

1 SENATE BILL NO. 538

2 INTRODUCED BY C. FRIEDEL, E. BUTTREY, D. ZOLNIKOV, D. BARTEL, J. SMALL, M. HOPKINS, J.

3 ELLSWORTH, J. KASSMIER

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA LAWS; ADDING A FEE
6 FOR DISPENSARIES FOR DRUG EDUCATION PROGRAMS; INCREASING THE PENALTY FOR
7 FRAUDULENT REPRESENTATION; ALLOWING A LAW ENFORCEMENT OFFICIAL TO SEIZE MARIJUANA
8 AND MARIJUANA PRODUCTS IN CERTAIN CASES; AMENDING SECTIONS 16-12-224 AND 16-12-302,
9 MCA; AND PROVIDING ~~AN~~ A DELAYED EFFECTIVE DATE."

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

12
13 **Section 1.** Section 16-12-224, MCA, is amended to read:

14 **"16-12-224. Licensing of dispensaries.** (1) Except as provided in 16-12-201(2), an applicant for a
15 dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been
16 satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be
17 located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the
18 November 3, 2020, general election.

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

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

23 (4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders
24 marijuana, marijuana products, and live marijuana plants.

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

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

1 dispensary or a medical marijuana dispensary.

2 ~~(7)~~ The department shall charge a dispensary an additional \$50 fee at each renewal for a drug
3 education program. The DEPARTMENT SHALL USE THE fees collected under this subsection ~~(7)~~ are transferred
4 quarterly to the department of justice to administer the drug education program.

5 ~~(7)(8)~~ The department may adopt rules:

6 (a) for inspection of proposed dispensaries;

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

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

10 ~~(8)(9)~~ (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis
11 of the concentration of THC in the products and not by weight.

12 (b) Except as provided in subsection ~~(8)(c)~~ (9)(c), for purposes of this chapter, a single package is
13 limited to:

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

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

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

19 (iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of
20 THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.

21 (v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and
22 no more than 800 milligrams of THC per package;

23 (vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100
24 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package;
25 and

26 (vii) for any other marijuana product, no more than 800 milligrams of THC.

27 (c) A dispensary may sell marijuana or marijuana products having higher THC potency levels than
28 described in subsection ~~(8)~~ (9) to registered cardholders.

1 ~~(9)~~(10) A licensee or employee is prohibited from conducting a transaction that would result in a
2 consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-
3 12-515."

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5 **Section 2.** Section 16-12-302, MCA, is amended to read:

6 "**16-12-302. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided
7 by law, an individual who fraudulently represents to a law enforcement official that the individual is a cultivator,
8 manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory, or marijuana transporter
9 or has a marijuana worker permit is guilty of a civil fine not to exceed ~~\$1,000~~ \$1,500.

10 (2) Subject to the provisions of 16-12-304, a law enforcement official may seize marijuana and
11 marijuana products from an individual in violation of 16-12-107 and subsection (1) of this section and may
12 charge the individual with a misdemeanor.

13 ~~(2)~~(3) An individual convicted under this section may not be licensed under this chapter."

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15 NEW SECTION. Section 3. Effective date. [This act] is effective ~~July 1, 2023~~ JANUARY 1, 2024.

16 - END -