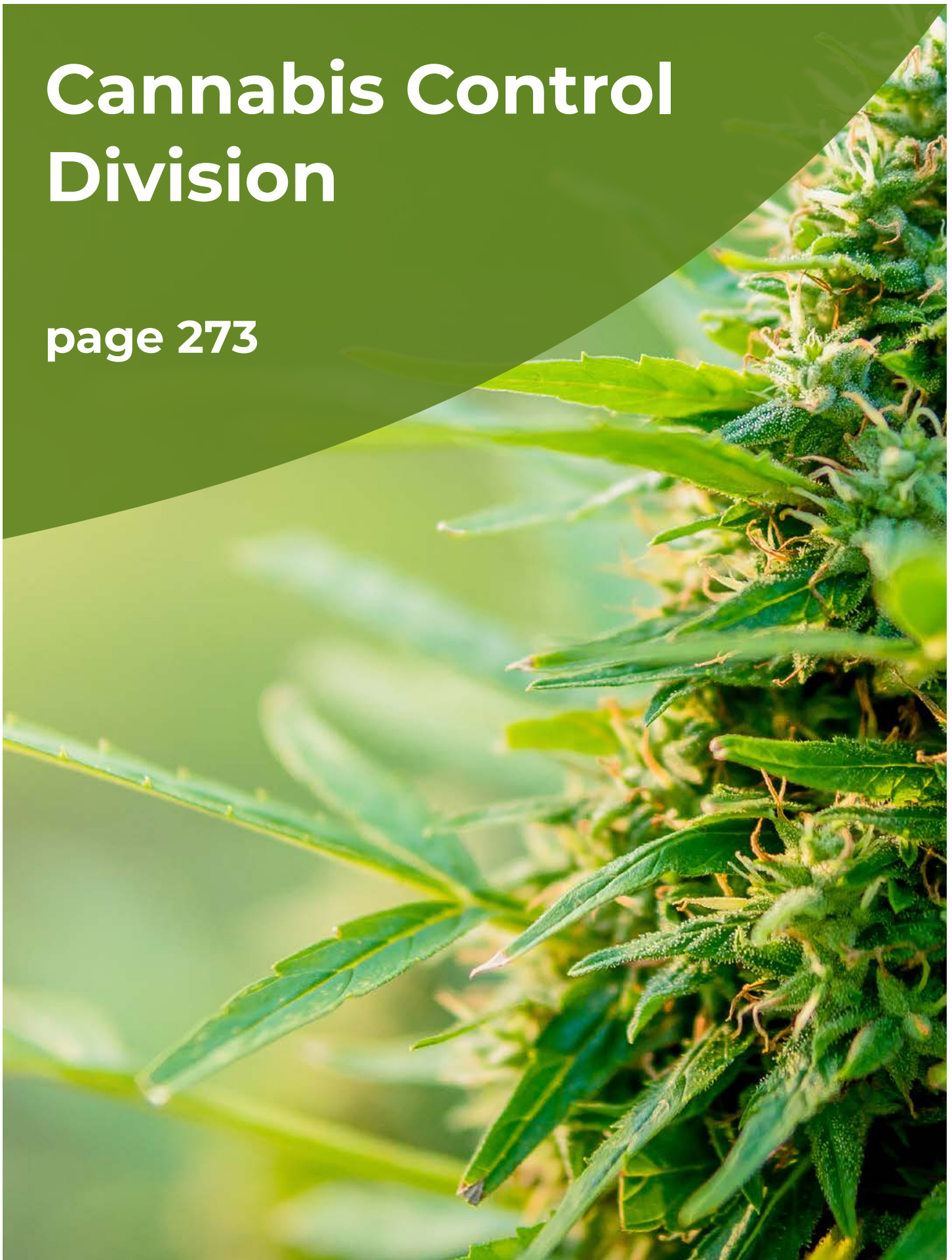


# Cannabis Control Division

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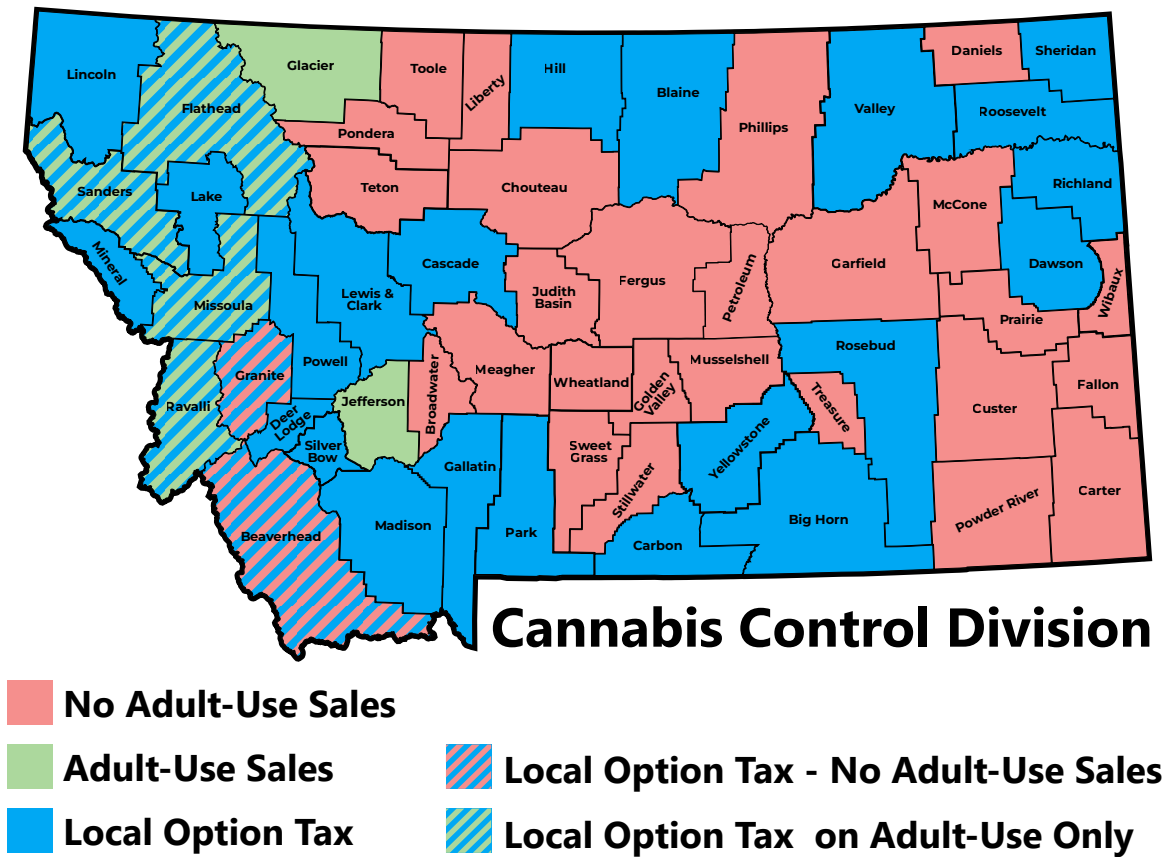
# Cannabis Control Division Overview

The Department of Revenue’s Cannabis Control Division administers the licensing and taxation of medical and adult-use cannabis in Montana.

The passage of Ballot Initiative-190 in November 2020 legalized adult-use cannabis in Montana. The 2021 Legislature then passed HB 701, which laid out the administrative framework for the department. The department subsequently created the Cannabis Control Division and assumed the administration of the medical cannabis program from the Department of Public Health and Human Services on July 1, 2021. Legal sales of adult-use cannabis began January 1, 2022. There is currently a moratorium on the issuance of new business licenses, meaning that only previous medical businesses, licensed as of April 27, 2021, may be licensed to participate in the adult-use market until July 1, 2025.

HB 701 included an opt-in/opt-out provision where counties that voted in favor of I-190 are automatically opted-in to allowing dispensaries to sell adult-use and medical cannabis in those counties. Counties that voted against I-190 are opted-out and do not allow dispensaries to sell to adult-use consumers within their counties. All counties still have the opportunity to opt-in/opt-out through a vote of the electorate. Counties and municipalities are also able to enact a local-option cannabis tax of up to 3% through a vote of the electorate.

**Figure 8.1 Cannabis Legality by County**



*This map shows the current legal status of adult use-cannabis for each county in Montana as of October 2024 and whether the county has elected a local-option cannabis tax.*

# State Comparison

Washington and Colorado were the first states to legalize adult-use cannabis in 2012, with sales beginning in 2014. As of August 2024, twenty four states and the District of Columbia have now fully legalized adult-use cannabis. An additional thirteen states permit the sale of medical cannabis, while seven only allow CBD oil. Cannabis remains fully illegal in six states but has been decriminalized in two of those (Nebraska and North Carolina). The following table 8.1 shows the tax rates for the states with legalized adult-use cannabis.

**Table 8.1 Tax Rates for Other States with Legalized Adult-use Cannabis**

State	Tax Rates
Alaska	\$50 per oz flowers, \$15 per oz stems and leaves, \$25 per oz immature flowers/buds
Arizona	16% excise tax
California	15% excise tax on wholesale and per oz cultivation tax (\$9.65 flowers, \$2.87 leaves, \$1.35 fresh plant), state sales tax of 7.25% applies
Colorado	15% excise tax on retail and wholesale, local option tax of up to 8%
Connecticut	Tax per milligram of THC: \$0.00625 in flowers, \$0.0275 in edibles, \$0.009 in other products. 6.35% retail sales tax and 3% municipal sales tax
Delaware	15% retail excise tax. Sales have not yet begun
District of Columbia	Possession of up to 2 oz. legal but no retail sales
Illinois	7% wholesale tax; Retail tax of 10% on flowers; 20% on cannabis infused products; 25% on products > 35% THC; Local option tax up to 3%
Maine	10% sales tax plus excise tax of \$335/lb flower; \$94/lb trim; \$1.5 per immature plant/seedling; \$0.3 per seed
Maryland	9% retail sales tax
Massachusetts	10.75% excise tax plus state sales tax of 6.25% and local option tax of up to 3%, medical exempt
Michigan	10% excise tax plus state sales tax of 6%. 3% on grower's gross receipts for medical
Minnesota	10% retail excise tax, 6.875% state sales tax, local sales tax
Missouri	16% retail sales tax
Montana	20% sales tax, 4% on medical, local option tax of up to 3%
Nevada	15% excise tax on wholesale and 10% on retail plus state sales tax of 6.85%
New Jersey	State sales tax of 6.625% applies on top of an excise tax of \$1.52 per ounce of cannabis. Local option sales tax of up to 2%
New Mexico	12% excise tax, increasing to 18% in 2025 plus state and local sales tax of at least 5%
New York	Tax per milligram of THC: \$0.005 in flower, \$0.008 in concentrates, \$0.03 in edibles. 13% total excise tax
Ohio	10% retail sales tax

**Table 8.1 Tax Rates for Other States with Legalized Adult-use Cannabis continued**

<b>State</b>	<b>Tax Rates</b>
Oregon	17% sales tax, local option sales tax up to 3%
Rhode Island	10% excise tax plus 3% local excise tax and 7% state sales tax
Vermont	14% excise tax plus state sales tax of 6%
Virginia	21% sales tax, local option sales tax of 3%
Washington	37% sales tax plus state and local general sales tax of at least 6.5%. Medical is exempt from sales taxes

<https://disa.com/marijuana-legality-by-state>

# Legislative History

- 2017** **SB 333** Created a 4 percent tax on medical cannabis, later decreased to 2 percent on July 1, 2018. Implemented a license fee for dispensaries, required providers to obtain a nursery license, and required implementation of the seed-to-sale tracking system.
- 2019** **SB 265** Untethered providers from cardholders and established canopy tiers and licensing fees. Extended the 4 percent tax rate for 2 years, through October 1, 2021, when it was scheduled to decrease to 2 percent.
- 2021** **HB 701** Laid out licensing and tax requirements for the administration and regulation of adult-use cannabis by the Department of Revenue following the passage of I-190. Administration of the medical cannabis program was moved from DPHHS to the department and combined with adult-use cannabis licensing. Set the adult-use tax rate at 20 percent and allowed for a local option tax of up to 3 percent on adult-use and/ or medical cannabis sales. Eliminated the scheduled reduction in the medical cannabis tax and kept it at 4 percent going forward.
- 2023** **HB 128** Clarified many components of the administration of adult-use and medical marijuana and transferred the administration of marijuana testing labs from DPHHS to DOR.
- HB 229** Revised the regulations for marijuana testing labs, allowing for a probationary license for testing labs, and a variance in the measurement of a single-serve edible marijuana product. The bill also restricted the transportation of samples to a testing lab, not allowing a commercial testing lab to use a third-party transporter.
- HB 362** Appropriated \$300,000 each year of the 2025 biennium from the marijuana state special revenue account to the board of crime control for a crisis intervention team training program.
- HB 903** Revised the combined-use marijuana license laws to allow cultivators to step up multiple tiers at a time and added preschools to the premises with a distance requirement for licensed premises.
- HB 948** Prohibited the manufacturing and sales of synthetic marijuana products and created a synthetic marijuana products advisory council to be established by the Department of Revenue.

# Medical Cannabis Tax Rate and Revenue

Statute: 15-64-102, MCA

**Table 8.2 Medical Cannabis Collections**

Fiscal Year	Total Revenue
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$1,836,085
2019	\$1,626,805
2020	\$3,871,936
2021	\$6,319,828
2022	\$5,595,671
2023	\$3,061,340
2024	\$2,067,613

**Figure 8.2**

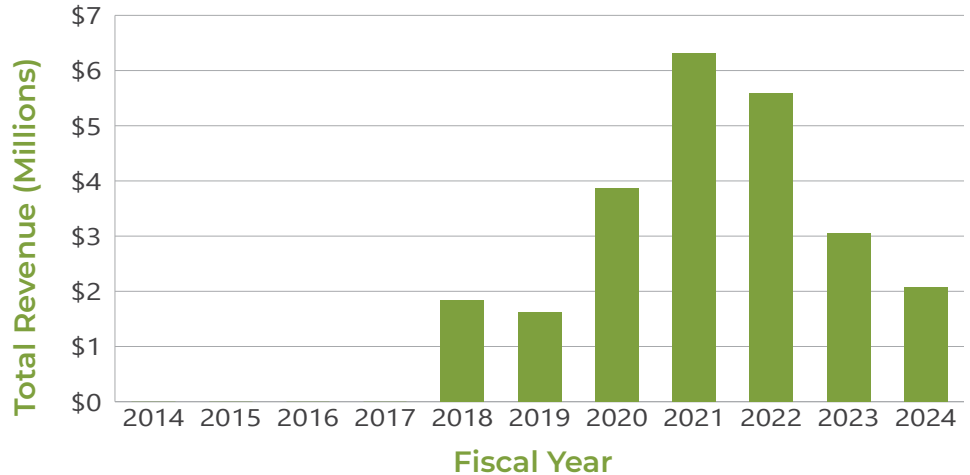


Table 8.2 and Figure 8.2 above show the medical cannabis tax collections for the last seven fiscal years since the tax took effect in Fiscal Year 2018. Following the legalization of Adult-use cannabis and the start of sales in January 2022, the number of medical cannabis cardholders and amount of sales has decreased each year.

The 2017 Legislature enacted a tax on medical cannabis sales as part of their revision of the regulation of medical cannabis. From July 1, 2017, through June 30, 2018, the tax was 4 percent of gross sales. From July 1, 2018, through September 30, 2020, the tax dropped to 2 percent of gross sales. The tax rate increased back to 4 percent on October 1, 2019, and was kept at 4 percent by the 2021 Legislature.

# Adult-Use Cannabis Tax Rate and Revenue

Statute: 16-12-102, MCA

**Table 8.3 Adult-use Cannabis Collections**

Fiscal Year	Total Revenue
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$18,816,673
2023	\$47,613,282
2024	\$49,722,303

**Figure 8.3**



Table 8.3 and Figure 8.3 above shows the adult-use cannabis tax collections for 2022 – 2024. Note that 2022 only includes six months of legal sales, as sales began January 1, 2022. Following the passage of Initiative-190 and HB 701, adult-use cannabis is taxed at a rate of 20 percent of the retail price.

## Filing and Payment

The tax is collected by the dispensaries from the consumers at the time of the sale. The dispensaries are required to file sales reports and remit the tax collections to the department within 15 days of the end of the quarter. These reports can then be compared with the Metrc seed-to-sale data by the department for auditing purposes



# Licensing Fee Revenue

Statute: 16-12-201 to 226, MCA

**Table 8.4 Cannabis License Fees Collections**

Fiscal Year	Total Revenue
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$3,482,011
2023	\$6,348,382
2024	\$6,757,303

**Figure 8.4**



Table 8.4 and Figure 8.4 above show revenue collections from cannabis industry licensees. This license fee revenue is deposited into the cannabis state special revenue account with the tax revenue from above; all distributions are made from this account.

The Cannabis Control Division is responsible for the licensing of all participants in the cannabis industry in Montana. There are different license types for each stage within the industry, spanning cultivation, manufacturing, and dispensary. Table 8.5 below lists the license types required for participation in the cannabis industry with the corresponding license fees.

**Table 8.5 Cannabis License Types and Fees**

License Type	# Licensees	# Locations	Fee (initial & renewal)
Cultivator	228	343	Tier based - see cultivator tiers
Dispensary	214	465	\$5,000 per licensed premises
Manufacturer	159	180	Tier based - see manufacturer tiers
Testing Lab	3	3	\$5,000 per licensed premises
Testing Lab Storage Facility	2	2	\$1,000 per licensed storage facility
Transporter	9	n/a	\$10,000 (2-year)
Transporter Storage Facility	1	1	
Combined-use Marijuana	0	0	\$7,500
Cannabis Medical Registry ID	14,930	n/a	\$20; \$10 for a replacement card
Cannabis Worker Permit	5,834	n/a	\$50; \$10 for a replacement permit; \$30 background check fee for lab workers

**Table 8.6 Cultivator License Tiers and Fees**

<b>Cultivator Tiers</b>	<b>Canopy Size (max square feet and facilities)</b>	<b>Licensees</b>	<b># Facilities</b>	<b>Fee (Initial &amp; Renewal)</b>
Micro tier	250 square feet at one indoor cultivation facility	9	9	\$1,000
Tier 1	1,000 square feet at one indoor cultivation facility	60	60	\$2,500
Tier 2	2,500 square feet at up to two indoor cultivation facilities	45	56	\$5,000
Tier 3	5,000 square feet at up to three indoor cultivation facilities	38	49	\$7,500
Tier 4	7,500 square feet at up to four indoor cultivation facilities	13	24	\$10,000
Tier 5	10,000 square feet at up to five indoor cultivation facilities	26	46	\$13,000
Tier 6	13,000 square feet at up to five indoor cultivation facilities	18	43	\$15,000
Tier 7	15,000 square feet at up to five indoor cultivation facilities	5	15	\$17,500
Tier 8	17,500 square feet at up to five indoor cultivation facilities	1	4	\$20,000
Tier 9	20,000 square feet at up to six indoor cultivation facilities	2	8	\$23,000
Tier 10	30,000 square feet at up to seven indoor cultivation facilities	6	12	\$27,000
Tier 11	40,000 square feet at up to eight indoor cultivation facilities	2	6	\$32,000
Tier 12	50,000 square feet at up to nine indoor cultivation facilities	3	11	\$37,000

**Table 8.7 Manufacturer License Tiers and Fees**

<b>Manufacturer Tiers</b>	<b>Tier Parameters</b>	<b>Count</b>	<b>Fee (Initial &amp; Renewal)</b>
Tier 1	Produces less than ten pounds of concentrate per month	133	\$5,000
Tier 2	Produces between 10 and 15 pounds of concentrate per month	13	\$10,000
Tier 3	Produces 15 or more pounds of concentrate per month	34	\$20,000

\*Licensing data as of August 2024

## Penalties and Fees

Licensees who are out of compliance with the department may be subject to civil penalties. The department collected approximately \$375,000 in civil penalties in FY 2024 but anticipates the amount of penalties to decrease moving forward.

# Tax Revenue Distribution

**Statute: 16-12-111, MCA**

The process of distributing cannabis tax and license fee revenue begins with the revenue collected from adult-use and medical cannabis taxes and license fees. This revenue is deposited in the state’s cannabis special revenue account.

The cannabis special revenue account is first used to cover the administrative costs of the department. At the end of the fiscal year, the remaining account balance is distributed as follows:

- \$6 million to the marijuana Healing and Ending Addiction through Recovery and Treatment (HEART) fund account. established in MCA, 17-6-606
- 20% to FWP for wildlife habitat. as provided in MCA, 87-1-209
- 4% each to the state park account, trails and recreational facilities account, and the nongame wildlife account
- 3%, up to \$200,000, to veterans and surviving spouses state special revenue account
- \$300,000 each year of the 2025 biennium to the board of crime control for crisis intervention team training program; this distribution is intended to be part of the ongoing budget
- The remaining funds are placed in the general fund.

**Table 8.8 Distribution of Cannabis Taxes and Fees**

<b>Fund</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
HEART fund	\$0	\$0	\$6,000,000	\$6,000,000	\$6,000,000
Wildlife Habitat	\$0	\$0	\$4,437,772	\$8,756,701	\$9,545,259
State Parks	\$0	\$0	\$887,554	\$1,751,340	\$1,909,052
Trails and Recreation	\$0	\$0	\$887,554	\$1,751,340	\$1,909,052
Nongame Wildlife	\$0	\$0	\$887,554	\$1,751,340	\$1,909,052
Veteran's Affairs	\$0	\$0	\$200,000	\$200,000	\$200,000
DOJ Grant Funding and Board of Crime Control	\$0	\$0	\$450,000	\$150,000	\$450,000
General Fund	\$0	\$0	\$14,238,426	\$29,422,782	\$31,803,882

# Local-Option Cannabis Taxes

**Statute: 16-12-309 - 317, MCA**

Individual municipalities can require a 3 percent local option cannabis tax be collected in addition to the state tax for adult-use cannabis, medical cannabis, or both.

**Table 8.9 Counties That Currently Have a Local Option Tax**

<b>County</b>	<b>Tax on Medical and/or Adult Use</b>	<b>Effective Date</b>
Beaverhead	Medical only*	3/1/2023
Big Horn	Both	10/29/2022
Cascade	Both	2/6/2023
Blaine	Both	9/1/2022
Carbon	Both	9/5/2022
Dawson	Both	4/2/2022
Deer Lodge	Both	9/5/2022
Flathead	Adult-use only	3/1/2023
Gallatin	Both	3/1/2023
Granite	Medical only*	2/20/2023
Hill	Both	2/6/2023
Lake	Both	9/5/2022
Lewis & Clark	Both	10/1/2022
Lincoln	Both	2/5/2024
Madison	Both	2/7/2023
Mineral	Both	1/1/2023
Missoula	Adult-use only	1/31/2022
Park	Both	2/11/2022
Powell	Both	10/1/2022
Ravalli	Adult-use only	10/1/2022
Richland	Both	1/1/2023
Roosevelt	Both	1/31/2023
Rosebud	Both	9/1/2022
Sanders	Adult-use only	2/8/2023
Sheridan	Both	1/31/2023
Silver Bow	Both	10/6/2022
Valley	Both	2/21/2023
Yellowstone	Both	1/31/2022

\* Adult-use sales prohibited in those counties

Table 8.10 below includes the local-option cannabis tax distributions to each county, as well as the county share and municipalities share of that distribution. The Department of Revenue retains 5% of the collections for administrative purpose and distributes 50% back to the counties and 45% to the municipalities in each county based on population.

**Table 8.10 Local Option Collections and Distributions by County**

County	FY 2023			FY 2024		
	Total from DOR	County Share	Municipalities	Total from DOR	County Share	Municipalities
Beaverhead	\$1,436	\$756	\$680	\$13,877	\$7,304	\$6,573
Big Horn	\$47,548	\$25,025	\$22,523	\$116,617	\$61,377	\$55,240
Blaine	\$0	\$0	\$0	\$11,566	\$6,087	\$5,479
Carbon	\$65,238	\$34,336	\$30,902	\$140,665	\$74,034	\$66,631
Cascade	\$59,611	\$31,374	\$28,237	\$509,574	\$268,197	\$241,377
Dawson	\$167,397	\$88,104	\$79,293	\$176,048	\$92,657	\$83,391
Deer Lodge	\$16,501	\$8,685	\$7,816	\$33,328	\$17,541	\$15,787
Flathead	\$52,565	\$27,666	\$24,899	\$660,697	\$347,735	\$312,962
Gallatin	\$87,821	\$46,222	\$41,599	\$1,161,916	\$611,535	\$550,381
Granite	\$0	\$0	\$0	\$606	\$319	\$287
Hill	\$33,244	\$17,497	\$15,747	\$168,737	\$88,809	\$79,928
Lake	\$70,091	\$36,890	\$33,201	\$150,811	\$79,374	\$71,437
Lewis & Clark	\$288,148	\$151,657	\$136,491	\$592,978	\$312,094	\$280,884
Lincoln	\$0	\$0	\$0	\$14,581	\$7,674	\$6,907
Madison	\$3,012	\$1,585	\$1,427	\$49,766	\$26,193	\$23,573
Mineral	\$1,727	\$909	\$818	\$17,997	\$9,472	\$8,525
Missoula	\$816,285	\$429,624	\$386,661	\$846,398	\$445,473	\$400,925
Park	\$165,228	\$86,962	\$78,266	\$170,527	\$89,751	\$80,776
Powell	\$0	\$0	\$0	\$1,109	\$584	\$525
Ravali	\$73,522	\$38,696	\$34,826	\$195,799	\$103,052	\$92,747
Richland	\$67,686	\$35,624	\$32,062	\$283,350	\$149,132	\$134,218
Roosevelt	\$7,769	\$4,089	\$3,680	\$81,942	\$43,127	\$38,815
Rosebud	\$47,398	\$24,946	\$22,452	\$87,803	\$46,212	\$41,591
Sanders	\$1,457	\$767	\$690	\$41,888	\$22,046	\$19,842
Sheridan	\$4,318	\$2,273	\$2,045	\$23,078	\$12,146	\$10,932
Silver Bow	\$172,552	\$90,817	\$81,735	\$364,814	\$192,007	\$172,807
Valley	\$5,687	\$2,993	\$2,694	\$52,256	\$27,503	\$24,753
Yellowstone	\$1,421,672	\$748,248	\$673,424	\$1,445,470	\$760,774	\$684,696