

SENATE BILL NO. 265

INTRODUCED BY T. JACOBSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA MEDICAL MARIJUANA
5 ACT; INCREASING THE TAX ON GROSS SALES TO 4%; ESTABLISHING REQUIREMENTS FOR ISSUANCES
6 OF REGISTRY IDENTIFICATION CARDS AND LICENSES; ESTABLISHING REQUIREMENTS FOR TESTING
7 LABS, CONTRACTED SERVICES, AND INSPECTION OF REGISTERED PREMISES; ESTABLISHING
8 CANOPY TIERS AND LICENSING FEES; CLARIFYING ADVERTISING RESTRICTIONS; ESTABLISHING
9 PENALTIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-64-102, 50-46-302,
10 50-46-303, 50-46-307, 50-46-308, 50-46-309, 50-46-311, 50-46-317, 50-46-326, 50-46-329, 50-46-330,
11 50-46-341, 50-46-343, 50-46-344, AND 50-46-345, MCA; AND PROVIDING EFFECTIVE DATES AND AN
12 APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 15-64-102, MCA, is amended to read:

17 **"15-64-102. Tax on marijuana product providers.** (1) ~~(a)~~ There is a tax equal to the percentage
18 ~~provided in subsection (1)(b)~~ 4% on a marijuana product provider's gross sales that is payable four times a year.

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

20 ~~_____ (i) for gross sales during the calendar quarters beginning July 1, 2017, and ending June 30, 2018, the~~
21 ~~amount is 4%; and~~

22 ~~_____ (ii) for gross sales during the calendar quarters beginning July 1, 2018, and thereafter, the amount is 2%.~~

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

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

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

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

30 (4) The department shall deposit the taxes paid under this section in the medical marijuana state special

1 revenue account provided for in 50-46-345.

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

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

7 (a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state taxes
8 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
9 the penalty and interest due on the amounts;

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

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

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

17 (c) each partner of a partnership is jointly and severally liable, along with the partnership, for any
18 statements, taxes, penalties, and interest due while a partner;

19 (d) each member of a limited liability company that is treated as a partnership or as a corporation for
20 income tax purposes is jointly and severally liable, along with the limited liability company, for any statements,
21 taxes, penalties, and interest due while a member;

22 (e) the member of a single-member limited liability company that is disregarded for income tax purposes
23 is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and
24 interest due while a member; and

25 (f) each manager of a manager-managed limited liability company is jointly and severally liable, along
26 with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

27 (7) In determining which corporate officer is liable, the department is not limited to considering the
28 elements set forth in subsection (6)(a) to establish individual liability and may consider any other available
29 information.

30 (8) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of

1 penalty and interest against the corporation. The individual remains liable for any statements and the amount of
 2 taxes, penalties, and interest unpaid by the entity."

3

4 **Section 2.** Section 50-46-302, MCA, is amended to read:

5 **"50-46-302. Definitions.** As used in this part, the following definitions apply:

6 (1) "Canopy" means the total amount of square footage dedicated to live plant production at a registered
 7 premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

8 (2) "Chemical manufacturing" means the production of marijuana concentrate.

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

11 (4) "Debilitating medical condition" means:

12 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency
 13 syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's
 14 health status;

15 (b) cachexia or wasting syndrome;

16 (c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily
 17 activities as documented by the patient's treating physician;

18 (d) intractable nausea or vomiting;

19 (e) epilepsy or an intractable seizure disorder;

20 (f) multiple sclerosis;

21 (g) Crohn's disease;

22 (h) painful peripheral neuropathy;

23 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

24 (j) admittance into hospice care in accordance with rules adopted by the department; or

25 (k) posttraumatic stress disorder.

26 (5) "Department" means the department of public health and human services provided for in 2-15-2201.

27 (6) "Dispensary" means a registered premises from which a provider or marijuana-infused products
 28 provider is approved by the department to dispense marijuana or marijuana-infused products to a registered
 29 cardholder.

30 (7) (a) "Employee" means an individual employed to do something for the benefit of an employer or a

1 ~~third person.~~

2 (b) The term includes a manager, agent, or director of a partnership, association, company, corporation,
3 limited liability company, or organization.

4 (c) The term does not include a third party with whom a licensee has a contractual relationship.

5 (8) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly,
6 to 1% or more of the net profits or net worth of the entity in which the interest is held.

7 ~~(8)(9)~~ "Local government" means a county, a consolidated government, or an incorporated city or town.

8 ~~(9)(10)~~ "Marijuana" has the meaning provided in 50-32-101.

9 ~~(10)(11)~~ "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the
10 resin extracted from any part of the marijuana plant.

11 ~~(11)(12)~~ "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, and
12 byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused
13 products.

14 ~~(12)(13)~~ (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use
15 by a registered cardholder by a means other than smoking.

16 (b) The term includes but is not limited to edible products, ointments, and tinctures.

17 ~~(13)(14)~~ (a) "Marijuana-infused products provider" means a person licensed by the department to
18 manufacture and provide marijuana-infused products for a registered cardholder.

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

20 ~~(14)(15)~~ "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

21 ~~(15)(16)~~ "Paraphernalia" has the meaning provided in 45-10-101.

22 ~~(16)(17)~~ "Person" means an individual, partnership, association, company, corporation, limited liability
23 company, or organization.

24 ~~(17)(18)~~ (a) "Provider" means a person licensed by the department to assist a registered cardholder as
25 allowed under this part.

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

27 ~~(18)(19)~~ "Referral physician" means an individual who:

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

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

30 (c) is the physician to whom a patient's treating physician has referred the patient for physical

1 examination and medical assessment.

2 ~~(19)~~(20) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
3 condition who has received and maintains a valid registry identification card.

4 ~~(20)~~(21) "Registered premises" means the location at which a provider or marijuana-infused products
5 provider:

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

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

10 ~~(21)~~(22) "Registry identification card" means a document issued by the department pursuant to 50-46-303
11 that identifies an individual as a registered cardholder.

12 ~~(22)~~(23) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

16 ~~(23)~~(24) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son,
17 daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law,
18 daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson,
19 stepdaughter, stepgrandparent, or stepgrandchild.

20 ~~(24)~~(25) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and
21 12 inches in diameter.

22 ~~(25)~~(26) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's
23 treating physician or referral physician if the treating physician or referral physician is providing written certification
24 for a patient with a debilitating medical condition:

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

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

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

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

30 (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,

1 alternatives, potential adverse effects, and expected response to the recommended treatment;

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

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

4 (27) "State laboratory" means the laboratory operated by the department of public health and human
5 services to conduct environmental analyses.

6 ~~(26)~~(28) "Testing laboratory" means a qualified person, licensed by the department, who meets the
7 requirements of 50-46-311 and:

8 (a) provides testing of ~~small~~ representative samples of marijuana and marijuana-infused products; and

9 (b) provides information regarding the chemical composition, the potency of a sample, and the presence
10 of molds, ~~or pesticides, or other contaminants~~ in a sample.

11 ~~(27)~~(29) "Treating physician" means an individual who:

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

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

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

15 ~~(28)~~(30) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any
16 marijuana derivatives that are appropriate for the use of marijuana by an individual with a debilitating medical
17 condition.

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

19 ~~(29)~~(31) "Written certification" means a statement signed by a treating physician or referral physician that
20 meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care."
21

22 **Section 3.** Section 50-46-303, MCA, is amended to read:

23 **"50-46-303. Department Medical marijuana registry -- department responsibilities -- issuance of**
24 **cards and licenses -- confidentiality -- inspections -- reports.** (1) The department shall establish and maintain
25 a ~~program for~~ registry of persons who receive registry identification cards or licenses under this part. The
26 department shall issue:

27 (a) ~~the issuance of~~ registry identification cards to Montana residents who have debilitating medical
28 conditions and who submit applications meeting the requirements of this part;

29 (b) ~~the issuance of~~ licenses:

30 (i) to persons who apply to operate as providers; or marijuana-infused products providers; ~~or testing~~

- 1 ~~laboratories~~ and who submit applications meeting the requirements of this part; ~~and~~
- 2 (ii) for dispensaries established by providers or marijuana-infused products providers; and
- 3 (iii) through the state laboratory, to testing laboratories that submit applications meeting the requirements
- 4 of this part; and
- 5 (c) ~~the issuance of~~ endorsements for chemical manufacturing to a provider or a marijuana-infused
- 6 products provider who applies for a chemical manufacturing endorsement and meets requirements established
- 7 by the department by rule; ~~and~~
- 8 ~~—— (d) the tracking of marijuana and marijuana-infused products from either the seed or the immature plant~~
- 9 ~~stage until the marijuana or marijuana-infused product is sold to a registered cardholder to ensure that the~~
- 10 ~~marijuana or marijuana-infused product cultivated, manufactured, possessed, and sold under this part is not sold~~
- 11 ~~or otherwise provided to an individual who is not authorized under this part to possess the item. The tracking~~
- 12 ~~system must be provided to providers, marijuana-infused products providers, dispensaries, and testing~~
- 13 ~~laboratories at no additional cost.~~
- 14 (2) (a) An individual who obtains a registry identification card and does not name a provider or
- 15 marijuana-infused products provider is authorized to cultivate, manufacture, possess, and transport marijuana
- 16 as allowed by this part.
- 17 (b) An individual who obtains a registry identification card and names a provider or marijuana-infused
- 18 products provider is authorized to possess marijuana as allowed by this part.
- 19 (c) A person who obtains a provider, marijuana-infused products provider, or dispensary license or an
- 20 employee of a ~~licensee~~ licensed provider or marijuana-infused products provider is authorized to cultivate,
- 21 manufacture, possess, sell, and transport marijuana as allowed by this part.
- 22 (d) A person who obtains a testing laboratory license or an employee of a ~~licensee~~ licensed testing
- 23 laboratory is authorized to possess, test, and transport marijuana as allowed by this part.
- 24 (3) The department shall conduct criminal history background checks as required by 50-46-307 and
- 25 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.
- 26 (4) (a) Registry identification cards and licenses issued pursuant to this part must:
- 27 (i) be laminated and produced on a material capable of lasting for the duration of the time period for
- 28 which the card or license is valid;
- 29 (ii) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider
- 30 or marijuana-infused products provider, if any;

1 (iii) indicate whether a provider or marijuana-infused products provider has an endorsement for chemical
2 manufacturing;

3 (iv) state the date of issuance and the expiration date of the registry identification card or license;

4 (v) contain a unique identification number; and

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

6 (b) Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry
7 identification cards issued pursuant to this part must:

8 (i) include a picture of the registered cardholder; and

9 (ii) be capable of being used to track registered cardholder purchases.

10 (c) The department may issue temporary identification cards valid for 60 days that do not meet the
11 requirements of subsection (4)(b).

12 (5) (a) The department shall review the information contained in an application or renewal submitted
13 pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the
14 application or renewal and all related application materials.

15 (b) If the department fails to act on a completed application within 30 days of receipt, the department
16 shall:

17 (i) refund the fee paid by an applicant for a registry identification card;

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

20 (iii) if a licensee is unable to operate because a license renewal application has not been acted on,
21 reimburse the licensee 50% of the gross sales the licensee reported in the most recent quarter for the purpose
22 of the tax provided for in 15-64-102.

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

25 ~~(b)~~(d) The department shall issue a registry identification card, license, or endorsement within 5 days
26 of approving an application or renewal.

27 (6) Rejection of an application or renewal is considered a final department action, subject to judicial
28 review.

29 (7) (a) Registry identification cards expire 1 year after the date of issuance unless:

30 (i) a physician has provided a written certification stating that a card is valid for a shorter period of time;

1 or

2 (ii) a registered cardholder changes providers or marijuana-infused products providers.

3 (b) Licenses and endorsements issued to providers, marijuana-infused products providers, and testing
4 laboratories must be renewed annually.

5 (8) (a) A registered cardholder shall notify the department of any change in the cardholder's name,
6 address, physician, provider, or marijuana-infused products provider or change in the status of the cardholder's
7 debilitating medical condition within 10 days of the change.

8 (b) A registered cardholder who possesses mature plants or seedlings under 50-46-319(1) shall notify
9 the department of the location of the plants and seedlings or any change of location of plants or seedlings. The
10 department shall provide the names and locations of cardholders who possess mature plants or seedlings to the
11 local law enforcement agency having jurisdiction in the area in which the plants or seedlings are located. The law
12 enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.

13 (c) If a change occurs and is not reported to the department, the registry identification card is void.

14 (9) The department shall maintain a confidential list of individuals to whom the department has issued
15 registry identification cards. Except as provided in subsections (8)(b) and (10), individual names and other
16 identifying information on the list must be confidential and are not subject to disclosure, except to:

17 (a) authorized employees of the department as necessary to perform the official duties of the department;
18 and

19 (b) authorized employees of state or local government agencies, including law enforcement agencies,
20 only as necessary to verify that an individual is a lawful possessor of a registry identification card.

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

25 (11) The department may share only information about providers, marijuana-infused products providers,
26 dispensaries, and testing laboratories with the department of revenue for the purpose of investigation and
27 prevention of noncompliance with tax laws, including but not limited to evasion, fraud, and abuse. The department
28 of revenue and its employees are subject to the confidentiality requirements of 15-64-111(1).

29 ~~(12) The department shall report biannually to the legislature the number of applications for registry~~
30 ~~identification cards, the number of registered cardholders approved, the nature of the debilitating medical~~

1 conditions of the cardholders, the number of providers and marijuana-infused products providers licensed, the
 2 number of endorsements approved for chemical manufacturing, the number of testing laboratories licensed, the
 3 number of dispensaries licensed, the number of registry identification cards and licenses revoked, the number
 4 of physicians providing written certification for registered cardholders, and the number of written certifications
 5 each physician has provided. The report may not provide any identifying information of cardholders, physicians,
 6 providers, marijuana-infused products providers, dispensaries, or testing laboratories.

7 ~~———— (13) The board of medical examiners shall report annually to the legislature on the number and types of~~
 8 ~~complaints the board has received involving physician practices in providing written certification for the use of~~
 9 ~~marijuana, pursuant to 37-3-203."~~

10
 11 **NEW SECTION. Section 4. Department responsibility to monitor and assess medical marijuana**

12 **production and testing -- license revocation.** (1) The department shall implement a system for tracking
 13 marijuana, marijuana concentrate, and marijuana-infused products from either the seed or the seedling stage until
 14 the marijuana, marijuana concentrate, or marijuana-infused product is sold to a registered cardholder. The system
 15 must:

16 (a) ensure that the marijuana, marijuana concentrate, or marijuana-infused product cultivated,
 17 manufactured, possessed, and sold under this part is not sold or otherwise provided to an individual who is not
 18 authorized under this part to possess the item; and

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

21 (2) The department shall assess applications for a provider or marijuana-infused products provider
 22 license to determine if a person with a financial interest in the applicant meets any of the criteria established in
 23 50-46-308(3) for denial of a license.

24 (3) The department shall assess applications for and monitor the operations of testing laboratories to
 25 ensure that:

26 (a) a person with a financial interest in the laboratory is complying with the requirements of 50-46-311(4);
 27 and

28 (b) an owner or employee is not in violation of 50-46-311(6).

29 (4) Before issuing or renewing a license, the department shall inspect the proposed registered premises
 30 of a provider or marijuana-infused products provider and the property to be used by a testing laboratory to ensure

1 an applicant for licensure or license renewal is in compliance with this part. The department may not issue or
2 renew a license if the applicant does not meet the requirements of this part.

3 (5) The department shall develop a tiered licensing system for providers and marijuana-infused products
4 providers in accordance with [section 9].

5 (6) The state laboratory shall establish and enforce standard operating procedures and testing standards
6 for testing laboratories to ensure that cardholders receive consistent and uniform information about the potency
7 and quality of the marijuana and marijuana-infused products they receive. The state laboratory shall:

8 (a) consult with independent national or international organizations that establish testing standards for
9 marijuana and marijuana-infused products;

10 (b) require testing laboratories to follow uniform standards and protocols for the samples accepted for
11 testing and the processes used for testing the samples; and

12 (c) track and analyze the raw data for the results of testing conducted by testing laboratories to ensure
13 that the testing laboratories are providing consistent and uniform results.

14 (7) If the analysis of raw testing data indicates that licensees are providing test results that vary among
15 testing laboratories by an amount determined by the state laboratory by rule, the department shall investigate the
16 inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each
17 testing laboratory provides accurate and consistent results.

18 (8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results,
19 the state laboratory shall suspend the testing laboratory's license until additional testing determines whether the
20 results are consistent.

21 (9) The department shall revoke a testing laboratory's license upon a determination that the laboratory
22 is:

23 (a) providing test results that are fraudulent; or

24 (b) providing test results without having:

25 (i) the equipment needed to test marijuana, marijuana concentrates, or marijuana-infused products; or

26 (ii) the equipment required under this part to conduct the tests for which the laboratory is providing results.

27 (10) A revocation under this section is subject to judicial review.

28

29 **Section 5.** Section 50-46-307, MCA, is amended to read:

30 **"50-46-307. Individuals with debilitating medical conditions -- requirements -- minors --**

1 **limitations.** (1) Except as provided in subsections (2) through ~~(4)~~ (5), the department shall issue a registry
2 identification card to an individual with a debilitating medical condition who submits the following, in accordance
3 with department rules:

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

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

6 (c) the individual's name, street address, and date of birth;

7 (d) proof of Montana residency;

8 (e) a statement that the individual will be cultivating marijuana and manufacturing marijuana-infused
9 products for the individual's use or will be obtaining marijuana from a provider or a marijuana-infused products
10 provider;

11 (f) a statement, on a form prescribed by the department, that the individual will not divert to any other
12 individual the marijuana or marijuana-infused products that the individual cultivates, manufactures, or obtains for
13 the individual's debilitating medical condition;

14 (g) the name of the individual's treating physician or referral physician and the street address and
15 telephone number of the physician's office;

16 (h) the street address where the individual is cultivating marijuana or manufacturing marijuana-infused
17 products if the individual is cultivating marijuana or manufacturing marijuana-infused products for the individual's
18 own use;

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

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

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

26 (a) provides proof of legal guardianship and responsibility for health care decisions if the individual is
27 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

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

29 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's
30 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of

1 the use of marijuana; and

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

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

4 (B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana
5 by the minor;

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

7 (c) if the parent or guardian will be serving as the minor's provider, ~~submits fingerprints to facilitate a~~
8 ~~fingerprint and background check by the department of justice and federal bureau of investigation~~ undergoes
9 background checks in accordance with subsection (3). The parent or legal guardian shall pay the costs of the
10 background check and may not obtain a license as a marijuana-infused products provider if the parent or legal
11 guardian does not meet the requirements of 50-46-308.

12 (d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana
13 cultivated for the minor's use in a marijuana-infused product.

14 (3) A parent serving as a minor's provider shall submit fingerprints to facilitate a fingerprint and
15 background check by the department of justice and federal bureau of investigation upon the minor's initial
16 application for a registry identification card and every 3 years after that. The department shall conduct a
17 name-based background check in years when a fingerprint background check is not required.

18 ~~(3)~~(4) 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)~~(5) An individual may not be a registered cardholder if the individual is in the custody of or under the
22 supervision of the department of corrections or a youth court.

23 ~~(5)~~(6) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused
24 products provider may not cultivate marijuana or manufacture marijuana-infused products for the cardholder's
25 use unless the registered cardholder is the provider or marijuana-infused products provider.

26 ~~(6)~~(7) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as
27 allowed under 50-46-319 only:

28 (a) at a property that is owned by the cardholder; or

29 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

30 ~~(7)~~(8) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused

1 products for use by the registered cardholder may be shared with or rented or leased to a provider, a
 2 marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased
 3 by cardholders who are related to each other by the second degree of kinship by blood or marriage."
 4

5 **Section 6.** Section 50-46-308, MCA, is amended to read:

6 **"50-46-308. Provider types -- requirements -- limitations -- activities.** (1) (a) Subject to subsections
 7 (1)(b) and ~~(2)~~ (3), the department shall issue a license to or renew a license for the person who is named as a
 8 provider or marijuana-infused products provider in a registered cardholder's approved application if the person
 9 submits to the department:

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

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

12 (iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the
 13 federal bureau of investigation upon initial licensure and every 3 years after that;

14 (iv) a written agreement signed by the registered cardholder that indicates whether the person will act
 15 as the cardholder's provider or marijuana-infused products provider;

16 (v) 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 or the marijuana-infused products that the person manufactures
 18 for a registered cardholder;

19 (vi) ~~a statement acknowledging that the person will cultivate marijuana and manufacture~~
 20 ~~marijuana-infused products for the registered cardholder at only one location as provided in subsection (6). The~~
 21 ~~location must be identified by the street address of any location at which marijuana, marijuana concentrates, or~~
 22 ~~marijuana-infused products will be cultivated or manufactured;~~ and

23 (vii) a fee as determined by the department to cover the costs of ~~the fingerprint and background check~~
 24 required background checks and associated administrative costs of processing the license.

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

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

29 ~~(2)(3)~~ (3) The department may not license a person under this section if the person or an individual with a
 30 financial interest in the person:

- 1 (a) has a felony conviction or a conviction for a drug offense;
- 2 (b) is in the custody of or under the supervision of the department of corrections or a youth court;
- 3 (c) has been convicted of a violation under 50-46-331;
- 4 (d) has failed to:
- 5 (i) pay any taxes, interest, penalties, or judgments due to a government agency;
- 6 (ii) stay out of default on a government-issued student loan;
- 7 (iii) pay child support; or
- 8 (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government
- 9 agency;
- 10 (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in
- 11 the individual's application for a card issued under 50-46-307;
- 12 (f) (i) before July 1, ~~2020~~ 2021, has resided in Montana for fewer than 3 years except if the provider or
- 13 marijuana-infused products provider was named by a registered cardholder by June 30, 2017; and
- 14 (ii) on or after July 1, ~~2020~~ 2021, has resided in Montana for less than 1 year; or
- 15 (g) is under 18 years of age.
- 16 ~~(3)~~(4) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.
- 17 ~~(4)~~(5) A provider or marijuana-infused products provider may not use marijuana unless the person is also
- 18 a registered cardholder.
- 19 ~~(5)~~(6) Except as provided in 50-46-326 (1)(b), a provider or marijuana-infused products provider shall:
- 20 (a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories
- 21 pursuant to 50-46-311, 50-46-326, and related administrative rules;
- 22 (b) allow the department to collect samples of marijuana or marijuana-infused products during
- 23 inspections of registered premises for testing as provided by the department by rule;
- 24 (c) participate as required by the department by rule in a seed-to-sale tracking system established by
- 25 the department pursuant to ~~50-46-303~~ [section 4]; and
- 26 (d) obtain the license provided for in 80-7-106 from the department of agriculture if the provider or
- 27 marijuana-infused products provider sells live plants to another provider or as part of a sale of the provider's
- 28 business. A provider or marijuana-infused products provider required to obtain a nursery license is subject to the
- 29 inspection requirements of 80-7-108. The department of agriculture and its employees are subject to the
- 30 confidentiality requirements of 50-46-332.

1 ~~(6)~~(7) (a) Except as provided in 50-46-309 and [section 10], a person licensed under this section may
 2 cultivate marijuana and manufacture marijuana-infused products for use by a registered cardholder only at one
 3 of the following locations:

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

5 (ii) with written permission of the landlord, a property that is rented or leased by the provider or
 6 marijuana-infused products provider; or

7 (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of
 8 50-46-307.

9 (b) (i) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused
 10 products may be shared with or rented or leased to another provider, or marijuana-infused products provider,
 11 testing laboratory, or a registered cardholder.

12 (ii) Except as provided in 50-46-309 and [section 10], no portion of a registered premises used to
 13 manufacture a marijuana-infused product or marijuana concentrate may be shared with, rented, or leased to
 14 another provider, marijuana-infused products provider, testing laboratory, or registered cardholder.

15 ~~(7)~~(8) A licensed provider or marijuana-infused products provider may:

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

17 (i) operate dispensaries; and

18 (ii) engage in chemical manufacturing;

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

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

23 (d) sell the provider's business, including live plants.

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

25 (a) may sell only marijuana the provider has cultivated or marijuana products derived from marijuana the
 26 provider has cultivated; and

27 (b) may not sell marijuana or marijuana-infused products to another provider for subsequent resale to
 28 another provider or cardholder."

29

30 **Section 7.** Section 50-46-309, MCA, is amended to read:

1 **"50-46-309. Marijuana-infused products provider -- requirements -- allowable activities.** (1) A

2 person licensed as a marijuana-infused products provider shall:

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

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

6 (2) A marijuana-infused products provider:

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

8 **(b) may enter into a contract as allowed under [section 10] to provide services through the provider's**
9 **commercial kitchen or chemical extraction facilities to another marijuana-infused products provider; and**

10 ~~(b)(c)~~ may not provide a cardholder with marijuana in a form that may be used for smoking unless the
11 marijuana-infused products provider is also a licensed provider and is providing the marijuana to a registered
12 cardholder who has selected the person as the registered cardholder's licensed provider.

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

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

17

18 **Section 8.** Section 50-46-311, MCA, is amended to read:

19 **"50-46-311. Testing laboratories -- licensing inspections.** (1) ~~(a) The department state laboratory~~
20 ~~shall license testing laboratories that meet the requirements of this part, to~~ The state laboratory shall inspect a
21 testing laboratory before issuing or renewing a license. The state laboratory may not issue a temporary license
22 while an inspection is pending.

23 **(b) Inspections conducted for licensure or renewal of licensure must include a review of an applicant's**
24 **or testing laboratory's:**

25 **(i) physical premises where testing will be conducted;**

26 **(ii) instrumentation;**

27 **(iii) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;**

28 **(iv) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and**

29 **(v) vehicles used for transporting marijuana or marijuana-infused products samples for testing purposes.**

30 (2) A testing laboratory shall:

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

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

5 ~~(b)~~(3) The analytical laboratory services provided by the department of agriculture pursuant to 80-1-104
6 may be used for the testing provided for in this section.

7 ~~(2)~~(4) A person with a financial interest in a licensed testing laboratory may not have a financial interest
8 in ~~a provider~~ any entity involved in the cultivation of marijuana or manufacture of a marijuana-infused product or
9 marijuana concentrate for whom testing services are performed.

10 ~~(3)~~(5) Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring
11 the achievement and maintenance of quality standards of practice. The scientific director must have the following
12 minimum qualifications:

13 (a) a doctorate in chemical or biological sciences from a college or university accredited by a national
14 or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

15 (b) a master's degree in chemical or biological sciences from a college or university accredited by a
16 national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

17 ~~(4)~~(6) All owners and employees of a testing laboratory shall submit fingerprints to the department to
18 facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation.
19 A laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.

20 ~~(5)~~(7) To qualify for licensure, a testing laboratory shall demonstrate that:

21 (a) staff members are proficient in operation of the laboratory equipment;

22 (b) the laboratory:

23 (i) maintains the equipment and instrumentation required by rule;

24 (ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance
25 testing requirements established by rule, including the ability to certify results at the required level of sensitivity;

26 ~~(c)~~(iii) ~~the laboratory~~ meets insurance and bonding requirements established by rule; and

27 (iv) has the capacity and ability to serve rural areas of the state; and

28 ~~(d)~~(v) ~~the laboratory~~ has passed a relevant proficiency program that demonstrates it is able to meet all
29 testing requirements. The ~~department~~ state laboratory shall establish by rule the proficiency programs considered
30 relevant for the purposes of this section.

- 1 ~~(6)~~(8) Except as provided in 50-46-326(1)(b), a testing laboratory shall conduct tests of:
- 2 (a) samples of marijuana, marijuana concentrate, and marijuana-infused products submitted by providers
- 3 and marijuana-infused products providers pursuant to 50-46-326 and related administrative rules prior to sale of
- 4 the marijuana or marijuana-infused products;
- 5 (b) samples of marijuana or marijuana-infused products collected by the department during inspections
- 6 of registered premises; and
- 7 (c) samples submitted by registered cardholders."

8

9 **NEW SECTION. Section 9. Canopy tiers -- requirements.** The department shall license providers

10 and marijuana-infused products providers according to a tiered canopy system.

- 11 (1) A micro tier canopy license allows for a canopy of up to 250 square feet at one registered premises.
- 12 (2) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one registered premises.
- 13 A minimum of 500 square feet must be equipped for cultivation.
- 14 (3) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two registered
- 15 premises. A minimum of 1,100 square feet must be equipped for cultivation.
- 16 (4) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three registered
- 17 premises. A minimum of 2,600 square feet must be equipped for cultivation.
- 18 (5) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four registered
- 19 premises. A minimum of 5,100 square feet must be equipped for cultivation.
- 20 (6) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five registered
- 21 premises. A minimum of 7,750 square feet must be equipped for cultivation.
- 22 (7) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five registered
- 23 premises. A minimum of 10,250 square feet must be equipped for cultivation.
- 24 (8) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five registered
- 25 premises. A minimum of 13,250 square feet must be equipped for cultivation.
- 26 (9) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five registered
- 27 premises. A minimum of 15,250 square feet must be equipped for cultivation.
- 28 (10) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six registered
- 29 premises. A minimum of 17,775 square feet must be equipped for cultivation.
- 30 (11) A provider or marijuana-infused products provider who has reached capacity under the provider's

1 existing license may apply to advance to the next licensing tier. The department may only increase a licensure
2 level by one tier at a time.

3 (12) The department may create additional licensing tiers by rule if a provider with a tier 9 canopy license
4 petitions the department to create a new licensure level and:

5 (a) the provider demonstrates that the provider is using the full amount of canopy currently authorized;
6 and

7 (b) the tracking system shows the provider is selling at least 80% amount of the marijuana or
8 marijuana-infused products produced by the square footage of the provider's existing license.

9 (13) The registered premises limitations for each tier of licensing apply only to registered premises at
10 which marijuana is cultivated, manufactured, or produced. The limitations do not apply to the number of
11 dispensaries a provider or marijuana-infused products provider may have.

12 (14) The department's application for the canopy system must require evidence that the provider is able
13 to successfully cultivate the minimum amount of space allowed for the tier and sell the amount of marijuana
14 produced by the minimum cultivation level.

15
16 **NEW SECTION. Section 10. Contracted use of registered premises.** (1) Only a person licensed as
17 a provider or a marijuana-infused products provider may contract, rent, or arrange by other means for another
18 provider or marijuana-infused products provider to use the provider's commercial kitchen or chemical extraction
19 facilities or equipment. The provider or marijuana-infused products provider allowing use of the facilities or
20 equipment must hold a license for at least a tier 1 canopy.

21 (2) Contracts, rental agreements, or other arrangements under this section may be entered into only if
22 both parties are:

23 (a) licensed providers or marijuana-infused products providers with valid chemical manufacturing
24 endorsements, if the contract is for the services of extraction facilities; or

25 (b) licensed marijuana-infused products providers, if the contract is for use of a commercial kitchen to
26 manufacture marijuana-infused products.

27 (3) A provider or marijuana-infused products provider who has contracted or otherwise arranged for
28 services under this section must deliver the marijuana to be used for the extraction or manufacturing process.

29 (4) A provider or marijuana-infused products provider who offers the services must return all products
30 derived from the extraction or manufacturing process to the provider who is using the services. The provider may

1 not keep any product or plant material from or processed for one provider or transfer or sell the product or plant
2 material to another provider who has arranged for similar services with the same provider.

3

4 **Section 11.** Section 50-46-317, MCA, is amended to read:

5 **"50-46-317. Registry card or license to be exhibited on demand -- photo identification required.**

6 (1) A registered cardholder, provider, or marijuana-infused products provider shall keep the individual's registry
7 identification card or license in the individual's or person's immediate possession at all times. The registry
8 identification card or license and a valid photo identification must be displayed upon demand of a law enforcement
9 officer, justice of the peace, or city or municipal judge.

10 (2) The department shall ensure that law enforcement officers have access to accurate and up-to-date
11 information on persons registered or licensed under this part."

12

13 **Section 12.** Section 50-46-326, MCA, is amended to read:

14 **"50-46-326. Testing of marijuana and marijuana-infused products.** (1) (a) Except as provided in
15 subsection (1)(b), a provider or marijuana-infused products provider may not sell marijuana or marijuana-infused
16 products until the marijuana or products have been tested by a testing laboratory or the department of agriculture
17 and met the requirements of this section.

18 (b) A provider or marijuana-infused products provider who has been named as a provider by 10 or fewer
19 registered cardholders is exempt from the testing requirements of this section until April 30, 2020.

20 (2) A provider or marijuana-infused products provider shall submit material that has been collected in
21 accordance with a sampling protocol established by the department by rule. The protocol must address the
22 division of marijuana and marijuana-infused products into ~~lot~~ batch sizes for testing. Each ~~lot~~ batch must be tested
23 in the following categories:

24 (a) flower;

25 (b) concentrate; and

26 (c) marijuana-infused product.

27 (3) The department, based on consultation with and recommendations from the state laboratory, shall
28 adopt rules regarding the types of tests that must be performed to ensure product safety and consumer
29 protection. Rules must include but are not limited to testing for:

30 (a) the potency of the ~~cannabinoid~~ cannabinoids present; and

1 (b) the presence of contaminants.

2 (4) The testing laboratory shall conduct a visual inspection of each lot ~~lot~~ batch to determine the presence
3 of levels of foreign matter, debris, insects, and visible mold.

4 (5) The department shall establish by rule the acceptable levels of moisture, pesticides, residual solvents,
5 mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana-infused products may
6 contain.

7 (6) The laboratory shall:

8 (a) issue a certificate of analysis certifying the test results; and

9 (b) report the results to the seed-to-sale tracking system established pursuant to ~~50-46-303~~ [section 4].

10 (7) A provider or marijuana-infused products provider may request that material that has failed to pass
11 the required tests be retested. The department shall adopt rules that provide for retesting parameters and
12 requirements.

13 (8) Marijuana or a marijuana-infused product must include a label indicating whether the marijuana or
14 marijuana-infused product has been tested."

15

16 **Section 13.** Section 50-46-329, MCA, is amended to read:

17 **"50-46-329. ~~Inspection~~ Inspections -- procedures -- prohibition on inspector affiliation with**
18 **licensees.** (1) The department shall conduct unannounced inspections of registered premises and testing
19 laboratories. ~~The department shall report biennially to the children, families, health, and human services interim~~
20 ~~committee concerning the results of unannounced inspections.~~

21 (2) (a) The department shall inspect annually each registered premises and testing laboratory.

22 (b) The department shall collect samples during the inspection of registered premises and submit them
23 to a one or more testing laboratory laboratories for testing as provided in [section 4] and by the department by
24 rule.

25 (c) The department may collect samples during the inspection of a registered premises and submit the
26 samples to all registered testing laboratories for testing as provided by the department by rule.

27 (3) (a) Each provider and marijuana-infused products provider shall keep a complete set of records
28 necessary to show all transactions with registered cardholders. The records must be open for inspection by the
29 department and state or local law enforcement agencies during normal business hours.

30 (b) Each testing laboratory shall keep:

- 1 (i) a complete set of records necessary to show all transactions with providers and marijuana-infused
2 products providers; and
- 3 (ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana-infused
4 products.
- 5 (c) The records and data required under this subsection (3) must be open for inspection by the
6 department and state or local law enforcement agencies during normal business hours.
- 7 ~~(b)~~(d) The department may require a provider, ~~or~~ marijuana-infused products provider, or testing
8 laboratory to furnish information that the department considers necessary for the proper administration of this
9 part.
- 10 (4) (a) ~~A registered~~ Registered premises and testing laboratories, including any places of storage, where
11 marijuana is cultivated, manufactured, sold, ~~or~~ stored, is or tested are subject to entry by the department or state
12 or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.
- 13 (b) If any part of the registered premises or testing laboratory consists of a locked area, the provider, ~~or~~
14 marijuana-infused products provider, or testing laboratory shall make the area available for inspection without
15 delay upon request of the department or state or local law enforcement officials.
- 16 (5) A provider or marijuana-infused products provider shall maintain records showing the names and
17 registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana,
18 or marijuana-infused products were sold or transferred and the quantities sold or transferred to each cardholder.
- 19 (6) If the department conducts an inspection because of a complaint against a licensee or registered
20 premises and does not find a violation of this part, the department shall give the licensee a copy of the complaint
21 with the name of the complainant redacted.
- 22 (7) The department may not hire or contract with a person to be an inspector if the person has worked
23 during the previous 4 years for a Montana business or facility operating under this part.
- 24 ~~(6)~~(8) The department may establish penalties, including financial penalties and license revocation, for
25 the violation of agricultural or public health standards.
- 26 (9) The department shall establish a training protocol to ensure uniform application and enforcement of
27 the requirements of this part.
- 28 (10) The department shall report biennially to the children, families, health, and human services interim
29 committee concerning the results of inspections conducted under this section. The report must include the
30 information required under 50-46-343."

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Section 14. Section 50-46-330, MCA, is amended to read:

"50-46-330. Unlawful conduct by cardholders or licensees -- penalties. (1) The department shall revoke and may not reissue the registry identification card, license, or endorsement of an individual who:

- (a) is convicted of a drug offense;
- (b) allows another individual to be in possession of the individual's:
 - (i) registry identification card or license; or
 - (ii) 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 registered or 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 part;
- (b) sells marijuana, marijuana concentrate, or marijuana-infused products to anyone other than a registered cardholder to whom the licensee is legally authorized to sell marijuana, marijuana concentrate, or marijuana-infused products;
- (c) operates a carbon dioxide or hydrocarbon extraction system without obtaining a chemical manufacturing endorsement; or
- (d) transports marijuana or marijuana-infused products outside of Montana.

(3) A testing laboratory that fails to meet the ISO certification requirement established by the department by rule is subject to:

- (a) a fine of \$500 a week for the first 4 weeks that the laboratory fails to meet the requirement; and
- (b) a fine of \$1,000 a week for each subsequent week the laboratory fails to meet the requirement.
- (4) A licensee who violates the advertising restrictions imposed under 50-46-341 is subject to:
 - (a) a written warning for the first violation;
 - (b) a 5-day license suspension or a \$500 fine for a second violation;
 - (c) a 5-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.

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

3 (6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the
 4 revocation.

5 ~~(2)~~(7) ▲ If no other penalty is specified under this part, a registered cardholder, provider, or
 6 marijuana-infused products provider who violates this part is punishable by a fine not to exceed \$500 or by
 7 imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in this part
 8 or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must
 9 be charged and prosecuted pursuant to the provisions of Title 45."

10
 11 **Section 15.** Section 50-46-341, MCA, is amended to read:

12 **"50-46-341. Advertising prohibited.** (1) Persons with licenses and individuals with valid registry
 13 identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic
 14 media.

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

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

18 (a) include prices on the website; or

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

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

22
 23 **Section 16.** Section 50-46-343, MCA, is amended to read:

24 **"50-46-343. Legislative monitoring.** (1) The children, families, health, and human services interim
 25 committee shall provide oversight of the department's activities pursuant to this part, including but not limited to
 26 monitoring of:

27 (a) the number of registered cardholders and licensees;

28 (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; and

29 (c) the development, implementation, and use of the seed-to-sale tracking system established in
 30 accordance with ~~50-46-303~~ [section 4].

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

3 (3) (a) The department shall periodically report to the children, families, health, and human services
4 interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who
5 are licensed or registered pursuant to 50-46-303. The report must include:

6 (i) the number of applications for registry identification cards and the number of registered cardholders
7 approved;

8 (ii) the nature of the debilitating medical conditions of the cardholders;

9 (iii) the number of providers, marijuana-infused products providers, dispensaries, and testing laboratories
10 licensed pursuant to this part;

11 (iv) the number of endorsements approved for chemical manufacturing;

12 (v) the number of registry identification cards and licenses revoked; and

13 (vi) the number of physicians providing written certification for registered cardholders and the number
14 of written certifications each physician has provided.

15 (b) The report may not provide any identifying information of cardholders, physicians, providers,
16 marijuana-infused products providers, dispensaries, or testing laboratories.

17 (4) The report on inspections required under 50-46-329 must include, at a minimum, the following
18 information for both announced and unannounced inspections:

19 (a) the number of inspections conducted, by canopy licensure tier;

20 (b) the number of providers or marijuana-infused products providers who were inspected more than once
21 during the year;

22 (c) the number of inspections that were conducted because of complaints made to the department; and

23 (d) the types of enforcement actions taken as a result of the inspections.

24 (5) The board of medical examiners shall report annually to the children, families, health, and human
25 services interim committee on the number and types of complaints the board has received involving physician
26 practices in providing written certification for the use of marijuana, pursuant to 37-3-203."

27

28 **Section 17.** Section 50-46-344, MCA, is amended to read:

29 **"50-46-344. Rulemaking authority -- fees.** (1) The department shall may adopt rules ~~necessary~~ for the
30 ~~implementation and administration of this part. The rules must include but are not limited only as authorized in~~

1 this section to specify:

2 (a) the manner in which the department will consider applications for licenses and endorsements and
3 applications for registry identification cards for individuals with debilitating medical conditions and renewal of
4 licenses, endorsements, and registry identification cards;

5 (b) the acceptable forms of proof of Montana residency;

6 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under
7 50-46-307 and 50-46-308;

8 (d) the security and operating requirements for dispensaries;

9 (e) the security and operating requirements for chemical manufacturing, including but not limited to
10 requirements for:

11 (i) safety equipment;

12 (ii) extraction methods, including solvent-based and solvent-free extraction; and

13 (iii) postprocessing procedures;

14 (f) the amount of usable marijuana that a registered cardholder who has not named a provider or
15 marijuana-infused products provider may possess;

16 ~~(g) the canopy for which a provider or marijuana-infused products provider is licensed;~~

17 ~~(h)~~(g) implementation of a system to allow the tracking of marijuana and marijuana-infused products as
18 required by ~~50-46-303~~ [section 4];

19 ~~(i)~~(h) requirements and standards for the testing and retesting of marijuana and marijuana-infused
20 products, including testing of samples collected during the department's inspections of registered premises; ~~and~~

21 ~~— (j) other rules necessary to implement the purposes of this part~~

22 (i) the amount of variance allowable in the results of raw testing data that would warrant a departmental
23 investigation of inconsistent results as provided in [section 4(7)];

24 (j) the activities that constitute advertising in violation of 50-46-341; and

25 (k) the fees for dispensaries, endorsements for chemical manufacturing, testing laboratories, additional
26 canopy licensure tiers created in accordance with [section 9], and the fingerprint and background checks required
27 under 50-46-308 and 50-46-311. The fees and other revenues collected through the taxes paid under 15-64-102,
28 civil penalties imposed pursuant to this chapter, and the licensing fees established by rule and in [section 19]
29 must be sufficient to offset the expenses of administering this part.

30 (2) In establishing the canopy for a provider or marijuana-infused products provider, the department shall

1 take into consideration:

2 (a) safety and security issues;

3 (b) the need to avoid overproduction of marijuana and marijuana-infused products;

4 ~~(b)(c)~~ the provision of adequate access to usable marijuana to accommodate the needs of registered
5 cardholders; and

6 ~~(c)(d)~~ economies of scale and their effect on the ability of licensees to comply with regulatory
7 requirements and undercut illegal market prices.

8 (3) The administrative rules allowed under this section for testing laboratories must be developed by the
9 department division responsible for overseeing the state laboratory.

10 ~~———— (3) (a) Except as provided in subsection (3)(b), license fees for providers and marijuana-infused products~~
11 ~~providers are \$1,000 for 10 or fewer registered cardholders and \$5,000 for more than 10 registered cardholders.~~

12 ~~———— (b) The department may revise the fee provided for in subsection (3)(a) as needed to adequately fund~~
13 ~~the administration of the Montana Medical Marijuana Act and the seed-to-sale tracking system, including~~
14 ~~operating reserve funds of \$250,000. The department shall establish revised fees by rule.~~

15 ~~———— (c) A provider of both marijuana and marijuana-infused products is required to have only one license.~~

16 ~~———— (4) The department shall establish by rule the fees for dispensaries, endorsements for chemical~~
17 ~~manufacturing, and testing laboratories.~~

18 ~~———— (5) All fees and civil penalties collected under this part must be deposited in the medical marijuana state~~
19 ~~special revenue account established in 50-46-345.~~

20 ~~———— (6) The department's rules must establish application and renewal fees that generate revenue sufficient~~
21 ~~to offset all expenses of implementing and administering this part."~~

22

23 **Section 18.** Section 50-46-345, MCA, is amended to read:

24 **"50-46-345. Medical marijuana state special revenue account -- operating reserve.** (1) There is a
25 medical marijuana state special revenue account within the state special revenue fund established in 17-2-102.

26 (2) The account consists of:

27 (a) money deposited into the account pursuant to 50-46-344 and [section 19]; and

28 (b) the tax collected pursuant to Title 15, chapter 64, part 1; and

29 (c) civil penalties collected under this part.

30 (3) Money in the account must be used by the department for the purpose of administering the Montana

1 Medical Marijuana Act and tracking system development.

2 (4) If the fees provided for in this section raise more than the amount of money needed to fund the
 3 administration of the Montana Medical Marijuana Act, including the seed-to-sale tracking system and an operating
 4 reserve of no more than \$250,000 in unencumbered funds at the end of each fiscal year, the department shall
 5 use the additional funding for efforts to educate the public about using pain management techniques and
 6 treatments that do not involve the use of opioid drugs, including but not limited to acupuncture, chiropractic, and
 7 physical therapy options."

8
 9 **NEW SECTION. Section 19. Provider licensing fees.** (1) Unless reduced as allowed under
 10 50-46-303(5)(b), annual license fees for providers and marijuana-infused products providers are based on the
 11 volume of the provider's production of marijuana.

12 (2) Annual fees for providers and marijuana-infused products providers are:

13 (a) \$500 for a provider with a micro tier canopy license;

14 (b) \$1,000 for a provider with a tier 1 canopy license;

15 (c) \$2,500 for a provider with a tier 2 canopy license;

16 (d) \$5,000 for a provider with a tier 3 canopy license;

17 (e) \$7,500 for a provider with a tier 4 canopy license;

18 (f) \$10,000 for a provider with a tier 5 canopy license;

19 (g) \$13,000 for a provider with a tier 6 canopy license;

20 (h) \$15,000 for a provider with a tier 7 canopy license;

21 (i) \$17,500 for a provider with a tier 8 canopy license; and

22 (j) \$20,000 for a provider with a tier 9 canopy license.

23 (3) A provider of both marijuana and marijuana-infused products is required to have only one license.

24 (4) The fee required under this part may be imposed based only on the tier of licensure and may not be
 25 applied separately to each registered premises used for cultivation under the licensure level.

26 (5) Money collected from license fees paid pursuant to this section must be deposited in the special
 27 revenue account provided for in 50-46-345.

28
 29 **NEW SECTION. Section 20. Transition.** The department shall make applications for tier-based
 30 licenses available no later than October 1, 2019, for providers who were issued licenses or had applications

1 pending in 2018.

2

3 **NEW SECTION. Section 21. Codification instruction.** [Sections 4, 9, 10, and 19] are intended to be
4 codified as an integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3, apply
5 to [sections 4, 9, 10, and 19].

6

7 **NEW SECTION. Section 22. Effective date.** (1) Except as provided in subsections (2) and (3), [this
8 act] is effective October 1, 2019.

9 (2) [Sections 9 and 19] are effective January 1, 2020.

10 (3) [Section 13(7)] and this section are effective on passage and approval.

11

12 **NEW SECTION. Section 23. Applicability.** [Section 13(7)] applies to persons hired on or after the
13 effective date of [section 13(7)].

14

- END -