

1 HOUSE BILL NO. 659

2 INTRODUCED BY J. HINKLE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MARIJUANA ELECTION REQUIREMENTS IN
5 CERTAIN MUNICIPALITIES; PROVIDING A DEFINITION; AMENDING SECTION 16-12-301, MCA; AND
6 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 16-12-301, MCA, is amended to read:

11 **"16-12-301. Local government authority to regulate -- opt-in requirement in certain counties --**
12 **exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may
13 not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in
14 the November 3, 2020, general election until:

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

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

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

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

28 (d) For the purpose of this section, the marijuana business categories that must be approved by a

1 local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against
2 approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may
3 operate are:

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

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

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

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

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

- 27 (a) the qualified electors of a county; or
- 28 (b) the qualified electors of a qualified municipality.

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

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

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

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

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

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

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

18 (c) (i) If a two-thirds majority of the qualified electors in ~~the~~ a qualified municipality vote to approve
19 a category of marijuana business to be located in the municipality, the municipality may allow that type of
20 marijuana business to operate in the municipality.

21 (ii) If a two-thirds majority of the qualified electors in ~~the~~ a qualified municipality vote to prohibit a
22 category of marijuana business from being located in the municipality, the municipality may not allow that type
23 of marijuana business to operate in the municipality.

24 (d) Nothing contained in this subsection (6) prevents any qualified municipality from having a
25 separate election under the terms of this section.

26 (7) (a) A county or municipality that has voted to approve a category of marijuana business to be
27 located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190
28 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations

1 within the jurisdiction.

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

5 (8) A local government may not prohibit the transportation of marijuana within or through its
6 jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this
7 chapter.

8 (9) (a) For the purposes of this section, "qualified municipality" means a city or town that has
9 organized and currently manages and controls a local police department.

10 (b) The term does not include a city or town receiving law enforcement services from an external
11 law enforcement agency."

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13 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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