

## Higher costs, local bans have Montana's small medical marijuana producers scaling up or shutting down

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Kendra Langford Shaw is shown with medical marijuana grown her own use.

Kendra Langford Shaw loved running a small business.

It was a part-time endeavor with only six customers. Her product was medical marijuana, which she felt her customers relied on for their well-being.

When new regulations brought more costs in 2018, she thought things still might pencil out. She worked to comply with new state laws and had an inspection of her grow operation in the basement of her Billings home.

Then in August, the state confirmed it [wouldn't license providers in Billings](#) while the city banned medical marijuana businesses. It was like a switch flipped.

She told her cardholders they had to look elsewhere.

"I have patients. I've been running a business for years. Nothing's changed for me," Langford Shaw said. "And now I have to shut down."

In Montana's new medical marijuana system, small growers are feeling the pinch. The number of providers in the state has been cut by more than a third so far this year.

Some say that they're being priced out by huge operations that can absorb the additional costs. Others, like Langford Shaw, say a patchwork of local control across Montana has gotten in the way of a legal state program.

"Sometimes I think our stories are getting lost," she said. "But you're seeing our numbers drop off the list."

### The cost of oversight

Back in 2016, the fee for someone to register as a medical marijuana user [dropped to \\$5](#) amid excess revenues in the system. Providers paid \$50 annually to be licensed.

At that time, state laws restricted the medical marijuana market in a different way. Regulations passed by the Montana Legislature imposed a limit of [three patients for each provider](#), making it nearly impossible to break even.

That was all under the old system. A successful ballot initiative in 2016 and legislative reform bill in 2017 changed the rules. New testing, licensing, digital tracking and other controls have been [phased in throughout 2018](#) as a result.

But that administrative oversight has come at a cost, which is being covered by a new tax on marijuana and higher licensing fees. Most of that additional cost falls onto providers, many of whom feel they have to grow more marijuana to cover expenses or close down.

Under the new system, providers now pay anywhere [between](#) \$1,000 and \$5,000 annually to be licensed, depending on how many cardholders they serve. Providers' [gross revenue](#) is now taxed. There are new regulations for brick-and-mortar facilities and requirements for packaging and labeling.

Langford Shaw paid the \$1,000 licensing fee, even though she said one cardholder might spend only \$200 in a year.

The revamped Montana Medical Marijuana Program includes new labeling requirements, which comes at a cost to providers.

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Testing labs and makers of marijuana-infused products like tinctures pay separate license fees. Cardholders now pay \$30 to register and renew annually.

Small and mid-sized providers, who've already navigated an uncertain regulatory environment through the years, say they've been hit hard by the new costs.

"They raised our licensing fees and they imposed a bunch of rules — testing and all that, which is extremely expensive," said William Reid, a provider in Roberts. "And then they dumped their workload on us."

Reid said his annual licensing fee is \$5,000, which means he serves 50 or more patients. He said he had to hire a full-time tech person to handle the computer registry work, which includes a program that tracks all of his product.

If a producer isn't one of the largest in the state, he said the choice for many who want to stay in business is to scale up or cut overhead.

"The cost to operate legally now has increased quite a bit over the last year," Reid said. "Now we're forced to do it in the most cost-effective ways possible."

Ken Glode is trying to scale up. On his south Billings property, a two-story shop is little more than a wooden skeleton covered in Tyvek wrap. After starting only as a grower, he's invested \$28,000 to build a dispensary and increase his scale to serve around 100 cardholders on site.

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## **Playback Rate**

"There was no way I could do it without expanding," he said.

An addition sits on Ken Glode's southside property. He's been building it as a medical marijuana dispensary but is unsure if his business will survive the costs of the new regulatory environment.

Glode faces multiple challenges to his business. He said he's had as many as 38 patients, but now he's down to about 15 as the cost of business rises. In addition, he's bouncing back from an [arrest last year](#) for having too many marijuana plants. Police seized most of his plants and equipment, he said.

Now he said he's doubled down to follow regulations, but things have moved quickly in 2018.

"Then the laws changed some more, and we have to be involved with all this computer stuff, and I'm just not into it," he said.

## **State oversight, local control**

The number of providers in Montana has dropped by more than 200 in 2018, hitting hardest for cardholders in rural Eastern Montana. There are 388 registered providers statewide as of October.

One provider in Glendive, who said he was the only one in Dawson County for years, moved to Bozeman to join a larger dispensary, the Missoula Independent reported in August.

For those who stay in business, push-back from local communities has been common. Nearly 30 people [debated](#) a new dispensary at a Columbus City Council meeting earlier this month. Stillwater County commissioners simultaneously considered regulating where those businesses could be located, which some Montana towns have done.

Billings [faced lawsuits](#) over its medical marijuana business ban. They came from two large providers who received business licenses for years from the city for dispensaries. The ban became effective for most providers this year when the [state backed Billings' policy](#), and one provider [dropped his suit](#).

Langford Shaw said for a program that passed a vote in the state, she should be able to do business in Billings the same as she could in any other Montana city.

"You have all these competing voices," she said. "There's not a united vision for what's allowed and what isn't."

The Montana Department of Public Health and Human Services administers the program. A spokesman for the department said Darci Wiebe, the medical marijuana bureau chief, was unavailable for an interview.

Jon Ebelt, the department spokesman, sent a statement saying that the general fee structure was set by the Montana Legislature and "defined through the administrative rules process." He said the department tried to lessen the small business impact while drafting administrative rules.

Throughout the public rule-making process, industry insiders [showed concern about the cost burdens to small producers.](#)

## **New normal**

Langford Shaw said even after the \$1,000 license fee, the packaging costs and the purchase of a secure door for her operation, she still might have stayed open.

She grows only for herself now. That's how she got her start, a couple years ago when she became a medical marijuana cardholder.

As she learned more about growing, she said she started to enjoy reaching out to people whom she felt marijuana could help. She said a lot of it was teaching people to "smoke like an adult," meaning using marijuana for medication, not intoxication.

"I've really enjoyed being small," she said. "I did it part-time from my house. It's been great."

With the Billings ban in effect, her option was to buy property in Lockwood, outside of Billings limits, and grow at a larger scale like some others have done. Even if she could afford it, that wasn't what she wanted.

In addition to losing her business, her frustration was that the system seemed to be pointing her toward a beefed-up operation and not the personal touch that brought her into medical marijuana in the first place.

"It just created a situation where you can't do this part time or as a small business," she said