

HOUSE BILL NO. 948

INTRODUCED BY S. GALLOWAY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MARIJUANA LAWS; PROHIBITING THE MANUFACTURE AND DISTRIBUTION OF SYNTHETIC MARIJUANA PRODUCTS; PROVIDING DEFINITIONS; PROVIDING FOR ENFORCEMENT BY DEPARTMENTS AND LAW ENFORCEMENT; PROVIDING FOR RESTRICTIONS BY LOCAL GOVERNMENTS; CLARIFYING UNLAWFUL TRANSACTIONS REGARDING THE DISTRIBUTION OF SYNTHETIC MARIJUANA PRODUCTS TO CHILDREN; CLARIFYING THE OFFENSE OF ALTERING A LABEL ON DANGEROUS DRUGS; REQUIRING PUBLIC REPORTING OF VIOLATIONS; CREATING A TEMPORARY ADVISORY COUNCIL; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 16-12-101, 16-12-102, 16-12-108, 16-12-125, 45-5-623, 45-9-105, 50-32-222, AND 80-18-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. **Section 1. Synthetic marijuana products prohibited -- restriction on sale of marijuana products.** (1) A person may not manufacture, process, or offer for sale a synthetic marijuana product.

(2) Products containing or consisting of cannabinoids produced and processed for any type of consumption into a human body, whether marketed as containing or consisting of cannabinoids or not, that exceed a THC concentration of 0.3% may only be sold by a manufacturer licensed under 16-12-222 or a dispensary licensed under 16-12-224 unless the products are authorized as a drug by the United States food and drug administration. Products under this section may not exceed the potency levels established in 16-12-224.

(3) Products containing a THC concentration of 0.3% or less sold by any person other than a licensed manufacturer under 16-12-222 or a licensed dispensary under 16-12-224 must contain at least a 20:1 ratio of cannabidiol or other non-THC cannabinoids to THC and may not exceed 2 milligrams of THC for each

1 serving.

2 (4) This section does not apply to unadulterated hemp flower that is not further processed into
3 extracts, infused products, or concentrates.

4
5 **NEW SECTION. Section 2. Enforcement -- ordinances -- investigations -- violation.** (1) A local
6 government may, by ordinance or otherwise, impose regulations regarding products under [section 1(1) and
7 (3)].

8 (2) The department of agriculture, the department of justice, the department of public health and
9 human services, local sheriff departments, municipal police departments, and the department of revenue may
10 inspect any business to investigate unlawful activity under [section 1(1)].

11 (3) A violation of [section 1(1)] may be enforced under:

- 12 (a) criminal distribution of dangerous drugs as defined in 45-9-101;
- 13 (b) criminal possession of dangerous drugs as defined in 45-9-102; or
- 14 (c) criminal production or manufacture of dangerous drugs as defined in 45-9-110.

15
16 **NEW SECTION. Section 3. Synthetic marijuana products advisory council.** (1) The department
17 of revenue shall establish a synthetic marijuana products advisory council in accordance with 2-15-122 that is
18 composed of the following members:

- 19 (a) one member from the department of agriculture;
- 20 (b) one member from the department of justice;
- 21 (c) one member from the department of public health and human services;
- 22 (d) one member from the department of revenue;
- 23 (e) one member from the board of pharmacy;
- 24 (f) two members from the marijuana industry; and
- 25 (g) one public member. The public member must have expertise in:
 - 26 (i) toxicology;
 - 27 (ii) organic chemistry; or
 - 28 (iii) regulatory affairs in nutraceutical, pharmaceutical, or dietary supplements.

- 1 (2) The department shall provide staff and support services for the advisory council.
- 2 (3) Members are entitled to reimbursement for travel expenses as provided in 2-18-501 through 2-
- 3 18-503.
- 4 (4) The advisory council shall review available research, data, and regulations of other jurisdictions
- 5 related to synthetic marijuana products, including but not limited to:
- 6 (a) definitions of the term "impairing" in relation to cannabinoids, as well as definitions of the terms
- 7 "artificial cannabinoids" and "synthetically derived cannabinoids"; and
- 8 (b) recommendations on potential guidelines for safe methods of manufacturing, extracting, and
- 9 synthesizing cannabinoids, including the sale of synthetic marijuana products.
- 10 (5) The advisory committee shall compile findings and make recommendations in a report to the
- 11 economic affairs interim committee, in accordance with 5-11-210, regarding regulating synthetic marijuana
- 12 products in the adult-use marijuana market by September 15, 2024.

13
14 **Section 4.** Section 16-12-101, MCA, is amended to read:

15 **"16-12-101. Short title -- purpose.** (1) This chapter may be cited as the "Montana Marijuana
16 Regulation and Taxation Act".

17 (2) The purpose of this chapter is to:

- 18 (a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years
- 19 of age or older;
- 20 (b) provide for the licensure and regulation of the cultivation, manufacture, production, distribution,
- 21 transportation, and sale of marijuana and marijuana products;
- 22 (c) eliminate the illicit market for marijuana and marijuana products;
- 23 (d) prevent the manufacture and distribution of synthetic marijuana products;
- 24 ~~(d)~~(e) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age;
- 25 ~~(e)~~(f) ensure the safety of marijuana and marijuana products;
- 26 ~~(f)~~(g) ensure the security of licensed premises;
- 27 ~~(g)~~(h) establish reporting requirements for licensees;
- 28 ~~(h)~~(i) establish inspection requirements for licensees, including data collection on energy use,

1 chemical use, water use, and packaging waste to ensure a clean and healthy environment;

2 ~~(j)~~(l) provide for the testing of marijuana and marijuana products by licensed testing laboratories;

3 ~~(j)~~(k) give local governments authority to allow for the operation of marijuana businesses in their
4 community and establishing standards for the cultivation, manufacture, and sale of marijuana that protect the
5 public health, safety, and welfare of residents within their jurisdictions;

6 ~~(k)~~(l) tax the sale of marijuana and marijuana products to provide compensation for the economic
7 and social costs of marijuana;

8 ~~(j)~~(m) authorize courts to resentencing persons who are currently serving sentences for acts that are
9 permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge
10 those offenses from the criminal records of persons who have completed their sentences as set forth in this
11 chapter; and

12 ~~(m)~~(n) preserve and protect Montana's well-established hemp industry by drawing a clear distinction
13 between those participants and programs and the participants and programs associated with the marijuana
14 industry.

15 (3) Marijuana and marijuana products are not agricultural products, and the cultivation, processing,
16 manufacturing or selling of marijuana or marijuana products is not considered agriculture subject to regulation
17 by the department of agriculture unless expressly provided."

18

19 **Section 5.** Section 16-12-102, MCA, is amended to read:

20 **"16-12-102. Definitions.** As used in this chapter, the following definitions apply:

21 (1) "Adult-use dispensary" means a licensed premises from which a person licensed by the
22 department may:

23 (a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or
24 other licensee approved under this chapter; and

25 (b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age
26 or older, or both.

27 (2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries,
28 controls or is controlled by, or is under common control with, another person.

1 (3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in
2 accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

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

5 (5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or
6 marijuana products for personal use from a licensed dispensary but not for resale.

7 (6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control
8 with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or
9 policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

10 (7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

11 (a) is a natural person, an entity that is organized under the laws of and for which its principal
12 place of business is located in one of the states or territories of the United States or District of Columbia, or a
13 publicly traded corporation, and:

14 (i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the
15 owner's interest of a marijuana business;

16 (ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager;

17 or

18 (iii) is otherwise in a position to control the marijuana business; or

19 (b) is a qualified institutional investor acting alone or acting in concert that owns or acquires
20 beneficial ownership of more than 15% of the owner's interest of a marijuana business.

21 (8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or
22 (3) and to which an individual may be ordered by any court of competent jurisdiction.

23 (9) "Cultivator" means a person licensed by the department to:

24 (a) plant, cultivate, grow, harvest, and dry marijuana; and

25 (b) package and relabel marijuana produced at the location in a natural or naturally dried form that
26 has not been converted, concentrated, or compounded for sale through a licensed dispensary.

27 (10) "Debilitating medical condition" means:

28 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune

- 1 deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the
2 patient's health status;
- 3 (b) cachexia or wasting syndrome;
- 4 (c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with
5 daily activities as documented by the patient's treating physician;
- 6 (d) intractable nausea or vomiting;
- 7 (e) epilepsy or an intractable seizure disorder;
- 8 (f) multiple sclerosis;
- 9 (g) Crohn's disease;
- 10 (h) painful peripheral neuropathy;
- 11 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;
- 12 (j) admittance into hospice care in accordance with rules adopted by the department; or
- 13 (k) posttraumatic stress disorder.
- 14 (11) "Department" means the department of revenue provided for in 2-15-1301.
- 15 (12) (a) "Employee" means an individual employed to do something for the benefit of an employer.
- 16 (b) The term includes a manager, agent, or director of a partnership, association, company,
17 corporation, limited liability company, or organization.
- 18 (c) The term does not include a third party with whom a licensee has a contractual relationship.
- 19 (13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or
20 indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net
21 profits or net worth of the entity in which the interest is held.
- 22 (b) The term does not include interest held by a bank or licensed lending institution or a security
23 interest, lien, or encumbrance but does include holders of private loans or convertible securities.
- 24 (14) "Former medical marijuana licensee" means a person that was licensed by or had an
25 application for licensure pending with the department of public health and human services to provide marijuana
26 to individuals with debilitating medical conditions on November 3, 2020.
- 27 (15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a
28 permanent structure using artificial light exclusively or to supplement natural sunlight.

1 (b) The term may include:

2 (i) a greenhouse;

3 (ii) a hoop house; or

4 (iii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

5 (16) "Licensed premises" means all locations related to, or associated with, a specific license that is
6 authorized under this chapter and includes all enclosed public and private areas at the location that are used in
7 the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

8 (17) "Licensee" means a person holding a state license issued pursuant to this chapter.

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

11 (19) "Manufacturer" means a person licensed by the department to convert or compound marijuana
12 into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or
13 relabel marijuana products as allowed under this chapter.

14 (20) (a) "Marijuana" means all plant material from the genus *Cannabis* containing
15 tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

16 (b) The term does not include hemp, ~~including any part of that plant, including the seeds and all~~
17 ~~derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a~~
18 ~~delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or~~
19 ~~products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral~~
20 ~~administrations, food, drink, or other products as provided in 80-18-101.~~

21 (c) The term does not include synthetic marijuana products.

22 ~~(e)(d)~~ The term does not include a drug approved by the United States food and drug administration
23 pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

24 (21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical
25 marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other
26 business or function that is licensed by the department under this chapter.

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

1 (23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or
2 byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana
3 products.

4 (24) "Marijuana product" means a product that contains marijuana and is intended for use by a
5 consumer by a means other than smoking. The term includes but is not limited to edible products, ointments,
6 tinctures, marijuana derivatives, and marijuana concentrates.

7 (25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana
8 products from one marijuana business to another marijuana business, or to and from a testing laboratory, and
9 to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but
10 is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

11 (26) "Mature marijuana plant" means a harvestable marijuana plant.

12 (27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a
13 cardholder who is registered under Title 16, chapter 12, part 5.

14 (28) "Medical marijuana dispensary" means the location from which a registered cardholder may
15 obtain marijuana or marijuana products.

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

18 (30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit
19 corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in
20 a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a
21 partnership, and the interest of a member in a limited partnership association.

22 (31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

23 (32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana
24 business that is not otherwise a controlling beneficial owner or in control.

25 (33) "Person" means an individual, partnership, association, company, corporation, limited liability
26 company, or organization.

27 (34) "Qualified institutional investor" means:

28 (a) a bank or banking institution including any bank, trust company, member bank of the federal

1 reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and
2 doing business under the laws of this state, any other state, or the laws of the United States;

3 (b) a bank holding company as defined in 32-1-109;

4 (c) a company organized as an insurance company whose primary and predominant business
5 activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is
6 subject to regulation or oversight by the insurance department of the office of the state auditor or a similar
7 agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their
8 capacity as such an insurance company;

9 (d) an investment company registered under section 8 of the federal Investment Company Act of
10 1940, as amended;

11 (e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income
12 Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an
13 intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

14 (f) a state or federal government pension plan; or

15 (g) any other entity identified by rule by the department.

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

18 (36) "Registry identification card" means a document issued by the department pursuant to 16-12-
19 503 that identifies an individual as a registered cardholder.

20 (37) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

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

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

28 (40) "Synthetic cannabinoids" has the meaning provided in 50-32-222 and includes any

1 cannabinoids produced artificially, whether from chemical synthesis or biosynthesis using recombinant
 2 biological agents, including but not limited to yeast and algae.

3 (41) "Synthetic marijuana product" means marijuana or marijuana products that contain synthetic
 4 cannabinoids.

5 ~~(40)~~(42) "Testing laboratory" means a qualified person, licensed under this chapter that:

6 (a) provides testing of representative samples of marijuana and marijuana products; and

7 (b) provides information regarding the chemical composition and potency of a sample, as well as
 8 the presence of molds, pesticides, or other contaminants in a sample.

9 ~~(44)~~(43) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are
 10 appropriate for the use of marijuana by an individual.

11 (b) The term does not include the seeds, stalks, and roots of the plant. (Subsection (15)(b)(ii)
 12 terminates October 1, 2023--sec. 117(1), Ch. 576, L. 2021.)"

13

14 **Section 6.** Section 16-12-108, MCA, is amended to read:

15 **"16-12-108. Limitations of act.** (1) This chapter does not permit:

16 (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train,
 17 aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana
 18 products;

19 (b) consumption of marijuana or marijuana products while operating or being in physical control of
 20 a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

21 (c) smoking or consuming marijuana while riding in the passenger seat within an enclosed
 22 compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being
 23 operated;

24 (d) production, delivery, distribution, purchase, or consumption of synthetic marijuana products:

25 ~~(d)~~(e) delivery or distribution of marijuana or marijuana products, with or without consideration, to a
 26 person under 21 years of age;

27 ~~(e)~~(f) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years
 28 of age;

1 ~~(f)~~(g) possession or transport of marijuana or marijuana products by a person under 21 years of age
2 unless the underage person is at least 18 years of age and is an employee of a marijuana business licensed
3 under this chapter and engaged in work activities;

4 ~~(g)~~(h) possession or consumption of marijuana or marijuana products or possession of marijuana
5 paraphernalia:

6 (i) on the grounds of any property owned or leased by a school district, a public or private
7 preschool, school, or postsecondary school as defined in 20-5-402;

8 (ii) in a school bus or other form of public transportation;

9 (iii) in a health care facility as defined in 50-5-101;

10 (iv) on the grounds of any correctional facility; or

11 (v) in a hotel or motel room;

12 ~~(h)~~(i) using marijuana or marijuana products in a location where smoking tobacco is prohibited;

13 ~~(i)~~(j) consumption of marijuana or marijuana products in a public place, except as allowed by the
14 department;

15 ~~(j)~~(k) conduct that endangers others;

16 ~~(k)~~(l) undertaking any task while under the influence of marijuana or marijuana products if doing so
17 would constitute negligence or professional malpractice; or

18 ~~(l)~~(m) performing solvent-based extractions on marijuana using solvents other than water, glycerin,
19 propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

20 (2) A person may not cultivate marijuana in a manner that is visible from the street or other public
21 area.

22 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that
23 allows use of marijuana by a registered cardholder.

24 (4) Nothing in this chapter may be construed to:

25 (a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in
26 any workplace or on the employer's property;

27 (b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or
28 for working while intoxicated by marijuana or marijuana products;

1 (c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an
2 adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of
3 employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or
4 marijuana products while working;

5 (d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana
6 for a debilitating medical condition; or

7 (e) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
8 discrimination pursuant to 49-1-102.

9 (5) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise
10 regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana
11 products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages,
12 except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully
13 possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain
14 federal funding.

15 (6) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the
16 department under Title 15 is subject to revocation of the person's license from the date of the violation until a
17 period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

18 (7) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the
19 conduct of consumers, licensees, and registered cardholders."

20

21 **Section 7.** Section 16-12-125, MCA, is amended to read:

22 "**16-12-125. Hotline.** (1) The department shall create and maintain a hotline to receive reports of
23 suspected abuse of the provisions of this chapter.

24 (2) An individual making a complaint must be a resident and shall provide the individual's name,
25 street address, and phone number.

26 (3) (a) The department shall provide a copy of the complaint to the person or licensee that is the
27 subject of the complaint.

28 (b) The department may not redact the individual's name or city of residence from the complaint

1 copy.

2 (4) The department may:

3 (a) investigate reports of suspected abuse of the provisions of this chapter; or

4 (b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area
5 where the suspected abuse is occurring.

6 (5) The department shall make available to the public complaints about violations of [section 1(3)],
7 including:

8 (a) information regarding the types of businesses or products being reported; and

9 (b) any disciplinary action taken against a person in violation of [section 1(3)]."

10

11 **Section 8.** Section 45-5-623, MCA, is amended to read:

12 **"45-5-623. Unlawful transactions with children.** (1) Except as provided for in 16-6-305, a person
13 commits the offense of unlawful transactions with children if the person knowingly:

14 (a) sells or gives explosives to a child except as authorized under appropriate city ordinances;

15 (b) sells or gives intoxicating substances other than alcoholic beverages to a child;

16 (c) sells or gives an alcoholic beverage to a person under 21 years of age;

17 (d) sells or gives to a child a tobacco product, alternative nicotine product, or vapor product, as
18 defined in 16-11-302;

19 (e) sells or gives to a child a synthetic marijuana product, as defined in 16-12-102;

20 ~~(e)(f)~~ being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a
21 child without authorization of the parent or guardian; or

22 ~~(f)(g)~~ tattoos or provides a body piercing on a child without the explicit in-person consent of the
23 child's parent or guardian. For purposes of this subsection (1)~~(f)(g)~~, "tattoo" and "body piercing" have the
24 meaning provided in 50-48-102. Failure to adequately verify the identity of a parent or guardian is not an
25 excuse for violation of this subsection (1)~~(f)(g)~~.

26 (2) A person convicted of the offense of unlawful transactions with children shall be fined an
27 amount not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A
28 person convicted of a second offense of unlawful transactions with children shall be fined an amount not to

1 exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. (See compiler's
2 comments for contingent termination of certain text.)"

3

4 **Section 9.** Section 45-9-105, MCA, is amended to read:

5 **"45-9-105. Altering labels on dangerous drugs.** (1) A person commits the offense of altering labels
6 on dangerous drugs if the person affixes a false, forged, or altered label to or otherwise misrepresents a
7 package or receptacle containing a dangerous drug, as defined in 50-32-101.

8 (2) The offense of altering labels on dangerous drugs includes falsely labeling or otherwise
9 misrepresenting marijuana or a marijuana product, as those terms are defined in 16-12-102, as hemp, as
10 defined in 80-18-101."

11

12 **Section 10.** Section 50-32-222, MCA, is amended to read:

13 **"50-32-222. Specific dangerous drugs included in Schedule I.** Schedule I consists of the drugs
14 and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this
15 section.

16 (1) Opiates. Unless specifically excepted or listed in another schedule, any of the following are
17 opiates, including isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the
18 existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

19 (a) acetyl-alpha-methylfentanyl, also known as N-(1-(1-methyl-2-phenethyl)-4-piperidinyl)-N-
20 phenylacetamide;

21 (b) acetylmethadol, also known as 4-(dimethylamino)-1-ethyl-2,2-diphenylpentyl acetate or
22 methadyl acetate;

23 (c) allylprodine, also known as 1-methyl-4-phenyl-3-(prop-2-en-1-yl)piperidin-4-yl propanoate;

24 (d) alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-
25 acetylmethadol, levomethadyl acetate, or LAAM;

26 (e) alphameprodine;

27 (f) alphamethadol;

28 (g) alpha-methylfentanyl, also known as (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl])

- 1 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- 2 (h) alpha-methylthiofentanyl, also known as N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-N-
- 3 phenylpropanamide;
- 4 (i) benzethidine;
- 5 (j) betacetylmethadol;
- 6 (k) beta-hydroxyfentanyl, also known as N-[1-(2-hydroxy-2-phenethyl)-4-piperidiny]-N-
- 7 phenylpropanamide;
- 8 (l) beta-hydroxy-3-methylfentanyl, also known as N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-
- 9 piperidiny]-N-phenylpropanamide;
- 10 (m) betameprodine;
- 11 (n) betamethadol;
- 12 (o) betaprodine;
- 13 (p) clonitazene;
- 14 (q) dextromoramide;
- 15 (r) diampromide;
- 16 (s) diethylthiambutene;
- 17 (t) difenoxin;
- 18 (u) dimenoxadol;
- 19 (v) dimepheptanol;
- 20 (w) dimethylthiambutene;
- 21 (x) dioxaphetyl butyrate;
- 22 (y) dipipanone;
- 23 (z) ethylmethylthiambutene;
- 24 (aa) etonitazene;
- 25 (bb) etoxeridine;
- 26 (cc) furethidine;
- 27 (dd) hydroxypethidine;
- 28 (ee) ketobemidone;

- 1 (ff) levomoramide;
- 2 (gg) levophenacymorphan;
- 3 (hh) 3-methylfentanyl, also known as N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-
- 4 phenylpropanamide;
- 5 (ii) 3-methylthiofentanyl, also known as N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-
- 6 phenylpropanamide;
- 7 (jj) morpheridine;
- 8 (kk) MPPP, also known as desmethylprodine and (1-methyl-4-phenyl-4-propionoxypiperidine);
- 9 (ll) noracymethadol;
- 10 (mm) norlevorphanol;
- 11 (nn) normethadone;
- 12 (oo) norpipanone;
- 13 (pp) para-fluorofentanyl, also known as N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-
- 14 piperidinyl]propanamide;
- 15 (qq) PEPAP, also known as (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 16 (rr) phenadoxone;
- 17 (ss) phenampromide;
- 18 (tt) phenomorphan;
- 19 (uu) phenoperidine;
- 20 (vv) piritramide;
- 21 (ww) proheptazine;
- 22 (xx) properidine;
- 23 (yy) propiram;
- 24 (zz) racemoramide;
- 25 (aaa) thiofentanyl, also known as N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;
- 26 (bbb) tilidine; and
- 27 (ccc) trimeperidine.
- 28 (2) For the purposes of subsection (1)(hh), the term "isomer" includes the optical, positional, and

1 geometric isomers.

2 (3) Opium derivatives. Unless specifically excepted or listed in another schedule, any of the
3 following are opium derivatives, including salts, isomers, and salts of isomers whenever the existence of those
4 salts, isomers, and salts of isomers is possible within the specific chemical designation:

5 (a) acetorphine;

6 (b) acetyldihydrocodeine;

7 (c) benzylmorphine;

8 (d) codeine methylbromide;

9 (e) codeine-N-oxide;

10 (f) cyprenorphine;

11 (g) desomorphine;

12 (h) dihydromorphine;

13 (i) drotebanol;

14 (j) etorphine, except hydrochloride salt;

15 (k) heroin;

16 (l) hydromorphinol;

17 (m) methyldesorphine;

18 (n) methyldihydromorphine;

19 (o) morphine methylbromide;

20 (p) morphine methylsulfonate;

21 (q) morphine-N-oxide;

22 (r) myrophine;

23 (s) nicocodeine;

24 (t) nicomorphine;

25 (u) normorphine;

26 (v) pholcodine; and

27 (w) thebacon.

28 (4) Hallucinogenic substances. Unless specifically excepted or listed in another schedule, any

- 1 material, compound, mixture, or preparation that contains any quantity of the following is a hallucinogenic
2 substance, including salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and
3 salts of isomers is possible within the specific chemical designation:
- 4 (a) alpha-ethyltryptamine, also known as etryptamine, monase, alpha-ethyl-1H-indole-3-
5 ethanamine, 3-(2-aminobutyl) indole, alpha-ET, and AET;
 - 6 (b) alpha-methyltryptamine, also known as AMT;
 - 7 (c) 4-bromo-2,5-dimethoxyamphetamine, also known as 4-bromo-2, 5-dimethoxy-alpha-
8 methylphenethylamine, and 4-bromo-2,5-DMA;
 - 9 (d) 4-bromo-2,5-dimethoxyphenethylamine, also known as 2-(4-bromo-2,5-dimethoxyphenyl)-1-
10 aminoethane, alpha-desmethyl DOB, and 2C-B, Nexus;
 - 11 (e) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-alpha-methylphenethylamine and
12 2,5-DMA;
 - 13 (f) 2,5-dimethoxy-4-(N)-propylthiophenethylamine, also known as 2C-T-7;
 - 14 (g) 3,4-methylenedioxyamphetamine;
 - 15 (h) 2,5-dimethoxy-4-ethylamphetamine, also known as DOET;
 - 16 (i) 5-methoxy-NN, -diisopropyltryptamine, also known as 5-MeO-DIPT;
 - 17 (j) 5-methoxy-NN, -dimethyltryptamine, also known as 5-MeO-DMT;
 - 18 (k) 4-methoxyamphetamine, also known as 4-methoxy-alpha-methylphenethylamine;
 - 19 (l) 5-methoxy-3,4-methylenedioxyamphetamine;
 - 20 (m) 4-methyl-2,5-dimethoxyamphetamine, also known as 4-methyl-2, 5-dimethoxy-alpha-
21 methylphenethylamine, DOM, and STP;
 - 22 (n) 3,4-methylenedioxymethamphetamine, also known as MDMA;
 - 23 (o) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-
24 3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, and MDEA;
 - 25 (p) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4
26 (methylenedioxy)phenethylamine and N-hydroxy MDA;
 - 27 (q) 3,4,5-trimethoxyamphetamine;
 - 28 (r) bufotenine, also known as 3-(beta-dimethylaminoethyl)-5-hydroxyindole, 3-(2-

- 1 dimethylaminoethyl)-5-indolol, NN, -dimethylserotonin, 5-hydroxy-NN, -dimethyltryptamine, and mappine;
- 2 (s) diethyltryptamine, also known as NN, -diethyltryptamine and DET;
- 3 (t) dimethyltryptamine, also known as DMT;
- 4 (u) hashish;
- 5 (v) ibogaine, also known as 7-ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-
- 6 pyrido [1', 2':1,2] azepine [5,4-b] indole and tabernanthe iboga;
- 7 (w) lysergic acid diethylamide, also known as LSD;
- 8 (x) marijuana;
- 9 (y) mescaline;
- 10 (z) parahexyl, also known as 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,8,9-trimethyl-6H-dibenzo[bd,
- 11]pyran and synhexyl;
- 12 (aa) peyote, meaning all parts of the plant presently classified botanically as *lophophora williamsii*
- 13 lemaire, whether growing or not; the seed of the plant; any extract from any part of the plant; and every
- 14 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed, or extracts;
- 15 (bb) N-ethyl-3-piperidyl benzilate;
- 16 (cc) N-methyl-3-piperidyl benzilate;
- 17 (dd) psilocybin;
- 18 (ee) psilocyn;
- 19 (ff) tetrahydrocannabinols, neutral compounds, and their corresponding acids, including synthetic
- 20 equivalents of the substances contained in the plant or in the resinous extractives of cannabis, or synthetic
- 21 substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as
- 22 those listed in subsections (4)(ff)(i) through (4)(ff)(iii). Because nomenclature of these substances is not
- 23 internationally standardized, compounds of these structures, regardless of numerical designation of atomic
- 24 positions covered, are included in the category as follows:
- 25 (i) delta 4-9 (delta 91) cis or trans tetrahydrocannabinol and its optical isomers;
- 26 (ii) delta 6-8 (delta 6) cis or trans tetrahydrocannabinol and its optical isomers; and
- 27 (iii) delta 6a, 10a, (delta 3,4) cis or trans tetrahydrocannabinol and its optical isomers;
- 28 (gg) ethylamine analog of phencyclidine, also known as N-ethyl-1-phenylcyclohexylamine, (1-

1 phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, and PCE;

2 (hh) pyrrolidine analog of phencyclidine, also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy,
3 and PHP;

4 (ii) thiophene analog of phencyclidine, also known as 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-
5 thienyl analog of phencyclidine, TPCP, and TCP;

6 (jj) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, also known as TCPy;

7 (kk) synthetic cannabinoids, including:

8 (i) unless specifically excepted or listed in another schedule, any chemical compound chemically
9 synthesized from or structurally similar to any material, compound, mixture, or preparation that contains any
10 quantity of a synthetic cannabinoid found in any of the following chemical groups, or any of those groups that
11 contain synthetic cannabinoid salts, isomers, or salts of isomers, whenever the existence of those salts,
12 isomers, or salts of isomers is possible within the specific chemical designation, including all synthetic
13 cannabinoid chemical analogs in the following groups:

14 (A) naphthoylindoles, whether or not substituted in the indole ring to any extent or the naphthyl ring
15 to any extent;

16 (B) naphthylmethylindoles, whether or not substituted in the indole ring to any extent or the
17 naphthyl ring to any extent;

18 (C) naphthoylpyrroles, whether or not substituted in the pyrrole ring to any extent or the naphthyl
19 ring to any extent;

20 (D) naphthylmethylindenes, whether or not substituted in the indene ring to any extent or the
21 naphthyl ring to any extent;

22 (E) acetylindoles, whether or not substituted in the indole ring to any extent or the acetyl group to
23 any extent;

24 (F) cyclohexylphenols, whether or not substituted in the cyclohexyl ring to any extent or the phenyl
25 ring to any extent;

26 (G) dibenzopyrans, whether or not substituted in the cyclohexyl ring to any extent or the phenyl ring
27 to any extent; and

28 (H) benzoylindoles, whether or not substituted in the indole ring to any extent or the phenyl ring to

- 1 any extent;
- 2 (ii) any compound that has been demonstrated to have agonist binding activity at one or more
3 cannabinoid receptors or is a chemical analog or isomer of a compound that has been demonstrated to have
4 agonist binding activity at one or more cannabinoid receptors;
- 5 (iii) 1-pentyl-3-(1-naphthoyl)indole (also known as JWH-018);
- 6 (iv) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-
7 tetrahydrobenzo[c]chromen-1-ol (also known as HU-210 or 1,1-dimethylheptyl-11-hydroxy-delta8-
8 tetrahydrocannabinol);
- 9 (v) 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol (also known as CP-47,497), and the
10 dimethylhexyl, dimethyloctyl, and dimethylnonyl homologues of CP-47,497;
- 11 (vi) 1-butyl-3-(1-naphthoyl)indole (also known as JWH-073);
- 12 (vii) 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole (also known as JWH-200);
- 13 (viii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (also known as JWH-250);
- 14 (ix) 1-hexyl-3-(1-naphthoyl)indole (also known as JWH-019);
- 15 (x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (also known as JWH-398);
- 16 (xi) JWH-081: 1-pentyl-3-(4-methoxy-1-naphthoyl)indole, also known as 4-methoxynaphthalen-1-yl-
17 (1-pentylindol-3-yl)methanone;
- 18 (xii) the following substances, except where contained in cannabis or cannabis resin, namely
19 tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives:
- 20 (A) [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de]-1,4-benzoxazin-6-yl]-1-
21 naphthalenylmethanone (also known as WIN-55,212-2);
- 22 (B) 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (also known as HU-243); or
- 23 (C) [9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-
24 1-yl]acetate;
- 25 (II) *Salvia divinorum*, also known as salvinorin A (2S,4aR,6aR,7R,9S,10aS,10bR)-9- (acetyloxy)-2-
26 (3-furanyl)dodecahydro-6a,10b-dimethyl-4,10-dioxo-2H-naphtho[2,1-c]pyran-7-carboxylic acid methyl ester;
- 27 (mm) substituted cathinones, including any compound, except bupropion or compounds listed in
28 another schedule, structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the

1 following ways:

2 (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl,
3 hydroxyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other
4 univalent substituents;

5 (ii) by substitution at the 3-position with an alkyl substituent;

6 (iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen
7 atom in a cyclic structure; and

8 (iv) any lengthening of the propanone chain between carbons 1 and 2 to any extent with alkyl
9 groups, whether further substituted or not;

10 (nn) any compound not listed in this code, in an administrative rule regulating controlled substances
11 or approved for use by the United States food and drug administration that is structurally derived from 2-amino-
12 1-phenyl-1-propane by modification in any of the following ways:

13 (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or
14 halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent
15 substituents;

16 (ii) by substitution at the 3-position with an alkyl substituent;

17 (iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen
18 atom in a cyclic structure; and

19 (iv) any lengthening of the propane chain between carbons 1 and 2 to any extent with alkyl groups,
20 whether further substituted or not.

21 (5) (a) For the purposes of subsection (4), the term "isomer" includes the optical, positional, and
22 geometric isomers.

23 (b) Subsection (4)(kk) does not apply to synthetic cannabinoids approved by the United States
24 food and drug administration and obtained by a lawful prescription through a licensed pharmacy. The
25 department of public health and human services shall adopt a rule listing the approved cannabinoids and shall
26 update the rule as necessary to keep the list current.

27 (6) Depressants. Unless specifically excepted or listed in another schedule, any material,
28 compound, mixture, or preparation that contains any quantity of the following substances is a depressant

- 1 having a depressant effect on the central nervous system, including salts, isomers, and salts of isomers
2 whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical
3 designation:
- 4 (a) gamma-hydroxybutyric acid, also known as gamma-hydroxybutyrate, 4-hydroxybutyrate, 4-
5 hydroxybutanoic acid, sodium oxybate, sodium oxybutyrate, and GHB;
- 6 (b) mecloqualone; and
7 (c) methaqualone.
- 8 (7) Stimulants. Unless specifically excepted or listed in another schedule, any material, compound,
9 mixture, or preparation that contains any quantity of the following substances is a stimulant having a stimulant
10 effect on the central nervous system, including its salts, isomers, and salts of isomers:
- 11 (a) aminorex, also known as aminoxaphen, 2-amino-5-phenyl-2-oxazoline, and 4,5-dihydro-5-
12 phenyl-2-oxazolamine;
- 13 (b) cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-
14 aminopropiophenone, and norephedrone;
- 15 (c) fenethylamine;
- 16 (d) methcathinone, also known as 2-(methylamino)-propionophenone, alpha-
17 (methylamino)propionophenone, 2-(methylamino)-1-phenylpropan-1-one, alpha-N-methylaminopropiophenone,
18 monomethylpropion, ephedrone, N-methylcathinone, methylcathinone, AL-464, AL-422, AL-463, and UR1432,
19 including its salts, optical isomers, and salts of optical isomers;
- 20 (e) 4-Methylaminorex (cis isomer), also known as U4Euh, McN-422;
- 21 (f) (levo-dextro) cis-4-methylaminorex, also known as (levo-dextro) cis-4, 5-dihydro-4-methyl-5-
22 phenyl-2-oxazolamine;
- 23 (g) N-benzylpiperazine, also known as 1-benzylpiperazine or BZP;
- 24 (h) N-ethylamphetamine; and
25 (i) NN, -dimethylamphetamine, also known as NN, -alpha-trimethyl-benzeneethanamine and NN, -
26 alpha-trimethylphenethylamine.
- 27 (8) Substances subject to emergency scheduling. Any material, compound, mixture, or preparation
28 that contains any quantity of the following substances is included in this category:

1 (a) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and
2 salts of isomers); and

3 (b) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers,
4 salts, and salts of isomers).

5 (9) If prescription or administration is authorized by the Federal Food, Drug and Cosmetic Act, then
6 any material, compound, mixture, or preparation containing tetrahydrocannabinols listed in subsection (4) must
7 automatically be rescheduled from Schedule I to the same schedule it is placed in by the United States drug
8 enforcement administration.

9 (10) Dangerous drug analogues. Unless specifically excepted or listed in another schedule, this
10 designation includes any material, compound, mixture, or preparation defined in 50-32-101 as a dangerous
11 drug analogue."
12

13 **Section 11.** Section 80-18-101, MCA, is amended to read:

14 **"80-18-101. Definitions.** As used in this part, the following definitions apply:

15 (1) (a) "Hemp" means all parts and varieties of the plant Cannabis consistent with the United
16 States department of agriculture's definition of hemp and rules established by the department the plant species
17 Cannabis sativa L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids,
18 isomers, acids, salts, and salts of isomers, whether growing or not, with a total delta-9 tetrahydrocannabinol
19 concentration of not more than 0.3% on a dry weight basis.

20 (b) The term does not include synthetic cannabinoids.

21 (2) "Hemp crude" means a hemp derivative in a temporary state of not complying with the legal
22 definition of hemp, the amount of tetrahydrocannabinol, or the amount of tetrahydrocannabinolic acid that will
23 be further processed in order to comply.

24 (3) "Hemp derivatives" means all products that contain or are processed from, extracted from, or
25 manufactured from hemp.

26 (4) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol
27 (THC) or seeds of the genus capable of germination.

28 (5) "Synthetic cannabinoids" has the meaning provided in 50-32-222 and includes any

1 cannabinoids produced artificially, whether from chemical synthesis or biosynthesis using recombinant
2 biological agents, including but not limited to yeast and algae."

3

4 NEW SECTION. Section 12. Appropriation. There is appropriated \$2,500 from the state special
5 revenue fund in 16-12-111 to the department of revenue for the biennium beginning July 1, 2023, for the
6 purposes of administration of the advisory council provided for in [section 3] and additional reporting
7 requirement provisions as required under 16-12-125.

8

9 NEW SECTION. Section 13. Codification instruction. (1) [Section 1] is intended to be codified as
10 an integral part of Title 16, chapter 12, part 1, and the provisions of Title 16, chapter 12, part 1, apply to [section
11 1].

12 (2) [Section 2] is intended to be codified as an integral part of Title 16, chapter 12, part 3, and the
13 provisions of Title 16, chapter 12, part 3, apply to [section 2].

14

15 NEW SECTION. Section 14. Severability. If a part of [this act] is invalid, all valid parts that are
16 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
17 the part remains in effect in all valid applications that are severable from the invalid applications.

18

19 NEW SECTION. Section 15. Effective date. [This act] is effective on passage and approval.

20

21 NEW SECTION. Section 16. Termination. [Section 3] terminates December 31, 2024.

22

- END -