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TITLE 5. LEGISLATIVE BRANCH
CHAPTER 5. LEGISLATIVE PROCEDURES
Part 2. Organization -- Interim Committees

Economic Affairs Interim Committee

5-5-223. Economic affairs interim committee. (1) The economic affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes:

(a) department of agriculture;

(b) department of commerce;

(c) department of labor and industry;

(d) department of livestock;

(e) office of the state auditor and insurance commissioner;

(f) office of economic development;

(g) the state compensation insurance fund provided for in **39-71-2313**, including the board of directors of the state compensation insurance fund established in **2-15-1019**;

(h) the division of banking and financial institutions provided for in **32-1-211**; and

(i) the divisions of the department of revenue that administer the Montana Alcoholic Beverage Code and the Montana Marijuana Regulation and Taxation Act.

(2) The state compensation insurance fund shall annually provide to the committee a report in accordance with **5-11-210** on its budget as approved by the state compensation insurance fund board of directors.

History: En. Sec. 25, Ch. 19, L. 1999; amd. Sec. 10, Ch. 210, L. 2001; amd. Sec. 19, Ch. 483, L. 2001; amd. Sec. 6, Ch. 489, L. 2001; amd. Sec. 2, Ch. 565, L. 2003; amd. Sec. 1, Ch. 91, L. 2011; amd. Sec. 1, Ch. 19, L. 2013; amd. Sec. 1, Ch. 333, L. 2015; amd. Sec. 1, Ch. 4, L. 2017; amd. Sec. 18, Ch. 261, L. 2021; amd. Sec. 24, Ch. 576, L. 2021.

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TITLE 5. LEGISLATIVE BRANCH
CHAPTER 5. LEGISLATIVE PROCEDURES
Part 2. Organization -- Interim Committees

Revenue Interim Committee -- Powers And Duties -- Revenue Estimating And Use Of Estimates

5-5-227. Revenue interim committee -- powers and duties -- revenue estimating and use of estimates. (1) The revenue interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the Montana tax appeal board established in **2-15-1015** and for the department of revenue and the entities attached to the department for administrative purposes, except the divisions of the department that administer the Montana Alcoholic Beverage Code and the Montana Marijuana Regulation and Taxation Act.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under **5-3-101**.

(3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(4) The legislative services division shall provide staff assistance to the committee. The committee may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state.

(5) The committee shall review tax credits as provided in **15-30-2303**.

History: En. Sec. 29, Ch. 19, L. 1999; amd. Sec. 14, Ch. 210, L. 2001; amd. Sec. 9, Ch. 114, L. 2003; amd. Sec. 2, Ch. 5, L. 2007; amd. Sec. 1, Ch. 41, L. 2015; amd. Sec. 2, Ch. 4, L. 2017; amd. Sec. 5, Ch. 163, L. 2019; amd. Sec. 2, Ch. 399, L. 2019; amd. Sec. 1, Ch. 14, L. 2021; amd. Sec. 1, Ch. 35, L. 2021; amd. Sec. 3, Ch. 142, L. 2021; amd. Sec. 27, Ch. 576, L. 2021.

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TITLE 7. LOCAL GOVERNMENT
CHAPTER 22. WEED AND PEST CONTROL
Part 21. County Weed Control

Definitions

7-22-2101. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Board" means a district weed board created under **7-22-2103**.

(2) "Commissioners" means the board of county commissioners.

(3) "Coordinator" means the person employed by the county to conduct the district noxious weed management program and supervise other district employees.

(4) "Department" means the department of agriculture provided for in **2-15-3001**.

(5) "District" means a weed management district organized under **7-22-2102**.

(6) "Integrated weed management program" means a program designed for the long-term management and control of weeds using a combination of techniques, including hand-pulling, cultivation, use of herbicide, use of biological control, mechanical treatment, prescribed grazing, prescribed burning, education, prevention, and revegetation.

(7) "Native plant" means a plant indigenous to the state of Montana.

(8) "Native plant community" means an assemblage of native plants occurring in a natural habitat.

(9) (a) "Noxious weeds" or "weeds" means any exotic plant species established or that may be introduced in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated:

(i) as a statewide noxious weed by rule of the department; or

(ii) as a district noxious weed by a board, following public notice of intent and a public hearing.

(b) A weed designated by rule of the department as a statewide noxious weed must be considered noxious in every district of the state.

(c) Marijuana, as defined in **16-12-102**, may not be considered a noxious weed.

(10) "Person" means an individual, partnership, corporation, association, or state or local government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way, including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, barrow pit, or right-of-way for a canal or lateral.

(11) "Weed management" or "control" means the use of an integrated weed management program for the containment, suppression, and, where possible, eradication of noxious weeds.

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TITLE 15. TAXATION
CHAPTER 64. TAXATION OF DRUGS AND DRUG LICENSING
Part 1. General Provisions

Deficiency Assessment -- Penalty And Interest -- Statute Of Limitations

15-64-104. Deficiency assessment -- penalty and interest -- statute of limitations. (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return, it shall mail to the licensee a notice, pursuant to **15-1-211**, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The licensee may seek review of the determination pursuant to **15-1-211**.

(2) Penalty and interest must be added to a deficiency assessment as provided in **15-1-216**. The department may waive any penalty pursuant to **15-1-206**.

(3) The amount of tax due under any return may be determined by the department within 5 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For purposes of this section, a return due under this part and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

History: En. Sec. 21, Ch. 408, L. 2017; amd. Sec. 32, Ch. 576, L. 2021.

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TITLE 15. TAXATION
CHAPTER 64. TAXATION OF DRUGS AND DRUG LICENSING
Part 1. General Provisions

Procedure To Compute Tax In Absence Of Statement -- Estimation Of Tax -- Failure To File -- Penalty And Interest

15-64-105. Procedure to compute tax in absence of statement -- estimation of tax -- failure to file -- penalty and interest. (1) If the licensee fails to file any return required by 15-64-103 within the time required, the department may, at any time, audit the licensee or estimate the taxes due from any information in its possession and, based on the audit or estimate, assess the licensee for the taxes, penalties, and interest due the state.

(2) The department shall impose penalty and interest as provided in **15-1-216**. The department shall mail to the licensee a notice, pursuant to **15-1-211**, of the tax, penalty, and interest proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The licensee may seek review of the determination pursuant to **15-1-211**. The department may waive any penalty pursuant to **15-1-206**.

History: En. Sec. 22, Ch. 408, L. 2017; amd. Sec. 33, Ch. 576, L. 2021.

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TITLE 15. TAXATION
CHAPTER 64. TAXATION OF DRUGS AND DRUG LICENSING
Part 1. General Provisions

Authority To Collect Delinquent Taxes

15-64-106. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under this part.

(b) If a tax imposed by this part or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the licensee from the state, except wages subject to the provisions of **25-13-614** and retirement benefits.

(3) As provided in **15-1-705**, the licensee has the right to a review of the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the licensee if a claim is required before funds are available for offset.

History: En. Sec. 23, Ch. 408, L. 2017; amd. Sec. 34, Ch. 576, L. 2021.

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TITLE 15. TAXATION
CHAPTER 64. TAXATION OF DRUGS AND DRUG LICENSING
Part 1. General Provisions

Information -- Confidentiality -- Agreements With Another State

15-64-111. Information -- confidentiality -- agreements with another state. (1) (a) Except as provided in subsections (2) through (5), in accordance with **15-30-2618** and **15-31-511**, it is unlawful for an employee of the department or any other public official or public employee to disclose or otherwise make known information that is disclosed in a return or report required to be filed under this part or information that concerns the affairs of the person making the return and that is acquired from the person's records, officers, or employees in an examination or audit.

(b) This section may not be construed to prohibit the department from publishing statistics if they are classified in a way that does not disclose the identity of a person making a return or the content of any particular report or return. A person violating the provisions of this section is subject to the penalty provided in **15-30-2618** or **15-31-511** for violating the confidentiality of individual income tax or corporate income tax information.

(2) (a) This section may not be construed to prohibit the department from providing information obtained under this part to the department of justice, the internal revenue service, or law enforcement to be used for the purpose of investigation and prevention of criminal activity, noncompliance, tax evasion, fraud, and abuse under this part.

(b) The department may enter into an agreement with the taxing officials of another state for the interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax in order to promote fair and equitable administration of the laws and to eliminate double taxation.

(c) In order to implement the provisions of this part, the department may furnish information on a reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within the state receiving the information that are similar to this section.

(3) In order to facilitate processing of returns and payment of taxes required by this part, the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

(4) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this part or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this part or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(5) This section may not be construed to limit the investigative authority of the legislative branch, as provided in **5-11-106**, **5-12-303**, or **5-13-309**.

History: En. Sec. 25, Ch. 408, L. 2017; amd. Sec. 35, Ch. 576, L. 2021.

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TITLE 15. TAXATION
CHAPTER 64. TAXATION OF DRUGS AND DRUG LICENSING
Part 1. General Provisions

Department To Make Rules

15-64-112. Department to make rules. The department of revenue shall prescribe rules necessary to carry out the purposes of imposing and collecting the tax on the sale of marijuana and marijuana products.

History: En. Sec. 26, Ch. 408, L. 2017; amd. Sec. 36, Ch. 576, L. 2021.

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TITLE 18. PUBLIC CONTRACTS
CHAPTER 7. PRINTING AND LEGAL NOTICES
Part 1. State Printing

Power To Contract For Printing -- Exceptions

18-7-101. Power to contract for printing -- exceptions. (1) Except as provided in **1-11-301**, **16-12-104**, and **16-12-503**, the department has exclusive power, subject to the approval of the governor, to contract for all printing for any purpose used by the state in any state office (elective or appointive), agency, or institution.

(2) The department shall supervise and attend to all public printing of the state as provided in this chapter and shall prevent duplication and unnecessary printing.

(3) Unless otherwise provided by law, the department, in letting contracts as provided in this chapter, for the printing, binding, and publishing of all laws, journals, and reports of the state agencies and institutions may determine the quantity, quality, style, and grade of all such printing, binding, and publishing.

(4) The provisions of this chapter do not apply to the state compensation insurance fund for purposes of external marketing or educational materials.

History: En. Sec. 6, Ch. 66, L. 1923; re-en. Sec. 293.6, R.C.M. 1935; amd. Sec. 7, Ch. 80, L. 1961; amd. Sec. 9, Ch. 261, L. 1967; amd. Sec. 43, Ch. 93, L. 1969; amd. Sec. 71, Ch. 326, L. 1974; R.C.M. 1947, 82-1916; amd. Sec. 5, Ch. 58, L. 1979; amd. Sec. 1, Ch. 265, L. 1979; amd. Sec. 1, Ch. 209, L. 1989; amd. Sec. 6, Ch. 314, L. 2001; amd. Sec. 2, Ch. 292, L. 2019; amd. Sec. 61, Ch. 576, L. 2021.

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TITLE 37. PROFESSIONS AND OCCUPATIONS
CHAPTER 1. GENERAL PROVISIONS
Part 1. Duties and Authority of Department, Director, and Boards

Disciplinary Authority Of Boards -- Injunctions

37-1-136. Disciplinary authority of boards -- injunctions. (1) Subject to **37-1-138**, each licensing board allocated to the department has the authority, in addition to any other penalty or disciplinary action provided by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

(a) revocation of a license;

(b) suspension of its judgment of revocation on terms and conditions determined by the board;

(c) suspension of the right to practice for a period not exceeding 1 year;

(d) placing a licensee on probation;

(e) reprimand or censure of a licensee; or

(f) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.

(2) Any disciplinary action by a board shall be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from engaging in the practice of the occupation or profession regulated by the board until a license to practice is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

(4) An action may not be taken against a person who is in compliance with Title 16, chapter 12, part 5.

(5) Rules adopted under subsection (1) must provide for the provision of public notice as required by **37-1-311**.

History: En. Sec. 1, Ch. 246, L. 1981; amd. Sec. 6, Ch. 271, L. 2003; amd. Sec. 10, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 3, Ch. 225, L. 2007; amd. Sec. 62, Ch. 576, L. 2021.

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TITLE 37. PROFESSIONS AND OCCUPATIONS
CHAPTER 1. GENERAL PROVISIONS
Part 3. Uniform Professional Licensing and Regulation Procedures

Unprofessional Conduct

37-1-316. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in **27-6-103**, to comply with a policy or practice implementing **28-10-103**(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

(19) the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to Title 16, chapter 12, part 5.

History: En. Sec. 16, Ch. 429, L. 1995; amd. Sec. 12, Ch. 109, L. 2009; amd. Sec. 2, Ch. 158, L. 2009; amd. Sec. 24, Ch. 419, L. 2011; amd. Sec. 63, Ch. 576, L. 2021.

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TITLE 37. PROFESSIONS AND OCCUPATIONS
CHAPTER 3. MEDICINE
Part 2. Board of Medical Examiners

Powers And Duties -- Rulemaking Authority

37-3-203. Powers and duties -- rulemaking authority. (1) The board may:

(a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1 through 4, and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and **50-6-203**, respectively. Rules adopted for emergency care providers with an endorsement to provide community-integrated health care must address the scope of practice, competency requirements, and educational requirements.

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers licensed by the board. The board also may assist the county attorneys of this state in the prosecution of persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection (1)(c).

(d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in **87-2-803**(11); and

(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(b) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

(3) (a) The board shall report annually on the number and types of complaints it has received involving physician practices in providing written certification, as defined in **16-12-502**, for the use of marijuana for a debilitating medical condition provided for in Title 16, chapter 12, part 5. The report must contain:

(i) the number of complaints received by the board pursuant to **37-1-308**;

(ii) the number of complaints for which a reasonable cause determination was made pursuant to **37-1-307**;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and

(v) the number of physicians disciplined by the board for their practices in providing written certification for the use of marijuana for a debilitating medical condition.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the use of marijuana for a debilitating medical condition, the report must include:

(i) the name of the physician;

(ii) the general results of the investigation of the physician's practices; and

(iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the economic affairs interim committee in accordance with **5-11-210** and shall make a copy of the report available on the board's website.

(4) The board may enter into agreements with other states for the purposes of mutual recognition of licensing standards and licensing of physicians and emergency care providers from other states under the terms of a mutual recognition agreement.

History: En. Sec. 8, Ch. 338, L. 1969; amd. Sec. 94, Ch. 350, L. 1974; R.C.M. 1947, 66-1017; amd. Sec. 1, Ch. 83, L. 1981; amd. Sec. 1, Ch. 283, L. 1987; amd. Sec. 1, Ch. 135, L. 1989; amd. Sec. 1, Ch. 436, L. 1991; amd. Sec. 2, Ch. 419, L. 1993; amd. Sec. 5, Ch. 224, L. 2003; amd. Sec. 18, Ch. 467, L. 2005; amd. Sec. 1, Ch. 137, L. 2007; amd. Sec. 1, Ch. 326, L. 2009; amd. Sec. 4, Ch. 122, L. 2011; amd. Sec. 1, Ch. 124, L. 2011; amd. Sec. 5, Ch. 154, L. 2015; amd. Sec. 7, Ch. 220, L. 2019; amd. Sec. 68, Ch. 261, L. 2021; amd. Sec. 64, Ch. 576, L. 2021.

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TITLE 39. LABOR
CHAPTER 2. THE EMPLOYMENT RELATIONSHIP
Part 2. General Obligations of Employers

Limitation On Adverse Action

39-2-210. Limitation on adverse action. Except as provided in **16-12-108**, no adverse action, including followup testing, may be taken by the employer if the employee presents a reasonable explanation or medical opinion indicating that the original test results were not caused by illegal use of controlled substances or by alcohol consumption. If the employee presents a reasonable explanation or medical opinion, the test results must be removed from the employee's record and destroyed.

History: En. Sec. 6, Ch. 521, L. 1997; amd. Sec. 2, Ch. 315, L. 2011; amd. Sec. 65, Ch. 576, L. 2021.

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TITLE 39. LABOR
CHAPTER 2. THE EMPLOYMENT RELATIONSHIP
Part 3. General Prohibitions on Employers

Discrimination Prohibited For Use Of Lawful Product During Nonworking Hours -- Exceptions

39-2-313. Discrimination prohibited for use of lawful product during nonworking hours -- exceptions. (1) For purposes of this section, "lawful product" means a product that is legally consumed, used, or enjoyed and includes food, beverages, tobacco, and marijuana.

(2) Except as provided in subsections (3) and (4), an employer may not refuse to employ or license and may not discriminate against an individual with respect to compensation, promotion, or the terms, conditions, or privileges of employment because the individual legally uses a lawful product off the employer's premises during nonworking hours.

(3) Subsection (2) does not apply to:

(a) use of a lawful product, that:

(i) affects in any manner an individual's ability to perform job-related employment responsibilities or the safety of other employees; or

(ii) conflicts with a bona fide occupational qualification that is reasonably related to the individual's employment;

(b) an individual who, on a personal basis, has a professional service contract with an employer and the unique nature of the services provided authorizes the employer, as part of the service contract, to limit the use of certain products; or

(c) an employer that is a nonprofit organization that, as one of its primary purposes or objectives, discourages the use of one or more lawful products by the general public.

(4) An employer does not violate this section if the employer takes action based on the belief that the employer's actions are permissible under an established substance abuse or alcohol program or policy, professional contract, or collective bargaining agreement.

(5) An employer may offer, impose, or have in effect a health, disability, or life insurance policy that makes distinctions between employees for the type or price of coverage based on the employees' use of a product if:

(a) differential rates assessed against employees reflect actuarially justified differences in providing employee benefits;

(b) the employer provides an employee with written notice delineating the differential rates used by the employer's insurance carriers; and

(c) the distinctions in the type or price of coverage are not used to expand, limit, or curtail the rights or liabilities of a party in a civil cause of action.

Montana Code Annotated 2021

TITLE 39. LABOR
CHAPTER 71. WORKERS' COMPENSATION
Part 4. Coverage, Liability, and Subrogation

Liability Of Insurers -- Limitations

39-71-407. *(Temporary)* **Liability of insurers -- limitations.** (1) For workers' compensation injuries, each insurer is liable for the payment of compensation, in the manner and to the extent provided in this section, to an employee of an employer covered under plan No. 1, plan No. 2, and the state fund under plan No. 3 that it insures who receives an injury arising out of and in the course of employment or, in the case of death from the injury, to the employee's beneficiaries, if any.

(2) An injury does not arise out of and in the course of employment when the employee is:

(a) on a paid or unpaid break, is not at a worksite of the employer, and is not performing any specific tasks for the employer during the break; or

(b) engaged in a social or recreational activity, regardless of whether the employer pays for any portion of the activity. The exclusion from coverage of this subsection (2)(b) does not apply to an employee who, at the time of injury, is on paid time while participating in a social or recreational activity or whose presence at the activity is required or requested by the employer. For the purposes of this subsection (2)(b), "requested" means the employer asked the employee to assume duties for the activity so that the employee's presence is not completely voluntary and optional and the injury occurred in the performance of those duties.

(3) (a) Subject to subsection (3)(c), an insurer is liable for an injury, as defined in **39-71-119**, only if the injury is established by objective medical findings and if the claimant establishes that it is more probable than not that:

(i) a claimed injury has occurred; or

(ii) a claimed injury has occurred and aggravated a preexisting condition.

(b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury aggravated a preexisting condition is not sufficient to establish liability.

(c) Objective medical findings are sufficient for a presumptive occupational disease as defined in **39-71-1401** but may be overcome by a preponderance of the evidence.

(4) (a) An employee who suffers an injury or dies while traveling is not covered by this chapter unless:

(i) the employer furnishes the transportation or the employee receives reimbursement from the employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement and the travel is necessitated by and on behalf of the employer as an integral part or condition of the employment; or

(ii) the travel is required by the employer as part of the employee's job duties.

(b) A payment made to an employee under a collective bargaining agreement, personnel policy manual, or employee handbook or any other document provided to the employee that is not wages but is designated as an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil, or lodging, and the employee is not covered under this chapter while traveling.

(5) (a) Except as provided in subsection (6), an employee is not eligible for benefits otherwise payable under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major contributing cause of the accident.

(b) For the purposes of this subsection (5), if an employee fails or refuses to take a drug test after the accident and if the testing procedures comply with federal drug testing statutes and administrative regulations applicable to private sector employers and employees as provided in Title 39, chapter 2, there is a presumption that the major contributing cause of the accident was the employee's use of drugs not prescribed by a physician.

(6) (a) An employee who has received written certification, as defined in **16-12-502**, from a physician for the use of marijuana for a debilitating medical condition and who is otherwise eligible for benefits payable under this chapter is subject to the limitations of subsections (6)(b) through (6)(d).

(b) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use of marijuana for a debilitating medical condition, as defined in **16-12-102**, is the major contributing cause of the injury or occupational disease.

(c) Nothing in this chapter may be construed to require an insurer to reimburse any person for costs associated with the use of marijuana for a debilitating medical condition, as defined in **16-12-102**.

(d) In an accepted liability claim, the benefits payable under this chapter may not be increased or enhanced due to a worker's use of marijuana for a debilitating medical condition, as defined in **16-12-102**. An insurer remains liable for those benefits that the worker would qualify for absent the worker's use of marijuana for a debilitating medical condition.

(7) The provisions of subsection (5) do not apply if the employer had knowledge of and failed to attempt to stop the employee's use of alcohol or drugs not prescribed by a physician. This subsection (7) does not apply to the use of marijuana for a debilitating medical condition because marijuana is not a prescribed drug.

(8) If there is no dispute that an insurer is liable for an injury but there is a liability dispute between two or more insurers, the insurer for the most recently filed claim shall pay benefits until that insurer proves that another insurer is responsible for paying benefits or until another insurer agrees to pay benefits. If it is later proven that the insurer for the most recently filed claim is not responsible for paying benefits, that insurer must receive reimbursement for benefits paid to the claimant from the insurer proven to be responsible.

(9) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to the same part of the body, the workers' compensation insurer is not liable for any compensation or medical benefits caused by the subsequent nonwork-related injury.

(10) Except for cases of presumptive occupational disease as provided in **39-71-1401** and **39-71-1402**, an employee is not eligible for benefits payable under this chapter unless the entitlement to benefits is established by objective medical findings that contain sufficient factual and historical information concerning the relationship of the worker's condition to the original injury.

(11) (a) For occupational diseases, every employer enrolled under plan No. 1, every insurer under plan No. 2, or the state fund under plan No. 3 is liable for the payment of compensation, in the manner and to the extent provided in this chapter, to an employee of an employer covered under plan No. 1, plan No. 2, or the state fund under plan No. 3 if the employee is diagnosed with a compensable occupational disease.

(b) The provisions of subsection (11)(a) apply to presumptive occupational disease if the employee is diagnosed and meets the conditions of **39-71-1401** and **39-71-1402**.

(12) An insurer is liable for an occupational disease only if the occupational disease:

(a) is established by objective medical findings; and

(b) arises out of or is contracted in the course and scope of employment. An occupational disease is considered to arise out of or be contracted in the course and scope of employment if the events occurring on more than a single day or work shift are the major contributing cause of the occupational disease in relation to other factors contributing to the occupational disease. For the purposes of this subsection (12), an occupational disease is not the same as a presumptive occupational disease.

(13) When compensation is payable for an occupational disease or a presumptive occupational disease, the only employer liable is the employer in whose employment the employee was last injuriously exposed to the hazard of the disease.

(14) When there is more than one insurer and only one employer at the time that the employee was injuriously exposed to the hazard of the disease, the liability rests with the insurer providing coverage at the earlier of:

(a) the time that the occupational disease or presumptive occupational disease was first diagnosed by a health care provider; or

(b) the time that the employee knew or should have known that the condition was the result of an occupational disease or a presumptive occupational disease.

(15) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state or substantially all of the assets of a mine from a person who was an operator of the mine on or after December 30, 1969, is liable for and shall secure the payment of all benefits that would have been payable by that person with respect to miners previously employed in the mine if acquisition had not occurred and that person had continued to operate the mine, and the prior operator of the mine is not relieved of any liability under this section.

(16) As used in this section, "major contributing cause" means a cause that is the leading cause contributing to the result when compared to all other contributing causes. *(Void on occurrence of contingency--sec. 7, Ch. 158, L. 2019.)*

39-71-407. *(Effective on occurrence of contingency)* **Liability of insurers -- limitations.** (1) For workers' compensation injuries, each insurer is liable for the payment of compensation, in the manner and to the extent provided in this section, to an employee of an employer covered under plan No. 1, plan No. 2, and the state fund under plan No. 3 that it insures who receives an injury arising out of and in the course of employment or, in the case of death from the injury, to the employee's beneficiaries, if any.

(2) An injury does not arise out of and in the course of employment when the employee is:

(a) on a paid or unpaid break, is not at a worksite of the employer, and is not performing any specific tasks for the employer during the break; or

(b) engaged in a social or recreational activity, regardless of whether the employer pays for any portion of the activity. The exclusion from coverage of this subsection (2)(b) does not apply to an employee who, at the time of injury, is on paid time while participating in a social or recreational activity or whose presence at the activity is required or requested by the employer. For the purposes of this subsection (2)(b), "requested" means the employer asked the employee to assume duties for the activity so that the employee's presence is not completely voluntary and optional and the injury occurred in the performance of those duties.

(3) (a) An insurer is liable for an injury, as defined in **39-71-119**, only if the injury is established by objective medical findings and if the claimant establishes that it is more probable than not that:

(i) a claimed injury has occurred; or

(ii) a claimed injury has occurred and aggravated a preexisting condition.

(b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury aggravated a preexisting condition is not sufficient to establish liability.

(4) (a) An employee who suffers an injury or dies while traveling is not covered by this chapter unless:

(i) the employer furnishes the transportation or the employee receives reimbursement from the employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement and the travel is necessitated by and on behalf of the employer as an integral part or condition of the employment; or

(ii) the travel is required by the employer as part of the employee's job duties.

(b) A payment made to an employee under a collective bargaining agreement, personnel policy manual, or employee handbook or any other document provided to the employee that is not wages but is designated as an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil, or lodging, and the employee is not covered under this chapter while traveling.

(5) (a) Except as provided in subsection (6), an employee is not eligible for benefits otherwise payable under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major contributing cause of the accident.

(b) For the purposes of this subsection (5), if an employee fails or refuses to take a drug test after the accident and if the testing procedures comply with federal drug testing statutes and administrative regulations applicable to private sector employers and employees as provided in Title 39, chapter 2, there is a presumption that the major contributing cause of the accident was the employee's use of drugs not prescribed by a physician.

(6) (a) An employee who has received written certification, as defined in **16-12-502**, from a physician for the use of marijuana for a debilitating medical condition and who is otherwise eligible for benefits payable under this chapter is subject to the limitations of subsections (6)(b) through (6)(d).

(b) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use of marijuana for a debilitating medical condition, as defined in **16-12-102**, is the major contributing cause of the injury or occupational disease.

(c) Nothing in this chapter may be construed to require an insurer to reimburse any person for costs associated with the use of marijuana for a debilitating medical condition, as defined in **16-12-102**.

(d) In an accepted liability claim, the benefits payable under this chapter may not be increased or enhanced due to a worker's use of marijuana for a debilitating medical condition, as defined in **16-12-102**. An insurer remains liable for those benefits that the worker would qualify for absent the worker's use of marijuana for a debilitating medical condition.

(7) The provisions of subsection (5) do not apply if the employer had knowledge of and failed to attempt to stop the employee's use of alcohol or drugs not prescribed by a physician. This subsection (7) does not apply to the use of marijuana for a debilitating medical condition because marijuana is not a prescribed drug.

(8) If there is no dispute that an insurer is liable for an injury but there is a liability dispute between two or more insurers, the insurer for the most recently filed claim shall pay benefits until that insurer proves that another insurer is responsible for paying benefits or until another insurer agrees to pay benefits. If it is later proven that the insurer for the most recently filed claim is not responsible for paying benefits, that insurer must receive reimbursement for benefits paid to the claimant from the insurer proven to be responsible.

(9) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to the same part of the body, the workers' compensation insurer is not liable for any compensation or medical benefits caused by the subsequent nonwork-related injury.

(10) An employee is not eligible for benefits payable under this chapter unless the entitlement to benefits is established by objective medical findings that contain sufficient factual and historical information concerning the relationship of the worker's condition to the original injury.

(11) For occupational diseases, every employer enrolled under plan No. 1, every insurer under plan No. 2, or the state fund under plan No. 3 is liable for the payment of compensation, in the manner and to the extent provided in this chapter, to an employee of an employer covered under plan No. 1, plan No. 2, or the state fund under plan No. 3 if the employee is diagnosed with a compensable occupational disease.

(12) An insurer is liable for an occupational disease only if the occupational disease:

(a) is established by objective medical findings; and

(b) arises out of or is contracted in the course and scope of employment. An occupational disease is considered to arise out of or be contracted in the course and scope of employment if the events occurring on more than a single day or work shift are the major contributing cause of the occupational disease in relation to other factors contributing to the occupational disease.

(13) When compensation is payable for an occupational disease, the only employer liable is the employer in whose employment the employee was last injuriously exposed to the hazard of the disease.

(14) When there is more than one insurer and only one employer at the time that the employee was injuriously exposed to the hazard of the disease, the liability rests with the insurer providing coverage at the earlier of:

(a) the time that the occupational disease was first diagnosed by a health care provider; or

(b) the time that the employee knew or should have known that the condition was the result of an occupational disease.

(15) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state or substantially all of the assets of a mine from a person who was an operator of the mine on or after December 30, 1969, is liable for and shall secure the payment of all benefits that would have been payable by that person with respect to miners previously employed in the mine if acquisition had not occurred and that person had continued to operate the mine, and the prior operator of the mine is not relieved of any liability under this section.

(16) As used in this section, "major contributing cause" means a cause that is the leading cause contributing to the result when compared to all other contributing causes.

History: En. Sec. 16, Ch. 96, L. 1915; re-en. Sec. 2911, R.C.M. 1921; re-en. Sec. 2911, R.C.M. 1935; amd. Sec. 1, Ch. 70, L. 1967; amd. Sec. 17, Ch. 23, L. 1975; amd. Sec. 8, Ch. 550, L. 1977; R.C.M. 1947, 92-614(1); amd. Sec. 11, Ch. 464, L. 1987; amd. Sec. 1, Ch. 184, L. 1989; amd. Sec. 26, Ch. 619, L. 1993; amd. Sec. 8, Ch. 243, L. 1995; amd. Sec. 1, Ch. 435, L. 2003; amd. Sec. 6, Ch. 103, L. 2005; amd. Sec. 20, Ch. 416, L. 2005; amd. Sec. 8, Ch. 167, L. 2011; amd. Sec. 4, Ch. 315, L. 2011; amd. Sec. 5, Ch. 158, L. 2019; amd. Sec. 2, Ch. 555, L. 2021; amd. Sec. 67, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 41. MINORS
CHAPTER 5. YOUTH COURT ACT
Part 2. Youth Court -- Jurisdiction -- Records

Disposition Of Youth Court, Law Enforcement, And Department Records -- Sharing And Access To Records

41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal and informal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in **42-3-203**, or the information referred to in **46-23-508**, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal and informal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause to:

(a) those persons and agencies listed in **41-5-215**(2); and

(b) adult probation and parole staff preparing a presentence report on an adult with an existing sealed youth court record.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the office of court administrator and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation.

(b) The department of public health and human services, the office of court administrator, and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the office of court administrator or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records are confidential and may be shared only with those persons and agencies listed in **41-5-215**(2).

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the sharing of formal or informal youth court records within the juvenile probation management information system to a person or agency listed in **41-5-215**(2).

(9) This section does not prohibit the sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). A person or agency receiving the youth court record shall destroy the record after it has fulfilled its purpose.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by **41-5-2003** and studies conducted between individuals and agencies listed in **41-5-215**(2).

(12) This section does not prohibit the office of court administrator, upon written request from the department of revenue, from confirming whether a person applying for a registry identification card pursuant to **16-12-503** or a license pursuant to **16-12-203** is currently under youth court supervision.

History: En. 10-1232 by Sec. 32, Ch. 329, L. 1974; amd. Sec. 1, Ch. 59, L. 1975; R.C.M. 1947, 10-1232; amd. Sec. 2, Ch. 507, L. 1979; amd. Sec. 4, Ch. 469, L. 1981; amd. Sec. 14, Ch. 515, L. 1987; amd. Sec. 8, Ch. 251, L. 1995; amd. Sec. 10, Ch. 466, L. 1995; amd. Sec. 5, Ch. 481, L. 1995; amd. Sec. 9, Ch. 528, L. 1995; amd. Sec. 168, Ch. 480, L. 1997; Sec. 41-5-604, MCA 1995; redes. 41-5-216 by Sec. 47, Ch. 286, L. 1997; amd. Sec. 3, Ch. 106, L. 1999; amd. Sec. 83, Ch. 114, L. 2003; amd. Sec. 3, Ch. 423, L. 2005; amd. Sec. 1, Ch. 139, L. 2007; amd. Sec. 2, Ch. 483, L. 2007; amd. Sec. 2, Ch. 54, L. 2009; amd. Sec. 27, Ch. 419, L. 2011; amd. Sec. 2, Ch. 45, L. 2017; amd. Sec. 1, Ch. 56, L. 2017; amd. Sec. 1, Ch. 408, L. 2017; amd. Sec. 68, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES
CHAPTER 9. DANGEROUS DRUGS
Part 1. Offenses Involving Dangerous Drugs

Criminal Distribution Of Dangerous Drugs

45-9-101. Criminal distribution of dangerous drugs. (1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal distribution of dangerous drugs if the person sells, barters, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in **50-32-101**.

(2) A person convicted of criminal distribution of dangerous drugs involving giving away or sharing any dangerous drug, as defined in **50-32-101**, shall be sentenced as provided in **45-9-102**.

(3) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (1), (2), (4), or (5) shall be imprisoned in the state prison for a term not to exceed 25 years or be fined an amount of not more than $50,000, or both.

(4) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) For a first offense, the person shall be imprisoned in the state prison for a term not to exceed 40 years and may be fined not more than $50,000.

(b) For a second or subsequent offense, the person shall be imprisoned in the state prison for a term not to exceed life and may be fined not more than $50,000.

(5) If the offense charged results in the death of an individual from the use of any dangerous drug that was distributed, the person shall be imprisoned in the state prison for a term of not more than 100 years and may be fined not more than $100,000.

(6) Practitioners, as defined in **50-32-101**, and agents under their supervision acting in the course of a professional practice are exempt from this section.

History: En. Sec. 4, Ch. 314, L. 1969; amd. Sec. 1, Ch. 55, L. 1973; amd. Sec. 24, Ch. 412, L. 1973; amd. Sec. 1, Ch. 258, L. 1974; amd. Sec. 1, Ch. 359, L. 1977; amd. Sec. 1, Ch. 584, L. 1977; R.C.M. 1947, 54-132; amd. Sec. 1, Ch. 587, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 9, Ch. 583, L. 1981; amd. Sec. 1, Ch. 393, L. 1983; amd. Sec. 16, Ch. 3, L. 1985; amd. Sec. 1, Ch. 478, L. 1987; amd. Sec. 1, Ch. 575, L. 1989; amd. Sec. 3, Ch. 448, L. 1993; amd. Sec. 11, Ch. 432, L. 1999; amd. Sec. 87, Ch. 114, L. 2003; amd. Sec. 11, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 2, Ch. 156, L. 2011; amd. Sec. 1, Ch. 135, L. 2013; amd. Sec. 19, Ch. 321, L. 2017; amd. Sec. 41, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 1, Ch. 295, L. 2021; amd. Sec. 69, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES
CHAPTER 9. DANGEROUS DRUGS
Part 1. Offenses Involving Dangerous Drugs

Criminal Possession Of Dangerous Drugs

45-9-102. Criminal possession of dangerous drugs. (1) Except as provided in Title 16, chapter 12, or **50-32-609**, a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in **50-32-101**, [in an amount] greater than permitted or for which a penalty is not specified under Title 16, chapter 12.

(2) A person convicted of criminal possession of dangerous drugs shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed $5,000, or both.

(3) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

(4) Ultimate users and practitioners, as defined in **50-32-101**, and agents under their supervision acting in the course of a professional practice are exempt from this section.

History: En. Sec. 5, Ch. 314, L. 1969; amd. Sec. 1, Ch. 228, L. 1971; amd. Sec. 26, Ch. 412, L. 1973; amd. Sec. 1, Ch. 174, L. 1974; amd. Sec. 2, Ch. 359, L. 1977; amd. Sec. 2, Ch. 584, L. 1977; R.C.M. 1947, 54-133; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 612, L. 1983; amd. Sec. 17, Ch. 3, L. 1985; amd. Sec. 1, Ch. 42, L. 1991; amd. Sec. 1, Ch. 100, L. 2001; amd. Sec. 88, Ch. 114, L. 2003; amd. Sec. 12, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 2, Ch. 277, L. 2005; amd. Sec. 3, Ch. 156, L. 2011; amd. Sec. 2, Ch. 135, L. 2013; amd. Sec. 14, Ch. 253, L. 2017; amd. Sec. 20, Ch. 321, L. 2017; amd. Sec. 42, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 70, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES
CHAPTER 9. DANGEROUS DRUGS
Part 1. Offenses Involving Dangerous Drugs

Criminal Possession With Intent To Distribute

45-9-103. Criminal possession with intent to distribute. (1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in **50-32-101** [in an amount] greater than permitted or for which a penalty is not specified under Title 16, chapter 12.

(2) A person convicted of criminal possession with intent to distribute shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed $50,000, or both.

(3) Practitioners, as defined in **50-32-101**, and agents under their supervision acting in the course of a professional practice are exempt from this section.

History: En. 54-133.1 by Sec. 1, Ch. 545, L. 1975; amd. Sec. 3, Ch. 584, L. 1977; R.C.M. 1947, 54-133.1; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 18, Ch. 3, L. 1985; amd. Sec. 1, Ch. 162, L. 1987; amd. Sec. 12, Ch. 432, L. 1999; amd. Sec. 89, Ch. 114, L. 2003; amd. Sec. 13, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 3, Ch. 135, L. 2013; amd. Sec. 21, Ch. 321, L. 2017; amd. Sec. 43, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 71, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES
CHAPTER 9. DANGEROUS DRUGS
Part 1. Offenses Involving Dangerous Drugs

Criminal Production Or Manufacture Of Dangerous Drugs

45-9-110. Criminal production or manufacture of dangerous drugs. (1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal production or manufacture of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a dangerous drug, as defined in **50-32-101**.

(2) A person convicted of criminal production or manufacture of dangerous drugs, as defined in **50-32-101**, shall be imprisoned in the state prison for a term of not more than 25 years and may be fined an amount not to exceed $50,000.

(3) A person convicted of production of marijuana or tetrahydrocannabinol in an amount greater than permitted or for which a penalty is not specified under Title 16, chapter 12, or manufacture without the appropriate license pursuant to Title 16, chapter 12, shall be imprisoned in the state prison for a term of not more than 5 years and may be fined an amount not to exceed $5,000, except that if the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned in the state prison for a term of not more than 25 years and may be fined an amount not to exceed $50,000. "Weight" means the weight of the dry plant and includes the leaves and stem structure but does not include the root structure.

(4) Practitioners, as defined in **50-32-101**, and agents under their supervision acting in the course of a professional practice are exempt from this section.

History: En. Sec. 1, Ch. 448, L. 1993; amd. Sec. 90, Ch. 114, L. 2003; amd. Sec. 14, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 4, Ch. 156, L. 2011; amd. Sec. 4, Ch. 135, L. 2013; amd. Sec. 22, Ch. 321, L. 2017; amd. Sec. 44, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 72, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES
CHAPTER 9. DANGEROUS DRUGS
Part 1. Offenses Involving Dangerous Drugs

Carrying Dangerous Drugs On Train -- Penalty

45-9-127. Carrying dangerous drugs on train -- penalty. (1) Except as provided in Title 16, chapter 12, a person commits the offense of carrying dangerous drugs on a train in this state if the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

(2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties provided in **45-9-102**.

History: En. Secs. 2, 3, Ch. 601, L. 1991; amd. Sec. 15, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 1725, Ch. 56, L. 2009; amd. Sec. 45, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 73, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES
CHAPTER 9. DANGEROUS DRUGS
Part 2. Procedural Provisions

Surrender Of License

45-9-203. Surrender of license. (1) If a court suspends or revokes a driver's license under **45-9-202**(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under **61-2-302**.

(2) If a person with a registry identification card or license issued pursuant to **16-12-203** or **16-12-503** is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of revenue of the conviction in order for the department to carry out its duties under **16-12-109** or **16-12-523**.

History: En. Sec. 2, Ch. 802, L. 1991; amd. Sec. 28, Ch. 419, L. 2011; amd. Sec. 21, Ch. 55, L. 2015; amd. Sec. 1, I.M. No. 182, approved Nov. 8, 2016; amd. Sec. 74, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES
CHAPTER 10. MODEL DRUG PARAPHERNALIA ACT
Part 1. General Provisions

Criminal Possession Of Drug Paraphernalia

45-10-103. Criminal possession of drug paraphernalia. Except as provided in Title 16, chapter 12, or **50-32-609**, it is unlawful for a person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 6 months, fined an amount of not more than $500, or both. A person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

History: En. Sec. 3, Ch. 481, L. 1981; amd. Sec. 2, Ch. 100, L. 2001; amd. Sec. 1, Ch. 156, L. 2009; amd. Sec. 16, Ch. 253, L. 2017; amd. Sec. 46, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 75, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 45. CRIMES
CHAPTER 10. MODEL DRUG PARAPHERNALIA ACT
Part 1. General Provisions

Exemptions

45-10-107. Exemptions. The provisions of this part do not apply to:

(1) practitioners, as defined in **50-32-101**, and agents under their supervision acting in the course of a professional practice;

(2) persons acting in compliance with Title 16, chapter 12; or

(3) persons acting as employees or volunteers of an organization, including a nonprofit community-based organization, local health department, or tribal health department, that provides needle and syringe exchange services to prevent and reduce the transmission of communicable diseases.

History: En. Sec. 7, Ch. 481, L. 1981; amd. Sec. 91, Ch. 114, L. 2003; amd. Sec. 16, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 1, Ch. 96, L. 2017; amd. Sec. 47, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 76, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 46. CRIMINAL PROCEDURE
CHAPTER 18. SENTENCE AND JUDGMENT
Part 2. Form of Sentence

Additional Restrictions On Sentence

46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in **46-18-201** that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

(a) prohibition of the offender's holding public office;

(b) prohibition of the offender's owning or carrying a dangerous weapon;

(c) restrictions on the offender's freedom of association;

(d) restrictions on the offender's freedom of movement;

(e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

(f) a requirement that the offender surrender any registry identification card issued under **16-12-503** or license issued under **16-12-203**;

(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card issued under **16-12-503** or license issued under **16-12-203**, the court shall return the card or license to the department of revenue and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card.

History: En. 95-2206 by Sec. 1, Ch. 196, L. 1967; rep. and re-en. by Sec. 31, Ch. 513, L. 1973; amd. Sec. 36, Ch. 184, L. 1977; amd. Sec. 1, Ch. 436, L. 1977; amd. Sec. 1, Ch. 580, L. 1977; amd. Sec. 12, Ch. 584, L. 1977; R.C.M. 1947, 95-2206(3); amd. Sec. 22, Ch. 116, L. 1979; amd. Sec. 10, Ch. 583, L. 1981; amd. Sec. 2, Ch. 392, L. 1987; amd. Sec. 44, Ch. 262, L. 1993; amd. Sec. 11, Ch. 125, L. 1995; amd. Sec. 17, Ch. 350, L. 1995; amd. Sec. 6, Ch. 550, L. 1995; amd. Sec. 4, Ch. 52, L. 1999; amd. Sec. 5, Ch. 147, L. 1999; amd. Sec. 2, Ch. 22, Sp. L. August 2002; amd. Sec. 14, Ch. 483, L. 2007; amd. Sec. 29, Ch. 419, L. 2011; amd. Sec. 2, I.M. No. 182, approved Nov. 8, 2016; amd. Sec. 77, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 53. SOCIAL SERVICES AND INSTITUTIONS
CHAPTER 6. HEALTH CARE SERVICES
Part 12. Health and Medicaid Initiatives Account

Special Revenue Fund -- Health And Medicaid Initiatives

53-6-1201. Special revenue fund -- health and medicaid initiatives. (1) There is a health and medicaid initiatives account in the state special revenue fund established by **17-2-102**. This account is to be administered by the department of public health and human services.

(2) There must be deposited in the account:

(a) money from cigarette taxes deposited under **16-11-119**(2)(c);

(b) money from taxes on tobacco products other than cigarettes deposited under **16-11-119**(4)(b); and

(c) any interest and income earned on the account.

(3) This account may be used only to provide funding for:

(a) the state funds necessary to take full advantage of available federal matching funds in order to administer the plan and maximize enrollment of eligible children under the healthy Montana kids plan, provided for under Title 53, chapter 4, part 11, and to provide outreach to the eligible children;

(b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

(c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.

(d) an offset to loss of revenue to the general fund as a result of new tax credits; and

(e) grants to schools for suicide prevention activities, for the biennium beginning July 1, 2017.

(4) (a) On or before July 1, the budget director shall calculate a balance required to sustain each program in subsection (3) for each fiscal year of the biennium. If the budget director certifies that the reserve balance will be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the budget director determines that the reserve balance of the revenue will not support the level of appropriation, the budget director shall notify each agency. Upon receipt of the notification, the agency shall adjust the operating budget for the program to reflect the available revenue as determined by the budget director.

(b) Until the programs or credits described in subsections (3)(b) and (3)(d) are established, the funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c).

(5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.

Montana Code Annotated 2021

TITLE 53. SOCIAL SERVICES AND INSTITUTIONS
CHAPTER 21. MENTALLY ILL
Part 12. Jail Diversion and Crisis Intervention

Mental Health Services Special Revenue Account

53-21-1207. Mental health services special revenue account. (1) There is a mental health services special revenue account within the state special revenue fund established in **17-2-102**.

(2) The account consists of:

(a) money transferred into the account; and

(b) money appropriated by the legislature.

(3) Money in the account must be used by the department to pay for services provided by behavioral health peer support specialists pursuant to **53-6-101**.

History: En. Sec. 1, Ch. 297, L. 2019; amd. Sec. 86, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 61. MOTOR VEHICLES
CHAPTER 11. RECORDS AND REPORTS OF CONVICTIONS
Part 1. General Provisions

Report Of Convictions And Suspension Or Revocation Of Driver's Licenses -- Surrender Of Licenses

61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in **61-5-213**, to the department within 5 days after the conviction. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under **61-8-1009**.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (4)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (4), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(5) (a) If a person who holds a valid registry identification card or license issued pursuant to **16-12-203** or **16-12-508** is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of **61-8-1002**, the court in which the conviction occurs shall require the person to surrender the registry identification card or license.

(b) Within 5 days after the conviction, the court shall forward the registry identification card and a copy of the conviction to the department of revenue.

History: (1), (2)En. Sec. 29, Ch. 267, L. 1947; amd. Sec. 1, Ch. 165, L. 1957; amd. Sec. 1, Ch. 27, L. 1961; amd. Sec. 1, Ch. 386, L. 1973; amd. Sec. 3, Ch. 430, L. 1977; Sec. 31-145, R.C.M. 1947; (3)En. Sec. 5, Ch. 154, L. 1963; Sec. 31-167, R.C.M. 1947; R.C.M. 1947, 31-145(a), (b), 31-167; amd. Sec. 1, Ch. 74, L. 1985; amd. Sec. 2, Ch. 444, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 36, Ch. 443, L. 1987; amd. Sec. 11, Ch. 789, L. 1991; amd. Sec. 8, Ch. 525, L. 1997; amd. Sec. 6, Ch. 455, L. 1999; amd. Sec. 15, Ch. 207, L. 2001; amd. Sec. 31, Ch. 428, L. 2005; amd. Sec. 1, Ch. 76, L. 2009; amd. Sec. 32, Ch. 419, L. 2011; amd. Sec. 26, Ch. 153, L. 2013; amd. Sec. 3, Ch. 194, L. 2013; amd. Sec. 21, I.M. No. 182, approved Nov. 8, 2016; amd. Sec. 42, Ch. 498, L. 2021; amd. Sec. 92, Ch. 576, L. 2021.

Montana Code Annotated 2021

TITLE 80. AGRICULTURE
CHAPTER 1. DEPARTMENT OF AGRICULTURE
Part 1. General Provisions

Analytical Laboratory Services -- Rulemaking Authority -- Deposit Of Fees

80-1-104. Analytical laboratory services -- rulemaking authority -- deposit of fees. (1) The department is authorized to provide analytical laboratory services for:

(a) programs it operates under this title;

(b) other state or federal agencies;

(c) the department of revenue for the purposes of Title 16, chapter 12, as allowed by federal law; and

(d) private parties.

(2) The department may enter into a contract or a memorandum of understanding for the space and equipment necessary for operation of the analytical laboratory.

(3) (a) The department may adopt rules establishing fees for testing services required under this title or provided to another state agency, a federal agency, or a private party.

(b) Money collected from the fees must be deposited in the appropriate related account in the state special revenue fund to the credit of the department to pay costs related to analytical laboratory services provided pursuant to this section.

History: En. Sec. 1, Ch. 31, L. 2015; amd. Sec. 27, Ch. 408, L. 2017; amd. Sec. 51, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 99, Ch. 576, L. 2021.