

SENATE BILL NO. 27

INTRODUCED BY K. BOGNER

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

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

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

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

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

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

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

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

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

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

(i) cultivator license;

(ii) manufacturer license;

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

(iv) testing laboratory license.

(v) marijuana transporter license.

(vi) combined-use marijuana license.

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

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

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

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

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

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

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

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

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

(c) 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 this chapter and related administrative rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) may only use data or metadata from the scan 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, unless otherwise provided for in this chapter or by the department.

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

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

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

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

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

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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 16-12-304 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.

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

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

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

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

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

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

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

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

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

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

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

(C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that 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:

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- 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."

1

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

3 **"16-12-301. Local government authority to regulate -- opt-in requirement in certain counties --**

4 **exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may
5 not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in
6 the November 3, 2020, general election until:

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

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

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

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

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

24 (i) cultivator;

25 (ii) manufacturer;

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

27 (iv) adult-use dispensary;

28 (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."

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