

Statute	Title	Issue	Explanation	Suggested Fix
16-12-207		Minimum Age to Enter a Marijuana Business	HB701 requires employees of marijuana businesses to be 18 years of age or older. An initial draft of the bill had set this age minimum at 21 years of age, however the age requirement was lowered to 18 in the introduced version of the bill in order to avoid a potential constitutional conformity issue. However, a potentially conflicting provision was also passed in Section 54 of HB701, amending 16-12-207, MCA. New subsection (12) of this section provides that "[a] person under 21 years of age is not permitted inside a marijuana business unless the person is a registered cardholder."	The inconsistency could be alleviated by amending subsection (12) of 16-12-207, MCA to read: (12) A person under 21 years of age is not permitted inside a marijuana business unless the person is an employee of the marijuana business or a registered cardholder.
16-12-206		Lack of "Catch-all" Penalty Provision	Subsections (2) through (5) of 16-12-106, MCA, enumerate penalties for specific types of unlawful conduct, including cultivation of marijuana in an unsecured location, smoking of marijuana in public, underage possession and use of marijuana and marijuana paraphernalia, and distribution of marijuana to underage persons. However, the section does not include a general catch-all penalty. This means that for certain conduct that is not permitted under the Act but not specifically addressed in 16-12-106, the Act does not contain a penalty provision. An example is possession or consumption in any of the places listed in 12-16-108(1)(g), such as public transportation or a motel or hotel room.	It may be beneficial to add a catch-all penalty provision in 12-16-106, MCA along the lines of: "If no other penalty is specified under this chapter, violation of this chapter is punishable by a fine not to exceed \$ _____ or by imprisonment in a county jail for a term not to exceed _____, or both, unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."
16-12-223	Licensing of cultivators	Certain licensees increasing tiers at renewal	The department maintains that 16-12-223(1)(e) only allows a cultivator to advance to the next licensing tier in conjunction with a regular renewal application, including "grandfathered" licensees.	Amend 16-12-223(1)(e)(iii) to read: (iii) Between January 1, 2022, and June 30, 2023, a cultivator may, at any time , increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B). Note: "Grandfathered" licensees may increase tiers by more than one at a time between January 1, 2022 and June 30, 2023. By the time the statute is fixed, it would only leave for a brief period in which the change would be effective. Notes: This section will need an immediate effective date, otherwise the amendment will be moot. An additional consideration is that based on the timing of regular annual renewals, "grandfathered" licensees may already have tiered up to tier 5 before passage of the cleanup bill, so few licensees may be able to take advantage of this.
16-12-225	Combined-use marijuana licensing - requirements	Tier-1 language	16-12-225(2) plainly states that a combined-use license consists of "one tier 1 canopy license and one dispensary license". Several stakeholders have raised the question if this means the license is limited to a tier 1 canopy or if this is the starting point of the canopy, and then the licensee will be able to increase tiers as allowed in the chapter. Additional questions were raised regarding subsection (2) as to why the combined-use licensee must operate the cultivation and dispensary facilities on the same licensed premises.	Review the statute for clarity
16-12-102(20) 16-12-224	Definitions Licensing of Dispensaries	Definition of Hemp	Questions were raised during the rulemaking process regarding the interpretation of the definition of hemp, and whether the legislature intended cannabidiol (CBD) products to be excluded from sales at dispensaries	Review the definition of hemp in 16-12-102(20) for clarity. Alternatively, review 16-12-224 (Licensing of Dispensaries) to add permissive language for dispensaries to sell CBD.
16-12-108	Limitations of Act	Delivery, distribution, purchase, consumption, use under 21	In 16-12-108, MCA, subsection (1)(d) limits delivery or distribution and subsection (1)(e) limits purchase, consumption, or use of marijuana and marijuana products to persons aged 21 or over. There is no consideration in these subsections for registered cardholders.	Review subsections for clarity. Consider adding language such as: "unless the person is a registered cardholder"
16-12-110 16-12-532	Legislative Monitoring	Multiple statutes	16-12-110 outlines legislative monitoring duties for chapter 12, including reports regarding licensees pursuant to 16-12-203: cultivators, manufacturers, and dispensaries, as well as a report on inspections pursuant to 16-12-210. 16-12-532 also outlines legislative monitoring duties; however it is pursuant to part 5, which is medical marijuana. It requires reporting of registered cardholders and supporting information on the medical marijuana program. All of the reports listed above are due by the Dept. of Revenue. Additionally, the Board of Medical Examiners owes a report under 16-12-532. Since EAIC is responsible for monitoring both the adult-use and medical marijuana programs, it may not be necessary to have separate statutes listing legislative monitoring duties for each program.	Combine statutes

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Title 61, chapter 8, part 4	Oral Fluid Drug Screening	Repeal of Title 61, chapter 8, part 4	Sections 87 through 91 of HB701 amended sections within Title 61, chapter 8, part 4, primarily to add oral fluid drug screening to various listing of appropriate and admissible testing for the presence and concentration of drugs and alcohol. However, SB365 repealed T.61,c.8,p.4 in its entirety as part of a general revision and reorganization of MT's DUI laws, so these sections were never codified.	Look at Title 61, chapter 8, part 10, which is where the newly codified DUI laws are to see what amendments should be made to include admissible tests for marijuana screening. These amendments can be part of the EAIC housekeeping bill for HB701, or can be recommendations for a bill through LJIC, or an agency bill from DOJ. Both LJIC and DOJ are aware of the need to address the issue, so the committees/agency should work together to see where this makes the most sense...
16-12-115 16-12-116 3-5-113 3-5-115	Appointment of judge Petition for expungement Judges Pro Tempore... Agreement, Petition...	Unnecessary	16-12-115 (appointment of judge) was a new section of law created to establish a marijuana expungement court and provides for an appointment of a judge pro tempore or special master to preside over the expungement court. According to the Court Administrator's Office, based on the number of expungement requests seen to date, this separate court may not be necessary, in which case, there is no need for reference to this court in statute.	Consider repealing 16-12-115 (special judge and specific marijuana expungement court) and if so, removing references to 16-12-115 in 16-12-116, 3-5-113, and 3-5-115
16-12-221	Manufacturer Licensing	Fee structure	16-12-221(6)(a) provides fees for manufacturers based on the amount of concentrate produced on a monthly basis. (6)(b) allows the department to create additional fee levels as necessary. ARM 42.39.104 is the general rule for all license, application, and renewal fees for marijuana licenses that was adopted, effective 1/1/22. Subsection (1)(f) outlines manufacturing licensing fees and generally follows 16-12-221, MCA: (i) \$5,000 for less than 10 pounds of concentrate (16-12-221(6)(a)(i): \$5,000 for less than 1 pound and up to 10 pounds) (ii) \$10,000 for between 10 and 15 pounds of concentrate (16-12-221(6)(a)(ii): \$10,000 for between 10 and 15 pounds) (iii) \$20,000 for 15 pounds of concentrate (16-12-221(6)(a)(iii): \$20,000 for 15 pounds or more) (iv) \$1,000 for each pound over 15 pounds (not in statute)	Statute allows the department to create additional fee levels as necessary in 16-12-221(6)(b); however, the rule as adopted does not follow the statute as currently written. Consider amending either the rule or the statute for consistency and clarity.
16-12-226	Marijuana Worker Permit	Dates (general cleanup)	16-12-226(2)(b) states requirements for obtaining worker permits no later than 90 days after 1/1/2022, which will no longer be relevant in 2023	Consider general cleanup of this statute to remove references to outdated dates
15-64-101	Definitions	Inconsistency in definitions	The Marijuana Regulation and Taxation Act provides a definition in 16-12-102 for a "consumer" as: a person who obtains . . .marijuana from a licensed dispensary but not for resale. In other words, a consumer purchases marijuana. Title 15, chapter 64 governs the taxation of drugs, and provides a definition in 15-64-101 for a "purchaser" as: a person to whom a sale of marijuana or a marijuana product is made	Review statutes and revise definitions to remove inconsistencies in definitions
16-12-302 16-12-524	Fraudulent Representation - Penalties	Multiple statutes	Both statutes outline penalties for fraudulent representation. 16-12-524 is specific to medical marijuana.	Combine statutes for consistency and clarity as they are contained in the same title and chapter
45-9-109	Criminal Distribution of Dangerous Drugs On Or Near School Property	Unclear/possible confusion	<ul style="list-style-type: none"> •A person is in violation of criminal distribution of dangerous drugs on school property (45-9-109) if the person violates 45-9-101 within 1,000 feet of a school. •However, 45-9-101 was amended to say that "except as provided in Title 16, chapter 12" a person commits the offense of criminal distribution of dangerous drugs •16-12-207 allows dispensaries to sell marijuana within 500 feet of schools (unless local provisions require a further distance) •So, as long as dispensaries are 500 feet or more from schools, it appears they aren't in violation of 45-9-101; however 45-9-101 was not amended to clarify. 	Consider reviewing relevant statutes to provide clarity. Another consideration is reviewing the definition of "dangerous drug" as defined in Title 50, chapter 32, part 2 to potentially exclude marijuana lawfully sold by a state licensed dispensary.