (h) \$17,500 for a cultivator with a tier 7 canopy license;
- 4 (i) \$20,000 for a cultivator with a tier 8 canopy license;
- 5 (j) \$23,000 for a cultivator with a tier 9 canopy license;
- 6 (k) \$27,000 for a cultivator with a tier 10 canopy license;
- 7 (l) \$32,000 for a cultivator with a tier 11 canopy license; and
- 8 (m) \$37,000 for a cultivator with a tier 12 canopy license.

9 (5) The fee required under this part may be imposed based only on the tier of licensure and may
 10 not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

11 (6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3,
 12 2020, may continue to engage in outdoor cultivation."

13

14 **Section 2.** Section 16-12-225, MCA, is amended to read:

15 **"16-12-225. Combined-use marijuana licensing -- requirements.** (1) The department may issue a
 16 total of eight combined-use marijuana licenses to entities that are:

- 17 (a) a federally recognized tribe located in the state; or
- 18 (b) a business entity that is majority-owned by a federally recognized tribe located in the state.

19 (2) A combined-use marijuana license consists of one ~~tier 4~~ canopy license and one dispensary
 20 license allowing for the operation of a dispensary. Cultivation and dispensary facilities must be located at the
 21 same licensed premises.

22 (3) Initial licensure and annual fees for a combined-use license is \$7,500.

23 ~~(3)~~(4) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on
 24 land that is located:

25 (a) within 150 air-miles of the exterior boundary of the associated tribal reservation or, for the Little
 26 Shell Chippewa tribe only, within 150 air-miles of the tribal service area; and

27 (b) in a county that has satisfied the local government approval provisions in 16-12-301 if the
 28 majority of voters in the county voted against approval of Initiative Measure No. 190 in the November 3, 2020,

1 general election.

2 ~~(4)~~(5) An applicant under this section must satisfy all licensing requirements under this chapter and is
3 subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products
4 provided for in this chapter.

5 ~~(5)~~(6) A license granted under this section must be operated in compliance with all requirements
6 imposed under this chapter.

7 ~~(6)~~(7) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe
8 or another majority-owned business of that tribe may not obtain another combined-use license until the prior
9 license is relinquished, lapses, or is revoked by the department."

10

11 NEW SECTION. Section 3. Appropriation. There is appropriated \$1,000 from the state special
12 revenue fund under 16-12-111 to the department of revenue for the biennium ending June 30, 2023, for the
13 purposes of notification to licensees of the provisions of [this act].

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15 NEW SECTION. Section 4. Notification to tribal governments. The secretary of state shall send a
16 copy of [this act] to each federally recognized tribal government in Montana.

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18 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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