

MARIJUANA POLICY CONSIDERATIONS

ECONOMIC AFFAIRS INTERIM COMMITTEE
ERIN SULLIVAN - MARCH 2024

BACKGROUND AND PURPOSE

During the 2023-2024 interim, the Economic Affairs Interim Committee (EAIC) received public comment from the marijuana industry about issues regarding existing statutes, newly passed legislation, and emerging issues. Stakeholders requested that EAIC review the feedback and topics along with its statutory oversight of the Cannabis Control Division (CCD) and administrative rules for potential legislative changes.

This paper summarizes the stakeholder comments and topics of concern received by EAIC during the interim. *It is important to note* that the issues outlined in this paper are merely a compilation of stakeholder comments collected by staff based on committee hearings and discussions to date. The paper is organized by topic, includes references to statute, relevant stakeholder comments, and is meant to assist the committee in its discussion with the stakeholders as the committee reviews potential policy options for the upcoming 2025 legislative session.

The committee could choose to work on one, many, or none of these issues. Additionally, the committee could seek additional information from the department or other stakeholders on one or more issues prior to deciding on a committee bill, or the committee could recommend to the department to seek agency legislation to address a particular issue.¹

ISSUES

2023 LEGISLATION CHANGES

Of the four marijuana bills passed during the 2023 legislative session, stakeholders suggest amendments to provisions contained in two bills: HB903 and HB948.

EXPLANATION:

[HB903](#) includes an amendment that requires the Board of Medical Examiners to make a report to the department when a physician exceeds a certain number of written certifications in a calendar year:

16-12-509. Written certification — accompanying statements.

(6) The department shall provide the board of medical examiners with the name of any physician who provides a written certification for 39 or more patients within any given calendar year. The board of medical examiners shall review the physician's practices in order to determine whether

¹ References to statute are for the Montana Code Annotated (MCA), references to rule are for the Administrative Rules of Montana (ARM), and references to the department are for the Department of Revenue (DOR).

the practices meet the standard of care. The physician whose practices are under review shall pay the costs of the board's review activities.

STAKEHOLDER SUGGESTION:

- Strike language inserted during the 2023 legislative session that requires physicians who reach 39 referrals or more in a year for medical cannabis to be reviewed by the MT Board of Medical Examiners.

EXPLANATION:

HB948 creates a ban on synthetic cannabinoids and therefore creates the following definition:

16-12-102. Definitions.

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

Additionally, HB948 adds provisions to the statute governing the department's hotline and reporting of complaints regarding licensees:

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

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

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

(4) The department may:

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

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

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

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

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

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

STAKEHOLDER SUGGESTION:

- Distinguish between cannabis and hemp-derived synthetic cannabinoids.
- Make complaints from the licensee and the public confidential.

ADVERTISING

EXPLANATION:

The statutory provisions for marijuana advertising are as follows:

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

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

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

(i) is false or misleading;

(ii) promotes overconsumption of marijuana or marijuana products;

(iii) depicts the actual consumption of marijuana or marijuana products;

(iv) depicts a person under 21 years of age consuming marijuana;

(v) makes any health, therapeutic, or medicinal claims about marijuana or marijuana products; or

(vi) is designed in a way that is likely to appeal to minors and includes cartoons, animals, children, or any other likeness to images, characters, or phrases that are designed in any manner to be appealing or to encourage consumption of marijuana by persons under 21 years of age.

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

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

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

The department has rulemaking authority under 16-12-211, MCA. Administrative rules for advertising can be found under ARM 42.39.123. In December 2023, the department proposed amendments to ARM 42.39.123. The reasonable necessity provision in administrative rule notice [42-1073pro](#) states:

The department proposes to amend ARM 42.39.123 to provide additional, necessary guidance about what is marketing and branding versus what is advertising. The department fields numerous questions in this regard and the proposed amendments reflect identified issues and seek to improve guidance to licensees about what is allowable, or prohibited, under the law.

The proposed ARM is:

42.39.123 ADVERTISING (1) remains the same.

(2) "Advertise or advertising" means the publication, dissemination, solicitation, or circulation of visual, oral, or written communication to directly induce any person to purchase or consume marijuana or marijuana products. Advertising includes the promotion of special pricing, events, sales, or discounts. Advertising does not include branding, marketing, or packaging and labeling of marijuana and marijuana products.

(3) remains the same.

(4) "Brand" or "branding" means creating a unique identity for a business to target an audience or consumers. Branding does not include references to specific marijuana or marijuana products.

(5) "Market" or "marketing" means an action a business uses to promote their brand, location, or services. Marketing does not include references to specific marijuana or marijuana products.

(4) remains the same but is renumbered (6).

~~(5)~~ (7) A licensee's outdoor signage may not use colloquial terms for marijuana or marijuana products (e.g., pot, reefer, ~~ganja~~, weed) and may not use an image or visual representation of useable marijuana, marijuana-infused products, marijuana concentrates, marijuana paraphernalia, or an image that indicates the presence of a product such as smoke, edibles, etc.

(6) and (7) remain the same but are renumbered (8) and (9).

~~(8)~~ (10) Marijuana business social media accounts that advertise marijuana or marijuana products must be private and must contain a clearly visible notice on the main page stating that only persons 21 years of age or older may follow the account. A marijuana business that uses a QR code in an electronic advertisement must utilize appropriate measures to verify that individuals visiting the QR code's webpage are 21 years of age or older.

(9) remains the same but is renumbered (11).

~~(10)~~ (12) The prohibition in ~~(9)~~(11)(c) does not prohibit the use of informational pamphlets for dissemination at marijuana trade conferences or the use or distribution of business cards. Nothing in this rule shall be construed to allow the sale or possession of marijuana or marijuana products outside of a licensed premises, including at tradeshow.

~~(11)~~ (13) The prohibition in ~~(9)~~(11)(d) does not prohibit a marijuana business from asserting that its products have been tested by a licensed marijuana testing laboratory.

The department held a public hearing on the proposed administrative rules on January 19 and has indicated additional changes will be made to ARM 42.39.123 based on stakeholder feedback but has not yet published the additional changes.

STAKEHOLDER SUGGESTION:

- Stakeholders will discuss suggestions for advertising revisions with the committee during the March 2024 meeting.

CONSUMPTION LOUNGES

EXPLANATION:

Consumption lounges were considered as a member topic during the September 2023 EAIC meeting. At the meeting, the committee heard a presentation on consumption lounge policies in other states and listened to public comment from several members of the industry. Commenters referenced the inclusion of marijuana in the Clean Indoor Air Act as part of their dissent for the idea of consumption lounges:

50-40-101. Short title. This part may be cited as the "Montana Clean Indoor Air Act of 1979"

50-40-102. Intent — purpose. The legislature finds and declares that the purposes of this part are as follows:

(1) to protect the public health and welfare by prohibiting smoking in public places and places of employment;

(2) to recognize the right of nonsmokers to breathe smoke-free air; and

(3) to recognize that the need to breathe smoke-free air has priority over the desire to smoke.

50-40-103. Definitions. As used in this part, the following definitions apply:

(8) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar, cigarette, pipe, or any smokable product and *includes the use of marijuana*.

The general consensus from the industry was that consumption lounges were not a pressing issue in Montana, and neither the industry nor the department were interested in adding consumption lounges as an opportunity for consumers of recreational or medical marijuana. The committee agreed to revisit the topic during the spring to consider a committee bill to define and disallow consumption lounges in statute for clarity.

See Appendix A for all public comment pertaining to Consumption Lounges.

STAKEHOLDER SUGGESTIONS:

- Ban consumption lounges.

LICENSING & OPERATIONS

EXPLANATION:

Title 16, chapter 12, part 2 governs licensing and regulation for marijuana. The department currently issues the following license types:

- Cultivator license (16-12-223)
- Manufacturer license (16-12-221)
- Adult-use dispensary license (16-12-224)
- Medical marijuana dispensary license (16-12-224)
- Testing laboratory license (16-12-202)
- Marijuana transporter license (16-12-222)
- Combined-use marijuana license (16-12-225)

Per 16-12-104, MCA, the department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of the chapter. Licenses are renewed annually, and each license type follows its own provisions and fee structure.

In addition to the specific statutes for each license type, Title 16, chapter 12, part 2 contains general provisions that pertain to all licensees, such as limitations, activities, licensing as a privilege, and restrictions. In pertinent part:

Related to operating hours for dispensaries

16-12-207. Licensing as privilege — criteria.

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

Related to cannabis outdoor grows

16-12-203. Licensing types — requirements — limitations — activities.

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

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

16-12-223. Licensing of cultivators.

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

STAKEHOLDER SUGGESTION:

- Restructure marijuana licenses.
- Extend operating hours for dispensaries from 7 am – 11 pm.
- Create distance requirement between new hemp fields and cannabis outdoor grows.

MORATORIUM

EXPLANATION:

The provisions in 16-12-201 contain a moratorium for existing licensees that is set to expire in 2025. This moratorium was originally set to expire June 30, 2023, and the 2023 Legislature amended the date to extend the moratorium, to June 30, 2025:

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

(b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after July 1, 2025.

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

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

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

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

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

STAKEHOLDER SUGGESTIONS:

- Extend the current moratorium on new licenses for another 2 years.
- Modify and extend moratorium.

TAXES, FINES, RULES & REGULATIONS

EXPLANATION:

According to data provided by one Montana stakeholder:

"Montana has a high sales tax rate on cannabis. The MTCIA recognizes that the effort to lower the cannabis sales tax would unlikely be successful. So, the MTCIA would encourage using the tax to shore up regulation and enforcement against the illegal market prior to appropriating it to unrelated government services." Montana Cannabis Industry Association

Present law provides for the distribution of taxes and fees collected by the department related to medical and recreational marijuana in [16-12-111, MCA](#). At the end of each fiscal year the department transfers money collected in a specific order to designated accounts, after reserving 3-month's operating expenses. The first \$6 million goes to the Healing and Ending Addiction through Recovery and Treatment (HEART) fund, and the net balance is distributed to accounts specified for the following benefit:

- 20% for funding wildlife habitat
- 4% each for state parks, trails & recreational facilities, and nongame wildlife
- The lesser of 3% or \$200,000 for veterans & surviving spouses
- \$150,000 for the Board of Crime Control
- The remainder to the General Fund

During the 2023 legislative session, [SB 442](#) was passed and subsequently vetoed by the Governor. If the bill had been signed into law, the allocation of marijuana tax revenue would have been revised to include distribution to the Department of Transportation to fund county road construction and maintenance as well as revise some of the allocation percentages to the existing funds in 16-12-111. The veto process was challenged in court and overturned, however, SB 442 remains in the courts under appeal, so present law marijuana revenue allocation remains.

The department has rulemaking authority for fines under 16-12-112 (adult-use marijuana) and 16-12-533 (medical marijuana):

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

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

16-12-533. Rulemaking authority — fees. The department may adopt rules to implement this part as authorized in this section to specify:

(3) notice and contested case hearing procedures for fines or registry identification card revocation, suspension, or modification;

Public comment during the interim indicated that the department charges excessive fines and the industry is experiencing over-regulation with rules. Additionally, commenters stated that the industry does not have enough say in the rulemaking process and rules are changed too rapidly for proper compliance.

See Exhibit B for all public comment related to taxes, fines, rules & regulations

STAKEHOLDER SUGGESTIONS:

- Use the marijuana tax to shore up regulation and enforcement against the illegal market prior to appropriating it to unrelated government services.
- Reforming mandatory and excessive fines and fees.
- Create an industry led advisory committee for the CCD.
- Red tape reduction for the cannabis industry.
- Define and reapply “unduly burdensome” litmus test for cannabis rules and regulations from the original wording of HB701.
- Increase staffing for CCD and DOJ.

APPENDIX A: COMMENTARY ON CONSUMPTION LOUNGES

From: donotreply@legmt.gov
To: [LEG Cmte-EAICcomment](#)
Subject: Public Comment for EAIC
Date: Friday, September 22, 2023 11:57:37 AM

Public Comments for Economic Affairs Interim Committee

Date: 22nd September 2023 11:57

First Name:
Elissa

Last Name:
White

Email Address:
whitelissa@gmail.com

Subject:
On site marijuana consumption

Comment:
Montana is among the top 3 states in the nation for impaired driving, and 45% of Montana road fatalities involve an impaired driver. In 2021, the Montana state crime lab reported 621 DUI cases where samples tested positive for THC. Permitting on site consumption with only further increase impaired driving on Montana roadways and increase the chances for further fatalities due to impaired driving. Please vote no on permitting on site marijuana consumption.

Sent via leg.mt.gov/committees/interim/eaic/public-comments-eaic/

From: donotreply@legmt.gov
To: [LEG Cmte-FAICcomment](#)
Subject: Public Comment for EAIC
Date: Monday, September 25, 2023 1:47:24 PM

Public Comments for Economic Affairs Interim Committee

Date: 25th September 2023 13:47

First Name:
Faith

Last Name:
Price

Email Address:
faithprice@yahoo.com

Subject:
marijuana consumption lounges

Comment:

According to the American Lung Association, marijuana smoke has the same particulates, chemicals, and carcinogens as tobacco, if not MORE. And it comes with additional harmful health effects. Marijuana joints produce 3.5X the secondhand smoke of a cigarette (Ott, et al., 2021). Smoking marijuana increases risk of lung cancer by 2X (Callaghan, et al., 2013). Vaping cannabis has been shown to be worse for your lungs than tobacco (Boyd, et al, 2021). There is no SAFE level of secondhand smoke and allowing consumption lounges would expose workers and the public to indoor air pollution – something we eliminated back in 2009 with the Montana Clean Indoor Air Act. Secondhand smoke would expose workers in a consumption lounge to higher risks of cancer, heart conditions, and other harmful psychological effects, not to mention potentially being intoxicated by the time they leave their shift. Marijuana takes weeks to leave someone’s system and impairs driving for up to 4.5 hours (Marcotte, et al., 2022). How would consumption lounges ensure that their customers weren’t driving home intoxicated and putting innocent lives in danger? DUIs from marijuana use are already on an upward trend in our state and cannabis is now present in 21% of Montana DUI blood samples. Allowing marijuana consumption lounges would surely increase the numbers of DUIs. I urge you to put the health of the public first and think through all of the risks before considering marijuana consumption lounges.

Sent via leg.mt.gov/committees/interim/eaic/public-comments-eaic/

Comments to the Montana Economic Affairs Interim Committee (EAIC)

September 26, 2023

From: Liz Albers, State Government Relations Director, Montana and Wyoming, American Heart Association

Re: Marijuana Consumption Lounges

Dear Members of the Montana Economic Affairs Committee,

The American Heart Association's mission is to be a relentless force for a world of longer, healthier lives. Accordingly, we stand firmly against any erosion or violation of Montana's Clean Indoor Air Act (MT CIAA) and urge the committee to do so as well.

The MT CIAA provides its intent in statute, stating its purpose as:

- (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment;
- (2) to recognize the right of nonsmokers to breathe smoke-free air; and
- (3) to recognize that the need to breathe smoke-free air has priority over the desire to smoke.

Allowing for loopholes, exceptions and carve outs does a disservice to all Montanans, especially employees who work in establishments that run afoul of the MT CIAA. Therefore, the American Heart Association supports inclusion of marijuana in all comprehensive smoke-free air laws.

Marijuana smoke contains many of the same carcinogens and mutagens as tobacco smoke. The average emission rate of pre-rolled marijuana joints is 3.5 times the average emission rate of Marlboro tobacco cigarettes.¹ Such exposure to fine particulate matter can cause cardiovascular disease, lung irritation, asthma attacks and makes respiratory infections more likely.

Smoking marijuana in indoor places exposes the public and workers to these dangerous secondhand smoke emissions. Further, allowing for marijuana consumption lounges normalizes marijuana smoking at a time when marijuana use has risen considerably particularly among individuals 18-25 years of age.²

I thank you all for your time and attention on this matter and urge you to proceed in a way that supports the intent of Montana's Clean Indoor Air Act.

Sincerely,

Liz Albers



Liz Albers
She/Her/Hers
State Government Relations Director,
Montana and Wyoming
American Heart Association
| Missoula, Montana | 59802
| M 406.207.6227

¹ Ott, WR., Zhao, T., Cheng, KC., Wallace, LA., Hildemann, LM. Measuring indoor fine particle concentrations, emission rates, and rates from cannabis use in a residence. Atmospheric Environment: X. Volume 10. April 2021. 100106.

² Page, RL., Allen, LA., Kloner, RA., Carriker, CR., Martel, C., Morris, AA., Piano, MR., Rana, JS., Saucedo, JF., Medical Marijuana, Recreational Cannabis, and Cardiovascular Health: A Scientific Statement from the American Heart Association. Circulation. 2020; XX.

From: donotreply@legmt.gov
To: [LEG Cmte-EAICcomment](#)
Subject: Public Comment for EAIC
Date: Sunday, September 24, 2023 1:45:51 PM

Public Comments for Economic Affairs Interim Committee

Date: 24th September 2023 13:45

First Name:
Vicki

Last Name:
Turner

Email Address:
vjturner1990@mt.net

Subject:
Marijuana consumption lounges

Comment:

Committee members: Marijuana consumption lounges are very concerning for the following reasons: 1. There is no current education for marijuana dispensary workers on responsible sales and service like there is for responsible alcohol sales and service. 2. The Department of Revenue does not have the capacity to inspect/enforce the existing laws and regulations and hold the marijuana industry accountable. 3. Any indoor consumption lounge would be in conflict with the Montana Clean Indoor Air Act. This is an approach to repeal the Montana Clean Indoor Air Act. 4. DUIs will increase with the allowance of consumption lounges. More access to consume marijuana products that already have high potency only increases the number of impaired drivers on Montana roads. Not rocket science. 5. What provisions will be in place to safeguard the public health and safety of our youth in keeping them out of the lounges and decreasing access to marijuana products? 6. What provisions will be in place to safeguard the health and safety of marijuana industry workers who work in the lounges? Looks like a tobacco industry ploy - and we learned that employers are held liable for "bad air". 7. Just because other states are "doing it" - doesn't mean Montana should. This is a very bad idea with many unknown harms. Thank you.

Sent via leg.mt.gov/committees/interim/eaic/public-comments-eaic/

From: donotreply@legmt.gov
To: [LEG Cmte-EAICcomment](#)
Subject: Public Comment for EAIC
Date: Monday, September 25, 2023 2:10:54 PM

Public Comments for Economic Affairs Interim Committee

Date: 25th September 2023 14:10

First Name:
Margaret

Last Name:
Schmidt

Email Address:
pschmidt1604@gmail.com

Subject:
No on Marijuana Lounges

Comment:
As a Montana voter and parent, I am horrified that your committee is even considering the idea of legalizing marijuana lounges. We have too many DUIs on our roads as it is. These lounges would add to that problem and bring a host of other problems, as well. I urge you to vote NO. Thank you.

Sent via leg.mt.gov/committees/interim/eaic/public-comments-eaic/

APPENDIX B: COMMENTARY ON TAXES, FINES, REGULATIONS

From: donotreply@legmt.gov
To: [LEG Cmte-EAICcomment](#)
Subject: Public Comment for EAIC
Date: Thursday, October 26, 2023 10:44:53 AM

Public Comments for Economic Affairs Interim Committee

Date: 26th October 2023 10:44

First Name:
Kaari

Last Name:
Fulton

Email Address:
armadillobuds@gmail.com

Subject:
recreational cannabis

Comment:
rewards systems, reallocation for supporting marijuana businesses in Montana.

Sent via leg.mt.gov/committees/interim/eaic/public-comments-eaic/

From: donotreply@legmt.gov
To: [LEG Cmte-EAComment](#)
Subject: Public Comment for EAIC
Date: Thursday, October 26, 2023 10:44:55 AM

Public Comments for Economic Affairs Interim Committee

Date: 26th October 2023 10:44

First Name:
Christina

Last Name:
Johnson

Email Address:
info@nordiclabsmt.com

Subject:
RECREATIONAL CANNABIS

Comment:
MARIJUANA RELATED TAX REVENUE REALLOCATION PROPOSAL FOR
SUPPORTING MARIJUANA BUSINESSES IN MONTANA

Sent via leg.mt.gov/committees/interim/eaic/public-comments-eaic/

From the Desk of Tayln Lang

10/05/2023

1771 US HIGHWAY 93 N,
VICTOR, MT 59875

To the Montana Legislature, the Economic Affairs interim Committee, The Department of Revenue, and the Cannabis Control Division:

I am writing this letter today because I feel it is my duty as a citizen of the great State of Montana, and as a licensee within the Montana Cannabis Program since 2007, to bring something to the Department's attention which needs immediate consideration.

Since the Department of Revenue has taken over the program there have been significant changes in the way the program is being implemented, regulated, licensed, and managed. I, for one, have been a staunch advocate for the proper regulation of this industry and have been driving to Helena to testify in front of such Committees as the House Health and Human Services Committee, the Senate Judiciary Committee, and various other interim and special committees which have held meeting on this industry for the last 16 years. We have made significant progress, and the industry has grown from a "wild-west", anything goes kind of program to a thoughtful and regulated program we have today.

However, as with any program in its infancy we can observe speed bumps and problems along the way as things grow and evolve. The CCD and the rulemaking process have been implemented at a breakneck speed, with licensees constantly having to adapt to new regulations and rules it would seem at every turn. Simultaneously the CCD has created a fine and inspection system that seems to

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T (123) 456-7890 U WWW.COMPANY.COM

have swung the pendulum FAR too much in the direction of over-regulation and seems punitive, unequally applied, and quite draconian in its implementation.

To support this postulation, I sent Freedom of Information Act requests to California, Colorado, Oregon, and Washington to see how we compare in fines collected compared to the number of licensed entities in each State. I was shocked as the data came in at how extremely unequal Montana was in our collection of fines when compared to our sister legal cannabis States. California had 10,237 Cannabis Licensees in the State and collected \$(waiting for this information) in fines in 2022. Colorado had 37,172 total licensees and the state of Colorado issued \$890,000 in fines combined for 2021 and 2022, \$365,000 of which came from just two licensees. Absent these two, Colorado issued nearly \$100,000 *less* in fines than Montana over a longer time period from over ten times as many licensed entities. In Oregon we find that the total dollar amount paid in fines for 2022 was \$254,069. This was with 4,401 active licensees in the State. In the State of Washington there were 1,900 licensed entities and there were only 48 fines issued in 2022 totaling \$66,913.

The State of Washington even goes as far as hiring an outside firm to survey the licensees in the State as to the Department's proficiency, fairness, and other metrics of feedback to ensure the Department is acting in, and regulating the program, in a way that is helpful and not draconianly punitive. Perhaps we should look at doing something similar in Montana, since the number of licensees suing the State has begun to put an uncalculated and unforeseen financial burden on the DOR CCD and the program itself.

Thank you for your time and attention to this very important and pressing issue we are currently facing.

WA Licensee info: <https://lcb.wa.gov/about/annual-report>

WA Fine Info attached

OR Fine and Licensee info attached

CO fines and licensee info attached

CA Licensee info attached, Fine info pending

Sincerely,

Tayln Lang

Heirloom Remedies

Victor, Montana

406-544-4404