

Montana Code Annotated 2021

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

Unlawful Conduct By Licensees -- Penalties

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

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

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

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

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

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

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

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

- (a) whose controlling beneficial owner is an individual convicted of a felony drug offense;
 - (b) who allows another person not authorized or lawfully allowed to be in possession of the license;
 - (c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by federal law;
 - (d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing license;
 - (e) who purchases marijuana from an unauthorized source in violation of this chapter; or
 - (f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows or should know is under 21 years of age.
- (6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.
- (7) (a) Review of a department action imposing a fine, suspension, or revocation under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.
- (b) A person may appeal any decision of the department 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 (7)(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.

History: En. Sec. 20, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 44, Ch. 576, L. 2021.

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TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA CHAPTER 12. MARIJUANA REGULATION AND TAXATION Part 2. Licensing and Regulation

Licensing Of Cultivators, Manufacturers, And Dispensaries

16-12-201. *(Effective January 1, 2022)* **Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between January 1, 2022, and June 30, 2023, the department may only accept applications from and issue licenses to former medical marijuana licensees that were licensed by or had an application pending with the department of public health and human services on November 3, 2020, and are in good standing with the department and in compliance with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of January 1, 2022.

(b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after July 1, 2023.

(2) (a) The department shall adopt rules to govern the operation of former medical marijuana licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate license under this chapter with a minimum of disruption to business operations.

(b) Beginning January 1, 2022, a former medical marijuana licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in **15-64-102** and to consumers at the adult-use marijuana tax rate set forth in **15-64-102** under the licensee's existing license in a jurisdiction that allows for the operation of marijuana businesses pursuant to **16-12-301** until the former medical marijuana licensee's next license renewal date, by which time the former medical licensee must have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is granted by the department.

(c) (i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2), "appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary license, and, if applicable, a manufacturer license.

(ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to registered cardholders is not required to obtain an adult-use dispensary license.

(3) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms may be prorated by the department.

History: En. Sec. 5, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 49, Ch. 576, L. 2021.

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Part 2. Licensing and Regulation

Licensing Types -- Requirements -- Limitations -- Activities

16-12-203. *(Effective January 1, 2022)* **Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory if the person submits to the department:

- (i) the person's name, date of birth, and street address on a form prescribed by the department;
- (ii) proof that the natural person having day-to-day operational control over the business is a Montana resident;
- (iii) a statement, on a form prescribed by the department, that the person:
 - (A) will not divert to any other person the marijuana that the person cultivates or the marijuana products that the person manufactures for consumers or registered cardholders, unless the marijuana or marijuana products are sold to another licensee as part of a sale of a business as allowed under this section; and
 - (B) has no pending citations for violations occurring under this chapter or the marijuana laws of any other state or jurisdiction;
- (iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana products will be cultivated, manufactured, sold, or tested; and
- (v) proof that the applicant has source of funding from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:
 - (A) is a person whose prior financial or other activities or criminal record:
 - (B) poses a threat to the public interest of the state;
 - (C) poses a threat to the effective regulation and control of marijuana and marijuana products; or
 - (D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business.
- (b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial ownership interest.
- (c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the department the following:
 - (i) a complete and accurate organizational chart of the marijuana business disclosing the identity and ownership percentages of its controlling beneficial owners;

- (ii) whether the applicant has ever filed for bankruptcy;
 - (iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;
 - (iv) any financial interests held by the applicant in another marijuana business in any state;
 - (v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;
 - (vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;
 - (vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;
 - (viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana business;
- and
- (ix) any financial interest holder that holds two or more financial interests in the marijuana business or that is contributing over 50% of the operating capital of the marijuana business.
- (d) The department may request that the marijuana business disclose each beneficial owner and affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded corporation.
- (e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.
- (f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.
- (g) This section does not restrict the department's ability to reasonably request information or records at renewal or as part of any other investigation following initial licensure of a marijuana business.
- (2) The department may not license a person under this chapter if the person or an owner, including a person with a financial interest:
- (a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;
 - (b) is in the custody of or under the supervision of the department of corrections or a youth court;
 - (c) has been convicted of a violation under **16-12-524** or of making a fraudulent representation under the former medical marijuana program administered by the department of public health and human services;
 - (d) is under 21 years of age;
 - (e) has failed to:
 - (i) pay any taxes, interest, penalties, or judgments due to a government agency;

- (ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;
- (iii) stay out of default on a government-issued student loan;
- (iv) pay child support; or
- (v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;
- (f) has had a license issued under this chapter or a former medical marijuana license revoked within 3 years of the date of the application; or
- (g) has resided in Montana for less than 1 year.

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

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

- (a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to this chapter and administrative rules;
- (b) allow the department to collect samples of marijuana or marijuana products during inspections of licensed premises for testing as provided by the department by rule; and
- (c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to **16-12-105**.

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

- (i) a property that is owned by the licensee; or
 - (ii) with written permission of the property owner filed with the department when applying for or renewing a license, a property that is rented or leased by the licensee.
- (b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products or marijuana concentrate may be shared with or rented or leased to another licensee.

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

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

- (a) may operate adult-use dispensaries;
- (b) may engage in manufacturing; and
- (c) may not engage in outdoor cultivation of marijuana, except as provided in **16-12-223(6)**.

(7) A cultivator or manufacturer:

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

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

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Licensing As Privilege -- Criteria

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

- (a) the qualifications of the applicant; and
 - (b) the suitability of the proposed licensed premises, including but not limited to cultivation centers, dispensaries, and manufacturing facilities.
- (2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.
- (3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary license, or medical marijuana license if the applicant's proposed licensed premises:
- (i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the department;
 - (ii) is not approved by local building, health, or fire officials as provided for in this chapter; or
 - (iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school, unless the locality requires a greater distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was established before the church, synagogue, or other place of worship or school or postsecondary school existed on the same street.
- (b) For the purposes of this subsection (3), "school" and "postsecondary school" have the meanings provided in **20-5-402**.
- (4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder in a vehicle that is parked immediately outside the subject dispensary.
- (5) A marijuana business may not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises.
- (6) A marijuana business may not utilize the United States postal service or an alternative carrier other than a licensed marijuana transporter to transport, distribute, ship, or otherwise deliver marijuana or marijuana products.

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

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

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

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

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

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

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

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

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

(12) A person under 21 years of age is not permitted inside a marijuana business unless the person is a registered cardholder.

History: En. Sec. 13, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 54, Ch. 576, L. 2021.

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Restrictions

16-12-208. (Effective January 1, 2022) **Restrictions.** (1) A cultivator or manufacturer may not cultivate marijuana or manufacture marijuana products in a manner that is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids.

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

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

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

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

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

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

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

(B) the name of the product; and

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

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

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

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

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

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

(d) A packaging and label application must include:

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

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

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

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

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

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

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

History: En. Sec. 15, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 55, Ch. 576, L. 2021.

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Testing Of Marijuana And Marijuana Products

16-12-209. (Effective January 1, 2022) **Testing of marijuana and marijuana products.** (1) A cultivator, manufacturer, adult-use dispensary, or medical marijuana dispensary may not sell marijuana or marijuana products until the marijuana or marijuana products have been tested by a testing laboratory and meet the requirements of this section. The licensee shall pay for the testing.

(2) A licensee shall submit material that has been collected in accordance with a sampling protocol established by the state laboratory by rule. The protocol must address the division of marijuana and marijuana products into batch sizes for testing.

(3) The state laboratory shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

- (a) the potency of the cannabinoids present; and
- (b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The state laboratory shall establish by rule the acceptable levels of moisture, pesticides, residual solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana products may contain.

(6) The testing laboratory shall:

- (a) issue a certificate of analysis certifying the test results; and
- (b) report the results to the seed-to-sale tracking system established pursuant to **16-12-105**.

(7) A licensee may request that material that has failed to pass the required tests be retested in accordance with the rules adopted by the state laboratory providing for retesting parameters and requirements.

(8) Marijuana or a marijuana product must include a label indicating that the marijuana or marijuana product has been tested.

(9) (a) The department shall collect and, except as provided in subsection (9)(b), destroy samples of marijuana and marijuana products that fail to meet the acceptable levels to ensure product safety and consumer protection.

(b) If a sample fails due to THC levels in excess of the allowable limit and is not deficient in any other respect, the department may dispose of the sample by means other than destruction in accordance with rule.

(c) The department may contract for the duties under this subsection (9).

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Inspections -- Procedures -- Prohibition On Inspector Affiliation With Licensees

16-12-210. (Effective January 1, 2022) **Inspections -- procedures -- prohibition on inspector affiliation with licensees.** (1) (a) The department shall conduct unannounced inspections of licensed premises.

(b) The department may not conduct more than two unannounced inspections of a licensed premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or there is other just and reasonable cause.

(2) (a) The department shall inspect annually each premises operated by a licensee.

(b) The department may collect samples during the inspection of a licensed premises and submit the samples to a testing laboratory or the state laboratory for testing as provided by the department by rule.

(3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with consumers and registered cardholders. The records must be open for inspection by the department or state laboratory, as appropriate, and state or local law enforcement agencies.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with a licensee; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana products.

(c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies.

(d) The department may require a licensee to furnish information that the department considers necessary for the proper administration of this chapter.

(4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of a licensed premises consists of a locked area, the licensee shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.

(5) The department may not hire or contract with a person to be an inspector if the person, during the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former medical marijuana licensee.

(6) In addition to any other penalties provided under this chapter, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

(c) noncompliance with any provision of this chapter.

(7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances.

(8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under 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) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this chapter.

(10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under **16-12-110**.

History: En. Sec. 19, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 57, Ch. 576, L. 2021.

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Limitations On Advertising -- Rulemaking

16-12-211. *(Effective January 1, 2022)* **Limitations on advertising -- rulemaking.** (1) Except as provided in subsection (3), persons with licenses may not advertise marijuana or marijuana products.

(2) A listing in a directory of businesses authorized under this chapter is not advertising for the purposes of this section.

(3) (a) A licensee may engage in electronic advertising such as maintaining a website and advertising on web applications, provided that no electronic advertisement produced by the licensee contains a statement or illustration that:

- (i) is false or misleading;
- (ii) promotes overconsumption of marijuana or marijuana products;
- (iii) depicts the actual consumption of marijuana or marijuana products;
- (iv) depicts a person under 21 years of age consuming marijuana;
- (v) makes any health, therapeutic, or medicinal claims about marijuana or marijuana products; or
- (vi) is designed in a way that is likely to appeal to minors and includes cartoons, animals, children, or any other likeness to images, characters, or phrases that are designed in any manner to be appealing or to encourage consumption of marijuana by persons under 21 years of age.

(b) A licensee may not advertise marijuana or marijuana products using pop-up advertisements that display in a new internet browser window.

(c) A licensee may not direct advertising of marijuana or marijuana products toward mobile devices in the form of push notifications unless users affirmatively opt in to receiving push notifications related to marijuana or marijuana products.

(4) The department shall adopt rules to clearly identify the activities that constitute advertising that are prohibited under this section.

History: En. Sec. 24, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 2, Ch. 505, L. 2021; amd. Sec. 58, Ch. 576, L. 2021.

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Required Warning Labels

16-12-215. *(Effective January 1, 2022)* **Required warning labels.** A person may not manufacture, package, sell, or transfer any marijuana or marijuana product unless the package containing the marijuana or marijuana product bears the following statements in a form required by the department:

- (1) "WARNING: Consumption of marijuana may cause anxiety, agitation, paranoia, psychosis, and cannabinoid hyperemesis."
- (2) "WARNING: Consumption of marijuana by pregnant women may result in fetal injury and low birth weight."
- (3) "WARNING: Consumption of marijuana by nursing mothers may result in infant hyperactivity and poor cognitive function."

History: En. Sec. 109, Ch. 576, L. 2021.

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Marijuana Worker Permit -- Requirements

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

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

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

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

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

(i) name;

(ii) mailing address;

(iii) date of birth;

(iv) signature; and

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

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

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

(d) a fee established by the department.

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

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

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

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

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

- (c) has violated any provision of this chapter; or
- (d) makes a false statement to the department.
- (6) An employee of a licensee shall carry the employee's worker permit at all times when performing work on behalf of a marijuana business.
- (7) A person who holds a marijuana worker permit must notify the department in writing within 10 days of:
 - (a) a conviction for a felony;
 - (b) the issuance of any citation for violating a marijuana law imposed under this chapter or the marijuana laws of any other state; or
 - (c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor.

History: En. Sec. 7, Ch. 576, L. 2021.