

# 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 resentence 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.

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## 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 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
  - (iii) 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 37. PROFESSIONS AND OCCUPATIONS

### CHAPTER 7. PHARMACY *See page 2 Section 37*

#### Part 1. General

*Marijuana, at some uses, meets all criteria of a poison*

## Definitions *Read (37) see next page*

**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 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 must 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 <sup>Read</sup> 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:

- <sup>1</sup> <sup>2</sup> <sup>3</sup> <sup>4</sup> Marijuana meets all symptoms of a poison.
- (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.