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Drafter: Megan Moore, 406-444-4496

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68th Legislature 2023

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\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

BY REQUEST OF THE \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MARIJUANA LAWS; REVISING THE DEFINITION OF RETAIL PRICE OF MARIJUANA FOR TAX PURPOSES; REMOVING PROBATIONARY LICENSING OPTIONS FOR MARIJUANA TESTING LABORATORIES; REVISING MARIJUANA HOTLINE REPORTING REQUIREMENTS; REVISING PROVISIONS FOR PROPERTY OWNER PERMISSIONS ON LICENSE RENEWALS; REVISING MARIJUANA MANUFACTURER LICENSING FEES; ALLOWING FOR A VARIANCE IN THE MEASUREMENT OF A MARIJUANA PRODUCT SOLD AS A CAPSULE, TINCTURE, TOPICAL PRODUCT, SUPPOSITORY, TRANSDERMAL PATCH, AND OTHER MARIJUANA PRODUCTS; AMENDING SECTIONS 15-64-101, 16-12-104, 16-12-125, 16-12-203, 16-12-221, AND 16-12-224, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

**Section 1.** Section 15-64-101, MCA, is amended to read:

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

- (1) "Adult-use dispensary" has the meaning provided in 16-12-102.
- (2) "Customer" means a person to whom a sale of marijuana or a marijuana product is made.
- (3) "Department" means the department of revenue provided for in 2-15-1301.
- (4) "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.
- (5) "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana dispensary.
- (6) "Marijuana" has the meaning provided in 16-12-102.
- (7) "Marijuana product" has the meaning provided in 16-12-102.
- (8) "Medical marijuana dispensary" has the meaning provided in 16-12-102.
- (9) "Person" means an individual, firm, partnership, corporation, association, company, committee,

1 other group of persons, or other business entity, however formed.

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

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

7

8 **Section 2.** Section 16-12-104, MCA, is amended to read:

9 **"16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and  
10 maintain a registry of persons who receive licenses under this chapter.

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

13 (i) cultivator license;

14 (ii) manufacturer license;

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

16 (iv) testing laboratory license.

17 (v) marijuana transporter license.

18 (vi) combined-use marijuana license.

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

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

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

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

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

1 (7) (a) Except as provided in subsection (8), the department shall review the information contained in  
2 an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

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

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

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

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

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

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

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

17 ~~(8) (a) The department may issue a probationary license under subsection (2)(a)(iv) only if:~~

18 ~~(i) an applicant has completed the International Organization for Standardization application for  
19 assessment; and~~

20 ~~(ii) there are no pending corrective actions to obtain International Organization for Standardization  
21 accreditation.~~

22 ~~(b) A probationary license is valid for 180 days from the date of issue and may be renewed one time:~~

23 ~~(i) if the application is denied after a good faith application effort; or~~

24 ~~(ii) if the application remains pending International Organization for Standardization accreditation.~~

25 ~~(c) If an applicant voluntarily closes the application process after receiving a probationary license, the  
26 applicant may not receive a second probationary license for 2 years.~~

27 ~~(9)(8)~~ (a) Review of a rejection of an application or renewal may be conducted as a contested case

28 hearing before the department's office of dispute resolution pursuant to the provisions of the Montana

1 Administrative Procedure Act.

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

7 (c) An appeal pursuant to subsection ~~(9)(8)~~(b) must be made by filing a complaint setting forth the  
8 grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of  
9 notice of the department's final decision.

10 ~~(10)(9)~~ Licenses issued under this chapter must be renewed annually.

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

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

17 (c) The name of a controlling beneficial owner is not considered confidential information as defined in  
18 2-6-1002.

19 ~~(12)(11)~~ The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee  
20 operating in compliance with the requirements of this chapter from operating at a shared location with a medical  
21 marijuana dispensary.

22 ~~(13)(12)~~ The department may not adopt rules requiring a consumer to provide a licensee with  
23 identifying information other than government-issued identification to determine the consumer's age. A licensee  
24 that scans a person's driver's license using an electronic reader to determine the person's age:

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

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

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

1 ~~(14)(13)~~ (a) Except as provided in subsection ~~(14)(13)~~(b), licenses issued by the department under  
2 this chapter are nontransferable.

3 (b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to  
4 a person who is licensed by the department under the provisions of this chapter. The department may, in its  
5 discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana  
6 business.

7 ~~(15)(14)~~ A person who is not a controlling beneficial owner in a licensee may not receive or otherwise  
8 obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner  
9 unless the licensee notifies, in writing, the department of the proposed transaction and the department  
10 determines that the person qualifies for ownership under the provisions of this chapter."  
11

12 **Section 3.** Section 16-12-125, MCA, is amended to read:

13 **"16-12-125. Hotline -- reporting -- referrals.** (1) The department shall create and maintain a hotline  
14 to receive reports of suspected abuse of the provisions of this chapter.

15 (2) ~~An individual making~~ A person may submit a complaint ~~must be a resident and shall provide the~~  
16 ~~individual's name, street address, and phone number~~ to the department alleging a violation of this chapter and  
17 specifying the grounds for the complaint.

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

20 (4) The department may:

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

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

24 ~~(5)~~ Complaints submitted to the department are confidential and not subject to public disclosure  
25 unless or until authorized by a district court upon a written finding that the demands of individual privacy do not  
26 clearly exceed the merits of public disclosure or are confidential criminal justice information pursuant to Title 44,  
27 chapter 5.

28 ~~(5)(6)~~ The department shall make available to the public complaints about violations of 16-12-117(3),

1 including:

2 (a) information regarding the types of businesses or products being reported; and

3 (b) any disciplinary action taken against a person in violation of 16-12-117(3).

4 ~~(6)(7)~~ The department reports made to the legislature pursuant to 16-12-110 must include the number  
5 of investigations and complaints the department referred to law enforcement and the complaints' disposition."  
6

7 **Section 4.** Section 16-12-203, MCA, is amended to read:

8 **"16-12-203. Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to  
9 subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person  
10 who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing  
11 laboratory if the person submits to the department:

12 (i) the person's name, date of birth, and street address on a form prescribed by the department;

13 (ii) proof that the natural person having day-to-day operational control over the business is a Montana  
14 resident;

15 (iii) a statement, on a form prescribed by the department, that the person:

16 (A) will not divert to any other person the marijuana that the person cultivates or the marijuana  
17 products that the person manufactures for consumers or registered cardholders, unless the marijuana or  
18 marijuana products are sold to another licensee as allowed under this section and by rules of the department;

19 and

20 (B) has no pending citations for violations occurring under this chapter or the marijuana laws of any  
21 other state or jurisdiction;

22 (iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana  
23 products will be cultivated, manufactured, sold, or tested; and

24 (v) proof that the applicant has ~~source of~~ funding from a suitable source. A lender or other source of  
25 money or credit may be found unsuitable if the source:

26 ~~(A)~~ is a person whose prior financial or other activities or criminal record:

27 ~~(B)(A)~~ poses a threat to the public interest of the state;

28 ~~(C)(B)~~ poses a threat to the effective regulation and control of marijuana and marijuana products; or

1           ~~(D)~~(C) creates a danger of illegal practices, methods, or activities in the conduct of the licensed  
2 business.

3           (b) If the person to be licensed consists of more than one individual, the names of all owners must be  
4 submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial  
5 ownership interest.

6           (c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the  
7 department the following:

8           (i) a complete and accurate organizational chart of the marijuana business disclosing the identity and  
9 ownership percentages of its controlling beneficial owners;

10           (ii) whether the applicant has ever filed for bankruptcy;

11           (iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

12           (iv) any financial interests held by the applicant in another marijuana business in any state;

13           (v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners'  
14 managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's  
15 interest in the controlling beneficial owner;

16           (vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial  
17 owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the  
18 owner's interest in the controlling beneficial owner;

19           (vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

20           (viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana  
21 business; and

22           (ix) any financial interest holder that holds two or more financial interests in the marijuana business or  
23 that is contributing over 50% of the operating capital of the marijuana business.

24           (d) The department may request that the marijuana business disclose each beneficial owner and  
25 affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded  
26 corporation.

27           (e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under  
28 penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial

1 interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or  
2 otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to  
3 exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the  
4 department.

5 (f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty  
6 of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest  
7 holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise  
8 restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise  
9 reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

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

12 (h) The department shall furnish to the economic affairs interim committee, on request, a list  
13 containing the names of all controlling beneficial owners for each licensee.

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

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

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

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

22 (d) is under 21 years of age;

23 (e) has failed to:

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

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

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

28 (iv) pay child support; or



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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) may operate adult-use dispensaries;

27 (b) may engage in manufacturing; and

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

1 (7) A cultivator or manufacturer:

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

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

8

9 **Section 5.** Section 16-12-221, MCA, is amended to read:

10 **"16-12-221. Manufacturer -- requirements -- limitations -- fees.** (1) A person licensed as a  
11 manufacturer shall:

12 (a) prepare marijuana products at a licensed premises exclusively; and

13 (b) use equipment that is used exclusively for the manufacture and preparation of marijuana  
14 products.

15 (2) All licensed premises on which marijuana products are manufactured must meet any applicable  
16 standards set by a local board of health for a retail food establishment as defined in 50-50-102.

17 (3) An applicant for a manufacturer license shall demonstrate that the local government approval  
18 provisions contained in 16-12-301 have been satisfied in the jurisdiction where each proposed manufacturing  
19 facility is located if a proposed facility would be located in a county in which the majority of voters voted against  
20 approval of Initiative Measure No. 190 in the November 3, 2020, general election.

21 (4) When evaluating an initial or renewal application, the department shall evaluate each proposed  
22 manufacturing facility for compliance with the provisions of 16-12-207 and 16-12-210.

23 (5) Marijuana products may not be considered a food or drug for the purposes of Title 50, chapter 31.

24 (6) (a) The department shall charge a manufacturer license fee for an initial application and at each  
25 renewal. The license fee is based on the total amount of concentrate produced at a manufacturing facility under  
26 the manufacturer license on a monthly basis. The annual fees for licensees are:

27 (i) \$5,000 for each manufacturing facility a manufacturer licensee that produces, on a monthly basis,  
28 less than 1 pound of concentrate and up to 10 pounds of concentrate;

1 (ii) \$10,000 for ~~each manufacturing facility~~ a manufacturer licensee that produces, on a monthly  
2 basis, between 10 pounds of concentrate and 15 pounds of concentrate; and

3 (iii) \$20,000 for ~~each manufacturing facility~~ a manufacturer licensee that produces, on a monthly  
4 basis, 15 pounds or more of concentrate.

5 (b) The department may create additional fee levels as necessary.

6 (c) A manufacturer may apply to advance to the next licensing level in conjunction with a regular  
7 renewal application by demonstrating that its proposed additional or expanded manufacturing facility or facilities  
8 are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been  
9 satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure  
10 No. 190 in the November 3, 2020, general election.

11 (7) The department may adopt rules:

12 (a) for the inspection of proposed manufacturing facilities;

13 (b) for investigating the amount of concentrate produced at a manufacturing facility; and

14 (c) for investigating owners or applicants for a determination of beneficial ownership or financial  
15 interest."

16

17 **Section 6.** Section 16-12-224, MCA, is amended to read:

18 **"16-12-224. Licensing of dispensaries.** (1) Except as provided in 16-12-201(2), an applicant for a  
19 dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been  
20 satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be  
21 located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the  
22 November 3, 2020, general election.

23 (2) When evaluating an initial or renewal application, the department shall evaluate each proposed  
24 dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

25 (3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana  
26 dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

27 (4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders  
28 marijuana, marijuana products, and live marijuana plants.

1 (5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana  
2 plants to consumers or registered cardholders.

3 (6) (a) The department shall charge a dispensary license fee for an initial application and at each  
4 renewal.

5 (b) The dispensary license fee is \$5,000 for the first location that a licensee operates as an adult-use  
6 dispensary or a medical marijuana dispensary. The dispensary license fee increases cumulatively by \$5,000 for  
7 each additional location under the same license.

8 (7) The department may adopt rules:

9 (a) for inspection of proposed dispensaries;

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

11 (c) establishing or limiting the THC content of the marijuana or marijuana products that may be sold  
12 at an adult-use dispensary or medical marijuana dispensary.

13 (8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis of  
14 the concentration of THC in the products and not by weight.

15 (b) Except as provided in subsection (8)(d), for purposes of this chapter, a single package is limited  
16 to:

17 (i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive THC of  
18 marijuana flower may not exceed 35%.

19 (ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule and  
20 no more than 800 milligrams of THC per package.

21 (iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

22 (iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of THC.

23 A single serving of an edible marijuana product may not exceed 10 milligrams of THC.

24 (v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and no  
25 more than 800 milligrams of THC per package;

26 (vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100 milligrams  
27 of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package; and

28 (vii) for any other marijuana product, no more than 800 milligrams of THC.

1 (c) There may be a deviation of 10% above or below the allowed amount under ~~subsection~~  
2 ~~subsections (8)(b)(iv)(8)(b)(ii) through (8)(b)(vii).~~

3 (d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than  
4 described in subsection (8) to registered cardholders.

5 (9) A licensee or employee is prohibited from conducting a transaction that would result in a  
6 consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-  
7 12-515."

8  
9 **NEW SECTION. Section 7. Effective dates.** (1) Except as provided in subsection (2), [this act] is  
10 effective October 1, 2025

11 (2) [Section 1] and this section are effective on passage and approval.

12  
13 **NEW SECTION. Section 8. Applicability.** [Section 1] applies to tax quarters beginning after June 30,  
14 2025.

15 - END -

