

## HOUSE BILL NO. 49

INTRODUCED BY R. MARSHALL

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO SYNTHETIC CANNABINOIDS; REVISING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-12-101, 16-12-102, 16-12-108, 16-12-112, 16-12-117, 16-12-208, 16-12-305, AND 45-5-623, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 16-12-101, MCA, is amended to read:

**"16-12-101. Short title -- purpose.** (1) This chapter may be cited as the "Montana Marijuana Regulation and Taxation Act".

(2) The purpose of this chapter is to:

- (a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years of age or older;
- (b) provide for the licensure and regulation of the cultivation, manufacture, production, distribution, transportation, and sale of marijuana and marijuana products;
- (c) eliminate the illicit market for marijuana and marijuana products;
- (d) prevent the manufacture and distribution of synthetic ~~marijuana~~ cannabinoid products;
- (e) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age;
- (f) ensure the safety of marijuana and marijuana products;
- (g) ensure the security of licensed premises;
- (h) establish reporting requirements for licensees;
- (i) establish inspection requirements for licensees, including data collection on energy use, chemical use, water use, and packaging waste to ensure a clean and healthy environment;
- (j) provide for the testing of marijuana and marijuana products by licensed testing laboratories;

(k) give local governments authority to allow for the operation of marijuana businesses in their community and establishing standards for the cultivation, manufacture, and sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions;

(l) tax the sale of marijuana and marijuana products to provide compensation for the economic and social costs of marijuana;

(m) authorize courts to resentence persons who are currently serving sentences for acts that are permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge those offenses from the criminal records of persons who have completed their sentences as set forth in this chapter; and

(n) preserve and protect Montana's well-established hemp industry by drawing a clear distinction between those participants and programs and the participants and programs associated with the marijuana industry.

(3) Marijuana and marijuana products are not agricultural products, and the cultivation, processing, manufacturing or selling of marijuana or marijuana products is not considered agriculture subject to regulation by the department of agriculture unless expressly provided."

**Section 2.** Section 16-12-102, MCA, is amended to read:

**"16-12-102. Definitions.** As used in this chapter, the following definitions apply:

(1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may:

(a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and

(b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.

(3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

(4) "Canopy" means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.

(6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

(7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

(a) is a natural person, an entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, or a publicly traded corporation, and:

(i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;

(ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or

(iii) is otherwise in a position to control the marijuana business; or

(b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.

(8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction.

(9) "Cultivator" means a person licensed by the department to:

(a) plant, cultivate, grow, harvest, and dry marijuana; and

(b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(10) "Debilitating medical condition" means:

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

(b) cachexia or wasting syndrome;

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

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

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

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

(k) posttraumatic stress disorder.

(11) "Department" means the department of revenue provided for in 2-15-1301.

(12) (a) "Employee" means an individual employed to do something for the benefit of an employer.

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

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net profits or net worth of the entity in which the interest is held.

(b) The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance but does include holders of private loans or convertible securities.

(14) "Former medical marijuana licensee" means a person that was licensed by or had an application for licensure pending with the department of public health and human services to provide marijuana to individuals with debilitating medical conditions on April 27, 2021.

(15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight.

(b) The term may include:

(i) a greenhouse; or

(ii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

(16) "Licensed premises" means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

(17) "Licensee" means a person holding a state license issued pursuant to this chapter.

(18) "Local government" means a county, a consolidated government, or an incorporated city or town.

(19) "Manufacturer" means a person licensed by the department to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or relabel marijuana products as allowed under this chapter.

(20) (a) "Marijuana" means all plant material from the genus *Cannabis* containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(b) The term does not include hemp as provided in 80-18-101.

(c) The term does not include synthetic ~~marijuana~~ cannabinoid products.

(d) The term does not include a any drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department under this chapter.

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

(23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products.

(24) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates, including concentrates intended for use by smoking or vaping.

(25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana

1 products from one marijuana business to another marijuana business, or to and from a testing laboratory, and  
2 to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but  
3 is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

4 (26) "Mature marijuana plant" means a harvestable marijuana plant.

5 (27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a  
6 cardholder who is registered under Title 16, chapter 12, part 5.

7 (28) "Medical marijuana dispensary" means the location from which a registered cardholder may  
8 obtain marijuana or marijuana products.

9 (29) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and  
10 environmental conditions including variable temperature, precipitation, and wind.

11 (30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit  
12 corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in  
13 a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a  
14 partnership, and the interest of a member in a limited partnership association.

15 (31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

16 (32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana  
17 business that is not otherwise a controlling beneficial owner or in control.

18 (33) "Person" means an individual, partnership, association, company, corporation, limited liability  
19 company, or organization.

20 (34) "Qualified institutional investor" means:

21 (a) a bank or banking institution including any bank, trust company, member bank of the federal  
22 reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and  
23 doing business under the laws of this state, any other state, or the laws of the United States;

24 (b) a bank holding company as defined in 32-1-109;

25 (c) a company organized as an insurance company whose primary and predominant business  
26 activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is  
27 subject to regulation or oversight by the insurance department of the office of the state auditor or a similar  
28 agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their

1 capacity as such an insurance company;

2 (d) an investment company registered under section 8 of the federal Investment Company Act of  
3 1940, as amended;

4 (e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income  
5 Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an  
6 intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

7 (f) a state or federal government pension plan; or

8 (g) any other entity identified by rule by the department.

9 (35) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical  
10 condition who has received and maintains a valid registry identification card.

11 (36) "Registry identification card" means a document issued by the department pursuant to 16-12-  
12 503 that identifies an individual as a registered cardholder.

13 (37) (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

15 (i) claims residence in another state or country for any purpose; or

16 (ii) is an absentee property owner paying property tax on property in Montana.

17 (38) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height  
18 and 12 inches in diameter.

19 (39) "Synthetic ~~cannabinoids~~ cannabinoid" has the meaning provided in 50-32-222 and includes any  
20 ~~cannabinoids~~ cannabinoid produced artificially, whether from chemical synthesis or biosynthesis using  
21 recombinant biological agents, including but not limited to yeast and algae.

22 (40) "Synthetic ~~marijuana~~ cannabinoid product" means ~~marijuana or marijuana products that contain~~  
23 a product that contains a synthetic ~~cannabinoids~~ cannabinoid.

24 (41) "Testing laboratory" means a qualified person, licensed under this chapter that:

25 (a) provides testing of representative samples of marijuana and marijuana products; and

26 (b) provides information regarding the chemical composition and potency of a sample, as well as  
27 the presence of molds, pesticides, or other contaminants in a sample.

28 (42) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are

1 appropriate for the use of marijuana by an individual.

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

3

4 **Section 3.** Section 16-12-108, MCA, is amended to read:

5 **"16-12-108. Limitations of act.** (1) This chapter does not permit:

6 (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train,  
7 aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana  
8 products;

9 (b) consumption of marijuana or marijuana products while operating or being in physical control of  
10 a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

11 (c) smoking or consuming marijuana while riding in the passenger seat within an enclosed  
12 compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being  
13 operated;

14 (d) production, delivery, distribution, purchase, or consumption of synthetic ~~marijuana~~ cannabinoid  
15 products;

16 (e) delivery or distribution of marijuana or marijuana products, with or without consideration, to a  
17 person under 21 years of age, unless the person is a registered cardholder;

18 (f) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years  
19 of age, unless the person is a registered cardholder;

20 (g) possession or transport of marijuana or marijuana products by a person under 21 years of age  
21 unless the underage person is a registered cardholder or is at least 18 years of age and is an employee of a  
22 marijuana business licensed under this chapter and engaged in work activities;

23 (h) possession or consumption of marijuana or marijuana products or possession of marijuana  
24 paraphernalia:

25 (i) on the grounds of any property owned or leased by a school district, a public or private  
26 preschool, school, or postsecondary school as defined in 20-5-402;

27 (ii) in a school bus;

28 (iii) in a health care facility as defined in 50-5-101; or



- 1 (iv) on the grounds of any correctional facility;
- 2 (i) using marijuana or marijuana products in a location where smoking tobacco is prohibited;
- 3 (j) smoking marijuana in a hotel or motel room, except for a hotel or motel room that is designated
- 4 as a smoking room and rented to a guest;
- 5 (k) consumption of marijuana or marijuana products:
- 6 (i) in a public place, except as allowed by the department; or
- 7 (ii) on trains, buses, or other forms of public transportation.
- 8 (l) conduct that endangers others;
- 9 (m) undertaking any task while under the influence of marijuana or marijuana products if doing so
- 10 would constitute negligence or professional malpractice; or
- 11 (n) performing solvent-based extractions on marijuana using solvents other than water, glycerin,
- 12 propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.
- 13 (2) (a) A violation of subsections (1)(h)(i) through (1)(h)(iii) and (1)(i) through (1)(k) is subject to the
- 14 penalties provided for in 50-40-115.
- 15 (b) In addition to the penalties provided for in 50-40-115, a person in violation of subsection
- 16 (1)(h)(iv) may be subject to administrative action by the department of corrections and the department of
- 17 justice, and a violation of subsection (1)(h)(iv) may be subject to the penalties provided for in 45-7-307.
- 18 (c) A violation of subsection (1)(n) is subject to the penalties provided for in 45-9-110(3).
- 19 (3) A person may not cultivate marijuana in a manner that is visible from the street or other public
- 20 area.
- 21 (4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that
- 22 allows use of marijuana by a registered cardholder.
- 23 (5) Nothing in this chapter may be construed to:
- 24 (a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in
- 25 any workplace or on the employer's property;
- 26 (b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or
- 27 for working while intoxicated by marijuana or marijuana products;
- 28 (c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an

1 adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of  
2 employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or  
3 marijuana products while working;

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

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

8 (6) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise  
9 regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana  
10 products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages,  
11 except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully  
12 possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain  
13 federal funding.

14 (7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the  
15 department under Title 15 is subject to revocation of the person's license from the date of the violation until a  
16 period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

17 (8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the  
18 conduct of consumers, licensees, and registered cardholders."

19  
20 **Section 4.** Section 16-12-112, MCA, is amended to read:

21 **"16-12-112. Rulemaking authority -- fees.** (1) The department may adopt rules to implement and  
22 administer this chapter, including:

23 (a) the manner in which the department will consider applications for licenses, permits, and  
24 endorsements and renewal of licenses, permits, and endorsements;

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

26 (c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background  
27 checks required under 16-12-129;

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

- 1 (e) the security and operating requirements for manufacturing, including but not limited to  
2 requirements for:
- 3 (i) safety equipment;
- 4 (ii) extraction methods, including solvent-based and solvent-free extraction; and
- 5 (iii) post-processing procedures;
- 6 (f) notice and contested case hearing procedures for fines or license and endorsement  
7 revocations, suspensions, or modifications;
- 8 (g) implementation of a system to allow the tracking of marijuana and marijuana products as  
9 required by 16-12-105;
- 10 (h) labeling and packaging standards that protect public health by requiring the listing of  
11 pharmacologically active ingredients, including but not limited to THC, cannabidiol (CBD) and other cannabinoid  
12 content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package,  
13 and quantity limits per sale to comply with the allowable possession amount;
- 14 (i) investigating and making rules to limit, if necessary, the appropriate THC potency percentages  
15 for marijuana and marijuana products;
- 16 (j) requirements that packaging and labels may not be made to be attractive to children, that they  
17 have required warning labels as set forth in 16-12-215, and that marijuana and marijuana products be sold in  
18 resealable, child-resistant exit packaging to protect public health as provided in 16-12-208;
- 19 (k) requirements and standards for the testing and retesting of marijuana and marijuana products,  
20 including testing of samples collected during the department's inspections of licensed premises;
- 21 (l) the amount of variance allowable in the results of raw testing data that would warrant a  
22 departmental investigation of inconsistent results as provided in 16-12-202;
- 23 (m) requirements and standards to prohibit or limit marijuana, marijuana products, and marijuana  
24 accessories that are unsafe or contaminated;
- 25 (n) the activities that constitute advertising in violation of 16-12-211 and requirements and  
26 standards for electronic advertising as permitted under 16-12-211;
- 27 (o) requirements and incentives to promote renewable energy, reduce water usage, and reduce  
28 packaging waste to maintain a clean and healthy environment in Montana;

(p) procedures for collecting and destroying samples of marijuana and marijuana products that fail to meet testing requirements pursuant to 16-12-209; and

(q) implementation of the state's ban on synthetic cannabinoids and synthetic cannabinoid products, including but not limited to identifying what constitutes a synthetic cannabinoid and identifying the process by which synthetic cannabinoids are made; and

~~(q)(r)~~ the fees for testing laboratories, the fingerprint-based and name-based background checks required under 16-12-129, employee certification, the marijuana transporter license, marijuana worker permits, and other fees necessary to administer and enforce the provisions of this chapter. The fees established by the department, taxes collected pursuant to Title 15, chapter 64, part 1, civil penalties imposed pursuant to this chapter, and the licensing fees established by rule and in part 2 of this chapter must be sufficient to offset the expenses of administering this chapter but may not exceed the amount necessary to cover the costs to the department of implementing and enforcing this chapter.

(2) The department may not adopt any rule or regulation that is unduly burdensome or undermines the purposes of this chapter.

(3) The department may consult or contract with other public agencies in carrying out its duties under this chapter."

**Section 5.** Section 16-12-117, MCA, is amended to read:

**"16-12-117. Synthetic marijuana cannabinoid products prohibited -- restriction on sale of marijuana products.** (1) A person may not manufacture, process, store, or offer for sale a synthetic marijuana cannabinoid or a synthetic cannabinoid product.

~~(2) Products containing or consisting of cannabinoids produced and processed for any type of consumption into a human body, whether marketed as containing or consisting of cannabinoids or not, that exceed a THC concentration of 0.3% Marijuana and marijuana products~~ may only be sold by a manufacturer licensed under 16-12-222, a cultivator licensed under 16-12-223, or a dispensary licensed under 16-12-224 unless the products are authorized as a drug by the United States food and drug administration. Products under this section may not exceed the potency levels established in 16-12-224.

~~(3) Products containing a THC concentration of 0.3% or less~~ Hemp and hemp products sold by

1 any person other than a licensed manufacturer under 16-12-222 or a licensed dispensary under 16-12-224 may  
2 not exceed 0.5 milligrams of total delta-9 THC for each serving and may not exceed 2 milligrams of total delta-9  
3 THC per package.

4 (4) This section does not apply to unadulterated hemp flower that is not further processed into  
5 extracts, infused products, or concentrates."  
6

7 **Section 6.** Section 16-12-208, MCA, is amended to read:

8 **"16-12-208. Restrictions.** (1) A cultivator or manufacturer may not cultivate marijuana or manufacture  
9 marijuana products in a manner that is visible from the street or other public area without the use of binoculars,  
10 aircraft, or other optical aids.

11 (2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location  
12 other than the licensed premises approved by the department and within an enclosed area that is secured in a  
13 manner that prevents access by unauthorized persons.

14 (3) A licensee shall make the licensed premises, books, and records available to the department  
15 for inspection and audit under 16-12-210 during normal business hours.

16 (4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee.

17 (5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that  
18 are attractive to children or that are easily confused with commercially sold candy that does not contain  
19 marijuana.

20 (6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-  
21 resistant exit packaging that complies with federal child resistance standards and is designed to be significantly  
22 difficult for children under 5 years of age to open and not difficult for adults to use properly.

23 (b) (i) Packaging of individual products may contain only the following design elements and  
24 language on a white label:

25 (A) the seller's business name and any accompanying logo or design mark;

26 (B) the name of the product; and

27 (C) the THC content or CBD content, health warning messages as provided in 16-12-215, and  
28 ingredients.

(ii) All packaging and outward labeling, including business logos and design marks, must also comply with any standards or criteria established by the department, including but not limited to allowable symbols and imagery.

(7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer hemp flower, hemp plants, synthetic cannabinoids, synthetic cannabinoid products, or alcohol from a licensed premises.

(8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for ultimate sale to a consumer or registered cardholder, a licensee or license applicant shall submit both a package and a label application, in a form prescribed by the department, to receive approval from the department.

(b) The initial submission must be made electronically if required by the department. The licensee or license applicant shall submit a physical prototype upon request by the department.

(c) If a license applicant submits packages and labels for preapproval, final determination for packages and labels may not be made until the applicant has been issued a license.

(d) A packaging and label application must include:

(i) a fee provided for in rule by the department;

(ii) documentation that all exit packaging has been certified as child-resistant by a federally qualified third-party child-resistant package testing firm;

(iii) a picture or rendering of and description of the item to be placed in each package; and

(iv) for label applications for inhalable marijuana products that contain nonmarijuana additives:

(A) the nonmarijuana additive's list of ingredients; and

(B) in a form and manner prescribed by the department, information regarding the additive or additives and the manufacturer of the additive or additives.

(9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified receptacle into which marijuana or marijuana products already within a container are placed at the retail point of sale."

**Section 7.** Section 16-12-305, MCA, is amended to read:

1           **"16-12-305. Enforcement -- ordinances -- investigations -- injunctions -- violation.** (1) A local  
2 government may, by ordinance or otherwise, impose regulations regarding products under 16-12-117(1) and  
3 (3).

4           (2) The department of agriculture, the department of justice, the department of public health and  
5 human services, local sheriff departments, municipal police departments, a county attorney's office, and the  
6 department of revenue may ~~inspect~~ investigate any business to ~~investigate~~ determine whether it is engaged in  
7 unlawful activity under 16-12-117(4).

8           (3) (a) If an investigation results in reasonable cause to believe that a violation of 16-12-117  
9 occurred, the investigating agency may issue a cease and desist order to be served pursuant to Rule 4,  
10 M.R.Civ.P. The order is effective upon service. Proof of service constitutes notice to the person of the existence  
11 and contents of the order.

12           (b) The investigating agency may assess a penalty of not more than \$1,000 per day for each day a  
13 cease and desist order issued under this section is violated. Fifty percent of the penalty must be deposited into  
14 the healing and ending addiction through recovery and treatment account under 16-12-122, and the remainder  
15 must be deposited in the marijuana state special revenue account under 16-12-111.

16           (4) (a) The investigating agency may institute and maintain in the name of the state an action for  
17 injunction or another civil remedy in district court to enforce a cease and desist order under this section. Proof  
18 of inadequacy of a legal remedy or proof of substantial or irreparable damage from continued violation is not  
19 required. It is sufficient to charge that the person engaged in the unlawful conduct subject to 16-12-117 on a  
20 certain day in a certain county without averring further or more particular facts concerning the violation.

21           (b) The ~~department~~ investigating agency is entitled to its costs, including the costs of investigation  
22 and attorney fees, incurred in seeking a district court order under this section.

23           (c) A person who knowingly or purposely violates a district court injunction under this section is  
24 guilty of a felony and subject to the penalties set forth in 46-18-213.

25           (5) An officer, agent, partner, or member of a business entity who knowingly and personally  
26 participates in a violation of this section is subject to the penalties prescribed in this section.

27           (6) The remedies provided for in this section are in addition to and do not limit the remedies and  
28 actions otherwise permitted or required by law.

- (7) A violation of 16-12-117(1) or (2) may be enforced under:
- (a) criminal distribution of dangerous drugs as defined in 45-9-101;
  - (b) criminal possession of dangerous drugs as defined in 45-9-102; or
  - (c) criminal production or manufacture of dangerous drugs as defined in 45-9-110."

**Section 8.** Section 45-5-623, MCA, is amended to read:

**"45-5-623. Unlawful transactions with children.** (1) Except as provided for in 16-6-305, a person commits the offense of unlawful transactions with children if the person knowingly:

- (a) sells or gives explosives to a child except as authorized under appropriate city ordinances;
- (b) sells or gives intoxicating substances other than alcoholic beverages to a child;
- (c) sells or gives an alcoholic beverage to a person under 21 years of age;
- (d) sells or gives to a child a tobacco product, alternative nicotine product, or vapor product, as defined in 16-11-302;
- (e) sells or gives to a child a synthetic ~~marijuana~~ cannabinoid product, as defined in 16-12-102;
- (f) being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child without authorization of the parent or guardian; or
- (g) tattoos or provides a body piercing on a child without the explicit in-person consent of the child's parent or guardian. For purposes of this subsection (1)(g), "tattoo" and "body piercing" have the meaning provided in 50-48-102. Failure to adequately verify the identity of a parent or guardian is not an excuse for violation of this subsection (1)(g).

(2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. (See compiler's comments for contingent termination of certain text.)"

NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

- END -