

LEGISLATIVE CONCEPT PROPOSAL
For Interim Committee Consideration
Sen. Mike Yakawich

Bill Draft Request Title: Unregulated Intoxicating Substances Control Act

PURPOSE

This legislation establishes a regulatory safeguard prohibiting the commercial sale of unregulated psychoactive or intoxicating substances in Montana unless specifically authorized under state law and subject to licensing, inspection, testing, labeling, and age restriction requirements.

PROBLEM STATEMENT / BACKGROUND

Emerging intoxicating substances, including synthetic derivatives, botanical alkaloids, and novel psychoactive compounds, are increasingly marketed as legal alternatives to regulated drugs. These products are often sold online or through retail outlets without standardized inspection, potency testing, labeling requirements, or age restrictions.

Montana's existing statutes regulate marijuana and alcohol through defined licensing systems but do not provide a comprehensive mechanism to prevent new intoxicating compounds from entering the consumer market before regulatory safeguards are established. As emerging drug markets evolve, a forward-looking regulatory framework is necessary to protect consumers and maintain market integrity.

PROPOSED STATUTORY DIRECTION

The bill would establish that:

- No intoxicating substance intended for human consumption may be commercially sold, distributed, marketed, or offered for retail sale in Montana unless specifically authorized under Montana statute.
- "Intoxicating substance" means a product that produces a psychoactive effect primarily through interaction with central nervous system receptors and is marketed for euphoric, sedative, stimulant, or intoxicating effect.

- Any authorized intoxicating substance must be subject to licensing, inspection, testing, labeling, packaging, and age restriction requirements comparable to those applied to regulated marijuana or alcohol products.
- The Department of Revenue, through the Cannabis and Alcohol Regulation Division (CARD), shall have authority to determine whether a product meets the statutory definition of an intoxicating consumer product.
- CARD may adopt rules to establish intoxicating thresholds, testing standards, and to identify synthetic, modified, or substantially similar compounds designed to circumvent regulation.
- CARD may issue cease-and-desist orders and impose civil penalties for unlawful commercial sale or distribution of unregulated intoxicating substances.
- Nothing in this section alters the Board of Pharmacy’s authority to classify controlled substances under existing law.

This framework regulates commercial retail activity and does not create new criminal penalties for simple possession.

RESPONSIBLE ENTITY

Lead Agency:

Department of Revenue – Cannabis and Alcohol Regulation Division (CARD)

Required Coordination:

- Department of Public Health and Human Services (public health risk assessment and data)
- Board of Pharmacy (controlled substance classification consultation)
- Department of Justice (criminal enforcement authority)
- Office of Consumer Protection

Administrative Oversight:

CARD shall report annually to the Children, Families, Health, and Human Services Interim Committee and the Revenue Interim Committee regarding substances identified, enforcement actions taken, and regulatory recommendations.

FUNDING STRUCTURE

May require limited administrative resources within CARD for regulatory review and enforcement coordination

Implemented within existing CARD regulatory authority

Enforcement costs may be offset through civil penalties where applicable. No new general fund appropriation is required unless additional enforcement staffing is authorized by the Legislature.

REPORTING AND ACCOUNTABILITY

Reporting Frequency:

Annual report to the Legislature.

Required Metrics:

- Substances identified for review
- Enforcement actions taken
- Cease-and-desist orders issued
- Civil penalties assessed
- Market trends observed

Public Transparency Requirements:

Annual enforcement summary published on the Department of Revenue website.

Committee Presentation Requirement:

Annual presentation to the Children, Families, Health, and Human Services Interim Committee and Revenue Interim Committee.

IMPLEMENTATION TIMELINE

Effective Date: July 1, 2027

Rulemaking authority effective upon passage and approval.

ANTICIPATED IMPACT

This legislation creates a durable regulatory safeguard preventing the commercial sale of unregulated intoxicating substances in Montana. It strengthens consumer protection, preserves regulatory clarity, and reduces the need for reactive, substance-specific legislation as new compounds enter the marketplace.