



AN ACT REQUIRING ADULT AND YOUTH CORRECTIONAL FACILITIES AND PROGRAMS TO GRANT ACCESS TO A LEGISLATOR; REQUIRING CONTRACTS WITH CORRECTIONAL FACILITIES AND PROGRAMS TO SPECIFY A LEGISLATOR MAY ACCESS THE FACILITY OR PROGRAM AT ALL TIMES WITH AN EXCEPTION FOR SECURITY ISSUES; AND AMENDING SECTIONS 50-46-302 AND 53-1-202, MCA.

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

**Section 1.** Section 50-46-302, MCA, is amended to read:

**"50-46-302. Definitions.** As used in this part, 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) "Chemical manufacturing" means the production of marijuana concentrate.
- (3) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction.
- (4) "Debilitating medical condition" means:
  - (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;
  - (b) cachexia or wasting syndrome;
  - (c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;
  - (d) intractable nausea or vomiting;
  - (e) epilepsy or an intractable seizure disorder;

- (f) multiple sclerosis;
  - (g) Crohn's disease;
  - (h) painful peripheral neuropathy;
  - (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;
  - (j) admittance into hospice care in accordance with rules adopted by the department; or
  - (k) posttraumatic stress disorder.
- (5) "Department" means the department of public health and human services provided for in 2-15-2201.
- (6) "Dispensary" means a registered premises from which a provider or marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a registered cardholder.
- (7) (a) "Employee" means an individual employed to do something for the benefit of an employer.
- (b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.
- (c) The term does not include a third party with whom a licensee has a contractual relationship.
- (8) "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.
- (9) "Local government" means a county, a consolidated government, or an incorporated city or town.
- (10) "Marijuana" has the meaning provided in 50-32-101.
- (11) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.
- (12) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, and byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused products.
- (13) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.
- (b) The term includes but is not limited to edible products, ointments, and tinctures.

(14) (a) "Marijuana-infused products provider" means a person licensed by the department to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician.

(15) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(16) "Paraphernalia" has the meaning provided in 45-10-101.

(17) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(18) (a) "Provider" means a person licensed by the department to assist a registered cardholder as allowed under this part.

(b) The term does not include a cardholder's treating physician or referral physician.

(19) "Referral physician" means an individual who:

(a) is licensed under Title 37, chapter 3; and

(b) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

(20) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(21) "Registered premises" means the location at which a provider or marijuana-infused products provider:

(a) has indicated that marijuana will be cultivated, chemical manufacturing will occur, or marijuana-infused products will be manufactured for registered cardholders; or

(b) has established a dispensary for sale of marijuana or marijuana-infused products to registered cardholders.

(22) "Registry identification card" means a document issued by the department pursuant to 50-46-303 that identifies an individual as a registered cardholder.

(23) (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.

(24) "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.

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

(26) "Standard of care" means, at a minimum, the following activities when undertaken in person or through the use of telemedicine by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

- (a) obtaining the patient's medical history;
- (b) performing a relevant and necessary physical examination;
- (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;
- (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;
- (f) monitoring the response to treatment and possible adverse effects; and
- (g) creating and maintaining patient records that remain with the physician.

(27) "State laboratory" means the laboratory operated by the department to conduct environmental analyses.

(28) "Telemedicine" has the meaning provided in 33-22-138.

(29) "Testing laboratory" means a qualified person, licensed by the department, who meets the requirements of 50-46-311 and:

- (a) provides testing of representative samples of marijuana and marijuana-infused products; and
- (b) provides information regarding the chemical composition, the potency of a sample, and the presence of molds, pesticides, or other contaminants in a sample.

(30) "Treating physician" means an individual who:

- (a) is licensed under Title 37, chapter 3; and

(b) has a bona fide professional relationship with the individual applying to be a registered cardholder.

(31) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any marijuana derivatives that are appropriate for the use of marijuana by an individual with a debilitating medical condition.

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

(32) "Written certification" means a statement signed by a treating physician or referral physician that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care."

**Section 2.** Section 53-1-202, MCA, is amended to read:

**"53-1-202. Department of corrections.** (1) Adult and youth correctional services are included in the department of corrections to carry out the purposes of the department.

(2) Adult corrections services consist of the following correctional facilities or programs:

(a) the prisons listed in 53-30-101;

(b) appropriate community-based programs for the placement, supervision, and rehabilitation of adult felons who meet the criteria developed by the department for placement:

(i) in prerelease centers;

(ii) under intensive supervision;

(iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

(iv) in other appropriate programs; and

(c) the Montana correctional enterprises prison industries training program authorized by 53-30-131.

(3) Youth correctional services consist of the following correctional facilities or programs to provide for custody, supervision, training, education, and rehabilitation of delinquent youth and youth in need of intervention pursuant to Title 52, chapter 5:

(a) Pine Hills youth correctional facility or other state youth correctional facility; and

(b) any other facility or program that provides custody and services for delinquent youth.

(4) A state institution or correctional facility may not be moved, discontinued, or abandoned without the consent of the legislature.

(5) (a) A legislator must be admitted into the following correctional facilities or programs at any time

subject to any immediate safety or security needs of the correctional facility or program:

(i) a facility listed in 53-30-101(3);

(ii) a prerelease center operated by or under a contract with the department of corrections;

(iii) a facility or program listed in subsection (3); and

(iv) a facility contracting with the department of corrections pursuant to chapter 30, part 3, of this title.

(b) A legislator seeking access to a correctional facility or program listed in subsection (5)(a) is

subject to the routine security inspection procedures of the facility or program.

(c) A department of corrections contract with a correctional facility or program listed in subsection (2) or (3) must specify that the correctional facility or program shall grant access to a legislator pursuant to this subsection (5).

(d) If a legislator is denied entrance under subsection (5)(a), the facility or program must enumerate why access was denied and provide a reasonable estimate of when access will be granted."

- END -

I hereby certify that the within bill,  
HB 331, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

HOUSE BILL NO. 331

INTRODUCED BY C. KNUDSEN, D. TENENBAUM, R. FARRIS-OLSEN, K. BOGNER, S. FITZPATRICK, G. HERTZ, S. HINEBAUCH, K. REGIER, D. SALOMON, G. VANCE, D. BEDEY, S. BERGLEE, A. BUCKLEY, E. BUTTREY, J. CARLSON, N. DURAM, D. FERN, G. FRAZER, W. GALT, F. GARNER, E. HILL, J. HINKLE, L. JONES, K. KELKER, R. KNUDSEN, D. LENZ, B. LER, B. MERCER, F. NAVE, M. NOLAND, B. PHALEN, A. REGIER, V. RICCI, J. SCHILLINGER, D. SKEES, S. STEWART PEREGOY, M. STROMSWOLD, B. USHER, S. VINTON, K. ZOLNIKOV

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