

Amendment - 1st Reading/2nd House-blue - Requested by: Jason Small - (S) Business, Labor, and Economic Affairs

- 2023

68th Legislature 2023

Drafter: Erin Sullivan, 406-444-3594

HB0903.001.002

HOUSE BILL NO. 903

INTRODUCED BY M. HOPKINS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO MARIJUANA; ALLOWING A COMBINED-USE LICENSE TO INCREASE CANOPY TIERS; REVISING REQUIREMENTS FOR MARIJUANA WORKER PERMITS; PROVIDING FOR MARIJUANA WORKER SAFETY COURSE PROVIDERS; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 16-12-223, ~~AND~~ 16-12-225, AND 16-12-226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 16-12-223, MCA, is amended to read:

"16-12-223. Licensing of cultivators. (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility.

(b) Except as provided in subsection (6), the system shall must include, at a minimum, the following license types:

(i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor

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1 cultivation facilities.

2 (vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor
3 cultivation facilities.

4 (vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor
5 cultivation facilities.

6 (viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor
7 cultivation facilities.

8 (ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor
9 cultivation facilities.

10 (x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor
11 cultivation facilities.

12 (xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor
13 cultivation facilities.

14 (xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor
15 cultivation facilities.

16 (xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor
17 cultivation facilities.

18 (c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have
19 been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located
20 if a proposed facility would be located in a county in which the majority of voters voted against approval of
21 Initiative Measure No. 190 in the November 3, 2020, general election.

22 (d) When evaluating an initial or renewal license application, the department shall evaluate each
23 proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

24 (e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the
25 existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application
26 by demonstrating that:

27 (A) the cultivator is using the full amount of canopy currently authorized;

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(B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

(C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by only one tier at a time.

~~(iii) Between January 1, 2022, and June 30, 2023, a cultivator may increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B).~~

(iii) A cultivator under a combined-use license may increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B).

(iv) The department shall conduct an inspection of the cultivator's registered premises and proposed premises within 30 days of receiving the application and before approving the application.

(f) A marijuana business that has not been issued a license before July 1, 2023, must be initially licensed at a tier 2 canopy license or lower.

(2) The department is authorized to create additional tiers as necessary.

(3) The department may adopt rules:

(a) for inspection of proposed indoor cultivation facilities under subsection (1);

(b) for investigating owners or applicants for a determination of financial interest; and

(c) in consultation with the department of agriculture and based on well-supported science, to require licensees to adopt practices consistent with the prevention, introduction, and spread of insects, diseases, and other plant pests into Montana.

(4) Initial licensure and annual fees for these licensees are:

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- (a) \$1,000 for a cultivator with a micro tier canopy license;
- (b) \$2,500 for a cultivator with a tier 1 canopy license;
- (c) \$5,000 for a cultivator with a tier 2 canopy license;
- (d) \$7,500 for a cultivator with a tier 3 canopy license;
- (e) \$10,000 for a cultivator with a tier 4 canopy license;
- (f) \$13,000 for a cultivator with a tier 5 canopy license;
- (g) \$15,000 for a cultivator with a tier 6 canopy license;
- (h) \$17,500 for a cultivator with a tier 7 canopy license;
- (i) \$20,000 for a cultivator with a tier 8 canopy license;
- (j) \$23,000 for a cultivator with a tier 9 canopy license;
- (k) \$27,000 for a cultivator with a tier 10 canopy license;
- (l) \$32,000 for a cultivator with a tier 11 canopy license; and
- (m) \$37,000 for a cultivator with a tier 12 canopy license.

(5) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

(6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation."

Section 2. Section 16-12-225, MCA, is amended to read:

"16-12-225. Combined-use marijuana licensing -- requirements. (1) The department may issue a total of eight combined-use marijuana licenses to entities that are:

- (a) a federally recognized tribe located in the state; or
- (b) a business entity that is majority-owned by a federally recognized tribe located in the state.

(2) A combined-use marijuana license consists of one ~~tier 1~~ canopy license and one dispensary license allowing for the operation of a dispensary. Cultivation and dispensary facilities must be located at the same licensed premises.

(3) Initial licensure and annual fees for a combined-use license is \$7,500.

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(3)(4) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on land that is located:

(a) within 150 air-miles of the exterior boundary of the associated tribal reservation or, for the Little Shell Chippewa tribe only, within 150 air-miles of the tribal service area; and

(b) in a county that has satisfied the local government approval provisions in 16-12-301 if the majority of voters in the county voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(4)(5) An applicant under this section must satisfy all licensing requirements under this chapter and is subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products provided for in this chapter.

(5)(6) A license granted under this section must be operated in compliance with all requirements imposed under this chapter.

(6)(7) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe or another majority-owned business of that tribe may not obtain another combined-use license until the prior license is relinquished, lapses, or is revoked by the department."

Section 3. Section 16-12-226, MCA, is amended to read:

"16-12-226. Marijuana worker permit -- requirements -- temporary worker permit -- certification and safety courses -- application -- course requirements -- rulemaking. (1) A marijuana worker permit is required for an employee who performs work for or on behalf of a marijuana business if the individual participates in any aspect of the marijuana business.

(2) (a) Except as provided in subsection (2)(b), a marijuana business may not allow an employee to perform any work at the licensed premises until it has verified that the employee has obtained a valid marijuana worker permit issued in accordance with this chapter.

(b) ~~(i) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall obtain a marijuana worker permit within 90 days of January 1, 2022. An employee may perform work for a licensed dispensary, licensed cultivator, or licensed testing lab for up to 60 days from~~

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the date of hire without a marijuana worker permit. After 60 days from the date of hire, an employee must obtain a marijuana worker permit.

(ii) An employee without a marijuana worker permit under subsection (2)(b) shall always carry a yellow card with "temporary cannabis worker" printed on both sides of the card in place of a marijuana worker permit while performing work on behalf of a marijuana business.

(3) An applicant for a marijuana worker permit shall submit:

(a) an application on a form prescribed by the department with information including the applicant's:

(i) name;

(ii) mailing address;

(iii) date of birth;

(iv) signature; and

(v) response to conviction history questions requested by the department;

(b) a copy of a driver's license or identification card issued by one of the fifty states in the United States or a passport;

(c) annual proof of having passed training that includes identification, prevention, and reporting for human trafficking, rules and regulations for legal sales of marijuana in Montana, ~~and any other training required by the department~~ safe handling of marijuana, procedures for checking identification, and 6 hours of department-approved safety training for workers employed in manufacturing and cultivation facilities; and

(d) a fee established by the department.

(4) An applicant is responsible for verifying the training in subsection (3)(c) is approved by the department.

~~(4)(5)~~ (a) Except as provided in subsection ~~(4)(b)~~ (5)(b), an application that does not contain the elements set forth in subsection (3) is incomplete.

(b) The department may review an application prior to receiving the fee but may not issue a permit until the fee is received.

~~(5)(6)~~ The department shall deny an initial or renewal application if the applicant:

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(a) is not 18 years of age or older;

(b) has had a marijuana license or worker permit revoked for a violation of this chapter or any rule adopted under this chapter within 2 years 1 year of the date of the application; or

(c) has violated any provision of this chapter; ~~or~~

~~(d) makes a false statement to the department.~~

~~(6)(7) An Except as provided in subsection (2)(b)(ii), an~~ employee of a licensee shall carry the employee's worker permit at all times when performing work on behalf of a marijuana business.

~~(7) A person who holds a marijuana worker permit must notify the department in writing within 10 days of:~~

~~(a) a conviction for a felony;~~

~~(b) the issuance of any citation for violating a marijuana law imposed under this chapter or the marijuana laws of any other state; or~~

~~(c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor.~~

(8) (a) The department shall review and approve any provider of worker permit certification and manufacturing safety courses annually and shall approve applications no later than November 30 of the year preceding the course offering year.

(b) The department shall begin accepting applications for course provider approval for the following year's worker permit and manufacturing safety courses September 1 of the year preceding the course offering year.

(c) The department shall only accept applications from a registered nonprofit organization under subsection (8)(b).

(9) (a) A course provider applying to the department must submit a completed application and fee no later than November 1 of the year preceding the year for which training is to be approved for use. The application must include the course provider's:

(i) name;

(ii) mailing address;

(iii) website for online curriculum;

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(iv) tax identification number;

(v) copy of registration as a nonprofit organization; and

(vi) \$500 application fee.

(b) The department may withdraw its approval of any course or provider if it determines the course material or provider is no longer in compliance with requirements as provided by rule. If the department withdraws its approval of a course, the department shall give the provider written notification of the withdrawal, specifying the reasons for the decision. The provider may appeal the decision by the department as provided in 16-12-109(7).

(10) A course provider approved to provide worker permit certification and manufacturing safety courses shall provide completion certificates to licensees on successful completion of courses. Course completion certificates must contain the following:

(a) the course provider name;

(b) the course title;

(c) the course number;

(d) the course credit hours; and

(e) the name of person completing the course.

(11) A course provider shall keep uniform records for a period of 3 years of attendance of licensees, and records must be available for inspection annually by the department. The records must include:

(a) the course title;

(b) the course topic;

(c) the course number;

(d) the course credit hours;

(e) the date of the course; and

(f) the attendance roster.

(12) Course providers are encouraged to provide online certification courses and must be approved if the department determines the course meets:

(a) content, accessibility, and security requirements established by rule;

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(b) minimum web content accessibility guidelines and is accessible to individuals with disabilities;
and
(c) any other requirement provided in this section or in rule.
(13) The department shall provide a directory of course providers and approved courses on the department website, including links to approved online courses. The online directory of course providers and courses must be available in a paper form at the department and must be provided to the public at no cost on request.
(14) The department may not provide or host any training, education, or certification course required for a marijuana worker permit."

NEW SECTION. Section 4. Appropriation. There is appropriated \$1,000 from the state special revenue fund under 16-12-111 to the department of revenue for the biennium ending June 30, 2023, for the purposes of notification to licensees of the provisions of [this act].

NEW SECTION. Section 5. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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