

Unofficial Draft Copy - SJ31.V2 Committee Bill

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

Drafter: Erin Sullivan, 406-444-3594

PD 0001

67th Legislature

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; REVISING DEFINITIONS; CLARIFYING PERMISSIVE ACTS AND
7 EXCEPTIONS FOR REGISTERED CARDHOLDERS; CLARIFYING PENALTIES; REVISING PENALTIES
8 FOR SUSPENDED LICENSES; COMBINING SECTIONS ON LEGISLATIVE MONITORING; REMOVING
9 IDENTITY DISCLOSURE REQUIREMENT FOR LICENSEE COMPLAINTS; REMOVING OUTDATED DATES;
10 REMOVING REQUIREMENT OF BACKGROUND CHECKS; CLARIFYING MINIMUM AGE TO ENTER A
11 MARIJUANA BUSINESS; CLARIFYING LEGISLATIVE INTENT ON CULTIVATORS ABILITY TO INCREASE
12 TIERS; REVISING REQUIREMENTS FOR COMBINED-USE LICENSE; REVISING REPORTING
13 REQUIREMENTS FOR EMPLOYEE CONVICTIONS OR VIOLATIONS; COMBINING SECTIONS ON
14 FRAUDULENT REPRESENTATION; CLARIFYING FORMULA FOR MUNICIPAL TAX REVENUE
15 ALLOCATION; REMOVING CONFLICTING NOTICE REQUIREMENTS; AMENDING SECTIONS 5-5-225, 15-
16 64-101, 16-12-102, 16-12-104, 16-12-106, 16-12-108, 16-12-109, 16-12-110, 16-12-125, 16-12-129, 16-12-
17 203, 16-12-207, 16-12-208, 16-12-222, 16-12-223, 16-12-225, 16-12-226, 16-12-302, 16-12-310, 16-12-311,
18 AND 20-1-220, MCA; REPEALING SECTIONS 16-12-524 AND 16-12-532, MCA; PROVIDING EFFECTIVE
19 DATES."

20
21 WHEREAS, during the 2021-2022 interim, the Economic Affairs Interim Committee received testimony
22 relating to the interpretation and implementation of the Montana Marijuana Regulation and Taxation Act.
23 Specifically, the committee received testimony that section 16-12-223, MCA, only allowed qualifying marijuana
24 cultivator licensees to increase production tiers at the licensee's renewal and not at the licensee's discretion.
25 The committee disagreed with this interpretation and provided its analysis. The issue was resolved to the
26 committee's satisfaction.

27 WHEREAS, this bill amends section 16-12-223, MCA, only to remove all existing doubt whether the
28 Legislature intended to allow a qualifying cultivator licensee to increase production tiers at their discretion.

Commented [E51]: Version 2: From 6/22 memo: Tier-up analysis

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

3

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

5 **"5-5-225. Children, families, health, and human services interim committee.** The children,
6 families, health, and human services interim committee has administrative rule review, draft legislation review,
7 program evaluation, and monitoring functions for the department of public health and human services and the
8 entities attached to the department for administrative purposes except the program evaluation of the state lab
9 of the department that administers provisions under the Montana Marijuana Regulation and Taxation Act."

10

11 **Section 2.** Section 15-64-101, MCA, is amended to read:

12 **"15-64-101. Definitions.** As used in this part, the following definitions apply:

13 (1) "Adult-use dispensary" has the meaning provided in 16-12-102.

14 ~~(2) "Customer" means a person to whom a sale of marijuana or a marijuana product is made.~~

15 ~~(23)~~ "Department" means the department of revenue provided for in 2-15-1301.

16 ~~(34)~~ "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.

17 ~~(45)~~ "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana
18 dispensary.

19 ~~(56)~~ "Marijuana" has the meaning provided in 16-12-102.

20 ~~(67)~~ "Marijuana product" has the meaning provided in 16-12-102.

21 ~~(78)~~ "Medical marijuana dispensary" has the meaning provided in 16-12-102.

22 ~~(89)~~ "Person" means an individual, firm, partnership, corporation, association, company, committee,
23 other group of persons, or other business entity, however formed.

24 ~~(9) "Purchaser" means a person to whom a sale of marijuana or a marijuana product is made.~~

25 (10) "Retail price" means the established price for which an adult-use dispensary or medical marijuana
26 dispensary sells marijuana or a marijuana product to a purchaser before any discount or reduction.

27 (11) "Sale" or "sell" means any transfer of marijuana or marijuana products for consideration,
28 exchange, barter, gift, offer for sale, or distribution in any manner or by any means."

Commented [E52]: Version 1: This section moves monitoring duties of the state lab as it pertains to testing requirements for marijuana to EAIC. See new (1)(f) in Section 6.

Commented [E53]: Version 2: From 6/22 meeting memo: Inconsistency in definitions
Amendments to this section are to change the term "purchaser" to "customer"

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2 **Section 3.** Section 16-12-102, MCA, is amended to read:

3 **"16-12-102. Definitions.** As used in this chapter, the following definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (10) "Debilitating medical condition" means:

10 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune
11 deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the
12 patient's health status;

13 (b) cachexia or wasting syndrome;

14 (c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with
15 daily activities as documented by the patient's treating physician;

16 (d) intractable nausea or vomiting;

17 (e) epilepsy or an intractable seizure disorder;

18 (f) multiple sclerosis;

19 (g) Crohn's disease;

20 (h) painful peripheral neuropathy;

21 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

22 (j) admittance into hospice care in accordance with rules adopted by the department; or

23 (k) posttraumatic stress disorder.

24 (11) "Department" means the department of revenue provided for in 2-15-1301.

25 (12) (a) "Employee" means an individual employed to do something for the benefit of an employer.

26 (b) The term includes a manager, agent, or director of a partnership, association, company,
27 corporation, limited liability company, or organization.

28 (c) The term does not include a third party with whom a licensee has a contractual relationship.

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1 (13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or
2 indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net
3 profits or net worth of the entity in which the interest is held.

4 (b) The term does not include interest held by a bank or licensed lending institution or a security
5 interest, lien, or encumbrance but does include holders of private loans or convertible securities.

6 (14) "Former medical marijuana licensee" means a person that was licensed by or had an application
7 for licensure pending with the department of public health and human services to provide marijuana to
8 individuals with debilitating medical conditions on November 3, 2020.

9 (15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a
10 permanent structure using artificial light exclusively or to supplement natural sunlight.

11 (b) The term may include:

12 (i) a greenhouse;

13 (ii) a hoop house; or

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

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

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

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

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

23 (20) (a) "Marijuana" means all plant material from the genus Cannabis containing

24 tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

25 (b) The term does not include hemp, including any part of that plant, including the seeds and all
26 derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a
27 ~~delta-9~~ tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or
28 products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral

Commented [ES4]: Version 3:

Recommendation from Dept. of Ag and DOR to address delta-8 and delta-10 issues. By removing references to "delta-9" the definition now looks at the total THC concentration to define hemp. Anything over 0.3% total THC becomes marijuana by definition and therefore must be sold in a dispensary.

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1 administrations, food, drink, or other products.

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

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

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

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

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

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

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

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

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

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

26 (30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit
27 corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in
28 a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a

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1 partnership, and the interest of a member in a limited partnership association.

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

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

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

7 (34) "Qualified institutional investor" means:

8 (a) a bank or banking institution including any bank, trust company, member bank of the federal
9 reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and
10 doing business under the laws of this state, any other state, or the laws of the United States;

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

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

17 (d) an investment company registered under section 8 of the federal Investment Company Act of
18 1940, as amended;

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

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

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

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

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

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

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

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

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

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

5 12 inches in diameter.

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

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

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

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

12 (41) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are
13 appropriate for the use of marijuana by an individual.

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

16

17 **Section 4, Section 3.** Section 16-12-104, MCA, is amended to read:

18 **"16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and
19 maintain a registry of persons who receive licenses under this chapter.

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

22 (i) cultivator license;

23 (ii) manufacturer license;

24 (iii) adult-use dispensary license or a medical marijuana dispensary license;

25 (iv) testing laboratory license.

26 (v) marijuana transporter license.

27 (vi) combined-use marijuana license.

28 (b) The department may establish other license types, subtypes, endorsements, and restrictions it

Commented [E55]: Version 3.

Per Senator Ellsworth's request at the July 19 meeting to include reporting of controlling beneficial owners to EAIC.

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1 considers necessary for the efficient administration of this chapter.

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

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

5 (5) The department shall assess applications for licensure or renewal to determine if an applicant,
6 controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria
7 established in this chapter for denial of a license.

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

10 (7) (a) The department shall review the information contained in an application or renewal submitted
11 pursuant to this chapter and shall approve or deny an application:

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

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

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

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

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

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

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

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

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

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

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

10 (10) (a) The department shall provide the names and phone numbers of persons, including the names
11 of individuals and persons who are controlling beneficial owners, licensed under this chapter and the city, town,
12 or county where licensed premises are located to the public on the department's website. Except as provided in
13 subsection (10)(b), the department may not disclose the physical location or address of a marijuana business.

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

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

19 (12) The department may not adopt rules requiring a consumer to provide a licensee with identifying
20 information other than government-issued identification to determine the consumer's age. A licensee that scans
21 a person's driver's license using an electronic reader to determine the person's age:

22 (a) may only use data or metadata from the scan determine the person's age;

23 (b) may not transfer or sell that data or metadata to another party; and

24 (c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise
25 provided for in this chapter or by the department.

26 (13) (a) Except as provided in subsection (13)(b), licenses issued by the department under this
27 chapter are nontransferable.

28 (b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to

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1 a person who is licensed by the department under the provisions of this chapter. The department may, in its
2 discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana
3 business.

4 (14) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise
5 obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner
6 unless the licensee notifies, in writing, the department of the proposed transaction and the department
7 determines that the person qualifies for ownership under the provisions of this chapter."
8

9 ~~Section 5, Section 3.~~ Section 16-12-106, MCA, is amended to read:

10 **"16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in

11 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local
12 government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain,

13 search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the
14 laws of any local government for a person who is 21 years of age or older, unless the person is a registered

15 cardholder:

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

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

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

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

Commented [ES6]:

Version 1: Amendments to this section are to add clarifying language for permissive acts for registered cardholders

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

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

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

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

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

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

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

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

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

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

26 (7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession,
27 production, delivery without consideration to a person 21 years of age or older, or possession with intent to
28 deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of

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- 1 marijuana in a concentrated form is punishable by forfeiture of the marijuana and:
- 2 (a) for a first violation, the person's choice between a civil fine not exceeding \$200 or completing up to
- 3 4 hours of community service in lieu of the fine;
- 4 (b) for a second violation, the person's choice between a civil fine not exceeding \$300 or completing
- 5 up to 6 hours of community service in lieu of the fine; and
- 6 (c) for a third or subsequent violation, the person's choice between a civil fine not exceeding \$500 or
- 7 completing up to 8 hours of community service in lieu of the fine.
- 8 (8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for
- 9 conduct that is permitted by this chapter.
- 10 (9) A person may not be denied access to or priority for an organ transplant or denied access to
- 11 health care solely for conduct that is permitted by this chapter."

13 ~~Section 6.~~~~Section 4.~~ Section 16-12-108, MCA, is amended to read:

14 **"16-12-108. Limitations of act.** (1) This chapter does not permit:

- 15 (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train,
- 16 aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana
- 17 products;
- 18 (b) consumption of marijuana or marijuana products while operating or being in physical control of a
- 19 motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- 20 (c) smoking or consuming marijuana while riding in the passenger seat within an enclosed
- 21 compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being
- 22 operated;
- 23 (d) delivery or distribution of marijuana or marijuana products, with or without consideration, to a
- 24 person under 21 years of age, unless the person is a registered cardholder;
- 25 (e) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of
- 26 age, unless the person is a registered cardholder;
- 27 (f) possession or transport of marijuana or marijuana products by a person under 21 years of age
- 28 unless the underage person is a registered cardholder or is at least 18 years of age and is an employee of a

Commented [E57]:

Version 1: Amendments in this section add exceptions for registered cardholders for age restrictions on delivery, distribution, purchase, and consumption.

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- 1 marijuana business licensed under this chapter and engaged in work activities;
- 2 ~~(g) possession or consumption of marijuana or marijuana products or possession of marijuana~~
- 3 paraphernalia:
- 4 (i) on the grounds of any property owned or leased by a school district, a public or private preschool,
- 5 school, or postsecondary school as defined in 20-5-402;
- 6 (ii) in a school bus ~~or other form of public transportation;~~
- 7 (iii) in a health care facility as defined in 50-5-101; ~~or~~
- 8 (iv) on the grounds of any correctional facility; ~~or~~
- 9 ~~(v) in a hotel or motel room;~~
- 10 (h) using marijuana or marijuana products in a location where smoking tobacco is prohibited;
- 11 (i) consumption of marijuana or marijuana products:
- 12 ~~(i) in a public place, except as allowed by the department;~~
- 13 ~~(ii) on trains, buses, and other forms of public transportation; or~~
- 14 ~~(iii) in a hotel or motel room, except for a hotel or motel room that is designated as a smoking room~~
- 15 ~~and rented to a guest;~~
- 16 (j) conduct that endangers others;
- 17 (k) undertaking any task while under the influence of marijuana or marijuana products if doing so
- 18 would constitute negligence or professional malpractice; or
- 19 (l) performing solvent-based extractions on marijuana using solvents other than water, glycerin,
- 20 propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.
- 21 ~~(2) (a) A violation of subsections (1)(q(i) through (iii) and subsections (h) and (i) are subject to the~~
- 22 ~~penalties provided in 50-40-115.~~
- 23 ~~(b) In addition to the penalties provided in 50-40-115, a person in violation of subsection (1)(g)(iv)~~
- 24 ~~may be subject to administrative action by the department of corrections and the department of justice and~~
- 25 ~~violation may be subject to the penalties provided in 45-7-307.~~
- 26 ~~(c) A violation of subsection (l) is subject to the penalties provided in 45-9-110(3).~~
- 27 ~~(2)(3) A person may not cultivate marijuana in a manner that is visible from the street or other public~~
- 28 area.

Commented [E58]: Version 3: Amendments in subsection (g), (i), and new (2) are to clarify penalties for violations, per the discussion at the July 2022 meeting and Senator Morigeau's request.

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1 ~~(3)~~(4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that
2 allows use of marijuana by a registered cardholder.

3 ~~(4)~~(5) Nothing in this chapter may be construed to:

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

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

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

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

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

16 ~~(5)~~(6) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise
17 regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana
18 products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages,
19 except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully
20 possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain
21 federal funding.

22 ~~(6)~~(7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the
23 department under Title 15 is subject to revocation of the person's license from the date of the violation until a
24 period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

25 ~~(7)~~(8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the
26 conduct of consumers, licensees, and registered cardholders."

27
28 ~~Section 7. Section 5.~~ Section 16-12-109, MCA, is amended to read:

Commented [E59]:
Version 1: Amendments in this section:
Resolve conflicting provisions regarding the length of
time the department may suspend a license;
Add exceptions for registered cardholders to penalties
regarding age restrictions for sales, distribution, or
transfers

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

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

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

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

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

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

24 (4) For each licensing program regulated by the department under this chapter, the department is
25 designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential
26 criminal justice information regarding licensees and license applicants and regarding possible unlicensed
27 practice.

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

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1 person:

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

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

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

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

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

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

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

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

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

21 (c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the
22 grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of
23 notice of the department's final decision."
24

25 ~~Section 8. Section 6.~~ Section 16-12-110, MCA, is amended to read:

26 "16-12-110. (Effective January 1, 2022) Legislative monitoring. (1) The economic affairs interim

27 committee shall provide oversight of ~~the department's~~ activities pursuant to this chapter, including but not
28 limited to monitoring of:

Commented [E510]:

Version 1: Amendments in this section combine legislative monitoring duties into one section.

Version 3: Amendment in (3)(a)(ii) to specify that the report must include the names of all controlling beneficial owners for each licensee.

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- 1 (a) the number of licensees;
- 2 (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; ~~and~~
- 3 (c) the development, implementation, and use of the seed-to-sale tracking system established in
- 4 accordance with 16-12-105;
- 5 ~~(d) the number of registered cardholders;~~
- 6 ~~(e) the number and type of violations committed by registered cardholders, together with the penalties~~
- 7 ~~imposed on registered cardholders by the department; and~~
- 8 ~~(f) testing procedures performed by the state laboratory in accordance with this chapter.~~
- 9 (2) The economic affairs interim committee shall identify issues likely to require future legislative
- 10 attention and develop legislation to present to the next regular session of the legislature.
- 11 (3) (a) The department shall periodically report to the economic affairs interim committee and submit
- 12 a report to the legislature, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-
- 13 12-203 ~~and 16-12-503~~. The report must include:
- 14 (i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;
- 15 ~~(ii) the names of all controlling beneficial owners for each licensee;~~
- 16 (ii) the number and type of violations committed by licensees;
- 17 (iii) the number of licenses revoked; ~~and~~
- 18 (iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter;
- 19 ~~(v) the number of applications for registry identification cards and the number of registered~~
- 20 ~~cardholders approved;~~
- 21 ~~(vi) the nature of the debilitating medical conditions of the registered cardholders;~~
- 22 ~~(vii) the number of registry identification cards and licenses revoked; and~~
- 23 ~~(viii) the number of physicians providing written certification for registered cardholders and the number~~
- 24 ~~of written certifications each physician has provided.~~
- 25 (b) The report may not provide ~~any identifying information of cultivators, manufacturers, and~~
- 26 ~~dispensaries except basic geographic or other statistical information~~ ~~any identifying information of registered~~
- 27 ~~cardholders or physicians.~~
- 28 (4) The report on inspections required under 16-12-210 must include, at a minimum, the following

Commented [E511]:

Per committee discussion, this amendment moves oversight of the state lab as it pertains to marijuana from Children, Families, Health & Human Services to Economic Affairs

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- 1 information for both announced and unannounced inspections:
- 2 (a) the number of inspections conducted, by canopy licensure tier;
- 3 (b) the number of licensees that were inspected more than once during the year;
- 4 (c) the number of inspections that were conducted because of complaints made to the department;
- 5 and
- 6 (d) the types of enforcement actions taken as a result of the inspections.

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

11 ~~Section 9, Section 7,~~ Section 16-12-125, MCA, is amended to read:

12 "16-12-125. (Effective January 1, 2022) Hotline. (1) The department shall create and maintain a
 13 hotline to receive reports of suspected abuse of the provisions of this chapter.

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

16 (3) ~~(a)~~—The department shall provide a copy of the complaint to the person or licensee that is the
 17 subject of the complaint.

18 ~~(b) The department may not redact the individual's name or city of residence from the complaint copy.~~

19 (4) The department may:

- 20 (a) investigate reports of suspected abuse of the provisions of this chapter; or
- 21 (b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area
 22 where the suspected abuse is occurring."

24 ~~Section 10, Section 8,~~ Section 16-12-129, MCA, is amended to read:

25 "16-12-129. (Effective January 1, 2022) Department to conduct background checks. (1) In
 26 addition to any other requirement imposed under this chapter, before issuing any license under this chapter the
 27 department shall conduct:

- 28 (a) a fingerprint-based background check meeting the requirements for a fingerprint-based

Commented [ES12]: Version 2: From 6/22 memo:
 Identity of complainant
 Amendment removes the requirement of the
 department to disclose the complainant's identity to the
 licensee

Commented [ES13]:
 Version 1: Amendments remove outdated dates.
 Version 2: From 6/22 memo: Background checks
 Amendments remove the requirement of background
 checks by the department.

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1 background check by the department of justice and the federal bureau of investigation in association with an
2 application for initial licensure and every 5 years thereafter; and

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

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

10 (a) each partner of an applicant that is a limited partnership;

11 (b) each member of an applicant that is a limited liability company;

12 (c) each director and officer of an applicant that is a corporation;

13 (d) each individual who holds a 5% financial interest in the license applicant or is a controlling
14 beneficial owner of the person applying for the license; ~~and~~

15 (e) each individual who is a partner, member, director, or officer of a legal entity that holds a 5%
16 financial interest in the license applicant or is a controlling beneficial owner of the person applying for the
17 license; ~~and~~

18 ~~(f) a person designated by the applicant as responsible for operating the licensed establishment on~~
19 ~~behalf of the licensee.~~

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

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

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

26
27 ~~Section 11, Section 9,~~ Section 16-12-203, MCA, is amended to read:

28 **"16-12-203. (Effective January 1, 2022) Licensing types -- requirements -- limitations --**

Commented [E514]: Version 1: Amendment updates a reference to statute (violation under fraudulent representation - now that those statutes are combined)
Also - removes old references to vertical integration from the medical marijuana statutes
Version 3: Amendment in (1)(h) is to specify that the department must provide to EAIC a list of beneficial owners for each licensee

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- 1 **activities.** (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or
2 renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary,
3 adult-use dispensary, or testing laboratory if the person submits to the department:
- 4 (i) the person's name, date of birth, and street address on a form prescribed by the department;
 - 5 (ii) proof that the natural person having day-to-day operational control over the business is a Montana
6 resident;
 - 7 (iii) a statement, on a form prescribed by the department, that the person:
 - 8 (A) will not divert to any other person the marijuana that the person cultivates or the marijuana
9 products that the person manufactures for consumers or registered cardholders, unless the marijuana or
10 marijuana products are sold to another licensee ~~as part of a sale of a business~~ as allowed under this section
11 and by rules of the department; and
 - 12 (B) has no pending citations for violations occurring under this chapter or the marijuana laws of any
13 other state or jurisdiction;
 - 14 (iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana
15 products will be cultivated, manufactured, sold, or tested; and
 - 16 (v) proof that the applicant has source of funding from a suitable source. A lender or other source of
17 money or credit may be found unsuitable if the source:
 - 18 (A) is a person whose prior financial or other activities or criminal record:
 - 19 (B) poses a threat to the public interest of the state;
 - 20 (C) poses a threat to the effective regulation and control of marijuana and marijuana products; or
 - 21 (D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed
22 business.
 - 23 (b) If the person to be licensed consists of more than one individual, the names of all owners must be
24 submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial
25 ownership interest.
 - 26 (c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the
27 department the following:
 - 28 (i) a complete and accurate organizational chart of the marijuana business disclosing the identity and

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- 1 ownership percentages of its controlling beneficial owners;
- 2 (ii) whether the applicant has ever filed for bankruptcy;
- 3 (iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;
- 4 (iv) any financial interests held by the applicant in another marijuana business in any state;
- 5 (v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners'
- 6 managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's
- 7 interest in the controlling beneficial owner;
- 8 (vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial
- 9 owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the
- 10 owner's interest in the controlling beneficial owner;
- 11 (vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;
- 12 (viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana
- 13 business; and
- 14 (ix) any financial interest holder that holds two or more financial interests in the marijuana business or
- 15 that is contributing over 50% of the operating capital of the marijuana business.
- 16 (d) The department may request that the marijuana business disclose each beneficial owner and
- 17 affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded
- 18 corporation.
- 19 (e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under
- 20 penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial
- 21 interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or
- 22 otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to
- 23 exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the
- 24 department.
- 25 (f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty
- 26 of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest
- 27 holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise
- 28 restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise

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1 reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

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

4 (h) The department shall furnish the names of all controlling beneficial owners to the economic affairs
5 interim committee in accordance with 5-11-210.

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

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

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

12 (c) has been convicted of a violation under ~~16-12-524~~16-12-302 or of making a fraudulent
13 representation under the former medical marijuana program administered by the department of public health
14 and human services;

15 (d) is under 21 years of age;

16 (e) has failed to:

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

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

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

20 (iv) pay child support; or

21 (v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a
22 government agency;

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

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

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

28 (4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or

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1 adult-use dispensary shall:

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

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

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

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

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

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

13 (b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products
14 or marijuana concentrate may be shared with or rented or leased to another licensee.

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

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

18 (a) may operate adult-use dispensaries;

19 (b) may engage in manufacturing; and

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

21 (7) A cultivator or manufacturer:

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

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

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1 ~~Section 12, Section 10,~~ Section 16-12-207, MCA, is amended to read:

2 **"16-12-207. (Effective January 1, 2022) Licensing as privilege -- criteria.** (1) A cultivator license,

3 manufacturer license, adult-use dispensary license, medical marijuana dispensary license, combined-use

4 marijuana license, marijuana transporter license, or any other license authorized under this chapter is a

5 privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a

6 licensing decision, the department shall consider:

7 (a) the qualifications of the applicant; and

8 (b) the suitability of the proposed licensed premises, including but not limited to cultivation centers,

9 dispensaries, and manufacturing facilities.

10 (2) The department may deny or revoke a license based on proof that the applicant made a false

11 statement in any part of the original application or renewal application.

12 (3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary

13 license, or medical marijuana license if the applicant's proposed licensed premises:

14 (i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts with

15 an ordinance, a certified copy of which has been filed with the department;

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

17 (iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue,

18 or other place of worship or as a school or postsecondary school other than a commercially operated school,

19 unless the locality requires a greater distance. This distance must be measured in a straight line from the center

20 of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.

21 This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was

22 established before the church, synagogue, or other place of worship or school or postsecondary school existed

23 on the same street.

24 (b) For the purposes of this subsection (3), "school" and "postsecondary school" have the meanings

25 provided in 20-5-402.

26 (4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up

27 window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder

28 in a vehicle that is parked immediately outside the subject dispensary.

Commented [ES15]:
Version 1: Amendments in this section address the issue on minimum age to enter a marijuana business.

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

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

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

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

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

13 (b) Except as provided in subsection (9)(c), a marijuana business that is not an adult-use dispensary
14 or medical marijuana dispensary must implement security measures in accordance with department rule to
15 deter and prevent the theft of marijuana and unauthorized entrance.

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

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

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

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

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

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

26

27 **Section 13.** Section 16-12-208, MCA, is amended to read:

28 **"16-12-208. Restrictions.** (1) A cultivator or manufacturer may not cultivate marijuana or manufacture

Commented [E516]: Version 3: Dept. of Ag & DOR recommendation to address hemp sales in dispensaries.

Most likely an agency bill to further address hemp will be coming from Dept. of Ag, but this will make the statute and rule consistent.

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1 marijuana products in a manner that is visible from the street or other public area without the use of binoculars,
2 aircraft, or other optical aids.

3 (2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location
4 other than the licensed premises approved by the department and within an enclosed area that is secured in a
5 manner that prevents access by unauthorized persons.

6 (3) A licensee shall make the licensed premises, books, and records available to the department for
7 inspection and audit under 16-12-210 during normal business hours.

8 (4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee.

9 (5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that are
10 attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

11 (6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-
12 resistant exit packaging that complies with federal child resistance standards and is designed to be significantly
13 difficult for children under 5 years of age to open and not difficult for adults to use properly.

14 (b) (i) Packaging of individual products may contain only the following design elements and language
15 on a white label:

16 (A) the seller's business name and any accompanying logo or design mark;

17 (B) the name of the product; and

18 (C) the THC content or CBD content, health warning messages as provided in 16-12-215, and
19 ingredients.

20 (ii) All packaging and outward labeling, including business logos and design marks, must also comply
21 with any standards or criteria established by the department, including but not limited to allowable symbols and
22 imagery.

23 (7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer hemp
24 flower, hemp plants, or alcohol from a licensed premises.

25 (8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for
26 ultimate sale to a consumer or registered cardholder, a licensee or license applicant shall submit both a
27 package and a label application, in a form prescribed by the department, to receive approval from the
28 department.

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1 (b) The initial submission must be made electronically if required by the department. The licensee or
2 license applicant shall submit a physical prototype upon request by the department.

3 (c) If a license applicant submits packages and labels for preapproval, final determination for
4 packages and labels may not be made until the applicant has been issued a license.

5 (d) A packaging and label application must include:

6 (i) a fee provided for in rule by the department;

7 (ii) documentation that all exit packaging has been certified as child-resistant by a federally qualified
8 third-party child-resistant package testing firm;

9 (iii) a picture or rendering of and description of the item to be placed in each package; and

10 (iv) for label applications for inhalable marijuana products that contain nonmarijuana additives:

11 (A) the nonmarijuana additive's list of ingredients; and

12 (B) in a form and manner prescribed by the department, information regarding the additive or
13 additives and the manufacturer of the additive or additives.

14 (9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified
15 receptacle into which marijuana or marijuana products already within a container are placed at the retail point of
16 sale."
17

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

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

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

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

Commented [ES17]:
Version 1: Amendments in this section remove outdated dates.

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1 (d) The department shall establish by rule the requirements for licensure and the applicable fee for a
2 marijuana transporter license or the renewal of a transporter license. The department may not license a person
3 to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license under
4 16-12-203(2).

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

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

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

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

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

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

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

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

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

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

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

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

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1 this chapter.

2 (6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-
3 105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products
4 throughout the state.

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

8 (8) A person delivering marijuana or marijuana products for a marijuana transporter must possess a
9 valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana
10 transporter licensee."
11

12 ~~Section 15, Section 12.~~ Section 16-12-223, MCA, is amended to read:

13 **"16-12-223. (Effective January 1, 2022) Licensing of cultivators.** (1) (a) The department shall
14 license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that
15 is licensed under this chapter may only occur at an indoor cultivation facility.

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

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

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

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

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

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

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

Commented [E518]: Version 2 - From 6/22 memo: Tier increase

Amendment clarifies the intent was always to be able to tier up at any time

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1 cultivation facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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1 (C) its proposed additional or expanded indoor cultivation facility or facilities are located in a
2 jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that
3 they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the
4 November 3, 2020, general election.

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

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

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

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

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

15 (3) The department may adopt rules:

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

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

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

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

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

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

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

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

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

27 (f) \$13,000 for a cultivator with a tier 5 canopy license;

28 (g) \$15,000 for a cultivator with a tier 6 canopy license;

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

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

9 (6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3,
10 2020, may continue to engage in outdoor cultivation."

11
12 ~~Section 16, Section 13.~~ Section 16-12-225, MCA, is amended to read:

13 **"16-12-225. (Effective January 1, 2022) Combined-use marijuana licensing -- requirements. (1)**

14 The department may issue a total of eight combined-use marijuana licenses to entities that are:

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

17 (2) A combined-use marijuana license consists of one ~~tier 1~~ canopy license and one dispensary
18 license allowing for the operation of a dispensary. ~~Cultivation and dispensary facilities must be located at the~~
19 ~~same licensed premises.~~

20 (3) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on land
21 that is located:

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

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

27 (4) An applicant under this section must satisfy all licensing requirements under this chapter and is
28 subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products

Commented [E519]: Version 2 - From 6/22 memo:
Combined-use

Amendments remove the words 'tier 1' - to remove all
doubt, and remove the distance and co-location
requirements

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1 provided for in this chapter.

2 (5) A license granted under this section must be operated in compliance with all requirements

3 imposed under this chapter.

4 (6) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe or

5 another majority-owned business of that tribe may not obtain another combined-use license until the prior

6 license is relinquished, lapses, or is revoked by the department."

7

8 ~~Section 17, Section 14,~~ 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

Commented [E520]:
Version 1: Amendments remove reference to outdated date.

Version 2 - From 6/22 memo: Background checks

Amendments shift the burden of reporting employee convictions of felonies or violations from the department to the employer

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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 person's employer in
- 15 writing within 10 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 18, Section 15,~~ 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.

Commented [E521]:

Version 1: This section incorporates 16-12-524 into 16-12-302. All the wording in both statutes remain.

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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."

6 ~~Section 19, Section 16,~~ Section 16-12-310, MCA, is amended to read:

7 "16-12-310. (Effective January 1, 2022) Limit on local-option marijuana excise tax rate -- goods
8 subject to tax. (1) The rate of the local-option marijuana excise tax must be established by the election petition
9 or resolution provided for in 16-12-311, and the rate may not exceed 3%.

10 (2) The local-option marijuana excise tax is a tax on the retail value of all marijuana and marijuana
11 products sold at an adult-use dispensary or medical marijuana dispensary within a county.

12 (3) If a county imposes a local-option marijuana excise tax:

- 13 (a) 50% of the resulting tax revenue must be retained by the county;
- 14 (b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio
15 of the population of ~~the each~~ city or town to the ~~total~~ county population of municipalities within the county; and
- 16 (c) the remaining 5% of the resulting tax revenue must be retained by the department to defray costs
17 associated with administering 16-12-309 through 16-12-312 and 16-12-317. The funds retained by the
18 department under this subsection (3)(c) must be deposited into the marijuana state special revenue account
19 established under 16-12-111.

20 (4) For the purposes of this section, "tax revenue" means the combined taxes collected under any
21 local-option marijuana excise tax collected on retail sales within the county."

23 ~~Section 20, Section 17,~~ Section 16-12-311, MCA, is amended to read:

24 "16-12-311. (Effective January 1, 2022) Local government excise tax-- election required --
25 procedure -- notice. (1) A county that has permitted an adult-use dispensary or medical marijuana dispensary
26 to operate within its borders pursuant to 16-12-301 or a county in which the majority of voters voted to approve
27 Initiative Measure No. 190 in the November 3, 2020, general election, may not impose or, except as provided in
28 this section, amend or repeal a local-option marijuana excise tax unless the local-option marijuana excise tax

Commented [ES22]: Version 2 - From 6/22 memo:
Local-Option analysis
Amendments allow for full distribution of municipal tax revenue

Commented [ES23]: Version 2 - From 6/22 memo:
Local -option analysis
Amendments to this section remove conflicting notice requirements with 13-1-108.

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1 question has been approved by a majority of the qualified electors voting on the question.

2 (2) The local-option marijuana excise tax question may be presented to the qualified electors of a
3 county by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-135, and 7-5-137 or by a
4 resolution of the governing body of the county.

5 (3) The petition or resolution referring the taxing question must state:

6 (a) the rate of the tax, which may not exceed 3% of the retail value of all marijuana and marijuana
7 products sold at an adult-use dispensary or medical marijuana dispensary;

8 (b) the date when the tax becomes effective, which may not be earlier than 90 days after the election;
9 and

10 (c) the purposes that may be funded by the tax revenue.

11 (4) On receipt of an adequate petition, the county's governing body shall hold an election in
12 accordance with Title 13, chapter 1, part 5.

13 ~~(5) (a) Before the local-option marijuana excise tax question is submitted to the electorate, the county~~
14 ~~shall provide notice of the goods subject to the local-option marijuana excise tax by a method described in 13-~~
15 ~~1-108.~~

16 ~~(b) The notice must be given two times, with at least 6 days separating the notices. The first notice~~
17 ~~must be given not more than 45 days prior to the election, and the last notice must be given not less than 30~~
18 ~~days prior to the election.~~

19 ~~(65)~~ Notice of the election must be given as provided in 13-1-108 and include the information listed in
20 subsection (3) of this section.

21 ~~(76)~~ The question of the imposition of a local-option marijuana excise tax may not be placed before
22 the qualified electors more than once in any fiscal year."

23

24 **Section 21.** Section 20-1-220, MCA, is amended to read:

25 **"20-1-220. Use of marijuana and tobacco products in public school building or on public**
26 **school property prohibited.** (1) An individual may not use a tobacco product, vapor product, marijuana
27 product or alternative nicotine product in a public school building or on public school property.

28 (2) (a) Subsection (1) does not apply to the use of a tobacco product, vapor product, marijuana

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1 product or alternative nicotine product in a classroom or on other school property as part of a lecture,
2 demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the
3 risks associated with use of a tobacco product, vapor product, marijuana product, or alternative nicotine
4 product.

5 (b) Subsection (1) does not apply to the use of a smoking cessation product by an employee.

6 (3) The principal of an elementary or secondary school, or the principal's designee, may enforce this
7 section.

8 (4) A violation of this section is subject to the penalties provided in 50-40-115.

9 (5) For the purposes of this section, the following definitions apply:

10 (a) "Alternative nicotine product" means a manufactured noncombustible product that contains
11 nicotine derived from tobacco and that is intended for human consumption by being chewed, absorbed,
12 dissolved, or ingested by any other means.

13 (b) "Marijuana product" means a product that contains marijuana and is intended for use by a
14 consumer. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives,
15 marijuana concentrates, and marijuana intended for use by smoking or vaping.

16 ~~(b)(c)~~ "Public school building" or "public school property":

17 (i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the
18 teaching of minor children that is established and maintained under the laws of the state of Montana at public
19 expense; and

20 (ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities,
21 gymnasiums, locker rooms, and school buses.

22 ~~(e)(d)~~ "Tobacco product" means a substance intended for human consumption that contains tobacco,
23 including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

24 ~~(d)(e)~~ "Vapor product" means a noncombustible product that may contain nicotine and that uses a
25 heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means,
26 regardless of shape or size, to produce vapor from a solution or other substance. The term includes:

27 (i) an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or
28 device; and

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Drafter: Erin Sullivan, 406-444-3594

PD 0001

67th Legislature

1 (ii) a vapor cartridge or other container in a solution or other form that is intended to be used with or in
2 an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product and device."
3

4 NEW SECTION. ~~Section 22. Section 19.~~ {standard} Repealer. The following sections of the Montana
5 Code Annotated are repealed:

6 16-12-524. (Effective January 1, 2022) Fraudulent representation -- penalties.

7 16-12-532. (Effective January 1, 2022) Legislative monitoring.
8

9 NEW SECTION. ~~Section 23. Section 20.~~ Effective dates. (1) [Sections [12 through 13] and this
10 section are effective upon passage and approval.

11 - END -

Commented [E524]:
These statutes are repealed as they have been incorporated into the general sections for fraudulent representation -- penalties & legislative monitoring

Commented [E525]: This allows for the amendments to 16-12-223 (tiering up for cultivators) and 16-12-225 (combined-use) to take effect before the end of the moratorium.

DRAFT