

SENATE BILL NO. 333

INTRODUCED BY M. CAFERRO, Z. BROWN, A. HERTZ, B. SMITH, S. STEWART-PEREGOY,
F. THOMAS, D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA MEDICAL MARIJUANA ACT;
REQUIRING SEED-TO-SALE TRACKING; REQUIRING LICENSING OF DISPENSARIES AND
ENDORSEMENTS FOR CHEMICAL MANUFACTURING; ESTABLISHING A TAX ON SALES; ESTABLISHING
REQUIREMENTS FOR TESTING LABORATORIES; REVISING ALLOWABLE AMOUNTS; REQUIRING
TESTING OF SAMPLES COLLECTED DURING INSPECTIONS; ELIMINATING THE REQUIREMENT FOR A
PARENT TO SERVE AS A MINOR'S PROVIDER; ESTABLISHING A TAX ON PROVIDERS; PROVIDING FOR
THE ASSESSMENT AND COLLECTION OF THE TAX; ESTABLISHING A PER-PATIENT FEE FOR PROVIDERS
AND A FEE FOR DISPENSARIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY;
AMENDING SECTIONS 41-5-216, 50-46-302, 50-46-303, 50-46-307, 50-46-308, 50-46-311, 50-46-312,
50-46-319, 50-46-320, 50-46-327, 50-46-328, 50-46-329, 50-46-330, 50-46-343, 50-46-344, AND 50-46-345,
AND 80-1-104, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with

1 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

2 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA
3 records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements
4 of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the
5 information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual
6 offender pursuant to Title 46, chapter 23, part 5.

7 (5) After formal youth court records, law enforcement records, and department records are sealed, they
8 are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits
9 a new offense, to:

10 (a) those persons and agencies listed in 41-5-215(2); and

11 (b) adult probation professional staff preparing a presentence report on a youth who has reached the
12 age of majority.

13 (6) (a) When formal youth court records, law enforcement records, and department records are sealed
14 under subsection (1), the electronic records of the management information system maintained by the department
15 of public health and human services and by the department relating to the youth whose records are being sealed
16 must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

17 (b) The department of public health and human services and the department shall disassociate the
18 offense and disposition information from the name of the youth in the respective management information system.
19 The offense and disposition information must be maintained separately and may be used only:

20 (i) for research and program evaluation authorized by the department of public health and human
21 services or by the department and subject to any applicable laws; and

22 (ii) as provided in Title 5, chapter 13.

23 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
24 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
25 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected
26 only pursuant to subsection (5).

27 (b) The informal youth court records may be maintained and inspected only by youth court personnel
28 upon a new offense prior to the youth's 18th birthday.

29 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
30 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are

1 in hard-copy form must be destroyed and any electronic records in the youth court management information
2 system must disassociate the offense and disposition information from the name of the youth and may be used
3 only for the following purposes:

4 (i) for research and program evaluation authorized by the office of the court administrator and subject
5 to any applicable laws; and

6 (ii) as provided in Title 5, chapter 13.

7 (8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth
8 court records within the juvenile probation management information system. Electronic records of the youth court
9 may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy
10 of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record
11 that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or
12 as provided in subsection (2) of this section.

13 (9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth
14 court records within the department's youth management information system. Electronic records of the
15 department's youth management information system may not be shared except as provided in subsection (5).
16 If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department
17 shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy
18 the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

19 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-term
20 detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement
21 of a youth within the facility.

22 (11) This section does not prohibit access to formal or informal youth court records, including electronic
23 records, for purposes of conducting evaluations as required by 41-5-2003.

24 (12) This section does not prohibit the office of court administrator, upon written request from the
25 department of public health and human services, from confirming whether a person applying for a registry
26 identification card pursuant to 50-46-307 or a license pursuant to 50-46-308 is currently under youth court
27 supervision."

28

29 **Section 2.** Section 50-46-302, MCA, is amended to read:

30 **"50-46-302. Definitions.** As used in this part, the following definitions apply:

1 (1) "Canopy" means the total amount of square footage dedicated to live plant production at a registered
2 premises CONSISTING OF THE AREA OF THE FLOOR, PLATFORM, OR MEANS OF SUPPORT OR SUSPENSION OF THE PLANT.

3 (2) "CHEMICAL MANUFACTURING" MEANS THE PRODUCTION OF MARIJUANA CONCENTRATE.

4 ~~(1)(2)(3)~~ "Correctional facility or program" means a facility or program that is described in 53-1-202 and
5 to which an individual may be ordered by any court of competent jurisdiction.

6 ~~(2)(3)(4)~~ "Debilitating medical condition" means:

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

10 (b) cachexia or wasting syndrome;

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

13 (d) intractable nausea or vomiting;

14 (e) epilepsy or an intractable seizure disorder;

15 (f) multiple sclerosis;

16 (g) Crohn's disease;

17 (h) painful peripheral neuropathy;

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

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

20 (k) posttraumatic stress disorder; ~~or~~

21 ~~— (l) any other medical condition or treatment for a medical condition approved by the legislature.~~

22 ~~(3)(4)(5)~~ "Department" means the department of public health and human services provided for in
23 2-15-2201.

24 ~~(4)(5)(6)~~ "Dispensary" means a registered ~~location~~ premises from which a provider or marijuana-infused
25 products provider is approved by the department to dispense marijuana or marijuana-infused products to a
26 registered cardholder.

27 ~~(5)(6)(7)~~ (a) "Employee" means an individual employed to do something for the benefit of an employer
28 or a third person.

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

1 ~~(6)(7)(8)~~ "Local government" means a county, a consolidated government, or an incorporated city or
 2 town.

3 ~~(7)(8)(9)~~ "Marijuana" has the meaning provided in 50-32-101.

4 ~~(9)(10)~~ "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the
 5 resin extracted from any part of the marijuana plant.

6 (11) "MARIJUANA DERIVATIVE" MEANS ANY MIXTURE OR PREPARATION OF THE DRIED LEAVES, FLOWERS, RESIN,
 7 AND BYPRODUCTS OF THE MARIJUANA PLANT, INCLUDING BUT NOT LIMITED TO MARIJUANA CONCENTRATES AND
 8 MARIJUANA-INFUSED PRODUCTS.

9 ~~(8)(10)(11)(12)~~ (a) "Marijuana-infused product" means a product that contains marijuana and is intended
 10 for use by a registered cardholder by a means other than smoking.

11 (b) The term includes but is not limited to edible products, ointments, and tinctures.

12 ~~(9)(11)(12)(13)~~ (a) "Marijuana-infused products provider" means a person licensed by the department
 13 to manufacture and provide marijuana-infused products for a registered cardholder.

14 (b) The term does not include the cardholder's treating or referral physician.

15 ~~(10)(12)(13)(14)~~ "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

16 ~~(11)(13)(14)(15)~~ "Paraphernalia" has the meaning provided in 45-10-101.

17 ~~(12)(14)(15)(16)~~ "Person" means an individual, partnership, association, company, corporation, limited
 18 liability company, or organization.

19 ~~(13)(15)(16)(17)~~ (a) "Provider" means a person licensed by the department to assist a registered
 20 cardholder as allowed under this part.

21 (b) The term does not include a cardholder's treating physician or referral physician.

22 ~~(14)(16)(17)(18)~~ "Referral physician" means an individual who:

23 (a) is licensed under Title 37, chapter 3;

24 (b) has an established office in Montana; and

25 (c) is the physician to whom a patient's treating physician has referred the patient for physical
 26 examination and medical assessment.

27 ~~(15)(17)(18)(19)~~ "Registered cardholder" or "cardholder" means a Montana resident with a debilitating
 28 medical condition who has received and maintains a valid registry identification card.

29 ~~(16)(18)(19)(20)~~ "Registered premises" means the location at which a provider or marijuana-infused
 30 products provider;

1 (a) has indicated that marijuana will be cultivated, CHEMICAL MANUFACTURING WILL OCCUR, or
 2 marijuana-infused products will be manufactured for a registered cardholder; or

3 (b) has established a dispensary for sale of marijuana or marijuana-infused products to a registered
 4 cardholder.

5 ~~(17)(19)(20)(21)~~ "Registry identification card" means a document issued by the department pursuant to
 6 50-46-303 that identifies an individual as a registered cardholder .

7 ~~(18)(20)(21)(22)~~ (a) "Resident" means an individual who meets the requirements of 1-1-215.

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

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

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

11 ~~(19)(21)(22)(23)~~ "Second degree of kinship by blood or marriage" means a mother, father, brother, sister,
 12 son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law,
 13 son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister,
 14 stepson, stepdaughter, stepgrandparent, or stepgrandchild.

15 ~~(20)(22)(23)(24)~~ "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in
 16 height and ~~42~~ 40 inches in diameter.

17 ~~(21)(23)(24)(25)~~ "Standard of care" means, at a minimum, the following activities when undertaken by
 18 a patient's treating physician or referral physician if the treating physician or referral physician is providing written
 19 certification for a patient with a debilitating medical condition:

20 (a) obtaining the patient's medical history;

21 (b) performing a relevant and necessary physical examination;

22 (c) reviewing prior treatment and treatment response for the debilitating medical condition;

23 (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating
 24 medical condition;

25 (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,
 26 alternatives, potential adverse effects, and expected response to the recommended treatment;

27 (f) monitoring the response to treatment and possible adverse effects; and

28 (g) creating and maintaining patient records that remain with the physician.

29 ~~(22)(24)(25)(26)~~ "Testing laboratory" means a qualified person, licensed by the department, who meets
 30 the requirements of 50-46-311 and:

- 1 (a) provides testing of small samples of marijuana and marijuana-infused products; and
 2 (b) provides information regarding the chemical composition, the potency of a sample, and the presence
 3 of molds or pesticides in a sample.

4 ~~(23)(25)(26)(27)~~ "Treating physician" means an individual who:

- 5 (a) is licensed under Title 37, chapter 3;
 6 (b) has an established office in Montana; and
 7 (c) has a bona fide professional relationship with the individual applying to be a registered cardholder.

8 ~~(24)(26)(27)(28)~~ (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and
 9 any mixtures or preparations of the dried leaves and flowers, ~~including a marijuana concentrate,~~ MARIJUANA
 10 DERIVATIVES that are appropriate for the use of marijuana by an individual with a debilitating medical condition.

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

12 ~~(25)(27)(28)(29)~~ "Written certification" means a statement signed by a treating physician or referral
 13 physician that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care."
 14

15 **Section 3.** Section 50-46-303, MCA, is amended to read:

16 **"50-46-303. Department responsibilities -- issuance of cards and licenses -- confidentiality --**
 17 **inspections -- reports.** (1) ~~(a)~~ The department shall establish and maintain a program for:

18 (a) the issuance of registry identification cards to Montana residents who have debilitating medical
 19 conditions and who submit applications meeting the requirements of this part;

20 (b) the issuance of licenses:

21 (i) to persons who apply to operate as providers, marijuana-infused products providers, or testing
 22 laboratories and who submit applications meeting the requirements of this part; and

23 (ii) for dispensaries established by providers or marijuana-infused products providers; and

24 (C) THE ISSUANCE OF ENDORSEMENTS FOR CHEMICAL MANUFACTURING TO A PROVIDER OR A
 25 MARIJUANA-INFUSED PRODUCTS PROVIDER WHO APPLIES FOR A CHEMICAL MANUFACTURING ENDORSEMENT AND MEETS
 26 REQUIREMENTS ESTABLISHED BY THE DEPARTMENT BY RULE; AND

27 ~~(e)(D)~~ the tracking of marijuana and marijuana-infused products from either the seed or the immature
 28 plant stage until the marijuana or marijuana-infused product is sold to a registered cardholder to ensure that the
 29 marijuana or marijuana-infused product cultivated, manufactured, possessed, and sold under this part is not sold
 30 or otherwise provided to an individual who is not authorized under this part to possess the item. THE LICENSE FEES

1 PROVIDED FOR IN 50-46-344 MUST COVER THE COSTS OF THE SEED-TO-SALE TRACKING SYSTEM ESTABLISHED BY THE
 2 DEPARTMENT. THE TRACKING SYSTEM MUST BE PROVIDED TO PROVIDERS, MARIJUANA-INFUSED PRODUCTS PROVIDERS,
 3 DISPENSARIES, AND TESTING LABORATORIES AT NO ADDITIONAL COST.

4 ~~(b)(2)~~ (a) Individuals who obtain registry identification cards are An individual who obtains a registry
 5 identification card and does not name a provider or marijuana-infused products provider is authorized to cultivate,
 6 manufacture, possess, and transport marijuana as allowed by this part.

7 (b) An individual who obtains a registry identification card and names a provider or marijuana-infused
 8 products provider is authorized to possess marijuana as allowed by this part.

9 (c) A person who obtains a provider, marijuana-infused products provider, or dispensary license or an
 10 employee of a licensee is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed
 11 by this part.

12 (d) A person who obtains a testing laboratory license OR AN EMPLOYEE OF A LICENSEE is authorized to
 13 possess, test, and transport marijuana as allowed by this part.

14 ~~(2) The department shall establish and maintain a program for the licensure of testing laboratories and~~
 15 ~~persons who are named as providers or marijuana-infused products providers by registered cardholders.~~

16 (3) The department shall conduct criminal history background checks as required by 50-46-307 and
 17 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.

18 (4) (A) Registry identification cards and licenses issued pursuant to this part must:

19 ~~(a)~~(i) be laminated and produced on a material capable of lasting for the duration of the time period for
 20 which the card or license is valid;

21 ~~(b)~~(ii) state the name, address, and date of birth of the registered cardholder and of the cardholder's
 22 provider or marijuana-infused products provider, if any;

23 (iii) INDICATE WHETHER A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER HAS AN ENDORSEMENT FOR
 24 CHEMICAL MANUFACTURING;

25 ~~(c)~~(iv) state the date of issuance and the expiration date of the registry identification card or license;

26 ~~(d)~~(v) contain a unique identification number; and

27 ~~(e)~~(vi) contain other information that the department may specify by rule.

28 (B) ~~IN~~ EXCEPT AS PROVIDED IN SUBSECTION (4)(C), IN ADDITION TO COMPLYING WITH SUBSECTION (4)(A),
 29 REGISTRY IDENTIFICATION CARDS ISSUED PURSUANT TO THIS PART MUST ALSO INCLUDE A:

30 (i) INCLUDE A PICTURE OF THE REGISTERED CARDHOLDER; AND

1 ~~(II) MICROPROCESSOR CHIP, MAGNETIC STRIPE, BAR CODE, OR OTHER ELECTRONIC INFORMATION STORAGE~~
 2 ~~DEVICE THAT IS BE CAPABLE OF BEING USED TO TRACK REGISTERED CARDHOLDER PURCHASES.~~

3 ~~(C) THE DEPARTMENT SHALL CONTRACT WITH THE DEPARTMENT OF JUSTICE TO PRODUCE THE REGISTRY~~
 4 ~~IDENTIFICATION CARDS PROVIDED FOR IN THIS SECTION. THE DEPARTMENT MAY ISSUE TEMPORARY IDENTIFICATION CARDS~~
 5 ~~VALID FOR 60 DAYS THAT DO NOT MEET THE REQUIREMENTS OF SUBSECTION (4)(B).~~

6 ~~(D) THE DEPARTMENT SHALL OFFER FREE OR REDUCED COST REGISTRY IDENTIFICATION CARDS THAT MEET THE~~
 7 ~~REQUIREMENTS OF SUBSECTION (4)(B) TO REGISTERED CARDHOLDERS WHO AGREE TO PROVIDE THEIR DRIVER'S LICENSE~~
 8 ~~NUMBER OR STATE IDENTIFICATION CARD NUMBER AND CURRENT MAILING ADDRESS TO THE DEPARTMENT.~~

9 (5) (a) The department shall review the information contained in an application or renewal submitted
 10 pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the
 11 application or renewal and all related application materials.

12 (b) The department shall issue a registry identification card, ~~or license, OR ENDORSEMENT~~ within 5 days
 13 of approving an application or renewal.

14 (6) Rejection of an application or renewal is considered a final department action, subject to judicial
 15 review.

16 (7) (a) Registry identification cards expire 1 year after the date of issuance unless:

17 (i) a physician has provided a written certification stating that a card is valid for a shorter period of time;

18 or

19 (ii) a registered cardholder changes providers or marijuana-infused products providers.

20 (b) Licenses ~~AND ENDORSEMENTS~~ issued to providers, marijuana-infused products providers, and testing
 21 laboratories must be renewed annually.

22 (8) ~~(A)~~ A registered cardholder shall notify the department of any change in the cardholder's name,
 23 address, physician, provider, or marijuana-infused products provider or change in the status of the cardholder's
 24 debilitating medical condition within 10 days of the change.

25 ~~(B) A REGISTERED CARDHOLDER WHO POSSESSES MATURE PLANTS OR SEEDLINGS UNDER 50-46-319(1)(B)~~
 26 ~~SHALL NOTIFY THE DEPARTMENT OF THE LOCATION OF THE PLANTS AND SEEDLINGS OR ANY CHANGE OF LOCATION OF~~
 27 ~~PLANTS OR SEEDLINGS. THE DEPARTMENT SHALL PROVIDE THE NAMES AND LOCATIONS OF CARDHOLDERS WHO POSSESS~~
 28 ~~MATURE PLANTS OR SEEDLINGS TO THE LOCAL LAW ENFORCEMENT AGENCY HAVING JURISDICTION IN THE AREA IN WHICH~~
 29 ~~THE PLANTS OR SEEDLINGS ARE LOCATED. THE LAW ENFORCEMENT AGENCY AND ITS EMPLOYEES ARE SUBJECT TO THE~~
 30 ~~CONFIDENTIALITY REQUIREMENTS OF 50-46-332.~~

- 1 (c) If a change occurs and is not reported to the department, the registry identification card is void.
- 2 (9) The department shall maintain a confidential list of individuals to whom the department has issued
- 3 registry identification cards or licenses. Except as provided in ~~subsection~~ SUBSECTIONS (8)(B) AND SUBSECTION
- 4 (10), individual names and other identifying information on the list must be confidential and are not subject to
- 5 disclosure, except to:
- 6 (a) authorized employees of the department as necessary to perform the official duties of the department;
- 7 and
- 8 (b) authorized employees of state or local government agencies, including law enforcement agencies,
- 9 only as necessary to verify that an individual is a lawful possessor of a registry identification card or license.
- 10 (10) The department shall provide the names AND PHONE NUMBERS of providers and marijuana-infused
- 11 products providers and the locations of dispensaries CITY, TOWN, OR COUNTY WHERE REGISTERED PREMISES and
- 12 testing laboratories ARE LOCATED to the ~~local law enforcement agency having jurisdiction in the area in which the~~
- 13 ~~providers, or marijuana-infused products providers, dispensaries, or laboratories are located. The law~~
- 14 ~~enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332~~ PUBLIC ON
- 15 THE DEPARTMENT'S WEBSITE. THE DEPARTMENT MAY NOT DISCLOSE THE PHYSICAL LOCATION OR ADDRESS OF A
- 16 PROVIDER, MARIJUANA-INFUSED PRODUCTS PROVIDER, DISPENSARY, OR TESTING LABORATORY.
- 17 (11) THE DEPARTMENT MAY SHARE ONLY INFORMATION ABOUT PROVIDERS, MARIJUANA-INFUSED PRODUCTS
- 18 PROVIDERS, DISPENSARIES, AND TESTING LABORATORIES WITH THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF
- 19 INVESTIGATION AND PREVENTION OF NONCOMPLIANCE WITH TAX LAWS, INCLUDING BUT NOT LIMITED TO EVASION, FRAUD,
- 20 AND ABUSE. THE DEPARTMENT OF REVENUE AND ITS EMPLOYEES ARE SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS
- 21 OF [SECTION 25(1)].
- 22 ~~(12)~~(12) The department shall report biannually to the legislature the number of applications for registry
- 23 identification cards, the number of registered cardholders approved, the nature of the debilitating medical
- 24 conditions of the cardholders, the number of providers and marijuana-infused products providers licensed, THE
- 25 NUMBER OF ENDORSEMENTS APPROVED FOR CHEMICAL MANUFACTURING, the number of testing laboratories licensed,
- 26 the number of dispensaries licensed, the number of registry identification cards and licenses revoked, the number
- 27 of physicians providing written certification for registered cardholders, and the number of written certifications
- 28 each physician has provided. The report may not provide any identifying information of cardholders, physicians,
- 29 providers, ~~or~~ marijuana-infused products providers, dispensaries, or testing laboratories.
- 30 ~~(13)~~(13) The board of medical examiners shall report annually to the legislature on the number and types

1 of complaints the board has received involving physician practices in providing written certification for the use of
2 marijuana, pursuant to 37-3-203."

3

4 **Section 4.** Section 50-46-307, MCA, is amended to read:

5 **"50-46-307. (Temporary) Persons with debilitating medical conditions -- requirements -- minors**

6 **-- limitations.** (1) Except as provided in subsections (2) through (4), the department shall issue a registry
7 identification card to a person with a debilitating medical condition who submits the following, in accordance with
8 department rules:

9 (a) an application on a form prescribed by the department;

10 (b) an application fee or a renewal fee;

11 (c) the person's name, street address, and date of birth;

12 (d) proof of Montana residency;

13 (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or
14 will be obtaining marijuana from a provider or a marijuana-infused products provider;

15 (f) a statement, on a form prescribed by the department, that the person will not divert to any other
16 person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical
17 condition;

18 (g) the name of the person's treating physician or referral physician and the street address and telephone
19 number of the physician's office;

20 (h) the street address where the person is cultivating or manufacturing marijuana if the person is
21 cultivating or manufacturing marijuana for the person's own use;

22 (i) the name, date of birth, and street address of the individual the person has selected as a provider or
23 marijuana-infused products provider, if any; and

24 (j) the written certification and accompanying statements from the person's treating physician or referral
25 physician as required pursuant to 50-46-310.

26 (2) The department shall issue a registry identification card to a minor if the materials required under
27 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care
28 decisions:

29 (a) provides proof of legal guardianship and responsibility for health care decisions if the person is
30 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

1 (b) signs and submits a written statement that:

2 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's
3 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of
4 the use of marijuana; and

5 (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

6 (A) consents to the use of marijuana by the minor;

7 ~~(B) agrees to serve as the minor's marijuana-infused products provider;~~

8 ~~(C)~~(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of
9 marijuana by the minor;

10 ~~(D)~~(C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

11 (c) if the parent or guardian is serving as the minor's provider, submits fingerprints to facilitate a
12 fingerprint and background check by the department of justice and federal bureau of investigation. The parent
13 or legal guardian shall pay the costs of the background check and may not obtain a registry identification card
14 as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of
15 50-46-308.

16 (d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated
17 or manufactured for the minor's use in a marijuana-infused product.

18 (3) An application for a registry identification card for a minor must be accompanied by the written
19 certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition
20 to the minor's treating physician or referral physician.

21 (4) A person may not be a registered cardholder if the person is in the custody of or under the
22 supervision of the department of corrections or a youth court.

23 (5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products
24 provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered cardholder
25 is the provider or marijuana-infused products provider.

26 (6) A registered cardholder may cultivate or manufacture marijuana as allowed under 50-46-319 only:

27 (a) at a property that is owned by the cardholder; or

28 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

29 (7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered
30 cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a

1 registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each
2 other by the second degree of kinship by blood or marriage.

3 **50-46-307. (Effective June 30, 2017) Individuals with debilitating medical conditions --**
4 **requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through (4), the department
5 shall issue a registry identification card to an individual with a debilitating medical condition who submits the
6 following, in accordance with department rules:

7 (a) an application on a form prescribed by the department;

8 (b) an application fee or a renewal fee;

9 (c) the individual's name, street address, and date of birth;

10 (d) proof of Montana residency;

11 (e) a statement that the individual will be cultivating marijuana and manufacturing marijuana-infused
12 products for the individual's use or will be obtaining marijuana from a provider or a marijuana-infused products
13 provider;

14 (f) a statement, on a form prescribed by the department, that the individual will not divert to any other
15 individual the marijuana or marijuana-infused products that the individual cultivates, manufactures, or obtains for
16 the individual's debilitating medical condition;

17 (g) the name of the individual's treating physician or referral physician and the street address and
18 telephone number of the physician's office;

19 (h) the street address where the individual is cultivating marijuana or manufacturing marijuana-infused
20 products if the individual is cultivating marijuana or manufacturing marijuana-infused products for the individual's
21 own use;

22 (i) the name, date of birth, and street address of the person the individual has selected as a provider or
23 marijuana-infused products provider, if any; and

24 (j) the written certification and accompanying statements from the individual's treating physician or
25 referral physician as required pursuant to 50-46-310.

26 (2) The department shall issue a registry identification card to a minor if the materials required under
27 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care
28 decisions:

29 (a) provides proof of legal guardianship and responsibility for health care decisions if the individual is
30 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

- 1 (b) signs and submits a written statement that:
- 2 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's
- 3 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of
- 4 the use of marijuana; and
- 5 (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:
- 6 (A) consents to the use of marijuana by the minor;
- 7 ~~(B) agrees to serve as the minor's marijuana-infused products provider;~~
- 8 ~~(C)~~(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of
- 9 marijuana by the minor;
- 10 ~~(D)~~(C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;
- 11 (c) if the parent or guardian will be serving as the minor's provider, submits fingerprints to facilitate a
- 12 fingerprint and background check by the department of justice and federal bureau of investigation. The parent
- 13 or legal guardian shall pay the costs of the background check and may not obtain a license as a
- 14 marijuana-infused products provider if the parent or legal guardian does not meet the requirements of 50-46-308.
- 15 (d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana
- 16 cultivated for the minor's use in a marijuana-infused product.
- 17 (3) An application for a registry identification card for a minor must be accompanied by the written
- 18 certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition
- 19 to the minor's treating physician or referral physician.
- 20 (4) An individual may not be a registered cardholder if the individual is in the custody of or under the
- 21 supervision of the department of corrections or a youth court.
- 22 (5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products
- 23 provider may not cultivate marijuana or manufacture marijuana-infused products for the cardholder's use unless
- 24 the registered cardholder is the provider or marijuana-infused products provider.
- 25 (6) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as
- 26 allowed under 50-46-319 only:
- 27 (a) at a property that is owned by the cardholder; or
- 28 (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.
- 29 (7) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused
- 30 products for use by the registered cardholder may be shared with or rented or leased to a provider, a

1 marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased
 2 by cardholders who are related to each other by the second degree of kinship by blood or marriage."
 3

4 **Section 5.** Section 50-46-308, MCA, is amended to read:

5 ~~"50-46-308. (Temporary) Provider types -- requirements -- limitations -- activities. (1) The~~
 6 ~~department shall issue a registry identification card to or renew a card for the person who is named as a provider~~
 7 ~~or marijuana-infused products provider in a registered cardholder's approved application if the person submits~~
 8 ~~to the department:~~

9 ~~—— (a) the person's name, date of birth, and street address on a form prescribed by the department;~~

10 ~~—— (b) proof that the person is a Montana resident;~~

11 ~~—— (c) fingerprints to facilitate a fingerprint and background check by the department of justice and the~~
 12 ~~federal bureau of investigation;~~

13 ~~—— (d) a written agreement signed by the registered cardholder that indicates whether the person will act~~
 14 ~~as the cardholder's provider or marijuana-infused products provider;~~

15 ~~—— (e) a statement, on a form prescribed by the department, that the person will not divert to any other~~
 16 ~~person the marijuana that the person cultivates or manufactures for a registered cardholder;~~

17 ~~—— (f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered~~
 18 ~~cardholder at only one location as provided in subsection (7). The location must be identified by street address.~~

19 ~~—— (g) a fee as determined by the department to cover the costs of the fingerprint and background check~~
 20 ~~and associated administrative costs of processing the registration.~~

21 ~~—— (2) The department may not register a person under this section if the person:~~

22 ~~—— (a) has a felony conviction or a conviction for a drug offense;~~

23 ~~—— (b) is in the custody of or under the supervision of the department of corrections or a youth court;~~

24 ~~—— (c) has been convicted of a violation under 50-46-331;~~

25 ~~—— (d) has failed to:~~

26 ~~—— (i) pay any taxes, interest, penalties, or judgments due to a government agency;~~

27 ~~—— (ii) stay out of default on a government-issued student loan;~~

28 ~~—— (iii) pay child support; or~~

29 ~~—— (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government~~
 30 ~~agency; or~~

1 ~~_____ (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in~~
 2 ~~the person's application for a card issued under 50-46-307.~~

3 ~~_____ (3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered~~
 4 ~~cardholders.~~

5 ~~_____ (ii) A person who is registered as both a provider and a marijuana-infused products provider may assist~~
 6 ~~no more than three registered cardholders.~~

7 ~~_____ (b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or~~
 8 ~~marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider~~
 9 ~~or marijuana-infused products provider.~~

10 ~~_____ (4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only~~
 11 ~~for the provider's application or renewal fee for a registry identification card issued under this section.~~

12 ~~_____ (5) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.~~

13 ~~_____ (6) A provider or marijuana-infused products provider may not:~~

14 ~~_____ (a) accept anything of value, including monetary remuneration, for any services or products provided to~~
 15 ~~a registered cardholder;~~

16 ~~_____ (b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or~~
 17 ~~marijuana-infused products; or~~

18 ~~_____ (c) use marijuana unless the person is also a registered cardholder.~~

19 ~~_____ (7) (a) A person registered under this section may cultivate and manufacture marijuana for use by a~~
 20 ~~registered cardholder only at one of the following locations:~~

21 ~~_____ (i) a property that is owned by the provider or marijuana-infused products provider;~~

22 ~~_____ (ii) with written permission of the landlord, a property that is rented or leased by the provider or~~
 23 ~~marijuana-infused products provider; or~~

24 ~~_____ (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of~~
 25 ~~50-46-307.~~

26 ~~_____ (b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or~~
 27 ~~rented or leased to another provider or marijuana-infused products provider or another registered cardholder.~~

28 ~~_____ **50-46-308. (Effective June 30, 2017) Provider types -- requirements -- limitations -- activities.** (1) (a)~~

29 ~~Subject to subsections (1)(b) and (2), the department shall issue a license to or renew a license for the person~~
 30 ~~who is named as a provider or marijuana-infused products provider in a registered cardholder's approved~~

1 application if the person submits to the department:

2 (i) the person's name, date of birth, and street address on a form prescribed by the department;

3 (ii) proof that the person is a Montana resident;

4 (iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the
5 federal bureau of investigation;

6 (iv) a written agreement signed by the registered cardholder that indicates whether the person will act
7 as the cardholder's provider or marijuana-infused products provider;

8 (v) a statement, on a form prescribed by the department, that the person will not divert to any other
9 person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures
10 for a registered cardholder;

11 (vi) a statement acknowledging that the person will cultivate marijuana and manufacture
12 marijuana-infused products for the registered cardholder at only one location as provided in subsection ~~(5)~~ (6).
13 The location must be identified by street address.

14 (vii) a fee as determined by the department to cover the costs of the fingerprint and background check
15 and associated administrative costs of processing the license.

16 (b) If the person to be licensed consists of more than one individual, the names of all individuals must
17 be submitted along with the fingerprints and date of birth of each.

18 (2) The department may not license a person under this section if the person or an individual with a
19 financial interest in the person:

20 (a) has a felony conviction or a conviction for a drug offense;

21 (b) is in the custody of or under the supervision of the department of corrections or a youth court;

22 (c) has been convicted of a violation under 50-46-331;

23 (d) has failed to:

24 (i) pay any taxes, interest, penalties, or judgments due to a government agency;

25 (ii) stay out of default on a government-issued student loan;

26 (iii) pay child support; or

27 (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government
28 agency;

29 (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in
30 the individual's application for a card issued under 50-46-307;

- 1 (f) (i) BEFORE JULY 1, 2020, HAS RESIDED IN MONTANA FOR FEWER THAN 3 YEARS; AND
- 2 (ii) ON OR AFTER JULY 1, 2020, has resided in Montana for less than 4 year ~~5 years~~ 1 YEAR; or
- 3 (g) is under 18 years of age.
- 4 (3) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.
- 5 (4) A provider or marijuana-infused products provider may not use marijuana unless the person is also
- 6 a registered cardholder.
- 7 (5) ~~A EXCEPT AS PROVIDED IN [SECTION 8(1)(B)],~~ A provider or marijuana-infused products provider shall:
- 8 (a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories
- 9 pursuant to 50-46-311, [SECTION 8], and related administrative rules;
- 10 (b) allow the department to collect samples of marijuana or marijuana-infused products during
- 11 inspections of registered premises for testing as provided by the department by rule; and
- 12 (c) participate as required by the department by rule in a seed-to-sale tracking system established by
- 13 the department pursuant to 50-46-303; AND
- 14 (D) OBTAIN THE LICENSE PROVIDED FOR IN 80-7-106 FROM THE DEPARTMENT OF AGRICULTURE. A PROVIDER
- 15 OR MARIJUANA-INFUSED PRODUCTS PROVIDER IS SUBJECT TO THE INSPECTION REQUIREMENTS OF 80-7-108. THE
- 16 DEPARTMENT OF AGRICULTURE AND ITS EMPLOYEES ARE SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF
- 17 50-46-332.
- 18 ~~(5)(6)~~ (a) A person licensed under this section may cultivate marijuana and manufacture
- 19 marijuana-infused products for use by a registered cardholder only at one of the following locations:
- 20 (i) a property that is owned by the provider or marijuana-infused products provider;
- 21 (ii) with written permission of the landlord, a property that is rented or leased by the provider or
- 22 marijuana-infused products provider; or
- 23 (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of
- 24 50-46-307.
- 25 (b) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused
- 26 products may be shared with or rented or leased to another provider or marijuana-infused products provider or
- 27 a registered cardholder.
- 28 ~~(6)(7)~~ A licensed provider or marijuana-infused products provider may:
- 29 (a) operate dispensaries in accordance with rules adopted by the department;:
- 30 (i) OPERATE DISPENSARIES; AND

1 (II) ENGAGE IN CHEMICAL MANUFACTURING IN ACCORDANCE WITH RULES ADOPTED BY THE DEPARTMENT;

2 (b) employ employees to cultivate marijuana, manufacture MARIJUANA CONCENTRATES AND
3 marijuana-infused products, and dispense and transport marijuana and marijuana-infused products; and

4 (c) provide a small amount of marijuana or marijuana-infused products cultivated or manufactured on
5 the registered premises to a licensed testing laboratory OR THE DEPARTMENT OF AGRICULTURE."

6
7 **Section 6.** Section 50-46-311, MCA, is amended to read:

8 **"50-46-311. (Effective June 30, 2017) Testing laboratories.** (1) (A) The department shall license
9 testing laboratories that meet the requirements of this part to measure the tetrahydrocannabinol and cannabidiol
10 content of marijuana and marijuana-infused products and to test marijuana and marijuana-infused products for
11 ~~toxins pesticides, solvents, water levels, and mold, and other contaminants.~~ A testing laboratory may transport
12 samples to be tested.

13 (B) THE ANALYTICAL LABORATORY SERVICES PROVIDED BY THE DEPARTMENT OF AGRICULTURE PURSUANT TO
14 80-1-104 MAY BE USED FOR THE TESTING PROVIDED FOR IN THIS SECTION.

15 (2) A person with a financial interest in a licensed testing laboratory may not have a financial interest in
16 a provider for whom testing services are performed.

17 (3) Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring the
18 achievement and maintenance of quality standards of practice. The 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 national~~
21 ~~or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or~~

22 ~~—— (b) a master's~~ AT LEAST A BACHELOR'S THE FOLLOWING MINIMUM QUALIFICATIONS:

23 (A) A DOCTORATE IN CHEMICAL OR BIOLOGICAL SCIENCES FROM A COLLEGE OR UNIVERSITY ACCREDITED BY A
24 NATIONAL OR REGIONAL CERTIFYING AUTHORITY AND A MINIMUM OF 2 YEARS OF POSTDEGREE LABORATORY EXPERIENCE;

25 OR

26 (B) A MASTER'S degree in chemical or biological sciences from a college or university accredited by a
27 national or regional certifying authority ~~and a minimum of 4 years of postdegree laboratory experience~~ AND A
28 MINIMUM OF 4 YEARS OF POSTDEGREE LABORATORY EXPERIENCE.

29 (4) All owners and employees of a testing laboratory shall submit fingerprints to the department to
30 facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation.

- 1 A laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.
- 2 (5) To qualify for licensure, a testing laboratory shall demonstrate that:
- 3 (a) staff members are proficient in operation of the laboratory equipment;
- 4 (b) the laboratory ~~owns and~~ maintains the equipment and instrumentation required by rule;
- 5 (c) the laboratory meets insurance and bonding requirements established by rule; and
- 6 (d) the laboratory has passed a relevant proficiency program. The department shall establish by rule the
- 7 proficiency programs considered relevant for the purposes of this section.
- 8 (6) ~~A~~ EXCEPT AS PROVIDED IN [SECTION 8(1)(B)], A testing laboratory shall conduct tests of:
- 9 (a) samples of marijuana, MARIJUANA CONCENTRATE, and marijuana-infused products submitted by
- 10 providers and marijuana-infused products providers pursuant to [section 8] and related administrative rules prior
- 11 to sale of the marijuana or marijuana-infused products;
- 12 (b) samples of marijuana or marijuana-infused products collected by the department during inspections
- 13 of registered premises; and
- 14 (c) samples submitted by registered cardholders."

15

16 **Section 7.** Section 50-46-312, MCA, is amended to read:

17 **"50-46-312. (Effective June 30, 2017) License as privilege -- criteria.** (1) A provider,¹

18 marijuana-infused products provider, dispensary, or testing laboratory license OR AN ENDORSEMENT FOR CHEMICAL

19 MANUFACTURING is a privilege that the state may grant to an applicant and is not a right to which an applicant is

20 entitled. In making a licensing decision, the department shall consider:

21 (a) the qualifications of the applicant; and

22 (b) the suitability of the proposed registered premises.

23 (2) The department may deny or revoke a license based on proof that the applicant made a false

24 statement in any part of the original application or renewal application.

25 (3) ~~(a)~~ The department may deny a license if the applicant's proposed registered premises:

26 ~~(i)~~ (a) is situated within a zone of a city, town, or county where an activity related to the medical use of

27 marijuana is prohibited by ordinance or resolution, a certified copy of which has been filed with the department;

28 or

29 ~~(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue,~~

30 ~~or other place of worship or as a school or postsecondary school other than a commercially operated school. This~~

1 distance must be measured in a straight line from the center of the nearest entrance of the place of worship or
2 school to the nearest entrance of the licensee's premises:

3 ~~—— (iii) is not approved by local building, health, or fire officials; or~~

4 ~~(iv)(b) will adversely affect the welfare of the people residing in or of retail businesses located in the~~
5 vicinity.

6 (4) (a) The department may deny a license OR ENDORSEMENT if the applicant's proposed registered
7 premises or testing laboratory:

8 (i) is not approved by local building, health, or fire officials; or

9 (ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue,
10 or other place of worship or as a school or postsecondary school other than a commercially operated school. This
11 distance must be measured in a straight line from the center of the nearest entrance of the place of worship or
12 school to the nearest entrance of the licensee's premises.

13 (B) THE DEPARTMENT MAY NOT APPROVE A LICENSE FOR A PROVIDER, MARIJUANA-INFUSED PRODUCTS
14 PROVIDER, OR DISPENSARY IF A LOCAL GOVERNMENT HAS ADOPTED AN ORDINANCE OR RESOLUTION PROHIBITING THE
15 OPERATION OF DISPENSARIES OR STOREFRONT BUSINESSES AS ALLOWED UNDER 50-46-328.

16 ~~(b)(c)~~ For the purposes of this subsection ~~(3)~~ (4), "school" and "postsecondary school" have the
17 meanings provided in 20-5-402."
18

19 **NEW SECTION. Section 8. Testing of marijuana and marijuana-infused products.** (1) ~~(A) A~~ EXCEPT
20 AS PROVIDED IN SUBSECTION (1)(B), A provider or marijuana-infused products provider may not sell marijuana or
21 marijuana-infused products until the marijuana or products have been tested by a testing laboratory OR THE
22 DEPARTMENT OF AGRICULTURE and met the requirements of this section.

23 (B) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER WHO HAS BEEN NAMED AS A PROVIDER BY 10 OR
24 FEWER REGISTERED CARDHOLDERS IS EXEMPT FROM THE TESTING REQUIREMENTS OF THIS SECTION UNTIL APRIL 30,
25 2020.

26 (2) A provider or marijuana-infused products provider shall submit material that has been collected in
27 accordance with a sampling protocol established by the department by rule. The protocol must address the
28 division of marijuana and marijuana-infused products into lot sizes for testing. Each lot must be tested in the
29 following categories:

30 (a) flower;

1 (b) concentrate; and

2 (c) marijuana-infused product.

3 (3) ~~The products must be tested~~ DEPARTMENT SHALL ADOPT RULES REGARDING THE TYPES OF TESTS THAT
 4 MUST BE PERFORMED TO ENSURE PRODUCT SAFETY AND CONSUMER PROTECTION. RULES MUST INCLUDE BUT ARE NOT
 5 LIMITED TO TESTING for:

6 (a) the potency of the cannabinoid present; AND

7 ~~(b) moisture content; and~~

8 ~~———— (c) the type and level of pesticides, residual solvents, mold, and other contaminants, including but not~~
 9 ~~limited to Escherichia coli and salmonella.~~

10 (B) THE PRESENCE OF CONTAMINANTS.

11 ~~(4) The testing laboratory shall conduct a visual inspection of each lot to determine the presence or levels~~
 12 ~~of foreign matter, debris, insects, and visible mold.~~

13 ~~———— (5) The department shall establish by rule the acceptable levels of pesticides, residual solvents, mold,~~
 14 ~~foreign matter, debris, insects, and other contaminants that marijuana or marijuana-infused products may contain.~~

15 ~~(6)~~(4) THE TESTING LABORATORY SHALL CONDUCT A VISUAL INSPECTION OF EACH LOT TO DETERMINE THE
 16 PRESENCE OF LEVELS OF FOREIGN MATTER, DEBRIS, INSECTS, AND VISIBLE MOLD.

17 (5) THE DEPARTMENT SHALL ESTABLISH BY RULE THE ACCEPTABLE LEVELS OF PESTICIDES, RESIDUAL SOLVENTS,
 18 MOLD, FOREIGN MATTER, DEBRIS, INSECTS, AND OTHER CONTAMINANTS THAT MARIJUANA-INFUSED PRODUCTS MAY
 19 CONTAIN.

20 (6) The laboratory shall:

21 (a) issue a certificate of analysis certifying the test results; and

22 (b) report the results to the seed-to-sale tracking system established pursuant to 50-46-303.

23 ~~(7)~~(5)(7) A provider or marijuana-infused products provider may request that material that has failed to
 24 pass the required tests be retested. The original testing laboratory and a second laboratory shall retest the
 25 material to confirm the results. THE DEPARTMENT SHALL ADOPT RULES THAT PROVIDE FOR RETESTING PARAMETERS
 26 AND REQUIREMENTS.

27 (8) MARIJUANA OR A MARIJUANA-INFUSED PRODUCT MUST INCLUDE A LABEL INDICATING WHETHER THE
 28 MARIJUANA OR MARIJUANA-INFUSED PRODUCT HAS BEEN TESTED.

29

30 **Section 9.** Section 50-46-319, MCA, is amended to read:

1 **"50-46-319. (Temporary) Legal protections -- allowable amounts.** (1) (a) A registered cardholder may
2 possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

3 (b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and
4 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered
5 cardholder's provider.

6 (2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an
7 individual who possesses a registry identification card or license issued pursuant to this part may not be arrested,
8 prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty
9 or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

10 (a) the individual cultivates, manufactures, possesses, or transports marijuana in the amounts allowed
11 under this section; or

12 (b) the registered cardholder acquires or uses marijuana.

13 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
14 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
15 department of labor and industry, solely for providing written certification for a patient with a debilitating medical
16 condition.

17 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
18 professional licensing board or the department of labor and industry if:

19 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

20 (b) a physician violates the standard of care or other requirements of this part.

21 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as
22 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
23 of the use of marijuana as permitted under this part.

24 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity
25 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not
26 a registered cardholder.

27 (6) Except as provided in 50-46-329, possession of or application for a registry identification card or
28 license does not alone constitute probable cause to search the individual or the property of the individual
29 possessing or applying for the registry identification card or license or otherwise subject the individual or property
30 of the individual possessing or applying for the card or license to inspection by any governmental agency,

1 including a law enforcement agency.

2 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
3 individual unless the individual has obtained a registry identification card or license prior to an arrest or the filing
4 of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card
5 or license after an arrest or the filing of a criminal charge.

6 (8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be
7 engaged in the use of marijuana as allowed by this part if the person:

8 (i) is in possession of a valid registry identification card or license; and

9 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

10 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
11 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

12 **50-46-319. (Effective June 30, 2017) Legal protections -- allowable amounts.** (1) (a) A registered
13 cardholder who has named a provider may possess up to ~~4 mature plants, 12 seedlings, and~~ 1 ounce of usable
14 marijuana.

15 (b) (i) A registered cardholder who has not named a provider may possess up to 4 2 4 mature plants,
16 12 4 12 seedlings, and the amount of usable marijuana produced by the mature plants ALLOWED BY THE
17 DEPARTMENT BY RULE.

18 (ii) If two or more registered cardholders share a residence and have not named providers, the
19 cardholders may have a maximum of 8 4 8 mature plants, 24 8 24 seedlings, and the amount of usable marijuana
20 produced by the mature plants ALLOWED BY THE DEPARTMENT BY RULE. The limits in this subsection (1)(b)(ii) apply
21 regardless of the location of the plants and seedlings.

22 (III) A REGISTERED CARDHOLDER WHO POSSESSES MATURE PLANTS OR SEEDLINGS SHALL NOTIFY THE
23 DEPARTMENT OF THE LOCATION OF THE PLANTS AND SEEDLINGS PURSUANT TO 50-46-303(8)(B).

24 (b)(c) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings,
25 and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered
26 cardholder's provider have the canopy allowed by the department for the provider or marijuana-infused products
27 provider. The canopy allotment is a cumulative total for all of the provider's or marijuana-infused products
28 provider's registered premises and may not be interpreted as an allotment for each premises.

29 (2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an
30 individual who possesses a registry identification card or license issued pursuant to this part may not be arrested,

1 prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty
2 or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

3 (a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed
4 under this section; or

5 (b) the registered cardholder acquires or uses marijuana.

6 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
7 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
8 department of labor and industry, solely for providing written certification for a patient with a debilitating medical
9 condition.

10 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
11 professional licensing board or the department of labor and industry if:

12 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

13 (b) a physician violates the standard of care or other requirements of this part.

14 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as
15 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
16 of the use of marijuana and marijuana-infused products as permitted under this part.

17 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity
18 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not
19 a registered cardholder.

20 (6) Except as provided in 50-46-329, possession of or application for a license or registry identification
21 card does not alone constitute probable cause to search the person or individual or the property of the person
22 or individual or otherwise subject the person or individual or property of the person or individual possessing or
23 applying for the license or card to inspection by any governmental agency, including a law enforcement agency.

24 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
25 individual unless the individual has obtained a license or registry identification card prior to an arrest or the filing
26 of a criminal charge. It is not a defense to a criminal charge that an individual obtains a license or registry
27 identification card after an arrest or the filing of a criminal charge.

28 (8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be
29 engaged in the use of marijuana as allowed by this part if the person:

30 (i) is in possession of a valid registry identification card or license; and

1 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

2 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the
3 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."
4

5 **Section 10.** Section 50-46-320, MCA, is amended to read:

6 **"50-46-320. (Temporary) Limitations of act.** (1) This part does not permit:

7 (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control
8 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

9 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

10 (i) in a health care facility as defined in 50-5-101;

11 (ii) in a school or a postsecondary school as defined in 20-5-402;

12 (iii) on or in any property owned by a school district or a postsecondary school;

13 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
14 used for school-related purposes;

15 (v) in a school bus or other form of public transportation;

16 (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

17 (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

18 (viii) at a public park, public beach, public recreation center, or youth center;

19 (ix) in or on the property of any church, synagogue, or other place of worship;

20 (x) in plain view of or in a place open to the general public; or

21 (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
22 of children.

23 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or
24 manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public
25 area.

26 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows
27 use of marijuana by a registered cardholder.

28 (4) Nothing in this part may be construed to require:

29 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of
30 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to

- 1 reimburse a person for costs associated with the use of marijuana by a registered cardholder;
- 2 (b) an employer to accommodate the use of marijuana by a registered cardholder;
- 3 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
4 activities; or
- 5 (d) a landlord to allow a tenant who is a registered cardholder, provider, ~~or~~ marijuana-infused products
6 provider, dispensary, or testing laboratory to cultivate, ~~or~~ manufacture, dispense, sell, or test marijuana or
7 marijuana-infused products or to allow a registered cardholder to use marijuana.
- 8 (5) Nothing in this part may be construed to:
- 9 (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for
10 a debilitating medical condition; or
- 11 (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
12 discrimination pursuant to 49-1-102.
- 13 (6) Nothing in this part may be construed to allow a provider, ~~or~~ marijuana-infused products provider,
14 ~~or employee of a dispensary or testing laboratory~~ LICENSEE to use marijuana or to prevent criminal prosecution
15 of a provider, ~~or~~ marijuana-infused products provider, ~~or dispensary or testing laboratory~~ employee OF A LICENSEE
16 who uses marijuana or paraphernalia for personal use.
- 17 (7) (a) A law enforcement officer who has reasonable cause to believe that a person with a valid registry
18 identification card is driving under the influence of marijuana may apply for a search warrant to require the person
19 to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a
20 delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or 61-8-411.
- 21 (b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection
22 (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads
23 guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which
24 the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation under this
25 section must be for the period of suspension or revocation set forth:
- 26 (i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or
- 27 (ii) in 61-8-410 for a violation of 61-8-410.
- 28 (c) If a person's registry identification card is subject to renewal during the revocation period, the person
29 may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person
30 submits all materials required for renewal.

- 1 **50-46-320. (Effective June 30, 2017) Limitations of act.** (1) This part does not permit:
- 2 (a) any individual, including a registered cardholder, to operate, navigate, or be in actual physical control
- 3 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or
- 4 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:
- 5 (i) in a health care facility as defined in 50-5-101;
- 6 (ii) in a school or a postsecondary school as defined in 20-5-402;
- 7 (iii) on or in any property owned by a school district or a postsecondary school;
- 8 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
- 9 used for school-related purposes;
- 10 (v) in a school bus or other form of public transportation;
- 11 (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;
- 12 (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
- 13 (viii) at a public park, public beach, public recreation center, or youth center;
- 14 (ix) in or on the property of any church, synagogue, or other place of worship;
- 15 (x) in plain view of or in a place open to the general public; or
- 16 (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare
- 17 of children.
- 18 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate marijuana
- 19 or manufacture MARIJUANA CONCENTRATES OR marijuana-infused products for use by a registered cardholder in
- 20 a manner that is visible from the street or other public area.
- 21 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows
- 22 use of marijuana by a registered cardholder.
- 23 (4) Nothing in this part may be construed to require:
- 24 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of
- 25 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to
- 26 reimburse an individual for costs associated with the use of marijuana by a registered cardholder;
- 27 (b) an employer to accommodate the use of marijuana by a registered cardholder;
- 28 (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
- 29 activities; or
- 30 (d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products

1 provider, dispensary, or testing laboratory to cultivate, ~~or~~ manufacture, dispense, sell, or test marijuana,
 2 MARIJUANA CONCENTRATES, or marijuana-infused products or to allow a registered cardholder to use marijuana.

3 (5) Nothing in this part may be construed to:

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

6 (b) 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 part may be construed to allow a provider, ~~or~~ marijuana-infused products provider,
 9 or employee of a dispensary or testing laboratory LICENSEE to use marijuana or to prevent criminal prosecution
 10 of a provider, ~~or~~ marijuana-infused products provider, or dispensary or testing laboratory employee OF A LICENSEE
 11 who uses marijuana or paraphernalia for personal use.

12 (7) (a) A law enforcement officer who has reasonable cause to believe that an individual with a valid
 13 registry identification card is driving under the influence of marijuana may apply for a search warrant to require
 14 the individual to provide a sample of the individual's blood for testing pursuant to the provisions of 61-8-405. An
 15 individual with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or
 16 61-8-411.

17 (b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection
 18 (1)(a) is subject to revocation of the individual's registry identification card or license if the individual is convicted
 19 of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense
 20 with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation
 21 under this section must be for the period of suspension or revocation set forth:

22 (i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or

23 (ii) in 61-8-410 for a violation of 61-8-410.

24 (c) If an individual's registry identification card or license is subject to renewal during the revocation
 25 period, the individual may not renew the card until the full revocation period has elapsed. The card or license may
 26 be renewed only if the individual submits all materials required for renewal.

27 (8) A PROVIDER OR MARIJUANA-INFUSED PRODUCTS PROVIDER WHO VIOLATES [SECTION 19] OR [SECTION 20]
 28 [SECTION 20] OR [SECTION 21] IS SUBJECT TO REVOCATION OF THE PERSON'S LICENSE FROM THE DATE OF THE VIOLATION
 29 UNTIL A PERIOD OF UP TO 1 YEAR AFTER THE DEPARTMENT OF REVENUE CERTIFIES COMPLIANCE WITH [SECTION 19] AND
 30 [SECTION 20] [SECTION 20] OR [SECTION 21]."

1

2 **SECTION 11. SECTION 50-46-327, MCA, IS AMENDED TO READ:**3 **"50-46-327. (Temporary) Prohibitions on physician affiliation with providers and**
4 **marijuana-infused products providers -- sanctions.** (1) (a) A physician who provides written certifications may
5 not:6 (i) accept or solicit anything of value, including monetary remuneration, from a provider or
7 marijuana-infused products provider;8 (ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider
9 or marijuana-infused products provider; or10 (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where
11 ~~marijuana to be used for a debilitating medical condition is cultivated or manufactured or where marijuana-infused~~
12 ~~products are made~~ registered premises or a testing laboratory.13 (b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to
14 a provider or marijuana-infused products provider if the physician charges the person the same fee that the
15 physician charges other patients for providing a similar level of medical care.16 (2) If the department has cause to believe that a physician has violated this section, has violated a
17 provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this
18 chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for
19 review pursuant to 37-1-308.20 (3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical
21 examiners finds that a physician has violated this section, the board shall restrict the physician's authority to
22 provide written certification for the use of marijuana. The board of medical examiners shall notify the department
23 of the sanction.24 (4) If the board of medical examiners believes a physician's practices may harm the public health, safety,
25 or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of
26 marijuana for a debilitating medical condition.27 **50-46-327. (Effective June 30, 2017) Prohibitions on physician affiliation with providers and**
28 **marijuana-infused products providers -- sanctions.** (1) (a) A physician who provides written certifications may
29 not:

30 (i) accept or solicit anything of value, including monetary remuneration, from a provider or

1 marijuana-infused products provider;

2 (ii) offer a discount or any other thing of value to a patient who uses or agrees to use a particular provider
3 or marijuana-infused products provider; or

4 (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a ~~location where~~
5 ~~marijuana to be used for a debilitating medical condition is cultivated or where marijuana-infused products are~~
6 ~~produced~~ registered premises or a testing laboratory.

7 (b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to
8 a provider or marijuana-infused products provider if the physician charges the individual the same fee that the
9 physician charges other patients for providing a similar level of medical care.

10 (2) If the department has cause to believe that a physician has violated this section, has violated a
11 provision of rules adopted pursuant to this part, or has not met the standard of care required under this part, the
12 department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant
13 to 37-1-308.

14 (3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical
15 examiners finds that a physician has violated this section, the board shall restrict the physician's authority to
16 provide written certification for the use of marijuana. The board of medical examiners shall notify the department
17 of the sanction.

18 (4) If the board of medical examiners believes a physician's practices may harm the public health, safety,
19 or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of
20 marijuana for a debilitating medical condition."

21

22 **SECTION 12. SECTION 50-46-328, MCA, IS AMENDED TO READ:**

23 **"50-46-328. Local government authority to regulate.** (1) To protect the public health, safety, or
24 welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products
25 provider that operates within the local government's jurisdictional area. The regulations may include but are not
26 limited to inspections of ~~locations where marijuana is cultivated or manufactured~~ registered premises and testing
27 laboratories in order to ensure compliance with any public health, safety, and welfare requirements established
28 by the department or the local government.

29 (2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused
30 products providers from operating dispensaries or as storefront businesses."

1
2 **Section 13.** Section 50-46-329, MCA, is amended to read:

3 **"50-46-329. (Temporary) Inspection procedures.** (1) The department and state or local law
4 enforcement agencies may conduct unannounced inspections of registered premises.

5 (2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records
6 necessary to show all transactions with registered cardholders. The records must be open for inspection by the
7 department and state or local law enforcement agencies during normal business hours.

8 (b) The department may require a provider or marijuana-infused products provider to furnish information
9 that the department considers necessary for the proper administration of this part.

10 (3) (a) A registered premises, including any places of storage, where marijuana is cultivated,
11 manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the
12 purpose of inspection or investigation during normal business hours.

13 (b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused
14 products provider shall make the area available for inspection without delay upon request of the department or
15 state or local law enforcement officials.

16 (4) A provider or marijuana-infused products provider shall maintain records showing the names and
17 registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana,
18 or marijuana-infused products were transferred and the quantities transferred to each cardholder.

19 **50-46-329. (Effective June 30, 2017) Inspection procedures.** (1) The department ~~may~~ SHALL conduct
20 unannounced inspections of registered premises, ~~dispensaries,~~ and testing laboratories. THE DEPARTMENT SHALL
21 REPORT BIENNIALLY TO THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE CONCERNING THE
22 RESULTS OF UNANNOUNCED INSPECTIONS.

23 (2) (a) The department shall inspect annually each ~~dispensary,~~ registered premises, and testing
24 laboratory.

25 (b) The department shall collect samples during the inspection of registered premises and submit them
26 to a testing laboratory for testing as provided by the department by rule.

27 (3) (a) Each provider and marijuana-infused products provider shall keep a complete set of records
28 necessary to show all transactions with registered cardholders. The records must be open for inspection by the
29 department and state or local law enforcement agencies during normal business hours.

30 (b) The department may require a provider or marijuana-infused products provider to furnish information

1 that the department considers necessary for the proper administration of this part.

2 (4) (a) A registered premises ~~or dispensary~~, including any places of storage, where marijuana is
3 cultivated, manufactured, sold, or stored is subject to entry by the department or state or local law enforcement
4 agencies for the purpose of inspection or investigation during normal business hours.

5 (b) If any part of the registered premises ~~or dispensary~~ consists of a locked area, the provider or
6 marijuana-infused products provider shall make the area available for inspection without delay upon request of
7 the department or state or local law enforcement officials.

8 (5) A provider or marijuana-infused products provider shall maintain records showing the names and
9 registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana,
10 or marijuana-infused products were sold or transferred and the quantities sold or transferred to each cardholder.

11 (6) The department may establish penalties, including financial penalties and license revocation, for the
12 violation of agricultural or public health standards."
13

14 **Section 14.** Section 50-46-330, MCA, is amended to read:

15 **"50-46-330. (Temporary) Unlawful conduct by cardholders or licensees -- penalties.** (1) The
16 department shall revoke and may not reissue the registry identification card or license of a person who:

17 (a) is convicted of a drug offense;

18 (b) allows another person to be in possession of the person's:

19 (i) registry identification card or license; or

20 (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

21 (c) fails to cooperate with the department concerning an investigation or inspection if the person is
22 registered or licensed and cultivating or manufacturing marijuana.

23 (2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is
24 punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months,
25 or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An
26 offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

27 **50-46-330. (Effective June 30, 2017) Unlawful conduct by cardholders or licensees -- penalties.**

28 (1) The department shall revoke and may not reissue the registry identification card, or license, OR ENDORSEMENT
29 of an individual who:

30 (a) is convicted of a drug offense;

1 (b) allows another individual to be in possession of the individual's:

2 (i) registry identification card or license; or

3 (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

4 (c) fails to cooperate with the department concerning an investigation or inspection if the individual is
5 registered or licensed and cultivating marijuana, ENGAGING IN CHEMICAL MANUFACTURING, or manufacturing
6 marijuana-infused products.

7 (2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is
8 punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months,
9 or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An
10 offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."

11
12 **SECTION 15. SECTION 50-46-343, MCA, IS AMENDED TO READ:**

13 **"50-46-343. Legislative monitoring.** (1) The children, families, health, and human services interim
14 committee shall provide oversight of the department's activities ~~related to registering individuals~~ pursuant to this
15 part, including but not limited to monitoring of:

16 (a) the number of registered cardholders and licensees ~~and of;~~

17 (b) issues related to the cultivation, manufacture, ~~sale, testing,~~ and use of marijuana ~~pursuant to this part;~~
18 and

19 (c) the development, implementation, and use of the seed-to-sale tracking system established in
20 accordance with 50-46-303.

21 (2) The committee shall identify issues likely to require future legislative attention and develop legislation
22 to present to the next regular session of the legislature."

23
24 **Section 16. Section 50-46-344, MCA, is amended to read:**

25 **"50-46-344. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary for the
26 implementation and administration of this part. The rules must include but are not limited to:

27 (a) the manner in which the department will consider applications FOR LICENSES AND ENDORSEMENTS AND
28 APPLICATIONS for registry identification cards ~~[for providers and marijuana-infused products providers and]~~
29 individuals with debilitating medical conditions and renewal of LICENSES, ENDORSEMENTS, AND registry identification
30 cards;

- 1 (b) the acceptable forms of proof of Montana residency;
- 2 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under
3 50-46-307 and 50-46-308;
- 4 (d) the security and operating requirements for dispensaries;
- 5 (E) THE SECURITY AND OPERATING REQUIREMENTS FOR CHEMICAL MANUFACTURING, INCLUDING BUT NOT LIMITED
6 TO REQUIREMENTS FOR:
- 7 (I) SAFETY EQUIPMENT;
- 8 (II) EXTRACTION METHODS, INCLUDING SOLVENT-BASED AND SOLVENT-FREE EXTRACTION; AND
- 9 (III) POSTPROCESSING PROCEDURES;
- 10 (F) THE AMOUNT OF USABLE MARIJUANA THAT A REGISTERED CARDHOLDER WHO HAS NOT NAMED A PROVIDER
11 OR MARIJUANA-INFUSED PRODUCTS PROVIDER MAY POSSESS;
- 12 (e)(G) the canopy for which a provider or marijuana-infused products provider is licensed;
- 13 (f)(H) implementation of a system to allow the tracking of marijuana and marijuana-infused products as
14 required by 50-46-303;
- 15 (g)(I) requirements and standards for the testing AND RETESTING of marijuana and marijuana-infused
16 products, including testing of samples collected during the department's inspections of registered premises; and
- 17 (d)(h)(J) other rules necessary to implement the purposes of this part.
- 18 (2) In establishing the canopy for a provider or marijuana-infused products provider, the department shall
19 take into consideration:
- 20 (a) safety and security issues;
- 21 (b) the provision of adequate access to usable marijuana to accommodate the needs of registered
22 cardholders; and
- 23 (c) economies of scale and their effect on the ability of licensees to comply with regulatory requirements
24 and undercut illegal market prices.
- 25 ~~(2)(3) License fees for providers and marijuana-infused products providers may not exceed \$1,000~~
26 ~~\$2,000 for 10 or fewer registered cardholders or \$5,000 \$10,000 for more than 10 registered cardholders. A~~
27 ~~provider of both marijuana and marijuana-infused products is required to have only one license.~~
- 28 (3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), LICENSE FEES FOR PROVIDERS AND MARIJUANA-INFUSED
29 PRODUCTS PROVIDERS ARE \$25 PER REGISTERED CARDHOLDER PER QUARTER.
- 30 (B) THE DEPARTMENT MAY REVISE THE FEE PROVIDED FOR IN SUBSECTION (3)(A) AS NEEDED TO ADEQUATELY

1 FUND THE ADMINISTRATION OF THE MONTANA MEDICAL MARIJUANA ACT AND THE SEED-TO-SALE TRACKING SYSTEM,
 2 INCLUDING OPERATING RESERVE FUNDS OF \$250,000. THE DEPARTMENT SHALL ESTABLISH REVISED FEES BY RULE.

3 (C) A PROVIDER OF BOTH MARIJUANA AND MARIJUANA-INFUSED PRODUCTS IS REQUIRED TO HAVE ONLY ONE
 4 LICENSE.

5 (D) THE DEPARTMENT OF REVENUE SHALL COLLECT THE FEE PROVIDED FOR IN THIS SUBSECTION (3) PURSUANT
 6 TO [SECTIONS 18 THROUGH 26] AND DEPOSIT THE FEE INTO THE ACCOUNT PROVIDED FOR IN 50-46-345.

7 ~~(3) License fees for testing laboratories may not exceed \$1,200.~~

8 (4) The department shall establish by rule the fee FEES for DISPENSARIES, ENDORSEMENTS FOR CHEMICAL
 9 MANUFACTURING, AND testing laboratories.

10 ~~(4)(5) All fees and civil penalties collected under this part must be deposited in the medical marijuana~~
 11 ~~state special revenue account established in 50-46-345.~~

12 ~~(5)(6) The department's rules must establish application and renewal fees that generate revenue~~
 13 ~~sufficient to offset all expenses of implementing and administering this part."~~

14

15 **Section 17.** Section 50-46-345, MCA, is amended to read:

16 **"50-46-345. (Effective June 30, 2017) Medical marijuana state special revenue account.** (1) There
 17 is a medical marijuana state special revenue account within the state special revenue fund established in
 18 17-2-102.

19 (2) ~~Money~~ The account consists of:

20 ~~—— (a) the tax collected pursuant to [section 15] [SECTIONS 17 THROUGH 25]; and~~

21 ~~—— (b) money deposited into the account pursuant to 50-46-344(4) 50-46-344.~~

22 (3) (a) Money in the account must be used by the department for the purpose of administering the
 23 Montana Medical Marijuana Act AND TRACKING SYSTEM DEVELOPMENT.

24 (b) Any unencumbered money remaining in the account at the end of a fiscal year must be transferred
 25 to the general fund."

26

27 **NEW SECTION. SECTION 18. DEFINITIONS.** AS USED IN ~~[SECTIONS 17 THROUGH 25]~~ 18 THROUGH 26], THE
 28 FOLLOWING DEFINITIONS APPLY:

29 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE PROVIDED FOR IN 2-15-1301.

30 (2) "MARIJUANA PRODUCT" MEANS MARIJUANA AS DEFINED IN 50-32-101 AND MARIJUANA-INFUSED PRODUCTS

1 AS DEFINED IN 50-46-302.

2 (3) "MARIJUANA PRODUCT PROVIDER" MEANS PROVIDER OR A MARIJUANA-INFUSED PRODUCTS PROVIDER AS
3 THOSE TERMS ARE DEFINED IN 50-46-302.

4 (4) "PERSON" MEANS AN INDIVIDUAL, FIRM, PARTNERSHIP, CORPORATION, ASSOCIATION, COMPANY, COMMITTEE,
5 OTHER GROUP OF PERSONS, OR OTHER BUSINESS ENTITY, HOWEVER FORMED.

6 (5) "PURCHASER" MEANS A PERSON TO WHOM A SALE OF A MARIJUANA PRODUCT IS MADE.

7 (6) "RETAIL PRICE" MEANS THE ESTABLISHED PRICE FOR WHICH A MARIJUANA PRODUCT PROVIDER SELLS A
8 MARIJUANA PRODUCT TO A PURCHASER BEFORE ANY DISCOUNT OR REDUCTION.

9 (7) "SALE" OR "SELL" MEANS ANY TRANSFER OF MARIJUANA PRODUCTS FOR CONSIDERATION, EXCHANGE,
10 BARTER, GIFT, OFFER FOR SALE, OR DISTRIBUTION IN ANY MANNER OR BY ANY MEANS.

11
12 NEW SECTION. Section 19. Tax on providers and marijuana-infused products MARIJUANA
13 MARIJUANA PRODUCT providers PROVIDER FEES. (1) (A) There is a tax of 2% EQUAL TO THE PERCENTAGE PROVIDED
14 IN SUBSECTION (1)(B) on a provider's and marijuana-infused products MARIJUANA PRODUCT provider's gross sales
15 that is payable four times a year.

16 (B) THE PERCENTAGE OF TAX ON GROSS SALES IN SUBSECTION (1)(A) IS AS FOLLOWS:

17 (i) FOR GROSS SALES DURING THE CALENDAR QUARTERS BEGINNING JULY 1, 2017, AND ENDING JUNE 30, 2018,
18 THE AMOUNT IS 4%; AND

19 (ii) FOR GROSS SALES DURING THE CALENDAR QUARTERS BEGINNING JULY 1, 2018, AND THEREAFTER, THE
20 AMOUNT IS 2%. (1) THE DEPARTMENT SHALL COLLECT THE LICENSE FEE PROVIDED FOR IN 50-46-344(3) AND DEPOSIT
21 THE FEE INTO THE ACCOUNT PROVIDED FOR IN 50-46-345.

22 (2) A provider or marijuana-infused products MARIJUANA PRODUCT provider shall submit a quarterly report
23 to the department listing the total dollar amount of sales from any registered premises, as defined in 50-46-302,
24 operated by the provider or marijuana-infused products MARIJUANA PRODUCT provider, including dispensaries
25 NUMBER OF REGISTERED CARDHOLDERS NAMING THE MARIJUANA PRODUCT PROVIDER. The report must be:

26 (a) made on forms prescribed by the department; and

27 (b) submitted within 15 days of the end of each calendar quarter.

28 (3) At the time the report is filed, the provider or marijuana-infused products MARIJUANA PRODUCT provider
29 shall submit a payment equal to 2% THE PERCENTAGE PROVIDED IN SUBSECTION (1)(B) of the total dollar amount of
30 sales THE FEE ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES PER REGISTERED

1 CARDHOLDER.

2 (4) The department shall deposit the ~~taxes~~ FEES paid under this section in the medical marijuana state
3 special revenue account provided for in 50-46-345.

4 ~~(5) If a provider or marijuana-infused products provider fails to file the required report on or before the~~
5 ~~date due, the tax becomes delinquent. The department shall:~~

6 ~~—— (a) immediately determine as nearly as possible the gross sales of the provider or marijuana-infused~~
7 ~~products provider, using any reports or returns filed with a state or county officer or board under any law of this~~
8 ~~state and from any other information available;~~

9 ~~—— (b) file a statement showing the estimated amount of sales;~~

10 ~~—— (c) determine and assess the amount of tax due;~~

11 ~~—— (d) provide notice to the provider or marijuana-infused products provider in the same manner as if the~~
12 ~~statement had been filed in time; and~~

13 ~~—— (e) collect the tax due, along with penalty and interest as provided in 15-1-216.~~

14 (5) THE TAX FEE IMPOSED BY [SECTIONS 17 THROUGH 25 18 THROUGH 26] AND RELATED INTEREST AND
15 PENALTIES ARE A PERSONAL DEBT OF THE PERSON REQUIRED TO FILE A RETURN FROM THE TIME THAT THE LIABILITY
16 ARISES, REGARDLESS OF WHEN THE TIME FOR PAYMENT OF THE LIABILITY OCCURS.

17 (6) FOR THE PURPOSE OF DETERMINING LIABILITY FOR THE FILING OF STATEMENTS AND THE PAYMENT OF TAXES
18 FEES, PENALTIES, AND INTEREST OWED UNDER [SECTIONS 19 THROUGH 22 20 THROUGH 23]:

19 (A) THE OFFICER OF A CORPORATION WHOSE RESPONSIBILITY IT IS TO TRUTHFULLY ACCOUNT FOR AND PAY TO
20 THE STATE TAXES FEES PROVIDED FOR IN [SECTIONS 19 THROUGH 22 20 THROUGH 23] AND WHO FAILS TO PAY THE TAXES
21 FEES IS LIABLE TO THE STATE FOR THE TAXES FEES AND THE PENALTY AND INTEREST DUE ON THE AMOUNTS;

22 (B) EACH OFFICER OF THE CORPORATION, TO THE EXTENT THAT THE OFFICER HAS ACCESS TO THE REQUISITE
23 RECORDS, IS INDIVIDUALLY LIABLE ALONG WITH THE CORPORATION FOR FILING STATEMENTS AND FOR UNPAID TAXES FEES,
24 PENALTIES, AND INTEREST UPON A DETERMINATION THAT THE OFFICER:

25 (I) POSSESSED THE RESPONSIBILITY TO FILE STATEMENTS AND PAY TAXES FEES ON BEHALF OF THE
26 CORPORATION; AND

27 (II) POSSESSED THE RESPONSIBILITY ON BEHALF OF THE CORPORATION FOR DIRECTING THE FILING OF TAX
28 STATEMENTS OR THE PAYMENT OF OTHER CORPORATE OBLIGATIONS AND EXERCISED THAT RESPONSIBILITY, RESULTING
29 IN THE CORPORATION'S FAILURE TO FILE STATEMENTS REQUIRED BY [SECTIONS 17 THROUGH 25 18 THROUGH 26] OR PAY
30 TAXES FEES DUE AS REQUIRED BY [SECTIONS 17 THROUGH 25 18 THROUGH 26];

1 (C) EACH PARTNER OF A PARTNERSHIP IS JOINTLY AND SEVERALLY LIABLE, ALONG WITH THE PARTNERSHIP, FOR
 2 ANY STATEMENTS, TAXES FEES, PENALTIES, AND INTEREST DUE WHILE A PARTNER;

3 (D) EACH MEMBER OF A LIMITED LIABILITY COMPANY THAT IS TREATED AS A PARTNERSHIP OR AS A CORPORATION
 4 FOR INCOME TAX PURPOSES IS JOINTLY AND SEVERALLY LIABLE, ALONG WITH THE LIMITED LIABILITY COMPANY, FOR ANY
 5 STATEMENTS, TAXES FEES, PENALTIES, AND INTEREST DUE WHILE A MEMBER;

6 (E) THE MEMBER OF A SINGLE-MEMBER LIMITED LIABILITY COMPANY THAT IS DISREGARDED FOR INCOME TAX
 7 PURPOSES IS JOINTLY AND SEVERALLY LIABLE, ALONG WITH THE LIMITED LIABILITY COMPANY, FOR ANY STATEMENTS,
 8 TAXES FEES, PENALTIES, AND INTEREST DUE WHILE A MEMBER; AND

9 (F) EACH MANAGER OF A MANAGER-MANAGED LIMITED LIABILITY COMPANY IS JOINTLY AND SEVERALLY LIABLE,
 10 ALONG WITH THE LIMITED LIABILITY COMPANY, FOR ANY STATEMENTS, TAXES FEES, PENALTIES, AND INTEREST DUE WHILE
 11 A MANAGER.

12 (7) IN DETERMINING WHICH CORPORATE OFFICER IS LIABLE, THE DEPARTMENT IS NOT LIMITED TO CONSIDERING
 13 THE ELEMENTS SET FORTH IN SUBSECTION (6)(A) TO ESTABLISH INDIVIDUAL LIABILITY AND MAY CONSIDER ANY OTHER
 14 AVAILABLE INFORMATION.

15 (8) IN THE CASE OF A BANKRUPTCY, THE LIABILITY OF THE INDIVIDUAL REMAINS UNAFFECTED BY THE DISCHARGE
 16 OF PENALTY AND INTEREST AGAINST THE CORPORATION. THE INDIVIDUAL REMAINS LIABLE FOR ANY STATEMENTS AND THE
 17 AMOUNT OF TAXES FEES, PENALTIES, AND INTEREST UNPAID BY THE ENTITY.

18
 19 **NEW SECTION. SECTION 20. RETURNS -- PAYMENT -- RECORDKEEPING -- AUTHORITY OF DEPARTMENT. (1)**
 20 EACH MARIJUANA PRODUCT PROVIDER SHALL FILE A RETURN, ON A FORM PROVIDED BY THE DEPARTMENT, AND PAY THE
 21 TAX FEE DUE AS PROVIDED IN [SECTION 18 19].

22 (2) EACH RETURN MUST BE AUTHENTICATED BY THE PERSON FILING THE RETURN OR BY THE PERSON'S AGENT
 23 AUTHORIZED IN WRITING TO FILE THE RETURN.

24 (3) (A) A PERSON REQUIRED TO PAY TO THE DEPARTMENT THE TAXES FEES IMPOSED BY [SECTIONS 17 THROUGH
 25 25 18 THROUGH 26] SHALL KEEP FOR 5 YEARS:

26 —— (i) ALL RECEIPTS ISSUED; AND

27 —— (ii) AN ACCURATE RECORD OF ALL SALES OF MARIJUANA PRODUCTS, SHOWING THE NAME AND ADDRESS OF EACH
 28 PURCHASER, THE DATE OF SALE, AND THE QUANTITY, KIND, AND RETAIL PRICE OF EACH PRODUCT SOLD AN ACCURATE
 29 RECORD OF EACH REGISTERED CARDHOLDER WHO NAMES THE MARIJUANA PRODUCT PROVIDER, THE DATE THE
 30 REGISTERED CARDHOLDER NAMED THE MARIJUANA PRODUCT PROVIDER, AND THE DATE A REGISTERED CARDHOLDER

1 CEASES TO NAME THE MARIJUANA PRODUCT PROVIDER.

2 (B) FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THE PROVISIONS OF [SECTIONS 17 THROUGH 25 18
 3 THROUGH 26], THE DEPARTMENT IS AUTHORIZED TO EXAMINE OR CAUSE TO BE EXAMINED ANY BOOKS, PAPERS, RECORDS,
 4 OR MEMORANDA RELEVANT TO MAKING A DETERMINATION OF THE AMOUNT OF TAX FEE DUE, WHETHER THE BOOKS,
 5 PAPERS, RECORDS, OR MEMORANDA ARE THE PROPERTY OF OR IN THE POSSESSION OF THE PERSON FILING THE RETURN
 6 OR ANOTHER PERSON. IN DETERMINING COMPLIANCE, THE DEPARTMENT MAY USE STATISTICAL SAMPLING AND OTHER
 7 SAMPLING TECHNIQUES CONSISTENT WITH GENERALLY ACCEPTED AUDITING STANDARDS. THE DEPARTMENT MAY ALSO:

8 (I) REQUIRE THE ATTENDANCE OF A PERSON HAVING KNOWLEDGE OR INFORMATION RELEVANT TO A RETURN;

9 (II) COMPEL THE PRODUCTION OF BOOKS, PAPERS, RECORDS, OR MEMORANDA BY THE PERSON REQUIRED TO
 10 ATTEND;

11 (III) IMPLEMENT THE PROVISIONS OF 15-1-703 IF THE DEPARTMENT DETERMINES THAT THE COLLECTION OF THE
 12 TAX FEE IS OR MAY BE JEOPARDIZED BECAUSE OF DELAY;

13 (IV) TAKE TESTIMONY ON MATTERS MATERIAL TO THE DETERMINATION; AND

14 (V) ADMINISTER OATHS OR AFFIRMATIONS.

15 (4) PURSUANT TO RULES ESTABLISHED BY THE DEPARTMENT, RETURNS MAY BE COMPUTER-GENERATED AND
 16 ELECTRONICALLY FILED.

17
 18 NEW SECTION. SECTION 21. DEFICIENCY ASSESSMENT -- PENALTY AND INTEREST -- STATUTE OF
 19 LIMITATIONS. (1) IF THE DEPARTMENT DETERMINES THAT THE AMOUNT OF THE TAX FEE DUE IS GREATER THAN THE
 20 AMOUNT DISCLOSED BY A RETURN, IT SHALL MAIL TO THE MARIJUANA PRODUCT PROVIDER A NOTICE, PURSUANT TO
 21 15-1-211, OF THE ADDITIONAL TAX FEE PROPOSED TO BE ASSESSED. THE NOTICE MUST CONTAIN A STATEMENT THAT IF
 22 PAYMENT IS NOT MADE, A WARRANT FOR DISTRAINT MAY BE FILED. THE MARIJUANA PRODUCT PROVIDER MAY SEEK REVIEW
 23 OF THE DETERMINATION PURSUANT TO 15-1-211.

24 (2) PENALTY AND INTEREST MUST BE ADDED TO A DEFICIENCY ASSESSMENT AS PROVIDED IN 15-1-216. THE
 25 DEPARTMENT MAY WAIVE ANY PENALTY PURSUANT TO 15-1-206.

26 (3) THE AMOUNT OF TAX FEE DUE UNDER ANY RETURN MAY BE DETERMINED BY THE DEPARTMENT WITHIN 5
 27 YEARS AFTER THE RETURN WAS FILED, REGARDLESS OF WHETHER THE RETURN WAS FILED ON OR AFTER THE LAST DAY
 28 PRESCRIBED FOR FILING. FOR PURPOSES OF THIS SECTION, A TAX RETURN DUE UNDER [SECTIONS 17 THROUGH 25 18
 29 THROUGH 26] AND FILED BEFORE THE LAST DAY PRESCRIBED BY LAW OR RULE IS CONSIDERED TO BE FILED ON THE LAST
 30 DAY PRESCRIBED FOR FILING.

1
2 **NEW SECTION. SECTION 22. PROCEDURE TO COMPUTE TAX FEE IN ABSENCE OF STATEMENT -- ESTIMATION**
3 **OF TAX FEE -- FAILURE TO FILE -- PENALTY AND INTEREST. (1) IF THE MARIJUANA PRODUCT PROVIDER FAILS TO FILE ANY**
4 **RETURN REQUIRED BY [SECTION 49 20] WITHIN THE TIME REQUIRED, THE DEPARTMENT MAY, AT ANY TIME, AUDIT THE**
5 **MARIJUANA PRODUCT PROVIDER OR ESTIMATE THE TAXES FEES DUE FROM ANY INFORMATION IN ITS POSSESSION AND,**
6 **BASED ON THE AUDIT OR ESTIMATE, ASSESS THE MARIJUANA PRODUCT PROVIDER FOR THE TAXES FEES, PENALTIES, AND**
7 **INTEREST DUE THE STATE.**

8 **(2) THE DEPARTMENT SHALL IMPOSE PENALTY AND INTEREST AS PROVIDED IN 15-1-216. THE DEPARTMENT**
9 **SHALL MAIL TO THE MARIJUANA PRODUCT PROVIDER A NOTICE, PURSUANT TO 15-1-211, OF THE TAX FEE, PENALTY, AND**
10 **INTEREST PROPOSED TO BE ASSESSED. THE NOTICE MUST CONTAIN A STATEMENT THAT IF PAYMENT IS NOT MADE, A**
11 **WARRANT FOR DISTRAINT MAY BE FILED. THE MARIJUANA PRODUCT PROVIDER MAY SEEK REVIEW OF THE DETERMINATION**
12 **PURSUANT TO 15-1-211. THE DEPARTMENT MAY WAIVE ANY PENALTY PURSUANT TO 15-1-206.**

13
14 **NEW SECTION. SECTION 23. AUTHORITY TO COLLECT DELINQUENT TAXES FEES. (1) (A) THE DEPARTMENT**
15 **SHALL COLLECT TAXES FEES THAT ARE DELINQUENT AS DETERMINED UNDER [SECTIONS 47 THROUGH 25 18 THROUGH**
16 **26].**

17 **(B) IF A TAX FEE IMPOSED BY [SECTIONS 47 THROUGH 25 18 THROUGH 26] OR ANY PORTION OF THE TAX FEE IS**
18 **NOT PAID WHEN DUE, THE DEPARTMENT MAY ISSUE A WARRANT FOR DISTRAINT AS PROVIDED IN TITLE 15, CHAPTER 1,**
19 **PART 7.**

20 **(2) IN ADDITION TO ANY OTHER REMEDY, IN ORDER TO COLLECT DELINQUENT TAXES FEES AFTER THE TIME FOR**
21 **APPEAL HAS EXPIRED, THE DEPARTMENT MAY DIRECT THE OFFSET OF TAX REFUNDS OR OTHER FUNDS DUE THE MARIJUANA**
22 **PRODUCT PROVIDER FROM THE STATE, EXCEPT WAGES SUBJECT TO THE PROVISIONS OF 25-13-614 AND RETIREMENT**
23 **BENEFITS.**

24 **(3) AS PROVIDED IN 15-1-705, THE MARIJUANA PRODUCT PROVIDER HAS THE RIGHT TO A REVIEW OF THE TAX**
25 **FEE LIABILITY PRIOR TO ANY OFFSET BY THE DEPARTMENT.**

26 **(4) THE DEPARTMENT MAY FILE A CLAIM FOR STATE FUNDS ON BEHALF OF THE MARIJUANA PRODUCT PROVIDER**
27 **IF A CLAIM IS REQUIRED BEFORE FUNDS ARE AVAILABLE FOR OFFSET.**

28
29 **NEW SECTION. SECTION 24. REFUNDS -- INTEREST -- LIMITATIONS. (1) A CLAIM FOR A REFUND OR CREDIT**
30 **AS A RESULT OF OVERPAYMENT OF TAXES FEES COLLECTED UNDER [SECTIONS 47 THROUGH 25 18 THROUGH 26] MUST**

1 BE FILED WITHIN 5 YEARS OF THE DATE THAT THE RETURN WAS DUE, WITHOUT REGARD TO ANY EXTENSION OF TIME FOR
 2 FILING.

3 (2) (A) INTEREST PAID BY THE DEPARTMENT ON AN OVERPAYMENT MUST BE PAID OR CREDITED AT THE SAME RATE
 4 AS THE RATE CHARGED ON DELINQUENT TAXES UNDER 15-1-216.

5 (B) EXCEPT AS PROVIDED IN SUBSECTION (2)(C), INTEREST MUST BE PAID FROM THE DATE THAT THE RETURN
 6 WAS DUE OR THE DATE OF OVERPAYMENT, WHICHEVER IS LATER. INTEREST DOES NOT ACCRUE DURING ANY PERIOD IN
 7 WHICH THE PROCESSING OF A CLAIM IS DELAYED MORE THAN 30 DAYS BECAUSE THE TAXPAYER MARIJUANA PRODUCT
 8 PROVIDER HAS NOT FURNISHED NECESSARY INFORMATION.

9 (C) THE DEPARTMENT IS NOT REQUIRED TO PAY INTEREST IF:

10 (I) THE OVERPAYMENT IS REFUNDED OR CREDITED WITHIN 6 MONTHS OF THE DATE THAT A CLAIM WAS FILED; OR

11 (II) THE AMOUNT OF OVERPAYMENT AND INTEREST DOES NOT EXCEED \$1.

12

13 **NEW SECTION. SECTION 25. INFORMATION -- CONFIDENTIALITY -- AGREEMENTS WITH ANOTHER STATE. (1)**

14 (A) EXCEPT AS PROVIDED IN SUBSECTIONS (2) THROUGH (5), IN ACCORDANCE WITH 15-30-2618 AND 15-31-511, IT IS
 15 UNLAWFUL FOR AN EMPLOYEE OF THE DEPARTMENT OR ANY OTHER PUBLIC OFFICIAL OR PUBLIC EMPLOYEE TO DISCLOSE
 16 OR OTHERWISE MAKE KNOWN INFORMATION THAT IS DISCLOSED IN A RETURN OR REPORT REQUIRED TO BE FILED UNDER
 17 [SECTIONS ~~47~~ THROUGH ~~25~~ 18 THROUGH 26] OR INFORMATION THAT CONCERNS THE AFFAIRS OF THE PERSON MAKING
 18 THE RETURN AND THAT IS ACQUIRED FROM THE PERSON'S RECORDS, OFFICERS, OR EMPLOYEES IN AN EXAMINATION OR
 19 AUDIT.

20 (B) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE DEPARTMENT FROM PUBLISHING STATISTICS IF THEY
 21 ARE CLASSIFIED IN A WAY THAT DOES NOT DISCLOSE THE IDENTITY OF A PERSON MAKING A RETURN OR THE CONTENT OF
 22 ANY PARTICULAR REPORT OR RETURN. A PERSON VIOLATING THE PROVISIONS OF THIS SECTION IS SUBJECT TO THE
 23 PENALTY PROVIDED IN 15-30-2618 OR 15-31-511 FOR VIOLATING THE CONFIDENTIALITY OF INDIVIDUAL INCOME TAX OR
 24 CORPORATE INCOME TAX INFORMATION.

25 (2) (A) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE DEPARTMENT FROM PROVIDING INFORMATION
 26 OBTAINED UNDER [SECTIONS ~~47~~ THROUGH ~~25~~ 18 THROUGH 26] TO:

27 (I) THE DEPARTMENT OF JUSTICE OR LAW ENFORCEMENT TO BE USED FOR THE PURPOSE OF INVESTIGATION AND
 28 PREVENTION OF NONCOMPLIANCE, TAX EVASION, FRAUD, AND ABUSE UNDER [SECTIONS ~~47~~ THROUGH ~~25~~ 18 THROUGH
 29 26]; OR

30 (II) THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO BE USED FOR THE PURPOSE OF INVESTIGATION

1 AND PREVENTION OF NONCOMPLIANCE, FRAUD, AND ABUSE UNDER THE MONTANA MEDICAL MARIJUANA ACT.

2 (b) THE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH THE TAXING OFFICIALS OF ANOTHER STATE FOR
 3 THE INTERPRETATION AND ADMINISTRATION OF THE LAWS OF THEIR STATE THAT PROVIDE FOR THE COLLECTION OF A
 4 SALES TAX OR USE TAX IN ORDER TO PROMOTE FAIR AND EQUITABLE ADMINISTRATION OF THE LAWS AND TO ELIMINATE
 5 DOUBLE TAXATION.

6 (c)(b) IN ORDER TO IMPLEMENT THE PROVISIONS OF [SECTIONS 17 THROUGH 25 18 THROUGH 26], THE
 7 DEPARTMENT MAY FURNISH INFORMATION ON A RECIPROCAL BASIS TO THE TAXING OFFICIALS OF ANOTHER STATE IF THE
 8 INFORMATION REMAINS CONFIDENTIAL UNDER STATUTES WITHIN THE STATE RECEIVING THE INFORMATION THAT ARE
 9 SIMILAR TO THIS SECTION.

10 (3) IN ORDER TO FACILITATE PROCESSING OF RETURNS AND PAYMENT OF TAXES REQUIRED BY [SECTIONS 17
 11 THROUGH 25 18 THROUGH 26], THE DEPARTMENT MAY CONTRACT WITH VENDORS AND MAY DISCLOSE DATA TO THE
 12 VENDORS. THE DATA DISCLOSED MUST BE ADMINISTERED BY THE VENDOR IN A MANNER CONSISTENT WITH THIS SECTION.

13 (4) (A) THE OFFICERS CHARGED WITH THE CUSTODY OF THE REPORTS AND RETURNS MAY NOT BE REQUIRED TO
 14 PRODUCE THEM OR EVIDENCE OF ANYTHING CONTAINED IN THEM IN AN ACTION OR PROCEEDING IN A COURT, EXCEPT IN
 15 AN ACTION OR PROCEEDING:

16 (i) TO WHICH THE DEPARTMENT IS A PARTY UNDER THE PROVISIONS OF [SECTIONS 17 THROUGH 25 18 THROUGH
 17 26] OR ANY OTHER TAXING ACT; OR

18 (ii) ON BEHALF OF A PARTY TO ANY ACTION OR PROCEEDINGS UNDER THE PROVISIONS OF [SECTIONS 17 THROUGH
 19 25 18 THROUGH 26] OR OTHER TAXES WHEN THE REPORTS OR FACTS SHOWN BY THE REPORTS ARE DIRECTLY INVOLVED
 20 IN THE ACTION OR PROCEEDINGS.

21 (B) THE COURT MAY REQUIRE THE PRODUCTION OF AND MAY ADMIT IN EVIDENCE ONLY AS MUCH OF THE REPORTS
 22 OR OF THE FACTS SHOWN BY THE REPORTS AS ARE PERTINENT TO THE ACTION OR PROCEEDINGS.

23 (5) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE INVESTIGATIVE AUTHORITY OF THE LEGISLATIVE
 24 BRANCH, AS PROVIDED IN 5-11-106, 5-12-303, OR 5-13-309.

25
 26 NEW SECTION. SECTION 26. DEPARTMENT TO MAKE RULES. THE DEPARTMENT OF REVENUE SHALL
 27 PRESCRIBE RULES NECESSARY TO CARRY OUT THE PURPOSES OF IMPOSING AND COLLECTING THE MARIJUANA TAX ON
 28 GROSS SALES LICENSE FEE ON MARIJUANA PRODUCT PROVIDERS.

29
 30 SECTION 27. SECTION 80-1-104, MCA, IS AMENDED TO READ:

1 **"80-1-104. Analytical laboratory services -- rulemaking authority -- deposit of fees.** (1) The
2 department is authorized to provide analytical laboratory services for:

3 (a) programs it operates under this title;

4 (b) other state or federal agencies;

5 (c) providers and marijuana-infused products providers as those terms are defined in 50-46-302, and
6 the department of public health and human services for the purposes of Title 50, chapter 46, part 3, as allowed
7 by federal law; and

8 ~~(e)~~(d) private parties.

9 (2) The department may enter into a contract or a memorandum of understanding for the space and
10 equipment necessary for operation of the analytical laboratory.

11 (3) (a) The department may adopt rules establishing fees for testing services required under this title or
12 provided to another state agency, a federal agency, or a private party.

13 (b) Money collected from the fees must be deposited in the appropriate related account in the state
14 special revenue fund to the credit of the department to pay costs related to analytical laboratory services provided
15 pursuant to this section."
16

17 NEW SECTION. SECTION 28. APPROPRIATION. THERE IS APPROPRIATED \$650,000 FROM THE STATE SPECIAL
18 REVENUE ACCOUNT THAT CONTAINS THE FEES COLLECTED PURSUANT TO TITLE 50, CHAPTER 46, TO THE DEPARTMENT
19 OF PUBLIC HEALTH AND HUMAN SERVICES FOR FISCAL YEAR 2018 FOR THE PURPOSES DESCRIBED IN 50-46-303(4)(C)
20 AND (4)(D).
21

22 NEW SECTION. SECTION 29. APPROPRIATION. THERE IS APPROPRIATED \$1 MILLION OR THE AMOUNT
23 REMAINING IN THE ACCOUNT, WHICHEVER IS MORE, FROM THE STATE SPECIAL REVENUE ACCOUNT THAT CONTAINS THE
24 FEES COLLECTED PURSUANT TO TITLE 50, CHAPTER 46, TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
25 FOR FISCAL YEAR 2018 FOR THE ESTABLISHMENT OF A TRACKING SYSTEM FOR MARIJUANA AND MARIJUANA-INFUSED
26 PRODUCTS PURSUANT TO 50-46-303.
27

28 NEW SECTION. Section 30. Codification instruction. (1) [Section 8] is intended to be codified as an
29 integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3, apply to [section 8].

30 (2) ~~[Section 15]~~ is [SECTIONS 17 THROUGH 25 18 THROUGH 26] ARE intended to be codified as an integral

1 part of Title 15, and the provisions of Title 15 apply to ~~[section 15]~~ [SECTIONS 17 THROUGH 25 18 THROUGH 26].

2

3 **NEW SECTION. Section 31. Severability.** If a part of [this act] is invalid, all valid parts that are
4 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
5 the part remains in effect in all valid applications that are severable from the invalid applications.

6

7 **NEW SECTION. Section 32. Effective dates -- direction to department of public health and human**
8 **services.** (1) Except as provided in subsections (2) through (4), [this act] is effective on passage and approval.

9 (2) [Sections 6 and 7] are effective June 30, 2017.

10 (3) [Sections ~~14 and 15~~ 17 THROUGH 25 18 THROUGH 26] are effective July 1, 2017.

11 (4) [Section 8] and the amendments to [sections 3(4)(B) THROUGH (4)(D), 5(5)(A) THROUGH (5)(C), 6(6),
12 9(1)(B)(I), 9(1)(B)(II), 9(1)(c), and ~~11(2)(b) 12(2)(B) 13(2)(B)~~] are effective on the earlier of:

13 (a) April 30, 2018; or

14 (b) the date that the department of public health and human services certifies to the code commissioner
15 that the department is able to carry out the requirements of [sections 3(4)(B) THROUGH (4)(D), 5(5)(A) THROUGH
16 (5)(C), 6(6), 8, 9(1)(B)(I), 9(1)(B)(II), 9(1)(c), and ~~11(2)(b) 12(2)(B) 13(2)(B)~~].

17 (5) The department must notify all licensed providers, marijuana-infused products providers, and testing
18 laboratories of the effective date of [sections 3(4)(B) THROUGH (4)(D), 5(5)(A) THROUGH (5)(C), 6(6), 8, 9(1)(B)(I),
19 9(1)(B)(II), 9(1)(c), and ~~11(2)(b) 12(2)(B) 13(2)(B)~~] at least 2 months before the date the provisions of those
20 sections will go into effect.

21

- END -