

HOUSE BILL NO. 907

INTRODUCED BY J. HINKLE, M. BERTOGLIO, C. SPRUNGER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING LAWS RELATED TO MARIJUANA TESTING PROCEDURES; REVISING LAWS RELATED TO WASTEWATER FOR MARIJUANA CULTIVATORS; REQUIRING MARIJUANA TESTING LABORATORIES ALLOWING THE DEPARTMENT OF AGRICULTURE TO TEST FOR THE PRESENCE OF FENTANYL AND METHAMPHETAMINE IN MARIJUANA AND MARIJUANA PRODUCTS; REQUIRING MARIJUANA TESTING LABORATORIES TO REPORT THE PRESENCE OF FENTANYL AND METHAMPHETAMINE TO THE DEPARTMENT OF REVENUE AND THE ECONOMIC AFFAIRS INTERIM COMMITTEE; REQUIRING THE DEPARTMENT OF REVENUE TO REPORT THE POTENTIAL CONTAMINATION OF A WATER SYSTEM BY A CULTIVATOR TO A LOCAL HEALTH BOARD AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 16-12-203, 16-12-202, 16-12-206, 16-12-209, 16-12-210, AND 50-2-116, AND 80-1-104, MCA; AND PROVIDING EFFECTIVE DATES AND_A TERMINATION DATE."

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

Section 1. Section ~~16-12-202~~, MCA, is amended to read:

~~"16-12-202. Testing laboratories -- licensing -- inspection -- state laboratory responsibility. (1)~~

~~(a) A person who obtains a testing laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana as allowed by this chapter.~~

~~(b) — A person who is a controlling beneficial owner of a testing laboratory or holds a financial interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing services are performed.~~

~~(2) — (a) The state laboratory shall endorse a testing laboratory to perform the testing required under 16-12-206 and 16-12-209 before a testing laboratory may apply for licensure or renewal with the department.~~

1 (b) ~~—(i) The state laboratory shall inspect a testing laboratory before endorsing a testing laboratory~~
2 ~~for licensure or renewal and may not endorse a testing laboratory for licensure or renewal if the applicant does~~
3 ~~not meet the requirements of 16-12-206 and this section.~~

4 (ii) ~~—The state laboratory may not issue a temporary license while an inspection is pending.~~

5 (3) ~~—An inspection conducted for licensure or renewal of a license must include a review of an~~
6 ~~applicant's or testing laboratory's:~~

7 (a) ~~—physical premises where testing will be conducted;~~

8 (b) ~~—instrumentation;~~

9 (c) ~~—protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;~~

10 (d) ~~—raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and~~

11 (e) ~~—vehicles used for transporting marijuana or marijuana product samples for testing purposes.~~

12 (4) ~~—Upon receiving an endorsement from the state laboratory for licensure or annual renewal, a~~
13 ~~testing laboratory must apply for licensure or renewal with the department by submitting to the department:~~

14 (a) ~~—the information required by 16-12-203 ; and~~

15 (b) ~~—a fee that the department shall establish by rule.~~

16 (5) ~~—The state laboratory shall:~~

17 (a) ~~—measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic~~
18 ~~acid content of marijuana and marijuana products;~~

19 **(b) — test marijuana and marijuana products for the presence of fentanyl and methamphetamine;**

20 **(b)(c) — test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew,**
21 ~~and other contaminants; and~~

22 **(c)(d) — establish and enforce standard operating procedures and testing standards for testing**
23 ~~laboratories to ensure that consumers and registered cardholders receive consistent and uniform information~~
24 ~~about the potency and quality of the marijuana and marijuana products they receive. The state laboratory shall:~~

25 (i) ~~—consult with independent national or international organizations that establish testing standards~~
26 ~~for marijuana and marijuana products;~~

27 (ii) ~~—require testing laboratories to follow uniform standards and protocols for the samples accepted~~
28 ~~for testing and the processes used for testing the samples; and~~

1 (iii) — track and analyze the raw data for the results of testing conducted by testing laboratories to
2 ensure that the testing laboratories are providing consistent and uniform results.

3 (6) — The department may retain the services of the analytical laboratory provided by the department
4 of agriculture pursuant to 80-1-104 for the testing contemplated in this section.

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

9 (8) — If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent
10 results, the state laboratory may suspend the testing laboratory's license. A suspension must be based on rules
11 adopted by the state laboratory.

12 (9) — The department shall revoke a testing laboratory's license upon a determination that the
13 laboratory is:

14 (a) — providing test results that are fraudulent or misleading; or

15 (b) — providing test results without having:

16 (i) — the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or

17 (ii) — the equipment required under this chapter to conduct the tests for which the laboratory is
18 providing results.

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

20 (11) — The state laboratory shall prepare an annual report on testing results under subsection (5)(b)
21 and shall send the report to the economic affairs interim committee as provided in 5-11-210 by June 30 of each
22 year, beginning in 2024. "

23

24 **Section 2.** Section 16-12-206, MCA, is amended to read:

25 **"16-12-206. — Testing laboratories — licensing inspections.** (1) A testing laboratory may shall :

26 (a) — measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic
27 acid content of marijuana and marijuana products; and

28 (b) — test marijuana and marijuana products for the presence of fentanyl and methamphetamine; and

- 1 ~~(b)(c)~~— test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew,
2 and other contaminants. A testing laboratory may transport samples to be tested.
- 3 ~~(2)~~— A licensed testing laboratory shall employ a scientific director who is responsible for ensuring
4 the achievement and maintenance of quality standards of practice. A scientific director must have the following
5 minimum qualifications:
- 6 ~~(a)~~— a doctorate in chemical or biological sciences from a college or university accredited by a
7 national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or
- 8 ~~(b)~~— a master's degree in chemical or biological sciences from a college or university accredited by
9 a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.
- 10 ~~(3)~~— All owners and employees of a testing laboratory shall submit fingerprints to the department to
11 facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned,
12 operated, or staffed by a person who has been convicted of a felony offense.
- 13 ~~(4)~~— To qualify for licensure, a testing laboratory shall demonstrate that:
- 14 ~~(a)~~— staff members are proficient in operation of the laboratory equipment; and
- 15 ~~(b)~~— the laboratory:
- 16 ~~(i)~~— maintains the equipment and instrumentation required by rule;
- 17 ~~(ii)~~— has all equipment and instrumentation necessary to certify results that meet the quality
18 assurance testing requirements established by rule, including the ability to certify results at the required level of
19 sensitivity;
- 20 ~~(iii)~~— meets insurance and bonding requirements established by rule;
- 21 ~~(iv)~~— has the capacity and ability to serve rural areas of the state; and
- 22 ~~(v)~~— has passed a proficiency program approved by the state laboratory that demonstrates it is able
23 to meet all testing requirements.
- 24 ~~(5)~~— Except as provided in 16-12-209, a testing laboratory shall conduct tests of:
- 25 ~~(a)~~— samples of marijuana and marijuana products submitted by cultivators and manufacturers
26 pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;
- 27 ~~(b)~~— samples of marijuana or marijuana products collected by the department during inspections of
28 licensed premises; and

1 (c) ~~samples submitted by consumers or registered cardholders.~~

2 ~~(6) (a) A testing laboratory shall prepare an annual report regarding the amount of marijuana and~~
3 ~~marijuana products tested under subsection (5) that tested positive for the presence of fentanyl or~~
4 ~~methamphetamine and submit the report to the department by June 1 of each year, beginning in 2024.~~

5 ~~(b) The department shall provide any report submitted to the department by a testing laboratory~~
6 ~~under subsection (6)(a) to the economic affairs interim committee as provided in 5-11-210 by June 30 of each~~
7 ~~year, beginning in 2024. "~~

8

9 **Section 3.** Section 16-12-209, MCA, is amended to read:

10 ~~"16-12-209. Testing of marijuana and marijuana products. (1) A cultivator, manufacturer, adult-use~~
11 ~~dispensary, or medical marijuana dispensary may not sell marijuana or marijuana products until the marijuana~~
12 ~~or marijuana products have been tested by a testing laboratory and meet the requirements of this section. The~~
13 ~~licensee shall pay for the testing.~~

14 ~~(2) A licensee shall submit material that has been collected in accordance with a sampling protocol~~
15 ~~established by the state laboratory by rule. The protocol must address the division of marijuana and marijuana~~
16 ~~products into batch sizes for testing.~~

17 ~~(3) The state laboratory shall adopt rules regarding the types of tests that must be performed to~~
18 ~~ensure product safety and consumer protection. Rules must include but are not limited to testing for:~~

19 ~~(a) the potency of the cannabinoids present; and~~

20 ~~(b) the presence of fentanyl and methamphetamine; and~~

21 ~~(b)(c) the presence of contaminants.~~

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

24 ~~(5) The state laboratory shall establish by rule the acceptable levels of moisture, pesticides,~~
25 ~~residual solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana products~~
26 ~~may contain. The rules must provide that no amount of fentanyl or methamphetamine is acceptable.~~

27 ~~(6) The testing laboratory shall:~~

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

1 ~~(b) — report the results to the seed-to-sale tracking system established pursuant to 16-12-105.~~

2 ~~(7) — A licensee may request that material that has failed to pass the required tests be retested in~~
3 ~~accordance with the rules adopted by the state laboratory providing for retesting parameters and requirements.~~

4 ~~(8) — Marijuana or a marijuana product must include a label indicating that the marijuana or~~
5 ~~marijuana product has been tested.~~

6 ~~(9) — (a) The department shall collect and, except as provided in subsection (9)(b), destroy samples~~
7 ~~of marijuana and marijuana products that fail to meet the acceptable levels to ensure product safety and~~
8 ~~consumer protection.~~

9 ~~(b) — If a sample fails due to THC levels in excess of the allowable limit and is not deficient in any~~
10 ~~other respect, the department may dispose of the sample by means other than destruction in accordance with~~
11 ~~rule.~~

12 ~~(c) — The department may contract for the duties under this subsection (9)."~~

13

14 **SECTION 1. SECTION 16-12-203, MCA, IS AMENDED TO READ:**

15 **"16-12-203. Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to
16 subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person
17 who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing
18 laboratory if the person submits to the department:

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

20 (ii) proof that the natural person having day-to-day operational control over the business is a Montana
21 resident;

22 (iii) a statement, on a form prescribed by the department, that the person:

23 (A) will not divert to any other person the marijuana that the person cultivates or the marijuana
24 products that the person manufactures for consumers or registered cardholders, unless the marijuana or
25 marijuana products are sold to another licensee as part of a sale of a business as allowed under this section;
26 and

27 (B) has no pending citations for violations occurring under this chapter or the marijuana laws of any
28 other state or jurisdiction;

1 (iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana
2 products will be cultivated, manufactured, sold, or tested; and

3 (v) proof that the applicant has source of funding from a suitable source. A lender or other source of
4 money or credit may be found unsuitable if the source:

5 (A) is a person whose prior financial or other activities or criminal record:

6 (B) poses a threat to the public interest of the state;

7 (C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

8 (D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed
9 business.

10 (b) If the person to be licensed consists of more than one individual, the names of all owners must be
11 submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial
12 ownership interest.

13 (c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the
14 department the following:

15 (i) a complete and accurate organizational chart of the marijuana business disclosing the identity and
16 ownership percentages of its controlling beneficial owners;

17 (ii) whether the applicant has ever filed for bankruptcy;

18 (iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

19 (iv) any financial interests held by the applicant in another marijuana business in any state;

20 (v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners'
21 managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's
22 interest in the controlling beneficial owner;

23 (vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial
24 owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the
25 owner's interest in the controlling beneficial owner;

26 (vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

27 (viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana
28 business; and

1 (ix) any financial interest holder that holds two or more financial interests in the marijuana business or
2 that is contributing over 50% of the operating capital of the marijuana business.

3 (d) The department may request that the marijuana business disclose each beneficial owner and
4 affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded
5 corporation.

6 (e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under
7 penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial
8 interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or
9 otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to
10 exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the
11 department.

12 (f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty
13 of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest
14 holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise
15 restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise
16 reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

17 (g) This section does not restrict the department's ability to reasonably request information or records
18 at renewal or as part of any other investigation following initial licensure of a marijuana business.

19 (2) The department may not license a person under this chapter if the person or an owner, including a
20 person with a financial interest:

21 (a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction
22 for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the
23 department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

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

25 (c) has been convicted of a violation under 16-12-524 or of making a fraudulent representation under
26 the former medical marijuana program administered by the department of public health and human services;

27 (d) is under 21 years of age;

28 (e) has failed to:

- 1 (i) pay any taxes, interest, penalties, or judgments due to a government agency;
- 2 (ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;
- 3 (iii) stay out of default on a government-issued student loan;
- 4 (iv) pay child support; or
- 5 (v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a
- 6 government agency;
- 7 (f) has had a license issued under this chapter or a former medical marijuana license revoked within 3
- 8 years of the date of the application; or
- 9 (g) has resided in Montana for less than 1 year.
- 10 (3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless
- 11 federal law otherwise allows for the interstate distribution of marijuana.
- 12 (4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or
- 13 adult-use dispensary shall:
- 14 (a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to
- 15 this chapter and administrative rules;
- 16 (b) allow the department to collect samples of marijuana or marijuana products during inspections of
- 17 licensed premises for testing as provided by the department by rule; and
- 18 (c) participate as required by the department by rule in a seed-to-sale tracking system established by
- 19 the department pursuant to 16-12-105.
- 20 (5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana
- 21 products for use by consumers or registered cardholders only at one of the following locations:
- 22 (i) a property that is owned by the licensee; or
- 23 (ii) with written permission of the property owner filed with the department when applying for or
- 24 renewing a license, a property that is rented or leased by the licensee.
- 25 (b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products
- 26 or marijuana concentrate may be shared with or rented or leased to another licensee.
- 27 (c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises.
- 28 (6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this

1 chapter and rules adopted by the department:

2 (a) may operate adult-use dispensaries;

3 (b) may engage in manufacturing; and

4 (c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

5 (7) A cultivator or manufacturer:

6 (a) may contract or otherwise arrange for another party that is licensed to process a cultivator's or

7 manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or

8 manufacturer for sale; ~~and~~

9 (b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the
10 required license and before the department has completed the inspection required under this chapter unless
11 permitted to do so pursuant to 16-12-207; and

12 (c) shall submit written approval by a local health board under 50-2-116 of the proposed
13 wastewater treatment system prior to licensure."

14

15 **Section 2.** Section 16-12-210, MCA, is amended to read:

16 **"16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees. (1)**

17 (a) The department shall conduct unannounced inspections of licensed premises.

18 (b) The department may not conduct more than two unannounced inspections of a licensed
19 premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or
20 there is other just and reasonable cause.

21 (2) (a) The department shall inspect annually each premises operated by a licensee.

22 (b) The department may collect samples during the inspection of a licensed premises and submit
23 the samples to a testing laboratory or the state laboratory for testing as provided by the department by rule.

24 (C) THE DEPARTMENT SHALL SEND A PORTION OF THE SAMPLES COLLECTED UNDER SUBSECTIONS (1)(A)
25 AND (2)(B) TO THE DEPARTMENT OF AGRICULTURE FOR TESTING FOR THE PRESENCE OF FENTANYL AND
26 METHAMPHETAMINE, AS PROVIDED IN 80-1-104. THE DEPARTMENT MAY ESTABLISH THE PERCENTAGE OF SAMPLES
27 REQUIRED UNDER THIS SUBSECTION (2)(C) BY RULE.

28 (D) THE DEPARTMENT OF AGRICULTURE SHALL REPORT THE RESULTS OF TESTING UNDER SUBSECTION

1 (2)(C) TO THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE ANY REPORT SUBMITTED TO THE DEPARTMENT BY THE
2 DEPARTMENT OF AGRICULTURE UNDER THIS SUBSECTION (2)(D) TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE IN
3 ACCORDANCE WITH 5-11-210 BY JUNE 30 OF EACH YEAR, BEGINNING IN 2024.

4 (3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with
5 consumers and registered cardholders. The records must be open for inspection by the department or state
6 laboratory, as appropriate, and state or local law enforcement agencies.

7 (b) Each testing laboratory shall keep:

8 (i) a complete set of records necessary to show all transactions with a licensee; and

9 (ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana
10 products.

11 (c) The records and data required under this subsection (4) must be open for inspection by the
12 department and state or local law enforcement agencies.

13 (d) The department may require a licensee to furnish information that the department considers
14 necessary for the proper administration of this chapter.

15 (4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated,
16 manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement
17 agencies for the purpose of inspection or investigation.

18 (b) If any part of a licensed premises consists of a locked area, the licensee shall make the area
19 available for inspection immediately upon request of the department or state or local law enforcement officials.

20 (5) The department may not hire or contract with a person to be an inspector if the person, during
21 the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former
22 medical marijuana licensee.

23 (6) In addition to any other penalties provided under this chapter, the department may revoke,
24 suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon
25 inspection and subsequent notice to the licensee, the department finds that any of the following circumstances
26 exist:

27 (a) a cause for which issuance of the license or endorsement could have been rejected had it been
28 known to the department at the time of issuance;

1 (b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

2 (c) noncompliance with any provision of this chapter.

3 (7) The department may suspend or modify a license or endorsement without advance notice upon
4 a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the
5 licensee, or members of the public. The department may establish by rule the applicable procedures for
6 securing or disposing of the inventory in such circumstances.

7 (8) (a) Review of a department action imposing a suspension, revocation, or other modification
8 under this chapter must be conducted as a contested case hearing before the department's office of dispute
9 resolution under the provisions of the Montana Administrative Procedure Act.

10 (b) A person may appeal any decision of the department of revenue concerning the issuance,
11 rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in
12 which the person operates or proposes to operate. If a person operates or seeks to operate in more than one
13 county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the
14 counties where it operates or seeks to operate.

15 (c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the
16 grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of
17 notice of the department's final decision.

18 (9) If the department receives a complaint from the public about a cultivator potentially
19 contaminating a water system or if a department inspection of a cultivator raises concerns of potential
20 contamination of a water system, the department shall share the complaint with or report to the local health
21 board under 50-2-116 and the department of environmental quality.

22 ~~(9)(10)~~ The department shall establish a training protocol to ensure uniform application and
23 enforcement of the requirements of this chapter.

24 ~~(10)(11)~~ The department shall report biennially to the economic affairs interim committee concerning
25 the results of inspections conducted under this section. The report must include the information required under
26 16-12-110."
27

28 **Section 3.** Section 50-2-116, MCA, is amended to read:

1 **"50-2-116. Powers and duties of local boards of health.** (1) Except as provided in subsection (5),
2 in order to carry out the purposes of the public health system, in collaboration with federal, state, and local
3 partners, each local board of health shall:

- 4 (a) recommend to the governing body the appointment of a local health officer who is:
 - 5 (i) a physician;
 - 6 (ii) a person with a master's degree in public health; or
 - 7 (iii) a person with equivalent education and experience, as determined by the department;
- 8 (b) elect a presiding officer and other necessary officers;
- 9 (c) adopt bylaws to govern meetings;
- 10 (d) hold regular meetings at least quarterly and hold special meetings as necessary;
- 11 (e) identify, assess, prevent, and ameliorate conditions of public health importance through:
 - 12 (i) epidemiological tracking and investigation;
 - 13 (ii) screening and testing;
 - 14 (iii) isolation and quarantine measures;
 - 15 (iv) diagnosis, treatment, and case management;
 - 16 (v) abatement of public health nuisances;
 - 17 (vi) inspections;
 - 18 (vii) collecting and maintaining health information;
 - 19 (viii) education and training of health professionals; or
 - 20 (ix) other public health measures as allowed by law;
- 21 (f) protect the public from the introduction and spread of communicable disease or other
22 conditions of public health importance, including through actions to ensure the removal of filth or other
23 contaminants that might cause disease or adversely affect public health;
- 24 (g) supervise or make inspections for conditions of public health importance and issue written
25 orders for compliance or for correction, destruction, or removal of the conditions;
- 26 (h) bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the
27 violation of public health laws, rules, and local regulations;
- 28 (i) identify to the department an administrative liaison for public health. The liaison must be the

1 local health officer in jurisdictions that employ a full-time local health officer. In jurisdictions that do not employ a
2 full-time local health officer, the liaison must be the highest ranking public health professional employed by the
3 jurisdiction.

4 (j) subject to the provisions of 50-2-130, propose for adoption by the local governing body
5 necessary regulations that are not less stringent than state standards for the control and disposal of sewage
6 from private and public buildings and facilities that are not regulated by Title 75, chapter 6, or Title 76, chapter
7 4. The regulations must describe standards for granting variances from the minimum requirements that are
8 identical to standards promulgated by the department of environmental quality and must provide for appeal of
9 variance decisions to the department of environmental quality as required by 75-5-305. If the local board of
10 health regulates or permits water well drilling, the regulations must prohibit the drilling of a well if the well
11 isolation zone, as defined in 76-4-102, encroaches onto adjacent private property without the authorization of
12 the private property owner.

13 (k) APPROVE WASTEWATER SYSTEMS SUBMITTED BY A MARIJUANA CULTIVATOR OR MARIJUANA
14 MANUFACTURER LICENSE APPLICANT AND PROVIDE WRITTEN AUTHORIZATION TO THE DEPARTMENT OF REVENUE. A
15 BOARD MAY DEFER APPROVAL OF A PUBLIC SEWAGE SYSTEM, AS PROVIDED IN 75-6-102, PROPOSED BY A MARIJUANA
16 CULTIVATOR OR MARIJUANA MANUFACTURER, TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER TITLE 75,
17 CHAPTER 6.

18 (k)(L) respond to complaints made by the public or reports provided by the department of revenue
19 under 16-12-210 involving a marijuana cultivator's OR MARIJUANA MANUFACTURER'S potential contamination of
20 water systems and, as necessary, supervise, make inspections of, and issue written orders for compliance or
21 correction to the cultivator.

22 (2) Local boards of health may:

23 (a) accept and spend funds received from a federal agency, the state, a school district, or other
24 persons or entities;

25 (b) propose for adoption by the local governing body necessary fees to administer regulations for
26 the control and disposal of sewage from private and public buildings and facilities;

27 (c) propose for adoption by the local governing body regulations that do not conflict with 50-50-126
28 or rules adopted by the department:

- 1 (i) for the control of communicable diseases;
- 2 (ii) for the removal of filth that might cause disease or adversely affect public health;
- 3 (iii) subject to the provisions of 50-2-130, for sanitation in public and private buildings and facilities
- 4 that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent
- 5 directly into state water and that are not required to have an operating permit as required by rules adopted
- 6 under 75-5-401;
- 7 (iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing
- 8 establishments and that are not less stringent than state standards for tattooing and body-piercing
- 9 establishments;
- 10 (v) for the establishment of institutional controls that have been selected or approved by the:
- 11 (A) United States environmental protection agency as part of a remedy for a facility under the
- 12 federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et
- 13 seq.; or
- 14 (B) department of environmental quality as part of a remedy for a facility under the Montana
- 15 Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7; and
- 16 (vi) to implement the public health laws;
- 17 (d) adopt rules necessary to implement and enforce regulations adopted by the local governing
- 18 body; and
- 19 (e) promote cooperation and formal collaborative agreements between the local board of health
- 20 and tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting,
- 21 information and data sharing, reporting, resource allocation, service delivery, jurisdiction, and other matters
- 22 addressed in this title.
- 23 (3) A local board of health may provide, implement, facilitate, or encourage other public health
- 24 services and functions as considered reasonable and necessary.
- 25 (4) A directive, mandate, or order issued by a local board of health in response to a declaration of
- 26 emergency or disaster by the governor as allowed in [10-3-302 and] 10-3-303 or by the principal executive
- 27 officer of a political subdivision as allowed in 10-3-402 and 10-3-403:
- 28 (a) remains in effect only during the declared state of emergency or disaster or until the governing

1 body holds a public meeting and allows public comment and the majority of the governing body moves to
2 amend, rescind, or otherwise change the directive, mandate, or order; and

3 (b) may not interfere with or otherwise limit, modify, or abridge a person's physical attendance at or
4 operation of a religious facility, church, synagogue, or other place of worship.

5 (5) A regulation allowed in subsection (2)(c)(i), (2)(c)(ii), or (2)(c)(vi) adopted or a directive,
6 mandate, or order implemented to carry out the provisions of this part that applies to the entire jurisdictional
7 area of a town, city, or county under the jurisdiction of the local health board may not:

8 (a) compel a private business to deny a customer of the private business access to the premises
9 or access to goods or services;

10 (b) deny a customer of a private business the ability to access goods or services provided by the
11 private business; or

12 (c) include any of the following actions for noncompliance of actions described in subsections
13 (5)(a) and (5)(b):

14 (i) require the assessment of a fee or fine;

15 (ii) require the revocation of a license required for the operation of a private business;

16 (iii) find a private business owner guilty of a misdemeanor; or

17 (iv) bring any other retributive action against a private business owner, including but not limited to
18 an action allowed under 50-2-123, a penalty allowed under 50-2-124, or any other criminal charge.

19 (6) The prohibition provided for in subsection (5)(b) does not apply to persons confirmed to have a
20 communicable disease and who are currently under a public isolation order.

21 (7) The prohibitions provided for in subsection (5) do not restrict a local board of health from
22 exercising its authority under this section to enforce and ensure compliance by private businesses with all
23 lawfully adopted regulations, directives, and orders.

24 (8) As used in this section, "private business" means an individual or entity that is not principally a
25 part of or associated with a government unit. The term includes but is not limited to a nonprofit or for-profit
26 entity, a corporation, a sole proprietorship, or a limited liability company."

27

28 **SECTION 4. SECTION 80-1-104, MCA, IS AMENDED TO READ:**

1 **"80-1-104. Analytical laboratory services -- rulemaking authority -- deposit of fees.** (1) The
2 department is authorized to provide analytical laboratory services for:
3 (a) programs it operates under this title;
4 (b) other state or federal agencies;
5 (c) the department of revenue for the purposes of Title 16, chapter 12, including testing marijuana
6 for the presence of fentanyl and methamphetamine under 16-12-210, as allowed by federal law; and
7 (d) private parties.
8 (2) The department may enter into a contract or a memorandum of understanding for the space
9 and equipment necessary for operation of the analytical laboratory.
10 (3) (a) The department may adopt rules establishing fees for testing services required under this
11 title or provided to another state agency, a federal agency, or a private party.
12 (b) Money collected from the fees must be deposited in the appropriate related account in the state
13 special revenue fund to the credit of the department to pay costs related to analytical laboratory services
14 provided pursuant to this section."
15

16 NEW SECTION. Section 5. Transfer of funds. No later than June 30, 2023, the state treasurer shall
17 transfer ~~\$42,000~~ \$84,000 from the state special revenue account provided for in 16-12-111 to the ~~state~~
18 ~~laboratory within the department of public health and human services~~ DEPARTMENT OF AGRICULTURE.
19

20 NEW SECTION. Section 6. Appropriation. (1) There is appropriated ~~\$42,000~~ \$84,000 from the state
21 special revenue account provided for in 16-12-111 to the ~~state laboratory within the department of public health~~
22 ~~and human services~~ DEPARTMENT OF AGRICULTURE for the biennium beginning July 1, 2023.

23 (2) The appropriation must be used to pay for ~~0.5~~ 1 FTE for additional testing ~~and rulemaking~~
24 duties associated with [sections ~~1 through 3~~ 2 AND 4].

25 (3) THE APPROPRIATION MUST BE USED FOR THE PURPOSES OF TESTING AS PROVIDED IN [THIS ACT]. THE
26 LEGISLATURE INTENDS THAT THE APPROPRIATION BE CONSIDERED PART OF THE ONGOING BASE FOR THE NEXT

27 LEGISLATIVE SECTION.
28



1 NEW SECTION. Section 7. Effective dates. (1) Except as provided in subsections (2) and (3), [this
2 act] is effective October 1, 2023.

3 (2) [Section 7 6] is effective July 1, 2023.

4 (3) [Section 6 5] and this section are effective on passage and approval.

5

6 NEW SECTION. Section 8. Termination. [~~Sections 1 through 3~~] [SECTION 2(2)(C) AND (2)(D)] AND
7 [SECTION 4] terminate September 30, 2026.

8

- END -