

## 1 SENATE BILL NO. 333

2 INTRODUCED BY M. CAFERRO

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA MEDICAL MARIJUANA ACT;  
5 REQUIRING SEED-TO-SALE TRACKING; REQUIRING LICENSING OF DISPENSARIES; ESTABLISHING A  
6 TAX ON SALES; ESTABLISHING REQUIREMENTS FOR TESTING LABORATORIES; REVISING ALLOWABLE  
7 AMOUNTS; REQUIRING TESTING OF SAMPLES COLLECTED DURING INSPECTIONS; ELIMINATING THE  
8 REQUIREMENT FOR A PARENT TO SERVE AS A MINOR'S PROVIDER; ESTABLISHING A TAX ON  
9 PROVIDERS; ESTABLISHING A FEE FOR DISPENSARIES; PROVIDING DEFINITIONS; PROVIDING  
10 RULEMAKING AUTHORITY; AMENDING SECTIONS 41-5-216, 50-46-302, 50-46-303, 50-46-307, 50-46-308,  
11 50-46-311, 50-46-312, 50-46-319, 50-46-320, 50-46-329, 50-46-330, 50-46-344, AND 50-46-345, MCA; AND  
12 PROVIDING EFFECTIVE DATES."

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

15  
16 **Section 1.** Section 41-5-216, MCA, is amended to read:  
17 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**  
18 **access to records.** (1) Formal youth court records, law enforcement records, and department records that are  
19 not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must  
20 be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency  
21 is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the  
22 extended jurisdiction.

23 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section  
24 are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall  
25 destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of  
26 court.

27 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with  
28 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

29 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA  
30 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements

1 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the  
2 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual  
3 offender pursuant to Title 46, chapter 23, part 5.

4 (5) After formal youth court records, law enforcement records, and department records are sealed, they  
5 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits  
6 a new offense, to:

7 (a) those persons and agencies listed in 41-5-215(2); and

8 (b) adult probation professional staff preparing a presentence report on a youth who has reached the  
9 age of majority.

10 (6) (a) When formal youth court records, law enforcement records, and department records are sealed  
11 under subsection (1), the electronic records of the management information system maintained by the department  
12 of public health and human services and by the department relating to the youth whose records are being sealed  
13 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

14 (b) The department of public health and human services and the department shall disassociate the  
15 offense and disposition information from the name of the youth in the respective management information system.  
16 The offense and disposition information must be maintained separately and may be used only:

17 (i) for research and program evaluation authorized by the department of public health and human  
18 services or by the department and subject to any applicable laws; and

19 (ii) as provided in Title 5, chapter 13.

20 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be  
21 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency  
22 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected  
23 only pursuant to subsection (5).

24 (b) The informal youth court records may be maintained and inspected only by youth court personnel  
25 upon a new offense prior to the youth's 18th birthday.

26 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended  
27 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are  
28 in hard-copy form must be destroyed and any electronic records in the youth court management information  
29 system must disassociate the offense and disposition information from the name of the youth and may be used  
30 only for the following purposes:

1 (i) for research and program evaluation authorized by the office of the court administrator and subject  
2 to any applicable laws; and

3 (ii) as provided in Title 5, chapter 13.

4 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth  
5 court records within the juvenile probation management information system. Electronic records of the youth court  
6 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy  
7 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record  
8 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or  
9 as provided in subsection (2) of this section.

10 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth  
11 court records within the department's youth management information system. Electronic records of the  
12 department's youth management information system may not be shared except as provided in subsection (5).  
13 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department  
14 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy  
15 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

16 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term  
17 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement  
18 of a youth within the facility.

19 (11) This section does not prohibit access to formal or informal youth court records, including electronic  
20 records, for purposes of conducting evaluations as required by 41-5-2003.

21 (12) This section does not prohibit the office of court administrator, upon written request from the  
22 department of public health and human services, from confirming whether a person applying for a registry  
23 identification card pursuant to 50-46-307 or a license pursuant to 50-46-308 is currently under youth court  
24 supervision."

25

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

27 **"50-46-302. Definitions.** As used in this part, the following definitions apply:

28 (1) "Canopy" means the total amount of square footage dedicated to live plant production at a registered  
29 premises.

30 ~~(1)~~(2) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to

1 which an individual may be ordered by any court of competent jurisdiction.

2 ~~(2)~~(3) "Debilitating medical condition" means:

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

6 (b) cachexia or wasting syndrome;

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

9 (d) intractable nausea or vomiting;

10 (e) epilepsy or an intractable seizure disorder;

11 (f) multiple sclerosis;

12 (g) Crohn's disease;

13 (h) painful peripheral neuropathy;

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

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

16 (k) posttraumatic stress disorder; or

17 (l) any other medical condition or treatment for a medical condition approved by the legislature.

18 ~~(3)~~(4) "Department" means the department of public health and human services provided for in  
19 2-15-2201.

20 ~~(4)~~(5) "Dispensary" means a registered ~~location~~ premises from which a provider or marijuana-infused  
21 products provider is approved by the department to dispense marijuana or marijuana-infused products to a  
22 registered cardholder.

23 ~~(5)~~(6) (a) "Employee" means an individual employed to do something for the benefit of an employer or  
24 a third person.

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

27 ~~(6)~~(7) "Local government" means a county, a consolidated government, or an incorporated city or town.

28 ~~(7)~~(8) "Marijuana" has the meaning provided in 50-32-101.

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

1           ~~(8)~~(10) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use  
2 by a registered cardholder by a means other than smoking.

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

4           ~~(9)~~(11) (a) "Marijuana-infused products provider" means a person licensed by the department to  
5 manufacture and provide marijuana-infused products for a registered cardholder.

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

7           ~~(10)~~(12) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

8           ~~(11)~~(13) "Paraphernalia" has the meaning provided in 45-10-101.

9           ~~(12)~~(14) "Person" means an individual, partnership, association, company, corporation, limited liability  
10 company, or organization.

11           ~~(13)~~(15) (a) "Provider" means a person licensed by the department to assist a registered cardholder as  
12 allowed under this part.

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

14           ~~(14)~~(16) "Referral physician" means an individual who:

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

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

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

19           ~~(15)~~(17) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical  
20 condition who has received and maintains a valid registry identification card.

21           ~~(16)~~(18) "Registered premises" means the location at which a provider or marijuana-infused products  
22 provider:

23           (a) has indicated that marijuana will be cultivated or marijuana-infused products will be manufactured  
24 for a registered cardholder; or

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

27           ~~(17)~~(19) "Registry identification card" means a document issued by the department pursuant to 50-46-303  
28 that identifies an individual as a registered cardholder .

29           ~~(18)~~(20) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

- 1 (i) claims residence in another state or country for any purpose; or
- 2 (ii) is an absentee property owner paying property tax on property in Montana.
- 3 ~~(19)~~(21) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son,
- 4 daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law,
- 5 daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson,
- 6 stepdaughter, stepgrandparent, or stepgrandchild.
- 7 ~~(20)~~(22) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and
- 8 12 inches in diameter.
- 9 ~~(21)~~(23) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's
- 10 treating physician or referral physician if the treating physician or referral physician is providing written certification
- 11 for a patient with a debilitating medical condition:
- 12 (a) obtaining the patient's medical history;
- 13 (b) performing a relevant and necessary physical examination;
- 14 (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- 15 (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating
- 16 medical condition;
- 17 (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,
- 18 alternatives, potential adverse effects, and expected response to the recommended treatment;
- 19 (f) monitoring the response to treatment and possible adverse effects; and
- 20 (g) creating and maintaining patient records that remain with the physician.
- 21 ~~(22)~~(24) "Testing laboratory" means a qualified person, licensed by the department, who meets the
- 22 requirements of 50-46-311 and:
- 23 (a) provides testing of small samples of marijuana and marijuana-infused products; and
- 24 (b) provides information regarding the chemical composition, the potency of a sample, and the presence
- 25 of molds or pesticides in a sample.
- 26 ~~(23)~~(25) "Treating physician" means an individual who:
- 27 (a) is licensed under Title 37, chapter 3;
- 28 (b) has an established office in Montana; and
- 29 (c) has a bona fide professional relationship with the individual applying to be a registered cardholder.
- 30 ~~(24)~~(26) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any

1 mixtures or preparations of the dried leaves and flowers, including a marijuana concentrate, that are appropriate  
 2 for the use of marijuana by an individual with a debilitating medical condition.

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

4 ~~(25)(27)~~ "Written certification" means a statement signed by a treating physician or referral physician that  
 5 meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care."  
 6

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

8 **"50-46-303. Department responsibilities -- issuance of cards and licenses -- confidentiality --**  
 9 **inspections -- reports.** (1) ~~(a)~~ The department shall establish and maintain a program for:

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

12 (b) the issuance of licenses:

13 (i) to persons who apply to operate as providers, marijuana-infused products providers, or testing  
 14 laboratories and who submit applications meeting the requirements of this part; and

15 (ii) for dispensaries established by providers or marijuana-infused products providers; and

16 (c) the tracking of marijuana and marijuana-infused products from either the seed or the immature plant  
 17 stage until the marijuana or marijuana-infused product is sold to a registered cardholder to ensure that the  
 18 marijuana or marijuana-infused product cultivated, manufactured, possessed, and sold under this part is not sold  
 19 or otherwise provided to an individual who is not authorized under this part to possess the item.

20 ~~(b)(2) (a) Individuals who obtain registry identification cards are~~ An individual who obtains a registry  
 21 identification card and does not name a provider or marijuana-infused products provider is authorized to cultivate,  
 22 manufacture, possess, and transport marijuana as allowed by this part.

23 (b) An individual who obtains a registry identification card and names a provider or marijuana-infused  
 24 products provider is authorized to possess marijuana as allowed by this part.

25 (c) A person who obtains a provider, marijuana-infused products provider, or dispensary license or an  
 26 employee of a licensee is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed  
 27 by this part.

28 (d) A person who obtains a testing laboratory license is authorized to possess, test, and transport  
 29 marijuana as allowed by this part.

30 ~~(2) The department shall establish and maintain a program for the licensure of testing laboratories and~~

1 ~~persons who are named as providers or marijuana-infused products providers by registered cardholders.~~

2 (3) The department shall conduct criminal history background checks as required by 50-46-307 and  
3 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.

4 (4) Registry identification cards and licenses issued pursuant to this part must:

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

7 (b) state the name, address, and date of birth of the registered cardholder and of the cardholder's  
8 provider or marijuana-infused products provider, if any;

9 (c) state the date of issuance and the expiration date of the registry identification card or license;

10 (d) contain a unique identification number; and

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

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) The department shall issue a registry identification card or license within 5 days of approving an  
16 application or renewal.

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

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

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

21 or

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

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

25 (8) A registered cardholder shall notify the department of any change in the cardholder's name, address,  
26 physician, provider, or marijuana-infused products provider or change in the status of the cardholder's debilitating  
27 medical condition within 10 days of the change. If a change occurs and is not reported to the department, the  
28 registry identification card is void.

29 (9) The department shall maintain a confidential list of individuals to whom the department has issued  
30 registry identification cards or licenses. Except as provided in subsection (10), individual names and other



1 identifying information on the list must be confidential and are not subject to disclosure, except to:

2 (a) authorized employees of the department as necessary to perform the official duties of the department;

3 and

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

6 (10) The department shall provide the names of providers and marijuana-infused products providers and  
7 the locations of dispensaries and testing laboratories to the local law enforcement agency having jurisdiction in  
8 the area in which the providers, ~~or~~ marijuana-infused products providers, dispensaries, or laboratories are  
9 located. The law enforcement agency and its employees are subject to the confidentiality requirements of  
10 50-46-332.

11 (11) The department shall report biannually to the legislature the number of applications for registry  
12 identification cards, the number of registered cardholders approved, the nature of the debilitating medical  
13 conditions of the cardholders, the number of providers and marijuana-infused products providers licensed, the  
14 number of testing laboratories licensed, the number of dispensaries licensed, the number of registry identification  
15 cards and licenses revoked, the number of physicians providing written certification for registered cardholders,  
16 and the number of written certifications each physician has provided. The report may not provide any identifying  
17 information of cardholders, physicians, providers, ~~or~~ marijuana-infused products providers, dispensaries, or  
18 testing laboratories.

19 (12) The board of medical examiners shall report annually to the legislature on the number and types of  
20 complaints the board has received involving physician practices in providing written certification for the use of  
21 marijuana, pursuant to 37-3-203."

22

23 **Section 4.** Section 50-46-307, MCA, is amended to read:

24 **"50-46-307. (Temporary) Persons with debilitating medical conditions -- requirements -- minors**  
25 **-- limitations.** (1) Except as provided in subsections (2) through (4), the department shall issue a registry  
26 identification card to a person with a debilitating medical condition who submits the following, in accordance with  
27 department rules:

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

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

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

- 1 (d) proof of Montana residency;
- 2 (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or  
3 will be obtaining marijuana from a provider or a marijuana-infused products provider;
- 4 (f) a statement, on a form prescribed by the department, that the person will not divert to any other  
5 person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical  
6 condition;
- 7 (g) the name of the person's treating physician or referral physician and the street address and telephone  
8 number of the physician's office;
- 9 (h) the street address where the person is cultivating or manufacturing marijuana if the person is  
10 cultivating or manufacturing marijuana for the person's own use;
- 11 (i) the name, date of birth, and street address of the individual the person has selected as a provider or  
12 marijuana-infused products provider, if any; and
- 13 (j) the written certification and accompanying statements from the person's treating physician or referral  
14 physician as required pursuant to 50-46-310.
- 15 (2) The department shall issue a registry identification card to a minor if the materials required under  
16 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care  
17 decisions:
- 18 (a) provides proof of legal guardianship and responsibility for health care decisions if the person is  
19 submitting an application as the minor's legal guardian with responsibility for health care decisions; and
- 20 (b) signs and submits a written statement that:
- 21 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's  
22 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of  
23 the use of marijuana; and
- 24 (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:
- 25 (A) consents to the use of marijuana by the minor;
- 26 ~~(B) agrees to serve as the minor's marijuana-infused products provider;~~
- 27 ~~(C)~~(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of  
28 marijuana by the minor;
- 29 ~~(D)~~(C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;
- 30 (c) if the parent or guardian is serving as the minor's provider, submits fingerprints to facilitate a

1 fingerprint and background check by the department of justice and federal bureau of investigation. The parent  
2 or legal guardian shall pay the costs of the background check and may not obtain a registry identification card  
3 as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of  
4 50-46-308.

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

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

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

12 (5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products  
13 provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered cardholder  
14 is the provider or marijuana-infused products provider.

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

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

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

18 (7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered  
19 cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a  
20 registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each  
21 other by the second degree of kinship by blood or marriage.

22 **50-46-307. (Effective June 30, 2017) Individuals with debilitating medical conditions --**  
23 **requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through (4), the department  
24 shall issue a registry identification card to an individual with a debilitating medical condition who submits the  
25 following, in accordance with department rules:

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

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

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

29 (d) proof of Montana residency;

30 (e) a statement that the individual will be cultivating marijuana and manufacturing marijuana-infused

1 products for the individual's use or will be obtaining marijuana from a provider or a marijuana-infused products  
2 provider;

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

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

8 (h) the street address where the individual is cultivating marijuana or manufacturing marijuana-infused  
9 products if the individual is cultivating marijuana or manufacturing marijuana-infused products for the individual's  
10 own use;

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

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

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

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

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

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

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

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

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

27 ~~(C)~~(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of  
28 marijuana by the minor;

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

30 (c) if the parent or guardian will be serving as the minor's provider, submits fingerprints to facilitate a

1 fingerprint and background check by the department of justice and federal bureau of investigation. The parent  
 2 or legal guardian shall pay the costs of the background check and may not obtain a license as a  
 3 marijuana-infused products provider if the parent or legal guardian does not meet the requirements of 50-46-308.

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

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

9 (4) An individual may not be a registered cardholder if the individual is in the custody of or under the  
 10 supervision of the department of corrections or a youth court.

11 (5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products  
 12 provider may not cultivate marijuana or manufacture marijuana-infused products for the cardholder's use unless  
 13 the registered cardholder is the provider or marijuana-infused products provider.

14 (6) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as  
 15 allowed under 50-46-319 only:

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

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

18 (7) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused  
 19 products for use by the registered cardholder may be shared with or rented or leased to a provider, a  
 20 marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased  
 21 by cardholders who are related to each other by the second degree of kinship by blood or marriage."  
 22

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

24 ~~"50-46-308. (Temporary) Provider types -- requirements -- limitations -- activities. (1) The~~  
 25 ~~department shall issue a registry identification card to or renew a card for the person who is named as a provider~~  
 26 ~~or marijuana-infused products provider in a registered cardholder's approved application if the person submits~~  
 27 ~~to the department:~~

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

29 ~~—— (b) proof that the person is a Montana resident;~~

30 ~~—— (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the~~

- 1 federal bureau of investigation;
- 2 ~~—— (d) a written agreement signed by the registered cardholder that indicates whether the person will act~~  
 3 ~~as the cardholder's provider or marijuana-infused products provider;~~
- 4 ~~—— (e) a statement, on a form prescribed by the department, that the person will not divert to any other~~  
 5 ~~person the marijuana that the person cultivates or manufactures for a registered cardholder;~~
- 6 ~~—— (f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered~~  
 7 ~~cardholder at only one location as provided in subsection (7). The location must be identified by street address.~~
- 8 ~~—— (g) a fee as determined by the department to cover the costs of the fingerprint and background check~~  
 9 ~~and associated administrative costs of processing the registration.~~
- 10 ~~—— (2) The department may not register a person under this section if the person:~~
- 11 ~~—— (a) has a felony conviction or a conviction for a drug offense;~~
- 12 ~~—— (b) is in the custody of or under the supervision of the department of corrections or a youth court;~~
- 13 ~~—— (c) has been convicted of a violation under 50-46-331;~~
- 14 ~~—— (d) has failed to:~~
- 15 ~~—— (i) pay any taxes, interest, penalties, or judgments due to a government agency;~~
- 16 ~~—— (ii) stay out of default on a government-issued student loan;~~
- 17 ~~—— (iii) pay child support; or~~
- 18 ~~—— (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government~~  
 19 ~~agency; or~~
- 20 ~~—— (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in~~  
 21 ~~the person's application for a card issued under 50-46-307.~~
- 22 ~~—— (3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered~~  
 23 ~~cardholders.~~
- 24 ~~—— (ii) A person who is registered as both a provider and a marijuana-infused products provider may assist~~  
 25 ~~no more than three registered cardholders.~~
- 26 ~~—— (b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or~~  
 27 ~~marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider~~  
 28 ~~or marijuana-infused products provider.~~
- 29 ~~—— (4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only~~  
 30 ~~for the provider's application or renewal fee for a registry identification card issued under this section.~~

- 1 ~~—— (5) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.~~
- 2 ~~—— (6) A provider or marijuana-infused products provider may not:~~
- 3 ~~—— (a) accept anything of value, including monetary remuneration, for any services or products provided to~~
- 4 ~~a registered cardholder;~~
- 5 ~~—— (b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or~~
- 6 ~~marijuana-infused products; or~~
- 7 ~~—— (c) use marijuana unless the person is also a registered cardholder.~~
- 8 ~~—— (7) (a) A person registered under this section may cultivate and manufacture marijuana for use by a~~
- 9 ~~registered cardholder only at one of the following locations:~~
- 10 ~~—— (i) a property that is owned by the provider or marijuana-infused products provider;~~
- 11 ~~—— (ii) with written permission of the landlord, a property that is rented or leased by the provider or~~
- 12 ~~marijuana-infused products provider; or~~
- 13 ~~—— (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of~~
- 14 ~~50-46-307.~~
- 15 ~~—— (b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or~~
- 16 ~~rented or leased to another provider or marijuana-infused products provider or another registered cardholder.~~
- 17 ~~—— **50-46-308. (Effective June 30, 2017) Provider types -- requirements -- limitations -- activities.** (1) (a)~~
- 18 ~~Subject to subsections (1)(b) and (2), the department shall issue a license to or renew a license for the person~~
- 19 ~~who is named as a provider or marijuana-infused products provider in a registered cardholder's approved~~
- 20 ~~application if the person submits to the department:~~
- 21 ~~(i) the person's name, date of birth, and street address on a form prescribed by the department;~~
- 22 ~~(ii) proof that the person is a Montana resident;~~
- 23 ~~(iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the~~
- 24 ~~federal bureau of investigation;~~
- 25 ~~(iv) a written agreement signed by the registered cardholder that indicates whether the person will act~~
- 26 ~~as the cardholder's provider or marijuana-infused products provider;~~
- 27 ~~(v) a statement, on a form prescribed by the department, that the person will not divert to any other~~
- 28 ~~person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures~~
- 29 ~~for a registered cardholder;~~
- 30 ~~(vi) a statement acknowledging that the person will cultivate marijuana and manufacture~~

1 marijuana-infused products for the registered cardholder at only one location as provided in subsection ~~(5)~~ (6).

2 The location must be identified by street address.

3 (vii) a fee as determined by the department to cover the costs of the fingerprint and background check  
4 and associated administrative costs of processing the license.

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

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

9 (a) has a felony conviction or a conviction for a drug offense;

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

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

12 (d) has failed to:

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

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

15 (iii) pay child support; or

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

18 (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in  
19 the individual's application for a card issued under 50-46-307;

20 (f) has resided in Montana for less than ~~1 year~~ 5 years; or

21 (g) is under 18 years of age.

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

23 (4) A provider or marijuana-infused products provider may not use marijuana unless the person is also  
24 a registered cardholder.

25 (5) A provider or marijuana-infused products provider shall:

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

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

30 (c) participate as required by the department by rule in a seed-to-sale tracking system established by



1 the department pursuant to 50-46-303.

2 ~~(5)(6)~~ (a) A person licensed under this section may cultivate marijuana and manufacture  
3 marijuana-infused products for use by a registered cardholder only at one 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) 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 or  
11 a registered cardholder.

12 ~~(6)(7)~~ A licensed provider or marijuana-infused products provider may:

13 (a) operate dispensaries in accordance with rules adopted by the department;

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

16 (c) provide a small amount of marijuana or marijuana-infused products cultivated or manufactured on  
17 the registered premises to a licensed testing laboratory."

18

19 **Section 6.** Section 50-46-311, MCA, is amended to read:

20 **"50-46-311. (Effective June 30, 2017) Testing laboratories.** (1) The department shall license testing  
21 laboratories that meet the requirements of this part to measure the tetrahydrocannabinol and cannabidiol content  
22 of marijuana and marijuana-infused products and to test marijuana and marijuana-infused products for ~~toxins~~  
23 pesticides, solvents, water levels, and mold, and other contaminants. A testing laboratory may transport samples  
24 to be tested.

25 (2) A person with a financial interest in a licensed testing laboratory may not have a financial interest in  
26 a provider for whom testing services are performed.

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

30 (a) a doctorate in chemical or biological sciences from a college or university accredited by a national

1 or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or  
 2 (b) a master's degree in chemical or biological sciences from a college or university accredited by a  
 3 national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

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

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

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

9 (b) the laboratory owns and maintains the equipment and instrumentation required by rule;

10 (c) the laboratory meets insurance and bonding requirements established by rule; and

11 (d) the laboratory has passed a relevant proficiency program. The department shall establish by rule the  
 12 proficiency programs considered relevant for the purposes of this section.

13 (6) A testing laboratory shall conduct tests of:

14 (a) samples of marijuana and marijuana-infused products submitted by providers and marijuana-infused  
 15 products providers pursuant to [section 8] and related administrative rules prior to sale of the marijuana or  
 16 marijuana-infused products;

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

19 (c) samples submitted by registered cardholders."

20

21 **Section 7.** Section 50-46-312, MCA, is amended to read:

22 **"50-46-312. (Effective June 30, 2017) License as privilege -- criteria.** (1) A provider,  
 23 marijuana-infused products provider, dispensary, or testing laboratory license is a privilege that the state may  
 24 grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the  
 25 department shall consider:

26 (a) the qualifications of the applicant; and

27 (b) the suitability of the proposed registered premises.

28 (2) The department may deny or revoke a license based on proof that the applicant made a false  
 29 statement in any part of the original application or renewal application.

30 (3) ~~(a)~~ The department may deny a license if the applicant's proposed registered premises:

1            ~~(f)(a)~~ is situated within a zone of a city, town, or county where an activity related to the medical use of  
 2 marijuana is prohibited by ordinance or resolution, a certified copy of which has been filed with the department;  
 3 or

4            ~~(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue,~~  
 5 ~~or other place of worship or as a school or postsecondary school other than a commercially operated school. This~~  
 6 ~~distance must be measured in a straight line from the center of the nearest entrance of the place of worship or~~  
 7 ~~school to the nearest entrance of the licensee's premises.~~

8            ~~—— (iii) is not approved by local building, health, or fire officials; or~~

9            ~~(iv)(b)~~ will adversely affect the welfare of the people residing in or of retail businesses located in the  
 10 vicinity.

11            (4) (a) The department may deny a license if the applicant's proposed registered premises or testing  
 12 laboratory:

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

14            (ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue,  
 15 or other place of worship or as a school or postsecondary school other than a commercially operated school. This  
 16 distance must be measured in a straight line from the center of the nearest entrance of the place of worship or  
 17 school to the nearest entrance of the licensee's premises.

18            (b) For the purposes of this subsection ~~(3)~~ (4), "school" and "postsecondary school" have the meanings  
 19 provided in 20-5-402."

20  
 21            **NEW SECTION. Section 8. Testing of marijuana and marijuana-infused products.** (1) A provider  
 22 or marijuana-infused products provider may not sell marijuana or marijuana-infused products until the marijuana  
 23 or products have been tested by a testing laboratory and met the requirements of this section.

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

28            (a) flower;

29            (b) concentrate; and

30            (c) marijuana-infused product.

- 1 (3) The products must be tested for:
- 2 (a) the potency of the cannabinoid present;
- 3 (b) moisture content; and
- 4 (c) the type and level of pesticides, residual solvents, mold, and other contaminants, including but not
- 5 limited to *Escherichia coli* and salmonella.
- 6 (4) The testing laboratory shall conduct a visual inspection of each lot to determine the presence or levels
- 7 of foreign matter, debris, insects, and visible mold.
- 8 (5) The department shall establish by rule the acceptable levels of pesticides, residual solvents, mold,
- 9 foreign matter, debris, insects, and other contaminants that marijuana or marijuana-infused products may contain.
- 10 (6) The laboratory shall:
- 11 (a) issue a certificate of analysis certifying the test results; and
- 12 (b) report the results to the seed-to-sale tracking system established pursuant to 50-46-303.
- 13 (7) A provider or marijuana-infused products provider may request that material that has failed to pass
- 14 the required tests be retested. The original testing laboratory and a second laboratory shall retest the material
- 15 to confirm the results.

16

17 **Section 9.** Section 50-46-319, MCA, is amended to read:

18 **"50-46-319. (Temporary) Legal protections -- allowable amounts.** (1) (a) A registered cardholder may

19 possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

20 (b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and

21 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered

22 cardholder's provider.

23 (2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an

24 individual who possesses a registry identification card or license issued pursuant to this part may not be arrested,

25 prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty

26 or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

27 (a) the individual cultivates, manufactures, possesses, or transports marijuana in the amounts allowed

28 under this section; or

29 (b) the registered cardholder acquires or uses marijuana.

30 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or

1 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the  
 2 department of labor and industry, solely for providing written certification for a patient with a debilitating medical  
 3 condition.

4 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a  
 5 professional licensing board or the department of labor and industry if:

6 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

7 (b) a physician violates the standard of care or other requirements of this part.

8 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as  
 9 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity  
 10 of the use of marijuana as permitted under this part.

11 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity  
 12 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not  
 13 a registered cardholder.

14 (6) Except as provided in 50-46-329, possession of or application for a registry identification card or  
 15 license does not alone constitute probable cause to search the individual or the property of the individual  
 16 possessing or applying for the registry identification card or license or otherwise subject the individual or property  
 17 of the individual possessing or applying for the card or license to inspection by any governmental agency,  
 18 including a law enforcement agency.

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

23 (8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be  
 24 engaged in the use of marijuana as allowed by this part if the person:

25 (i) is in possession of a valid registry identification card or license; and

26 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

27 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the  
 28 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

29 **50-46-319. (Effective June 30, 2017) Legal protections -- allowable amounts.** (1) (a) A registered  
 30 cardholder who has named a provider may possess up to ~~4 mature plants, 12 seedlings, and~~ 1 ounce of usable

1 marijuana.

2 (b) (i) A registered cardholder who has not named a provider may possess up to 4 mature plants, 12  
3 seedlings, and the amount of usable marijuana produced by the mature plants.

4 (ii) If two or more registered cardholders share a residence and have not named providers, the  
5 cardholders may have a maximum of 8 mature plants, 24 seedlings, and the amount of usable marijuana  
6 produced by the mature plants. The limits in this subsection (1)(b)(ii) apply regardless of the location of the plants  
7 and seedlings.

8 (b)(c) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings,  
9 and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered  
10 cardholder's provider have the canopy allowed by the department for the provider or marijuana-infused products  
11 provider. The canopy allotment is a cumulative total for all of the provider's or marijuana-infused products  
12 provider's registered premises and may not be interpreted as an allotment for each premises.

13 (2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an  
14 individual who possesses a registry identification card or license issued pursuant to this part may not be arrested,  
15 prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty  
16 or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

17 (a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed  
18 under this section; or

19 (b) the registered cardholder acquires or uses marijuana.

20 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or  
21 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the  
22 department of labor and industry, solely for providing written certification for a patient with a debilitating medical  
23 condition.

24 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a  
25 professional licensing board or the department of labor and industry if:

26 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

27 (b) a physician violates the standard of care or other requirements of this part.

28 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as  
29 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity  
30 of the use of marijuana and marijuana-infused products as permitted under this part.

1 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity  
 2 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not  
 3 a registered cardholder.

4 (6) Except as provided in 50-46-329, possession of or application for a license or registry identification  
 5 card does not alone constitute probable cause to search the person or individual or the property of the person  
 6 or individual or otherwise subject the person or individual or property of the person or individual possessing or  
 7 applying for the license or card to inspection by any governmental agency, including a law enforcement agency.

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

12 (8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be  
 13 engaged in the use of marijuana as allowed by this part if the person:

- 14 (i) is in possession of a valid registry identification card or license; and  
 15 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

16 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the  
 17 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."  
 18

19 **Section 10.** Section 50-46-320, MCA, is amended to read:

20 **"50-46-320. (Temporary) Limitations of act.** (1) This part does not permit:

21 (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control  
 22 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

23 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

24 (i) in a health care facility as defined in 50-5-101;

25 (ii) in a school or a postsecondary school as defined in 20-5-402;

26 (iii) on or in any property owned by a school district or a postsecondary school;

27 (iv) on or in any property leased by a school district or a postsecondary school when the property is being  
 28 used for school-related purposes;

29 (v) in a school bus or other form of public transportation;

30 (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

- 1 (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
- 2 (viii) at a public park, public beach, public recreation center, or youth center;
- 3 (ix) in or on the property of any church, synagogue, or other place of worship;
- 4 (x) in plain view of or in a place open to the general public; or
- 5 (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
- 6 of children.
- 7 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or
- 8 manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public
- 9 area.
- 10 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows
- 11 use of marijuana by a registered cardholder.
- 12 (4) Nothing in this part may be construed to require:
- 13 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of
- 14 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to
- 15 reimburse a person for costs associated with the use of marijuana by a registered cardholder;
- 16 (b) an employer to accommodate the use of marijuana by a registered cardholder;
- 17 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
- 18 activities; or
- 19 (d) a landlord to allow a tenant who is a registered cardholder, provider, ~~or~~ marijuana-infused products
- 20 provider, dispensary, or testing laboratory to cultivate, ~~or~~ manufacture, dispense, sell, or test marijuana or
- 21 marijuana-infused products or to allow a registered cardholder to use marijuana.
- 22 (5) Nothing in this part may be construed to:
- 23 (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for
- 24 a debilitating medical condition; or
- 25 (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
- 26 discrimination pursuant to 49-1-102.
- 27 (6) Nothing in this part may be construed to allow a provider, ~~or~~ marijuana-infused products provider, or
- 28 employee of a dispensary or testing laboratory to use marijuana or to prevent criminal prosecution of a
- 29 provider, ~~or~~ marijuana-infused products provider, or dispensary or testing laboratory employee who uses
- 30 marijuana or paraphernalia for personal use.



1 (7) (a) A law enforcement officer who has reasonable cause to believe that a person with a valid registry  
2 identification card is driving under the influence of marijuana may apply for a search warrant to require the person  
3 to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a  
4 delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or 61-8-411.

5 (b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection  
6 (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads  
7 guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which  
8 the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation under this  
9 section must be for the period of suspension or revocation set forth:

10 (i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or

11 (ii) in 61-8-410 for a violation of 61-8-410.

12 (c) If a person's registry identification card is subject to renewal during the revocation period, the person  
13 may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person  
14 submits all materials required for renewal.

15 **50-46-320. (Effective June 30, 2017) Limitations of act.** (1) This part does not permit:

16 (a) any individual, including a registered cardholder, to operate, navigate, or be in actual physical control  
17 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

18 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

19 (i) in a health care facility as defined in 50-5-101;

20 (ii) in a school or a postsecondary school as defined in 20-5-402;

21 (iii) on or in any property owned by a school district or a postsecondary school;

22 (iv) on or in any property leased by a school district or a postsecondary school when the property is being  
23 used for school-related purposes;

24 (v) in a school bus or other form of public transportation;

25 (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

26 (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

27 (viii) at a public park, public beach, public recreation center, or youth center;

28 (ix) in or on the property of any church, synagogue, or other place of worship;

29 (x) in plain view of or in a place open to the general public; or

30 (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare

1 of children.

2 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate marijuana  
3 or manufacture marijuana-infused products for use by a registered cardholder in a manner that is visible from the  
4 street or other public area.

5 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows  
6 use of marijuana by a registered cardholder.

7 (4) Nothing in this part may be construed to require:

8 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of  
9 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to  
10 reimburse an individual for costs associated with the use of marijuana by a registered cardholder;

11 (b) an employer to accommodate the use of marijuana by a registered cardholder;

12 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular  
13 activities; or

14 (d) a landlord to allow a tenant who is a registered cardholder, provider, ~~or~~ marijuana-infused products  
15 provider, dispensary, or testing laboratory to cultivate, ~~or~~ manufacture, dispense, sell, or test marijuana or  
16 marijuana-infused products or to allow a registered cardholder to use marijuana.

17 (5) Nothing in this part may be construed to:

18 (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for  
19 a debilitating medical condition; or

20 (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or  
21 discrimination pursuant to 49-1-102.

22 (6) Nothing in this part may be construed to allow a provider, ~~or~~ marijuana-infused products provider,  
23 or employee of a dispensary or testing laboratory to use marijuana or to prevent criminal prosecution of a  
24 provider, ~~or~~ marijuana-infused products provider, or dispensary or testing laboratory employee who uses  
25 marijuana or paraphernalia for personal use.

26 (7) (a) A law enforcement officer who has reasonable cause to believe that an individual with a valid  
27 registry identification card is driving under the influence of marijuana may apply for a search warrant to require  
28 the individual to provide a sample of the individual's blood for testing pursuant to the provisions of 61-8-405. An  
29 individual with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or  
30 61-8-411.

1 (b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection  
2 (1)(a) is subject to revocation of the individual's registry identification card or license if the individual is convicted  
3 of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense  
4 with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation  
5 under this section must be for the period of suspension or revocation set forth:

6 (i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or

7 (ii) in 61-8-410 for a violation of 61-8-410.

8 (c) If an individual's registry identification card or license is subject to renewal during the revocation  
9 period, the individual may not renew the card until the full revocation period has elapsed. The card or license may  
10 be renewed only if the individual submits all materials required for renewal."  
11

12 **Section 11.** Section 50-46-329, MCA, is amended to read:

13 **"50-46-329. (Temporary) Inspection procedures.** (1) The department and state or local law  
14 enforcement agencies may conduct unannounced inspections of registered premises.

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

18 (b) The department may require a provider or marijuana-infused products provider to furnish information  
19 that the department considers necessary for the proper administration of this part.

20 (3) (a) A registered premises, including any places of storage, where marijuana is cultivated,  
21 manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the  
22 purpose of inspection or investigation during normal business hours.

23 (b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused  
24 products provider shall make the area available for inspection without delay upon request of the department or  
25 state or local law enforcement officials.

26 (4) A provider or marijuana-infused products provider shall maintain records showing the names and  
27 registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana,  
28 or marijuana-infused products were transferred and the quantities transferred to each cardholder.

29 **50-46-329. (Effective June 30, 2017) Inspection procedures.** (1) The department may conduct  
30 unannounced inspections of registered premises, ~~dispensaries,~~ and testing laboratories.

1 (2) (a) The department shall inspect annually each ~~dispensary~~, registered premises, and testing  
2 laboratory.

3 (b) The department shall collect samples during the inspection of registered premises and submit them  
4 to a testing laboratory for testing as provided by the department by rule.

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

8 (b) The department may require a provider or marijuana-infused products provider to furnish information  
9 that the department considers necessary for the proper administration of this part.

10 (4) (a) A registered premises ~~or dispensary~~, including any places of storage, where marijuana is  
11 cultivated, manufactured, sold, or stored is subject to entry by the department or state or local law enforcement  
12 agencies for the purpose of inspection or investigation during normal business hours.

13 (b) If any part of the registered premises ~~or dispensary~~ consists of a locked area, the provider or  
14 marijuana-infused products provider shall make the area available for inspection without delay upon request of  
15 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) The department may establish penalties, including financial penalties and license revocation, for the  
20 violation of agricultural or public health standards."  
21

22 **Section 12.** Section 50-46-330, MCA, is amended to read:

23 **"50-46-330. (Temporary) Unlawful conduct by cardholders or licensees -- penalties.** (1) The  
24 department shall revoke and may not reissue the registry identification card or license of a person who:

25 (a) is convicted of a drug offense;

26 (b) allows another person to be in possession of the person's:

27 (i) registry identification card or license; or

28 (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

29 (c) fails to cooperate with the department concerning an investigation or inspection if the person is  
30 registered or licensed and cultivating or manufacturing marijuana.

1 (2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is  
 2 punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months,  
 3 or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An  
 4 offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

5 **50-46-330. (Effective June 30, 2017) Unlawful conduct by cardholders or licensees -- penalties.**

6 (1) The department shall revoke and may not reissue the registry identification card or license of an individual  
 7 who:

8 (a) is convicted of a drug offense;

9 (b) allows another individual to be in possession of the individual's:

10 (i) registry identification card or license; or

11 (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

12 (c) fails to cooperate with the department concerning an investigation or inspection if the individual is  
 13 registered or licensed and cultivating marijuana or manufacturing marijuana-infused products.

14 (2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is  
 15 punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months,  
 16 or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An  
 17 offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."

18

19 **Section 13.** Section 50-46-344, MCA, is amended to read:

20 **"50-46-344. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary for the  
 21 implementation and administration of this part. The rules must include but are not limited to:

22 (a) the manner in which the department will consider applications for registry identification cards [for  
 23 providers and marijuana-infused products providers and] for individuals with debilitating medical conditions and  
 24 renewal of registry identification cards;

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

26 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under  
 27 50-46-307 and 50-46-308;

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

29 (e) the canopy for which a provider or marijuana-infused products provider is licensed;

30 (f) implementation of a system to allow the tracking of marijuana and marijuana-infused products as

1 required by 50-46-303;

2 (g) requirements and standards for the testing of marijuana and marijuana-infused products, including  
3 testing of samples collected during the department's inspections of registered premises; and

4 ~~(d)~~(h) other rules necessary to implement the purposes of this part.

5 (2) In establishing the canopy for a provider or marijuana-infused products provider, the department shall  
6 take into consideration:

7 (a) safety and security issues;

8 (b) the provision of adequate access to usable marijuana to accommodate the needs of registered  
9 cardholders; and

10 (c) economies of scale and their effect on the ability of licensees to comply with regulatory requirements  
11 and undercut illegal market prices.

12 ~~(2)~~(3) License fees for providers and marijuana-infused products providers may not exceed \$1,000 for  
13 10 or fewer registered cardholders or \$5,000 for more than 10 registered cardholders. A provider of both  
14 marijuana and marijuana-infused products is required to have only one license.

15 ~~(3) License fees for testing laboratories may not exceed \$1,200.~~

16 (4) The department shall establish by rule the fee for testing laboratories.

17 ~~(4)~~(5) All fees and civil penalties collected under this part must be deposited in the medical marijuana  
18 state special revenue account established in 50-46-345.

19 ~~(5)~~(6) The department's rules must establish application and renewal fees that generate revenue  
20 sufficient to offset all expenses of implementing and administering this part."

21

22 **Section 14.** Section 50-46-345, MCA, is amended to read:

23 **"50-46-345. (Effective June 30, 2017) Medical marijuana state special revenue account.** (1) There  
24 is a medical marijuana state special revenue account within the state special revenue fund established in  
25 17-2-102.

26 (2) ~~Money~~ The account consists of:

27 (a) the tax collected pursuant to [section 15]; and

28 (b) money deposited into the account pursuant to 50-46-344(4).

29 (3) (a) Money in the account must be used by the department for the purpose of administering the  
30 Montana Medical Marijuana Act.

1           (b) Any unencumbered money remaining in the account at the end of a fiscal year must be transferred  
2 to the general fund."

3  
4           **NEW SECTION. Section 15. Tax on providers and marijuana-infused products providers.** (1) There  
5 is a tax of 2% on a provider's and marijuana-infused products provider's gross sales that is payable four times  
6 a year.

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

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

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

12           (3) At the time the report is filed, the provider or marijuana-infused products provider shall submit a  
13 payment equal to 2% of the total dollar amount of sales.

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

16           (5) If a provider or marijuana-infused products provider fails to file the required report on or before the  
17 date due, the tax becomes delinquent. The department shall:

18           (a) immediately determine as nearly as possible the gross sales of the provider or marijuana-infused  
19 products provider, using any reports or returns filed with a state or county officer or board under any law of this  
20 state and from any other information available;

21           (b) file a statement showing the estimated amount of sales;

22           (c) determine and assess the amount of tax due;

23           (d) provide notice to the provider or marijuana-infused products provider in the same manner as if the  
24 statement had been filed in time; and

25           (e) collect the tax due, along with penalty and interest as provided in 15-1-216.

26  
27           **NEW SECTION. Section 16. Codification instruction.** (1) [Section 8] is intended to be codified as an  
28 integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3, apply to [section 8].

29           (2) [Section 15] is intended to be codified as an integral part of Title 15, and the provisions of Title 15  
30 apply to [section 15].

