

Montana Lawmakers Approve Cannabis Compacts with Indian Tribes

Montana Lawmakers Pass Historic Bill Allowing Cannabis Compacts Between Indian Tribes and the Governor to Address Industry Barriers

In a significant move for tribal sovereignty and economic growth, Montana lawmakers recently passed House Bill 952, a two-page bill that is poised to reshape how Native American tribes interact with the state's cannabis industry. Sponsored by Rep. Frank Smith, D-Poplar, Sioux, and backed by a broad coalition of supporters, the bill aims to give tribes the ability to negotiate cannabis compacts directly with the governor's office, empowering them to regulate cannabis on their reservations in a manner that suits their unique needs.

House Bill 952 Clears Legislative Hurdles, with Broad Support from Both Democrats and Republicans

The bill, which cleared the Legislature earlier this month, gained support from most Democratic legislators and a sufficient number of majority Republicans to pass. It follows a long-standing need for greater autonomy in tribal cannabis regulation, a demand that has been voiced by Native American leaders for years. Rep. Frank Smith, who is retiring after decades of service, called the bill a capstone achievement in his legislative career, noting that it represents a significant step forward in addressing the barriers that tribes face in the cannabis industry.

At its core, House Bill 952 aims to address the regulatory difficulties tribes have faced since the passage of House Bill 701 in 2021, which created stringent limitations on how tribes could engage in the cannabis business. The bill allows tribes to enter into agreements with the governor's office to tailor cannabis regulations to the specific needs of their reservations, offering more flexibility than the restrictive rules under HB 701.

Addressing the Challenges Tribes Face in the Cannabis Industry Under Previous Legislation

House Bill 701, passed in 2021, created significant hurdles for tribes looking to enter the cannabis market. Three key restrictions were put in place: Tribes could only operate one combined-use marijuana license, limiting them to a single location for growing, packaging, distributing, and selling cannabis; they were restricted to a single-tier canopy license, meaning their operations could not exceed 1,000 square feet for both dispensaries and cultivation facilities; and perhaps most problematic, the law mandated that dispensaries be located at least 150 miles outside of reservation boundaries, which effectively forced tribes to compete in highly saturated markets.

These restrictions have made it difficult for many tribes to fully participate in the cannabis industry, preventing them from capitalizing on potential revenue and growth opportunities. In response, advocates such as Patrick Yawakie, co-founder of Red Medicine LLC, have long called for changes to the state's approach. Yawakie played a pivotal role in drafting House Bill 952, drawing inspiration from similar compacts in Washington State, which allow tribes and the state to regulate cannabis operations within reservation boundaries.

House Bill 952 Sets the Stage for Customizable Cannabis Regulations Tailored to Each Tribe's Needs

House Bill 952 is expected to pave the way for customized cannabis compacts between Montana tribes and the governor's office. These agreements will allow each tribe to negotiate the terms of their cannabis operations, including tax revenue sharing, the ability to grow and sell cannabis, and whether dispensaries can be established on reservations. By removing one-size-fits-all restrictions, the bill allows each tribe to create a cannabis regulatory framework that works best for their community, addressing local concerns while ensuring compliance with state and federal laws.

Yawakie emphasized that the compacts would be flexible, acting as a roadmap for tribes to navigate the cannabis industry in line with their sovereignty and unique needs. The bill offers a model similar to tribal gaming compacts, which have allowed tribes to work with state governments to establish mutually beneficial agreements. These cannabis compacts are designed to create a strong regulatory system, while also providing tribes with the ability to decide how they wish to engage with the cannabis industry.

Proponents of HB 952 See Economic Growth, Law Enforcement Benefits, and Tribal Sovereignty at the Forefront

Proponents of House Bill 952 argue that it could bring significant benefits to tribes, both economically and socially. By allowing tribes to regulate cannabis more effectively, the bill could boost economic independence and generate new revenue streams. It also addresses law enforcement concerns, as tribes would be better positioned to regulate cannabis sales and combat black market activities on their reservations.

Sen. Gayle Lammers, R-Hardin, who carried the bill on the Senate floor, called it a "cleanup bill," acknowledging that tribes were not adequately involved in the legislative process when cannabis was legalized in 2021. Lammers explained that tribes have seen the oversaturation of non-tribal-owned dispensaries near their reservations, which has led to an influx of cannabis products into the hands of youth and a proliferation of black-market sales.

"This bill is pro-business, pro-revenue, pro-collaboration, and pro-law enforcement," Lammers told the Senate during the April 17 debate, emphasizing the broad coalition of support for the measure.

Heated Senate Floor Debate Highlights Opposition to HB 952, with Concerns Over Revenue and Youth Access

Despite strong support for the bill, it faced opposition from several Republican lawmakers. Sen. Barry Usher, R-Laurel, expressed concern that the bill went beyond a simple cleanup and would create new complexities. He argued that there are already cannabis dispensaries on reservations and that there is no need to change the current law if the issue is solely about tax revenue agreements.

Senate Majority Leader Tom McGillvray, R-Billings, also voiced opposition, questioning the societal impact of cannabis legalization. He expressed concern that legal cannabis would increase marijuana use among Native youth, potentially leading them to experiment with illegal drugs.

However, supporters of the bill, including Sen. Jonathan Windy Boy, D-Box Elder, Chippewa Cree, pushed back, stressing the need for tribes to have more control over cannabis operations on their reservations. Windy Boy pointed out that while there are non-tribal dispensaries operating on reservations, tribes lack the ability to regulate them effectively, often resulting in tensions between tribal authorities and non-tribal operators.

The Future of Tribal Cannabis in Montana: Compacts Offer Clarity and Opportunities for Economic Growth

Looking ahead, House Bill 952 offers tribes a chance to engage in the cannabis industry on their own terms. As Yawakie explained, the bill provides a much-needed framework for tribes to enter the cannabis space with clarity and support from the state. It offers a path forward for tribes seeking to build infrastructure around cannabis manufacturing, processing, testing, and distribution while maintaining compliance with state regulations.

The passage of HB 952 marks a turning point in Montana's cannabis industry, particularly for Native American communities. With the bill now in place, tribes will have the ability to enter into meaningful agreements with the state, creating a more inclusive and equitable cannabis marketplace. While challenges remain, HB 952 provides a critical opportunity for tribes to enhance their economic development and sovereignty in the cannabis space, ensuring they are active participants in an industry that continues to grow across the country.

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