

Unofficial Draft Copy - SJ31 Committee Bill

As of: 2022/04/29 10:33:08

Drafter: Erin Sullivan, 406-444-3594

67th Legislature

PD 0001

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA LAWS; CLARIFYING
6 LEGISLATIVE MONITORING DUTIES; CLARIFYING PERMISSIVE ACTS FOR REGISTERED
7 CARDHOLDERS; REVISING PENALTIES FOR SUSPENDED LICENSES; COMBINING SECTIONS ON
8 LEGISLATIVE MONITORING; REMOVING OUTDATED DATES; CLARIFYING MINIMUM AGE TO ENTER A
9 MARIJUANA BUSINESS; COMBINING SECTIONS ON FRAUDULENT REPRESENTATION; AMENDING
10 SECTIONS 5-5-225, 16-12-106, 16-12-108, 16-12-109, 16-12-110, 16-12-129, 16-12-203, 16-12-207, 16-12-
11 222, 16-12-226, AND 16-12-302, MCA; AND REPEALING SECTIONS 16-12-524 AND 16-12-532, MCA."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14

15 **Section 1.** Section 5-5-225, MCA, is amended to read:

16 **"5-5-225. Children, families, health, and human services interim committee.** The children,
17 families, health, and human services interim committee has administrative rule review, draft legislation review,
18 program evaluation, and monitoring functions for the department of public health and human services and the
19 entities attached to the department for administrative purposes, [except the program evaluation of the state lab](#)
20 [of the department that administers provisions under the Montana Marijuana Regulation and Taxation Act.](#)"
21

22 **Section 2.** Section 16-12-106, MCA, is amended to read:

23 **"16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in
24 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local
25 government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain,
26 search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the
27 laws of any local government for a person who is 21 years of age or older, [unless the person is a registered](#)
28 [cardholder](#):

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1 (a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of
2 usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800
3 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

4 (b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or
5 older, unless the person is a registered cardholder, 1 ounce or less of usable marijuana, except that not more
6 than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible
7 marijuana products meant to be eaten or swallowed in solid form;

8 (c) in or on the grounds of a private residence, possessing, planting, or cultivating up to two mature
9 marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered
10 cardholder, and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:

11 (i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a
12 locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision
13 from a public place;

14 (ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be
15 cultivated in or on the grounds of a single private residence simultaneously;

16 (iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private
17 residence where the plants are cultivated and stored or obtain written permission to cultivate and store
18 marijuana from the owner of the private residence; and

19 (iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana
20 products for personal use may be shared with, rented, or leased to a marijuana business;

21 (d) assisting another person who is at least 21 years of age, unless the person is a registered
22 cardholder, in any of the acts permitted by this section, including allowing another person to use one's personal
23 residence for any of the acts described in this section; and

24 (e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to
25 persons 18 years of age or older paraphernalia relating to marijuana.

26 (2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public
27 place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding \$250 and forfeiture of the
28 marijuana.

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1 (3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject
2 to a civil fine not exceeding \$250 and forfeiture of the marijuana.

3 (4) A person who smokes marijuana in a public place, other than in an area licensed for that activity
4 by the department, is subject to a civil fine not exceeding \$50.

5 (5) For a person who is under 21 years of age and is not a registered cardholder, possession, use,
6 delivery without consideration, or distribution without consideration of marijuana is punishable in accordance
7 with 45-5-624.

8 (6) For a person who is under 18 years of age and is not a registered cardholder, possession, use,
9 transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is
10 punishable by forfeiture of the marijuana paraphernalia and 8 hours of drug education or counseling.

11 (7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession,
12 production, delivery without consideration to a person 21 years of age or older, or possession with intent to
13 deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of
14 marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

15 (a) for a first violation, the person's choice between a civil fine not exceeding \$200 or completing up to
16 4 hours of community service in lieu of the fine;

17 (b) for a second violation, the person's choice between a civil fine not exceeding \$300 or completing
18 up to 6 hours of community service in lieu of the fine; and

19 (c) for a third or subsequent violation, the person's choice between a civil fine not exceeding \$500 or
20 completing up to 8 hours of community service in lieu of the fine.

21 (8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for
22 conduct that is permitted by this chapter.

23 (9) A person may not be denied access to or priority for an organ transplant or denied access to
24 health care solely for conduct that is permitted by this chapter."
25

26 **Section 3.** Section 16-12-108, MCA, is amended to read:

27 **"16-12-108. Limitations of act.** (1) This chapter does not permit:

28 (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train,

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1 aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana
2 products;

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

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

8 (d) delivery or distribution of marijuana or marijuana products, with or without consideration, to a
9 person under 21 years of age, [unless the person is a registered cardholder](#);

10 (e) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of
11 age, [unless the person is a registered cardholder](#);

12 (f) possession or transport of marijuana or marijuana products by a person under 21 years of age
13 unless the underage person is [a registered cardholder or is](#) at least 18 years of age and is an employee of a
14 marijuana business licensed under this chapter and engaged in work activities;

15 (g) possession or consumption of marijuana or marijuana products or possession of marijuana
16 paraphernalia:

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

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

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

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

22 (v) in a hotel or motel room;

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

24 (i) consumption of marijuana or marijuana products in a public place, except as allowed by the
25 department;

26 (j) conduct that endangers others;

27 (k) undertaking any task while under the influence of marijuana or marijuana products if doing so
28 would constitute negligence or professional malpractice; or

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

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

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

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

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

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

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

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

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

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

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

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1 (7) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the
2 conduct of consumers, licensees, and registered cardholders."
3

4 **Section 4.** Section 16-12-109, MCA, is amended to read:

5 **"16-12-109. (Effective January 1, 2022) Unlawful conduct by licensees -- penalties.** (1) If the
6 department has reasonable cause to believe that a licensee has violated a provision of this chapter or a rule of
7 the department, it may, in its discretion and in addition to any other penalties prescribed:

- 8 (a) reprimand a licensee;
- 9 (b) revoke the license of the licensee;
- 10 (c) suspend the license for a period of ~~not more than 3 months~~up to 1 year;
- 11 (d) refuse to grant a renewal of the license after its expiration; or
- 12 (e) impose a civil penalty not to exceed \$3,000.

13 (2) The department shall consider mitigating circumstances and may adjust penalties within penalty
14 ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

- 15 (a) compliance with the provisions of this chapter within the prior 3 years;
- 16 (b) the licensee has made good faith efforts to prevent a violation; or
- 17 (c) the licensee has cooperated in the investigation of the violation and the licensee or an employee
18 or agent of the licensee accepts responsibility.

19 (3) The department shall consider aggravating circumstances and may adjust penalties within penalty
20 ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

- 21 (a) prior warnings about compliance problems;
- 22 (b) prior violations of the provisions of this chapter within the past 3 years;
- 23 (c) lack of written policies governing employee conduct;
- 24 (d) additional violations revealed during the course of the investigation;
- 25 (e) efforts to conceal a violation;
- 26 (f) intentional violations; or
- 27 (g) involvement of more than one patron or employee in a violation.

28 (4) For each licensing program regulated by the department under this chapter, the department is

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1 designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential
2 criminal justice information regarding licensees and license applicants and regarding possible unlicensed
3 practice.

4 (5) The department shall revoke and may not reissue a license or endorsement belonging to a
5 person:

6 (a) whose controlling beneficial owner is an individual convicted of a felony drug offense;

7 (b) who allows another person not authorized or lawfully allowed to be in possession of the license;

8 (c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by
9 federal law;

10 (d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a
11 manufacturing license;

12 (e) who purchases marijuana from an unauthorized source in violation of this chapter; or

13 (f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows
14 or should know is under 21 years of age, unless the person is a registered cardholder.

15 (6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the
16 revocation.

17 (7) (a) Review of a department action imposing a fine, suspension, or revocation under this chapter
18 must be conducted as a contested case hearing before the department's office of dispute resolution under the
19 provisions of the Montana Administrative Procedure Act.

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

25 (c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the
26 grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of
27 notice of the department's final decision."
28

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1 **Section 5.** Section 16-12-110, MCA, is amended to read:

2 **"16-12-110. (Effective January 1, 2022) Legislative monitoring.** (1) The economic affairs interim

3 committee shall provide oversight of ~~the department's~~ activities pursuant to this chapter, including but not

4 limited to monitoring of:

5 (a) the number of licensees;

6 (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; ~~and~~

7 (c) the development, implementation, and use of the seed-to-sale tracking system established in

8 accordance with 16-12-105;

9 (d) the number of registered cardholders;

10 (e) the number and type of violations committed by registered cardholders, together with the penalties

11 imposed on registered cardholders by the department; and

12 (f) testing procedures performed by the state laboratory in accordance with this chapter.

13 (2) The economic affairs interim committee shall identify issues likely to require future legislative

14 attention and develop legislation to present to the next regular session of the legislature.

15 (3) (a) The department shall periodically report to the economic affairs interim committee and submit

16 a report to the legislature, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-

17 12-203 ~~and 16-12-503~~. The report must include:

18 (i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;

19 (ii) the number and type of violations committed by licensees;

20 (iii) the number of licenses revoked; ~~and~~

21 (iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter;

22 (v) the number of applications for registry identification cards and the number of registered

23 cardholders approved;

24 (vi) the nature of the debilitating medical conditions of the registered cardholders;

25 (vii) the number of registry identification cards and licenses revoked; and

26 (viii) the number of physicians providing written certification for registered cardholders and the number

27 of written certifications each physician has provided.

28 (b) The report may not provide;

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1 (i) any identifying information of cultivators, manufacturers, and dispensaries except basic geographic
2 or other statistical information; or

3 (ii) any identifying information of registered cardholders or physicians.

4 (4) The report on inspections required under 16-12-210 must include, at a minimum, the following
5 information for both announced and unannounced inspections:

6 (a) the number of inspections conducted, by canopy licensure tier;

7 (b) the number of licensees that were inspected more than once during the year;

8 (c) the number of inspections that were conducted because of complaints made to the department;

9 and

10 (d) the types of enforcement actions taken as a result of the inspections.

11 (5) The board of medical examiners shall report annually to the economic affairs interim committee on
12 the number and types of complaints the board has received involving physician practices in providing written
13 certification for the use of marijuana, pursuant to 37-3-203."

14

15 **Section 6.** Section 16-12-129, MCA, is amended to read:

16 **"16-12-129. (Effective January 1, 2022) Department to conduct background checks.** (1) In
17 addition to any other requirement imposed under this chapter, before issuing any license under this chapter the
18 department shall conduct:

19 (a) a fingerprint-based background check meeting the requirements for a fingerprint-based
20 background check by the department of justice and the federal bureau of investigation in association with an
21 application for initial licensure and every 5 years thereafter; and

22 (b) a name-based background check in association with an application for initial licensure and each
23 year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based
24 background check.

25 (2) For the purpose of the background records check required under subsection (1), the department
26 shall obtain fingerprints from each individual listed on an application submitted under this chapter and each
27 individual who has a controlling beneficial ownership or financial interest in the license or prospective license,
28 including:

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- 1 (a) each partner of an applicant that is a limited partnership;
- 2 (b) each member of an applicant that is a limited liability company;
- 3 (c) each director and officer of an applicant that is a corporation;
- 4 (d) each individual who holds a 5% financial interest in the license applicant or is a controlling
- 5 beneficial owner of the person applying for the license; and
- 6 (e) each individual who is a partner, member, director, or officer of a legal entity that holds a 5%
- 7 financial interest in the license applicant or is a controlling beneficial owner of the person applying for the
- 8 license.

9 (3) ~~(a) Except as provided in subsection (3)(b), an An~~ employee of a marijuana business shall
 10 undergo a criminal background check prior to beginning employment.

11 ~~(b) An employee of a former medical marijuana licensee in good standing with the department as of~~
 12 ~~January 1, 2022, shall undergo a criminal background check within 90 days of January 1, 2022.~~

13 (4) The department may establish procedures for obtaining fingerprints for the fingerprint-based and
 14 name-based background checks required under this section."

15

16 **Section 7.** Section 16-12-203, MCA, is amended to read:

17 **"16-12-203. (Effective January 1, 2022) Licensing types -- requirements -- limitations --**

18 **activities.** (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or
 19 renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary,
 20 adult-use dispensary, or testing laboratory if the person submits to the department:

- 21 (i) the person's name, date of birth, and street address on a form prescribed by the department;
- 22 (ii) proof that the natural person having day-to-day operational control over the business is a Montana
- 23 resident;

24 (iii) a statement, on a form prescribed by the department, that the person:

- 25 (A) will not divert to any other person the marijuana that the person cultivates or the marijuana
- 26 products that the person manufactures for consumers or registered cardholders, unless the marijuana or
- 27 marijuana products are sold to another licensee ~~as part of a sale of a business~~ as allowed under this section
- 28 ~~and by rules of the department;~~ and

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1 (B) has no pending citations for violations occurring under this chapter or the marijuana laws of any
2 other state or jurisdiction;

3 (iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana
4 products will be cultivated, manufactured, sold, or tested; and

5 (v) proof that the applicant has source of funding from a suitable source. A lender or other source of
6 money or credit may be found unsuitable if the source:

7 (A) is a person whose prior financial or other activities or criminal record:

8 (B) poses a threat to the public interest of the state;

9 (C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

10 (D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed
11 business.

12 (b) If the person to be licensed consists of more than one individual, the names of all owners must be
13 submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial
14 ownership interest.

15 (c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the
16 department the following:

17 (i) a complete and accurate organizational chart of the marijuana business disclosing the identity and
18 ownership percentages of its controlling beneficial owners;

19 (ii) whether the applicant has ever filed for bankruptcy;

20 (iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

21 (iv) any financial interests held by the applicant in another marijuana business in any state;

22 (v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners'
23 managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's
24 interest in the controlling beneficial owner;

25 (vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial
26 owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the
27 owner's interest in the controlling beneficial owner;

28 (vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

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1 (viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana
2 business; and

3 (ix) any financial interest holder that holds two or more financial interests in the marijuana business or
4 that is contributing over 50% of the operating capital of the marijuana business.

5 (d) The department may request that the marijuana business disclose each beneficial owner and
6 affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded
7 corporation.

8 (e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under
9 penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial
10 interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or
11 otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to
12 exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the
13 department.

14 (f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty
15 of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest
16 holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise
17 restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise
18 reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

19 (g) This section does not restrict the department's ability to reasonably request information or records
20 at renewal or as part of any other investigation following initial licensure of a marijuana business.

21 (2) The department may not license a person under this chapter if the person or an owner, including a
22 person with a financial interest:

23 (a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction
24 for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the
25 department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

26 (b) is in the custody of or under the supervision of the department of corrections or a youth court;

27 (c) has been convicted of a violation under ~~46-12-524~~[16-12-302](#) or of making a fraudulent
28 representation under the former medical marijuana program administered by the department of public health

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1 and human services;

2 (d) is under 21 years of age;

3 (e) has failed to:

4 (i) pay any taxes, interest, penalties, or judgments due to a government agency;

5 (ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;

6 (iii) stay out of default on a government-issued student loan;

7 (iv) pay child support; or

8 (v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a

9 government agency;

10 (f) has had a license issued under this chapter or a former medical marijuana license revoked within 3
11 years of the date of the application; or

12 (g) has resided in Montana for less than 1 year.

13 (3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless
14 federal law otherwise allows for the interstate distribution of marijuana.

15 (4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or
16 adult-use dispensary shall:

17 (a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to
18 this chapter and administrative rules;

19 (b) allow the department to collect samples of marijuana or marijuana products during inspections of
20 licensed premises for testing as provided by the department by rule; and

21 (c) participate as required by the department by rule in a seed-to-sale tracking system established by
22 the department pursuant to 16-12-105.

23 (5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana
24 products for use by consumers or registered cardholders only at one of the following locations:

25 (i) a property that is owned by the licensee; or

26 (ii) with written permission of the property owner filed with the department when applying for or
27 renewing a license, a property that is rented or leased by the licensee.

28 (b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products

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1 or marijuana concentrate may be shared with or rented or leased to another licensee.

2 (c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises.

3 (6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this
4 chapter and rules adopted by the department:

5 (a) may operate adult-use dispensaries;

6 (b) may engage in manufacturing; and

7 (c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

8 (7) A cultivator or manufacturer:

9 (a) may contract or otherwise arrange for another party that is licensed to process a cultivator's or
10 manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or
11 manufacturer for sale; and

12 (b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the
13 required license and before the department has completed the inspection required under this chapter unless
14 permitted to do so pursuant to 16-12-207."

15

16 **Section 8.** Section 16-12-207, MCA, is amended to read:

17 **"16-12-207. (Effective January 1, 2022) Licensing as privilege -- criteria.** (1) A cultivator license,
18 manufacturer license, adult-use dispensary license, medical marijuana dispensary license, combined-use
19 marijuana license, marijuana transporter license, or any other license authorized under this chapter is a
20 privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a
21 licensing decision, the department shall consider:

22 (a) the qualifications of the applicant; and

23 (b) the suitability of the proposed licensed premises, including but not limited to cultivation centers,
24 dispensaries, and manufacturing facilities.

25 (2) The department may deny or revoke a license based on proof that the applicant made a false
26 statement in any part of the original application or renewal application.

27 (3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary
28 license, or medical marijuana license if the applicant's proposed licensed premises:

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1 (i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts with
2 an ordinance, a certified copy of which has been filed with the department;

3 (ii) is not approved by local building, health, or fire officials as provided for in this chapter; or

4 (iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue,
5 or other place of worship or as a school or postsecondary school other than a commercially operated school,
6 unless the locality requires a greater distance. This distance must be measured in a straight line from the center
7 of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.

8 This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was
9 established before the church, synagogue, or other place of worship or school or postsecondary school existed
10 on the same street.

11 (b) For the purposes of this subsection (3), "school" and "postsecondary school" have the meanings
12 provided in 20-5-402.

13 (4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up
14 window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder
15 in a vehicle that is parked immediately outside the subject dispensary.

16 (5) A marijuana business may not dispense or otherwise sell marijuana or marijuana products from a
17 vending machine or allow such a vending machine to be installed at the interior or exterior of the premises.

18 (6) A marijuana business may not utilize the United States postal service or an alternative carrier
19 other than a licensed marijuana transporter to transport, distribute, ship, or otherwise deliver marijuana or
20 marijuana products.

21 (7) A marijuana business may not provide free marijuana or marijuana products or offer samples of
22 marijuana or marijuana products.

23 (8) Marijuana or a marijuana product may not be given as a prize, premium, or consideration for a
24 lottery, contest, game of chance, game of skill, or competition of any kind.

25 (9) (a) Except as provided in subsection (9)(c), an adult-use dispensary or medical marijuana
26 dispensary must have a single, secured entrance for patrons and shall implement strict security measures to
27 deter and prevent the theft of marijuana and unauthorized entrance in accordance with department rule.

28 (b) Except as provided in subsection (9)(c), a marijuana business that is not an adult-use dispensary

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1 or medical marijuana dispensary must implement security measures in accordance with department rule to
2 deter and prevent the theft of marijuana and unauthorized entrance.

3 (c) The provisions of this subsection (9) do not supersede any state or local requirements relating to
4 minimum numbers of points of entry or exit or any state or local requirements relating to fire safety.

5 (10) Each marijuana business shall install a video monitoring system that must, at a minimum:

6 (a) allow for the transmission and storage, by digital means, of a video feed that displays the interior
7 and exterior of the cannabis establishment; and

8 (b) be capable of being recorded as prescribed by the department.

9 (11) An adult-use dispensary or medical marijuana dispensary may not operate between the hours of 8
10 p.m. and 9 a.m. daily.

11 (12) A person under 21 years of age is not permitted inside a marijuana business unless the person is
12 [an employee of the marijuana business or](#) a registered cardholder."

13

14 Section 9. Section 16-12-222, MCA, is amended to read:

15 **"16-12-222. (Effective January 1, 2022) Licensing of marijuana transporters.** (1) (a) A marijuana
16 transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of
17 marijuana and marijuana products. A marijuana transporter license is valid for 2 years. A licensed marijuana
18 transporter is responsible for the marijuana and marijuana products ~~once~~after it takes control of the marijuana
19 or marijuana product.

20 (b) A marijuana transporter may contract with multiple licensed marijuana businesses.

21 (c) ~~On or after March 1, 2022, and except~~Except as otherwise provided in this section, all persons
22 who transport marijuana or marijuana products shall hold a valid marijuana transporter license. ~~The department~~
23 ~~shall begin accepting applications on or after January 1, 2022. The department may allow for a reasonable~~
24 ~~grace period for complying with this requirement.~~

25 (d) The department shall establish by rule the requirements for licensure and the applicable fee for a
26 marijuana transporter license or the renewal of a transporter license. The department may not license a person
27 to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license under
28 16-12-203(2).

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1 (2) A person who is not licensed under this chapter must apply for and obtain a marijuana transporter
2 license in order to transport marijuana or marijuana products.

3 (3) A registered cardholder or consumer is not required to possess a marijuana transporter license
4 when purchasing marijuana or marijuana products at a dispensary.

5 (4) A person who obtains a cultivator license, manufacturer license, adult-use dispensary license,
6 medical marijuana dispensary license, or testing laboratory license or is an employee of one of those licensees,
7 may:

8 (a) transport marijuana or marijuana products between other licensed premises without a transporter
9 license so long as the transportation:

10 (i) complies with rules implementing the seed-to-sale tracking system set forth in 16-12-105; and

11 (ii) includes a printed manifest containing information as required by the department; and

12 (b) deliver marijuana from a dispensary to a registered cardholder provided that the person delivering
13 the marijuana or marijuana products:

14 (i) complies with rules adopted by the department; and

15 (ii) includes a printed delivery manifest from a dispensary to a registered cardholder containing the
16 registered cardholder's address and cardholder number and the dispensary's address and license number.

17 (5) (a) A marijuana transporter licensee may maintain a licensed premises to temporarily store
18 marijuana and marijuana products and to use as a centralized distribution point in a jurisdiction where the local
19 government approval provisions contained in 16-12-301 have been satisfied or in a county in which the majority
20 of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

21 (b) The licensed premises must be located in a jurisdiction that permits the operation of a marijuana
22 business and comply with rules adopted by the department.

23 (c) A marijuana transporter may store and distribute marijuana and marijuana products from this
24 location. A storage facility must meet the same security requirements that are required to obtain a license under
25 this chapter.

26 (6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-
27 105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products
28 throughout the state.

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1 (7) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or
2 registered cardholders only and may not make deliveries of marijuana or marijuana products to individual
3 consumers.

4 (8) A person delivering marijuana or marijuana products for a marijuana transporter must possess a
5 valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana
6 transporter licensee."

7

8 **Section 10.** Section 16-12-226, MCA, is amended to read:

9 **"16-12-226. (Effective January 1, 2022) Marijuana worker permit -- requirements.** (1) A marijuana
10 worker permit is required for an employee who performs work for or on behalf of a marijuana business if the
11 individual participates in any aspect of the marijuana business.

12 (2) ~~(a) Except as provided in subsection (2)(b), a~~ marijuana business may not allow an employee to
13 perform any work at the licensed premises until it has verified that the employee has obtained a valid marijuana
14 worker permit issued in accordance with this chapter.

15 ~~(b) An employee of a former medical marijuana licensee in good standing with the department as of~~
16 ~~January 1, 2022, shall obtain a marijuana worker permit within 90 days of January 1, 2022.~~

17 (3) An applicant for a marijuana worker permit shall submit:

18 (a) an application on a form prescribed by the department with information including the applicant's:

19 (i) name;

20 (ii) mailing address;

21 (iii) date of birth;

22 (iv) signature; and

23 (v) response to conviction history questions requested by the department;

24 (b) a copy of a driver's license or identification card issued by one of the fifty states in the United
25 States or a passport;

26 (c) annual proof of having passed training that includes identification, prevention, and reporting for
27 human trafficking, rules and regulations for legal sales of marijuana in Montana, and any other training required
28 by the department; and

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1 (d) a fee established by the department.

2 (4) (a) Except as provided in subsection (4)(b), an application that does not contain the elements set
3 forth in subsection (3) is incomplete.

4 (b) The department may review an application prior to receiving the fee but may not issue a permit
5 until the fee is received.

6 (5) The department shall deny an initial or renewal application if the applicant:

7 (a) is not 18 years of age or older;

8 (b) has had a marijuana license or worker permit revoked for a violation of this chapter or any rule
9 adopted under this chapter within 2 years of the date of the application;

10 (c) has violated any provision of this chapter; or

11 (d) makes a false statement to the department.

12 (6) An employee of a licensee shall carry the employee's worker permit at all times when performing
13 work on behalf of a marijuana business.

14 (7) A person who holds a marijuana worker permit must notify the department in writing within 10
15 days of:

16 (a) a conviction for a felony;

17 (b) the issuance of any citation for violating a marijuana law imposed under this chapter or the
18 marijuana laws of any other state; or

19 (c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor."
20

21 **Section 11.** Section 16-12-302, MCA, is amended to read:

22 **"16-12-302. (Effective January 1, 2022) Fraudulent representation -- penalties.** (1) In addition to
23 any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that
24 the individual is:

25 (a) a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory,
26 or marijuana transporter or has a marijuana worker permit is guilty of a civil fine not to exceed \$1,000; or

27 (b) a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for
28 a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

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- 1 (2) An individual convicted under this section may not be licensed under this chapter.
- 2 (3) A physician who purposely and knowingly misrepresents any information required under 16-12-
- 3 509 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a
- 4 fine not to exceed \$1,000, or both."

5

6 **NEW SECTION. Section 12. {standard} Repealer.** The following sections of the Montana Code

7 Annotated are repealed:

8 16-12-524. (Effective January 1, 2022) Fraudulent representation -- penalties.

9 16-12-532. (Effective January 1, 2022) Legislative monitoring.

10

11

- END -

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