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

INTRODUCED BY \*\*\*\*

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

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CANNABIS LICENSING LAWS;  
REVISING DEFINITIONS; EXTENDING THE MORATORIUM ON ISSUANCE OF LICENSES FOR  
PREMISES; PROHIBITING LICENSEES FROM ADDING ADDITIONAL LICENSED PREMISES; AMENDING  
SECTIONS 16-12-102, 16-12-201, 16-12-210, 16-12-223, AND 16-12-301, MCA; AND PROVIDING AN  
EFFECTIVE DATE."

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

**Section 1.** Section 16-12-102, MCA, is amended to read:

**"16-12-102. Definitions.** As used in this chapter, the following definitions apply:

(1) "Adult-use dispensary" means a licensed premises from which a person licensed by the  
department may:

(a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or  
other licensee approved under this chapter; and

(b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age  
or older, or both.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries,  
controls or is controlled by, or is under common control with, another person.

(3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in  
accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

(4) "Canopy" means the total amount of square footage dedicated to live plant production at a  
licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or  
marijuana products for personal use from a licensed dispensary but not for resale.

1 (6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control  
2 with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or  
3 policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

4 (7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

5 (a) is a natural person, an entity that is organized under the laws of and for which its principal  
6 place of business is located in one of the states or territories of the United States or District of Columbia, or a  
7 publicly traded corporation, and:

8 (i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the  
9 owner's interest of a marijuana business;

10 (ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager;

11 or

12 (iii) is otherwise in a position to control the marijuana business; or

13 (b) is a qualified institutional investor acting alone or acting in concert that owns or acquires  
14 beneficial ownership of more than 15% of the owner's interest of a marijuana business.

15 (8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or  
16 (3) and to which an individual may be ordered by any court of competent jurisdiction.

17 (9) "Cultivator" means a person licensed by the department to:

18 (a) plant, cultivate, grow, harvest, and dry marijuana; and

19 (b) package and relabel marijuana produced at the location in a natural or naturally dried form that  
20 has not been converted, concentrated, or compounded for sale through a licensed dispensary.

21 (10) "Debilitating medical condition" means:

22 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune  
23 deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the  
24 patient's health status;

25 (b) cachexia or wasting syndrome;

26 (c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with  
27 daily activities as documented by the patient's treating physician;

28 (d) intractable nausea or vomiting;

- 1 (e) epilepsy or an intractable seizure disorder;
- 2 (f) multiple sclerosis;
- 3 (g) Crohn's disease;
- 4 (h) painful peripheral neuropathy;
- 5 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;
- 6 (j) admittance into hospice care in accordance with rules adopted by the department; or
- 7 (k) posttraumatic stress disorder.
- 8 (11) "Department" means the department of revenue provided for in 2-15-1301.
- 9 (12) (a) "Employee" means an individual employed to do something for the benefit of an employer.
- 10 (b) The term includes a manager, agent, or director of a partnership, association, company,
- 11 corporation, limited liability company, or organization.
- 12 (c) The term does not include a third party with whom a licensee has a contractual relationship.
- 13 (13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or
- 14 indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net
- 15 profits or net worth of the entity in which the interest is held.
- 16 (b) The term does not include interest held by a bank or licensed lending institution or a security
- 17 interest, lien, or encumbrance but does include holders of private loans or convertible securities.
- 18 ~~(14) "Former medical marijuana licensee" means a person that was licensed by or had an~~
- 19 ~~application for licensure pending with the department of public health and human services to provide marijuana~~
- 20 ~~to individuals with debilitating medical conditions on April 27, 2021.~~
- 21 ~~(15)~~(14) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a
- 22 permanent structure using artificial light exclusively or to supplement natural sunlight.
- 23 (b) The term may include:
- 24 (i) \_\_\_\_\_ a greenhouse; or
- 25 (ii) \_\_\_\_\_ a similar structure that protects the plants from variable temperature, precipitation, and wind.
- 26 ~~(16)~~(15) "Licensed premises" means all locations related to, or associated with, a specific
- 27 license that is authorized under this chapter and includes all enclosed public and private areas at the location
- 28 that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and

1 storerooms.

2 ~~(17)~~(16) "Licensee" means a person holding a state license issued pursuant to this chapter.

3 ~~(18)~~(17) "Local government" means a county, a consolidated government, or an incorporated  
4 city or town.

5 ~~(19)~~(18) "Manufacturer" means a person licensed by the department to convert or compound  
6 marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage,  
7 label, or relabel marijuana products as allowed under this chapter.

8 ~~(20)~~(19)(a) "Marijuana" means all plant material from the genus Cannabis containing  
9 tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

10 (b) The term does not include hemp as provided in 80-18-101.

11 (c) The term does not include synthetic marijuana products.

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

14 ~~(21)~~(20) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical  
15 marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other  
16 business or function that is licensed by the department under this chapter.

17 ~~(22)~~(21) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the  
18 resin extracted from any part of the marijuana plant.

19 ~~(23)~~(22) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or  
20 byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana  
21 products.

22 ~~(24)~~(23) "Marijuana product" means a product that contains marijuana and is intended for use by a  
23 consumer. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives,  
24 and marijuana concentrates, including concentrates intended for use by smoking or vaping.

25 ~~(25)~~(24) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana  
26 products from one marijuana business to another marijuana business, or to and from a testing laboratory, and  
27 to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but  
28 is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

1           ~~(26)~~(25)"Mature marijuana plant" means a harvestable marijuana plant.

2           ~~(27)~~(26)"Medical marijuana" means marijuana or marijuana products that are for sale solely to a  
3 cardholder who is registered under Title 16, chapter 12, part 5.

4           ~~(28)~~(27)"Medical marijuana dispensary" means the location from which a registered cardholder may  
5 obtain marijuana or marijuana products.

6           ~~(29)~~(28)"Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and  
7 environmental conditions including variable temperature, precipitation, and wind.

8           ~~(30)~~(29)"Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit  
9 corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in  
10 a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a  
11 partnership, and the interest of a member in a limited partnership association.

12           ~~(31)~~(30)"Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

13           ~~(32)~~(31)"Passive beneficial owner" means any person acquiring an owner's interest in a marijuana  
14 business that is not otherwise a controlling beneficial owner or in control.

15           ~~(33)~~(32)"Person" means an individual, partnership, association, company, corporation, limited liability  
16 company, or organization.

17           ~~(34)~~(33)"Qualified institutional investor" means:

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

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

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

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

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

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

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

6 ~~(35)~~(34)-"Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical  
7 condition who has received and maintains a valid registry identification card.

8 ~~(36)~~(35)-"Registry identification card" means a document issued by the department pursuant to 16-12-  
9 503 that identifies an individual as a registered cardholder.

10 ~~(37)~~(36)(a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

14 ~~(38)~~(37)"Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height  
15 and 12 inches in diameter.

16 ~~(39)~~(38)"Synthetic cannabinoids" has the meaning provided in 50-32-222 and includes any  
17 cannabinoids produced artificially, whether from chemical synthesis or biosynthesis using recombinant  
18 biological agents, including but not limited to yeast and algae.

19 ~~(40)~~(39)"Synthetic marijuana product" means marijuana or marijuana products that contain synthetic  
20 cannabinoids.

21 ~~(44)~~(40)"Testing laboratory" means a qualified person, licensed under this chapter that:

22 (a) provides testing of representative samples of marijuana and marijuana products; and

23 (b) provides information regarding the chemical composition and potency of a sample, as well as the  
24 presence of molds, pesticides, or other contaminants in a sample.

25 ~~(42)~~(41)(a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are  
26 appropriate for the use of marijuana by an individual.

27 (b) The term does not include the seeds, stalks, and roots of the plant."  
28

1           **Section 2.** Section 16-12-201, MCA, is amended to read:

2           **"16-12-201. Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between ~~January~~  
 3 ~~1, 2022, and June 30, 2025~~July 1, 2025 and June 30, 2027, the department may only accept applications ~~from~~  
 4 and issue licenses ~~to former medical marijuana licensees for existing licensed premises that were licensed by or~~  
 5 ~~had an application pending with the department of public health and human services on April 27, 2021, and are~~  
 6 ~~in good standing with the department and in compliance with this chapter, rules adopted by the department,~~  
 7 ~~and any applicable local regulations or ordinances as of January 1, 2022.~~

8           (b) Between July 1, 2025, and June 30, 2027, the department may allow a licensee to move a  
 9 licensed premises for a dispensary under 16-12-224, but the department may not allow a licensee to add  
 10 additional licensed premises under the license.

11           ~~(b)(c)~~ The department shall begin accepting applications for and issuing licenses to cultivate,  
 12 manufacture, or sell marijuana or marijuana products to applicants ~~who are not former medical marijuana~~  
 13 ~~licensees under subsection (1)(a) for operating at an existing licensed premises~~ on or after July 1, 2025.

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

17           ~~(b)(2)~~ (a) ~~Beginning January 1, 2022, a former medical marijuana~~ A licensee may sell marijuana and  
 18 marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 ~~and to consumers at~~  
 19 ~~the adult use marijuana tax rate set forth in 15-64-102 under the licensee's existing license in a jurisdiction that~~  
 20 ~~allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana~~  
 21 ~~licensee's next license renewal date, by which time the former medical licensee must have applied for and~~  
 22 ~~obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is~~  
 23 ~~granted by the department.~~

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

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

1 (3) The department may amend or issue licenses to provide for staggered expiration dates. The  
2 department may provide for initial license terms of greater than 12 months but no more than 23 months in  
3 adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term  
4 implementing staggered license terms may be prorated by the department."  
5

6 **Section 3.** Section 16-12-210, MCA, is amended to read:

7 **"16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees. (1)**

8 (a) The department shall conduct unannounced inspections of licensed premises.

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

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

13 (b) The department may collect samples during the inspection of a licensed premises and submit  
14 the samples to a testing laboratory or the analytical laboratory authorized by 80-1-104 for testing as provided by  
15 the department by rule.

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

19 (b) Each testing laboratory shall keep:

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

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

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

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

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



1 agencies for the purpose of inspection or investigation.

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

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

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

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

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

14 (c) noncompliance with any provision of this chapter.

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

19 (8) (a) Review of a department action imposing a suspension, revocation, or other modification  
20 under this chapter must be conducted as a contested case hearing before the department's office of dispute  
21 resolution under the provisions of the Montana Administrative Procedure Act.

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

27 (c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the  
28 grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of

1 notice of the department's final decision.

2 (9) The department shall establish a training protocol to ensure uniform application and  
3 enforcement of the requirements of this chapter.

4 (10) The department shall report biennially to the economic affairs interim committee concerning the  
5 results of inspections conducted under this section. The report must include the information required under 16-  
6 12-110."

7

8 **Section 4.** Section 16-12-223, MCA, is amended to read:

9 **"16-12-223. Licensing of cultivators.** (1) (a) The department shall license cultivators according to a  
10 tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter  
11 may only occur at an indoor cultivation facility.

12 (b) Except as provided in subsection (6), the system must include, at a minimum, the following  
13 license types:

14 (i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor  
15 cultivation facility.

16 (ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation  
17 facility.

18 (iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor  
19 cultivation facilities.

20 (iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor  
21 cultivation facilities.

22 (v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor  
23 cultivation facilities.

24 (vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor  
25 cultivation facilities.

26 (vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor  
27 cultivation facilities.

28 (viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor

1 cultivation facilities.

2 (ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor  
3 cultivation facilities.

4 (x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor  
5 cultivation facilities.

6 (xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor  
7 cultivation facilities.

8 (xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor  
9 cultivation facilities.

10 (xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor  
11 cultivation facilities.

12 (c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have  
13 been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located  
14 if a proposed facility would be located in a county in which the majority of voters voted against approval of  
15 Initiative Measure No. 190 in the November 3, 2020, general election.

16 (d) When evaluating an initial or renewal license application, the department shall evaluate each  
17 proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

18 (e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the  
19 existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application  
20 by demonstrating that:

21 (A) the cultivator is using the full amount of canopy currently authorized;

22 (B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by  
23 the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can  
24 otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

25 (C) its proposed additional or expanded indoor cultivation facility or facilities are located in a  
26 jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that  
27 they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the  
28 November 3, 2020, general election.

1 (ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by  
2 only one tier at a time.

3 (iii) A cultivator under a combined-use license may increase its licensure level by more than one  
4 tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and  
5 (1)(e)(i)(B).

6 (iv) The department shall conduct an inspection of the cultivator's registered premises and  
7 proposed premises within 30 days of receiving the application and before approving the application.

8 (f) A marijuana business that has not been issued a license before July 1, 2025, must be initially  
9 licensed at a tier 2 canopy license or lower.

10 (2) The department is authorized to create additional tiers as necessary.

11 (3) The department may adopt rules:

12 (a) for inspection of proposed indoor cultivation facilities under subsection (1);

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

14 (c) in consultation with the department of agriculture and based on well-supported science, to  
15 require licensees to adopt practices consistent with the prevention, introduction, and spread of insects,  
16 diseases, and other plant pests into Montana.

17 (4) Initial licensure and annual fees for these licensees are:

18 (a) \$1,000 for a cultivator with a micro tier canopy license;

19 (b) \$2,500 for a cultivator with a tier 1 canopy license;

20 (c) \$5,000 for a cultivator with a tier 2 canopy license;

21 (d) \$7,500 for a cultivator with a tier 3 canopy license;

22 (e) \$10,000 for a cultivator with a tier 4 canopy license;

23 (f) \$13,000 for a cultivator with a tier 5 canopy license;

24 (g) \$15,000 for a cultivator with a tier 6 canopy license;

25 (h) \$17,500 for a cultivator with a tier 7 canopy license;

26 (i) \$20,000 for a cultivator with a tier 8 canopy license;

27 (j) \$23,000 for a cultivator with a tier 9 canopy license;

28 (k) \$27,000 for a cultivator with a tier 10 canopy license;

1 (l) \$32,000 for a cultivator with a tier 11 canopy license; and

2 (m) \$37,000 for a cultivator with a tier 12 canopy license.

3 (5) The fee required under this part may be imposed based only on the tier of licensure and may  
4 not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

5 (6) A ~~former medical marijuana~~ licensee who engaged in outdoor cultivation before November 3,  
6 2020, may continue to engage in outdoor cultivation."

7

8 **Section 5.** Section 16-12-301, MCA, is amended to read:

9 **"16-12-301. Local government authority to regulate -- opt-in requirement in certain counties --**  
10 **exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may  
11 not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in  
12 the November 3, 2020, general election until:

13 (i) the category or categories of license that the marijuana business seeks has or have been  
14 approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection  
15 (3) or (4); and

16 (ii) the business is licensed by the department pursuant to this chapter.

17 (b) A ~~former medical marijuana~~ licensee that does not apply for licensure as an adult-use  
18 dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant  
19 to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through  
20 (6).

21 (c) A ~~former medical marijuana~~ licensee that intends to apply for licensure as a cultivator,  
22 manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the  
23 department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to  
24 subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with  
25 the department.

26 (d) For the purpose of this section, the marijuana business categories that must be approved by a  
27 local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against  
28 approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may

1 operate are:

- 2 (i) cultivator;
- 3 (ii) manufacturer;
- 4 (iii) medical marijuana dispensary, except as provided in subsection (1)(b);
- 5 (iv) adult-use dispensary;
- 6 (v) combined-use marijuana licensee;
- 7 (vi) testing laboratory; and
- 8 (vii) marijuana transporter facility.

9 (e) Marijuana businesses located in counties in which the majority of voters voted to approve  
10 Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government  
11 approval process under subsections (3) through (6).

12 (2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or  
13 otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The  
14 regulations may include but are not limited to inspections of licensed premises, including but not limited to  
15 indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure  
16 compliance with any public health, safety, and welfare requirements established by the department or the local  
17 government.

18 (b) A ~~former medical marijuana~~ licensee that does not apply for licensure as an adult-use  
19 dispensary is exempt from complying with any local governmental regulations that are adopted under this  
20 subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the  
21 expiration of any grace period granted by the locality, whichever is later.

22 (3) An election regarding whether to approve any or all of the marijuana business categories listed  
23 in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance  
24 with 7-5-131 through 7-5-135 and 7-5-137 by:

- 25 (a) the qualified electors of a county; or
- 26 (b) the qualified electors of a municipality.

27 (4) (a) An election held pursuant to this section must be called, conducted, counted, and  
28 canvassed in accordance with Title 13, chapter 1, part 4.

1 (b) An election pursuant to this section may be held in conjunction with a regular election of the  
2 governing body, general election, or a regular local or special election.

3 (5) If the qualified electors of a county vote to approve a type of marijuana business to be located  
4 in the jurisdiction, the governing body shall enter the approval into the records of the local government and  
5 notify the department of the election results.

6 (6) (a) If an election is held pursuant to this section in a county that contains within its limits a  
7 municipality of more than 5,000 persons according to the most recent federal decennial census:

8 (i) it is not necessary for the registered qualified electors in the municipality to file a separate  
9 petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana  
10 business from being located in the municipality; and

11 (ii) the county shall conduct the election in a manner that separates the votes in the municipality  
12 from those in the remaining parts of the county.

13 (b) If a majority of the qualified electors in the county, including the qualified electors in the  
14 municipality, vote to approve a category of marijuana business to be located in the county, the county may  
15 allow that category of marijuana business to operate in the county.

16 (c) (i) If a majority of the qualified electors in the municipality vote to approve a category of  
17 marijuana business to be located in the municipality, the municipality may allow that type of marijuana business  
18 to operate in the municipality.

19 (ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana  
20 business from being located in the municipality, the municipality may not allow that type of marijuana business  
21 to operate in the municipality.

22 (d) Nothing contained in this subsection (6) prevents any municipality from having a separate  
23 election under the terms of this section.

24 (7) (a) A county or municipality that has voted to approve a category of marijuana business to be  
25 located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190  
26 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations  
27 within the jurisdiction.

28 (b) A vote overturning the approval of a category of marijuana business or prohibiting the

1 previously permitted operation of marijuana businesses is effective on the 90th day after the local election is  
2 held.

3 (8) A local government may not prohibit the transportation of marijuana within or through its  
4 jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this  
5 chapter."

6

7 NEW SECTION. **Section 6. Effective date.** [This act] is effective June 30, 2025.

8

- END -

DRAFT