

STATUTORY INITIATIVE NO: _____

SPONSOR: New Approach Montana

Explanation: The following proposed statement of purpose and implication is submitted as required by 13-27-202 for review by legislative services under 13-27-202 (2) and examination and review by the attorney general as directed by 13-37-312, MCA.

SPONSOR’S PROPOSED STATEMENT OF PURPOSE AND IMPLICATION

I-xxx makes limited amounts of marijuana legal for adults 21 years of age or older and regulates, controls, and taxes the commercial production and distribution of marijuana in order to eliminate the illicit market, reduce crime, provide a safe product, and raise tax revenue. I-xxx requires that licensed testing laboratories test marijuana sold to consumers and establishes a 20% excise tax on all marijuana sold. The revenue from the tax is allocated to fund conservation, substance abuse treatment, veterans services, long-term health care, local governments, and general revenue for the state. The tax does not apply to medical marijuana. The medical marijuana tax is reduced to 1%. I-xxx maintains prohibitions on driving while impaired and does not allow distribution of marijuana to, or use by, a person less than 21 years of age.

133 words (135 allowed -- 13-37-312)

Explanation: The following yes and no statements are submitted as required by 13-27-202 for review by legislative services under 13-27-202 (2) and examination and review by the attorney general as directed by 13-37-312, MCA.

SPONSOR’S PROPOSED YES AND NO STATEMENTS

YES _____

On Initiative _____

NO _____

On Initiative _____

NEW SECTION. Section 1. Short title—Purpose.

(1) [This act] may be cited as the “Montana Marijuana Regulation and Taxation Act.”

(2) The purpose of [this act] is to make marijuana legal for adults 21 years of age or older and to regulate, control, and tax the commercial production and distribution of marijuana in order to eliminate the illicit market and provide a safe product for consumers. The purposes include to:

(a) make limited amounts of marijuana legal under state and local law for adults 21 years of age or older;

(b) control the commercial production and distribution of marijuana under a system that licenses and regulates the cultivation, manufacture, and sale of marijuana and marijuana-infused products;

(c) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [this act];

(d) remove the commercial production and distribution of marijuana from the illicit market;

(e) prevent the distribution of marijuana to persons under 21 years of age;

(f) ensure the safety of marijuana and marijuana-infused products;

(g) ensure the security of marijuana establishments;

(h) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises, including data collection on energy use, chemical use, water use, and packaging waste to ensure a clean and healthy environment;

(i) provide for the testing of marijuana by licensed testing laboratories;

(j) give local governments a role in establishing standards for the cultivation, manufacture, and sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions;

(k) tax marijuana and marijuana-infused products to generate revenue for the state and provide compensation for the economic and social costs of past and current marijuana cultivation, processing, and use, including funding of conservation programs to offset the use of water and soil in marijuana cultivation, substance abuse treatment and prevention programs, veterans services and support, health care, localities where marijuana is sold, and general revenue for the state; and

(l) authorize courts to resentencing persons who are currently serving sentences for offenses for which the penalty is reduced by [this act] and to redesignate or dismiss such offenses

from the criminal records of persons who have completed their sentences as set forth in [this act].

NEW SECTION. Section 2. Definitions.

As used in [this act], the following definitions apply:

- (1) “Canopy” means the total amount of square footage dedicated to live plant production at a registered premises consisting of the area of the floor, platform, or means of support or suspension of the plant.
- (2) “Consumer” means a person 21 years of age or older who obtains or possesses marijuana or marijuana-infused products for personal use or for use by persons who are at least 21 years old, but not for resale.
- (3) “Correctional facility or program” means a facility or program that is described in 53-1-202 and to which an individual may be ordered by any court of competent jurisdiction.
- (4) “Department” means the department of revenue.
- (5) “Adult-use dispensary” means a registered premises from which an adult-use provider or an adult-use marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a consumer.
- (6) “Adult-use marijuana-infused products provider” means a person licensed by the department to manufacture and provide marijuana-infused products for consumers as allowed by [this act].
- (7) “Adult-use provider” means a person licensed by the department to cultivate and process marijuana for consumers as allowed by [this act].
- (8) “Employee” means an individual employed to do something for the benefit of an employer. The term includes a manager, agent, or director of any of the following: a partnership, association, company, corporation, limited liability company, or organization. The term does not include a third party with whom a licensee has a contractual relationship.
- (9) “Financial interest” means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 1% or more of the net profits or net worth of the entity in which the interest is held. The terms does not include a bank or licensed lending institution, security interest, lien, or encumbrance.
- (10) “Licensee” means a person holding a state license issued pursuant to [this act].
- (11) “Local government” means a county, a consolidated government, or an incorporated city or town.
- (12) “Manufacturing” means the production of marijuana concentrate.

(13) “Marijuana” means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. “Marijuana” does not include hemp, including any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(14) “Marijuana concentrate” means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(15) “Marijuana derivative” means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused products.

(16) “Marijuana-infused product” means a product that contains marijuana and is intended for use by a consumer by a means other than smoking. The term includes but is not limited to edible products, ointments, and tinctures.

(17) “Mature marijuana plant” means a harvestable female marijuana plant that is flowering.

(18) “Paraphernalia” has the meaning provided in 45-10-101.

(19) “Person” means an individual, partnership, association, company, corporation, limited liability company, or organization.

(20) “Owner” means a principal officer, director, board member, or individual who has a financial interest or voting interest (other than a security interest, lien, or encumbrance) of 10% or greater in an adult-use provider or an adult-use marijuana-infused products provider.

(21) “Registered premises” means a location that is licensed pursuant to [this act] and includes:

- (a) All enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms;
- (b) All areas outside of a building that the department has specifically licensed for the cultivation, production, manufacturing, wholesale sale, or retail sale of marijuana and marijuana-infused products; and
- (c) With respect to a location that the department has specifically licensed for the cultivation and production of marijuana outside a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases, or has the right to occupy.

(22) (a) “Resident” means an individual who meets the requirements of 1-1-215.

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

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

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

(23) “Second degree of kinship by blood or marriage” means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

(24) “Seedling” means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(25) “State laboratory” means the laboratory operated by the department of public health and human services to conduct environmental analyses.

(26) “Testing laboratory” has the same meaning as provided in 50-46-302.

(27) “Unduly burdensome” means that the measures necessary to comply with the rules or ordinances adopted pursuant to this section subject licensees or potential licensees to such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate a license.

NEW SECTION. Section 3. Department Authority.

(1) The department shall have the authority to license and regulate the cultivation, manufacture, testing, transport, delivery, and sale of marijuana in the state and to administer and enforce [this act].

(2) Notwithstanding Title 50, chapter 46 of this title, beginning January 1, 2022, the authority given to the department of public health and human services pursuant to Title 50, chapter 46 to license and regulate entities to cultivate, manufacture, transport, deliver, or sell marijuana for medical use shall transfer to the department. Beginning on January 1, 2022, all rules and regulations adopted pursuant to Title 50, chapter 46 of this title by the department of public health and human services, other than rules and regulations relating to registry identification cards and testing laboratories, shall be enforced by the department until they are amended by the department. Each license, certificate, or other permit or authorization issued by the department of public health and human services as provided in Title 50, chapter 46 shall remain valid until the license, certificate, or other permit or authorization expires.

(3) The department of public health and human services shall advise, assist, and cooperate with the department to ensure a smooth transfer of authority.

(4) Authority and responsibility over testing laboratories and registry identification cards as set forth in Title 50, chapter 46 shall remain with the department of public health and human services.

NEW SECTION. Section 4. Department Responsibilities.

(1) The department shall establish and maintain a registry of persons who receive licenses under [this act]. The department shall issue:

(a) licenses:

(i) to persons who apply to operate as adult-use providers or adult-use marijuana-infused products providers and who submit applications meeting the requirements of [this act]; and

(ii) for adult-use dispensaries established by adult-use providers or adult-use marijuana-infused products providers.

(b) endorsements for manufacturing to an adult-use provider or an adult-use marijuana-infused products provider that applies for a manufacturing endorsement and meets requirements established by the department by rule.

(2) A person who obtains an adult-use provider license, adult-use marijuana-infused products provider license, or adult-use dispensary license, or an employee of a licensed adult-use provider or adult-use marijuana-infused products provider, is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed by [this act].

(3) A person who obtains a testing laboratory license pursuant to Title 50, chapter 46 or an employee of a licensed testing laboratory is authorized to possess, test, and transport marijuana as allowed by [this act].

(4) The department shall conduct criminal history background checks as required by [sections ___ through ___] before issuing a license to an adult-use provider or an adult-use marijuana-infused products provider.

(5) Licenses issued pursuant to this part must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the license is valid;

(b) indicate whether an adult-use provider or an adult-use marijuana-infused products provider has an endorsement for manufacturing;

(c) state the date of issuance and the expiration date of the license; and

(d) contain other information that the department may specify by rule.

(6) (a) By no later than January 1, 2022, the department shall make application forms available and begin accepting applications for licensure under [this act].

(b) The department shall review the information contained in an application or renewal submitted pursuant to [this act] and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials from an existing licensed provider or marijuana-infused products provider and within 90 days of receiving the application and all related application materials from a new applicant.

(c) If the department fails to act on a completed application within the time required by (b), the department shall:

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

(ii) allow a licensee to continue to operate until its license renewal application has been acted on.

(d) Applications that are not processed within 30 days of receipt remain active until the department takes final action.

(e) An application for a license or renewal of a license is not considered complete until the department has completed a satisfactory inspection as required by [this act] and related administrative rules. However, if the department fails to complete the required inspection within 30 days, the application shall be considered complete.

(f) The department shall issue a license or endorsement within five days of approving an application or renewal.

(7) Review of a rejection of an application or renewal may be conducted as a contested case hearing pursuant to the provisions of the Montana Administrative Procedure Act.

(8) Licenses and endorsements issued to adult-use providers and adult-use marijuana-infused products providers must be renewed annually.

(9) The department shall provide the names and phone numbers of adult-use providers and adult-use marijuana-infused products providers and the city, town, or county where registered premises and testing laboratories are located to the public on the department's website. The department may not disclose the physical location or address of an adult-use provider, adult-use marijuana-infused products provider, adult-use dispensary, or testing laboratory.

(10) The department may not prohibit an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary licensee from operating at a shared location of a

provider, marijuana-infused products provider, or dispensary that is owned by the same person and that is operating pursuant to Title 50, chapter 46.

(11) In order to protect individual rights and consumer privacy, and consistent with Article II, Section 10 of the Montana Constitution, the department may not require a consumer to provide an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary licensee with identifying information other than identification to determine the consumer's age or require the recording of personal information about consumers other than information typically required in a retail transaction.

NEW SECTION. Section 5. Licensing of Medical Marijuana Providers, Marijuana-infused Products Providers, and Dispensaries for Adult Use.

(1) Notwithstanding any other law or rule, by no later than April 1, 2021, the department shall promulgate any necessary rules and regulations to allow providers, marijuana-infused products providers, and dispensaries licensed under Title 50, chapter 46 that are in good standing with the department of public health and human services to sell marijuana and marijuana-infused products to consumers. The rules shall be reasonable and shall include:

- (a) A licensing fee;
- (b) Age verification procedures to prevent the sale and diversion of marijuana to persons under 21 years of age who are not patients;
- (c) Provisions to ensure access to marijuana by patients;
- (d) Collection of the tax set forth in [this act].

(2) By no later than April 1, 2021, providers, marijuana-infused products providers, and dispensaries licensed under Title 50, chapter 46, the Montana Medical Marijuana Act, that are in good standing with the department of public health and human services and in compliance with [this act] and department rules may sell marijuana and marijuana products produced pursuant to a medical license to adult-use consumers.

NEW SECTION. Section 6. Department Responsibility to Monitor and Assess Marijuana Production, Testing, Sales, and License Revocation.

(1) The department shall implement a system for tracking marijuana, marijuana concentrate, and marijuana-infused products from either the seed or the seedling stage until the marijuana, marijuana concentrate, or marijuana-infused product is sold to a consumer. The system must:

- (a) ensure that the marijuana, marijuana concentrate, or marijuana-infused product cultivated, manufactured, possessed, and sold under this part is not sold or otherwise provided to an individual who is under 21 years of age and who is not a medical marijuana patient; and



(b) be made available to adult-use providers, adult-use marijuana-infused products providers, adult-use dispensaries, and testing laboratories at **no additional cost.**



(2) The department may implement the same system used to track marijuana, marijuana concentrate, and marijuana-infused products pursuant to **Title 50, chapter 46.**

(3) The department shall assess applications for an adult-use provider or adult-use marijuana-infused products provider license to determine if a person with a financial interest in the applicant meets **any of** the criteria established in [section __] for denial of a license.



(4) Before issuing or renewing a license, the department shall inspect the proposed registered premises of an adult-use provider or adult-use marijuana-infused products provider and shall inspect the property to be used to ensure an applicant for licensure or license renewal is in compliance with [this act]. The department may not issue or renew a license if the applicant does not meet the requirements of [this act].

(5) **The department shall develop a tiered licensing system for adult-use providers and adult-use marijuana-infused products providers, which it may adjust and modify as necessary, based on canopy size.**



(a) The system shall include, at minimum, the following license types:

(i) a micro tier canopy license allows for a canopy of up to 250 square feet at one registered premises.

(ii) a tier 1 canopy license allows for a canopy of up to 1,000 square feet at one registered premises. A minimum of 500 square feet must be equipped for cultivation.

(iii) a tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two registered premises. A minimum of 1,100 square feet must be equipped for cultivation.

(iv) a tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three registered premises. A minimum of 2,600 square feet must be equipped for cultivation.

(v) a tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four registered premises. A minimum of 5,100 square feet must be equipped for cultivation.

(vi) a tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five registered premises. A minimum of 7,750 square feet must be equipped for cultivation.

(vii) a tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five registered premises. A minimum of 10,250 square feet must be equipped for cultivation.

(viii) a tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five registered premises. A minimum of 13,250 square feet must be equipped for cultivation.

(ix) a tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five registered premises. A minimum of 15,250 square feet must be equipped for cultivation.

(x) a tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six registered premises. A minimum of 17,775 square feet must be equipped for cultivation.

(xi) a tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven registered premises. A minimum of 24,000 square feet must be equipped for cultivation.

(xii) “Equipped for cultivation” shall mean that the space is either ready for cultivation or in use for cultivation.

(xiii) An adult-use provider or adult-use marijuana-infused products provider who has reached capacity under the existing license may apply to advance to the next licensing tier. The department:

(A) may only increase a licensure level by one tier at a time; and

(B) shall conduct an inspection within 30 days of the adult-use provider or adult-use marijuana-infused products provider’s registered premises and proposed premises before approving the application.

(b) The department may create additional licensing tiers by rule if a provider with a tier 10 canopy license petitions the department to create a new licensure level and:

(i) the producer or provider demonstrates that the licensee is using the full amount of canopy currently authorized; and

(ii) the tracking system shows the licensee is selling at least 80% of the marijuana or marijuana-infused products produced by the square footage of the licensee’s existing license over the two previous quarters or the licensee can otherwise demonstrate to the department that there is a market for the marijuana or marijuana-infused products it seeks to produce.

(c) The department may create additional tiers or expand or modify existing tiers and shall adjust the tiers and the square feet measurement equivalents to account for outdoor cultivation.

(d) The registered premises limitations for each tier of licensing apply only to registered premises at which marijuana is cultivated. The limitations do not apply to the number of adult-use dispensaries an adult-use provider or adult-use marijuana-infused products provider may have.

(e) The department must require evidence that the licensee is able to successfully cultivate the minimum amount of space allowed for the tier and sell the amount of marijuana produced by the minimum cultivation level before allowing a licensee to move up a tier. Annual licensing fees shall be prorated based on the time licensed at a specific tier if less than one year.

(f) No person may be initially licensed greater than a tier 2, unless the person is purchasing a business licensed at a tier higher than tier 2 or the person has a license for a higher tier than tier 2 under Title 50, chapter 46 and is applying for the equivalent size tier under [this act].

NEW SECTION. Section 7. State Laboratory Responsibility to License and Inspect Testing Laboratories.

The state laboratory shall have the same authority and responsibility and shall establish and enforce the same standard operating procedures and testing standards for testing laboratories as required under Title 50, chapter 46 to ensure that consumers receive consistent and uniform information about the potency and quality of the marijuana and marijuana-infused products they receive.

NEW SECTION. Section 8. Personal Use of Marijuana.

(1) Subject to the limitations in section ___ of [this act], and notwithstanding any other law, the following acts by a natural person at least 21 years of age are not unlawful and shall not be an offense under state law or the laws of any local government within the state or be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government:

(a) Possessing, purchasing, using, ingesting, inhaling, processing, transporting, delivering without consideration, or distributing without consideration one ounce or less of marijuana, except that not more than eight grams may be in a concentrated form;

(b) Possessing, planting, cultivating, harvesting, drying, processing, or manufacturing up to four mature marijuana plants and four seedlings, and possessing the marijuana produced by the plants, provided:

(i) The plants and any marijuana produced by the plants in excess of one ounce are kept in or on the grounds of one private residence, are in a locked space, and are not visible by normal, unaided vision from a public place;



- (ii) Not more than twice the number of allowable plants under paragraph (b) of this subdivision are kept in or on the grounds of a private residence at one time;
- (iii) The property where the plants are grown and kept is owned by the person or the person has the written permission of the property owner at a property that is rented or leased by the person; and
- (iv) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused products for use by the person may be shared with or rented or leased to an adult-use provider or an adult-use marijuana-infused products provider.

(c) Assisting another person who is at least 21 years of age in, or allowing property to be used for, any of the acts permitted by this section;

(d) Possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older marijuana paraphernalia;



(2) Notwithstanding any other law, a person who, pursuant to this subsection, cultivates marijuana plants that are visible by normal, unaided vision from a public place is subject to a civil fine not exceeding two hundred and fifty dollars and forfeiture of the marijuana.

(3) Notwithstanding any other law, a person who, pursuant to this subsection, cultivates marijuana plants that are not kept in a locked space is subject to a civil fine not exceeding two hundred and fifty dollars and forfeiture of the marijuana.

(4) Notwithstanding any other law, a person who smokes marijuana in a public place, other than in an area licensed for such activity by the department, is subject to a civil fine not exceeding fifty dollars.



(5) Notwithstanding any other law, a person who is under 21 years of age who possesses, uses, ingests, inhales, transports, delivers without consideration, or distributes without consideration one ounce or less of marijuana, or possesses, delivers without consideration, or distributes without consideration marijuana paraphernalia, is subject to a civil fine not to exceed one hundred dollars and forfeiture of the marijuana. Any such person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the fine.

(6) Subject to the limitations of this section, and notwithstanding any other law, a person who possesses not more than twice the amount of marijuana allowed pursuant to this section, produces not more than twice the amount of marijuana allowed pursuant to this section, delivers without receiving any consideration or remuneration to a person who is at least 21 years of age not more than twice the amount of marijuana allowed by this section, or possesses with intent to deliver not more than twice the amount of marijuana allowed by this section:



(a) For a first violation, is subject to a civil fine not exceeding two hundred dollars and forfeiture of the marijuana. Any such person shall be provided the option of completing up to four hours of community service in lieu of the fine;

(b) For a second violation, is subject to a civil fine not exceeding three hundred dollars and forfeiture of the marijuana. Any such person shall be provided the option of completing up to six hours of community service in lieu of the fine;

(c) For a third or subsequent violation, is subject to a civil fine punishable by a fine not exceeding five hundred dollars and forfeiture of the marijuana. Any such person shall be provided the option of completing up to eight hours of community service in lieu of the fine; and

(d) For a person under 21 years of age, is subject to a civil fine not to exceed two hundred dollars. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine.

(7) A person shall not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by [this act].

(8) No person shall be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by [this act].

(9) Subject to the authority of the judiciary and the courts, a person currently under parole, probation, or other state supervision, or released awaiting trial or other hearing, may not be punished or otherwise penalized solely for conduct that is permitted by [this act].

(10) A holder of a professional or occupational license is not subject to professional discipline for providing advice or services arising out of or related to conduct that is permitted by [this act] on the basis that marijuana is prohibited by federal law.



(11) All other laws inconsistent with [this act] do not apply to conduct that is permitted by [this act].

(12) It is the public policy of this state that contracts related to the operation of licenses be enforceable.

NEW SECTION. Section 9. Provider Types—requirements—limitations—activities.

(1) (a) Subject to subsections (1)(b) and (3), the department shall issue a license to or renew a license for a person who is applying to be an adult-use provider or adult-use marijuana-infused products provider if the person submits to the department:

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

(ii) proof that the person is a Montana resident;

(iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation upon initial licensure and every three years after that;

(iv) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures for consumers;

(v) the street address of the location at which marijuana, marijuana concentrates, or marijuana-infused products will be cultivated or manufactured; and

(vi) a fee as determined by the department not to exceed the costs of required background checks and associated administrative costs of processing the license.

(b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each.



(2) The department shall conduct a name-based background check for each owner for license renewal in the years that an applicant is not required to submit fingerprints for a fingerprint and background check.

(3) The department may not license a person under this part if the person or an owner:

(a) has a felony conviction involving fraud, deceit, or embezzlement, or for distribution of drugs to a minor within the past five years that relates to the public health, welfare, and safety as it applies to operating a license under [this act] and after the department, after an investigation, finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

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

(c) has been convicted of a violation under [section ___];



(d) has resided in Montana for less than one year; or



(e) is under 18 years of age.

(4) Marijuana for use pursuant to [this act] must be cultivated and manufactured in Montana until federal law allows for the interstate distribution of marijuana.



(5) Except as provided in [section ___], an adult-use provider or adult-use marijuana-infused products provider shall:

(a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories pursuant to [this act] and administrative rules;

(b) allow the department to collect samples of marijuana or marijuana-infused products during inspections of registered premises for testing as provided by the department by rule;

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to [section __]; and

(d) obtain the license from the department of agriculture if required by law for the adult-use provider or adult-use marijuana-infused products provider that sells live plants as part of a sale of the adult-use provider's business. An adult-use provider or adult-use marijuana-infused products provider required to obtain a nursery license is subject to the inspection requirements of 80-7-108.



(7) (a) Except as provided for in [section __], a person licensed under this section may cultivate marijuana and manufacture marijuana-infused products for use by consumers only at one of the following locations:

(i) a property that is owned by the adult-use provider or adult-use marijuana-infused products provider; or

(ii) with written permission of the property owner, a property that is rented or leased by the adult-use provider or adult-use marijuana-infused products provider.

(b) Except as provided for in [section __], no portion of the property used for cultivation of marijuana or manufacture of marijuana-infused products or marijuana concentrate may be shared with or rented or leased to another adult-use provider, adult-use marijuana infused products provider, or testing laboratory.

(8) A licensed adult-use provider or adult-use marijuana-infused products provider may:

(a) in accordance with rules adopted by the department:

(i) operate adult-use dispensaries; and

(ii) engage in manufacturing;

(b) employ employees to cultivate marijuana, manufacture marijuana concentrates and marijuana-infused products, and dispense and transport marijuana and marijuana-infused products;

(c) provide a small amount of marijuana, marijuana concentrate, or marijuana-infused product cultivated or manufactured on the registered premises to a licensed testing laboratory or the department of agriculture;



(d) sell the adult-use provider's business, including live plants, inventory, material assets, and all licenses in accordance with rules adopted by the department; and

(e) hold a provider or marijuana-infused products provider license issued pursuant to Title 50, chapter 46.

(9) An adult-use provider or adult-use marijuana-infused products provider:

(a) may sell marijuana the provider has cultivated or marijuana products derived from marijuana the provider has cultivated for at least 50% of the provider's total annual sales;

(b) may sell marijuana or marijuana-infused products to another provider for subsequent resale to another provider for up to 50% of the provider's total annual sales;

(c) may contract or otherwise arrange for another party that is licensed to process the provider's or marijuana-infused products provider's marijuana into marijuana-infused products or marijuana concentrates and return the marijuana-infused products or marijuana concentrates to the provider for sale; and



(d) except as allowed pursuant to [section __] of [this act], may not open a dispensary or allow for any on-site use before obtaining the required license or before the department has completed the inspection required under [this act] unless the department fails to complete the inspection as required or unless permitted to do so pursuant to [section __] of [this act].

(10) The department may adjust the percentages set forth in subsection (9) for all license holders, or for an individual license holder based on unforeseen circumstances leading to the loss of plants or products.

NEW SECTION. Section 10. Adult-Use Marijuana-Infused Products Provider.

(1) A person licensed as an adult-use marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a registered premises; and

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



(2) An adult-use marijuana-infused products provider:



(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(c) may not provide a consumer with marijuana in a form that may be used for smoking unless the adult-use marijuana-infused products provider is also a licensed adult-use provider.

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

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

NEW SECTION. Section 11. Contracted Services.

(1) An adult-use marijuana-infused products provider may contract with another adult-use marijuana-infused products provider to perform extraction or manufacturing services for the provider. The adult marijuana-infused products provider who is providing the services must hold a provider license for at least a tier 1 canopy. 

(2) An adult marijuana-infused products provider who has contracted for services under this section shall deliver the marijuana to be used for extraction or manufacturing or the provider who is contracted to provide the services may pick up and transport the marijuana.

(3) An adult marijuana-infused products provider who offers the services may not keep any marijuana-infused product or plant material from the extraction or manufacturing or transfer or sell the marijuana-infused product or plant material to another provider who has contracted for similar services with the same provider other than what is allowed under [section ____]. 

NEW SECTION. Section 12. Testing Laboratories—Licensing Inspections.

(1) A testing laboratory licensed pursuant to Title 50, chapter 46 shall:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana-infused products; and

(b) test marijuana and marijuana-infused products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested.

(2) The analytical laboratory services provided by the department of agriculture pursuant to 80-1-104 may be used for the testing provided for in this section. 

(3) A person with a financial interest in a licensed testing laboratory may not have a financial interest in any entity involved in the cultivation of marijuana or manufacture of a marijuana-infused product or marijuana concentrate for whom testing services are performed. 

(4) Except as provided in [section ____], a testing laboratory shall conduct tests of:

(a) samples of marijuana, marijuana concentrate, and marijuana-infused products submitted by adult-use providers and adult-use marijuana-infused products providers

pursuant to [section ___] and related administrative rules prior to sale of the marijuana or marijuana-infused products;

(b) samples of marijuana or marijuana-infused products collected by the department during inspections of registered premises; and

(c) samples submitted by consumers.

NEW SECTION. Section 13. Licensing as Privilege—Criteria.

(1) A adult-use provider, adult-use marijuana-infused products provider, adult-use dispensary, or an endorsement for manufacturing is a **privilege that the state may grant to an applicant and is not a right to which an applicant is entitled**. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed registered premises.

(2) The department, as applicable, may deny or revoke a license based on proof that the applicant made a knowing and material false statement in any part of the original application or renewal application.

(3) The department, as applicable, may deny an adult-use provider, adult-use marijuana-infused products provider, adult-use dispensary, or an endorsement for manufacturing license if the applicant’s proposed registered premises is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the department.

(4) (a) The department, as applicable, may deny a license for an adult-use provider, adult-use marijuana-infused products provider, adult-use dispensary, or an endorsement for manufacturing if the applicant’s proposed registered premises:

(i) is not approved by local building, health, or fire officials; or

(ii) **is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship** or as a school or postsecondary school other than a commercially operated school, unless the locality allows for a reduced distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee’s premises.

(b) For the purposes of this subsection (4), “school” and “postsecondary school” have the meanings provided in 20-5-402.

(5) An adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary licensee may operate at a shared location with a provider, marijuana-infused products provider, or dispensary that is owned by the same person and that is licensed pursuant to Title 50, chapter 46.

NEW SECTION. Section 14. Legal Protections—Allowable Amounts.

(1) An adult-use provider or adult-use marijuana-infused products provider may have the canopy allowed by the department for the adult-use provider or adult-use marijuana-infused products provider. The canopy allotment is a cumulative total for all of the adult-use provider's or adult-use marijuana-infused products provider's registered premises and may not be interpreted as an allotment for each premises.

(2) Except as provided in [section __], an individual who possesses a license issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil fine or disciplinary action by a professional licensing board or the department of labor and industry, solely because the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under [this act] and department rule.



(3) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana-infused products as permitted under [this act] and department rule.

(4) Except as provided in [section __], possession of or application for a license does not alone constitute probable cause or reasonable suspicion to search the person or individual or the property of the person or individual or otherwise subject the person or individual or property of the person or individual possessing or applying for the license to inspection by any governmental agency, including a law enforcement agency.

(5) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a license prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a license or after an arrest or the filing of a criminal charge.



(6) A registered adult-use provider or adult-use marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [this act] if the person is in possession of an amount of marijuana that does not exceed the amount permitted under [this act] and department rule.

NEW SECTION. Section 15. Restrictions.

(1) An adult-use provider or adult-use marijuana-infused products provider may not cultivate marijuana or manufacture marijuana concentrates or marijuana-infused products in a manner that

is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids.



(2) An adult-use provider or adult-use marijuana-infused products provider may not cultivate, process, test, or store marijuana at any location other than the registered premises approved by the department and within an enclosed area that is secured in a manner that prevents access by persons not permitted to access the area.



(3) An adult-use provider or adult-use marijuana-infused products provider shall secure its inventory and equipment during and after operating hours to deter and prevent theft of marijuana.

(4) An adult-use provider or adult-use marijuana-infused products provider may not refuse representatives of the department the right during the hours of operation to inspect the licensed premises or to audit the books and records.



(5) No adult-use provider or adult-use marijuana-infused products provider may allow a person under 18 years of age to volunteer or work for the licensee.

(6) An adult-use provider or adult-use marijuana-infused products provider may not sell edible marijuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana as defined by Administrative Rule.



(7) An adult-use provider or adult-use marijuana-infused products provider may not sell or otherwise transfer marijuana or a marijuana-infused product that is not contained in a resealable, child-resistant package designed to be significantly difficult for children under 5 years of age to open and not difficult for adults to use properly as defined by 16 C.F.R. 1700.20 (1995), unless the department allows for marijuana to be transferred for consumption on the premises where sold.



(8) No adult-use provider or adult-use marijuana-infused products provider may sell or otherwise transfer tobacco or alcohol from the same location or premises.

NEW SECTION. Section 16. Limitations of the Act.

(1) This part does not preclude, limit, or affect laws that assign liability relative to, prohibit, or otherwise regulate:

(a) Any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana;

(b) Consumption of marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport, while it is being operated;



(c) Smoking marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(d) Delivery or distribution of marijuana, with or without consideration, to a person younger than 21 years of age;

(e) Purchase, possession, use, or transport of marijuana by a person younger than 21 years of age;

(f) Consumption of marijuana by a person younger than 21 years of age;

(g) Possession or consumption of marijuana or possession of marijuana paraphernalia on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in 20-5-402, in a school bus, in a health care facility as defined in 50-5-101, or on the grounds of any correctional facility;

(h) Smoking marijuana in a location where smoking tobacco is prohibited;

(i) Consumption of marijuana in a public place, unless allowed by the department;

(j) Conduct that endangers others;

(k) Undertaking any task while under the influence of marijuana, if doing so would constitute negligence or professional malpractice; or

(l) Performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol, unless licensed for this activity by the department.



(2) Nothing in this part may be construed to require an employer to permit or accommodate conduct otherwise allowed by this section in any workplace or on the employer's property. This part does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana. This section does not prevent an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working while intoxicated by marijuana.



(3) This section allows a person to prohibit or otherwise regulate the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana-infused products, and marijuana accessories on private property the person owns, leases, occupies, or manages, except that a lease agreement executed after the enactment of this section may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking.



(4) Nothing in this part may be construed to limit any privileges, rights, immunities, or defenses of a person or entity as provided in Title 50, chapter 46, or any other law of this state allowing for or regulating marijuana for medical use.

(5) An adult-use provider or adult-use marijuana-infused products provider who violates 15-64-103 or 15-64-104 is subject to revocation of the person’s license from the date of the violation until a period of up to one year after the department of revenue certifies compliance with 15-64-103 or 15-64-104.

NEW SECTION. Section 17. Testing of Marijuana and Marijuana-Infused Products.

(1) An adult-use provider or adult-use marijuana-infused products provider may not sell marijuana or marijuana-infused products until the marijuana or products have been tested by a testing laboratory or the department of agriculture and meet the requirements of Title 50, chapter 46.

(2) An adult-use provider or adult-use marijuana-infused products provider shall submit material that has been collected in accordance with a sampling protocol established by the state laboratory by rule. The protocol must address the division of marijuana and marijuana-infused products into batch sizes for testing. Each batch must be tested in the following categories:

- (a) flower;
- (b) concentrate; and
- (c) marijuana-infused product.

(3) The state laboratory shall apply the same rules adopted pursuant to Title 50, chapter 46 regarding the types of tests, inspections, analysis, and certification that must be performed to ensure product safety and consumer protection to marijuana and marijuana products tested pursuant to [this act].

(4) An adult-use provider or adult-use marijuana-infused products provider may request that material that has failed to pass the required tests be retested. The state laboratory shall adopt rules that provide for retesting parameters and requirements.

(5) Marijuana or a marijuana-infused product must include a label indicating whether the marijuana or marijuana-infused product has been tested.



NEW SECTION. Section 18. Local Government Authority to Regulate.

(1) (a) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate an adult-use provider or adult-use marijuana-infused products provider that operates within the local government’s jurisdictional area. The regulations may include, but are not limited to, inspections of registered premises and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.



(b) A local government may not adopt ordinances or regulations that are **unduly burdensome.**



(2) **The qualified electors of a local government may request an election on whether to prohibit by ordinance adult-use dispensaries from being located within the jurisdiction of the local government by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137.**



(3) The election may be held in conjunction with a regular election of the governing body, a general election, or a regular local or special election. The election must be called, conducted, counted, and canvassed in substantially the same manner as provided in 13-1-406.

(4) If the majority of the votes cast at the election are cast in favor of prohibiting adult-use dispensaries from being located in the jurisdiction, the chair of the governing body shall declare by order entered on the records of the local government that has approved the prohibition and shall notify the department of the election results.

(5) An election held pursuant to this section may not be held within 70 days before or after any primary, general, or regular local election.

(6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census, it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit adult-use dispensaries from being located in the municipality.

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

(c) If a majority of the voters in the county, including the voters in the municipality, vote to prohibit adult-use dispensaries, the county may not allow the prohibited operations.

(d) If a majority of the votes in the municipality are in favor of prohibiting adult-use dispensaries from being located in the municipality, the municipality may not allow the approved operations in the municipality.

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

(7) A local government that has voted to prohibit adult-use dispensaries from being located in the jurisdiction may vote to discontinue the prohibition and to allow the previously prohibited operations in the local government. If the vote overturns the prohibition, the discontinuance of the prohibition is effective on the 90th day after the local option election is held.

(8) Until the opportunity for a vote to be held following the enactment of [this act], a local government may through local ordinance temporarily prohibit retail sales regulated under [this act] from being located within its jurisdiction.

(9) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by [this act].



NEW SECTION. Section 19. Inspections—Procedures—Prohibitions on Inspector Affiliation with Licenses.

- (1) The department shall conduct unannounced inspections of registered premises.
- (2)
 - (a) The department shall inspect annually each registered premises.
 - (b) The department may collect samples during the inspection of a registered premises and submit the samples to all registered testing laboratories for testing as provided by the department by rule.
 - (3)
 - (a) Each adult-use provider and adult-use marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with consumers. The records must be open for inspection by the department or state laboratory, as appropriate, and state or local law enforcement agencies during normal business hours.
 - (b) Each testing laboratory shall keep:
 - (i) a complete set of records necessary to show all transactions with adult-use providers and adult-use marijuana-infused products providers; and
 - (ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana-infused products.
 - (c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies during normal business hours.
 - (d) The department may require an adult-use provider, adult-use marijuana-infused products provider, or testing laboratory to furnish information that the department considers necessary for the proper administration of [this act].
- (4)
 - (a) Registered premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.
 - (b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.



(5) If the department conducts an inspection because of a complaint against a licensee or registered premises and does not find a violation of this part, the department shall give the licensee a copy of the complaint with the name of the complainant redacted.

(6) The department may not hire or contract with a person to be an inspector if the person has worked during the previous four years for a Montana business or facility operating under [this act].

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

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

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

(c) noncompliance with any provision of [this act].

(8) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public.

(9) Review of a department action imposing a suspension, revocation, or other modification under [this act] must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(10) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of [this act].

(11) The department shall report biennially to the revenue committee concerning the results of inspections conducted under this section. The report must include the information required under [section __].

NEW SECTION. Section 20. Unlawful Conduct by Licensees—Penalties.

(1) The department shall revoke and may not reissue a license or endorsement of an individual who:

(a) is convicted of a felony drug offense;

(b) allows another individual not authorized or lawfully allowed to be in possession of the individual's license, or mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

(c) fails to cooperate with the department concerning an investigation or inspection if the individual is licensed and cultivating marijuana, engaging in chemical manufacturing, or manufacturing marijuana-infused products.



(2) In addition to any other penalty provided by law, the department shall revoke a license issued under this part if the licensee:

(a) purchases marijuana from an unauthorized source in violation of [this act];

(b) sells marijuana, marijuana concentrate, or marijuana-infused products to person the licensee knows or should know is under 21 years of age;



(c) operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing endorsement; or

(d) transports marijuana or marijuana-infused products outside of Montana, unless allowed by federal law.

(3) A licensee who violates the advertising restrictions imposed under [section ___] is subject to:



(a) a written warning for the first violation;

(b) a five-day license suspension or a \$500 fine for a second violation;

(c) a five-day license suspension or a \$1,000 fine for a third violation;

(d) a 30-day license suspension or a \$2,500 fine for a fourth violation; and

(e) a license revocation for a fifth violation.

(4) Except for the license revocations required under this section, a licensee shall choose whether to pay a fine or be subject to a license suspension when a penalty is imposed under this section.

(5) A licensee whose license is revoked may not reapply for licensure for three years from the date of the revocation.



(6) If no other penalty is specified under [this act], an adult-use provider or adult-use marijuana-infused products provider who violates this part is punishable by a civil fine not to exceed \$500, unless otherwise provided in [this act] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

(7) Review of a department action imposing a fine, suspension, or revocation under [this act] must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

NEW SECTION. Section 21. Fraudulent Representation—Penalties.

(1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is an adult-use provider or an adult-use marijuana-infused products provider is guilty of a civil fine not to exceed \$1,000.



(2) An individual convicted under this section may not be licensed as an adult-use provider or adult-use marijuana-infused products provider under [section ____].

NEW SECTION. Section 22. Law Enforcement Authority.

Nothing in [this act] may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person or individual with a license.

NEW SECTION. Section 23. Forfeiture.

(1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [this act] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of [this act].

(2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is not responsible for the care and maintenance of the plants or seedlings.



NEW SECTION. Section 24. Advertising Prohibited.



(1) Persons with licenses may not advertise marijuana or marijuana-related products in any medium, including electronic media.

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

(3) A licensee may have a website but may not:

(a) include prices on the website; or

(b) actively solicit consumers or out-of-state consumers through the website.

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

NEW SECTION. Section 25. Legislative Monitoring.

(1) The interim revenue committee shall provide oversight of the department's activities pursuant to this part, including but not limited to monitoring of:

- (a) the number of licensees;
- (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; and
- (c) the development, implementation, and use of the seed-to-sale tracking system established in accordance with [section ____].

(2) The interim revenue committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall periodically report to the interim revenue committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to [section ____]. The report must include:

- (i) the number of adult-use providers, adult-use marijuana-infused products providers, and adult-use dispensaries licensed pursuant to [this act];
- (ii) the number of endorsements approved for manufacturing;
- (iii) the number of licenses revoked; and
- (iv) the amount of marijuana cultivated and sold pursuant to [this act].

(b) The report may not provide any identifying information of adult-use providers, adult-use marijuana-infused products providers, or adult-use dispensaries.

(4) The report on inspections required under [section ____] must include, at a minimum, the following information for both announced and unannounced inspections:

- (a) the number of inspections conducted, by canopy licensure tier;
- (b) the number of adult-use providers or adult-use marijuana-infused products providers that were inspected more than once during the year;
- (c) the number of inspections that were conducted because of complaints made to the department; and
- (d) the types of enforcement actions taken as a result of the inspections.

(5) The reports provided for in subsections (3) through (5) must also be provided to the transportation interim committee provided for in 5-5-227.

NEW SECTION. Section 26. Rulemaking Authority—Fees.

(1) The department may adopt rules to implement and administer [this act]:

- (a) the manner in which the department will consider applications for licenses and endorsements and renewal of licenses and endorsements;
- (b) the acceptable forms of proof of Montana residency;
- (c) the procedures for obtaining fingerprints for the fingerprint and background checks required under [sections __ through __];
- (d) the security and operating requirements for adult-use dispensaries;
- (e) the security and operating requirements for manufacturing, including but not limited to requirements for:
 - (i) safety equipment;
 - (ii) extraction methods, including solvent-based and solvent-free extraction; and
 - (iii) postprocessing procedures;
- (f) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications;
- (g) implementation of a system to allow the tracking of marijuana and marijuana-infused products as required by [section __];
- (h) labeling standards that protect public health by requiring the listing of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package, and quantity limits per sale to comply with the allowable possession amount;
- (i) requirements that packaging and labels shall not be made to be attractive to children, required warning labels, and that marijuana and marijuana-infused products be sold in resealable, child-resistant packaging to protect public health;
- (j) requirements and standards for the testing and retesting of marijuana and marijuana-infused products, including testing of samples collected during the department's inspections of registered premises;
- (k) the amount of variance allowable in the results of raw testing data that would warrant a departmental investigation of inconsistent results as provided in [section __];
- (l) requirements and standards to prohibit or limit marijuana, marijuana infused products, and marijuana accessories that are unsafe or contaminated;
- (m) the activities that constitute advertising in violation of [section __];



(n) requirements and incentives to promote renewable energy, reduce water usage, and reduce packaging waste to maintain a clean and healthy environment in Montana; and



(o) the fees for endorsements for manufacturing, testing laboratories, additional canopy licensure tiers created in accordance with [section __], and the fingerprint and background checks required under [sections __ through __]. The fees and other revenues collected through the taxes paid under [section __], civil penalties imposed pursuant to this part, and the licensing fees established by rule and in [section __] must be sufficient to offset the expenses of administering [this act], but shall not exceed the amount necessary to cover the costs to the department of implementing and enforcing [this act].

(2) The department shall not have the authority to promulgate, apply, or enforce any rule or regulation that is unduly burdensome or act to undermine the purposes of [this act].

(3) The department may consult or contract with other public agencies in carrying out its duties under [this act].

NEW SECTION. Section 27. Tax on Marijuana Sales.

(1) A tax on the purchase of marijuana and marijuana-infused products for consumption, use, or any purpose other than for medical use or for resale in the regular course of business is imposed and must be collected at the time of the sale and paid to the state of Montana. The tax shall be at a rate of 20% of the retail price.



(2) For all retail sales of marijuana and marijuana-infused products, a record shall be kept by the seller of all amounts and types of marijuana and marijuana-infused products involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected, and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department public health and human services upon request. Such records shall be retained for five years from the date of the sale.

(3) The tax levied pursuant to this subsection is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.



(4) The tax levied under this section shall be used, as designated in [section __], for purposes that provide compensation for the economic and social costs of past and current marijuana cultivation, processing, and use, including: funding of conservation programs to offset the use of water and soil in marijuana cultivation; funding for health care to offset prior uses and health impacts of unregulated marijuana; funding for substance abuse treatment and prevention; funding of veterans' programs to offset prior uses of unregulated marijuana in ways that harmed veterans; funding to localities where marijuana is sold to offset the costs associated with





marijuana regulation; and funding for the general fund to account for any costs to the state from marijuana use and regulation.

NEW SECTION. Section 28. Marijuana Compensation Special Revenue Account.

(1) There is a dedicated marijuana compensation state special revenue account within the state special fund established by 17-2-102, to be administered by the department of revenue.

(2) Marijuana sales taxes collected under the provisions of [section ___] must, in accordance with the provisions of 17-2-124, be deposited into the marijuana compensation special revenue account along with any interest and income earned on the account.

(3) Funds deposited into the account defined in [subsection 2] must, subject to appropriation by the legislature, be used only to provide funding as set out below:



(a) 4.125% of the funds to be deposited into the nongame wildlife special revenue account established by 87-5-121;

(b) 4.125% of the funds to be deposited into the state park special revenue account established by 23-1-105(1);

(c) 4.125% of the funds to be deposited into the trails and recreational facilities special revenue account established by 23-2-108;

(d) 37.125% of the funds to be deposited to the credit of the department of fish, wildlife, and parks to be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209;

(e) 10% of the funds to be deposited into the state special revenue fund to the credit of the health and Medicaid initiatives account provided for in 53-6-1201 for the purpose of supporting the Senior Longterm Care and Development Disabilities Workforce;



(f) 10.5% to the state general fund; and

(g) There are subaccounts in the marijuana compensation special revenue account established by subsection (1). Funding deposited into this account under subsection (2) is further deposited into subaccounts to be used only as follows:

(i) 10% of the funds to be deposited into a subaccount to be administered by the Montana department of health and human services to provide grants to existing agencies and not-for-profit organizations, whether government or community-based, to increase access to evidence-based low-barrier drug addiction treatment, prioritizing medically proven treatment and overdose prevention and reversal methods and public or private treatment options with an emphasis on reintegrating recipients into their local communities, to support overdose prevention education, and to support job

placement, housing, and counseling for those with substance use disorders;

(ii) 10% of the funds to be deposited into a subaccount to be administered by the department of commerce for distribution to the local government representing the locality where the retail sales occurred; and

(iii) 10% of the funds to be deposited into a subaccount to be administered by the veterans' affairs division of the department of military affairs to provide services and assistance for all Montana veterans and surviving spouses and dependents.

(4) Funds deposited into the account defined in [subsection 2] may be used only to increase revenue to each special revenue account or subaccount set forth in [subsection 3] and may not be used to supplant other sources of revenue for these purposes.

NEW SECTION. Section 29. Retroactive Application.

(a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under [this act] had it been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with [this act].

(b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(c) A person who is serving a sentence and is resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall not be subject to supervision.

(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

(e) A person who has completed his or her sentence for a conviction, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under [this act] had it been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to (a) have the conviction dismissed, expunged, and vacated because the prior conviction was legally invalid due to procedural or substantive defect under the laws of the state of Montana; or (b) redesignated as a misdemeanor or civil infraction in accordance with [this act].

(f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e),

the court shall redesignate the conviction as a misdemeanor or civil infraction or dismiss, expunge, and vacate the conviction as legally invalid as now established under [this act].

(g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).

(h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or civil infraction under subdivision (f) shall be considered a misdemeanor or civil infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as a civil infraction under subdivision (f) shall be considered an infraction for all purposes.

(i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.



(j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of [this act].

(l) The provisions of this section shall apply equally to juvenile cases if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under [this act].

Section 30. Section 50-46-308, MCA, is amended to read:

“50-46-308. Provider types--requirements--limitations—activities.

(1)(a) Subject to subsections (1)(b) and (3), the department shall issue a license to or renew a license for a person who is applying to be a provider or marijuana-infused products provider if the person submits to the department:

- (i) the person's name, date of birth, and street address on a form prescribed by the department;
- (ii) proof that the person is a Montana resident;
- (iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation upon initial licensure and every 3 years after that;
- (iv) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures for registered cardholders;
- (v) the street address of the location at which marijuana, marijuana concentrates, or marijuana-infused products will be cultivated or manufactured; and
- (vi) a fee as determined by the department to cover the costs of required background checks and associated administrative costs of processing the license.

(b) If the person to be licensed consists of more than one individual, the names of all individuals must be submitted along with the fingerprints and date of birth of each.

(2) The department shall conduct a name-based background check for license renewal in the years that an applicant is not required to submit fingerprints for a fingerprint and background check.

(3) The department may not license a person under this section if the person or an individual with a financial interest in the person:

(a) has a felony conviction ~~or a conviction for a drug offense involving fraud, deceit, or embezzlement, or for distribution of drugs to a minor within the past five years that relates to the public health, welfare, and safety as it applies to operating a license under [this act] and after the department, after an investigation, finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;~~

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

(c) has been convicted of a violation under 50-46-331;

~~(d) has failed to:~~

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

~~(ii) stay out of default on a government-issued student loan;~~

~~(iii) pay child support; or~~

~~(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;~~

~~(e)(d)(i)~~ before July 1, 2021, has resided in Montana for fewer than 3 years except if the provider or marijuana-infused products provider was named by a registered cardholder by June 30, 2017; and

(i) on or after July 1, 2021, has resided in Montana for less than 1 year; or

~~(f)~~ (e) is under 18 years of age.

(4) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.

(5) A provider or marijuana-infused products provider may not use marijuana unless the person is also a registered cardholder or an adult 21 years of age or older.

(6) Except as provided in 50-46-326 (1)(b), a provider or marijuana-infused products provider shall:

(a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories pursuant to 50-46-311, 50-46-326, and related administrative rules;

(b) allow the department to collect samples of marijuana or marijuana-infused products during inspections of registered premises for testing as provided by the department by rule;

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 50-46-304; and

(d) obtain the license provided for in 80-7-106 from the department of agriculture if the provider or marijuana-infused products provider sells live plants as part of a sale of the provider's business. A provider or marijuana-infused products provider required to obtain a nursery license is subject to the inspection requirements of 80-7-108. The department of agriculture and its employees are subject to the confidentiality requirements of 50-46-332.

(7)(a) A person licensed under this section may cultivate marijuana and manufacture marijuana-infused products for use by registered cardholders only at one of the following locations:

(i) a property that is owned by the provider or marijuana-infused products provider; or

(ii) with written permission of the property owner, a property that is rented or leased by the provider or marijuana-infused products provider.

(b)(i) Except as provided for in 50-46-309, no portion of the property used for cultivation of marijuana or manufacture of marijuana-infused products or marijuana concentrate may be shared with or rented or leased to another provider, or marijuana-infused products provider, a testing laboratory, or a registered cardholder.

(ii) Except as provided for in 50-46-309, no portion of a registered premises used to manufacture a marijuana-infused product or marijuana concentrate may be shared with, rented, or leased to another provider, marijuana-infused products provider, a testing laboratory, or registered cardholder.

(8) A licensed provider or marijuana-infused products provider may:

(a) in accordance with rules adopted by the department:

(i) operate dispensaries; and

(ii) engage in chemical manufacturing;

(b) employ employees to cultivate marijuana, manufacture marijuana concentrates and marijuana-infused products, and dispense and transport marijuana and marijuana-infused products;

(c) provide a small amount of marijuana, marijuana concentrate, or marijuana-infused products cultivated or manufactured on the registered premises to a licensed testing laboratory or the department of agriculture; and

(d) sell the provider's business, including live plants, inventory, licenses, and other material assets.

(9) A provider or marijuana-infused products provider:

(a) may sell only marijuana the provider has cultivated or marijuana products derived from marijuana the provider has cultivated for at least 50% of the provider's total annual sales;

(b) ~~may not sell~~ marijuana or marijuana-infused products to another provider for subsequent resale to another provider or cardholder for up to 50% of the provider's total annual sales;

(c) ~~may not contract or otherwise arrange for another party to process the provider's or marijuana-infused products provider's marijuana into marijuana-infused products or marijuana concentrates and return the marijuana-infused products or marijuana concentrates to the provider for sale;~~ and

(d) may not open a dispensary before obtaining the required license or before the department has completed the inspection required under this part.”

(10) The department may adjust the percentages set forth in subsection (9) for all license holders, or for an individual license holder based on unforeseen circumstances leading to the loss of plants or products.

Section 31. Section 50-46-309, MCA, is amended to read:

“50-46-309. Marijuana-infused products provider--requirements--allowable activities.

(1) A person licensed as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a registered premises; and

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

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products;

(b) ~~may not enter into a contract or other arrangement to provide services through the provider's commercial kitchen or chemical extraction facilities to another marijuana-infused products provider~~ consistent with this section; and

(c) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a licensed provider.

(3) A marijuana-infused products provider may contract with another marijuana-infused products provider to perform extraction or manufacturing services for the provider. The marijuana-infused products provider who is providing the services must hold a provider license for at least a tier 1 canopy;

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

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

Section 32. Section 15-64-102, MCA, is amended to read:

“15-64-102. Tax on marijuana product providers.

(1)(a) There is a tax equal to the percentage provided in subsection (1)(b) on a marijuana product provider's gross sales that is payable four times a year.

(b) The percentage of tax on gross sales in subsection (1)(a) is as follows:

(i) for gross sales during the calendar quarters beginning October 1, 2019, and ending September 30, 2021, the amount is 4%; and

(ii) for gross sales during the calendar quarters beginning October 1, 2021, and thereafter, the amount is ~~2%~~ 1%.

(2) A marijuana product provider shall submit a quarterly report to the department listing the total dollar amount of sales from any registered premises, as defined in 50-46-302, operated by the marijuana product provider, including dispensaries. The report must be:

(a) made on forms prescribed by the department; and

(b) submitted within 15 days of the end of each calendar quarter.

(3) At the time the report is filed, the marijuana product provider shall submit a payment equal to the percentage provided in subsection (1)(b) of the total dollar amount of sales.

(4) The department shall deposit the taxes paid under this section in the medical marijuana state special revenue account provided for in 50-46-345.

(5) The tax imposed by this part and related interest and penalties are a personal debt of the person required to file a return from the time that the liability arises, regardless of when the time for payment of the liability occurs.

(6) For the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest owed under 15-64-103 through 15-64-106:

(a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state taxes provided for in 15-64-103 through 15-64-106 and who fails to pay the taxes is liable to the state for the taxes and the penalty and interest due on the amounts;

(b) each officer of the corporation, to the extent that the officer has access to the requisite records, is individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest upon a determination that the officer:

(i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

(ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by this part or pay taxes due as required by this part;

- (c) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;
- (d) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;
- (e) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and
- (f) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.
- (7) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (6)(a) to establish individual liability and may consider any other available information.
- (8) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the entity.”

NEW SECTION. Section 33. Codification instruction. Sections [1 through 29] are intended to be codified as an integral part of Title _____, chapter _____ and the provisions of Title _____ chapter _____ apply to sections [1 through _____].

NEW SECTION. Section 34. Effective dates. [This act] is effective upon approval by the electorate.

NEW SECTION. Section 35. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.