

**BALLOT LANGUAGE FOR INITIATIVE NO. 190 (I-190)**

INITIATIVE NO. 190

A LAW PROPOSED BY INITIATIVE PETITION

I-190 legalizes the possession and use of limited amounts of marijuana for adults over the age of 21. I-190 requires the Department of Revenue to license and regulate the cultivation, transportation, and sale of marijuana and marijuana-infused products and to inspect premises where marijuana is cultivated and sold. It requires licensed laboratories to test marijuana and marijuana-infused products for potency and contaminants. I-190 establishes a 20% tax on non-medical marijuana. 10.5% of the tax revenue goes to the state general fund, with the rest dedicated to accounts for conservation programs, substance abuse treatment, veterans' services, healthcare costs, and localities where marijuana is sold. I-190 allows a person currently serving a sentence for an act permitted by I-190 to apply for resentencing or an expungement of the conviction. I-190 prohibits advertising of marijuana and related products.

Marijuana taxes and fees will generate about \$48 million annually by 2025. Marijuana fees will fund program administration and enforcement. Marijuana taxes will contribute to the general fund and special revenue accounts for conservation, veterans' services, substance abuse treatment, healthcare, and local governments. The general fund will net \$4 million.

Yes on Initiative I-190

No on Initiative I-190

## THE COMPLETE TEXT OF INITIATIVE NO. 190 (I-190)

**NEW SECTION. Section 1. Short title -- purpose.** (1) [Sections 1 through 36] may be cited as the “Montana Marijuana Regulation and Taxation Act.”

(2) The purpose of [sections 1 through 36] 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 commercial cultivation, manufacture, production, distribution, and sale of marijuana and marijuana-infused products;

(c) allow for limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 36];

(d) eliminate the illicit market for marijuana and marijuana-infused products;

(e) prevent the distribution of marijuana sold under [sections 1 through 36] to persons under 21 years of age;

(f) ensure the safety of marijuana and marijuana-infused products;

(g) ensure the security of registered premises and adult-use dispensaries;

(h) establish reporting requirements for adult-use providers and adult-use marijuana-infused products providers;

(i) establish inspection requirements for registered premises, including data collection on energy use, chemical use, water use, and packaging waste to ensure a clean and healthy environment;

(j) provide for the testing of marijuana by licensed testing laboratories;

(k) give local governments a role in establishing standards for the cultivation, manufacture, and sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions;

(l) tax the sale of marijuana and marijuana-infused products to generate revenue for the state and provide compensation for the economic and social costs of past and current marijuana cultivation, processing, and use, by directing funding to:

- (i) conservation programs to offset the use of water and soil in marijuana cultivation;
- (ii) substance abuse treatment and prevention programs;
- (iii) veterans services and support;
- (iv) health care;
- (v) localities where marijuana is sold; and
- (vi) the state general fund;

(m) authorize courts to resentence persons who are currently serving sentences for acts that are permitted under [sections 1 through 36] or for which the penalty is reduced by [sections 1 through 36] and to redesignate or expunge those offenses from the criminal records of persons who have completed their sentences as set forth in [sections 1 through 36].

**NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 36], the following definitions apply:

(1) "Adult-use dispensary" means a registered premises from which a licensed adult-use provider or adult-use marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a consumer.

(2) "Adult-use marijuana-infused products provider" means a person licensed by the department to manufacture and provide marijuana-infused products for consumers as allowed by [sections 1 through 36].

(3) "Adult-use provider" means a person licensed by the department to cultivate and process marijuana for consumers as allowed by [sections 1 through 36].

(4) "Canopy" means the total amount of square footage dedicated to live plant production at a registered premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana-infused products for personal use or for use by persons who are at least 21 years of age, but not for resale.

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

(7) "Department" means the department of revenue provided for in 2-15-1301.

(8) (a) "Employee" means an individual employed to do something for the benefit of an employer.

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

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(9) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 1% or more of the net profits or net worth of the entity in which the interest is held. The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance.

(10) "Licensee" means a person holding a state license issued pursuant to [sections 1 through 36].

(11) "Local government" means a county, a consolidated government, or an incorporated city or town.

(12) "Manufacturing" means the production of marijuana concentrate.

(13) (a) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(b) The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis, or commodities or products manufactured with

hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(14) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(15) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused products.

(16) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a consumer by a means other than smoking. The term includes but is not limited to edible products, ointments, and tinctures.

(17) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(18) "Owner" means a principal officer, director, board member, or individual who has a financial interest or voting interest of 10% or greater in an adult-use dispensary, adult-use provider, or adult-use marijuana-infused products provider.

(19) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

(20) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(21) "Registered premises" means a location that is licensed pursuant to [sections 1 through 36] and includes:

(a) all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms; and

(b) if the department has specifically licensed a location for outdoor cultivation, production, manufacturing, wholesale sale, or retail sale of adult-use marijuana and adult-use marijuana-infused products, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases, or has the right to occupy.

(22) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 36] if the individual:

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

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

(23) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(24) "State laboratory" means the laboratory operated by the department of public health and human services to conduct environmental analyses.

(25) "Testing laboratory" has the meaning as provided in 50-46-302.

(26) "Unduly burdensome" means requiring such a high investment of money, time, or any other resource or asset to achieve compliance that a reasonably prudent businessperson would not operate.

**NEW SECTION. Section 3. Department authority.** The department shall license and regulate the cultivation, manufacture, transport, and sale of marijuana as allowed by [sections 1 through 36] and shall administer and enforce [sections 1 through 36].

**NEW SECTION. Section 4. Department responsibilities -- licensure.** (1) The department shall establish and maintain a registry of persons who receive licenses under [sections 1 through 36]. The department shall issue:

(a) licenses:

(i) to persons who apply to operate as adult-use providers or adult-use marijuana-infused products providers and who submit applications meeting the requirements of [sections 1 through 36]; and

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

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

(2) A person who obtains an adult-use provider license, adult-use marijuana-infused products provider license, or adult-use dispensary license, or an employee of a licensed adult-use provider or adult-use marijuana-infused products provider, is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed by [sections 1 through 36].

(3) A person who obtains a testing laboratory license or an employee of a licensed testing laboratory is authorized to possess, test, and transport marijuana as allowed by [sections 1 through 36].

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

(5) Licenses issued pursuant to [sections 1 through 36] must:

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

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

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

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

(6) (a) The department shall make application forms available and begin accepting applications for licensure and endorsement under [sections 1 through 36] on or before January 1, 2022.

(b) The department shall review the information contained in an application or renewal submitted pursuant to [sections 1 through 36] and shall approve or deny an application:

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

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

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

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

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

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

(e) (i) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by [sections 1 through 36] and related administrative rules.

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

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

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

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

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

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

(11) The department may not adopt rules requiring a consumer to provide an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary licensee with identifying information other than identification to determine the consumer's age or require the recording of personal information about consumers other than information typically required in a retail transaction.

**NEW SECTION. Section 5. Licensing of providers, marijuana-infused products providers, and dispensaries for adult use.** (1) No later than October 1, 2021, the department shall promulgate rules and regulations to administer and enforce [sections 1 through 36] and shall begin accepting applications for and issuing licenses. The rules may not be unduly burdensome. For the first 12 months after the department begins to receive applications, the department shall only accept applications from and issue licenses to providers, marijuana-infused products providers, and dispensaries licensed under Title 50, chapter 46, part 3, that are in good standing with the department of public health and human services and in compliance with [sections 1 through 36] and rules adopted by the department.

**NEW SECTION. Section 6. Department responsibility to monitor and assess marijuana production, testing, sales, and license revocation.** (1)(a) The department shall implement a system for tracking marijuana, marijuana concentrate, and marijuana-infused products from either the seed or the seedling stage until the marijuana, marijuana concentrate, or marijuana-infused product is sold to a consumer. The system must:

(i) ensure that the marijuana, marijuana concentrate, or marijuana-infused product cultivated, manufactured, possessed, and sold under [sections 1 through 36] is not sold or

otherwise provided to an individual who is under 21 years of age and who is not a medical marijuana registered cardholder; and

(ii) be made available to adult-use providers, adult-use marijuana-infused products providers, adult-use dispensaries, and testing laboratories at no additional cost.

(b) The department may implement the same system that is used to track marijuana, marijuana concentrate, and marijuana-infused products pursuant to 50-46-304.

(2) The department shall assess applications for an adult-use provider or adult-use marijuana-infused products provider license to determine if a person with a financial interest in the applicant meets any of the criteria established in [section 9] for denial of a license.

(3) Before issuing or renewing a license, the department shall inspect the proposed registered premises of an adult-use provider or adult-use marijuana-infused products provider and shall inspect the property to be used to ensure an applicant for licensure or license renewal is in compliance with [sections 1 through 36]. The department may not issue or renew a license if the applicant does not meet the requirements of [sections 1 through 36].

(4)(a) The department shall license providers and marijuana-infused products providers according to a tiered canopy system.

(b)(i) The system shall include, at a minimum, the following license types:

(A) A micro tier canopy license allows for a canopy of up to 250 square feet at one registered premises.

(B) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one registered premises. A minimum of 500 square feet must be equipped for cultivation.

(C) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two registered premises. A minimum of 1,100 square feet must be equipped for cultivation.

(D) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three registered premises. A minimum of 2,600 square feet must be equipped for cultivation.

(E) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four registered premises. A minimum of 5,100 square feet must be equipped for cultivation.

(F) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five registered premises. A minimum of 7,750 square feet must be equipped for cultivation.

(G) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five registered premises. A minimum of 10,250 square feet must be equipped for cultivation.

(H) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five registered premises. A minimum of 13,250 square feet must be equipped for cultivation.

(I) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five registered premises. A minimum of 15,250 square feet must be equipped for cultivation.

(J) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six registered premises. A minimum of 17,775 square feet must be equipped for cultivation.

(K) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven registered premises. A minimum of 24,000 square feet must be equipped for cultivation.

(ii) As used in this subsection (4)(b), “equipped for cultivation” means that the space is either ready for cultivation or in use for cultivation.

(c) An adult-use provider or adult-use marijuana-infused products provider who has reached capacity under the existing license may apply to advance to the next licensing tier. The department:

(i) may increase a licensure level by only one tier at a time; and

(ii) shall conduct an inspection of the adult-use provider or adult-use marijuana-infused products provider’s registered premises and proposed premises within 30 days of receiving the application and before approving the application.

(d) The department may create additional licensing tiers by rule if a provider with a tier 10 canopy license petitions the department to create a new licensure level and:

(i) the producer or provider demonstrates that the licensee is using the full amount of canopy currently authorized; and

(ii) the tracking system shows the licensee is selling at least 80% of the marijuana or marijuana-infused products produced by the square footage of the licensee’s existing license

over the 2 previous quarters or the licensee can otherwise demonstrate to the department that there is a market for the marijuana or marijuana-infused products it seeks to produce.

(e) The department is authorized to create additional tiers as necessary, including an adjusted tier system to account for outdoor cultivation.

(f) The registered premises limitations for each tier of licensing apply only to registered premises at which marijuana is cultivated. The limitations do not apply to the number of adult-use dispensaries an adult-use provider or adult-use marijuana-infused products provider may have.

(g) The department shall require evidence that the licensee is able to successfully cultivate the minimum amount of space allowed for the tier and sell the amount of marijuana produced by the minimum cultivation level before allowing a licensee to move up a tier. Annual licensing fees must be prorated based on the time licensed at a specific tier if less than 1 year.

(h) No person may be initially licensed greater than a tier 2 unless the person is purchasing a business licensed at a tier higher than tier 2 or the person is already licensed at higher than tier 2 under Title 50, chapter 46, part 3, and is applying for the equivalent size tier under [sections 1 through 36].

**NEW SECTION. Section 7. Testing laboratories -- licensing -- inspection -- dual licensure -- state laboratory responsibility.** (1) (a) The state laboratory shall license testing laboratories to perform the testing required under [sections 12 and 17].

(b) (i) The state laboratory shall inspect a testing laboratory before issuing or renewing a license and may not issue or renew a license if the applicant does not meet the requirements of [section 12] and this section.

(ii) The state laboratory may not issue a temporary license while an inspection is pending.

(iii) Inspections conducted under this section must include the review provided for in 50-46-311(1)(b).

(2) The state laboratory shall:

(a) use the criteria established under 50-46-311 in evaluating and approving licenses issued under this section;

(b) use the criteria established under 50-46-304(6) to establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that consumers receive consistent and uniform information about the potency and quality of the marijuana and marijuana-infused products they receive; and

(c) investigate inconsistent test results using the procedure provided for in 50-46-304(7).

(3) If an analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the state laboratory by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(4) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the state laboratory shall suspend the testing laboratory's license until additional testing determines whether the results are consistent.

(5) The state laboratory shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent; or

(b) providing test results without having:

(i) the equipment needed to test marijuana, marijuana concentrates, or marijuana-infused products; or

(ii) the equipment required under [sections 1 through 36] to conduct the tests for which the laboratory is providing results.

(6) A revocation under this section is subject to judicial review.

(7) The state laboratory:

(a) may license a testing laboratory to perform both the testing required under [sections 1 through 36] and under Title 50, chapter 46; and

(b) shall use the same administrative rules for testing laboratories licensed under [sections 1 through 36] and under Title 50, chapter 46.

**NEW SECTION. Section 8. Personal use and cultivation of marijuana -- penalties. (1)**

Subject to the limitations in [section 16], the following acts are lawful and shall not be an offense under state law or the laws of any local government within the state or be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government for a person who is 21 years of age or older:

(a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of marijuana, except that not more than 8 grams may be in a concentrated form;

(b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or older, 1 ounce or less of marijuana, except that not more than 8 grams may be in a concentrated form;

(c) in or on the grounds of a private residence, possessing, planting, or cultivating up to four mature marijuana plants and four seedlings and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:

(i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place;

(ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be cultivated in or on the grounds of a single private residence simultaneously;

(iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and

(iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana-infused products for personal use may be shared with, rented, or leased to an adult-use provider or an adult-use marijuana-infused products provider;

(d) assisting another person who is at least 21 years of age in any of the acts permitted by this section, including allowing another person to use one's personal residence for any of the acts described in this section; and

(e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia relating marijuana.

(2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding \$250 and forfeiture of the marijuana.

(3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding \$250 and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for that activity by the department, is subject to a civil fine not exceeding \$50.

(5) For a person who is under 21 years of age and is not a registered cardholder, possession, use, ingestion, inhalation, transportation, delivery without consideration, or distribution without consideration of 1 ounce or less of marijuana is punishable by forfeiture of the marijuana and the underage person's choice between:

(a) a civil fine not to exceed \$100; or

(b) up to 4 hours of drug education or counseling in lieu of the fine.

(6) For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and the underage person's choice between:

(a) a civil fine not to exceed \$100; or

(b) up to 4 hours of drug education or counseling in lieu of the fine.

(7) Unless otherwise permitted under the provisions of Title 50, chapter 46, part 3, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or

more than 8 grams but less than 16 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

(a) for a first violation, the person's choice between a civil fine not exceeding \$200 or completing up to 4 hours of community service in lieu of the fine;

(b) for a second violation, the person's choice between a civil fine not exceeding \$300 or completing up to 6 hours of community service in lieu of the fine;

(c) for a third or subsequent violation, the person's choice between a civil fine not exceeding \$500 or completing up to 8 hours of community service in lieu of the fine; and

(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 in lieu of the fine.

(8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by [sections 1 through 36].

(9) A person may not be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by [sections 1 through 36].

(10) A person currently under parole, probation, or other state supervision or released awaiting trial or other hearing may not be punished or otherwise penalized solely for conduct that is permitted by [sections 1 through 36].

(11) A holder of a professional or occupational license may not be subjected to professional discipline for providing advice or services arising out of or related to conduct that is permitted by [sections 1 through 36] solely on the basis that marijuana is prohibited by federal law.

(12) It is the public policy of the state of Montana that contracts related to the operation of licensees be enforceable.

**NEW SECTION. Section 9. Provider types -- requirements -- limitations -- activities.**

(1)(a) Subject to subsections (1)(b) and (3), the department shall issue a license to or renew a license for a person who is applying to be an adult-use provider or adult-use marijuana-infused products provider if the person submits to the department:

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

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

(iii) fingerprints meeting the requirements for a fingerprint-based background check by the department of justice and the federal bureau of investigation:

(A) with the application for initial licensure; and

(B) every 3 years thereafter;

(iv) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures for consumers, unless the marijuana or marijuana-infused products are sold to another adult-use provider or as part of a sale of a business as allowed under this section;

(v) the street address of the location at which marijuana, marijuana concentrates, or marijuana-infused products will be cultivated or manufactured; and

(vi) a fee as determined by the department not to exceed the costs of required background checks and associated administrative costs of processing the license.

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

(2) The department shall conduct:

(a) a fingerprint-based background check in association with an application for initial licensure and every 3 years thereafter; and

(b) a name-based background check in association with an application for initial licensure and each year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based background check.

(3) The department may not license a person under [sections 1 through 36] if the person or an owner:

(a) has a felony conviction involving fraud, deceit, or embezzlement or for distribution of drugs to a minor within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

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

(c) has been convicted of a violation under [section 21];

(d) has resided in Montana for less than 1 year; or

(e) is under 18 years of age.

(4) Marijuana for use pursuant to [sections 1 through 36] must be cultivated and manufactured in Montana until federal law allows for the interstate distribution of marijuana.

(5) Except as provided in [section 17], an adult-use provider or adult-use marijuana-infused products provider shall:

(a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories pursuant to [sections 1 through 36] and administrative rules;

(b) allow the department to collect samples of marijuana or marijuana-infused products during inspections of registered premises for testing as provided by the department by rule;

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to [section 6]; and

(d) obtain the license from the department of agriculture if required by 80-7-106 for the adult-use provider or adult-use marijuana-infused products provider that sells live plants as part of a sale of the adult-use provider's business. An adult-use provider or adult-use marijuana-infused products provider required to obtain a nursery license is subject to the inspection requirements of 80-7-108.

(6)(a) Except as provided in [section 11], a person licensed under this section may cultivate marijuana and manufacture marijuana-infused products for use by consumers only at one of the following locations:

(i) a property that is owned by the adult-use provider or adult-use marijuana-infused products provider; or

(ii) with written permission of the property owner, a property that is rented or leased by the adult-use provider or adult-use marijuana-infused products provider.

(b) Except as provided in [section 11], no portion of the property used for cultivation of marijuana or manufacture of marijuana-infused products or marijuana concentrate may be shared with or rented or leased to another adult-use provider, adult-use marijuana-infused products provider, or testing laboratory.

(7) A licensed adult-use provider or adult-use marijuana-infused products provider may:

(a) in accordance with rules adopted by the department:

(i) operate adult-use dispensaries; and

(ii) engage in manufacturing;

(b) employ employees to cultivate marijuana, manufacture marijuana concentrates and marijuana-infused products, and dispense and transport marijuana and marijuana-infused products;

(c) provide a small amount of marijuana, marijuana concentrate, or marijuana-infused product cultivated or manufactured on the registered premises to a licensed testing laboratory or the department of agriculture;

(d) sell the adult-use provider's business, including live plants, inventory, material assets, and all licenses in accordance with rules adopted by the department; and

(e) hold a provider or marijuana-infused products provider license issued pursuant to Title 50, chapter 46, part 3.

(8)(a) Except as provided in subsection (8)(b), an adult-use provider or adult-use marijuana-infused products provider:

(i) shall sell marijuana the adult-use provider has cultivated or marijuana products derived from marijuana the adult-use marijuana-infused products provider has cultivated for at least 50% of the provider's total annual sales;

(ii) may sell marijuana or marijuana-infused products to another adult-use provider for subsequent resale for up to 50% of the adult-use provider's total annual sales;

(iii) may contract or otherwise arrange for another party that is licensed to process the adult provider's or adult marijuana-infused products provider's marijuana into marijuana-infused products or marijuana concentrates and return the marijuana-infused products or marijuana concentrates to the adult-use provider for sale; and

(iv) except as allowed pursuant to [section 13], may not open a dispensary or allow for any on-site use before obtaining the required license or before the department has completed the inspection required under [sections 1 through 36] unless permitted to do so pursuant to [section 13].

(b) The department may adjust the percentages set forth in subsection (8)(a) for an individual license holder based on unforeseen circumstances leading to the loss of plants or products.

**NEW SECTION. Section 10. Adult-use marijuana-infused products provider.** (1) A person licensed as an adult-use marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a registered premises; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) An adult-use marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(b) may not provide a consumer with marijuana in a form that may be used for smoking unless the adult-use marijuana-infused products provider is also a licensed adult-use provider.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31.

**NEW SECTION. Section 11. Contracted services.** (1) An adult-use marijuana-infused products provider may contract with another adult-use marijuana-infused products provider to perform extraction or manufacturing services for the provider. The adult-use marijuana-infused products provider who is providing the services must hold a provider license for at least a tier 1 canopy.

(2) An adult-use marijuana-infused products provider who has contracted for services under this section may deliver the marijuana to be used for extraction or manufacturing or the provider who is contracted to provide the services may pick up and transport the marijuana.

(3) An adult-use marijuana-infused products provider who offers extraction or manufacturing services may not keep any marijuana-infused product or plant material from the extraction or manufacturing or transfer or sell the marijuana-infused product or plant material to another provider who has contracted for similar services with the same provider except as permitted under [section 9].

**NEW SECTION. Section 12. Testing laboratories -- licensing inspections.** (1) A testing laboratory licensed pursuant to Title 50, chapter 46, part 3, shall:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana-infused products; and

(b) test marijuana and marijuana-infused products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested.

(2) The analytical laboratory services provided by the department of agriculture pursuant to 80-1-104 may be used for the testing provided for in this section.

(3) A person with a financial interest in a licensed testing laboratory may not have a financial interest in any entity involved in the cultivation of marijuana or manufacture of a marijuana-infused product or marijuana concentrate for whom testing services are performed.

(4) Except as provided in [section 17], a testing laboratory shall conduct tests of:

(a) samples of marijuana, marijuana concentrate, and marijuana-infused products submitted by adult-use providers and adult-use marijuana-infused products providers pursuant to [section 17] and related administrative rules prior to sale of the marijuana or marijuana-infused products;

(b) samples of marijuana or marijuana-infused products collected by the department during inspections of registered premises; and

(c) samples submitted by consumers.

**NEW SECTION. Section 13. Licensing as privilege -- criteria.** (1) An adult-use provider license, adult-use marijuana-infused products provider license, adult-use dispensary license, or endorsement for manufacturing is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed registered premises.

(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 provider license, adult-use marijuana-infused products provider license, adult-use dispensary license, or endorsement for manufacturing 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, a certified copy of which has been filed with the department.

(4)(a) The department may deny a license for an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary or an endorsement for manufacturing if the applicant's proposed registered premises:

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

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

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

(5) An adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary licensee may operate at a shared location with a provider, marijuana-infused products provider, or dispensary as defined in 50-46-302 if the provider, marijuana-infused products provider, or dispensary is owned by the same person.

**NEW SECTION. Section 14. Legal protections -- allowable amounts.** (1) An adult-use provider or adult-use marijuana-infused products provider may have the canopy allotment allowed by the department. The canopy allotment is a cumulative total for all of the adult-use provider's or adult-use marijuana-infused products provider's registered premises.

(2) Except as provided in [section 16], a person licensed under [sections 1 through 36] may not be arrested, prosecuted, penalized, or denied any right or privilege, including but not limited to civil fine or disciplinary action by a professional licensing board or the department of labor and industry, solely because the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under [sections 1 through 36].

(3) A person may not be arrested or prosecuted for possession, conspiracy as provided in 45-4-102, or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana-infused products as permitted under [sections 1 through 36].

(4) Except as provided in [section 19], possession of or application for a license does not solely constitute probable cause to search a person or the property of a person or otherwise subject a person or property of a person to inspection by any governmental agency, including a law enforcement agency.

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

(6) An adult-use provider or adult-use marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [sections 1 through 36] if the person is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 36].

**NEW SECTION. Section 15. Restrictions.** (1) An adult-use provider or adult-use marijuana-infused products provider may not cultivate marijuana or manufacture marijuana concentrates or marijuana-infused products in a manner that is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids.

(2) An adult-use provider or adult-use marijuana-infused products provider may not cultivate, process, test, or store marijuana at any location other than the registered premises approved by the department and within an enclosed area that is secured in a manner that prevents access by unauthorized persons.

(3) An adult-use provider or adult-use marijuana-infused products provider shall secure the provider's inventory and equipment during and after operating hours to deter and prevent theft of marijuana.

(4) An adult-use provider or adult-use marijuana-infused products provider shall make the registered premises, books, and records available to the department for inspection and audit under [section 19] during normal business hours.

(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 licensee.

(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 and not difficult for adults to use properly.

(b) Subsection (7)(a) does not apply to marijuana consumed on the premises where it is sold, if permitted by department rule.

(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.

**NEW SECTION.** **Section 16. Limitations of act.** (1) [sections 1 through 36] do 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;

(b) consumption of marijuana 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 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, with or without consideration, to a person under 21 years of age;

(e) purchase, consumption, or use of marijuana by a person under 21 years of age;

(f) possession or transport of marijuana by a person under 21 years of age unless the underage person is at least 18 years of age and is an employee of an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary and engaged in work activities;

(g) possession or consumption of marijuana 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;

(iii) in a health care facility as defined in 50-5-101; or

(iv) on the grounds of any correctional facility;

(h) smoking marijuana in a location where smoking tobacco is prohibited;

(i) consumption of marijuana 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 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.

(2) Nothing in [sections 1 through 36] may be construed to:

(a) require an employer to permit or accommodate conduct otherwise allowed by [sections 1 through 36] in any workplace or on the employer's property;

(b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana;

(c) prevent an employer from declining to hire, discharging, disciplining, 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.

(3) Nothing in [sections 1 through 36] may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana-infused products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages, except that a lease agreement executed after [the effective date of this section] may not prohibit a tenant from lawfully

possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding.

(4) Nothing in [sections 1 through 36] limits the rights, privileges, immunities, or defenses provided under Title 50, chapter 46, part 3.

(5) An adult-use provider or adult-use marijuana-infused products provider who violates 15-64-103 or 15-64-104 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department of revenue certifies compliance with 15-64-103 or 15-64-104.

**NEW SECTION. Section 17. Testing of marijuana and marijuana-infused products. (1)**

An adult-use provider or adult-use marijuana-infused products provider may not sell marijuana or marijuana-infused products until the marijuana or products have been tested by a testing laboratory or the department of agriculture and meet the requirements of 50-46-326.

(2) An adult-use provider or adult-use marijuana-infused products provider shall submit material that has been collected in accordance with a sampling protocol established by the state laboratory by rule. The protocol must address the division of marijuana and marijuana-infused products into batch sizes for testing. Each batch must be tested in the following categories:

- (a) flower;
- (b) concentrate; and
- (c) marijuana-infused product.

(3) The state laboratory shall apply the same rules adopted pursuant to Title 50, chapter 46, part 3, regarding the types of tests, inspections, analysis, and certification that must be performed to ensure product safety and consumer protection to marijuana and marijuana products tested pursuant to [sections 1 through 36].

(4) An adult-use provider or adult-use marijuana-infused products provider may request that material that has failed to pass the required tests be retested in accordance with the rules adopted by the state laboratory providing for retesting parameters and requirements.

(5) Marijuana or a marijuana-infused product must include a label indicating that the marijuana or marijuana-infused product has been tested.

**NEW SECTION. Section 18. Local government authority to regulate.** (1)(a) To protect the public health, safety, or 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. The regulations may include but are not limited to inspections of registered premises 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 local government may not adopt ordinances or regulations that are unduly burdensome.

(2) The qualified electors of an incorporated municipality, county, or consolidated city-county may request an election on whether to prohibit by ordinance adult-use dispensaries from being located within the jurisdiction of the local government by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137.

(3)(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) Except as provided in subsection (3)(c), an election held pursuant to this section may not be held within 70 days before or after a primary, general, or regular local election.

(c) 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.

(4) If the qualified electors of an incorporated municipality, county, or consolidated city-county vote to prohibit adult-use dispensaries from being located in the jurisdiction, the governing body shall enter the prohibition into the records of the local government and notify the department of the election results.

(5)(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 adult-use dispensaries 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 prohibit adult-use dispensaries from being located in the county, the county may not allow adult-use dispensaries to operate in the county.

(c) If a majority of the qualified electors in the municipality vote to prohibit adult-use dispensaries from being located in the municipality, the municipality may not allow adult-use dispensaries to operate in the municipality.

(d) Nothing contained in this subsection (5) prevents any municipality from having a separate election under the terms of this section.

(6)(a) An incorporated municipality, county, or consolidated city-county that has voted to prohibit adult-use dispensaries from being located in the jurisdiction may vote to discontinue the prohibition and to allow the previously prohibited operations within the incorporated municipality, county, or consolidated city-county.

(b) A vote overturning a prohibition on operation of adult-use dispensaries is effective on the 90th day after the local election is held.

(7) A local government may temporarily prohibit retail sales regulated under [sections 1 through 36] from being located within its jurisdiction through local ordinance until an election can be held pursuant to this section.

(8) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by [sections 1 through 36].

**NEW SECTION. Section 19. Inspections -- procedures -- prohibition on inspector affiliation with licensees.** (1) The department shall conduct unannounced inspections of registered premises.

(2)(a) The department shall inspect annually each registered premises.

(b) The department may collect samples during the inspection of a registered premises and submit the samples to all registered testing laboratories for testing as provided by the department by rule.

(3)(a) Each adult-use provider and adult-use marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with consumers. The records must be open for inspection by the department or state laboratory, as appropriate, and state or local law enforcement agencies during normal business hours.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with adult-use providers and adult-use marijuana-infused products providers; and

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

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

(d) The department may require an adult-use provider, adult-use marijuana-infused products provider, or testing laboratory to furnish information that the department considers necessary for the proper administration of [sections 1 through 36].

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

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.

(5) If the department conducts an inspection because of a complaint against a licensee or registered premises and does not find a violation of [sections 1 through 36], the department shall give the licensee a copy of the complaint with the name of the complainant redacted.

(6) The department may not hire or contract with a person to be an inspector if the person has worked during the previous 4 years for a Montana business or facility operating under [sections 1 through 36] or Title 50, chapter 46, part 3.

(7) In addition to any other penalties provided under [sections 1 through 36], the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under [sections 1 through 36] if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of [sections 1 through 36]; or

(c) noncompliance with any provision of [sections 1 through 36].

(8) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public.

(9) Review of a department action imposing a suspension, revocation, or other modification under [sections 1 through 36] must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(10) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of [sections 1 through 36].

(11) The department shall report biennially to the revenue interim committee concerning the results of inspections conducted under this section. The report must include the information required under [section 25].

**NEW SECTION. Section 20. Unlawful conduct by licensees -- penalties.** (1) The department shall revoke and may not reissue a license or endorsement belonging to an individual who:

- (a) is convicted of a felony drug offense;
- (b) allows another individual not authorized or lawfully allowed to be in possession of the individual's license; or
- (c) fails to cooperate with the department concerning an investigation or inspection if the individual is licensed and cultivating marijuana, engaging in manufacturing, or manufacturing marijuana-infused products.

(2) The department shall revoke a license issued under [sections 1 through 36] if the licensee:

- (a) purchases marijuana from an unauthorized source in violation of [sections 1 through 36];
- (b) sells marijuana, marijuana concentrate, or marijuana-infused products to a person the licensee knows or should know is under 21 years of age;
- (c) operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing endorsement; or
- (d) transports marijuana or marijuana-infused products outside of Montana, unless allowed by federal law.

(3) A licensee who violates the advertising restrictions imposed under [section 24] is subject to:

- (a) a written warning for the first violation;
- (b) a 5-day license suspension or a \$500 fine for a second violation;
- (c) a 5-day license suspension or a \$1,000 fine for a third violation;

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

(e) a license revocation for a fifth violation.

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

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

(6) If no other penalty is specified under [sections 1 through 36], an adult-use provider or adult-use marijuana-infused products provider who violates [sections 1 through 36] is punishable by a civil fine not to exceed \$500, unless otherwise provided in [sections 1 through 36] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

(7) Review of a department action imposing a fine, suspension, or revocation under [sections 1 through 36] must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

**NEW SECTION. Section 21. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is an adult-use provider or an adult-use marijuana-infused products provider is guilty of a civil fine not to exceed \$1,000.

(2) An individual convicted under this section may not be licensed as an adult-use provider or adult-use marijuana-infused products provider under [section 9].

**NEW SECTION. Section 22. Law enforcement authority.** Nothing in [sections 1 through 36] may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person or individual with a license.

**NEW SECTION. Section 23. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [sections 1 through 36] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of [sections 1 through 36].

(2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is not responsible for the care and maintenance of the plants or seedlings.

**NEW SECTION. Section 24. Advertising prohibited.** (1) Persons with licenses may not advertise marijuana or marijuana-related products in any medium, including electronic media.

(2) A listing in a directory of business authorized under [sections 1 through 36] is not advertising for the purposes of this section.

(3) A licensee may have a website but may not:

(a) include prices on the website; or

(b) actively solicit consumers or out-of-state consumers through the website.

(4) The department shall adopt rules to clearly identify the activities that constitute advertising that are prohibited under this section.

**NEW SECTION. Section 25. Legislative monitoring.** (1) The revenue interim committee shall provide oversight of the department's activities pursuant to [sections 1 through 36], including but not limited to monitoring of:

(a) the number of licensees;

(b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana;

and

(c) the development, implementation, and use of the seed-to-sale tracking system established in accordance with [section 6].

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

(3) (a) The department shall periodically report to the revenue interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to [section 9]. The report must include:

(i) the number of adult-use providers, adult-use marijuana-infused products providers, and adult-use dispensaries licensed pursuant to [sections 1 through 36];

(ii) the number of endorsements approved for manufacturing;

(iii) the number of licenses revoked; and

(iv) the amount of marijuana cultivated and sold pursuant to [sections 1 through 36].

(b) The report may not provide any identifying information of adult-use providers, adult-use marijuana-infused products providers, or adult-use dispensaries.

(4) The report on inspections required under [section 19] must include, at a minimum, the following information for both announced and unannounced inspections:

(a) the number of inspections conducted, by canopy licensure tier;

(b) the number of adult-use providers or adult-use marijuana-infused products providers that were inspected more than once during the year;

(c) the number of inspections that were conducted because of complaints made to the department; and

(d) the types of enforcement actions taken as a result of the inspections.

(5) The reports provided for in this section must also be provided to the transportation interim committee provided for in 5-5-233.

**NEW SECTION. Section 26. Rulemaking authority -- fees.** (1) The department may adopt rules to implement and administer [sections 1 through 36], including:

(a) the manner in which the department will consider applications for licenses and endorsements and renewal of licenses and endorsements;

(b) the acceptable forms of proof of Montana residency;

- (c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under [section 9];
- (d) the security and operating requirements for adult-use dispensaries;
- (e) the security and operating requirements for manufacturing, including but not limited to requirements for:
  - (i) safety equipment;
  - (ii) extraction methods, including solvent-based and solvent-free extraction; and
  - (iii) post-processing procedures;
- (f) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications;
- (g) implementation of a system to allow the tracking of marijuana and marijuana-infused products as required by [section 6];
- (h) labeling standards that protect public health by requiring the listing of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD) and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package, and quantity limits per sale to comply with the allowable possession amount;
  - (i) requirements that packaging and labels may not be made to be attractive to children, required warning labels, and that marijuana and marijuana-infused products be sold in resealable, child-resistant packaging to protect public health as provided in [section 15];
  - (j) requirements and standards for the testing and retesting of marijuana and marijuana-infused products, including testing of samples collected during the department's inspections of registered premises;
  - (k) the amount of variance allowable in the results of raw testing data that would warrant a departmental investigation of inconsistent results as provided in [section 7];
  - (l) requirements and standards to prohibit or limit marijuana, marijuana-infused products, and marijuana accessories that are unsafe or contaminated;
  - (m) the activities that constitute advertising in violation of [section 24];

(n) requirements and incentives to promote renewable energy, reduce water usage, and reduce packaging waste to maintain a clean and healthy environment in Montana; and

(o) the fees for endorsements for manufacturing, testing laboratories, additional canopy licensure tiers created in accordance with [section 6], and the fingerprint-based and name-based background checks required under [section 9]. The fees and other revenue collected through the taxes paid under [section 27], civil penalties imposed pursuant to [sections 1 through 36], and the licensing fees established by rule and in [section 5] must be sufficient to offset the expenses of administering [sections 1 through 36] but may not exceed the amount necessary to cover the costs to the department of implementing and enforcing [sections 1 through 36].

(2) The department may not adopt any rule or regulation that is unduly burdensome or undermines the purposes of [sections 1 through 36].

(3) The department may consult or contract with other public agencies in carrying out its duties under [sections 1 through 36].

**NEW SECTION. Section 27. Tax on marijuana sales.** (1) A tax on the purchase of marijuana and marijuana-infused products for consumption, use, or any purpose other than for use for a debilitating medical condition as provided in Title 50, chapter 46, part 3, or for resale in the regular course of business under the provisions of [sections 1 through 36] is imposed on the purchaser and must be collected at the time of the sale and paid by the seller to the department for deposit in the marijuana compensation state special revenue account provided for in [section 35]. The tax is imposed at a rate of 20% of the retail price.

(2) Adult-use marijuana providers and adult-use marijuana infused-products providers shall submit quarterly reports to the department listing the total dollar amount of sales to consumers from any registered premises, as defined in [section 2], operated by the adult-use marijuana providers or adult-use marijuana infused-products providers, including dispensaries. The report must be:

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

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

(3) At the time the report is filed, the licensee shall submit a payment equal to the percentage provided in subsection (1) of the total dollar amount of sales.

(4) The department shall deposit the taxes paid under this section in the dedicated marijuana compensation state special revenue account established in [section 35] within the state special revenue fund established in 17-2-102.

(5) The tax imposed by this part and related interest and penalties are a personal debt of the person required to file a return from the time that the liability arises, regardless of when the time for payment of the liability occurs.

(6) For the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest owed under [sections 28 through 31]:

(a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state taxes provided for in [sections 28 through 31] and who fails to pay the taxes is liable to the state for the taxes and the penalty and interest due on the amounts;

(b) each officer of the corporation, to the extent that the officer has access to the requisite records, is individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest upon a determination that the officer:

(i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

(ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by this part or pay taxes due as required by this part;

(c) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;

(d) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;

(e) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

(f) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

(7) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (6)(a) to establish individual liability and may consider any other available information.

(8) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the entity.

(9) The tax levied pursuant to this section is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which must continue to be collected and distributed as provided by law.

(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 of conservation programs to offset the use of water and soil in marijuana cultivation, funding to offset costs of provisions of health care associated with prior uses and health impacts of unregulated marijuana, funding for substance abuse treatment and prevention, funding of veterans' programs to offset prior uses of unregulated marijuana in ways that harmed veterans, funding to localities where marijuana is sold to offset the costs associated with marijuana regulation, and funding for the general fund to account for any costs to the state from marijuana use and regulation.

**NEW SECTION. Section 28. Returns—payment—recordkeeping—authority of department.** (1) Each adult-use marijuana provider and adult-use marijuana infused-products

provider shall file a return, on a form provided by the department, and pay the tax due as provided in [section 27].

(2) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(3)(a) A person required to pay to the department the taxes imposed by this part shall keep for 5 years:

(i) all receipts issued; and

(ii) an accurate record of all sales of marijuana products, showing the name and address of each purchaser, the date of sale, and the quantity, kind, and retail price of each product sold.

(b) For the purpose of determining compliance with the provisions of this part, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(i) require the attendance of a person having knowledge or information relevant to a return;

(ii) compel the production of books, papers, records, or memoranda by the person required to attend;

(iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(iv) take testimony on matters material to the determination; and

(v) administer oaths or affirmations.

(4) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

**NEW SECTION. Section 29. Deficient assessment—penalty and interest—statute**

**of limitations.** (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return, it shall mail to the adult-use marijuana provider or adult-use marijuana infused-products provider a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The adult-use marijuana provider or adult-use marijuana infused-products provider may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(3) The amount of tax due under any return may be determined by the department within 5 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For purposes of this section, a return due under this part and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

**NEW SECTION. Section 30. Procedure to compute tax in absence of statement—**

**estimation of tax—failure to file—penalty and interest.** (1) If the adult-use marijuana provider or adult-use marijuana infused-products provider fails to file any return required by [section 28] within the time required, the department may, at any time, audit the adult-use marijuana provider or adult-use marijuana infused-products provider or estimate the taxes due from any information in its possession and, based on the audit or estimate, assess the adult-use marijuana provider or adult-use marijuana infused-products provider for the taxes, penalties, and interest due the state.

(2) The department shall impose penalty and interest as provided in 15-1-216. The department shall mail to the adult-use marijuana provider or adult-use marijuana infused-products provider a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The adult-use marijuana provider or adult-use marijuana infused-

products provider may seek review of the determination pursuant to 15-1-211. The department may waive any penalty pursuant to 15-1-206.

**NEW SECTION. Section 31. Authority to collect delinquent taxes.** (1)(a) The department shall collect taxes that are delinquent as determined under this part.

(b) If a tax imposed by this part or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the adult-use marijuana provider or adult-use marijuana infused-products provider from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the adult-use marijuana provider or adult-use marijuana infused-products provider has the right to a review of the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the adult-use marijuana provider or adult-use marijuana infused-products provider if a claim is required before funds are available for offset.

**NEW SECTION. Section 32. Refunds—interest--limitations.** (1) A claim for a refund or credit as a result of overpayment of taxes collected under this part must be filed within 5 years of the date that the return was due, without regard to any extension of time for filing.

(2)(a) Interest paid by the department on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes under 15-1-216.

(b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

(ii) the amount of overpayment and interest does not exceed \$1.

**NEW SECTION. Section 33. Information—confidentiality—agreements with another state.** (1)(a) Except as provided in subsections (2) through (5), in accordance with 15-30-2618 and 15-31-511, it is unlawful for an employee of the department or any other public official or public employee to disclose or otherwise make known information that is disclosed in a return or report required to be filed under this part or information that concerns the affairs of the person making the return and that is acquired from the person's records, officers, or employees in an examination or audit.

(b) This section may not be construed to prohibit the department from publishing statistics if they are classified in a way that does not disclose the identity of a person making a return or the content of any particular report or return. A person violating the provisions of this section is subject to the penalty provided in 15-30-2618 or 15-31-511 for violating the confidentiality of individual income tax or corporate income tax information.

(2)(a) This section may not be construed to prohibit the department from providing information obtained under this part to:

(i) the department of justice or law enforcement to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under this part; or

(ii) the department to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under [sections 1 through 36].

(b) The department may enter into an agreement with the taxing officials of another state for the interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax in order to promote fair and equitable administration of the laws and to eliminate double taxation.

(c) In order to implement the provisions of this part, the department may furnish information on a reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within the state receiving the information that are similar to this section.

(3) In order to facilitate processing of returns and payment of taxes required by this part, the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

(4)(a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this part or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this part or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(5) This section may not be construed to limit the investigative authority of the legislative branch, as provided in 5-11-106, 5-12-303, or 5-13-309.

**NEW SECTION. Section 34. Department to make rules.** The department shall prescribe rules necessary to carry out the purposes of imposing and collecting the marijuana tax on gross sales on adult-use marijuana providers and adult-use marijuana infused-products providers.

**NEW SECTION. Section 35. Marijuana compensation special revenue account.** (1) There is a dedicated marijuana compensation state special revenue account within the state special revenue fund established in 17-2-102, to be administered by the department.

(2) Marijuana sales taxes collected under the provisions of [sections 27 through 34] must, in accordance with the provisions of 17-2-124, be deposited into the account along with any interest and income earned on the account.

(3) Funds deposited into the account must be transferred in the following amounts to provide funding as set out below:

(a) 4.125% of the funds to be deposited into the nongame wildlife account established in 87-5-121;

(b) 4.125% of the funds to be deposited into the state park account established in 23-1-105(1);

(c) 4.125% of the funds to be deposited into the trails and recreational facilities account established in 23-2-108;

(d) 37.125% of the funds to be deposited to the credit of the department of fish, wildlife, and parks to be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209;

(e) 10.5% to the state general fund; and

(f) the remainder in the subaccounts provided for in this subsection (3)(f). There are subaccounts in the marijuana compensation special revenue account established by subsection (1). Funding deposited into this account under subsection (2) is further deposited into subaccounts to be used only as follows:

(i) 10% of the funds to be deposited into a subaccount to be administered by the department of public health and human services to provide grants to existing agencies and not-for-profit organizations, whether government or community-based, to increase access to evidence-based low-barrier drug addiction treatment, prioritizing medically proven treatment and overdose prevention and reversal methods and public or private treatment options with an emphasis on reintegrating recipients into their local communities, to support overdose prevention education, and to support job placement, housing, and counseling for those with substance use disorders;

(ii) 10% of the funds to be deposited into a subaccount to be administered by the department of commerce for distribution to the local government representing the locality where the retail sales occurred;

(iii) 10% of the funds to be deposited into a subaccount to be administered by the veterans' affairs division of the department of military affairs to provide services and assistance for all Montana veterans and surviving spouses and dependents; and

(iv) 10% of the funds to be deposited into a subaccount to be administered by the Montana department of health and human services to administer Medicaid rate increases that provide for a wage increase to health care workers who provide direct Medicaid funded home and community health services for elderly and disabled persons.

(v) Funds transferred from the accounts and subaccounts provided in subsection (3) may be used only to increase revenue for the purposes specified and may not be used to supplant other sources of revenue used for these purposes.

(4) Funds deposited into the account provided in subsection (1) may be used only to increase revenue to each special revenue account or subaccount set forth in subsection (3) and may not be used to supplant other sources of revenue for these purposes.

**NEW SECTION. Section 36. Retroactive application.** (1) A person currently serving a sentence for an act that is permitted under [sections 1 through 36] or is punishable by a lesser sentence under [sections 1 through 36] than the person was awarded may petition for an expungement of the conviction or resentencing.

(2) Upon receiving a petition under subsection (1), the court shall presume the petitioner satisfies the criteria in subsection (1) unless the county attorney proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subsection (1), the court shall grant the petition unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(3) A person who is serving a sentence and is resentenced pursuant to subdivision (1) must be given credit for any time already served and may not be subject to supervision.

(4) Resentencing under this section may not result in the imposition of a term longer than the original sentence or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

(5) (a) A person who has completed a sentence for an act that is permitted under [sections 1 through 36] or is punishable by a lesser sentence under [sections 1 through 36] than the person was awarded may petition the sentencing court to:

(i) expunge the conviction; or

(ii) redesignate the conviction as a misdemeanor or civil infraction in accordance with [sections 1 through 36].

(b) The petition must be served on the county attorney for the county where the petition is filed.

(6) Upon receiving a petition under subsection (5), the court shall presume the petitioner satisfies the criteria in subsection (5) unless the county attorney proves by clear and convincing evidence that the petitioner does not satisfy the criteria. Once the applicant satisfies the criteria in subsection (5), the court shall redesignate the conviction as a misdemeanor or civil infraction or expunge the conviction as legally invalid pursuant to [sections 1 through 36].

(7) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subsection (5).

(8) Any felony conviction that is recalled under subsection (1) or designated as a misdemeanor or civil infraction under subsection (5) must be considered a misdemeanor or civil infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subsection (1) or designated as a civil infraction under subsection (5) must be considered a civil infraction for all purposes.

(9) Nothing in this section constitutes a waiver of any right or remedy otherwise available to the petitioner or applicant.

(10) Nothing in [sections 1 through 36] is intended to impact the finality of judgment in any case not falling within the purview of [sections 1 through 36].

(1) The provisions of this section apply equally to juvenile cases if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under [sections 1 through 36].

**Section 37.** Section 7-1-111, MCA, is amended to read:

**"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1, or Title 87;

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

(15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities.

(16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production, processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or vegetable seeds as defined in 80-5-120. This subsection is not intended

to prevent or restrict a local government from adopting or implementing zoning regulations or building codes governing the physical location or siting of agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or distribution facilities.

(17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle, including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local government unit;

(20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in relation to a wildfire;

(21) any power to prohibit completely adult-use providers, adult-use marijuana-infused products providers, and adult-use dispensaries from being located within the jurisdiction of the local government except as allowed in [sections 1 through 36]."

**Section 38.** Section 23-1-105, MCA, is amended to read:

**"23-1-105. Fees and charges -- use of motor vehicle registration fee.** (1)(a) The department may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided and to grant concessions that it considers advisable, except as provided in subsections (2) and (6).

(b) There must be deposited into a state special revenue fund in the state treasury to the credit of the department:

(i) All all money derived from the activities of the department, except as provided in subsection (5), ~~must be deposited in the state treasury in a state special revenue fund to the credit of the department;~~ and

(ii) money from marijuana taxes deposited under [section 35].

(2) Overnight camping fees established by the department under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and is:

(a) 62 years of age or older;

(b) certified as disabled in accordance with rules adopted by the department; or

(c) a veteran of the armed forces. While camping at a discounted rate, the veteran shall carry proof of the person's veteran status, such as a DD form 214, U.S. department of veterans affairs identification card, or a driver's license indicating the person's veteran status.

(3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that time, the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing state park visitor services revenue. The fund is to be used by the department to serve the recreating public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities. The fund consists of money from the sale of educational, commemorative, and

interpretive merchandise and other related goods and services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided in this subsection.

(6) In recognition of the fact that individuals support state parks through the payment of certain motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to pay a day-use fee for access to state parks. Other fees for the use of state parks and fishing access sites, such as overnight camping fees, are still chargeable and may be collected by the department.

(7) Any increase in the motor vehicle registration fee collected pursuant to 61-3-321(19)(a) on or after January 1, 2012, that is dedicated to state parks must be used by the department for maintenance and operation of state parks."

**Section 39.** Section 23-2-108, MCA, is amended to read:

**"23-2-108. (Effective January 1, 2020) Trails and recreational facilities account. (1)**

There is a trails and recreational facilities account in the state special revenue fund established in 17-2-102.

(2) There must be paid into the account:

(a) money collected pursuant to 61-3-321(19)(a)(iii); and

(b) money from marijuana taxes deposited under [section 35].

(3) Money in the account may only be used by the department to provide trails and recreational facilities grants pursuant to 23-2-109.

(4) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account."

**Section 40.** Section 41-5-206, MCA, is amended to read:

**"41-5-206. Filing in district court prior to formal proceedings in youth court. (1)** The county attorney may, in the county attorney's discretion and in accordance with the procedure

provided in 46-11-201, file with the district court a motion for leave to file an information in the district court if:

(a) the youth charged was 12 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act would if it had been committed by an adult constitute:

- (i) sexual intercourse without consent as defined in 45-5-503;
- (ii) deliberate homicide as defined in 45-5-102;
- (iii) mitigated deliberate homicide as defined in 45-5-103;
- (iv) assault on a peace officer or judicial officer as defined in 45-5-210; or
- (v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301,

for either deliberate or mitigated deliberate homicide; or

(b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

- (i) negligent homicide as defined in 45-5-104;
- (ii) arson as defined in 45-6-103;
- (iii) aggravated assault as defined in 45-5-202;
- (iv) sexual assault as provided in 45-5-502(3);
- (v) assault with a weapon as defined in 45-5-213;
- (vi) robbery as defined in 45-5-401;
- (vii) burglary or aggravated burglary as defined in 45-6-204;
- (viii) aggravated kidnapping as defined in 45-5-303;
- (ix) possession of explosives as defined in 45-8-335;
- (x) criminal distribution of dangerous drugs as defined in 45-9-101;
- (xi) criminal possession of dangerous drugs as defined in ~~45-9-102(3)~~ 45-9-102(2);
- (xii) criminal possession with intent to distribute as defined in 45-9-103(1);
- (xiii) criminal production or manufacture of dangerous drugs as defined in 45-9-110;
- (xiv) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership as defined in 45-8-403;
- (xv) escape as defined in 45-7-306;

(xvi) attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts enumerated in subsections (1)(b)(i) through (1)(b)(xv).

(2) The county attorney shall file with the district court a petition for leave to file an information in district court if the youth was 17 years of age at the time the youth committed an offense listed under subsection (1).

(3) The district court shall grant leave to file the information if it appears from the affidavit or other evidence supplied by the county attorney that there is probable cause to believe that the youth has committed the alleged offense. Within 30 days after leave to file the information is granted, the district court shall conduct a hearing to determine whether the matter must be transferred back to the youth court, unless the hearing is waived by the youth or by the youth's counsel in writing or on the record. The hearing may be continued on request of either party for good cause. The district court may not transfer the case back to the youth court unless the district court finds, by a preponderance of the evidence, that:

(a) a youth court proceeding and disposition will serve the interests of community protection;

(b) the nature of the offense does not warrant prosecution in district court; and

(c) it would be in the best interests of the youth if the matter was prosecuted in youth court.

(4) The filing of an information in district court terminates the jurisdiction of the youth court over the youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been filed in the district court as provided in this section. A case may be transferred to district court after prosecution as provided in 41-5-208 or 41-5-1605.

(5) An offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:

(a) tried in youth court;

(b) transferred to district court with an offense enumerated in subsection (1) upon motion of the county attorney and order of the district court. The district court shall hold a hearing before deciding the motion.

(6) If a youth is found guilty in district court of an offense enumerated in subsection (1) and any offense that arose during the commission of a crime enumerated in subsection (1), the court shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46. If a youth is acquitted in district court of all offenses enumerated in subsection (1), the district court shall sentence the youth pursuant to Title 41 for any remaining offense for which the youth is found guilty. A youth who is sentenced to the department or a state prison must be evaluated and placed by the department in an appropriate juvenile or adult correctional facility. The department shall confine the youth in an institution that it considers proper, including a state youth correctional facility under the procedures of 52-5-111. However, a youth under 16 years of age may not be confined in a state prison facility. During the period of confinement, school-aged youth with disabilities must be provided an education consistent with the requirements of the federal Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(7) If a youth's case is filed in the district court and remains in the district court after the transfer hearing, the youth may be detained in a jail or other adult detention facility pending final disposition of the youth's case if the youth is kept in an area that provides physical separation from adults accused or convicted of criminal offenses."

**Section 41.** Section 45-9-101, MCA, is amended to read:

**"45-9-101. Criminal distribution of dangerous drugs.** (1) Except as provided in Title 50, chapter 46, or [sections 1 through 36], a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

~~(2) A person convicted of criminal distribution 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 shall be imprisoned in the state prison for a term not to exceed 5 years and may be fined not more than \$5,000.~~

~~(3)~~ A person convicted of criminal distribution of dangerous drugs involving giving away or sharing any dangerous drug, as defined in 50-32-101, shall be sentenced as provided in 45-9-102.

~~(4)~~ A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (1), (2), ~~(3)~~, or ~~(5)~~ shall be imprisoned in the state prison for a term not to exceed 25 years or be fined an amount of not more than \$50,000, or both.

~~(5)~~ A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) For a first offense, the person shall be imprisoned in the state prison for a term not to exceed 40 years and may be fined not more than \$50,000.

(b) For a second or subsequent offense, the person shall be imprisoned in the state prison for a term not to exceed life and may be fined not more than \$50,000.

~~(6)~~ Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

**Section 42.** Section 45-9-102, MCA, is amended to read:

**"45-9-102. Criminal possession of dangerous drugs.** (1) Except as provided in 50-32-609 ~~or~~, Title 50, chapter 46, or [sections 1 through 36], a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101,~~r~~

~~(2) 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 greater than permitted or for which a penalty is not specified under [sections 1 through 36] is, for the first offense, guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.~~

~~(a) A person convicted of a second offense under this subsection (2) shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.~~

~~(b) A person convicted of a third or subsequent offense under this subsection (2) shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.~~

~~(c) This subsection does not apply to the possession of synthetic cannabinoids listed as dangerous drugs in 50-32-222.~~

~~(3)(2) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (1) or (2) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both.~~

~~(4)(3) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.~~

~~(5)(4) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."~~

**Section 43.** Section 45-9-103, MCA, is amended to read:

**"45-9-103. Criminal possession with intent to distribute.** (1) Except as provided in Title 50, chapter 46, or [sections 1 through 36], a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101.

~~(2) 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 greater than permitted or for which a penalty is not specified under [sections 1 through 36] shall be imprisoned in the state prison for a term of not more than 5 years or be fined an amount not to exceed \$5,000, or both.~~

~~(3)~~(2) A person convicted of criminal possession with intent to distribute ~~not otherwise provided for in subsection (2)~~ shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

~~(4)~~(3) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

**Section 44.** Section 45-9-110, MCA, is amended to read:

**"45-9-110. Criminal production or manufacture of dangerous drugs.** (1) Except as provided in Title 50, chapter 46, or [sections 1 through 36], a person commits the offense of criminal production or manufacture of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal production or manufacture of dangerous drugs, as defined in 50-32-101, shall be imprisoned in the state prison for a term of not more than 25 years and may be fined an amount not to exceed \$50,000.

(3) A person convicted of ~~criminal production or manufacture~~ of marijuana or tetrahydrocannabinol in an amount greater than permitted or for which a penalty is not specified under under Title 50, chapter 46 or [sections 1 through 36] or manufacture without the appropriate license and endorsement pursuant to Title 50, chapter 46 or [sections 1 through 36] shall be imprisoned in the state prison for a term of not more than 5 years and may be fined an amount not to exceed \$5,000, except that if the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned in the state prison for a term of not more than 25 years and may be fined an amount not to exceed \$50,000. "Weight" means the weight of the dry plant and includes the leaves and stem structure but does not include the root structure.

(4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

**Section 45.** Section 45-9-127, MCA, is amended to read:

**"45-9-127. Carrying dangerous drugs on train -- penalty.** (1) Except as provided in Title 50, chapter 46, or [sections 1 through 36], a person commits the offense of carrying dangerous drugs on a train in this state if the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

(2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties provided in 45-9-102."

**Section 46.** Section 45-10-103, MCA, is amended to read:

**"45-10-103. Criminal possession of drug paraphernalia.** Except as provided in 50-32-609-~~or~~, Title 50, chapter 46, or [sections 1 through 36] it is unlawful for a person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 6 months, fined an amount of not more than \$500, or both. A person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence of imprisonment."

**Section 47.** Section 45-10-107, MCA, is amended to read:

**"45-10-107. Exemptions.** The provisions of this part do not apply to:

- (1) practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice;
- (2) persons acting in compliance with Title 50, chapter 46; ~~or~~
- (3) persons acting in compliance with [sections 1 through 36]; or
- ~~(3)~~(4) persons acting as employees or volunteers of an organization, including a nonprofit community-based organization, local health department, or tribal health department,

that provides needle and syringe exchange services to prevent and reduce the transmission of communicable diseases."

**Section 48.** Section 46-18-231, MCA, is amended to read:

**"46-18-231. Fines in felony and misdemeanor cases.** (1) (a) Except as provided in subsection (1)(b), whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a felony penalty of imprisonment could be imposed, the sentencing judge may, in lieu of or in addition to a sentence of imprisonment, impose a fine only in accordance with subsection (3).

(b) For those crimes for which penalties are provided in the following sections, a fine may be imposed in accordance with subsection (3) in addition to a sentence of imprisonment:

- (i) 45-5-103(4), mitigated deliberate homicide;
- (ii) 45-5-202, aggravated assault;
- (iii) 45-5-213, assault with a weapon;
- (iv) 45-5-302(2), kidnapping;
- (v) 45-5-303(2), aggravated kidnapping;
- (vi) 45-5-401(2), robbery;
- (vii) 45-5-502(3), sexual assault when the victim is less than 16 years old and the offender is 3 or more years older than the victim or the offender inflicts bodily injury in the course of committing the sexual assault;
- (viii) 45-5-503(2) through (5), sexual intercourse without consent;
- (ix) 45-5-507(5), incest when the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense;
- (x) 45-5-508, aggravated sexual intercourse without consent;
- (xi) 45-5-601(3) or (4), 45-5-602(3) or (4), or 45-5-603(2)(b) or (2)(c), prostitution, promotion of prostitution, or aggravated promotion of prostitution when the person patronized or engaging in prostitution was a child and the offender was 18 years of age or older at the time of the offense or when the person engaging in prostitution was a victim of human trafficking, as

defined in 45-5-701, or was subjected to force, fraud, or coercion, either of which caused the person to be in the situation where the offense occurred, and the offender was 18 years of age or older at the time of the offense and the offender knew or reasonably should have known that the person was a victim of human trafficking or was subjected to force, fraud, or coercion;

(xii) 45-5-625(4), sexual abuse of children;

(xiii) 45-5-702, 45-5-703, 45-5-704, or 45-5-705, trafficking of persons, involuntary servitude, sexual servitude, or patronizing a victim of sexual servitude;

(xiv) ~~45-9-101(4)~~ 45-9-101(3), criminal possession with intent to distribute a dangerous drug; and

(xv) 45-9-109, criminal possession with intent to distribute dangerous drugs on or near school property.

(2) Whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the sentencing judge may impose a fine only in accordance with subsection (3).

(3) The sentencing judge may not sentence an offender to pay a fine unless the offender is or will be able to pay the fine. In determining the amount and method of payment, the sentencing judge shall take into account the nature of the crime committed, the financial resources of the offender, and the nature of the burden that payment of the fine will impose.

(4) Any fine levied under this section in a felony case shall be in an amount fixed by the sentencing judge not to exceed \$50,000."

**Section 49.** Section 50-40-103, MCA, is amended to read:

**"50-40-103. Definitions.** As used in this part, the following definitions apply:

(1) "Bar" means an establishment with a license issued pursuant to Title 16, chapter 4, that is devoted to serving alcoholic beverages for consumption by guests or patrons on the premises and in which the serving of food is only incidental to the service of alcoholic beverages or gambling operations. The term includes but is not limited to taverns, night clubs, cocktail lounges, and casinos.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Enclosed public place" means an indoor area, room, or vehicle that the general public is allowed to enter or that serves as a place of work, including but not limited to the following:

(a) restaurants;

(b) stores;

(c) public and private office buildings and offices, including all office buildings and offices of political subdivisions, as provided for in 50-40-201, and state government;

(d) trains, buses, and other forms of public transportation;

(e) health care facilities;

(f) auditoriums, arenas, and assembly facilities;

(g) meeting rooms open to the public;

(h) bars;

(i) community college facilities;

(j) facilities of the Montana university system; and

(k) public schools, as provided for in 20-1-220 and 50-40-104.

(4) "Establishment" means an enterprise under one roof that serves the public and for which a single person, agency, corporation, or legal entity is responsible.

(5) "Incidental to the service of alcoholic beverages or gambling operations" means that at least 60% of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts, or both.

(6) "Person" means an individual, partnership, corporation, association, political subdivision, or other entity.

(7) "Place of work" means an enclosed room where one or more individuals work.

(8) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar, cigarette, pipe, or any smokable product and includes the use of marijuana ~~for a debilitating medical condition as provided for in Title 50, chapter 46.~~"

**Section 50.** Section 53-6-1201, MCA, is amended to read:

**"53-6-1201. Special revenue fund -- health and medicaid initiatives.** (1) There is a health and medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be administered by the department of public health and human services.

(2) There must be deposited in the account:

(a) money from cigarette taxes deposited under 16-11-119(2)(c);

(b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(4)(b);

(c) money from marijuana taxes deposited under [section 35]; and

~~(d)~~ any interest and income earned on the account.

(3) This account may be used only to provide funding for:

(a) the state funds necessary to take full advantage of available federal matching funds in order to administer the plan and maximize enrollment of eligible children under the healthy Montana kids plan, provided for under Title 53, chapter 4, part 11, and to provide outreach to the eligible children;

(b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

(c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.

(d) an offset to loss of revenue to the general fund as a result of new tax credits; and

(e) grants to schools for suicide prevention activities, for the biennium beginning July 1, 2017.

(4) (a) On or before July 1, the budget director shall calculate a balance required to sustain each program in subsection (3) for each fiscal year of the biennium. If the budget

director certifies that the reserve balance will be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the budget director determines that the reserve balance of the revenue will not support the level of appropriation, the budget director shall notify each agency. Upon receipt of the notification, the agency shall adjust the operating budget for the program to reflect the available revenue as determined by the budget director.

(b) Until the programs or credits described in subsections (3)(b) and (3)(d) are established, the funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c).

(5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.

(6) The department of public health and human services may adopt rules to implement this section."

**Section 51.** Section 80-1-104, MCA, is amended to read:

**"80-1-104. Analytical laboratory services -- rulemaking authority -- deposit of fees. (1)**

The department is authorized to provide analytical laboratory services for:

- (a) programs it operates under this title;
- (b) other state or federal agencies;
- (c) providers and marijuana-infused products providers as those terms are defined in

50-46-302;

(d) adult-use marijuana providers and adult-use marijuana infused products providers as those terms are defined in [section 2]; and

(e) the department of public health and human services for the purposes of [sections 1 through 36], and Title 50, chapter 46, part 3, as allowed by federal law; and

~~(d)~~(f) private parties.

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

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

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

**Section 52.** Section 87-1-242, MCA, is amended to read:

**"87-1-242. Funding for wildlife habitat.** (1) The amount of money specified in this subsection from the sale of each hunting license or permit listed must be used exclusively by the commission to secure, develop, and maintain wildlife habitat, subject to appropriation by the legislature:

- (a) Class B-10, nonresident combination, \$77;
- (b) Nonresident antelope, \$20;
- (c) Nonresident moose, \$20;
- (d) Nonresident mountain goat, \$20;
- (e) Nonresident mountain sheep, \$20;
- (f) Class D-1, nonresident mountain lion, \$20;
- (g) Nonresident black bear, \$20;
- (h) Nonresident wild turkey, \$10;
- (i) Class AAA, combination sports, \$7;
- (j) Class B-11 nonresident deer combination, \$200.

(2) Twenty percent of any increase in the fee for the Class B-7 license or any license or permit listed in subsection (1) must be allocated for use as provided in subsection (1).

(3) Eighty percent of the money allocated by this section, together with money from marijuana taxes deposited under [section 35] and together with the interest and income from the money, must be used to secure wildlife habitat pursuant to 87-1-209.

(4) Twenty percent of the money allocated by this section must be used as follows:

(a) up to 50% a year may be used for development and maintenance of real property used for wildlife habitat; and

(b) the remainder and any money not allocated for development and maintenance under subsection (4)(a) by the end of each odd-numbered fiscal year must be credited to the account created by 87-1-601(5) for use in the manner prescribed for the development and maintenance of real property used for wildlife habitat."

**Section 53.** Section 87-5-121, MCA, is amended to read:

**"87-5-121. Nongame wildlife account.** (1) There is a nongame wildlife account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited into the account:

(a) All all money collected under 15-30-2387 and all interest earned by the fund before being expended under this section ~~must be deposited in the account; and~~

(b) money from marijuana taxes deposited under [section 35].

(3) Money in the account must be used by the department, upon the approval of the commission as determined under 87-5-122, to provide adequate funding for:

(a) research and education programs on nongame wildlife in Montana, as provided for in 87-5-104; and

(b) any management programs for nongame wildlife approved by the legislature under 87-5-105 as species or subspecies in need of management.

(4) The money is available to the department in the same manner as provided in 87-1-601, except that money collected under 15-30-2387 may not be used:

(a) for the purchase of any real property; or

(b) in such a way as to interfere with the production on or management of private property."

**NEW SECTION. Section 54. Codification instruction.** [sections 1 through 36] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 36].

**NEW SECTION. Section 55. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 56. Effective dates.** (1) [Sections 8, 16, 23, 36, and 40 through 49] are effective January 1, 2021. (2) Except as provided in subsection (1), [this act] is effective on October 1, 2021.

**NEW SECTION. Section 57. Retroactive applicability.** [Section 36] applies retroactively, within the meaning of 1-2-109, as provided in [section 36].