

Cannabis Control Division

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**CANNABIS
CONTROL
DIVISION**
MONTANA

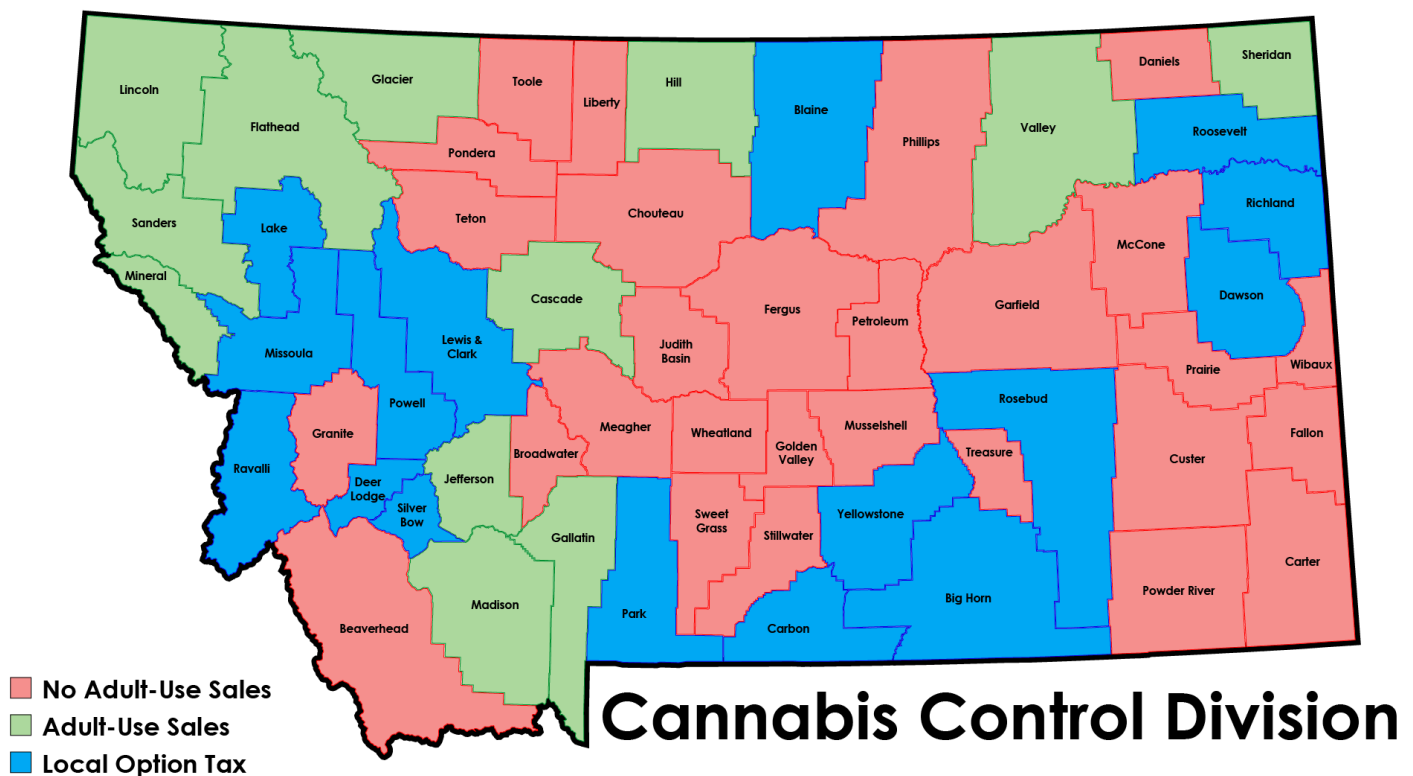
Overview

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 an 18-month moratorium on the issuance of new provider licenses, meaning that only existing medical providers, licensed as of November 3, 2020, may participate in the adult-use market until July 1, 2023.

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.

The following map shows the current "red" counties where adult-use cannabis businesses are illegal and "green" counties where adult-use cannabis businesses are legal, as well as the "blue" counties that have also passed a local option cannabis tax. Counties that voted against I-190 are opted-out and do not allow dispensaries to sell adult-use cannabis within their counties.



State Comparison

Washington and Colorado were the first states to legalize adult-use cannabis in 2012, with sales beginning in 2014. As of August 2022, 19 states and the District of Columbia have now fully legalized adult-use cannabis. An additional 18 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 shows the tax rates for the 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
District of Columbia	Possession legal but no retail sales.
Illinois	7% excise tax on growers; 10% on flowers; 20% on cannabis infused products; 25% on products > 35% THC; Medical subject to 1% sales tax.
Maine	10% sales tax plus excise tax of \$335/lb flower; \$94/lb trim; \$1.5 per immature plant/seedling; \$0.3 per seed.
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
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	\$10 to \$60 per oz depending on average retail price from \$350 per oz down to less than \$200 per oz.
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
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 tax

<https://www.taxadmin.org/assets/docs/Research/Rates/marijuana.pdf>

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, until October 1, 2021, when it was scheduled to decrease to 2 percent.

2021

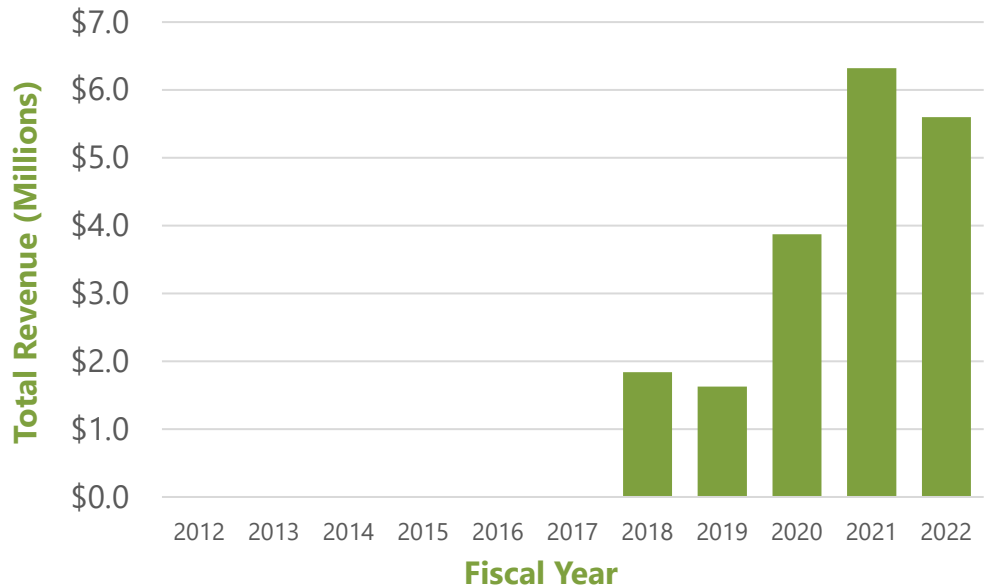
HB 701

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.

Medical Cannabis Tax Rate and Revenue

Statute: 15-64-102, MCA

Fiscal Year	Total Revenue
2012	\$0
2013	\$0
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



The figure above shows the medical cannabis tax collections for the last five fiscal years since the tax took effect in Fiscal Year (FY) 2018.

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

Fiscal Year	Total Revenue
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$18,816,673



The figure above shows the adult-use cannabis tax collections for FY 2022, which represent the first six months of legal sales.

Following the passage of Initiative-190 and HB 701, adult-use cannabis is taxed at a rate of 20 percent of the retail price, with sales beginning January 1, 2022.

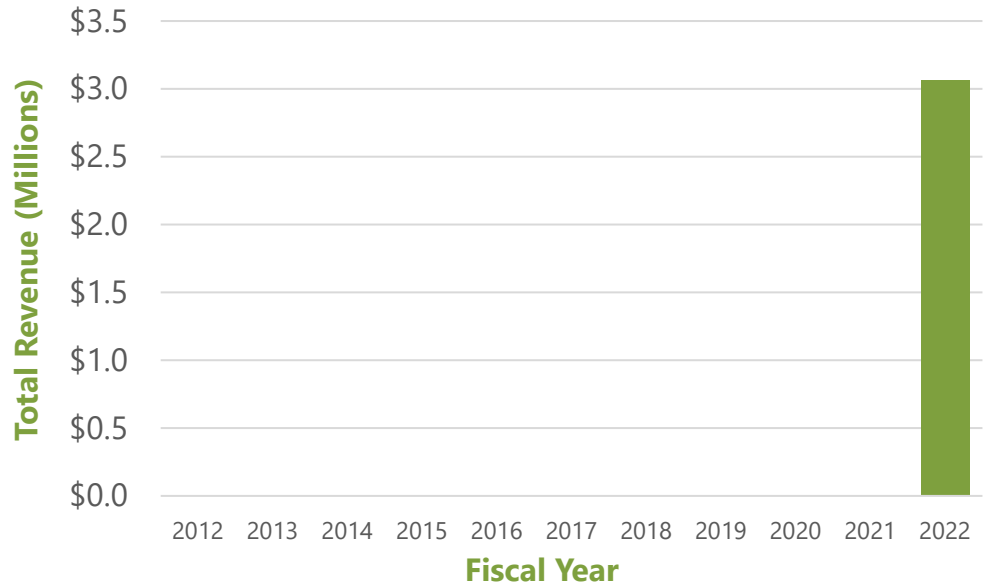
Filing and Payment

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

Fiscal Year	Total Revenue
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$3,062,171



The license fee revenue is deposited into the cannabis state special revenue account with the tax revenue from above, and all the 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, ranging from cultivation, manufacturing, and dispensary. The following lists the license types required for participation in the cannabis industry with the corresponding license fees:

License Type	Count	Fee (initial & renewal)
Cultivator	402	Tier based - see cultivator tiers
Dispensary	444	\$5,000 per licensed premises
Manufacturer	217	Tier based - see manufacturer tiers
Testing Lab	6	\$5,000 per licensed premises
Testing Lab Storage Facility	2	\$1,000 per licensed storage facility
Transporter	4	\$10,000 (2-year)
Combined-use Cannabis	0	\$7,500
Cannabis Medical Registry ID	27,298	\$20; \$10 for a replacement card
Cannabis Worker Permit	4,745	\$50; \$10 for a replacement permit

Cultivator License Tiers and Fees

Cultivator Tiers	Canopy Size (max square feet and facilities)	Licensees	# Facilities	Fee (Initial & Renewal)
Micro tier	250 square feet at one indoor cultivation facility	25	25	\$1,000
Tier 1	1,000 square feet at one indoor cultivation facility	102	102	\$2,500
Tier 2	2,500 square feet at up to two indoor cultivation facilities	65	88	\$5,000
Tier 3	5,000 square feet at up to three indoor cultivation facilities	34	48	\$7,500
Tier 4	7,500 square feet at up to four indoor cultivation facilities	7	15	\$10,000
Tier 5	10,000 square feet at up to five indoor cultivation facilities	27	56	\$13,000
Tier 6	13,000 square feet at up to five indoor cultivation facilities	7	17	\$15,000
Tier 7	15,000 square feet at up to five indoor cultivation facilities	2	7	\$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	1	2	\$23,000
Tier 10	30,000 square feet at up to seven indoor cultivation facilities	7	24	\$27,000
Tier 11	40,000 square feet at up to eight indoor cultivation facilities	0	0	\$32,000
Tier 12	50,000 square feet at up to nine indoor cultivation facilities	3	14	\$37,000

Manufacturer License Tiers and Fees

Manufacturer Tiers	Tier Parameters	Count	Fee (Initial & Renewal)
Tier 1	Produces less than ten pounds of concentrate per month	62	\$5,000
Tier 2	Produces between 10 and 15 pounds of concentrate per month	7	\$10,000
Tier 3	Produces 15 or more pounds of concentrate per month	148	\$20,000

**Manufacturers that produce more than 15 pounds of concentrate per month, shall pay an additional \$1,000 per pound*

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 being deposited in the state’s cannabis special revenue account.

The revenue from this account is first used to cover the administrative costs of the department. At the end of the fiscal year, the remainder 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 for the biennium beginning July 1, 2021, to the Department of Justice (DOJ) for grant funding to local and state law enforcement for drug-detection canine training
- \$150,000 per year to the board of crime control
- The remaining funds are placed in the general fund

Distribution of Cannabis Taxes and Fees

Fund	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
HEART fund	\$0	\$0	\$0	\$0	\$6,000,000
Wildlife Habitat	\$0	\$0	\$0	\$0	\$4,437,772
State Parks	\$0	\$0	\$0	\$0	\$887,554
Trails and Recreation	\$0	\$0	\$0	\$0	\$887,554
Nongame Wildlife	\$0	\$0	\$0	\$0	\$887,554
Veteran’s Affairs	\$0	\$0	\$0	\$0	\$200,000
DOJ Grant Funding and Board of Crime Control	\$0	\$0	\$0	\$0	\$450,000
General Fund	\$0	\$0	\$0	\$0	\$14,238,426

Local-Option Cannabis Taxes

Statute: 16-12-309 - 317, MCA

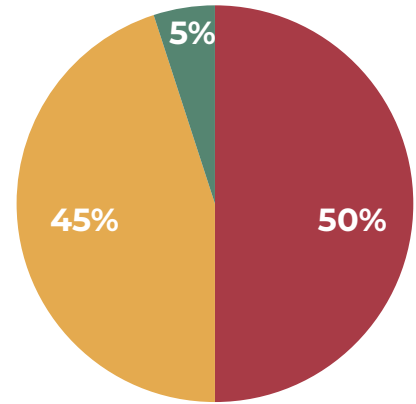
Individual municipalities can require a 3 percent local option cannabis tax be collected in addition to the state tax for adult-use cannabis, medical cannabis, or both.

Counties That Currently Have a Local Option Tax

County	Tax on Medical and/or Adult Use	Effective Date
Big Horn County	Both	10/29/2022
Blaine County	Both	9/1/2022
Carbon County	Both	9/5/2022
Dawson County	Both	4/2/2022
Deer Lodge County	Both	9/5/2022
Lake County	Both	9/5/2022
Lewis & Clark County	Both	10/1/2022
Missoula County	Adult-use only	1/31/2022
Park County	Both	2/11/2022
Powell County	Both	10/1/2022
Ravalli County	Adult-use only	10/1/2022
Richland County	Both	1/1/2023
Roosevelt County	Both	1/31/2023
Rosebud County	Both	9/1/2022
Silver Bow County	Both	10/6/2022
Yellowstone County	Both	1/31/2022

Distribution of Local-Option Tax Revenue:

- 50 percent to the county
- 45 percent to the municipalities within the county based on population
- 5 percent to the Department of Revenue for administration costs



FY 2022 Local Option Collections and Distributions by County

County	Effective date	2022 Local option tax collections	County 50% Share	Municipalities 45% Share	State 5% Share
Dawson	4/2/2022	\$42,381	\$21,191	\$19,072	\$2,119
Missoula	1/31/2022	\$336,215	\$168,107	\$151,297	\$16,811
Park	2/11/2022	\$66,170	\$33,085	\$29,776	\$3,308
Yellowstone	1/31/2022	\$641,772	\$320,886	\$288,797	\$32,089