

Montana Code Annotated 2021

TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA
CHAPTER 12. MARIJUANA REGULATION AND TAXATION
Part 2. Licensing and Regulation

Licensing Of Cultivators, Manufacturers, And Dispensaries

16-12-201. (Effective January 1, 2022) **Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between January 1, 2022, and June 30, 2023, the department may only accept applications from and issue licenses to former medical marijuana licensees that were licensed by or had an application pending with the department of public health and human services on November 3, 2020, and are in good standing with the department and in compliance with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of January 1, 2022.

(b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after July 1, 2023.

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

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

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

(ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to registered cardholders is not required to obtain an adult-use dispensary license.

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

History: En. Sec. 5, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 49, Ch. 576, L. 2021.

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CHAPTER 12. MARIJUANA REGULATION AND TAXATION

Part 3. Local Government and Law Enforcement Authority

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

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

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

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

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

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

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

(i) cultivator;

(ii) manufacturer;

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

(iv) adult-use dispensary;

(v) combined-use marijuana licensee;

(vi) testing laboratory; and

(vii) marijuana transporter facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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 this chapter.

History: En. Sec. 18, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 59, Ch. 576, L. 2021.