

1 HOUSE BILL NO. 640

2 INTRODUCED BY M. HOPKINS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO MARIJUANA;
5 PROHIBITING PERSONS UNDER 21 YEARS OF AGE TO BE IN OR REMAIN IN AN ADULT-USE
6 DISPENSARY; INCREASING FEE DISCOUNT PERCENTAGES IN THE EVENT THE DEPARTMENT OF
7 REVENUE DOES NOT PROCESS A LICENSE WITHIN THE STATUTORY REQUIREMENTS; AND
8 AMENDING SECTIONS 16-12-104 AND 16-12-109, 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. (Effective October 1, 2021) Department responsibilities -- licensure.** (1) The
14 department shall establish and maintain a registry of persons who receive licenses under this chapter. The
15 department shall issue:

16 (a) licenses:

17 (i) to persons who apply to operate as adult-use providers or adult-use marijuana-infused products
18 providers and who submit applications meeting the requirements of this chapter; and

19 (ii) for adult-use dispensaries established by adult-use providers or adult-use marijuana-infused
20 products providers; and

21 (b) endorsements for manufacturing to an adult-use provider or an adult-use marijuana-infused
22 products provider that applies for a manufacturing endorsement and meets requirements established by the
23 department by rule.

24 (2) A person who obtains an adult-use provider license, adult-use marijuana-infused products
25 provider license, or adult-use dispensary license or an employee of a licensed adult-use provider or adult-use
26 marijuana-infused products provider is authorized to cultivate, manufacture, possess, sell, and transport
27 marijuana as allowed by this chapter.

28 (3) A person who obtains a testing laboratory license or an employee of a licensed testing laboratory

1 is authorized to possess, test, and transport marijuana as allowed by this chapter.

2 (4) The department shall conduct criminal history background checks as required by 50-46-307 and
3 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.

4 (5) Licenses issued pursuant to this chapter must:

5 (a) be laminated and produced on a material capable of lasting for the duration of the time period for
6 which the license is valid;

7 (b) indicate whether an adult-use provider or an adult-use marijuana-infused products provider has an
8 endorsement for manufacturing;

9 (c) state the date of issuance and the expiration date of the license; and

10 (d) contain other information that the department may specify by rule.

11 (6) (a) The department shall make application forms available and begin accepting applications for
12 licensure and endorsement under this chapter on or before January 1, 2022.

13 (b) The department shall review the information contained in an application or renewal submitted
14 pursuant to this chapter and shall approve or deny an application:

15 (i) within 30 days of receiving the application or renewal and all related application materials from an
16 existing licensed provider or marijuana-infused products provider; and

17 (ii) within 90 days of receiving the application and all related application materials from a new
18 applicant.

19 (c) If the department fails to act on a completed application within the time allowed under subsection
20 (6)(b), the department shall:

21 (i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a
22 licensee seeking renewal of a license by ~~5%~~ 10% each week that the application is pending; and

23 (ii) allow a licensee to continue operation until the department takes final action.

24 (d) Applications that are not processed within the time allowed under subsection (6)(b) remain active
25 until the department takes final action.

26 (e) (i) The department may not take final action on an application for a license or renewal of a license
27 until the department has completed a satisfactory inspection as required by this chapter and related
28 administrative rules.

1 (ii) Failure by the department to complete the required inspection within the time allowed under
2 subsection (6)(b) does not prevent an application from being considered complete for the purpose of subsection
3 (6)(c).

4 (f) The department shall issue a license or endorsement within 5 days of approving an application or
5 renewal.

6 (7) Review of a rejection of an application or renewal may be conducted as a contested case hearing
7 pursuant to the provisions of the Montana Administrative Procedure Act.

8 (8) Licenses and endorsements issued to adult-use providers and adult-use marijuana-infused
9 products providers must be renewed annually.

10 (9) The department shall provide the names and phone numbers of adult-use providers and adult-use
11 marijuana-infused products providers and the city, town, or county where registered premises and testing
12 laboratories are located to the public on the department's website. The department may not disclose the
13 physical location or address of an adult-use provider, adult-use marijuana-infused products provider, adult-use
14 dispensary, or testing laboratory.

15 (10) The department may not prohibit an adult-use provider, adult-use marijuana-infused products
16 provider, or adult-use dispensary licensee from operating at a shared location with a provider, marijuana-
17 infused products provider, or dispensary as defined in 50-46-302 if the provider, marijuana-infused products
18 provider, or dispensary is owned by the same person.

19 (11) The department may not adopt rules requiring a consumer to provide an adult-use provider, adult-
20 use marijuana-infused products provider, or adult-use dispensary licensee with identifying information other
21 than identification to determine the consumer's age or require the recording of personal information about
22 consumers other than information typically required in a retail transaction."
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24 **Section 2.** Section 16-12-109, MCA, is amended to read:

25 **"16-12-109. (Effective October 1, 2021) Unlawful conduct by licensees -- penalties.** (1) The
26 department shall revoke and may not reissue a license or endorsement belonging to an individual who:

27 (a) is convicted of a felony drug offense;

28 (b) allows another individual not authorized or lawfully allowed to be in possession of the individual's

1 license; or

2 (c) fails to cooperate with the department concerning an investigation or inspection if the individual is
3 licensed and cultivating marijuana, engaging in manufacturing, or manufacturing marijuana-infused products.

4 (2) The department shall revoke a license issued under this chapter if the licensee:

5 (a) purchases marijuana from an unauthorized source in violation of this chapter;

6 (b) sells marijuana, marijuana concentrate, or marijuana-infused products to a person the licensee
7 knows or should know is under 21 years of age;

8 (c) allows a person that the licensee knows or should know is under 21 years of age to be inside or
9 remain in the adult-use dispensary if the person does not have a registry identification card issued by the
10 department of public health and human services pursuant to 50-46-303;

11 ~~(e)(d)~~ operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing
12 endorsement; or

13 ~~(d)(e)~~ transports marijuana or marijuana-infused products outside of Montana, unless allowed by
14 federal law.

15 (3) A licensee who violates the advertising restrictions imposed under 16-12-211 is subject to:

16 (a) a written warning for the first violation;

17 (b) a 5-day license suspension or a \$500 fine for a second violation;

18 (c) a 5-day license suspension or a \$1,000 fine for a third violation;

19 (d) a 30-day license suspension or a \$2,500 fine for a fourth violation; and

20 (e) a license revocation for a fifth violation.

21 (4) Except for the license revocations required under this section, a licensee shall choose whether to
22 pay a fine or be subject to a license suspension when a penalty is imposed under this section.

23 (5) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the
24 revocation.

25 (6) If no other penalty is specified under this chapter, an adult-use provider or adult-use marijuana-
26 infused products provider who violates this chapter is punishable by a civil fine not to exceed \$500, unless
27 otherwise provided in this chapter or unless the violation would constitute a violation of Title 45. An offense
28 constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

