

1 HOUSE BILL NO. 304

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9 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO MARIJUANA CULTIVATORS

10 AND MARIJUANA MANUFACTURERS; REQUIRING A MARIJUANA CULTIVATOR AND A MARIJUANA

11 MANUFACTURER TO INSTALL AN AIR FILTRATION SYSTEM; PROVIDING FOR INSPECTION

12 REQUIREMENTS AND REMEDIES; AMENDING SECTIONS 16-12-210, 16-12-221, AND 16-12-223, MCA;

13 AND PROVIDING A DELAYED EFFECTIVE DATE."

14

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

16

17 **Section 1.** Section 16-12-210, MCA, is amended to read:

18 **"16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees. (1)**

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

20 ~~(b) — The department may not conduct more than two unannounced inspections of a licensed~~

21 ~~premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or~~

22 ~~there is other just and reasonable cause.~~

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

24 (b) The department may collect samples during the inspection of a licensed premises and submit

25 the samples to a testing laboratory or the state laboratory for testing as provided by the department by rule.

26 (3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with

27 consumers and registered cardholders. The records must be open for inspection by the department or state

28 laboratory, as appropriate, and state or local law enforcement agencies.

1 (b) Each testing laboratory shall keep:

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

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

5 (c) The records and data required under this subsection (3) must be open for inspection by the
6 department and state or local law enforcement agencies.

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

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

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

14 (5) (a) On inspection and notice by the department, a licensee in violation of 16-12-221(3) or 16-
15 12-223(1)(d) shall:

16 (i) provide a written plan of correction within 10 days to the department; and

17 (ii) comply with the written plan of correction within 6 months.

18 (b) Pursuant to 16-12-109, the department may revoke, suspend, or refuse to renew a licensee's
19 license or issue a penalty to a licensee for noncompliance with the provisions of subsection (5)(a).

20 (5)(6) 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)(7) 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)~~(8) 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)~~(9) (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)~~ (9)(b) must be made by filing a complaint setting forth
16 the 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)~~(10) The department shall establish a training protocol to ensure uniform application and
19 enforcement of the requirements of this chapter.

20 ~~(10)~~(11) The department shall report biennially to the economic affairs interim committee concerning
21 the results of inspections conducted under this section. The report must include the information required under
22 16-12-110."
23

24 **Section 2.** Section 16-12-221, MCA, is amended to read:

25 **"16-12-221. Manufacturer -- requirements -- limitations -- fees.** (1) A person licensed as a
26 manufacturer shall:

27 (a) prepare marijuana products at a licensed premises exclusively; and

28 (b) use equipment that is used exclusively for the manufacture and preparation of marijuana