

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LOCAL ELECTION LAWS ON APPROVAL OR
5 DISAPPROVAL OF MARIJUANA BUSINESSES TO PROVIDE THAT A MUNICIPAL ELECTION TO
6 APPROVE OR DISAPPROVE A MARIJUANA BUSINESS MAY ONLY BE HELD IN A MUNICIPALITY WITH A
7 CERTAIN POPULATION; AMENDING SECTION 16-12-301, MCA; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE AND AN APPLICABILITY DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 16-12-301, MCA, is amended to read:

13 **"16-12-301. Local government authority to regulate -- opt-in requirement in certain counties --**
14 **exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may
15 not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in
16 the November 3, 2020, general election until:

17 (i) the category or categories of license that the marijuana business seeks has or have been
18 approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection
19 (3) or (4); and

20 (ii) the business is licensed by the department pursuant to this chapter.

21 (b) A former medical marijuana licensee that does not apply for licensure as an adult-use
22 dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant
23 to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through
24 (6).

25 (c) A former medical marijuana licensee that intends to apply for licensure as a cultivator,
26 manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the
27 department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to
28 subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with

1 the department.

2 (d) For the purpose of this section, the marijuana business categories that must be approved by a
3 local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against
4 approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may
5 operate are:

- 6 (i) cultivator;
- 7 (ii) manufacturer;
- 8 (iii) medical marijuana dispensary, except as provided in subsection (1)(b);
- 9 (iv) adult-use dispensary;
- 10 (v) combined-use marijuana licensee;
- 11 (vi) testing laboratory; and
- 12 (vii) marijuana transporter facility.

13 (e) Marijuana businesses located in counties in which the majority of voters voted to approve
14 Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government
15 approval process under subsections (3) through (6).

16 (2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or
17 otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The
18 regulations may include but are not limited to inspections of licensed premises, including but not limited to
19 indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure
20 compliance with any public health, safety, and welfare requirements established by the department or the local
21 government.

22 (b) A former medical marijuana licensee that does not apply for licensure as an adult-use
23 dispensary is exempt from complying with any local governmental regulations that are adopted under this
24 subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the
25 expiration of any grace period granted by the locality, whichever is later.

26 (3) An election regarding whether to approve any or all of the marijuana business categories listed
27 in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance
28 with 7-5-131 through 7-5-135 and 7-5-137 by:

1 (a) the qualified electors of a county; or

2 (b) the qualified electors of a municipality with a population of more than 5,000 persons according
3 to the most recent federal decennial census.

4 (4) (a) An election held pursuant to this section must be called, conducted, counted, and
5 canvassed in accordance with Title 13, chapter 1, part 4.

6 (b) An election pursuant to this section may be held in conjunction with a regular election of the
7 governing body, general election, or a regular local or special election.

8 (5) If the qualified electors of a county vote to approve a type of marijuana business to be located
9 in the jurisdiction, the governing body shall enter the approval into the records of the local government and
10 notify the department of the election results.

11 (6) (a) If an election is held pursuant to this section in a county that contains within its limits a
12 municipality of more than 5,000 persons according to the most recent federal decennial census:

13 (i) it is not necessary for the registered qualified electors in the municipality to file a separate
14 petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana
15 business from being located in the municipality; and

16 (ii) the county shall conduct the election in a manner that separates the votes in the municipality
17 from those in the remaining parts of the county.

18 (b) If a majority of the qualified electors in the county, including the qualified electors in the
19 municipality, vote to approve a category of marijuana business to be located in the county, the county may
20 allow that category of marijuana business to operate in the county.

21 (c) (i) If a majority of the qualified electors in the municipality vote to approve a category of
22 marijuana business to be located in the municipality, the municipality may allow that type of marijuana business
23 to operate in the municipality.

24 (ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana
25 business from being located in the municipality, the municipality may not allow that type of marijuana business
26 to operate in the municipality.

27 (d) Nothing contained in this subsection (6) prevents any municipality with a population of more
28 than 5,000 persons according to the most recent federal decennial census from having a separate election

1 under the terms of this section.

2 (7) (a) A ~~county or municipality~~ with a population of more than 5,000 persons according to the most
3 recent federal decennial census or a county that has voted to approve a category of marijuana business to be
4 located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190
5 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations
6 within the jurisdiction.

7 (b) A vote overturning the approval of a category of marijuana business or prohibiting the
8 previously permitted operation of marijuana businesses is effective on the 90th day after the local election is
9 held.

10 (8) A local government may not prohibit the transportation of marijuana within or through its
11 jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this
12 chapter."
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14 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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16 NEW SECTION. Section 3. Applicability. [This act] applies retroactively, within the meaning of 1-2-
17 109, to elections held on or after [the effective date of this act].

18 - END -