

HOUSE BILL NO. 611

INTRODUCED BY R. PEPPERS

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING USE OF MARIJUANA BY MILITARY VETERANS WITH POSTTRAUMATIC STRESS DISORDER; PROVIDING FOR A REDUCED MARIJUANA REGISTRY FEE FOR VETERANS DIAGNOSED WITH POSTTRAUMATIC STRESS DISORDER; AMENDING SECTIONS 50-46-302, 50-46-307, AND 50-46-344, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction.

(2) "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 and by:

(i) objective proof of the etiology of the pain, including relevant and necessary diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or

(ii) confirmation of that diagnosis from a second physician who is independent of the treating physician and who conducts a physical examination;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;



- 1 (h) painful peripheral neuropathy;
- 2 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;
- 3 (j) posttraumatic stress disorder when the disorder is diagnosed in a military veteran who is at least 18
- 4 years of age;
- 5 ~~(j)~~(k) admittance into hospice care in accordance with rules adopted by the department; or
- 6 ~~(k)~~(l) any other medical condition or treatment for a medical condition approved by the legislature.
- 7 (3) "Department" means the department of public health and human services provided for in 2-15-2201.
- 8 (4) "Local government" means a county, a consolidated government, or an incorporated city or town.
- 9 (5) "Marijuana" has the meaning provided in 50-32-101.
- 10 (6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by
- 11 a registered cardholder by a means other than smoking.
- 12 (b) The term includes but is not limited to edible products, ointments, and tinctures.
- 13 (7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements
- 14 of this part and who has applied for and received a registry identification card to manufacture and provide
- 15 marijuana-infused products for a registered cardholder.
- 16 (b) The term does not include the cardholder's treating or referral physician.
- 17 (8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.
- 18 (9) "Paraphernalia" has the meaning provided in 45-10-101.
- 19 (10) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the
- 20 department to assist a registered cardholder as allowed under this part.
- 21 (b) The term does not include the cardholder's treating physician or referral physician.
- 22 (11) "Referral physician" means a person who:
- 23 (a) is licensed under Title 37, chapter 3;
- 24 (b) has an established office in Montana; and
- 25 (c) is the physician to whom a patient's treating physician has referred the patient for physical
- 26 examination and medical assessment.
- 27 (12) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
- 28 condition who has received and maintains a valid registry identification card.
- 29 (13) "Registered premises" means the location at which a provider or marijuana-infused products provider
- 30 has indicated the person will cultivate or manufacture marijuana for a registered cardholder.

1 (14) "Registry identification card" means a document issued by the department pursuant to 50-46-303  
2 that identifies a person as a registered cardholder, provider, or marijuana-infused products provider.

3 (15) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

7 (16) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son,  
8 daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law,  
9 daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson,  
10 stepdaughter, stepgrandparent, or stepgrandchild.

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

13 (18) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's  
14 treating physician or referral physician if the treating physician or referral physician is providing written certification  
15 for a patient with a debilitating medical condition:

16 (a) obtaining the patient's medical history;

17 (b) performing a relevant and necessary physical examination;

18 (c) reviewing prior treatment and treatment response for the debilitating medical condition;

19 (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating  
20 medical condition;

21 (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,  
22 alternatives, potential adverse effects, and expected response to the recommended treatment;

23 (f) monitoring the response to treatment and possible adverse effects; and

24 (g) creating and maintaining patient records that remain with the physician.

25 (19) "Treating physician" means a person who:

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

27 (b) has an established office in Montana; and

28 (c) has a bona fide professional relationship with the person applying to be a registered cardholder.

29 (20) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures  
30 or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a

1 debilitating medical condition.

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

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

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6 **Section 2.** Section 50-46-307, MCA, is amended to read:

7 **"50-46-307. Persons with debilitating medical conditions -- requirements -- minors -- limitations.**

8 (1) Except as provided in subsections (2) through ~~(4)~~ (5), the department shall issue a registry identification card  
9 to a person with a debilitating medical condition who submits the following, in accordance with department rules:

10 (a) an application on a form prescribed by the department;

11 (b) an application fee or a renewal fee;

12 (c) the person's name, street address, and date of birth;

13 (d) proof of Montana residency;

14 (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or  
15 will be obtaining marijuana from a provider or a marijuana-infused products provider;

16 (f) a statement, on a form prescribed by the department, that the person will not divert to any other  
17 person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical  
18 condition;

19 (g) the name of the person's treating physician or referral physician and the street address and telephone  
20 number of the physician's office;

21 (h) the street address where the person is cultivating or manufacturing marijuana if the person is  
22 cultivating or manufacturing marijuana for the person's own use;

23 (i) the name, date of birth, and street address of the individual the person has selected as a provider or  
24 marijuana-infused products provider, if any; and

25 (j) the written certification and accompanying statements from the person's treating physician or referral  
26 physician as required pursuant to 50-46-310.

27 (2) The department shall issue a registry identification card to a minor if the materials required under  
28 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care  
29 decisions:

30 (a) provides proof of legal guardianship and responsibility for health care decisions if the person is

1 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

2 (b) signs and submits a written statement that:

3 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's  
4 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of  
5 the use of marijuana; and

6 (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

7 (A) consents to the use of marijuana by the minor;

8 (B) agrees to serve as the minor's marijuana-infused products provider;

9 (C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana  
10 by the minor;

11 (D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

12 (c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and  
13 federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may  
14 not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian  
15 does not meet the requirements of 50-46-308.

16 (d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated  
17 or manufactured for the minor's use in a marijuana-infused product.

18 (3) An application for a registry identification card for a minor must be accompanied by the written  
19 certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition  
20 to the minor's treating physician or referral physician.

21 (4) A military veteran applying to become a registered cardholder because the veteran has been  
22 diagnosed with posttraumatic stress disorder shall submit the materials required under subsection (1) and shall  
23 provide proof of military service and veteran status. The department may establish by rule the acceptable forms  
24 of proof but may not allow for self-attestation of veteran status.

25 ~~(4)~~(5) A person may not be a registered cardholder if the person is in the custody of or under the  
26 supervision of the department of corrections or a youth court.

27 ~~(5)~~(6) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused  
28 products provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered  
29 cardholder is the provider or marijuana-infused products provider.

30 ~~(6)~~(7) A registered cardholder may cultivate or manufacture marijuana as allowed under 50-46-319 only:

- 1 (a) at a property that is owned by the cardholder; or
- 2 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.
- 3 ~~(7)~~(8) No portion of the property used for cultivation and manufacture of marijuana for use by the
- 4 registered cardholder may be shared with or rented or leased to a provider, a marijuana-infused products
- 5 provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are
- 6 related to each other by the second degree of kinship by blood or marriage."

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8 **Section 3.** Section 50-46-344, MCA, is amended to read:

9 **"50-46-344. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary for the

10 implementation and administration of this part. The rules must include but are not limited to:

- 11 (a) the manner in which the department will consider applications for registry identification cards for
- 12 providers and marijuana-infused products providers and for persons with debilitating medical conditions and
- 13 renewal of registry identification cards;
- 14 (b) the acceptable forms of proof of Montana residency;
- 15 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under
- 16 50-46-307 and 50-46-308;
- 17 (d) other rules necessary to implement the purposes of this part.

18 (2) (a) The department's rules must establish application and renewal fees that generate revenue

19 sufficient to offset all expenses of implementing and administering this part.

20 (b) A military veteran who is applying to use marijuana because the veteran's diagnosed debilitating

21 medical condition is posttraumatic stress disorder shall pay a fee of \$50 for a registry identification card. If the

22 department reduces the application or renewal fees for other individuals with debilitating medical conditions, the

23 department shall adopt rules that reduce the fee proportionately for veterans diagnosed with posttraumatic stress

24 disorder."

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26 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

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