

1 HOUSE BILL NO. 229

2 INTRODUCED BY M. HOPKINS, C. FRIEDEL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA LAWS; ALLOWING FOR A  
5 PROBATIONARY LICENSE FOR TESTING LABORATORIES; RESTRICTING THE TRANSPORTATION OF  
6 LABORATORY SAMPLES TO TESTING LABORATORIES; ALLOWING FOR A VARIANCE IN THE  
7 MEASUREMENT OF A SINGLE-SERVE EDIBLE MARIJUANA PRODUCT; AND AMENDING SECTIONS 16-  
8 12-104, 16-12-206, AND 16-12-224, MCA."

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

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12 **Section 1.** Section 16-12-104, MCA, is amended to read:

13 **"16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and  
14 maintain a registry of persons who receive licenses under this chapter.

15 (2) (a) The department shall issue the following license types to persons who submit applications  
16 meeting the requirements of this chapter:

- 17 (i) cultivator license;
- 18 (ii) manufacturer license;
- 19 (iii) adult-use dispensary license or a medical marijuana dispensary license;
- 20 (iv) testing laboratory license.
- 21 (v) marijuana transporter license.
- 22 (vi) combined-use marijuana license.

23 (b) The department may establish other license types, subtypes, endorsements, and restrictions it  
24 considers necessary for the efficient administration of this chapter.

25 (3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

26 (4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the  
27 provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

28 (5) The department shall assess applications for licensure or renewal to determine if an applicant,

1 this chapter are nontransferable.

2 (b) A licensee may sell its marijuana business, including live plants, inventory, and material assets,  
3 to a person who is licensed by the department under the provisions of this chapter. The department may, in its  
4 discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana  
5 business.

6 ~~(14)~~(15) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise  
7 obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner  
8 unless the licensee notifies, in writing, the department of the proposed transaction and the department  
9 determines that the person qualifies for ownership under the provisions of this chapter."

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

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

13 (a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic  
14 acid content of marijuana and marijuana products; and

15 (b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew,  
16 and other contaminants. A testing laboratory may transport samples to be tested.

17 (2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring  
18 the achievement and maintenance of quality standards of practice. A scientific director must have the following  
19 minimum qualifications:

20 (a) a doctorate in chemical or biological sciences from a college or university accredited by a  
21 national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

22 (b) a master's degree in chemical or biological sciences from a college or university accredited by  
23 a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

24 (3) All owners and employees of a testing laboratory shall submit fingerprints to the department to  
25 facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned,  
26 operated, or staffed by a person who has been convicted of a felony offense.

27 (4) To qualify for licensure, a testing laboratory shall demonstrate that:

28 (a) staff members are proficient in operation of the laboratory equipment; and

- 1 (b) the laboratory:
- 2 (i) maintains the equipment and instrumentation required by rule;
- 3 (ii) has all equipment and instrumentation necessary to certify results that meet the quality
- 4 assurance testing requirements established by rule, including the ability to certify results at the required level of
- 5 sensitivity;
- 6 (iii) meets insurance and bonding requirements established by rule;
- 7 (iv) has the capacity and ability to serve rural areas of the state; and
- 8 (v) has passed a proficiency program approved by the state laboratory that demonstrates it is able
- 9 to meet all testing requirements.

10 (5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of:

- 11 (a) samples of marijuana and marijuana products submitted by cultivators and manufacturers
- 12 pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;
- 13 (b) samples of marijuana or marijuana products collected by the department during inspections of
- 14 licensed premises; and
- 15 (c) samples submitted by consumers or registered cardholders.

16 (6) All samples submitted under ~~subsections subsection (5)(a) and (5)(b)~~ must be collected by an

17 employee of the testing lab. A ~~commercial~~ testing lab may not use a third-party marijuana transporter for

18 samples submitted under subsections (5)(a) and (5)(b)."

20 **Section 3.** Section 16-12-224, MCA, is amended to read:

21 **"16-12-224. Licensing of dispensaries.** (1) Except as provided in 16-12-201(2), an applicant for a

22 dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been

23 satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be

24 located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the

25 November 3, 2020, general election.

26 (2) When evaluating an initial or renewal application, the department shall evaluate each proposed

27 dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

28 (3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana

1 dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

2 (4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders  
3 marijuana, marijuana products, and live marijuana plants.

4 (5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana  
5 plants to consumers or registered cardholders.

6 (6) The department shall charge a dispensary license fee for an initial application and at each  
7 renewal. The dispensary license fee is \$5,000 for each location that a licensee operates as an adult-use  
8 dispensary or a medical marijuana dispensary.

9 (7) The department may adopt rules:

10 (a) for inspection of proposed dispensaries;

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

12 (c) establishing or limiting the THC content of the marijuana or marijuana products that may be  
13 sold at an adult-use dispensary or medical marijuana dispensary.

14 (8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis  
15 of the concentration of THC in the products and not by weight.

16 (b) Except as provided in subsection ~~(8)(e)~~ (8)(d), for purposes of this chapter, a single package is  
17 limited to:

18 (i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive  
19 THC of marijuana flower may not exceed 35%.

20 (ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule  
21 and no more than 800 milligrams of THC per package.

22 (iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

23 (iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of  
24 THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.

25 (v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and  
26 no more than 800 milligrams of THC per package;

27 (vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100  
28 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package;

1 and

2 (vii) for any other marijuana product, no more than 800 milligrams of THC.

3 (c) There may be a deviation of 10% above or below the allowed amount ~~on a single serving of an~~

4 ~~edible marijuana product~~ under subsection ~~(8)(a)(iv) (8)(b)(iv)~~.

5 ~~(e)(d)~~ A dispensary may sell marijuana or marijuana products having higher THC potency levels than  
6 described in subsection (8) to registered cardholders.

7 (9) A licensee or employee is prohibited from conducting a transaction that would result in a  
8 consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-  
9 12-515."

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