

1 SENATE BILL NO. 27

2 INTRODUCED BY K. BOGNER

3 BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA BUSINESS LICENSING  
6 LAWS; CREATING A MORATORIUM ON THE ISSUANCE OF LICENSES FOR PREMISES; PROHIBITING  
7 LICENSEES FROM ADDING ADDITIONAL LICENSED PREMISES; AMENDING SECTIONS 16-12-104, 16-  
8 12-201, 16-12-210, 16-12-223, 16-12-224, AND 16-12-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

9  
10 WHEREAS, the Montana Marijuana Regulation and Taxation Act, Chapter 576, Laws of 2021, set a  
11 moratorium on the issuance of licensees by the Department of Revenue; and

12 WHEREAS, the moratorium allows only certain people to be licensed by the department, generally  
13 those who held medical marijuana licenses prior to 2021; and

14 WHEREAS, this act seeks to remove the moratorium as it relates to license applicants, allowing for  
15 new people to apply and participate in the marijuana industry in this state; and

16 WHEREAS, to allow for the orderly growth of the recreational marijuana industry in this state, this act  
17 requires new licenses to be related to an existing licensed premises and prohibits the department's issuance of  
18 new location licenses for dispensaries until 2027.

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21  
22 **Section 1.** Section 16-12-104, MCA, is amended to read:

23 **"16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and  
24 maintain a registry of persons who receive licenses under this chapter.

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

27 (i) cultivator license;

28 (ii) manufacturer license;

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

2 (iv) testing laboratory license.

3 (v) marijuana transporter license.

4 (vi) combined-use marijuana license.

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

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

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

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

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

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

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

19 (ii) within 120 days of receiving the application and all related application materials from a new  
20 applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (b) A person may appeal any decision of the department of revenue concerning the issuance,  
18 rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in  
19 which the person operates or proposes to operate. If a person operates or seeks to operate in more than one  
20 county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the  
21 counties where it operates or seeks to operate.

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

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

26 (11) (a) The department shall provide the names and phone numbers of persons, including the  
27 names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed  
28 premises are located to the public on the department's website. Except as provided in subsection (11)(b), the

1 department may not disclose the physical location or address of a marijuana business.

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

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

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

9 (13) The department may not adopt rules requiring a consumer to provide a licensee with identifying  
10 information other than government-issued identification to determine the consumer's age. A licensee that scans  
11 a person's driver's license using an electronic reader to determine the person's age:

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

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

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

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

18 (b) A licensee may sell its marijuana business, including live plants, inventory, and material assets,  
19 to a person who is licensed by the department under the provisions of this chapter. The department may, in its  
20 discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana  
21 business.

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

26

27 **Section 2.** Section 16-12-201, MCA, is amended to read:

28 **"16-12-201. Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between January

1 ~~1, 2022, and June 30, 2025~~ July 1, 2025, and June 30, 2027, the department: may only accept applications  
2 from and issue licenses to former medical marijuana licensees that were licensed by or had an application  
3 pending with the department of public health and human services on April 27, 2021, and are in good standing  
4 with the department and in compliance with this chapter, rules adopted by the department, and any applicable  
5 local regulations or ordinances as of January 1, 2022

6 (i) may accept applications from and issue licenses to persons qualified for licensure under this  
7 chapter only if the application is related to an existing licensed premises;

8 (ii) may allow a licensee to move an existing licensed premises; and

9 (iii) may not allow for new licensed premises.

10 (b) ~~The department shall begin accepting applications for and issuing licenses to cultivate,~~  
11 ~~manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana~~  
12 ~~licensees under subsection (1)(a) on or after July 1, 2025.~~ On or after July 1, 2027, the department shall begin  
13 accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana  
14 products to applicants who were not previously licensed and for premises not previously licensed.

15 (2) ~~(a) The department shall adopt rules to govern the operation of former medical marijuana~~  
16 ~~licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate~~  
17 ~~license under this chapter with a minimum of disruption to business operations.~~

18 (b)(2) ~~Beginning January 1, 2022, a former medical marijuana~~ A licensee may sell marijuana and  
19 marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at  
20 the adult-use marijuana tax rate set forth in 15-64-102 ~~under the licensee's existing license in a jurisdiction that~~  
21 ~~allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana~~  
22 ~~licensee's next license renewal date, by which time the former medical licensee must have applied for and~~  
23 ~~obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is~~  
24 ~~granted by the department.~~

25 (c) ~~(i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2),~~  
26 ~~"appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary~~  
27 ~~license, and, if applicable, a manufacturer license.~~

28 (ii) ~~A former medical marijuana licensee who sells marijuana and marijuana products exclusively to~~

1 ~~registered cardholders is not required to obtain an adult-use dispensary license.~~

2 (3) The department may amend or issue licenses to provide for staggered expiration dates. The  
3 department may provide for initial license terms of greater than 12 months but no more than 23 months in  
4 adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term  
5 implementing staggered license terms may be prorated by the department."

6

7 **Section 3.** Section 16-12-210, MCA, is amended to read:

8 **"16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees. (1)**

9 (a) The department shall conduct unannounced inspections of licensed premises.

10 (b) The department may not conduct more than two unannounced inspections of a licensed  
11 premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or  
12 there is other just and reasonable cause.

13 (2) (a) The department shall inspect annually each premises operated by a licensee.

14 (b) The department may collect samples during the inspection of a licensed premises and submit  
15 the samples to a testing laboratory or the analytical laboratory authorized by 80-1-104 for testing as provided by  
16 the department by rule.

17 (3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with  
18 consumers and registered cardholders. The records must be open for inspection by the department and state  
19 or local law enforcement agencies.

20 (b) Each testing laboratory shall keep:

21 (i) a complete set of records necessary to show all transactions with a licensee; and

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

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

26 (d) The department may require a licensee to furnish information that the department considers  
27 necessary for the proper administration of this chapter.

28 (4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated,

1 manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement  
2 agencies for the purpose of inspection or investigation.

3 (b) If any part of a licensed premises consists of a locked area, the licensee shall make the area  
4 available for inspection immediately upon request of the department or state or local law enforcement officials.

5 (5) The department may not hire or contract with a person to be an inspector if the person, during  
6 the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former  
7 medical-marijuana-licensee.

8 (6) In addition to any other penalties provided under this chapter, the department may revoke,  
9 suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon  
10 inspection and subsequent notice to the licensee, the department finds that any of the following circumstances  
11 exist:

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

14 (b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

15 (c) noncompliance with any provision of this chapter.

16 (7) The department may suspend or modify a license or endorsement without advance notice upon  
17 a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the  
18 licensee, or members of the public. The department may establish by rule the applicable procedures for  
19 securing or disposing of the inventory in such circumstances.

20 (8) (a) Review of a department action imposing a suspension, revocation, or other modification  
21 under this chapter must be conducted as a contested case hearing before the department's office of dispute  
22 resolution under the provisions of the Montana Administrative Procedure Act.

23 (b) A person may appeal any decision of the department of revenue concerning the issuance,  
24 rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in  
25 which the person operates or proposes to operate. If a person operates or seeks to operate in more than one  
26 county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the  
27 counties where it operates or seeks to operate.

28 (c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the

1 grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of  
2 notice of the department's final decision.

3 (9) The department shall establish a training protocol to ensure uniform application and  
4 enforcement of the requirements of this chapter.

5 (10) The department shall report biennially to the economic affairs interim committee concerning the  
6 results of inspections conducted under this section. The report must include the information required under 16-  
7 12-110."

8

9 **Section 4.** Section 16-12-223, MCA, is amended to read:

10 **"16-12-223. Licensing of cultivators.** (1) (a) The department shall license cultivators according to a  
11 tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter  
12 may only occur at an indoor cultivation facility.

13 (b) Except as provided in subsection (6), the system must include, at a minimum, the following  
14 license types:

15 (i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor  
16 cultivation facility.

17 (ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation  
18 facility.

19 (iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor  
20 cultivation facilities.

21 (iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor  
22 cultivation facilities.

23 (v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor  
24 cultivation facilities.

25 (vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor  
26 cultivation facilities.

27 (vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor  
28 cultivation facilities.

1 (viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor  
2 cultivation facilities.

3 (ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor  
4 cultivation facilities.

5 (x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor  
6 cultivation facilities.

7 (xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor  
8 cultivation facilities.

9 (xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor  
10 cultivation facilities.

11 (xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor  
12 cultivation facilities.

13 (c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have  
14 been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located  
15 if a proposed facility would be located in a county in which the majority of voters voted against approval of  
16 Initiative Measure No. 190 in the November 3, 2020, general election.

17 (d) When evaluating an initial or renewal license application, the department shall evaluate each  
18 proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

19 (e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the  
20 existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application  
21 by demonstrating that:

22 (A) the cultivator is using the full amount of canopy currently authorized;

23 (B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by  
24 the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can  
25 otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

26 (C) its proposed additional or expanded indoor cultivation facility or facilities are located in a  
27 jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that  
28 they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the

1 November 3, 2020, general election.

2 (ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by  
3 only one tier at a time.

4 (iii) A cultivator under a combined-use license may increase its licensure level by more than one  
5 tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and  
6 (1)(e)(i)(B).

7 (iv) The department shall conduct an inspection of the cultivator's registered premises and  
8 proposed premises within 30 days of receiving the application and before approving the application.

9 (f) A marijuana business that has not been issued a license before July 1, 2025, must be initially  
10 licensed at a tier 2 canopy license or lower.

11 (2) The department is authorized to create additional tiers as necessary.

12 (3) The department may adopt rules:

13 (a) for inspection of proposed indoor cultivation facilities under subsection (1);

14 (b) for investigating owners or applicants for a determination of financial interest; and

15 (c) in consultation with the department of agriculture and based on well-supported science, to  
16 require licensees to adopt practices consistent with the prevention, introduction, and spread of insects,  
17 diseases, and other plant pests into Montana.

18 (4) Initial licensure and annual fees for these licensees are:

19 (a) \$1,000 for a cultivator with a micro tier canopy license;

20 (b) \$2,500 for a cultivator with a tier 1 canopy license;

21 (c) \$5,000 for a cultivator with a tier 2 canopy license;

22 (d) \$7,500 for a cultivator with a tier 3 canopy license;

23 (e) \$10,000 for a cultivator with a tier 4 canopy license;

24 (f) \$13,000 for a cultivator with a tier 5 canopy license;

25 (g) \$15,000 for a cultivator with a tier 6 canopy license;

26 (h) \$17,500 for a cultivator with a tier 7 canopy license;

27 (i) \$20,000 for a cultivator with a tier 8 canopy license;

28 (j) \$23,000 for a cultivator with a tier 9 canopy license;

1 (k) \$27,000 for a cultivator with a tier 10 canopy license;

2 (l) \$32,000 for a cultivator with a tier 11 canopy license; and

3 (m) \$37,000 for a cultivator with a tier 12 canopy license.

4 (5) The fee required under this part may be imposed based only on the tier of licensure and may  
5 not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

6 (6) A ~~former medical marijuana~~ licensee who engaged in outdoor cultivation before November 3,  
7 2020, may continue to engage in outdoor cultivation."

8

9 **Section 5.** Section 16-12-224, MCA, is amended to read:

10 **"16-12-224. Licensing of dispensaries.** (1) ~~Except as provided in 16-12-201(2), an~~ An applicant for  
11 a dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been  
12 satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be  
13 located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the  
14 November 3, 2020, general election.

15 (2) When evaluating an initial or renewal application, the department shall evaluate each proposed  
16 dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

17 (3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana  
18 dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

19 (4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders  
20 marijuana, marijuana products, and live marijuana plants.

21 (5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana  
22 plants to consumers or registered cardholders.

23 (6) (a) The department shall charge a dispensary license fee for an initial application and at each  
24 renewal.

25 (b) The dispensary license fee is \$5,000 for the first location that a licensee operates as an adult-  
26 use dispensary or a medical marijuana dispensary. The dispensary license fee increases cumulatively by  
27 \$5,000 for each additional location under the same license.

28 (7) The department may adopt rules:

- 1 (a) for inspection of proposed dispensaries;
- 2 (b) for investigating owners or applicants for a determination of financial interest; and
- 3 (c) establishing or limiting the THC content of the marijuana or marijuana products that may be
- 4 sold at an adult-use dispensary or medical marijuana dispensary.
- 5 (8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis
- 6 of the concentration of THC in the products and not by weight.
- 7 (b) Except as provided in subsection (8)(d), for purposes of this chapter, a single package is
- 8 limited to:
- 9 (i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive
- 10 THC of marijuana flower may not exceed 35%.
- 11 (ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule
- 12 and no more than 800 milligrams of THC per package.
- 13 (iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;
- 14 (iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of
- 15 THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.
- 16 (v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and
- 17 no more than 800 milligrams of THC per package;
- 18 (vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100
- 19 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package;
- 20 and
- 21 (vii) for any other marijuana product, no more than 800 milligrams of THC.
- 22 (c) There may be a deviation of 10% above or below the allowed amount under subsection
- 23 (8)(b)(iv).
- 24 (d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than
- 25 described in subsection (8) to registered cardholders.
- 26 (9) A licensee or employee is prohibited from conducting a transaction that would result in a
- 27 consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-
- 28 12-515."

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**Section 6.** Section 16-12-301, MCA, is amended to read:

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

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

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

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

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

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

- (i) cultivator;
- (ii) manufacturer;
- (iii) medical marijuana dispensary, except as provided in subsection (1)(b);
- (iv) adult-use dispensary;
- (v) combined-use marijuana licensee;

- 1 (vi) testing laboratory; and
- 2 (vii) marijuana transporter facility.

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

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

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

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

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

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

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

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

28 (6) (a) If an election is held pursuant to this section in a county that contains within its limits a

1 municipality of more than 5,000 persons according to the most recent federal decennial census:

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

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

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

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

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

16 (d) Nothing contained in this subsection (6) prevents any municipality from having a separate  
17 election under the terms of this section.

18 (7) (a) A county or municipality that has voted to approve a category of marijuana business to be  
19 located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190  
20 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations  
21 within the jurisdiction.

22 (b) A vote overturning the approval of a category of marijuana business or prohibiting the  
23 previously permitted operation of marijuana businesses is effective on the 90th day after the local election is  
24 held.

25 (8) A local government may not prohibit the transportation of marijuana within or through its  
26 jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this  
27 chapter."

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