

HOUSE BILL NO. 249

INTRODUCED BY B. MITCHELL, K. BOGNER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DIGITAL IDENTIFICATION LAWS; INCLUDING DIGITAL VERSIONS OF LICENSES IN ALCOHOL, TOBACCO, AND MARIJUANA LAWS; AND AMENDING SECTIONS 16-3-313, 16-11-305, AND 16-12-104, MCA."

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

Section 1. Section 16-3-313, MCA, is amended to read:

"16-3-313. Periodic government or tribal-issued identification data destruction. (1) A business that scans a person's physical or digital version of a person's government or tribal-issued identification to determine the person's age solely for the sale of age-restricted items:

- (a) shall use data or metadata from the scan only to determine the person's age;
- (b) may not transfer or sell that data or metadata to another party; and
- (c) shall permanently delete any data or metadata from the scan within 180 days.

(2) Nothing in this section may be construed to limit the collection and preservation of information required by federal law for the sale of ephedrine or pseudoephedrine."

Section 2. Section 16-11-305, MCA, is amended to read:

"16-11-305. Sale or distribution of tobacco products, alternative nicotine products, or vapor products to persons under 18 years of age prohibited. (1) A person may not sell or distribute a tobacco product, alternative nicotine product, or vapor product to an individual under 18 years of age, whether over the counter, by vending machine, or otherwise.

(2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of a physical or digital version of a driver's license or other generally accepted identification that includes a picture of the individual.

(3) If the seller scans a physical or digital version of a person's government or tribal-issued

1 identification, the seller shall handle data and metadata from the scan in accordance with 16-3-313."

2

3 **Section 3.** Section 16-12-104, MCA, is amended to read:

4 **"16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and
5 maintain a registry of persons who receive licenses under this chapter.

6 (2) (a) The department shall issue the following license types to persons who submit applications
7 meeting the requirements of this chapter:

8 (i) cultivator license;

9 (ii) manufacturer license;

10 (iii) adult-use dispensary license or a medical marijuana dispensary license;

11 (iv) testing laboratory license.

12 (v) marijuana transporter license.

13 (vi) combined-use marijuana license.

14 (b) The department may establish other license types, subtypes, endorsements, and restrictions it
15 considers necessary for the efficient administration of this chapter.

16 (3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

17 (4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the
18 provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

19 (5) The department shall assess applications for licensure or renewal to determine if an applicant,
20 controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria
21 established in this chapter for denial of a license.

22 (6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in
23 rule by the department.

24 (7) (a) Except as provided in subsection (8), the department shall review the information contained
25 in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

26 (i) within 60 days of receiving the application or renewal and all related application materials from
27 a former medical marijuana licensee or an existing licensee under this chapter; and

28 (ii) within 120 days of receiving the application and all related application materials from a new

1 applicant.

2 (b) If the department fails to act on a completed application within the time allowed under
3 subsection (7)(a), the department shall:

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

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

7 (c) The department may not take final action on an application for a license or renewal of a license
8 until the department has completed a satisfactory inspection as required by this chapter and related
9 administrative rules.

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

12 (8) (a) The department may issue a probationary license under subsection (2)(a)(iv) only if:

13 (i) an applicant has completed the International Organization for Standardization application for
14 assessment; and

15 (ii) there are no pending corrective actions to obtain International Organization for Standardization
16 accreditation.

17 (b) A probationary license is valid for 180 days from the date of issue and may be renewed one
18 time:

19 (i) if the application is denied after a good faith application effort; or

20 (ii) if the application remains pending International Organization for Standardization accreditation.

21 (c) If an applicant voluntarily closes the application process after receiving a probationary license,
22 the applicant may not receive a second probationary license for 2 years.

23 (9) (a) Review of a rejection of an application or renewal may be conducted as a contested case
24 hearing before the department's office of dispute resolution pursuant to the provisions of the Montana
25 Administrative Procedure Act.

26 (b) A person may appeal any decision of the department of revenue concerning the issuance,
27 rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in
28 which the person operates or proposes to operate. If a person operates or seeks to operate in more than one

1 county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the
2 counties where it operates or seeks to operate.

3 (c) An appeal pursuant to subsection (9)(b) must be made by filing a complaint setting forth the
4 grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of
5 notice of the department's final decision.

6 (10) Licenses issued under this chapter must be renewed annually.

7 (11) (a) The department shall provide the names and phone numbers of persons, including the
8 names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed
9 premises are located to the public on the department's website. Except as provided in subsection (11)(b), the
10 department may not disclose the physical location or address of a marijuana business.

11 (b) The department may share the physical location or address of a marijuana business with
12 another state agency, political subdivision, and the state fire marshal.

13 (c) The name of a controlling beneficial owner is not considered confidential information as defined
14 in 2-6-1002.

15 (12) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee
16 operating in compliance with the requirements of this chapter from operating at a shared location with a medical
17 marijuana dispensary.

18 (13) The department may not adopt rules requiring a consumer to provide a licensee with identifying
19 information other than physical or digital versions of government-issued identification to determine the
20 consumer's age. A licensee that scans a person's physical or digital driver's license using an electronic reader
21 to determine the person's age:

22 (a) may only use data or metadata from the scan determine the person's age;

23 (b) may not transfer or sell that data or metadata to another party; and

24 (c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise
25 provided for in this chapter or by the department.

26 (14) (a) Except as provided in subsection (14)(b), licenses issued by the department under this
27 chapter are nontransferable.

28 (b) A licensee may sell its marijuana business, including live plants, inventory, and material assets,

1 to a person who is licensed by the department under the provisions of this chapter. The department may, in its
2 discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana
3 business.

4 (15) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise
5 obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner
6 unless the licensee notifies, in writing, the department of the proposed transaction and the department
7 determines that the person qualifies for ownership under the provisions of this chapter."

8 - END -