

# Montana Code Annotated 2021

TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA

CHAPTER 12. MARIJUANA REGULATION AND TAXATION

Part 1. General Provisions

## Short Title -- Purpose

**16-12-101.** *(Effective January 1, 2022)* **Short title -- purpose.** (1) This chapter may be cited as the "Montana Marijuana Regulation and Taxation Act".

(2) The purpose of this chapter is to:

(a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years of age or older;

(b) provide for the licensure and regulation of the cultivation, manufacture, production, distribution, transportation, and sale of marijuana and marijuana products;

(c) eliminate the illicit market for marijuana and marijuana products;

(d) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age;

(e) ensure the safety of marijuana and marijuana products;

(f) ensure the security of licensed premises;

(g) establish reporting requirements for licensees;

(h) establish inspection requirements for licensees, including data collection on energy use, chemical use, water use, and packaging waste to ensure a clean and healthy environment;

(i) provide for the testing of marijuana and marijuana products by licensed testing laboratories;

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

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

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

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

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

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## Definitions

**16-12-102.** (Effective January 1, 2022) **Definitions.** As used in this chapter, the following definitions apply:

- (1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may:
  - (a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and
  - (b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.
- (2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.
- (3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.
- (4) "Canopy" means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.
- (5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.
- (6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.
- (7) "Controlling beneficial owner" means a person that satisfies one or more of the following:
  - (a) is a natural person, an entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, or a publicly traded corporation, and:
    - (i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;
    - (ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or
    - (iii) is otherwise in a position to control the marijuana business; or
  - (b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.
- (8) "Correctional facility or program" means a facility or program that is described in **53-1-202(2)** or (3) and to which an individual may be ordered by any court of competent jurisdiction.

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

(ii) a hoop house; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(34) "Qualified institutional investor" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) provides testing of representative samples of marijuana and marijuana products; and
  - (b) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.
- (41) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual.
- (b) The term does not include the seeds, stalks, and roots of the plant. (*Subsection (15)(b)(ii) terminates October 1, 2023--sec. 117(1), Ch. 576, L. 2021.*)

**History:** En. Sec. 2, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 38, Ch. 576, L. 2021.

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## TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA CHAPTER 12. MARIJUANA REGULATION AND TAXATION Part 1. General Provisions

### Department Responsibilities -- Licensure

**16-12-104.** (Effective January 1, 2022) **Department responsibilities -- licensure.** (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

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

- (i) cultivator license;
- (ii) manufacturer license;
- (iii) adult-use dispensary license or a medical marijuana dispensary license;
- (iv) testing laboratory license.
- (v) marijuana transporter license.
- (vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

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

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

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

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

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

- (i) within 60 days of receiving the application or renewal and all related application materials from a former medical marijuana licensee or an existing licensee under this chapter; and
- (ii) within 120 days of receiving the application and all related application materials from a new applicant.

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

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

- (ii) allow a licensee to continue operation until the department takes final action.
- (c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.
- (d) The department shall issue a license or endorsement within 5 days of approving an application or renewal.
- (8) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.
  - (b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.
  - (c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.
- (9) Licenses issued under this chapter must be renewed annually.
- (10) (a) The department shall provide the names and phone numbers of persons licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (10)(b), the department may not disclose the physical location or address of a marijuana business.
  - (b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal.
- (11) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee operating in compliance with the requirements of this chapter from operating at a shared location with a medical marijuana dispensary.
- (12) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than government-issued identification to determine the consumer's age. A licensee that scans a person's driver's license using an electronic reader to determine the person's age:
  - (a) may only use data or metadata from the scan determine the person's age;
  - (b) may not transfer or sell that data or metadata to another party; and
  - (c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department.
- (13) (a) Except as provided in subsection (13)(b), licenses issued by the department under this chapter are nontransferable.
  - (b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business.



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

**History:** En. Sec. 4, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 39, Ch. 576, L. 2021.

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CHAPTER 12. MARIJUANA REGULATION AND TAXATION

Part 1. General Provisions

## Department Responsibility To Monitor And Assess Marijuana Production, Testing, Sales, And License Revocation

**16-12-105.** *(Effective January 1, 2022)* **Department responsibility to monitor and assess marijuana production, testing, sales, and license revocation.** (1) (a) The department shall implement a system for tracking marijuana and marijuana products from either the seed or the seedling stage until it is sold to a consumer or registered cardholder.

(b) The system must ensure that marijuana and marijuana products cultivated, manufactured, possessed, and sold under this chapter are not sold or otherwise provided to an individual who is under 21 years of age unless that person is a registered cardholder.

(c) The system must be made available to licensees, except that licensees shall bear the responsibility and cost for procuring unique identification tracking tags to facilitate the tracking of marijuana and marijuana products.

(2) The department shall, if technology allows, require use of a mandatory semicashless payment system occurring at the point of sale for all dispensaries. Adult-use dispensaries and medical marijuana dispensaries are required to utilize a semicashless point-of-sale system when selling marijuana and marijuana products to consumers or registered cardholders. The department may establish by rule the requirements, standards, and private company that a licensee must use when utilizing such a system in a dispensary. The semicashless processor is authorized to make deposits to an account specified by the department for tax collection.

(3) The department is authorized to share seed-to-sale information with the licensee's depository institution, any other government agency, or the semicashless processor.

**History:** En. Sec. 6, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 40, Ch. 576, L. 2021.

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TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA  
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Part 1. General Provisions

## Legal Protections -- Allowable Amounts

**16-12-107.** (Effective January 1, 2022) **Legal protections -- allowable amounts.** (1) A cultivator may have the canopy allotment allowed by the department.

(2) Except as provided in **16-12-108**, a person licensed under this chapter may not be arrested, prosecuted, penalized, or denied any right or privilege, including but not limited to civil fine or disciplinary action by a professional licensing board or the department of labor and industry, solely because the person cultivates, manufactures, possesses, or transports marijuana in the amounts and manner allowed under this chapter.

(3) A person may not be arrested or prosecuted for possession, conspiracy as provided in **45-4-102**, or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana products as permitted under this chapter.

(4) Except as provided in **16-12-210**, possession of or application for a license does not solely constitute probable cause to search a person or the property of a person or otherwise subject a person or property of a person to inspection by any governmental agency, including a law enforcement agency.

(5) The provisions of this section relating to protection from arrest or prosecution do not apply to a person unless the person has obtained a license prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that a person obtains a license after an arrest or the filing of a criminal charge.

(6) A cultivator or manufacturer is presumed to be engaged in the use of marijuana as allowed by this chapter if the person is in possession of an amount of marijuana that does not exceed the amount permitted under this chapter.

**History:** En. Sec. 14, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 42, Ch. 576, L. 2021.

# Montana Code Annotated 2021

## TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA CHAPTER 12. MARIJUANA REGULATION AND TAXATION Part 1. General Provisions

### Limitations Of Act

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

- (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana products;
- (b) consumption of marijuana or marijuana products while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (c) smoking or consuming marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (d) delivery or distribution of marijuana or marijuana products, with or without consideration, to a person under 21 years of age;
- (e) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of age;
- (f) possession or transport of marijuana or marijuana products by a person under 21 years of age unless the underage person is at least 18 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work activities;
- (g) possession or consumption of marijuana or marijuana products or possession of marijuana paraphernalia:
  - (i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in [20-5-402](#);
  - (ii) in a school bus or other form of public transportation;
  - (iii) in a health care facility as defined in [50-5-101](#);
  - (iv) on the grounds of any correctional facility; or
  - (v) in a hotel or motel room;
  - (h) using marijuana or marijuana products in a location where smoking tobacco is prohibited;
  - (i) consumption of marijuana or marijuana products in a public place, except as allowed by the department;
  - (j) conduct that endangers others;
  - (k) undertaking any task while under the influence of marijuana or marijuana products if doing so would constitute negligence or professional malpractice; or
  - (l) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

- (2) A person may not cultivate marijuana in a manner that is visible from the street or other public area.
- (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.
- (4) Nothing in this chapter may be construed to:
- (a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;
  - (b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana or marijuana products;
  - (c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or marijuana products while working;
  - (d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or
  - (e) permit a cause of action against an employer for wrongful discharge pursuant to **39-2-904** or discrimination pursuant to **49-1-102**.
- (5) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages, except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding.
- (6) A licensee who violates **15-64-103** or **15-64-104** or fails to pay any other taxes owed to the department under Title 15 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department certifies compliance with **15-64-103** or **15-64-104**.
- (7) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the conduct of consumers, licensees, and registered cardholders.

**History: En. Sec. 16, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 43, Ch. 576, L. 2021.**

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## TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA CHAPTER 12. MARIJUANA REGULATION AND TAXATION Part 1. General Provisions

### Legislative Monitoring

**16-12-110.** (Effective January 1, 2022) **Legislative monitoring.** (1) The economic affairs interim committee shall provide oversight of the department's activities pursuant to this chapter, including but not limited to monitoring of:

- (a) the number of licensees;
- (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; and
- (c) the development, implementation, and use of the seed-to-sale tracking system established in accordance with **16-12-105**.

(2) The economic affairs interim committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in **5-11-210**, on persons who are licensed or registered pursuant to **16-12-203**. The report must include:

- (i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;
  - (ii) the number and type of violations committed by licensees;
  - (iii) the number of licenses revoked; and
  - (iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter.
- (b) The report may not provide any identifying information of cultivators, manufacturers, and dispensaries except basic geographic or other statistical information.

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

- (a) the number of inspections conducted, by canopy licensure tier;
- (b) the number of licensees that were inspected more than once during the year;
- (c) the number of inspections that were conducted because of complaints made to the department; and
- (d) the types of enforcement actions taken as a result of the inspections.

**History:** En. Sec. 25, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 45, Ch. 576, L. 2021.

# Montana Code Annotated 2021

## TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA CHAPTER 12. MARIJUANA REGULATION AND TAXATION Part 5. Medical Marijuana

### Legislative Monitoring

**16-12-532.** (Effective January 1, 2022) **Legislative monitoring.** (1) The economic affairs interim committee shall provide oversight of the department's activities pursuant to this part, including but not limited to monitoring of:

- (a) the number of registered cardholders; and
  - (b) the number and type of violations committed by registered cardholders, together with the penalties imposed upon registered cardholders by the department.
- (2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.
- (3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in **5-11-210**, on persons who are registered pursuant to this part. The report must include:
- (i) the number of applications for registry identification cards and the number of registered cardholders approved;
  - (ii) the nature of the debilitating medical conditions of the cardholders;
  - (iii) the number of registry identification cards and licenses revoked; and
  - (iv) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.
- (b) The report may not provide any identifying information of cardholders or physicians.
- (4) The board of medical examiners shall report annually to the economic affairs interim committee on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to **37-3-203**.
- (5) The reports provided for in subsections (3) and (4) must also be provided to the revenue interim committee provided for in **5-5-227**.

**History: En. Sec. 22, Ch. 576, L. 2021.**

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## TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA CHAPTER 12. MARIJUANA REGULATION AND TAXATION Part 1. General Provisions

### Rulemaking Authority -- Fees

**16-12-112.** (Effective January 1, 2022) **Rulemaking authority -- fees.** (1) The department may adopt rules to implement and administer this chapter, including:

(a) the manner in which the department will consider applications for licenses, permits, and endorsements and renewal of licenses, permits, and endorsements;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under **16-12-129**;

(d) the security and operating requirements for licensees;

(e) the security and operating requirements for manufacturing, including but not limited to requirements for:

(i) safety equipment;

(ii) extraction methods, including solvent-based and solvent-free extraction; and

(iii) post-processing procedures;

(f) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications;

(g) implementation of a system to allow the tracking of marijuana and marijuana products as required by **16-12-105**;

(h) labeling and packaging standards that protect public health by requiring the listing of pharmacologically active ingredients, including but not limited to THC, cannabidiol (CBD) and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package, and quantity limits per sale to comply with the allowable possession amount;

(i) investigating and making rules to limit, if necessary, the appropriate THC potency percentages for marijuana and marijuana products;

(j) requirements that packaging and labels may not be made to be attractive to children, that they have required warning labels as set forth in **16-12-215**, and that marijuana and marijuana products be sold in resealable, child-resistant exit packaging to protect public health as provided in **16-12-208**;

(k) requirements and standards for the testing and retesting of marijuana and marijuana products, including testing of samples collected during the department's inspections of licensed premises;

(l) the amount of variance allowable in the results of raw testing data that would warrant a departmental investigation of inconsistent results as provided in **16-12-202**;



(m) requirements and standards to prohibit or limit marijuana, marijuana products, and marijuana accessories that are unsafe or contaminated;

(n) the activities that constitute advertising in violation of 16-12-211 and requirements and standards for electronic advertising as permitted under 16-12-211;

(o) requirements and incentives to promote renewable energy, reduce water usage, and reduce packaging waste to maintain a clean and healthy environment in Montana;

(p) procedures for collecting and destroying samples of marijuana and marijuana products that fail to meet testing requirements pursuant to 16-12-209; and

(q) the fees for testing laboratories, the fingerprint-based and name-based background checks required under 16-12-129, employee certification, the marijuana transporter license, marijuana worker permits, and other fees necessary to administer and enforce the provisions of this chapter. The fees established by the department, taxes collected pursuant to Title 15, chapter 64, part 1, civil penalties imposed pursuant to this chapter, and the licensing fees established by rule and in part 2 of this chapter must be sufficient to offset the expenses of administering this chapter but may not exceed the amount necessary to cover the costs to the department of implementing and enforcing this chapter.

(2) The department may not adopt any rule or regulation that is unduly burdensome or undermines the purposes of this chapter.

(3) The department may consult or contract with other public agencies in carrying out its duties under this chapter.

**History:** En. Sec. 26, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 1, Ch. 505, L. 2021; amd. Sec. 47, Ch. 576, L. 2021.

# Montana Code Annotated 2021

TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA  
CHAPTER 12. MARIJUANA REGULATION AND TAXATION  
Part 5. Medical Marijuana

## Rulemaking Authority -- Fees

**16-12-533.** *(Effective January 1, 2022)* **Rulemaking authority -- fees.** The department may adopt rules to implement this part as authorized in this section to specify:

- (1) the manner in which the department will consider applications for registry identification cards for individuals with debilitating medical conditions and renewal of registry identification cards;
- (2) the acceptable forms of proof of Montana residency;
- (3) notice and contested case hearing procedures for fines or registry identification card revocation, suspension, or modification;
- (4) the procedures for obtaining fingerprints for the fingerprint and background check required under **16-12-508**;
- (5) the amount of usable marijuana that a registered cardholder who has elected not to use the system of licensees provided for under this chapter may possess; and
- (6) the fees for cardholders. The annual cardholder license fee may not be less than \$20.

**History:** En. Sec. 23, Ch. 576, L. 2021.

# Montana Code Annotated 2021

## TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA CHAPTER 12. MARIJUANA REGULATION AND TAXATION Part 1. General Provisions

### Hotline

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

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

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

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

(4) The department may:

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

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

**History:** En. Sec. 1, Ch. 576, L. 2021.

# Montana Code Annotated 2021

## TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA CHAPTER 12. MARIJUANA REGULATION AND TAXATION Part 1. General Provisions

### Department To Conduct Background Checks

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

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

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

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

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

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

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

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

**History: En. Sec. 2, Ch. 576, L. 2021.**