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020624 WS

February 6, 2024

Great Falls City Commission,

I am very concerned about the harmful dominant political climate, exhibited by many of Montana's government officials, and several local governments, toward legitimate control of marijuana to protect the health, safety, and welfare (HSW) of citizens as provided by several existing Montana laws. Many of our state's officials do not use some well-established Montana Code Annotated (MCA) laws that would reduce the scientifically proven harms of moderate to heavy use of the basically harmful tetrahydrocannabinol (THC) chemical found in all marijuana. A Great Falls City Commission's well-informed lowering of cannabis potency would reduce citizen suffering related to marijuana and would abide by the Montana constitution, all applicable state laws, and the specifically stated goals of the will of the majority of voters in Initiative 190.

As you know from experience, application of existing legislation by local governments can create rules and regulations to control specific local situations benefitting the health, safety, and welfare (HSW) of our citizens. In the past, Great Falls City Commissions have not directly exercised their legislatively provided authority to legally regulate THC availability and potency to an ultra-low more harmless level that supports HSW of citizens as required by Montana law. The related problems of legally accepted higher THC availability and potency they have allowed are causing hundreds, and perhaps thousands of our citizens to suffer, sometimes dramatically. That has been proven by science, local statistics, and many professional analysis to causes tremendous increases in citizen mental and physical problems and related expenses for therapy, law enforcement, educational effectiveness, medical treatment, our economy, and a safer lifestyle.

Carefully contemplated Legal use of the authority you are allowed by legislated laws (16-12-101(j) and 16-12-301(2)(a)), could reduce psychological and physical suffering and would eventually decrease government expenses caused by the current vastly increased availability and potency of legal marijuana in local markets. Sensible use of those laws by a knowledgeable and concerned city commission can accomplish many benefits without threatening the specifically stated ideologies of Initiative 190, or the maximum medical benefits of some strains of cannabis.

An obvious analytical fact is that our city's previous commissions have violated the stated will of a majority of our voters as specifically expressed in I-190. Please recognize that Initiative 190 does not in any place precisely state accepted levels of marijuana potency that would enforce that initiative's safer HSW demands [I-190 sections 1(2)(f), 18-(1)(a), and section 19(8)]. Medical science and official statistics in other states have factually proven that ultra-low THC availability and potency, is not nearly as harmful as currently available higher potency of local marijuana products. The level of ultra-low potency would comply with the state's constitution (Article II Section 3&4), all applicable state laws (76-2-304), the Great Falls City Code (17.4.050), and the specifically stated will of a majority of our state's voters in Initiative 190.

An example of reduced understanding of laws is Montana Code Annotated (MCA) 50-32-201(1-8) which specifically describes eight criteria for labeling some "... drug chemicals as "dangerous drugs".

Worldwide scientific research and local experience has proven that the increased availability and higher potency of marijuana previous Great Falls City Commissions have legally allowed in our community can meet all eight of those criteria. If a chemical meets those criteria, it can be legally designated a dangerous drug by state law.

MCA 50-32-202 stipulates that any drug that contributes to abuse shall be called a dangerous drug. Many local citizens who do not use marijuana, have observed people who are affected with THC abuse. Almost all potent forms of marijuana available in Montana meets all of 50-32-201's and 50-32-202's criteria, particularly with increased potency and frequent use. All locally available marijuana can be labeled a dangerous drug under state law.

MCA 50-32-222 specifically lists by name harmful dangerous drugs available in our state and in section (4)(t) specifically labels marijuana as a dangerous drug. By current Montana law, scientific study, professional analysis, and the will of a majority of the voters [I-190 sections 1(2)(L) and 27(10)], marijuana is not legally considered a safe drug. By allowing marijuana in its currently available forms, some members of previous Great Falls City Commissions have allowed the availability and increased potency of a dangerous drug as labeled by state law. In essence, many of our government administrators, some attorneys, a few legislators, and numerous psychologically affected users are allowing the use of marijuana products that by established state law can be considered "dangerous" to the HSW of the people you serve. That "dangerous" concept is admitted directly and indirectly in several MCA laws [50-32-201(1-8), 50-32-202, and 50-32-222(4)(T)], and in Initiative 190 [Section 1(L) and Section 27(10)].

Montana Code Annotated 37-7-102(37) defines criteria for any drug to be called a poison. The law's stated four criteria for a drug to be labeled a "poison" are all proven to be present in marijuana legalized in Great Falls by some previous city commissioners.

16-12-108 specifically states in section (1)(j) " this chapter does not permit: conduct that endangers others;"

The will of a majority of the voters was expressed in the elections of November 3, 2020, when they passed initiative 190 which legalized recreational cannabis in our state. Section 42 of that document was entitled Criminal possession of dangerous drugs. It says that "... a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101." By the meaning of Montana laws, any local cannabis retail outlet that provides increased availability or distributes dangerous potencies is committing a crime and can be punished for up to five years imprisonment and a fine not to exceed \$5,000 or both.

Two other laws that are almost totally ignored by local and state administrators are Montana Code Annotated (MCA) 76-2-304(1)(b)(ii) and 76-2-203(1)(b)(ii). They simply state that zoning regulations must be "... (b) designed to: ...(ii) promote the public health, public safety, and the general welfare of the citizens". If our state and local administrations become aware of overwhelming local professional experiences and more than 10,000 often scientifically accurate studies worldwide, which factually prove the harms of cannabis as legally sold across our city's industrial zones, use of these laws could be used to legally reduce existing cannabis harms that are currently affecting thousands of our citizens. Most of the recreational marijuana products our fetuses, very young children, adolescents, young adults, and seniors are exposed to in numerous ways, are scientifically proven detrimental to the health, safety, and welfare

of Montana people when used as currently made available by many local governments, state agencies, and the marijuana industry.

The will of a majority of the voters is also expressed in Initiative 190, Section 42. titled-Criminal possession of Dangerous drugs states that "... a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101." MCA 45-9-102 expresses exactly the same I-190 concept as a law which no government agency at any level enforces in the state. If any legal marijuana retail outlet sells dangerous drugs as defined in state law, they are by established law committing a criminal act of dangerous drug possession.

As proven in a few states, the harms to the HSW of the Montanans you serve would be greatly reduced over time if recreational marijuana potency would be lowered. Government financed therapy would be less needed, our Montana society would be more functional, local living would be safer, and governments would eventually have more available money without raising current taxes.

A major oversight by government officials and well-meaning citizens who are trying to control marijuana harms, are the HSW specific requirements presented in Initiative 190 that were approved by a majority of the voters that legalized recreational cannabis. Most people misinterpret I-190 as only legalizing recreational marijuana products without understanding what specific concepts the initiative actually does and does not support. In its 67 pages and 57 sections on the ballot (which not one of the I-190 supportive voters I have talked to have demonstrated an understanding), the initiative did not once stipulate control of the proven harmful potency of tetrahydrocannabinol (THC), and did not address the I-190 stipulations of HSW. As potency is stated in I-190, ultra-low THC potency is acceptable within the stated HSW intentions of I-190.

Almost all local retail marijuana dispensaries supply to the public the more brain and body damaging addictive potencies of 15% to more than 27% THC. Medical science has overwhelmingly established that THC concentrations above 1% per ounce of product are more accumulatively damaging to user HSW depending upon how high the potency and frequency of use. Potencies at about .3% are much less harmful to HSW. Medical science has proven that the higher the THC potency regularly used, the more it creates faster and more complete harmful brain material reduction, resulting in higher dependence and/or addiction rates that worldwide science and statistical analysis has proven damages HSW.

Many legislators, government executives, and local authorities do not realize that Initiative 190 identifies that marijuana has always been- and currently is- harmful to most users [I-190 Section 1, subsection (2)(L) and Section 27(10)], and generates massive therapeutic and harm-related expenses. Professional statistics have proven the cannabis industry only partially covers with taxes. Competent state-wide professional statistics reveal that THC related problems are costing all levels of education, governments, medical facilities, the economy, and society much more than what marijuana industry taxes provide for. These harms are knowingly created by the marijuana industry despite Initiative 190 Section 1(2)(f) that specifically promises to create marijuana that is safe. Harmful THC legal availability provided by that industry through government lack of use of existing laws, contradicts the commonly misunderstood specific points of the industry's own Initiative 190.

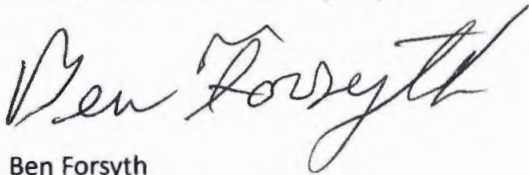
I-190 falsely ensures marijuana safety (Section 1(2)(f) even though it admits cannabis has always, and is currently, generating harms in Section 1(2)(L), and Section 27(10). Through the initiative the marijuana industry specifically requires in I-190 [Section 19(8)] the suspension or modification of a marijuana

license that "...presents an immediate threat to the health, safety, and welfare of consumers, employees of the license, or members of the public." That section specifically expresses the requirements of the majority of voters through I-190 to control THC harms.

Initiative 190 Section 26(1)(L) specifically requires standards "...to prohibit or limit marijuana products, marijuana infused products, and marijuana accessories that are unsafe or contaminated". Because of the proven psychological and physical harms created by frequent and long-term local uses of marijuana that are a detriment to the health, safety, and welfare of our citizens, I-190 obviously requires that marijuana should be legally more controlled.

By not recognizing all the scientifically proven harms of marijuana and not utilizing all existing laws to protect the health, safety, and welfare of users and our affected society, the administrative climate of our state and local governments are not only ignoring existing state laws that would reduce cannabis-related harms but are also violating the will of the majority of voters as expressed in Initiative 190 on November 3, 2020. There are available strains of recreational marijuana which contain ultra-low, less harmful THC potency, though they are still agriculturally proven to be called marijuana and meet initiative 190's specified requirements. Legal support by our city commission for those strains should legally accept the dictates of the voter majority specifically stipulated in I-190 and, over time, support better health, safety, and welfare of users and other citizens as required by the constitution and state laws and local codes.

There are so many citizens being negatively affected directly and indirectly by lack of use of government laws relating to the control of marijuana, that some of my colleagues are thinking a lawsuit of some type is the only answer. Please rest assured I personally do not like the idea of governments spending huge amounts of public money to defend their law misuse except as a last resort to protect the public HSW. I feel legislators and government officials should be able to reasonably work out needed legal marijuana-controlling specifications without spending huge amounts of public money to defend law misuse. Please do not think of my words as a threat, but I would only participate in a suit if it was a last resort necessary to benefit the health, safety, and welfare of thousands of our people. I deeply trust the obvious intelligence, logic, and organizational comments of the current Great Falls City Commission to legally work out these problems within the Montana Constitution, several existing state laws, Great Falls city codes, and the will of a majority of the voters.



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THC HARMS IDENTIFICATION AND CONTROLL STATED IN INITIATIVE 190

(AS FOUND 1/24/24 ON OFFICIAL INITIATIVE 190 DIGITAL SITE)

Section 1 (2) "The purpose of [sections 1 through 36] is to: (f) ensure the safety of marijuana and marijuana infused products;"

Section 1 (2) "The purpose of [sections 1 through 36] is to: (L) tax the sale of marijuana and marijuana infused products to generate revenue... (to) provide compensation for the economic and social costs of past and current marijuana cultivation, processing, and use, by directing funding to: (ii) substance abuse and treatment programs; (iv) health care;"

Section 2. Definitions. (13) (a) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC)"

Section 8. Personal use and cultivation of marijuana—penalties. (7)(d) " for a person under 21 years of age, the person's choice between a civil fine not to exceed \$200 or attending up to 8 hours of drug education or counseling...."

Section 12. Testing laboratories ... "shall: (1)(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid of marijuana and marijuana-infused products; and (b) test marijuana and marijuana-infused products for pesticides, solvents, moisture levels, mold, and other contaminants."

Section 13. Licensing as privilege—criteria. "(1) An...adult-use... dispensary license... is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled.... (2) The department may deny or revoke a license based on proof that the applicant made a knowing and material false statement in any part of the original application or renewal application. (3) The department may deny an adult-use dispensary license... if the applicant's proposed registered premises is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance...."

Section 15. Restrictions. "(5) An adult-use provider or adult-use marijuana -infused products provider may not allow a person under 18 years of age to volunteer or work for the license. (6) Edible marijuana-infused candy may not be sold in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana. (7)(a) Marijuana or a marijuana-infused product must be sold or otherwise transferred in resealable, child-resistant packaging designed to be significantly difficult for children under 5 years of age to open.... (8) An adult-use provider or adult-use marijuana-infused products provider may not sell or otherwise transfer tobacco or alcohol from a registered premises."

Section 16. Limits of act. "(1) [Sections 1 through 36] do not permit: (a) an individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transportation while under the influence of marijuana; (c) smoking marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft,

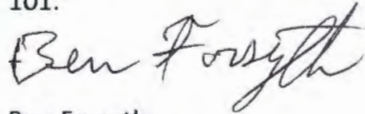
motorboat, or other form of motorized transportation while it is being operated." (g)(iv) (smoking marijuana) on the grounds of any correctional facility; (j) conduct that endangers others.

Section 16 (2) "Nothing in [sections 1 through 36] may be construed to: (b) prevent an employer from declining to hire, discharging, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana while working."

Section 18. Local government authority to regulate. (1)(a) To protect the public health, safety, and welfare, a local government may by ordinance or resolution regulate an adult-use provider or adult-use marijuana infused products provider that operates within the local government's jurisdictional area."

Section 27. Tax on marijuana sales. (10) The tax levied under this section must be used, as designated in [section 35] for purposes that provide compensation for the economic and social costs of past and current marijuana cultivation, processing, and use including... funding to offset costs of provisions of healthcare associated with prior use and health care impacts of unregulated marijuana, funding for abuse treatment and prevention, funding of veterans programs to offset prior use of unregulated marijuana in ways that harmed veterans, (and) funding to localities where marijuana is sold to offset the costs of marijuana regulation...."

Section 42. titled-Criminal possession of dangerous drugs. "(1) ... a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug as defined in 50-32-101."



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Montana Code Annotated 2021

TITLE 50. HEALTH AND SAFETY
CHAPTER 32. CONTROLLED SUBSTANCES

Part 2. Scheduling of Dangerous Drugs

General Criteria To Be Considered

50-32-201. General criteria to be considered. In making a determination regarding a drug, the board shall consider the following:

- (1) the actual or relative potential for abuse;
- (2) the scientific evidence of its pharmacological effect, if known;
- (3) the state of current scientific knowledge regarding the drug;
- (4) the history and current pattern of abuse;
- (5) the scope, duration, and significance of abuse;
- (6) the risk to the public health;
- (7) the potential of the drug to produce psychic or physiological dependence liability; and
- (8) whether the drug is an immediate precursor of a drug already controlled under this chapter.

History: En. Sec. 2, Ch. 412, L. 1973; amd. Sec. 2, Ch. 350, L. 1974; R.C.M. 1947, 54-302(part).

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Montana Code Annotated 2021

TITLE 50. HEALTH AND SAFETY

CHAPTER 32. CONTROLLED SUBSTANCES

Part 2. Scheduling of Dangerous Drugs

Designation Of Drug As Dangerous Drug

50-32-202. Designation of drug as dangerous drug. After considering the factors enumerated in **50-32-201**, the board shall make findings with respect thereto, and if it finds the drug has a potential for abuse, it shall designate such drug a dangerous drug in the manner set forth in the Montana Administrative Procedure Act.

History: En. Sec. 2, Ch. 412, L. 1973; amd. Sec. 2, Ch. 350, L. 1974; R.C.M. 1947, 54-302(2).

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2011 Montana Code Annotated

TITLE 50. HEALTH AND SAFETY

CHAPTER 32. CONTROLLED SUBSTANCES

Part 2. Scheduling of Dangerous Drugs

50-32-222. Specific dangerous drugs included in Schedule I.

Universal Citation: MT Code § 50-32-222 (1993 through 62d Legis Reg Sess)

50-32-222. Specific dangerous drugs included in Schedule I. Schedule I consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section.

(1) Opiates. Unless specifically excepted or listed in another schedule, any of the following are opiates, including isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

(a) acetyl-alpha-methylfentanyl;

(b) acetylmethadol;

(c) allylprodine;

(d) alphacetylmethadol, except levo-alpha-cetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(e) alphameprodine;

- (f) alphamethadol;
- (g) alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (h) alpha-methylthiofentanyl, also known as N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N- phenylpropanamide and;
- (i) benzethidine;
- (j) betacetylmethadol;
- (k) beta-hydroxyfentanyl, also known as N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide;
- (l) beta-hydroxy-3-methylfentanyl, also known as N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylprop anamide;
- (m) betameprodine;
- (n) betamethadol;
- (o) betaprodine;
- (p) clonitazene;
- (q) dextromoramide;
- (r) diampromide;
- (s) diethylthiambutene;
- (t) difenoxin;
- (u) dimenoxadol;
- (v) dimepheptanol;
- (w) dimethylthiambutene;
- (x) dioxaphetyl butyrate;
- (y) dipipanone;
- (z) ethylmethylthiambutene;
- (aa) etonitazene;
- (bb) etoxeridine;
- (cc) furethidine;
- (dd) hydroxypethidine;
- (ee) ketobemidone;
- (ff) levomoramide;
- (gg) levophenacylmorphan;
- (hh) 3-methylfentanyl, also known as N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide;
- (ii) 3-methylthiofentanyl, also known as N-[3-methyl- 1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide;
- (jj) morpheridine;

- (kk) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (ll) noracymethadol;
- (mm) norlevorphanol;
- (nn) normethadone;
- (oo) norpipanone;
- (pp) para-fluorofentanyl, also known as N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide;
- (qq) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (rr) phenadoxone;
- (ss) phenampromide;
- (tt) phenomorphan;
- (uu) phenoperidine;
- (vv) piritramide;
- (ww) proheptazine;
- (xx) properidine;
- (yy) propiram;
- (zz) racemoramide;
- (aaa) thiofentanyl, also known as N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;
- (bbb) tilidine; and
- (ccc) trimeperidine.

(2) For the purposes of subsection (1)(hh), the term "isomer" includes the optical, position, and geometric isomers.

(3) Opium derivatives. Unless specifically excepted or listed in another schedule, any of the following are opium derivatives, including salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) acetorphine;
- (b) acetyldihydrocodeine;
- (c) benzylmorphine;
- (d) codeine methylbromide;
- (e) codeine-n-oxide;
- (f) cyprenorphine;
- (g) desomorphine;
- (h) dihydromorphine;
- (i) drotebanol;
- (j) etorphine, except hydrochloride salt;

- (k) heroin;
- (l) hydromorphenol;
- (m) methyl-desorphenine;
- (n) methyl-dihydromorphenine;
- (o) morphine methyl-bromide;
- (p) morphine methyl-sulfonate;
- (q) morphine-n-oxide;
- (r) myorphenine;
- (s) nicocodine;
- (t) nicomorphenine;
- (u) normorphenine;
- (v) pholcodine; and
- (w) thebacon.

(4) Hallucinogenic substances. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following is a hallucinogenic substance, including salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) alpha-ethyltryptamine. Trade or other names include etryptamine, monase, alpha-ethyl-1H-indole-3-ethanamine, 3-(2-aminobutyl) indole, alpha-ET, and AET.
- (b) 4-bromo-2,5-dimethoxy-amphetamine. Trade or other names include 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine and 4-bromo-2,5-DMA.
- (c) 4-bromo-2,5-dimethoxyphenethylamine. Trade or other names include 2-(4-bromo-2, 5-dimethoxyphenyl)-1-aminoethane, alpha-desmethylDOB, and 2C-B,Nexus.
- (d) 2,5-dimethoxyamphetamine. Trade or other names include 2,5-dimethoxy-alpha-methylphenethylamine and 2,5-DMA.
- (e) 3,4-methylenedioxy amphetamine;
- (f) 2,5-dimethoxy-4-ethylamphetamine. A trade or other name is DOET.
- (g) 4-methoxyamphetamine. A trade or other name is 4-methoxy-alpha-methylphenethylamine.
- (h) 5-methoxy-3,4-methylenedioxy amphetamine;
- (i) 4-methyl-2,5-dimethoxy-amphetamine. Trade or other names include 4-methyl-2, 5-dimethoxy-alpha-methylphenethylamine, DOM, and STP.
- (j) 3,4-methylenedioxy amphetamine;
- (k) 3,4-methylenedioxymethamphetamine (MDMA);
- (l) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, and MDEA;

- (m) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine and N-hydroxy MDA;
- (n) 3,4,5-trimethoxy amphetamine;
- (o) bufotenine. Trade and other names include 3-(beta-dimethylaminoethyl)-5-hydroxyindole, 3-(2-dimethylaminoethyl)-5-indolol, N,N-dimethylserotonin, 5-hydroxy-N,N-dimethyltryptamine, and mappine.
- (p) diethyltryptamine. Trade and other names include N,N-diethyltryptamine and DET.
- (q) dimethyltryptamine. A trade or other name is DMT.
- (r) ibogaine. Trade or other names include 7-ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H -pyrido [1', 2':1,2] azepine [5,4-b] indole and tabernanthe iboga.
- (s) lysergic acid diethylamide;
- (t) marijuana;**
- (u) mescaline;
- (v) parahexyl. Trade or other names include 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,8,9-trimethyl-6H-dibenzo[b,d]pyran and synhexyl.
- (w) peyote, meaning all parts of the plant presently classified botanically as *lophophora williamsii* lemaire, whether growing or not; the seed of the plant; any extract from any part of the plant; and every compound, manufacture, salts, derivatives, mixture, or preparation of the plant, its seed, or extracts;
- (x) n-ethyl-3-piperidyl benzilate;
- (y) n-methyl-3-piperidyl benzilate;
- (z) psilocybin;
- (aa) psilocyn;
- (bb) tetrahydrocannabinols, including synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis, sp, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as those listed in subsections (4)(bb)(i) through (4)(bb)(iii). Because nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered, are included in the category as follows:
- (i) delta 1 (delta 9) cis or trans tetrahydrocannabinol and its optical isomers;
- (ii) delta 6 cis or trans tetrahydrocannabinol and its optical isomers; and
- (iii) delta 3,4 cis or trans tetrahydrocannabinol and its optical isomers;
- (cc) ethylamine analog of phencyclidine. Trade or others names include N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, and PCE.
- (dd) pyrrolidine analog of phencyclidine. Trade or other names include 1-(1-

phenylcyclohexyl)-pyrrolidine, PCPy, and PHP.

(ee) thiophene analog of phencyclidine. Trade or other names include 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, and TCP.

(ff) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine. A trade or other name is TCPy.

(gg) synthetic cannabinoids:

(i) 1-pentyl-3-(1-naphthoyl)indole (also known as JWH-018);

(ii) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (also known as HU-210 or 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);

(iii) 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol (also known as CP-47,497), and the dimethylhexyl, dimethyloctyl, and dimethylnonyl homologues of CP-47,497;

(iv) 1-butyl-3-(1-naphthoyl)indole (also known as JWH-073);

(v) 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole (also known as JWH-200);

(vi) 1-pentyl-3-(2-methoxyphenylacetyl)indole (also known as JWH-250);

(vii) 1-hexyl-3-(1-naphthoyl)indole (also known as JWH-019);

(viii) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (also known as JWH-398);

(ix) JWH-081: 1-pentyl-3-(4-methoxy-1-naphthoyl)indole, also known as 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;

(x) the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinal and 3-alkyl homologues of cannabinal or of its tetrahydro derivatives:

(A) [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone (also known as WIN-55,212-2);

(B) 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (also known as HU-243); or

(C) [9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate;

(xi) any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(xii) any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(xiii) any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, or 2-

(4-morpholinyl)ethyl, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(xiv) any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent; or

(xv) any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, or 2-(4-morpholinyl)ethyl, whether or not substituted in the cyclohexyl ring to any extent;

(hh) *Salvia divinorum*: Salvinorin A (2S,4aR,6aR,7R,9S,10aS,10bR)-9-(acetyloxy)-2-(3-furanyl)dodecylidene-6a,10b-dimethyl-4,10-dioxo-2H-naphtho[2,1-c]pyran-7-carboxylic acid methyl ester.

(5) (a) For the purposes of subsection (4), the term "isomer" includes the optical, position, and geometric isomers.

(b) Subsection (4)(gg) does not apply to synthetic cannabinoids approved by the U.S. food and drug administration and obtained by a lawful prescription through a licensed pharmacy. The department of public health and human services shall adopt a rule listing the approved cannabinoids and shall update the rule as necessary to keep the list current.

(6) Depressants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances is a depressant having a depressant effect on the central nervous system, including salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) mecloqualone; and

(b) methaqualone.

(7) Stimulants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances is a stimulant having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(a) aminorex. Trade or other names include aminoxaphen, 2-amino-5-phenyl-2-oxazoline, and 4,5-dihydro-5-phenyl-2-oxazolamine.

(b) cathinone. Trade or other names include 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone.

(c) fenethylamine;

(d) methcathinone. Trade or other names include 2-(methylamino)-propionophenone, alpha-(methylamino)propionophenone, 2-(methylamino)-1-phenylpropan-1-one, alpha-N-

methylaminopropiophenone, monomethylpropion, ephedrone, N-methylcathinone, methylcathinone, AL-464, AL-422, AL-463, and UR1432, including its salts, optical isomers, and salts of optical isomers.

(e) (levo-dextro) cis-4-methylaminorex, also known as (levo-dextro) cis-4, 5-dihydro-4-methyl-5-phenyl-2-oxazolamine;

(f) N-ethylamphetamine;

(g) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethamine and N,N-alpha-trimethylphenethylamine.

(8) Substances subject to emergency scheduling. Any material, compound, mixture, or preparation that contains any quantity of the following substances is included in this category:

(a) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers); and

(b) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts, and salts of isomers).

(9) If prescription or administration is authorized by the Federal Food, Drug and Cosmetic Act, then any material, compound, mixture, or preparation containing tetrahydrocannabinols listed in subsection (4) must automatically be rescheduled from Schedule I to Schedule II.

History: En. Sec. 5, Ch. 412, L. 1973; R.C.M. 1947, 54-305; amd. Sec. 1, Ch. 320, L. 1979; amd. Sec. 1, Ch. 141, L. 1983; amd. Sec. 1, Ch. 36, L. 1991; amd. Sec. 2, Ch. 113, L. 1997; amd. Sec. 7, Ch. 156, L. 2011.

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Montana Code Annotated 2021

TITLE 37. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. PHARMACY

Part 1. General

Definitions

37-7-101. Definitions. As used in this chapter, the following definitions apply:

- (1) (a) "Administer" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.
- (b) Except as provided in **37-7-105**, the term does not include immunization by injection for children under 18 years of age.
- (2) "Board" means the board of pharmacy provided for in **2-15-1733**.
- (3) "Cancer drug" means a prescription drug used to treat:
 - (a) cancer or its side effects; or
 - (b) the side effects of a prescription drug used to treat cancer or its side effects.
- (4) "Chemical" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.
- (5) "Clinical pharmacist practitioner" means a licensed pharmacist in good standing who meets the requirements specified in **37-7-306**.
- (6) "Collaborative pharmacy practice" means the practice of pharmacy by a pharmacist who has agreed to work in conjunction with one or more prescribers, on a voluntary basis and under protocol, and who may perform certain patient care functions under certain specified conditions or limitations authorized by the prescriber.
- (7) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more prescribers that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients.
- (8) "Commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.
- (9) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device based on:
 - (a) a practitioner's prescription drug order;
 - (b) a professional practice relationship between a practitioner, pharmacist, and patient;
 - (c) research, instruction, or chemical analysis, but not for sale or dispensing; or
 - (d) the preparation of drugs or devices based on routine, regularly observed prescribing patterns.

(c) complies with all the requirements of section 353b of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq.

(30) "Participant" means a physician's office, pharmacy, hospital, or health clinic that has elected to voluntarily participate in the cancer drug repository program provided for in **37-7-1403** and that accepts donated cancer drugs or devices under rules adopted by the board.

(31) "Patient counseling" means the communication by the pharmacist of information, as defined by the rules of the board, to the patient or caregiver in order to ensure the proper use of drugs or devices.

(32) "Person" includes an individual, partnership, corporation, association, or other legal entity.

(33) "Pharmaceutical care" means the provision of drug therapy and other patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process.

(34) "Pharmacist" means a person licensed by the state to engage in the practice of pharmacy and who may affix to the person's name the term "R.Ph."

(35) "Pharmacy" means an established location, either physical or electronic, registered by the board where drugs or devices are dispensed with pharmaceutical care or where pharmaceutical care is provided.

(36) "Pharmacy technician" means an individual who assists a pharmacist in the practice of pharmacy.

(37) "Poison" means a substance that, when introduced into the system, either directly or by absorption, produces violent, morbid, or fatal changes or that destroys living tissue with which it comes in contact.

(38) "Practice of pharmacy" means:

(a) interpreting, evaluating, and implementing prescriber orders;

(b) administering drugs and devices pursuant to a collaborative practice agreement, except as provided in **37-7-105**, and compounding, labeling, dispensing, and distributing drugs and devices, including patient counseling;

(c) properly and safely procuring, storing, distributing, and disposing of drugs and devices and maintaining proper records;

(d) monitoring drug therapy and use;

(e) initiating or modifying drug therapy in accordance with collaborative pharmacy practice agreements established and approved by health care facilities or voluntary agreements with prescribers;

(f) participating in quality assurance and performance improvement activities;

(g) providing information on drugs, dietary supplements, and devices to patients, the public, and other health care providers; and

(h) participating in scientific or clinical research as an investigator or in collaboration with other investigators.

(39) "Practice pharmacy by means of telehealth" means to provide pharmaceutical care through the use of information technology to patients at a distance.

(40) "Preceptor" means an individual who is registered by the board and participates in the instructional training of a pharmacy intern.

(41) "Prescriber" has the same meaning as provided in **37-7-502**.

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TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA

CHAPTER 12. MARIJUANA REGULATION AND TAXATION

Part 1. General Provisions

Limitations Of Act

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

- (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana products;
- (b) consumption of marijuana or marijuana products while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (c) smoking or consuming marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (d) delivery or distribution of marijuana or marijuana products, with or without consideration, to a person under 21 years of age;
- (e) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of age;
- (f) possession or transport of marijuana or marijuana products by a person under 21 years of age unless the underage person is at least 18 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work activities;
- (g) possession or consumption of marijuana or marijuana products or possession of marijuana paraphernalia:
 - (i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in **20-5-402**;
 - (ii) in a school bus or other form of public transportation;
 - (iii) in a health care facility as defined in **50-5-101**;
 - (iv) on the grounds of any correctional facility; or
 - (v) in a hotel or motel room;
- (h) using marijuana or marijuana products in a location where smoking tobacco is prohibited;
- (i) consumption of marijuana or marijuana products in a public place, except as allowed by the department;
- (j) conduct that endangers others;
- (k) undertaking any task while under the influence of marijuana or marijuana products if doing so would constitute negligence or professional malpractice; or
 - (l) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

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TITLE 45. CRIMES

CHAPTER 10. MODEL DRUG PARAPHERNALIA ACT

Part 1. General Provisions

Definitions

45-10-101. Definitions. (1) As used in this part, the term "drug paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a dangerous drug. It includes but is not limited to:

- (a) kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a dangerous drug or from which a dangerous drug can be derived;
- (b) kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing dangerous drugs;
- (c) isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a dangerous drug;
- (d) testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of dangerous drugs;
- (e) scales and balances used, intended for use, or designed for use in weighing or measuring dangerous drugs;
- (f) dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting dangerous drugs;
- (g) separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- (h) blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding dangerous drugs;
- (i) capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of dangerous drugs;
- (j) containers and other objects used, intended for use, or designed for use in storing or concealing dangerous drugs;
- (k) objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, or other dangerous drug as defined by **50-32-101** into the human body, such as:
 - (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (ii) water pipes;

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TITLE 76. LAND RESOURCES AND USE CHAPTER 2. PLANNING AND ZONING

Part 3. Municipal Zoning

Criteria And Guidelines For Zoning Regulations

76-2-304. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:

- (a) made in accordance with a growth policy; and
- (b) designed to:
 - (i) secure safety from fire and other dangers;
 - (ii) promote public health, public safety, and the general welfare; and
 - (i) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
- (2) In the adoption of zoning regulations, the municipal governing body shall consider:
 - (a) reasonable provision of adequate light and air;
 - (b) the effect on motorized and nonmotorized transportation systems;
 - (c) promotion of compatible urban growth;
 - (d) the character of the district and its peculiar suitability for particular uses; and
 - (e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

History: En. Sec. 3, Ch. 136, L. 1929; re-en. Sec. 5305.3, R.C.M. 1935; R.C.M. 1947, 11-2703; amd. Sec. 17, Ch. 582, L. 1999; amd. Sec. 6, Ch. 87, L. 2003; amd. Sec. 11, Ch. 446, L. 2009.

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TITLE 76. LAND RESOURCES AND USE
CHAPTER 2. PLANNING AND ZONING
Part 2. County Zoning

Criteria And Guidelines For Zoning Regulations

76-2-203. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:

- (a) made in accordance with the growth policy; and
- (b) designed to:
 - (i) secure safety from fire and other dangers;
 - (ii) promote public health, public safety, and general welfare; and
 - (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
- (2) In the adoption of zoning regulations, the board of county commissioners shall consider:
 - (a) reasonable provision of adequate light and air;
 - (b) the effect on motorized and nonmotorized transportation systems;
 - (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
 - (d) the character of the district and its peculiar suitability for particular uses; and
 - (e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.
- (3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities.
- (4) Zoning regulations may not include a requirement to:
 - (a) pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or
 - (b) dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices.
- (5) A dedication of real property as prohibited in subsection (4)(b) includes a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices.

History: En. Sec. 4, Ch. 246, L. 1963; R.C.M. 1947, 16-4704; amd. Sec. 15, Ch. 582, L. 1999; amd. Sec. 3, Ch. 87, L. 2003; amd. Sec. 7, Ch. 446, L. 2009; amd. Sec. 4, Ch. 249, L. 2021.

Montana Code Annotated 2021

TITLE 76. LAND RESOURCES AND USE

CHAPTER 1. PLANNING BOARDS

Part 1. General Provisions

Purpose

76-1-102. Purpose. (1) It is the object of this chapter to encourage local units of government to improve the present health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end that highway systems be carefully planned; that new community centers grow only with adequate highway, utility, health, educational, and recreational facilities; that the needs of agriculture, industry, and business be recognized in future growth; that residential areas provide healthy surroundings for family life; and that the growth of the community be commensurate with and promotive of the efficient and economical use of public funds.

(2) In accomplishing this objective, it is the intent of this chapter that the planning board shall serve in an advisory capacity to presently established boards and officials.

History: En. Sec. 1, Ch. 246, L. 1957; amd. Sec. 1, Ch. 247, L. 1963; amd. Sec. 2, Ch. 273, L. 1971; R.C.M. 1947, 11-3801(part).

Montana Code Annotated 2021

TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA
CHAPTER 12. MARIJUANA REGULATION AND TAXATION
Part 1. General Provisions

Short Title -- Purpose

16-12-101. (Effective January 1, 2022) **Short title -- purpose.** (1) This chapter may be cited as the "Montana Marijuana Regulation and Taxation Act".

(2) **The purpose of this chapter is to:**

- (a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years of age or older;
 - (b) provide for the licensure and regulation of the cultivation, manufacture, production, distribution, transportation, and sale of marijuana and marijuana products;
 - (c) eliminate the illicit market for marijuana and marijuana products;
 - (d) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age;
 - (e) **ensure the safety of marijuana and marijuana products;**
 - (f) ensure the security of licensed premises;
 - (g) establish reporting requirements for licensees;
 - (h) establish inspection requirements for licensees, including data collection on energy use, chemical use, water use, and packaging waste to ensure a clean and healthy environment;
 - (i) provide for the testing of marijuana and marijuana products by licensed testing laboratories;
 - (j) **give local governments authority to allow for the operation of marijuana businesses in their community and establishing standards for the cultivation, manufacture, and sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions;**
 - (k) tax the sale of marijuana and marijuana products to provide compensation for the economic and social costs of marijuana;
 - (l) authorize courts to resentencing persons who are currently serving sentences for acts that are permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge those offenses from the criminal records of persons who have completed their sentences as set forth in this chapter; and
 - (m) preserve and protect Montana's well-established hemp industry by drawing a clear distinction between those participants and programs and the participants and programs associated with the marijuana industry.
- (3) Marijuana and marijuana products are not agricultural products, and the cultivation, processing, manufacturing or selling of marijuana or marijuana products is not considered agriculture subject to regulation by the department of agriculture unless expressly provided.

Montana Code Annotated 2021

TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA

CHAPTER 12. MARIJUANA REGULATION AND TAXATION

Part 3. Local Government and Law Enforcement Authority

Local Government Authority To Regulate -- Opt-In Requirement In Certain Counties -- Exemption For Existing Licensees

16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees. (1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until:

(i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection (3) or (4); and

(ii) the business is licensed by the department pursuant to this chapter.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant to **16-12-201(2)** notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6).

(c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to **16-12-201(2)** notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with the department of public health and human services and the department.

(d) For the purpose of this section, the marijuana business categories that must be approved by a local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may operate are:

(i) cultivator;

(ii) manufacturer;

(iii) medical marijuana dispensary, except as provided in subsection (1)(b);

(iv) adult-use dispensary;

(v) combined-use marijuana licensee;

(vi) testing laboratory; and

(vii) marijuana transporter facility.

(e) Marijuana businesses located in counties in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government approval process under subsections (3) through (6).

(2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary is exempt from complying with any local governmental regulations that are adopted under this subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the expiration of any grace period granted by the locality, whichever is later.

(3) An election regarding whether to approve any or all of the marijuana business categories listed in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137 by:

- (a) the qualified electors of a county; or
- (b) the qualified electors of a municipality.

(4) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed in accordance with Title 13, chapter 1, part 4.

(b) An election pursuant to this section may be held in conjunction with a regular election of the governing body, general election, or a regular local or special election.

(5) If the qualified electors of a county vote to approve a type of marijuana business to be located in the jurisdiction, the governing body shall enter the approval into the records of the local government and notify the department of the election results.

(6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census:

(i) it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana business from being located in the municipality; and

(ii) the county shall conduct the election in a manner that separates the votes in the municipality from those in the remaining parts of the county.

(b) If a majority of the qualified electors in the county, including the qualified electors in the municipality, vote to approve a category of marijuana business to be located in the county, the county may allow that category of marijuana business to operate in the county.

(c) (i) If a majority of the qualified electors in the municipality vote to approve a category of marijuana business to be located in the municipality, the municipality may allow that type of marijuana business to operate in the municipality.

(ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana business from being located in the municipality, the municipality may not allow that type of marijuana business to operate in the municipality.

Criminal possession of dangerous drugs

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Montana Code Annotated 45-9-102 states that a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug ¹. The definition of dangerous drugs is provided in 50-32-101 ¹. For the first offense, a person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is guilty of a misdemeanor and shall be punished by a fine not to exceed \$500 ².

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