LINCOLN PARK PLANNING COMMISSION
CITY HALL – COUNCIL CHAMBERS
1355 SOUTHFIELD ROAD
LINCOLN PARK, MICHIGAN

Wednesday, October 12, 2016
7:00 p.m.

AGENDA

I. **Call to Order**

II. **Pledge of Allegiance**

III. **Roll Call**

IV. **Approval of September 14, 2016 Minutes**

V. **Approval of Agenda**

VI. **Old Business - None**

VII. **New Business**

A. **Discussion: Departments from which to request a written review of site plans: Lincoln Park Department of Public Services, Lincoln Park Fire Department, Lincoln Park Police Department, Hennessy Engineering. Others**?

B. **Resolution to request written site plan review in advance of Planning Commission consideration from the above-decided departments and entities.**

C. **Announcement of Lincoln Park's successful application for an on-site training scholarship from the Michigan Association of Planning; consideration of potential dates for the training event.**

D. **Discussion: Changes in Medical Marihuana law.**

VIII. **Reports from Departments and Other Boards and Commissions**

IX. **Public Comments**

X. **Comments from Planning Commissioners**

XI. **Adjournment**

The City of Lincoln Park will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed material being considered at the meeting to individuals with disabilities at the meeting/hearing upon seven (7) days prior notice to the City of Lincoln Park. Individuals with disabilities requiring auxiliary aides or services should contact the City of Lincoln Park by writing or calling the following: The Building Department, 1355 Southfield Road, Lincoln Park, MI 48146(313) 386-1800 Ext. 1296

Welcome to the Lincoln Park Planning Commission

For those in the audience who are not familiar with the operation of the Planning Commission, the following paragraphs provide some general information concerning the meeting procedures.

Procedure for Public Comment (Section 2.G of By-laws)

A limit of three (3) minutes per participant during the call to the public shall be permitted for any written or oral statements. If necessary, the Chair may further restrict the time limit for public comment during any meeting to ensure an orderly meeting.

The Chair may also elect to allow persons to speak only once, until all persons have had the opportunity to speak, at which time the Chair, in his/her discretion, may permit additional comments.

All comments by the public, staff and the Planning Commission shall be directed to the Chair.

The Planning Commission will take all comments into consideration, but will not discuss nor respond directly to questions posed during the said meeting.

Procedure for Public Hearings (Section 2.H of By-laws)

A limit of three (3) minutes per participant during the hearing shall be permitted for any written or oral statements. If necessary, the Chair may further restrict the time limit for public participation during any meeting to ensure an orderly meeting.

All public hearings must be held as part of a regular or special meeting of the Planning Commission. The following rules of procedure shall apply to public hearings held by the Planning Commission:

a. Chair opens the public hearing and announces the subject.

b. Chair summarizes the procedures/rules to be followed during the hearing.

c. City planner/engineer/consultant presents their report and recommendation.

d. Applicant presents the main points of the application.

e. Public is invited to speak in support or opposition to the application.

f. Chair closes the public hearing and returns to the regular/special meeting.

The Chair may also elect to allow persons to speak only once, until all persons have had the opportunity to speak, at which time the Chair, in his/her discretion, may permit additional comments.

All comments by the public, staff and the Planning Commission shall be directed to the Chair. All comments shall be related to the application under discussion; unrelated comments shall be ruled out of order.

Michigan Association of Planning's On-site Workshop Program

The Michigan Association of Planning's (MAP) **on-site workshops** are an excellent opportunity to bring training right to your community. You can invite as many participants as you'd like—neighboring communities can even share the costs.

Partnering not only **saves money**, but also provides land use leaders from your area with a valuable networking opportunity.

Cut costs. Save time. This **cost-effective** training conveniently provides the tools and resources local officials need to make better land use decisions. You secure the location, identify the date, invite an unlimited number of participants, and we bring the program to you.

MAP has coordinated on-site workshops for neighboring counties, townships, cities, and villages throughout the state. Add your community to our list. **Schedule an on-site workshop today.**

Topics include:

Planning and Zoning Essentials | ZBA : Beyond the Basics | Risk Management | Capital Improvements Programs | Site Plan Review | Community Engagement | Master Planning Process

Contact Amy Jordan, MAP's Director of Education, at (734)913-2000 or ajordan@planningmi.org

With MAP, you don't have to worry:

Costs for an on-site workshop:

Program handouts (per registrant)

Planning and Zoning Essentials	$25
*Site Plan Review**	$35
Zoning Board of Appeals	$25
All other programs	Varies

**includes engineer's scale and hands-on exercises*

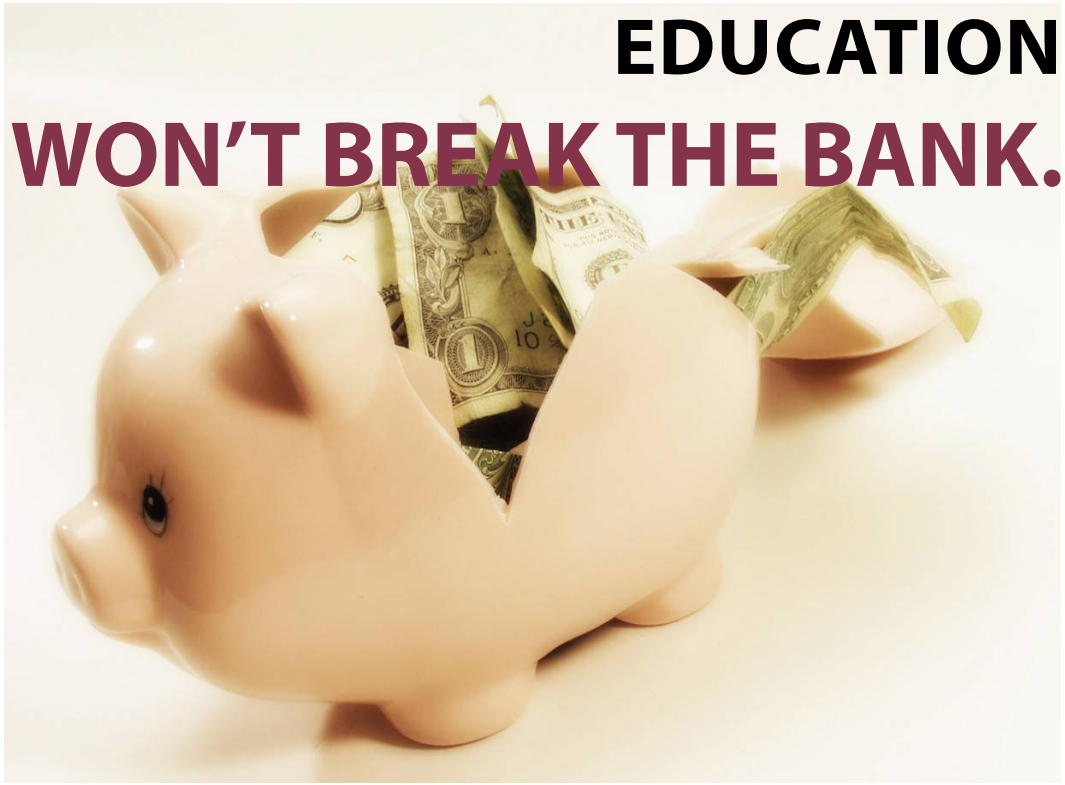
Workshop fee**

APA/MAP Member	$900
Non-Member	$1000

***Community Engagement program fee may vary.*

Shipping expenses varies

Instructor mileage $0.565/mile



The Michigan Association of Planning's education programs provide participants with the skills and knowledge to make good land-use decisions. Our highly experienced instructors enable new community planning officials to better understand their roles and responsibilities and reacquaint experienced officials with innovative planning tools and techniques. We make it easy for you to receive the education and training necessary to keep up with the ever-changing land-use landscape.

Contact us to inquire about or initiate your next training session!
ajordan@planningmi.org or (734) 913-2000

MAP does the hard work and delivers training right to your community in 8 easy steps. Here's how!

Step 1 **Select a Topic:** Planning and Zoning Essentials | Advanced ZBA : Beyond the Basics | Making Bullet Proof Decisions (Risk Management) | Capital Improvements Programs | Site Plan Review | Community Engagement | Master Planning Process

Want specific topics highlighted or community-specific issues addressed? **We can customize!**

Step 2 **Select a few dates, times, and identify a location:** Determine the best time of the week that works for your elected and appointed officials (week day evenings, Saturday morning, afternoons) and find a location that will hold the approximate number of attendees you anticipate.

Step 3 **Contact MAP** with the above information. We'll provide you with a cost estimate.

Step 4 **MAP will confirm** the date, time, and instructor.

Step 5 **Market the training:** Let people know about it! Invite your own officials, partner with neighboring communities, or open it up to the public. Let MAP know if you need guidance, we're happy to help!

Step 6 **Register attendees:** Keep a list of everyone who plans to attend!

Step 7 **Send MAP the list of attendees in a spreadsheet:** MAP will prepare handouts, certificates of completion, and send the materials directly to you.

Step 8 **Hold a quality training program:** The experienced, AICP certified instructor will arrive with a presentation designed to help your community officials make top-notch decisions.

Step 1 Select a topic (topics and program times can be tailored to fit your needs)

Planning and Zoning Essentials ("Basic Training") | 4.5 hour program | This information-packed program is not only perfect for introducing new planning commissioners and zoning board of appeals members to their roles and responsibilities, it's a great course for more experienced officials looking to hone their skills and knowledge. Newly elected officials will benefit too from this comprehensive overview which will explain how the zoning board of appeals, planning commissioners, elected officials and staff interact. Roles and responsibilities of the board, site plan review, comprehensive planning, zoning ordinances, conditional rezoning, consideration of variances, how to determine practical difficulty, and standards for decision-making are all presented. This workshop is updated with the latest amendments to the Zoning Enabling Act, and incorporates requirements of the Planning Enabling Act.

ZBA: Beyond the Basics | 2.5 hour program | Quasi-judicial functions of the zoning process are handled by the Zoning Board of Appeals. This interactive, case study based workshop goes into greater depth on the issues of practical difficulty and unnecessary hardship. Recent case law is also discussed, along with a summary of voting and membership requirements, and other procedural requirements unique to ZBA operations.

Site Plan Review | 3.5 hour program | This program will demonstrate the site plan review and approval process and provide practical tools and techniques on how to read a site plan. You'll discuss site design principles, such as pedestrian and traffic considerations, lighting, utilities, ADA compliance, inspections, and landscaping. Participants in this hands-on workshop receive an engineering scale, turning template and a sample site plan to evaluate.

Risk Management | 2.5 hour program | As more communities face litigation related to planning and zoning decisions, this is essential training for all elected officials, planning commissioners and zoning board of appeals members. Topics include identifying a conflict of interest, applying discretionary standards during special land use reviews, reasonable expectations of a developer and how your comprehensive plan can minimize risk.

Capital Improvements Programs | 2.5 hour program | When Public Act (PA)33, the Michigan Planning Enabling Act (MPEA), was adopted in 2008, it expanded provisions for Capital Improvements Programs (CIP). City and village planning commissions are still required to prepare a CIP, and now townships that operate a water or sewer system are too. Do you know what the Planning Enabling Act says about the CIP? Do you know what should be included, and how often it should be updated? This program explains-- from start to finish-- everything you need to know to prepare and adopt a Capital Improvement Program, including: who should be involved in the Capital Improvement Program process; the accounting and budgetary requirements of a CIP; how to tie the program into your infrastructure capacity; and how to handle controversial topics.

Community Engagement | 3 hour program | Knowing which public engagement technique to use for which audience, and managing the public participation process so that all voices can be heard, all the while ensuring that the input is meaningful and relevant is one of a planner's greatest challenges. A process that can be rife with politics on one hand, and rewarding and beneficial on another, is part and parcel of the effort. This interactive session explains best practices on how to engage with community members and stakeholders in a more meaningful way.

Master Planning Process | Liked the overview of master plans in the Planning and Zoning Essentials? This workshop is for those who want to roll up their sleeves and learn more about the details of the master planning process. Includes community-specific demographics discussion and brief overview of community engagement principles.

Want specific topics focused on or community-specific issues addressed? ***We can customize!*** Contact us: ajordan@planningmi.org (734)913-2000.

Steps 2 - 4 We'll work together to schedule the training

Select three dates: Determine the best time of the week that works for your elected and appointed officials (weekday evenings and Saturday morning or early afternoons are always available), and contact MAP at (734) 913-2000 or ajordan@planningmi.org.

Let us know how many people you expect to participate (consider inviting your neighbors!) and, if you have a preferred instructor. MAP will provide you with a cost estimate, and **confirm** the date, time, and instructor.

Take into consideration:

- Budget
- If reaching outside your community, consider charging a small fee for each workshop participant or sharing cost with another community
- Costs for coffee or any refreshments to be served
- A facility that can be set in classroom style works very well for training
- Will anyone need directions to the facility?
- Do you have a data projector, or will the instructor need to bring one?

Step 5 –8 Market and Implement the training

Determine how you will keep track of registrants! You can ask attendees to sign up in any of the following ways:

Email | Survey Monkey | Phone | Mail | Fax

You will want to keep track of name, community/affiliation, mailing address (MAP will mail any walk-ins the certificate of completion), and email address.

Market the training: Begin early if you plan to include neighboring communities. MAP has a template you can use to get started. Ask the planning directors/zoning administrators or clerks of neighboring communities to notify their elected and appointed officials of the training program.

Register attendees: Keep a list of everyone who plans to attend!

Send MAP the list of attendees in spreadsheet: MAP will prepare handouts, certificates of completion, and send the materials directly to you. Extras are always included in case of walk-ins. You can return any unused materials to MAP at no charge.

Hold a quality training program: Be sure to contact your instructor sometime before the workshop to discuss the presentation, directions to location, and any other last minute details.

Evaluations and payment: Be sure attendees fill out the evaluation forms! We are always updating our curriculums to make sure we deliver the best programs possible and would love to hear your feedback! If you have any unused packets, please return and they will be credited to your total invoice. We will send you an invoice after the workshop once we receive bill from instructor.

Date: October 5, 2016

From: Leah DuMouchel
To: **City of Lincoln Park Planning Commission**
1355 Southfield Road
Lincoln Park, MI 48146

Project: **Planning Services – Medical Marihuana Ordinance Development**

Remarks:
Please find in this month's planning commission packet a series of three (3) bills passed by the Michigan Legislature in September 2016 which significantly alter the state regulatory system with regard to medical marihuana. Also included are a legislative analysis of the document produced by the Michigan House Fiscal Agency (this analysis is current through January of this year, so although it is from an official State source, it may not be fully up-to-date), and a summary of the revised changes which was produced by the Marijuana Policy Project, a policy-focused advocacy group that has been active since 1995. (Although the Michigan State Police regularly provides legal updates on revised laws and statutes, none is available addressing this issue at this time.)

These are intended to provide background documentation for your information in advance of a discussion about marihuana policy within the City of Lincoln Park at this Planning Commission meeting. Please do not feel like you must read all of the bills in their entirety before the meeting! They are provided for your convenience, but this initial discussion will be general in nature. I will summarize the changes in the law and discuss their relationship to the circumstances in Lincoln Park. Commissioners will be asked to provide an initial evaluation of how the new uses permitted by this legislation fit within the planning context of the City. We will then decide on how to proceed with addressing this topic.

Thank you.

Marijuana Policy Project
236 Massachusetts Ave. NE, Suite 400
Washington, DC 20002
p: (202) 462-5747 • f: (202) 232-0442
info@mpp.org • www.mpp.org

"We change laws."

Michigan's Revised Medical Marijuana Law

On September 20, 2016, Gov. Rick Snyder signed three bills into law that create a regulatory system for medical marijuana businesses, along with new protections for patients. The new system introduces several big changes for those already in the program.

Michigan's voters adopted a program in 2008 that provided basic protections for patients, but fell short of establishing regulations for those who provide to them. As the patient population grew in Michigan, businesses increasingly took on a larger presence, and the lack of a regulatory infrastructure or basic protections created a great deal of uncertainty and risk. While some communities allowed and regulated businesses, many who were trying to operate businesses in the state — particularly in rural communities — fell victim to law enforcement efforts. The new law seeks to address these shortcomings.

When will the changes go into effect?

The law technically went into effect immediately when the governor signed the bills, and patients received protections for the possession of marijuana extracts and infused products. But most of the changes — those related to businesses — will not go into effect until rules are considered and adopted. Under the new law, regulators have up to 360 days from the effective date until prospective businesses can begin applying, which is no later than September 15, 2017.

What's different for patients?

While most of the changes relate to business, the law clearly establishes an important new protection for patients. The patient possession limit of one ounce may also include other products in an amount state law considers equivalent — which could be up to 16 ounces of marijuana-infused product if in a solid form, 7 grams of marijuana-infused product if in a gaseous form, or 36 fluid ounces of marijuana-infused product if in a liquid form. No matter what the form, patients may not possess more than 1 ounce of dried cannabis or its equivalent.

What's different for caregivers and businesses?

Since 2008, the law was designed to allow patients to get access to medical marijuana through caregivers, who would cultivate it and provide it directly to their designated patients. As the program grew, some caregivers began operating provisioning centers (dispensaries), while others supplied provisioning centers with medical marijuana. While a large percentage of patients gained access to medical marijuana through provisioning centers, state courts determined that they operated outside the protections of the medical marijuana law, throwing the system into turmoil. The new law establishes a regulatory framework in which cultivators, processors, testing labs, transporters, and provisioning centers may become licensed and regulated at the state level.

Here are some of the key features in Michigan's new regulatory approach:

Regulatory authority
The Department of Licensing and Regulatory Affairs (LARA) will continue to be the regulatory authority, but will include a new Medical Marihuana Licensing Board. The board will advise on rules for the department, and ultimately review and approve business license applications.

Types of businesses
The law creates several types of medical marijuana businesses, including growers who cultivate medical marijuana, processors who extract and infuse extractions into products, safety compliance facilities to test and provide analytics, and secure transporters, which transport medical marijuana between facilities.

Cultivation limits
Growers will be subdivided into three classes. Class A licensees may can grow up to 500 plants, Class B may grow up to 1000 plants, and Class C may grow up to 1,500.

Taxes and fees
In addition to the state's sales tax, and additional tax of 3% will apply at the register for patients at the new provisioning centers. Businesses applicants will pay to apply to operate, and those that are licensed will pay an annual assessment, similar to an annual licensing fee. Both of these fees will be set by regulators.

Transporters
The new law comes with a new type of license — transporters — specifically for those who move medical cannabis and medical cannabis products between businesses. Unlike distributors in the alcohol industry, however, transporters do not take ownership of medical cannabis or arrange contracts among other businesses.

Testing labs
Under the new system, medical marijuana or medical marijuana products must be tested before they can be sold. Known as "safety compliance facilities," testing labs will measure the amount of THC and CBD present, and look for the presence of contaminants that could make the product unsafe.

Specific protections
The law now contains very specific protections for businesses, which were formerly missing in Michigan. These include protections for employees, limitations on law enforcement's use of seizure and forfeiture, and clearly articulated provisions related to growing, processing, possession, and providing marijuana. Also, for businesses also gain clear protections under state law from possible loss of property.

Legislative Analysis

Phone: (517) 373-8080
http://www.house.mi.gov/hfa

Analysis available at
http://www.legislature.mi.gov

MEDICAL MARIHUANA FACILITIES ACT AND MARIHUANA TRACKING ACT

House Bill 4209 (passed by the House as H-5)
Sponsor: Rep. Mike Callton, D.C.

House Bill 4210 (passed by the House as H-2)
Sponsor: Rep. Lisa Posthumus Lyons

House Bill 4827 (passed by the House as H-1)
Sponsor: Rep. Klint Kesto

Committee: Judiciary
Complete to 1-4-16

SUMMARY:

House Bill 4209 creates the Medical Marihuana Facilities Licensing Act to establish a licensing and regulation framework for medical marihuana growers, processors, secure transporters, provisioning centers, and safety compliance facilities. The regulatory framework created by the bill for marihuana draws on elements of the regulatory structure in place for alcohol under the Michigan Liquor Control Code and gaming under the Michigan Gaming Control and Revenue Act.

House Bill 4827 creates the Marihuana Tracking Act to require the establishment of a "seed-to-sale" system to track marihuana grown, processed, transferred, stored, or disposed of under the Medical Marihuana Facilities Licensing Act (House Bill 4209).

House Bills 4209 and 4827 are tie-barred to each other, meaning neither could take effect unless both are enacted.

House Bill 4210 amends the Michigan Medical Marihuana Act to, among other things, allow for the manufacture and use of marihuana-infused products by qualifying patients and manufacture and transfer of such products by primary caregivers to their patients.

All three bills would take effect 90 days after enactment.

BRIEF SUMMARY OF HB 4209:

The bill is tie-barred to the Marihuana Tracking Act (House Bill 4827). A brief summary of significant provisions of House Bill 4209 follows:

- A state operating license, renewed annually, would be required to operate as a grower, processor, provisioning center, secure transporter, or safety compliance facility. The application process for licensure requires written approval of the

applicant and of the marihuana facility location by the municipality (city, township, or village) in which the marihuana facility is to be located.

- A municipality could enact an ordinance to authorize one or more types of marihuana facilities, and limit the number of each type of facility, within its boundaries; charge an annual local licensing fee up to $5,000; and enact other ordinances related to marihuana facilities such as zoning ordinances.

- The Medical Marihuana Licensing Board would be created within the Department of Licensing and Regulatory Affairs (LARA). The Board would have general responsibility for implementing the act and all powers necessary and proper to fully and effectively implement and administer the act.

- Licensees, registered qualifying patients, and registered primary caregivers (hereinafter "patient" and "caregiver") would receive specified protection from criminal or civil prosecutions or sanctions ***if*** they were in compliance with the act. "A registered qualifying patient" would include a visiting qualifying patient.

- A tax rate of 3% would be imposed on the gross retail income of each provisioning center.

- Rather than annual renewal license fees, an annual regulatory assessment would be imposed on licensees to pay for medical-marihuana-related services or expenses of certain state agencies.

- Two new funds would be created to receive revenue from taxes, application fees, annual regulatory assessments, fines, and other charges.

- Rules would be required to be promulgated as specified in the bill, including the establishment of maximum THC levels for medical edibles sold at provisioning centers and daily purchasing limits by patients and caregivers to ensure compliance with the Michigan Medical Marihuana Act.

- Licensees would have to file annual financial statements, prepared by a certified public accountant, of their total operations.

- A Marihuana Advisory Panel would be created within LARA to make recommendations concerning rules and the administration of the act.

BRIEF SUMMARY OF HOUSE BILL 4827:

Briefly, the bill would:

- Require the system to track, among other things, lot and batch information throughout the chain of custody; all sales and refunds; plant, batch, and product destruction; inventory discrepancies; loss, theft, or diversion of products containing marihuana; and adverse patient responses.

- Require the system to track patient purchase limits and flag purchases in excess of authorized limits.
- Provide real-time access to the system to local law enforcement agencies, state agencies, and the Department of Licensing and Regulatory Affairs (LARA).
- Require operation of the system to comply with HIPAA and exempt information in the system from disclosure under FOIA.
- Require licensees under the proposed Medical Marihuana Facilities Licensing Act (House Bill 4209) to supply LARA with tracking or testing information regarding each plant, product, package, batch, test, sale, or recall in or from the licensee's possession or control. A provisioning center would have to include information identifying the patient to, or for whom, the sale was made and the primary caregiver, if applicable, to whom the sale was made.
- Create penalties for a licensee who willfully fails to comply with the reporting requirements: a civil infraction for a first offense and a misdemeanor penalty for a second or subsequent offense.

BRIEF SUMMARY OF HOUSE BILL 4210:

The bill would, among other things:

- Revise the definitions of "medical use" and "usable marihuana" to include products using extracts and plant resins (known as "edibles").
- Define "marihuana-infused product" and "usable marihuana equivalent."
- Provide immunity to a qualifying patient or caregiver from arrest or prosecution or penalty for certain conduct.
- Prohibit transporting or possessing a marihuana-infused product in a vehicle except as specified. Create a civil fine for a violation.
- Prohibit using butane to separate resin from a marihuana plant in a residential structure.
- Specify the bill is curative and the provisions retroactive.

DETAILED SUMMARY OF HB 4209

Legislative Findings/Emergency Rules

The Legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare.

[The emergency rule process, governed under MCL 24.248, eliminates some of the procedures (e.g., certain notice and participation procedures) and thus is much shorter than the traditional process. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or six months after the date of its filing, whichever is earlier. The rule may be extended once for not more than six months.]

Part 1. General Provisions

"Grower" would mean a licensee that is a commercial grower entity located in the state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

"Marihuana" means that term as defined in Section 7106 of the Public Health Code.

"Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana that is intended for human consumption in a manner other than smoke inhalation.

"Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

"Processor" means a licensee that is a commercial facility located in the state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

"Provisioning center" means a licensee that is a commercial entity located in the state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to patients, directly or through the patient's caregiver. The term includes any commercial property where marihuana is sold at retail to patients or caregivers. A noncommercial location used by a caregiver to assist a patient connected to the caregiver through LARA's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center.

"Registered primary patient," which means a qualifying patient who has been issued a current registry identification card under the Michigan Medical Marihuana Act (MMMA), would be expanded to include a visiting qualifying patient as that term is defined in Section 3 of the MMMA.

"Safety compliance center" is a licensee that is a commercial entity that receives marihuana from a marihuana facility or a registered qualifying patient or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, and returns it to the marihuana facility or a registered qualifying patient or registered primary caregiver with the test results.

"Secure transporter" means a licensee that is a commercial entity located in the state that stores, transfers, and transports marihuana between separate marihuana facilities for a fee.

"State operating license" or "license" means a license issued under the act that, except for mobile secure transporter licensees, allows the licensee to operate at a single site as **any** of the following, specified in the license: a grower, processor, secure transporter, provisioning center, safety compliance facility.

Part 2. Application of Other Laws

Licensees: In general, when engaging in certain protected activities, *a person granted a state operating license who is operating within the scope of the license, and the licensee's agents*, are not subject to criminal penalties regulating marihuana; state or local criminal or civil prosecution for marihuana-related offenses; certain searches or inspections; seizure of marihuana, real or personal property, or anything of value based on a marihuana-related offense; or license or other sanctions by a business, occupational, or professional licensing board or bureau based on a marihuana-related offense.

Protected activities include growing marihuana; purchasing, receiving, selling, transporting, or transferring marihuana from or to a licensee or its agent, a patient, or a caregiver; possessing, processing, or transporting marihuana; possessing or manufacturing marihuana paraphernalia for medical use; testing, infusing, extracting, altering, transferring, or studying marihuana; and receiving or providing compensation for products or services.

A person who owns or leases real property upon which a licensed facility is located, and who had no knowledge that the licensee violated the act, would be protected from certain marihuana-related criminal penalties, state or local civil or criminal prosecution based on a marihuana-related offense, seizure of real or person property based on a marihuana-related offense, and sanctions by a business or occupational or professional licensing board or bureau.

Any other state law that is inconsistent with the act would not apply to a marihuana facility operating in compliance with the act.

Patients and caregivers: A patient or caregiver would not be subject to criminal prosecution or sanctions for purchases of marihuana from a provisioning center *if* the quantity purchased is within the limits established under the Michigan Medical Marihuana Act (MMMA).

Further, the act would not limit the medical purpose defense provided in Section 8 of the MMMA to any prosecution involving marihuana.

Municipalities: A municipality could enact ordinances to authorize one or more types of marihuana facilities within its boundaries and could also limit the number of each type of facility. A facility could not be licensed unless an authorizing ordinance has been adopted.

The ordinance could establish an annual, nonrefundable licensing fee of not more than $5,000 to defray administrative and enforcement costs associated with the operation of a marihuana facility. Other ordinances relating to facilities, including zoning restrictions, could also be adopted. However, regulations that interfere or conflict with uniform statewide regulation of licensees could not be imposed.

Municipalities adopting authorizing ordinances must approve each applicant for a new state operating license before the Medical Marihuana Licensing Board can consider the

application. Information obtained by the municipality from an applicant for this purpose would be exempt from disclosure under the Freedom of Information Act.

Rules: LARA, in consultation with the Board, is required to promulgate rules and emergency rules as necessary to implement, administer, and enforce the act. The rules must ensure the safety, security, and integrity of the operation of marihuana facilities.

The rules must include, among other things, appropriate standards for facilities; minimum levels of insurance for licensees; establish testing standards; provide for the levy and collection of fines for violations of the act or rules; establish chain of custody standards and standards for waste disposal; establish procedures for securely and safely transporting marihuana between marihuana facilities; and establish labeling and packaging standards, procedures, and requirements for marihuana sold or transferred through provisioning centers (including a prohibition on labeling or packaging intended to appeal to or has the effect of appealing to minors), and marketing and advertising restrictions for marihuana products and facilities.

The rules must also establish daily purchasing limits at provisioning centers for patients and caregivers to ensure compliance with the Michigan Medical Marihuana Act. Further, the rules must establish the maximum tetrahydrocannabinol (THC) levels for marihuana-infused products sold of transferred through provisioning centers as well as restrictions on edible marihuana-infused products to prohibit shapes that would appeal to minors.

Part 3. Medical Marihuana Licensing Board

The Medical Marihuana Licensing Board is created within LARA and consists of five members who are residents of the state, appointed by the governor, not more than three of whom could be members of the same political party. One member must be appointed from a list of three nominees submitted by the Senate Majority Leader and one from three nominees submitted by the Speaker of the House. The chairperson would be appointed by the governor. Other than initial appointees, board members would serve for four years. Members would be reimbursed for all actual and necessary expenses and disbursements incurred in carrying out official duties. Board members could not hold any other public office for which they received compensation other than necessary travel or other incidental expenses.

The bill establishes qualifications and disqualifications for appointment, grants the governor authority to remove a member for neglect of duty or other just causes, requires the employment of an executive director and other personnel as necessary to assist the Board, and lists circumstances that would disqualify persons from appointment or employment and other restrictions on and responsibilities for Board members, the executive director, and employees similar to those in place for corresponding positions under the Michigan Gaming Control and Revenue Act. For example, the Board could not employ an individual if the individual's interest in a licensee or marihuana facility constituted a controlling interest in that licensee or facility.

The board has the power and duties specified in the act and all other powers necessary and proper to fully and effectively implement and administer the act for the purpose of

licensing, regulating, and enforcing the act's licensing and regulation system for marihuana growth, processing, testing, and transporting. It is subject to the Administrative Procedures Act and its duties include, but are not limited to, the following:

- Granting or denying applications for a state operating license within a reasonable time.
- Conducting public meetings in accordance with the Open Meetings Act.
- Implementing and collecting the application fee and, in conjunction with the Department of Treasury, the tax and regulatory assessment described by the act.
- Providing for the levy and collection of fines for violations of the act or rules.
- Providing oversight of a marihuana facility through the Board's inspectors, agents, and auditors and through the state police or attorney general for the purpose of certifying the revenue, receiving complaints from the public, or conducting investigations into the operation of a marihuana facility as considered necessary and proper to ensure compliance with the act and rules and to protect and promote the overall safety, security, and integrity of the operation of a marihuana facility.
- Reviewing and ruling on any complaint by a licensee regarding any investigative procedures of the state believed to be unnecessarily disruptive of marihuana facility operations. In order to prevail, a licensee must establish by a preponderance of the evidence that the procedures unreasonably disrupted its marihuana facility operations.
- Reviewing the patterns of marihuana transfers by licensees and making recommendations to the governor and the Legislature in a written annual report.

With some exceptions, all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the Board are subject to the Freedom of Information Act. For example, information in the statewide database of marihuana transactions would not be subject to FOIA, neither would information used by the Board for background investigations of applicants or licensees.

The Board also has the authority to investigate applicants for state operating licenses, determine license eligibility, and grant licenses, as well as investigate employees of licensees. The Board may seek and must receive the cooperation and assistance of the Department of State Police and Department of Attorney General in conducting background investigations of applicants and in fulfilling its responsibilities. It may investigate alleged violations of the act or rules and take appropriate disciplinary action against licensees. Under certain circumstances, and without a warrant or notice, the Board through its investigators, auditors, or state police may enter the premises of a licensee for specified purposes such as inspection and examination of the premises and inspect, examine, and audit relevant records and impound or seize records, etc., if the licensee fails to cooperate.

The Board is also authorized to conduct investigative and contested case hearings; issue subpoenas for the attendance of witnesses as well as for the production of books, ledgers, records and other pertinent documents; and administer oaths and affirmations. The executive director or a designee could also issue subpoenas and administer oaths and affirmations.

Certain conduct by Board members, employees, and licensees and applicants is prohibited, such as offering or taking bribes. A violation could result in expulsion from the board, termination from employment, or license sanctions as applicable.

Part 4. Licensing

A person may apply to the Board for state operating licenses in the categories of Class A, B, or C grower; processor; provisioning center; secure transporter; or safety compliance facility beginning 180 days after the bill's effective date. A license would be valid for one year. The application must be made under oath on a form provided by the Board and contain information as specified in the bill. Required information includes a description of the type of marihuana facility, written approval of the facility location from the municipality, certain criminal history information pertaining to the applicant, financial information, projected or actual gross receipts, and the identity of every person having a greater than one percent direct or indirect ownership interest in the applicant, among other things. The board would be required to use information provided on the application as a basis to conduct a thorough background investigation on the applicant.

The application must be accompanied by a nonrefundable application fee to defray costs associated with the background investigation conducted by the Board. LARA, in consultation with the Board, must set the amount of the application fee for each category and class of license by rule. If the costs of the investigation and processing the application exceed the application fee, the applicant must pay the additional amount to the Board. If a deficiency in an application is identified, the Board must provide the applicant with a reasonable period of time to correct the deficiency.

If the Board determines the applicant is qualified, it must issue a license to an applicant who submits a complete application and pays both the nonrefundable application fee and the regulatory assessment established for the first year of operation. The bill lists numerous disqualifying circumstances, such as a conviction within the past five years of a misdemeanor or a similar local ordinance involving a controlled substance, theft, dishonesty, or fraud.

The bill also lists circumstances and factors that the Board may consider in determining an applicant's eligibility for licensure, such as moral character and reputation, relevant criminal history, or bankruptcy filings within the past seven years.

An applicant must also submit a passport quality photograph and set of fingerprints for each person having a greater than one percent ownership interest in the facility or who is an officer, director, or managerial employee of the applicant.

Licensees must consent in writing to inspections, examinations, searches, and seizures that are permitted under the act and must provide a sample of handwriting, fingerprints, photographs, and information as authorized in the act or by rules.

A state operating license is issued only in the name of the true party of interest, and, except for mobile secure transporter licensees, allows the licensee to operate at a single site as a

grower, processor, secure transporter, provisioning center, or safety compliance facility. Board approval must be obtained before a license is transferred, sold, or purchased.

License renewal. Licenses would be renewable annually. Except as otherwise provided in the bill, the Board would be required to renew a license **if all** of the following requirements were met:

- The renewal application is made on a form provided by the Board that requires information prescribed in rules.
- The application is received by the Board on or before the expiration date of the current license.
- The regulatory assessment is paid (payment of an annual regulatory assessment replaces the annual renewal fee typical of state licenses).
- The licensee meets any other renewal requirements set forth in rules.

LARA must notify the licensee by mail or email advising of the time, procedure, and regulatory assessment under Section 603 of the bill. However, failure to receive notice under this provision would not relieve the licensee of the responsibility to renew the license.

If not submitted by the current license's expiration date, the license could be renewed within the following 60 days upon application, payment of the regulatory assessment, and satisfaction of any renewal requirement and late fee set forth in rules. The licensee could continue to operate during the 60 days after the license expired **if** the license were renewed by the end of that 60-day period. The Board would retain authority to impose sanctions on a licensee whose license has expired.

Further, in making a decision on an application for renewal, the Board is required to consider any specific written input it receives from an individual or entity within the local unit of government in which the renewal applicant is located.

License sanctions. Failure to transfer, sell, or otherwise convey an interest of more than one percent in a license without Board approval is grounds for suspension or revocation of the license, or any other sanction considered appropriate by the Board.

If an applicant or licensee fails to comply with the act or rules, fails to comply with the Marihuana Tracking Act (HB 4827), no longer meets the eligibility requirements for a license, or fails to provide information as requested by the Board to assist in any investigation, inquiry, or Board hearing, then the board may suspend, deny, revoke, or restrict the license.

The Board may suspend, revoke, or restrict a license and require the removal of a licensee or an employee for a violation of the act, rules, the Marihuana Tracking Act, or any local ordinance.

Each violation of the act, rules, or an order of the Board may result in the imposition of civil fines up to $5,000 against an individual and up to $10,000 or an amount equal to the daily gross receipts, whichever is greater, against a licensee.

The Board must comply with the Administrative Procedures Act when imposing a license sanction, fine, or penalty. A license could be suspended without notice or hearing if the safety or health of patrons or employees is jeopardized by continuing a marihuana facility's operation. If a license is suspended without notice or hearing, a prompt post-suspension hearing must be held to determine if the suspension should remain in effect. If the licensee does not make satisfactory progress toward abating the hazard, the Board may revoke the license or approve a transfer or sale of the license. In addition, the bill provides for hearings, upon request, for license denials and for any party aggrieved by an action of the Board imposing a license sanction or fine or failing to renew a license.

Employees: A licensee must conduct a background check of a prospective employee before the person is hired. Written permission must be obtained from the Board before hiring a person who has a pending charge or conviction within the past five years for a controlled substance-related felony.

(Note: The bill does not specify if this would be a fingerprint or name-based background check. If a name-based check through ICHAT, the state's Internet Criminal History Access Tool, only the public criminal history record information maintained by the Michigan State Police would be accessible. The following information would not be included: federal, tribal, traffic, or juvenile records; local misdemeanors; and criminal history from other states.)

Part 5. Licensees

The license categories are as follows:

Grower License: The license authorizes the grower to grow not more than the following number of plants under the indicated license class:

- Class A–500 plants.
- Class B–1,000 plants.
- Class C–1,500 plants.

A grower license authorizes sales of marihuana seeds or seedlings only to a grower by means of a secure transporter and the purchase of marihuana seeds or seedlings only from a grower, patient, or caregiver. The sale of marihuana, other than seeds or seedlings, can be made only to a processor or provisioning center. Other than transferring marihuana to and from a safety compliance facility for testing or to or from a processor or provisioning center located within the same marihuana facility, a grower could only transfer marihuana by means of secure transporter.

The license applicant and each investor in the grower could not have a greater than 10 percent interest in a secure transporter or a safety compliance facility. In addition, a grower would have to comply with the following requirements:

- Until December 31, 2021, have a minimum of two years' experience as a registered primary caregiver or have an active employee with that experience.

- While holding a license as a grower, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.
- Enter each transfer of marihuana into the state's database for marihuana tracking, as provided in the Marihuana Tracking Act (House Bill 4827).

Processor License: The license authorizes purchase of marihuana only from a grower and sale of processed marihuana or marihuana-infused products only to a provisioning center. Other than transferring marihuana to and from a safety compliance facility for testing or to or from a grower or provisioning center located within the same marihuana facility, a processor could only transfer marihuana by means of secure transporter.

The applicant for a processor license and each investor in the processor could not have a greater than 10 percent interest in a secure transporter or a safety compliance facility. In addition, a processor would have to comply with the following requirements:

- Until December 31, 2021, have a minimum of two years' experience as a registered primary caregiver or have an active employee with such experience.
- While holding a license as a processor, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.
- Enter each transfer of marihuana into the state's database for marihuana tracking, as provided in the Marihuana Tracking Act (House Bill 4827).

Secure Transporter License: This license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between separate marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money.

The applicant for a secure transporter license and each investor with a greater than 10 percent interest in the secure transporter could not have a greater than 10 percent interest in a grower, processor, provisioning center, or a safety compliance facility. Each transfer of marihuana must be entered into the state's database for marihuana tracking, as provided in the Marihuana Tracking Act.

Provisioning Center License: The license authorizes the purchase and transfer of marihuana only from a grower or processor, and sale and transfer to only a registered qualifying patient or registered primary caregiver. All transfers of marihuana to a provisioning center from a separate marihuana facility must be by means of a secure transporter. The license also authorizes the transfer of marihuana to or from a safety compliance facility for testing.

To be eligible for a provisioning center license, an applicant and each investor in the provisioning center could not have more than a 10 percent interest in a secure transporter or safety compliance facility. Further, a provisioning center would have to comply with the following requirements:

- Sell or transfer marihuana to a patient or caregiver only after it has been tested and bears the label required for retail sale.

- Enter each transfer of marihuana into the state's database for marihuana tracking as provided in the Marihuana Tracking Act (proposed by House Bill 4827).

In addition, the bill prohibits alcoholic beverages from being sold or distributed on the premises of a provisioning center.

Safety Compliance Facility License: The license authorizes the facility to receive, test, and return marihuana. The facility must be accredited by an entity approved by the Board by one year after the date the license is issued. The Board may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

To be eligible for a safety compliance facility license, the applicant and each investor with a greater than 10 percent interest in the safety compliance facility, could not have a greater than 10 percent interest in a grower, secure transporter, processor, or provisioning center.

A safety compliance facility would have to comply with the following requirements:

- Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.
- Use validated test methods to determine levels of tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid.
- Perform tests that determine whether the marihuana complies with the standards established by LARA for microbial and mycotoxin contents.
- Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.
- Enter each transfer of marihuana into the state's database for marihuana tracking under the Marihuana Tracking Act, along with test results.

Part 6. Taxes and Fees

A tax would be imposed on each provisioning center at the rate of 3 percent of the provisioning center's gross retail income. If a law authorizing the recreational or non-medical use of marihuana in the state is enacted, Section 601 imposing this tax cease to apply beginning 90 days after that law's effective date.

Taxes imposed under this provision would be administered by the Department of Treasury, and in case of a conflict with the Revenue Act (Public Act 122 of 1941), the provisions of the Medical Marihuana Facilities Licensing Act would prevail.

Medical Marihuana Excise Fund: The fund would be created in the state treasury. Except for the license application fee, the annual regulatory assessment, and any local licensing fees, all money collected under the 3 percent tax described above and all other fees, fines, and charges imposed under the act must be deposited in the Fund.

All interest and earnings from Fund investments would be credited to the Fund and money remaining in the Fund at the close of a fiscal year must remain in the Fund and not lapse to the General Fund. LARA would be the administrator of the Fund for auditing purposes.

Money in the Fund would be allocated, upon appropriation, as follows:

- 30 percent to the municipalities in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the municipality.
- 40 percent to the counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county.
- 5 percent to the sheriffs of the counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county. Money allocated under this subdivision must be used exclusively to support county sheriffs and shall be in addition to and not a replacement for any other funding received by the county sheriffs.
- 25 percent to the state to be deposited in the state General Fund.

Regulatory Assessment: A regulatory assessment would be imposed on certain licensees. All of the following must be included in establishing the total amount of the regulatory assessment established under this provision (Section 603):

- LARA's costs to implement, administer, and enforce the act (except for the costs to process and investigate applications for an initial license, which is supported by its own fee structure).
- Expenses of medical-marihuana-related legal services provided by the attorney general.
- Expenses of medical-marihuana services provided to LARA by the Department of State Police.
- $500,000 to be allocated to LARA expenditures for licensing substance use disorder programs.
- An amount equal to 5 percent of the sum of the amounts provided for under the above allocations to be allocated to the Department of Health and Human Services for marihuana-related expenditures including, but not limited to, substance use disorder prevention, education, and treatment programs.

The regulatory assessment is in addition to the initial license application fees, the 3 percent excise tax on provisioning centers, and any local licensing fees. It will be collected annually from licensed growers, processors, provisioning centers, and secure transporters. The regulatory assessment for a Class A grower license (no more than 500 plants) could not exceed $10,000.

Beginning in the first year that marihuana facilities are authorized to operate in the state, and annually thereafter, LARA (in consultation with the Board), would be required to establish the total regulatory assessment at an amount that is estimated to be sufficient to cover the actual costs and support the expenditures listed above.

Further, on or before the date a licensee begins operating and annually thereafter, each grower, processor, provisioning center, and secure transporter must pay to the state treasurer an amount determined by LARA to reasonably reflect the licensee's share of the total regulatory assessment established in the preceding provision. (Presumably this would

mean that larger businesses would bear the greater burden of the regulatory assessment since they may require more oversight than would a smaller operation.)

Marihuana Regulatory Fund. The MRF would be created in the state treasury, with the state treasurer as the administrator for auditing purposes. Revenue collected under the annual regulatory assessment and the initial license application fee must be deposited in the MRF. Fund interest and earnings from investments would be credited to the MRF and money in the Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund. Money from the MRF would be expended upon appropriation, and only for implementing, administering, and enforcing the act.

FY 2016 Appropriation. The bill requires an appropriation to LARA from the Marihuana Regulatory Fund for the fiscal year ending September 30, 2016, of $8.5 million for funding LARA's and the Board's operations in implementing, administering, and enforcing the act.

Part 7. Reports

By 30 days after the end of each state fiscal year, each licensee must transmit to the Board and to the municipality compiled financial statements of the licensee's total operations. The financial statements must be compiled by a state-licensed certified public accountant (CPA) in a manner and form prescribed by the Board. The licensee would bear the cost of compensation for the CPA.

The Board must submit a report to the governor and the chairs of the legislative committees that govern issues related to marihuana facilities covering the previous year, and include in the report an account of the Board actions, its financial position, results of operation under the act, and any recommendations for legislation that the Board considers advisable. This report must be included as part of an annual report that must be prepared for the governor and legislature and submitted by April 15 of each year. This annual report would include recommendations by the Board, a statement of receipts and disbursements by the Board, actions taken by the Board, and any additional information and recommendations that the Board considers appropriate or that the governor requests.

Part 8. Marihuana Advisory Panel

The Marihuana Advisory Panel would be created within LARA. The 15-member panel would include the director of the Department of State Police, director of the Department of Health and Human Services, director of LARA, the attorney general, and the director of the Michigan Department of Agriculture and Rural Development, or their designees. The rest of the membership would be appointed by the governor as follows:

- One registered medical marihuana patient or medical marihuana primary caregiver.
- One representative of growers.
- One representative of provisioning centers.
- One representative of safety compliance facilities.
- One representative of townships.
- One representative of cities and villages.
- One representative of counties.

- One representative of sheriffs.
- One representative of local police.
- One state-licensed physician.

The bill would establish the process for appointments and filling vacancies, and how often the panel would meet. The panel would be subject to the Open Meetings Act and the Freedom of Information Act. Panel members would serve without compensation but could be reimbursed for actual and necessary expenses.

The panel would make recommendations to the Board concerning promulgation of rules, and as requested by the Board or LARA, administration of the new act. State departments and agencies must cooperate with the panel and upon request, provide it with meeting space and other resources to assist it in the performance of its duties.

DETAILED SUMMARY OF HB 4827

House Bill 4827 requires the Department of Licensing and Regulatory Affairs (LARA) to establish, maintain, and utilize a system to track marihuana that is grown, processed, transferred, stored, or disposed of under the Medical Marihuana Facilities Licensing Act (House Bill 4209). This could be accomplished either directly or by contract. The system would be operated in compliance with the federal Health Insurance Portability and Accountability Act (HIPAA).

System Platform*:* The bill requires the system to be hosted on a platform that allows dynamic allocation of resources, data redundancy, and recovery from a natural disaster within hours.

System Capabilities: All of the following capabilities would be required:

- Tracking all plants, products, packages, patient and primary caregiver purchase totals, waste, transfers, conversions, sales, and returns that, if practicable, are linked to unique ID numbers.
- Tracking lot and batch information, as well as all products, conversions, and derivatives, throughout the entire chain of custody.
- Tracking plant, batch, and product destruction.
- Tracking transportation of product.
- Performing complete batch recall tracking that clearly identifies certain details specified in the bill relating to the specific batch subject to the recall; e.g., sold product, product available for sale, and product being processed into another form.
- Reporting and tracking loss, theft, or diversion of products containing marihuana; all inventory discrepancies; adverse patient responses or dose-related efficacy issues; and all sales and refunds.
- Tracking patient purchase limits and flagging purchases in excess of authorized limits.
- Receiving electronically submitted information required to be reported under the bill.

- Receiving testing results electronically from a safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.
- Flagging test results having characteristics indicating that they may have been altered.
- Providing information to cross-check that product sales are made to a qualified patient or designated primary caregiver and that the product received the required testing.
- Providing real-time access to information in the database to LARA, local law enforcement agencies, and state agencies.
- Providing LARA with real-time analytics regarding key performance indicators such as total daily sales, total plants in production, total plants destroyed, and total inventory adjustments.

Supplying Information to the System: Persons licensed under the Medical Marihuana Facilities Licensing Act (House Bill 4209) would be required to supply LARA with the relevant tracking or testing information in the form required by the department regarding each plant, product, package, batch, test, transfer, conversion, sale, recall, or disposition of marihuana in or from the person's possession or control. A provisioning center would be required to include information identifying the patient to whom or for whom the sale was made and, if applicable, the primary caregiver to whom the sale was made. LARA could require this information to be submitted electronically.

Penalties: A licensee under the Medical Marihuana Facilities Licensing Act who willfully violates the reporting requirements described above would be responsible for a state civil infraction and could be ordered to pay a civil fine of not more than $1,000.

A second or subsequent willful violation would be a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $2,500, or both.

Confidentiality: The information in the system established by LARA would be confidential and not subject to disclosure under the Freedom of Information Act. However, information could be disclosed in order to enforce the Michigan Medical Marihuana Act and the Medical Marihuana Facilities Licensing Act (House Bill 4209).

DETAILED SUMMARY OF HB 4210

House Bill 4210 would amend the Michigan Medical Marihuana Act (MMMA) to do the following (MCL 333.26423 et al.).

Goal of act and retroactivity: The bill specifies that it clarifies ambiguities in the law in accordance with the original intent of the people, as expressed in Section 2(b) of the MMMA. Further, the bill states that it is curative and applies retroactively as to the following:

- Clarifying the quantities and forms of marihuana for which a person is protected from arrest.
- Precluding an interpretation of "weight" as aggregate weight.

- Excluding an added inactive substrate component of a preparation in determining the amount of marihuana, medical marihuana, or usable marihuana that constitutes an offense.

Definitions.

- Change the term "medical use" to "medical use of marihuana" and revise the definition to include the extraction of marihuana and marihuana-infused products.

- Revise the definition of "usable marihuana" to include, in addition to dried leaves and flowers, the plant resin or extract of the marihuana plant. (The term does not include the seeds, stalks, or roots of the plant.)

- Define "marihuana-infused product" to mean a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused products would not be considered a food for purposes of the Food Law.

- Define "usable marihuana equivalent" as the amount of usable marihuana in a marihuana-infused product as calculated under Section 4(c). Section 4(c) provides that in determining usable marihuana equivalency, one ounce of usable marihuana would be considered equivalent to (a) 16 ounces of marihuana-infused product if in a solid form; (b) 7 grams if in a gaseous form; and (c) 36 fluid ounces if in a liquid form.

  The MMMA sets a 2.5 ounces of marihuana-per patient possession limit. In determining whether a patient or primary caregiver did not exceed the per-patient possession limit, the combined total of both usable marijuana equivalents and usable marihuana would have to be considered.

Marihuana-infused product: A registered qualifying patient who was manufacturing a marihuana-infused product for personal use, or a registered primary caregiver manufacturing for the use of his or her qualifying patient, would not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau.

The following would be prohibited:

- A qualifying patient transferring a marihuana-infused product to any individual.
- A primary caregiver transferring a marihuana-infused product to any individual who is not one of the caregiver's qualifying patients.

Immunity for transferring, purchasing, or selling to licensees under House Bill 4209.

IF the Medical Marihuana Facilities Licensing Act (House Bill 4209) is enacted into law, a registered qualifying patient or registered primary caregiver would not be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for any of the following:

- Transferring or purchasing marihuana in an amount authorized by the MMMA from a provisioning center licensed under the Medical Marihuana Facilities Licensing Act (House Bill 4209).
- Transferring or selling marihuana seeds or seedlings to a grower licensed under the Medical Marihuana Facilities Licensing Act (House Bill 4209).
- Transferring marihuana for testing to and from a safety compliance facility licensed under the Medical Marihuana Facilities Licensing Act.

Transporting or possessing marihuana-infused product in a motor vehicle. A qualifying patient or primary caregiver would be prohibited from transporting or possessing a marihuana-infused product in or upon a motor vehicle except as follows:

- For a qualifying patient:
  - The product is in a sealed and labeled package carried in the trunk of the vehicle (or if there is no trunk, carried so as not to be readily accessible from the interior of the vehicle).
  - The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the person from whom the product was received, and date of receipt.

- For a primary caregiver:
  - The product is accompanied by an accurate marihuana transportation manifest and enclosed in a case carried in the trunk of the vehicle (or if no trunk, enclosed in a case and carried so as not to be readily accessible from the interior of the vehicle).
  - The manifest form must state the weight of each marihuana-infused product in ounces, name and address of the manufacturer, date of manufacture, destination name and address, date and time of departure, estimated date and time of arrival, and, if applicable, name and address of the person from whom the product was received and date of receipt.

The bill would not prohibit a caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle for the use of the caregiver's own child, spouse, or parent who is a qualifying patient if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle (or carried so as not to be readily accessible from the interior of the vehicle if it does not have a trunk). The label must state the weight of the product in ounces, name of the manufacturer, date of manufacture, name of the qualifying patient, and if applicable, name of the person from whom the marihuana-infused product was received and date of receipt.

For purposes of determining compliance with quantity limitations, there is a rebuttable presumption that the weight of a marihuana-infused product listed on its package label or on a marihuana transportation manifest is accurate.

A qualifying patient or primary caregiver who violates the provisions regarding transport or possession of a marihuana-infused product in a motor vehicle would be responsible for a civil fine of not more than $250.

Miscellaneous provisions: The bill also would:

- Prohibit using butane extraction inside a residential structure to separate plant resin from a marihuana plant.

- Prohibit the operation, navigation, or actual physical control of a snowmobile or off-road recreational vehicle while under the influence of marihuana.

- Replace the term "use of medical marihuana" with "medical use of marihuana."

- Rename the *Michigan Medical Marihuana Fund* as the *Marihuana Registry Fund*.

FISCAL IMPACT:

House Bills 4209 (H-5) and 4827 (H-1), as passed by the House, would have a fiscal impact on the state government to the extent that the bills would establish a regulatory regime for the medical marihuana market implemented, administered, and enforced by LARA (with support from the Departments of Attorney General, Health and Human Services, and State Police) and would authorize LARA to prescribe and impose licensure application fees, regulatory assessments, and fines and penalties. The bills would also have a fiscal impact on local units of government to the extent that municipalities opt to permit marihuana facilities to operate within their jurisdiction, establish and enforce additional regulatory provisions, and levy initial licensure application fees of up to $5,000 per annum. Lastly, the bills could have a fiscal impact on the state and local units of government to the extent that the excise tax on marihuana purchased by provisioning centers generates revenue that would be distributed to municipalities, counties, sheriffs, and the state's General Fund.

The bills would grant LARA the authority to prescribe annual licensure application fees for, and charge amounts in excess of the fees to, (aspirant) marihuana facilities to offset the costs of processing applications and investigating applicants for state operating licenses.

Similarly, the bills would authorize LARA to establish and annually adjust an annual regulatory assessment levied on marihuana facilities to offset the regulatory and enforcement costs of LARA; the expenses of the Departments of Attorney General and State Police related to medical marihuana; and statutory allocations to the Department of Health and Human Services for marihuana-related expenditures (e.g., substance use disorder prevention, education, and treatment programs) and LARA for the licensing of substance abuse facilities (a.k.a. substance use disorder programs) pursuant to Part 62 of the Public Health Code of 1978.[1]

[1] According to information provided by the State Budget Office during the FY 2015-16 budget development, there were approximately 1,275 licensed substance use disorder programs operating in the state. Historically and currently through the end of FY 2014-15, entities licensed to provide substance use disorder programs did not pay licensure fees to support the costs of inspecting and otherwise regulating substance use disorder programs. Such costs were borne by the existing resources of the department, which were insufficient to support full compliance with statutorily required inspections. As recommended by the Governor, the Legislature passed 2015 PA 104, which amended the Public Health Code of 1978 to establish a $500 annual licensure fee for substance use disorder programs and reduce the frequency of periodic inspections. At the time that the amendments were under deliberation by the Legislature,

Consequently, the revenues generated by the application fees and regulatory assessment would likely be sufficient to adequately offset LARA's costs to implement, administer, and enforce its duties under the bills.

LARA has estimated that the costs associated with the bills would total approximately $21.1 million annually with $726,000 in one-time information technology expenses. This estimate utilizes a "worst-case scenario" which assumes that:

- LARA would employ 113.0 FTEs for the licensing and enforcement duties under the bills at an annual cost of $13.3 million. This assumption is based on the personnel employed by the Licensing and Enforcement Divisions of the Michigan Liquor Control Commission (LCC) to oversee approximately 17,250 retail liquor licensees.
- The Department of State Police (MSP) would provide 34.0 FTEs for criminal enforcement activities related to medical marihuana at an annual cost of $6.0 million. This assumption is based on the personnel employed by the MSP to provide criminal enforcement activities for the Michigan Casino Gaming Board (MGCB).
- The Department of Attorney General (AG) would provide 4.0 FTEs for legal and prosecutorial support related to medical marihuana at an annual cost of $500,000.
- Remaining annual costs consist of telecom and information technology support ($380,000); contractual services ($350,000); travel ($250,000); equipment, supplies, and materials ($240,000); as well as one-time costs for development and implementation of the marihuana tracking information technology system ($500,000) and initial purchases of information technology equipment ($226,000).[2]

As mentioned above, the bills would authorize LARA to prescribe application fees and adjust the regulatory assessment to generate sufficient revenues to adequately offset the costs of implementing, administering, and enforcing the bills. However, LARA seems to have based its estimates of these costs on assumptions that appear to anticipate the legalization and regulation of marihuana for recreational use. Although the costs estimated by LARA could be appropriate, and potentially accurate, for a scenario in which the recreational use of marihuana is legalized, they do not seem strictly applicable to the provisions of the bills.

According to a statistical report prepared by the Bureau of Health Care Services, there were 147,421 qualifying medical marihuana patients at the close of FY 2013-14; these patients currently either grow their own marihuana or obtain it from their primary caregivers pursuant to the Michigan Medical Marihuana Act of 2008 and could continue to do so irrespective of whether the bills is enacted into law. If the costs estimated above were divided equally amongst medical marihuana patients, assuming that all patients opt to purchase marihuana from provisioning centers, which would certainly not be the case, the average amount ultimately incurred by each patient would be approximately $143 per year.

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the department stated that revenue generated by the new licensure fee (approximately $637,500 annually) would be sufficient to offset the costs of inspecting and otherwise regulating substance use disorder programs.

[2] The costs of developing, implementing, operating, and maintaining the marihuana tracking system would ultimately be dependent on the technical specifications and applications of the system; whether the system is provided by the Department of Technology, Management, and Budget (DTMB) or procured via contact a third-party vendor (e.g. Bio-Tech Medical Software, Inc., MJ Freeway Business Solutions, Franwell); and, if the latter, on the outcome of a competitive RFP process.

This amount would be in addition to the existing application fees for registry identification cards and the effects on marihuana prices of the costs of statutory testing and transportation requirements, wholesale and retail markups by marihuana facilities, and the 3.0% excise tax on retail sales. There is a possibility that the medical marihuana market envisioned under the bills would not bear the regulatory costs as estimated by LARA, as medical marihuana patients could opt to continue to produce marihuana or procure it from caregivers or on the black market rather than pay potentially higher prices charged by provisioning centers.

The amount of revenue that would be generated by the 3.0% excise tax imposed on the gross retail income of provision centers and distributed to local units of government (45.0% to counties, of which 5.0% would be earmarked for sheriffs' offices, and 30.0% to municipalities) and the state's General Fund (25.0%) is currently unknown and is dependent upon the numerous interrelated and dynamic factors affecting both the licit and illicit markets for marihuana, and whether the market envisioned under the bills could bear the regulatory costs estimated by LARA.

House Bill 4210 adds a civil fine for violations pertaining to the unlawful transport of marihuana-infused products in a motor vehicle. House Bill 4827 adds new misdemeanors offense and civil infractions. Misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Misdemeanor fines and civil infraction fines are constitutionally dedicated to public libraries.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Paul B.A. Holland

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Reps. Callton, Kivela, Howrylak, Durhal, Lyons, Pettalia, Hovey-Wright, Dianda, Chang, Neeley, Irwin, Pscholka, Bumstead, Yonker, Canfield, Kelly, Lucido, Maturen, Schor, Brinks, Faris, Banks, Byrd, Garrett, Gay-Dagnogo, Hoadley, Kesto, Kosowski, LaVoy, Love, Phelps, Potvin, Robinson, Runestad, Singh, Tedder and Webber

ENROLLED HOUSE BILL No. 4209

AN ACT to license and regulate medical marihuana growers, processors, provisioning centers, secure transporters, and safety compliance facilities; to provide for the powers and duties of certain state and local governmental officers and entities; to create a medical marihuana licensing board; to provide for interaction with the statewide monitoring system for commercial marihuana transactions; to create an advisory panel; to provide immunity from prosecution for marihuana-related offenses for persons engaging in marihuana-related activities in compliance with this act; to prescribe civil fines and sanctions and provide remedies; to provide for forfeiture of contraband; to provide for taxes, fees, and assessments; and to require the promulgation of rules.

The People of the State of Michigan enact:

PART 1. GENERAL PROVISIONS

Sec. 101. This act shall be known and may be cited as the "medical marihuana facilities licensing act".

Sec. 102. As used in this act:

(a) "Advisory panel" or "panel" means the marihuana advisory panel created in section 801.

(b) "Affiliate" means any person that controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership with a licensee or applicant.

(c) "Applicant" means a person who applies for a state operating license. With respect to disclosures in an application, or for purposes of ineligibility for a license under section 402, the term applicant includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

(d) "Board" means the medical marihuana licensing board created in section 301.

(e) "Department" means the department of licensing and regulatory affairs.

(f) "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

(g) "Licensee" means a person holding a state operating license.

(h) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(i) "Marihuana facility" means a location at which a license holder is licensed to operate under this act.

(j) "Marihuana plant" means any plant of the species Cannabis sativa L.

(k) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

(*l*) "Michigan medical marihuana act" means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(m) "Municipality" means a city, township, or village.

(n) "Paraphernalia" means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

(o) "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

(p) "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

(q) "Processor" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

(r) "Provisioning center" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.

(s) "Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the Michigan medical marihuana act.

(t) "Registered qualifying patient" means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(u) "Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(v) "Rules" means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.

(w) "Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

(x) "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

(y) "State operating license" or, unless the context requires a different meaning, "license" means a license that is issued under this act that allows the licensee to operate as 1 of the following, specified in the license:

(*i*) A grower.

(*ii*) A processor.

(*iii*) A secure transporter.

(*iv*) A provisioning center.

(*v*) A safety compliance facility.

(z) "Statewide monitoring system" or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

(*i*) Verifying registry identification cards.

(*ii*) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.

(*iii*) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, MCL 333.26424.

(aa) "Usable marihuana" means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

PART 2. APPLICATION OF OTHER LAWS

Sec. 201. (1) Except as otherwise provided in this act, if a person has been granted a state operating license and is operating within the scope of the license, the licensee and its agents are not subject to any of the following for engaging in activities described in subsection (2):

(a) Criminal penalties under state law or local ordinances regulating marihuana.

(b) State or local criminal prosecution for a marihuana-related offense.

(c) State or local civil prosecution for a marihuana-related offense.

(d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.

(e) Seizure of marihuana, real property, personal property, or anything of value based on a marihuana-related offense.

(f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(2) The following activities are protected under subsection (1) if performed under a state operating license within the scope of that license and in accord with this act, rules, and any ordinance adopted under section 205:

(a) Growing marihuana.

(b) Purchasing, receiving, selling, transporting, or transferring marihuana from or to a licensee, a licensee's agent, a registered qualifying patient, or a registered primary caregiver.

(c) Possessing marihuana.

(d) Possessing or manufacturing marihuana paraphernalia for medical use.

(e) Processing marihuana.

(f) Transporting marihuana.

(g) Testing, transferring, infusing, extracting, altering, or studying marihuana.

(h) Receiving or providing compensation for products or services.

(3) Except as otherwise provided in this act, a person who owns or leases real property upon which a marihuana facility is located and who has no knowledge that the licensee violated this act is not subject to any of the following for owning, leasing, or permitting the operation of a marihuana facility on the real property:

(a) Criminal penalties under state law or local ordinances regulating marihuana.

(b) State or local civil prosecution based on a marihuana-related offense.

(c) State or local criminal prosecution based on a marihuana-related offense.

(d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.

(e) Seizure of any real or personal property or anything of value based on a marihuana-related offense.

(f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(4) For the purposes of regulating the commercial entities established under this act, any provisions of the following acts that are inconsistent with this act do not apply to a grower, processor, secure transporter, provisioning center, or safety compliance facility operating in compliance with this act:

(a) The business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(b) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(c) 1931 PA 327, MCL 450.98 to 450.192.

(d) The Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(e) The Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200.

(f) 1907 PA 101, MCL 445.1 to 445.5.

(g) 1913 PA 164, MCL 449.101 to 449.106.

(h) The uniform partnership act, 1917 PA 72, MCL 449.1 to 449.48.

Sec. 203. A registered qualifying patient or registered primary caregiver is not subject to criminal prosecution or sanctions for purchasing marihuana from a provisioning center if the quantity purchased is within the limits established under the Michigan medical marihuana act. A registered primary caregiver is not subject to criminal prosecution or sanctions for any transfer of 2.5 ounces or less of marihuana to a safety compliance facility for testing.

Sec. 204. This act does not limit the medical purpose defense provided in section 8 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26428, to any prosecution involving marihuana.

Sec. 205. (1) A marihuana facility shall not operate in a municipality unless the municipality has adopted an ordinance that authorizes that type of facility. A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities. A municipality shall provide the following information to the board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:

(a) A copy of the local ordinance that authorizes the marihuana facility.

(b) A copy of any zoning regulations that apply to the proposed marihuana facility within the municipality.

(c) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan medical marihuana act.

(2) The board may consider the information provided under subsection (1) in the application process. However, the municipality's failure to provide information to the board shall not be used against the applicant.

(3) A municipal ordinance may establish an annual, nonrefundable fee of not more than $5,000.00 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.

(4) Information a municipality obtains from an applicant related to licensure under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 206. The department, in consultation with the board, shall promulgate rules and emergency rules as necessary to implement, administer, and enforce this act. The rules shall ensure the safety, security, and integrity of the operation of marihuana facilities, and shall include rules to do the following:

(a) Set appropriate standards for marihuana facilities and associated equipment.

(b) Subject to section 408, establish minimum levels of insurance that licensees must maintain.

(c) Establish operating regulations for each category of license to ensure the health, safety, and security of the public and the integrity of marihuana facility operations.

(d) Establish qualifications and restrictions for persons participating in or involved with operating marihuana facilities.

(e) Establish testing standards, procedures, and requirements for marihuana sold through provisioning centers.

(f) Provide for the levy and collection of fines for a violation of this act or rules.

(g) Prescribe use of the statewide monitoring system to track all marihuana transfers, as provided in the marihuana tracking act and this act and provide for a funding mechanism to support the system.

(h) Establish quality control standards, procedures, and requirements for marihuana facilities.

(i) Establish chain of custody standards, procedures, and requirements for marihuana facilities.

(j) Establish standards, procedures, and requirements for waste product disposal and storage by marihuana facilities.

(k) Establish chemical storage standards, procedures, and requirements for marihuana facilities.

(*l*) Establish standards, procedures, and requirements for securely and safely transporting marihuana between marihuana facilities.

(m) Establish standards, procedures, and requirements for the storage of marihuana by marihuana facilities.

(n) Establish labeling and packaging standards, procedures, and requirements for marihuana sold or transferred through provisioning centers, including a prohibition on labeling or packaging that is intended to appeal to or has the effect of appealing to minors.

(o) Establish daily purchasing limits at provisioning centers for registered qualifying patients and registered primary caregivers to ensure compliance with the Michigan medical marihuana act.

(p) Establish marketing and advertising restrictions for marihuana products and marihuana facilities.

(q) Establish maximum tetrahydrocannabinol levels for marihuana-infused products sold or transferred through provisioning centers.

(r) Establish health standards to ensure the safe preparation of products containing marihuana that are intended for human consumption in a manner other than smoke inhalation.

(s) Establish restrictions on edible marihuana-infused products to prohibit shapes that would appeal to minors.

Sec. 207. A licensee shall adopt and use a third-party inventory control and tracking system that is capable of interfacing with the statewide monitoring system to allow the licensee to enter or access information in the statewide monitoring system as required under this act and rules. The third-party inventory control and tracking system must

have all of the following capabilities necessary for the licensee to comply with the requirements applicable to the licensee's license type:

(a) Tracking all marihuana plants, products, packages, patient and primary caregiver purchase totals, waste, transfers, conversions, sales, and returns that are linked to unique identification numbers.

(b) Tracking lot and batch information throughout the entire chain of custody.

(c) Tracking all products, conversions, and derivatives throughout the entire chain of custody.

(d) Tracking marihuana plant, batch, and product destruction.

(e) Tracking transportation of product.

(f) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:

(*i*) Sold product.

(*ii*) Product inventory that is finished and available for sale.

(*iii*) Product that is in the process of transfer.

(*iv*) Product being processed into another form.

(*v*) Postharvest raw product, such as product that is in the drying, trimming, or curing process.

(g) Reporting and tracking loss, theft, or diversion of product containing marihuana.

(h) Reporting and tracking all inventory discrepancies.

(i) Reporting and tracking adverse patient responses or dose-related efficacy issues.

(j) Reporting and tracking all sales and refunds.

(k) Electronically receiving and transmitting information as required under this act, the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, and the marihuana tracking act.

(*l*) Receiving testing results electronically from a safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.

(m) Identifying test results that may have been altered.

(n) Providing the licensee with access to information in the tracking system that is necessary to verify that the licensee is carrying out the marihuana transactions authorized under the licensee's license in accordance with this act.

(o) Providing information to cross-check that product sales are made to a registered qualifying patient or a registered primary caregiver on behalf of a registered qualifying patient and that the product received the required testing.

(p) Providing the department and state agencies with access to information in the database that they are authorized to access.

(q) Providing law enforcement agencies with access to only the information in the database that is necessary to verify that an individual possesses a valid and current registry identification card.

(r) Providing licensees with access only to the information in the system that they are required to receive before a sale, transfer, transport, or other activity authorized under a license issued under this act.

(s) Securing the confidentiality of information in the database by preventing access by a person who is not authorized to access the statewide monitoring system or is not authorized to access the particular information.

(t) Providing analytics to the department regarding key performance indicators such as the following:

(*i*) Total daily sales.

(*ii*) Total marihuana plants in production.

(*iii*) Total marihuana plants destroyed.

(*iv*) Total inventory adjustments.

Sec. 208. A marihuana facility and all articles of property in that facility are subject to examination at any time by a local police agency or the department of state police.

PART 3. MEDICAL MARIHUANA LICENSING BOARD

Sec. 301. (1) The medical marihuana licensing board is created within the department of licensing and regulatory affairs.

(2) The board consists of 5 members who are residents of this state, not more than 3 of whom are members of the same political party. The governor shall appoint the members. One of the members shall be appointed from 3 nominees submitted by the senate majority leader and 1 from 3 nominees submitted by the speaker of the house. The governor shall designate 1 of the members as chairperson.

(3) The members shall be appointed for terms of 4 years, except, of those who are first appointed, 1 member shall be appointed for a term of 2 years and 2 members shall be appointed for a term of 3 years. A member's term expires on December 31 of the last year of the member's term. If a vacancy occurs, the governor shall appoint a successor to fill the unexpired term in the manner of the original appointment.

(4) Each member of the board shall be reimbursed for all actual and necessary expenses and disbursements incurred in carrying out official duties.

(5) A board member shall not hold any other public office for which he or she receives compensation other than necessary travel or other incidental expenses.

(6) A person who is not of good moral character or who has been indicted for, charged with, or convicted of, pled guilty or nolo contendere to, or forfeited bail concerning any felony or a misdemeanor involving a controlled substance violation, theft, dishonesty, or fraud under the laws of this state, any other state, or the United States or a local ordinance in any state involving a controlled substance violation, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state is not eligible to serve on the board.

(7) The governor may remove any member of the board for neglect of duty, misfeasance, malfeasance, nonfeasance, or any other just cause.

(8) The department in conjunction with the board shall employ an executive director and other personnel as necessary to assist the board in carrying out its duties. The executive director shall devote his or her full time to the duties of the office and shall not hold any other office or employment.

(9) The board shall not appoint or employ an individual if any of the following circumstances exist:

(a) During the 3 years immediately preceding appointment or employment, the individual held any direct or indirect interest in, or was employed by, a person who is licensed to operate under this act or under a corresponding license in another jurisdiction or a person with an application for an operating license pending before the board or in any other jurisdiction. The board shall not employ an individual who has a direct or indirect interest in a licensee or a marihuana facility.

(b) The individual or his or her spouse, parent, child, child's spouse, sibling, or spouse of a sibling has an application for a license pending before the board or is a member of the board of directors of, or an individual financially interested in, any licensee or marihuana facility.

(10) Each member of the board, the executive director, and each key employee as determined by the department shall file with the governor a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the member, executive director, and key employee and his or her spouse, if any, affirming that the member, executive director, and key employee are in compliance with subsection (9)(a) and (b). The financial disclosure statement shall be made under oath and filed at the time of employment and annually thereafter.

(11) Each employee of the board shall file with the board a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the employee and his or her spouse. This subsection does not apply to the executive director or a key employee.

(12) A member of the board, executive director, or key employee shall not hold any direct or indirect interest in, be employed by, or enter into a contract for services with an applicant, a board licensee, or a marihuana facility for a period of 4 years after the date his or her employment or membership on the board terminates. The department in consultation with the board shall define the term "direct or indirect interest" by rule.

(13) For 2 years after the date his or her employment with the board is terminated, an employee of the board shall not acquire any direct or indirect interest in, be employed by, or enter into a contract for services with any applicant, licensee, or marihuana facility.

(14) For 2 years after the termination of his or her office or employment with the board, a board member or an individual employed by the board shall not represent any person or party other than this state before or against the board.

(15) A business entity in which a former board member or employee or agent has an interest, or any partner, officer, or employee of the business entity, shall not make any appearance or represent a party that the former member, employee, or agent is prohibited from appearing for or representing. As used in this subsection, "business entity" means a corporation, limited liability company, partnership, limited liability partnership, association, trust, or other form of legal entity.

Sec. 302. The board has general responsibility for implementing this act. The board has the powers and duties specified in this act and all other powers necessary and proper to fully and effectively implement and administer this act for the purpose of licensing, regulating, and enforcing the licensing and regulation system established under this act for marihuana growth, processing, testing, and transporting. The board is subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The board's duties include all of the following:

(a) Granting or denying each application for a state operating license within a reasonable time.

(b) Deciding all license applications in reasonable order.

(c) Conducting its public meetings in compliance with the open meetings act, 1976 PA 267, MCL 15.231 to 15.246.

(d) Consulting with the department in promulgating rules and emergency rules as necessary to implement, administer, and enforce this act. The board shall not promulgate a rule establishing a limit on the number or type of marihuana facility licenses that may be granted.

(e) Implementing and collecting the application fee described in section 401 and, in conjunction with the department of treasury, the tax described in section 601 and regulatory assessment described in section 603.

(f) Providing for the levy and collection of fines for a violation of this act or rules.

(g) Providing oversight of a marihuana facility through the board's inspectors, agents, and auditors and through the state police or attorney general for the purpose of certifying the revenue, receiving complaints from the public, or conducting investigations into the operation of the marihuana facility as the board considers necessary and proper to ensure compliance with this act and rules and to protect and promote the overall safety, security, and integrity of the operation of a marihuana facility.

(h) Providing oversight of marihuana facilities to ensure that marihuana-infused products meet health and safety standards that protect the public to a degree comparable to state and federal standards applicable to similar food and drugs.

(i) Reviewing and ruling on any complaint by a licensee regarding any investigative procedures of this state that are believed to be unnecessarily disruptive of marihuana facility operations. The need to inspect and investigate is presumed at all times. The board may delegate authority to hear, review, or rule on licensee complaints to a subcommittee of the board. To prevail on the complaint, a licensee must establish by a preponderance of the evidence that the procedures unreasonably disrupted its marihuana facility operations.

(j) Holding at least 2 public meetings each year. Upon 72 hours' written notice to each member, the chairperson or any 2 board members may call a special meeting. Three members of the board constitute a quorum, including when making determinations on an application for a license. Three votes are required in support of final determinations of the board on applications for licenses and all other licensing determinations, except that 4 votes are required in support of a determination to suspend or revoke a license. The board shall keep a complete and accurate record of all of its meetings and hearings. Upon order of the board, 1 of the board members or a hearing officer designated by the board may conduct any hearing provided for under this act or by rules and may recommend findings and decisions to the board. The board member or hearing officer conducting the hearing has all powers and rights regarding the conduct of hearings granted to the board under this act. The record made at the time of the hearing shall be reviewed by the board or a majority of the board, and the findings and decision of the majority of the board are the order of the board in the case.

(k) Maintaining records that are separate and distinct from the records of any other state board. The records shall be made available for public inspection subject to the limitations of this act and shall accurately reflect all board proceedings.

(*l*) Reviewing the patterns of marihuana transfers by the licensees under this act as recorded in a statewide database established for use in administering and enforcing this act and making recommendations to the governor and the legislature in a written annual report to the governor and the legislature and additional reports that the governor requests. The annual report shall be submitted by April 15 of each year and shall include the report required under section 702, a statement of receipts and disbursements by the board, the actions taken by the board, and any additional information and recommendations that the board considers appropriate or that the governor requests.

(m) Except as otherwise provided in this act, all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board are subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except for the following:

(*i*) Unless presented during a public hearing or requested by the licensee or applicant who is the sole subject of the data, all of the information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the board related to background investigation of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees or applicants.

(*ii*) All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board that have been received from another jurisdiction or local, state, or federal agency under a promise of confidentiality or if the release of the information is otherwise barred by the statutes, rules, or regulations of that jurisdiction or agency or by an intergovernmental agreement.

(*iii*) All information in the statewide monitoring system.

Sec. 303. (1) The board has jurisdiction over the operation of all marihuana facilities. The board has all powers necessary and proper to fully and effectively oversee the operation of marihuana facilities, including the authority to do all of the following:

(a) Investigate applicants for state operating licenses, determine the eligibility for licenses, and grant licenses to applicants in accordance with this act and the rules.

(b) Investigate all individuals employed by marihuana facilities.

(c) At any time, through its investigators, agents, auditors, or the state police, without a warrant and without notice to the licensee, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or noncompliance with this act or rules is likely to be found and consistent with constitutional limitations, for the following purposes:

(*i*) To inspect and examine all premises of marihuana facilities.

(*ii*) To inspect, examine, and audit relevant records of the licensee and, if the licensee fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.

(*iii*) To inspect the person, and inspect or examine personal effects present in a marihuana facility, of any holder of a state operating license while that person is present in a marihuana facility.

(*iv*) To investigate alleged violations of this act or rules.

(d) Investigate alleged violations of this act or rules and take appropriate disciplinary action against a licensee.

(e) Consult with the department in adopting rules to establish appropriate standards for marihuana facilities and associated equipment.

(f) Require all relevant records of licensees, including financial or other statements, to be kept on the premises authorized for operation of the marihuana facility of the licensee or in the manner prescribed by the board.

(g) Require that each licensee of a marihuana facility submit to the board a list of the stockholders or other persons having a 1% or greater beneficial interest in the facility in addition to any other information the board considers necessary to effectively administer this act and rules, orders, and final decisions made under this act.

(h) Eject, or exclude or authorize the ejection or exclusion of, an individual from a marihuana facility if the individual violates this act, rules, or final orders of the board. However, the propriety of the ejection or exclusion is subject to a subsequent hearing by the board.

(i) Conduct periodic audits of marihuana facilities licensed under this act.

(j) Consult with the department as to appropriate minimum levels of insurance for licensees in addition to the minimum established under section 408 for liability insurance.

(k) Delegate the execution of any of its powers that are not specifically and exclusively reserved to the board under this act for the purpose of administering and enforcing this act and rules.

(*l*) Take disciplinary action as the board considers appropriate to prevent practices that violate this act and rules.

(m) Review a licensee if that licensee is under review or the subject of discipline by a regulatory body in any other jurisdiction for a violation of a controlled substance or marihuana law or regulation in that jurisdiction.

(n) Take any other reasonable or appropriate action to enforce this act and rules.

(2) The board may seek and shall receive the cooperation and assistance of the department of state police in conducting background investigations of applicants and in fulfilling its responsibilities under this act. The department of state police may recover its costs of cooperation under this subsection.

Sec. 305. (1) By January 31 of each year, each member of the board shall prepare and file with the governor's office and the board a disclosure form in which the member does all of the following:

(a) Affirms that the member or the member's spouse, parent, child, or child's spouse is not a member of the board of directors of, financially interested in, or employed by a licensee or applicant.

(b) Affirms that the member continues to meet any other criteria for board membership under this act or the rules promulgated by the board.

(c) Discloses any legal or beneficial interests in any real property that is or that may be directly or indirectly involved with operations authorized by this act.

(d) Discloses any other information as may be required to ensure that the integrity of the board and its work is maintained.

(2) By January 31 of each year, each employee of the board shall prepare and file with the board an employee disclosure form in which the employee does all of the following:

(a) Affirms the absence of financial interests prohibited by this act.

(b) Discloses any legal or beneficial interests in any real property that is or that may be directly or indirectly involved with operations authorized by this act.

(c) Discloses whether the employee or the employee's spouse, parent, child, or child's spouse is financially interested in or employed by a licensee or an applicant for a license under this act.

(d) Discloses such other matters as may be required to ensure that the integrity of the board and its work is maintained.

(3) A member, employee, or agent of the board who becomes aware that the member, employee, or agent of the board or his or her spouse, parent, or child is a member of the board of directors of, financially interested in, or employed by a licensee or an applicant shall immediately provide detailed written notice thereof to the chairperson.

(4) A member, employee, or agent of the board who within the previous 10 years has been indicted for, charged with, or convicted of, pled guilty or nolo contendere to, or forfeited bail concerning a misdemeanor involving controlled substances, dishonesty, theft, or fraud or a local ordinance in any state involving controlled substances, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state, or a felony under Michigan law, the laws of any other state, or the laws of the United States or any other jurisdiction shall immediately provide detailed written notice of the conviction or charge to the chairperson.

(5) Any member, employee, or agent of the board who is negotiating for, or acquires by any means, any interest in any person who is a licensee or an applicant, or any person affiliated with such a person, shall immediately provide written notice of the details of the interest to the chairperson. The member, employee, or agent of the board shall not act on behalf of the board with respect to that person.

(6) A member, employee, or agent of the board shall not enter into any negotiations for employment with any person or affiliate of any person who is a licensee or an applicant and shall immediately provide written notice of the details of any such negotiations or discussions in progress to the chairperson. The member, employee, or agent of the board shall not take action on behalf of the board with respect to that person.

(7) Any member, employee, or agent of the board who receives an invitation, written or oral, to initiate a discussion concerning employment or the possibility of employment with a person or affiliate of a person who is a licensee or an applicant shall immediately report that he or she received the invitation to the chairperson. The member, employee, or agent of the board shall not take action on behalf of the board with respect to the person.

(8) A licensee or applicant shall not knowingly initiate a negotiation for or discussion of employment with a member, employee, or agent of the board. A licensee or applicant who initiates a negotiation or discussion about employment shall immediately provide written notice of the details of the negotiation or discussion to the chairperson as soon as he or she becomes aware that the negotiation or discussion has been initiated with a member, employee, or agent of the board.

(9) A member, employee, or agent of the board, or former member, employee, or agent of the board, shall not disseminate or otherwise disclose any material or information in the possession of the board that the board considers confidential unless specifically authorized to do so by the chairperson or the board.

(10) A member, employee, or agent of the board or a parent, spouse, sibling, spouse of a sibling, child, or spouse of a child of a member, employee, or agent of the board shall not accept any gift, gratuity, compensation, travel, lodging, or anything of value, directly or indirectly, from any licensee or any applicant or affiliate or representative of a licensee or applicant, unless the acceptance conforms to a written policy or directive that is issued by the chairperson or the board. Any member, employee, or agent of the board who is offered or receives any gift, gratuity, compensation, travel, lodging, or anything of value, directly or indirectly, from any licensee or any applicant or affiliate or representative of an applicant or licensee shall immediately provide written notification of the details to the chairperson.

(11) A licensee or applicant, or an affiliate or representative of an applicant or licensee, shall not, directly or indirectly, give or offer to give any gift, gratuity, compensation, travel, lodging, or anything of value to any member, employee, or agent of the board that the member, employee, or agent of the board is prohibited from accepting under subsection (10).

(12) A member, employee, or agent of the board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the chairperson in writing of the details of any incident or circumstances that would present the existence of a conflict of interest with respect to performing board-related work or duties.

(13) A member, employee, or agent of the board who is approached and offered a bribe as described in section 118 of the Michigan penal code, 1931 PA 328, MCL 750.118, or this act shall immediately provide written account of the details of the incident to the chairperson and to a law enforcement officer of a law enforcement agency having jurisdiction.

(14) A member, employee, or agent of the board shall disclose his or her past involvement with any marihuana enterprise in the past 5 years and shall not engage in political activity or politically related activity during the duration of his or her appointment or employment.

(15) A former member, employee, or agent of the board may appear before the board as a fact witness about matters or actions handled by the member, employee, or agent during his or her tenure as a member, employee, or agent of the board. The member, employee, or agent of the board shall not receive compensation for such an appearance other than a standard witness fee and reimbursement for travel expenses as established by statute or court rule.

(16) A licensee or applicant or any affiliate or representative of an applicant or licensee shall not engage in ex parte communications with a member of the board. A member of the board shall not engage in any ex parte communications with a licensee or an applicant or with any affiliate or representative of an applicant or licensee.

(17) Any board member, licensee, or applicant or affiliate or representative of a board member, licensee, or applicant who receives any ex parte communication in violation of subsection (16), or who is aware of an attempted communication in violation of subsection (16), shall immediately report details of the communication or attempted communication in writing to the chairperson.

(18) Any member of the board who receives an ex parte communication in an attempt to influence that member's official action shall disclose the source and content of the communication to the chairperson. The chairperson may investigate or initiate an investigation of the matter with the assistance of the attorney general and state police to determine if the communication violates subsection (16) or subsection (17) or other state law. The disclosure under this section and the investigation are confidential. Following an investigation, the chairperson shall advise the governor or the board, or both, of the results of the investigation and may recommend action as the chairperson considers appropriate. If the chairperson receives such an ex parte communication, he or she shall report the communication to the governor's office for appropriate action.

(19) A new or current employee or agent of the board shall obtain written permission from the executive director before continuing outside employment held at the time the employee begins to work for the board. Permission shall be denied, or permission previously granted shall be revoked, if the executive director considers the nature of the work to create a possible conflict of interest or if it would otherwise interfere with the duties of the employee or agent for the board.

(20) An employee or agent of the board granted permission for outside employment shall not conduct any business or perform any activities, including solicitation, related to outside employment on premises used by the board or during the employee's working hours for the board.

(21) The chairperson shall report any action he or she has taken or proposes to take under this section with respect to an employee or agent or former employee or former agent to the board at the next meeting of the board. The board may direct the executive director to take additional or different action.

(22) Except as allowed under the Michigan medical marihuana act, a member, employee, or agent of the board shall not enter into any personal transaction involving marihuana with a licensee or applicant.

(23) If a licensee or applicant, or an affiliate or representative of a licensee or applicant, violates this section, the board may deny a license application, revoke or suspend a license, or take other disciplinary action as provided in section 407.

(24) Violation of this section by a member of the board may result in disqualification or constitute cause for removal under section 301(7) or other disciplinary action as recommended by the board to the governor.

(25) A violation of this section by an employee or agent of the board need not result in termination of employment if the board determines that the conduct involved does not violate the purpose of this act. However, all of the following apply:

(a) If, after being offered employment or beginning employment with the board, the employee or agent intentionally acquires a financial interest in a licensee or an applicant, or an affiliate or representative of a licensee or applicant, the offer or employment with the board shall be terminated.

(b) If a financial interest in a licensee or an applicant, or an affiliate or representative of a licensee or applicant, is acquired by an employee or agent that has been offered employment with the board, an employee of the board, or the employee's or agent's spouse, parent, or child, through no intentional action of the employee or agent, the individual shall have up to 30 days to divest or terminate the financial interest. Employment may be terminated if the interest has not been divested after 30 days.

(c) Employment shall be terminated if the employee or agent is a spouse, parent, child, or spouse of a child of a board member.

(26) Violation of this section does not create a civil cause of action.

(27) As used in this section:

(a) "Outside employment", in addition to employment by a third party, includes, but is not limited to, the following:

(*i*) Operation of a proprietorship.

(*ii*) Participation in a partnership or group business enterprise.

(*iii*) Performance as a director or corporate officer of any for-profit or nonprofit corporation or banking or credit institution.

(*iv*) Performance as a manager of a limited liability company.

(b) "Political activity" or "politically related activity" includes all of the following:

(*i*) Using his or her official authority or influence for the purpose of interfering with or affecting the result of an election.

(*ii*) Knowingly soliciting, accepting, or receiving a political contribution from any person.

(*iii*) Running for the nomination or as a candidate for election to a partisan political office.

(*iv*) Knowingly soliciting or discouraging the participation in any political activity of any person who is either of the following:

(A) Applying for any compensation, grant, contract, ruling, license, permit, or certificate pending before the board.

(B) The subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the board.

PART 4. LICENSING

Sec. 401. (1) Beginning 360 days after the effective date of this act, a person may apply to the board for state operating licenses in the categories of class A, B, or C grower; processor; provisioning center; secure transporter; and safety compliance facility as provided in this act. The application shall be made under oath on a form provided by the board and shall contain information as prescribed by the board, including, but not limited to, all of the following:

(a) The name, business address, business telephone number, social security number, and, if applicable, federal tax identification number of the applicant.

(b) The identity of every person having any ownership interest in the applicant with respect to which the license is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; if a corporation, the names and addresses of all shareholders, officers, and directors; if a partnership or limited liability partnership, the names and addresses of all partners; if a limited partnership or limited liability limited partnership, the names of all partners, both general and limited; or if a limited liability company, the names and addresses of all members and managers.

(c) An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marihuana, including, if applicable, the state of incorporation or registration, in which an applicant or, if the applicant is an individual, the applicant's spouse, parent, or child has any equity interest. If an applicant is a corporation, partnership, or other business entity, the applicant shall identify any other corporation, partnership, or other business entity that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marihuana in which it has any equity interest, including, if applicable, the state of incorporation or registration. An applicant may comply with this subdivision by filing a copy of the applicant's registration with the Securities and Exchange Commission if the registration contains the information required by this subdivision.

(d) Whether an applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled-substance-related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.

(e) Whether an applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.

(f) Whether an applicant has filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.

(g) A statement listing the names and titles of all public officials or officers of any unit of government, and the spouses, parents, and children of those public officials or officers, who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of or hold any debt instrument issued by, or hold or have any interest in any contractual or service relationship with an applicant. As used in this subdivision, public official or officer does not include a person who would have to be listed solely because of his or her state or federal military service.

(h) A description of the type of marihuana facility; anticipated or actual number of employees; and projected or actual gross receipts.

(i) Financial information in the manner and form prescribed by the board.

(j) A paper copy or electronic posting website reference for the ordinance or zoning restriction that the municipality adopted to authorize or restrict operation of 1 or more marihuana facilities in the municipality.

(k) A copy of the notice informing the municipality by registered mail that the applicant has applied for a license under this act. The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicant submits the application for a license to the board.

(*l*) Any other information the department requires by rule.

(2) The board shall use information provided on the application as a basis to conduct a thorough background investigation on the applicant. A false application is cause for the board to deny a license. The board shall not consider an incomplete application but shall, within a reasonable time, return the application to the applicant with notification of the deficiency and instructions for submitting a corrected application. Information the board obtains from the background investigation is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) An applicant must provide written consent to the inspections, examinations, searches, and seizures provided for in section 303(1)(c)(*i*) to (*iv*) and to disclosure to the board and its agents of otherwise confidential records, including tax records held by any federal, state, or local agency, or credit bureau or financial institution, while applying for or holding a license. Information the board receives under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) An applicant must certify that the applicant does not have an interest in any other state operating license that is prohibited under this act.

(5) A nonrefundable application fee must be paid at the time of filing to defray the costs associated with the background investigation conducted by the board. The department in consultation with the board shall set the amount of the application fee for each category and class of license by rule. If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount to the board. All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board in the course of its review or investigation of an application for a license under this act shall be disclosed only in accordance with this act. The information, records, interviews, reports, statements, memoranda, or other data are not admissible as evidence or discoverable in any action of any kind in any court or before any tribunal, board, agency, or person, except for any action considered necessary by the board.

(6) By 10 days after the date the applicant submits an application to the board, the applicant shall notify the municipality by registered mail that it has applied for a license under this act.

Sec. 402. (1) The board shall issue a license to an applicant who submits a complete application and pays both the nonrefundable application fee required under section 401(5) and the regulatory assessment established by the board for the first year of operation, if the board determines that the applicant is qualified to receive a license under this act.

(2) An applicant is ineligible to receive a license if any of the following circumstances exist:

(a) The applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.

(b) Within the past 5 years the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.

(c) The applicant has knowingly submitted an application for a license under this act that contains false information.

(d) The applicant is a member of the board.

(e) The applicant fails to demonstrate the applicant's ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility.

(f) The applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

(g) The applicant, if an individual, has been a resident of this state for less than a continuous 2-year period immediately preceding the date of filing the application. The requirements in this subdivision do not apply after June 30, 2018.

(h) The board determines that the applicant is not in compliance with section 205(1).

(i) The applicant fails to meet other criteria established by rule.

(3) In determining whether to grant a license to an applicant, the board may also consider all of the following:

(a) The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a marihuana facility of the applicant and of any other person that either:

(*i*) Controls, directly or indirectly, the applicant.

(*ii*) Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.

(b) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.

(c) The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.

(d) Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise.

(e) Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past 7 years.

(f) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.

(g) Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.

(h) Whether at the time of application the applicant is a defendant in litigation involving its business practices.

(i) Whether the applicant meets other standards in rules applicable to the license category.

(4) Each applicant shall submit with its application, on forms provided by the board, a passport quality photograph and 1 set of fingerprints for each person having any ownership interest in the marihuana facility and each person who is an officer, director, or managerial employee of the applicant. The department may designate an entity or agent to collect the fingerprints, and the applicant is responsible for the cost associated with the fingerprint collection.

(5) The board shall review all applications for licenses and shall inform each applicant of the board's decision.

(6) A license shall be issued for a 1-year period and is renewable annually. Except as otherwise provided in this act, the board shall renew a license if all of the following requirements are met:

(a) The licensee applies to the board on a renewal form provided by the board that requires information prescribed in rules.

(b) The application is received by the board on or before the expiration date of the current license.

(c) The licensee pays the regulatory assessment under section 603.

(d) The licensee meets the requirements of this act and any other renewal requirements set forth in rules.

(7) The department shall notify the licensee by mail or electronic mail at the last known address on file with the board advising of the time, procedure, and regulatory assessment under section 603. The failure of the licensee to receive notice under this subsection does not relieve the licensee of the responsibility for renewing the license.

(8) If a license renewal application is not submitted by the license expiration date, the license may be renewed within 60 days after its expiration date upon application, payment of the regulatory assessment under section 603, and satisfaction of any renewal requirement and late fee set forth in rules. The licensee may continue to operate during the 60 days after the license expiration date if the license is renewed by the end of the 60-day period.

(9) License expiration does not terminate the board's authority to impose sanctions on a licensee whose license has expired.

(10) In its decision on an application for renewal, the board shall consider any specific written input it receives from an individual or entity within the local unit of government in which the applicant for renewal is located.

(11) A licensee must consent in writing to inspections, examinations, searches, and seizures that are permitted under this act and must provide a handwriting exemplar, fingerprints, photographs, and information as authorized in this act or by rules.

(12) An applicant or licensee has a continuing duty to provide information requested by the board and to cooperate in any investigation, inquiry, or hearing conducted by the board.

Sec. 403. If the board identifies a deficiency in an application, the board shall provide the applicant with a reasonable period of time to correct the deficiency.

Sec. 404. (1) The board shall issue a license only in the name of the true party of interest.

(2) For the following true parties of interest, information concerning the indicated individuals must be included in the disclosures required of an applicant or licensee:

(a) For an individual or sole proprietorship: the proprietor and spouse.

(b) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.

(c) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.

(d) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.

(e) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(f) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(3) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's prebonus annual compensation or if the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

Sec. 405. Subject to the laws of this state, before hiring a prospective employee, the holder of a license shall conduct a background check of the prospective employee. If the background check indicates a pending charge or conviction within the past 10 years for a controlled substance-related felony, a licensee shall not hire the prospective employee without written permission of the board.

Sec. 406. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the board's approval before a license is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest of more than 1% in a license without prior board approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the board.

Sec. 407. (1) If an applicant or licensee fails to comply with this act or rules, if a licensee fails to comply with the marihuana tracking act, if a licensee no longer meets the eligibility requirements for a license under this act, or if an applicant or licensee fails to provide information the board requests to assist in any investigation, inquiry, or board hearing, the board may deny, suspend, revoke, or restrict a license. The board may suspend, revoke, or restrict a license and require the removal of a licensee or an employee of a licensee for a violation of this act, rules, the marihuana tracking act, or any ordinance adopted under section 205. The board may impose civil fines of up to $5,000.00 against an individual and up to $10,000.00 or an amount equal to the daily gross receipts, whichever is greater, against a licensee for each violation of this act, rules, or an order of the board. Assessment of a civil fine under this subsection is not a bar to the investigation, arrest, charging, or prosecution of an individual for any other violation of this act and is not grounds to suppress evidence in any criminal prosecution that arises under this act or any other law of this state.

(2) The board shall comply with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, when denying, revoking, suspending, or restricting a license or imposing a fine. The board may suspend a license without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marihuana facility's operation. If the board suspends a license under this subsection without notice or hearing, a prompt postsuspension hearing must be held to determine if the suspension should remain in effect. The suspension may remain in effect until the board determines that the cause for suspension has been abated. The board may revoke the license or approve a transfer or sale of the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard.

(3) After denying an application for a license, the board shall, upon request, provide a public investigative hearing at which the applicant is given the opportunity to present testimony and evidence to establish its suitability for a license. Other testimony and evidence may be presented at the hearing, but the board's decision must be based on the whole record before the board and is not limited to testimony and evidence submitted at the public investigative hearing.

(4) Except for license applicants who may be granted a hearing at the discretion of the board under subsection (3), any party aggrieved by an action of the board suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, shall be given a hearing before the board upon request. A request for a hearing must be made to the board in writing within 21 days after service of notice of the action of the board. Notice of the action of the board must be served either by personal delivery or by certified mail, postage prepaid, to the aggrieved party. Notice served by certified mail is considered complete on the business day following the date of the mailing.

(5) The board may conduct investigative and contested case hearings; issue subpoenas for the attendance of witnesses; issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents; and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the board under this act. The executive director or his or her designee may issue subpoenas and administer oaths and affirmations to witnesses.

Sec. 408. (1) Before the board grants or renews any license under this act, the licensee or applicant shall file with the department proof of financial responsibility for liability for bodily injury to lawful users resulting from the manufacture, distribution, transportation, or sale of adulterated marihuana or adulterated marihuana-infused product in an amount not less than $100,000.00. The proof of financial responsibility may be in the form of cash, unencumbered securities, a liability insurance policy, or a constant value bond executed by a surety company authorized to do business in this state. As used in this section:

(a) "Adulterated marihuana" means a product sold as marihuana that contains any unintended substance or chemical or biological matter other than marihuana that causes adverse reaction after ingestion or consumption.

(b) "Bodily injury" does not include expected or intended effect or long-term adverse effect of smoking, ingestion, or consumption of marihuana or marihuana-infused product.

(2) An insured licensee shall not cancel liability insurance required under this section unless the licensee complies with both of the following:

(a) Gives 30 days' prior written notice to the department.

(b) Procures new proof of financial responsibility required under this section and delivers that proof to the department within 30 days after giving the department the notice under subdivision (a).

Sec. 409. A state operating license is a revocable privilege granted by this state and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the board's and municipality's approval before a license is transferred, sold, or purchased. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license. The attempted transfer, sale, or other conveyance of an interest in a license without prior board approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the board.

PART 5. LICENSEES

Sec. 501. (1) A grower license authorizes the grower to grow not more than the following number of marihuana plants under the indicated license class for each license the grower holds in that class:

(a) Class A – 500 marihuana plants.

(b) Class B – 1,000 marihuana plants.

(c) Class C – 1,500 marihuana plants.

(2) A grower license authorizes sale of marihuana seeds or marihuana plants only to a grower by means of a secure transporter.

(3) A grower license authorizes sale of marihuana, other than seeds, only to a processor or provisioning center.

(4) A grower license authorizes the grower to transfer marihuana only by means of a secure transporter.

(5) To be eligible for a grower license, the applicant and each investor in the grower must not have an interest in a secure transporter or safety compliance facility.

(6) A grower shall comply with all of the following:

(a) Until December 31, 2021, have, or have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.

(b) While holding a license as a grower, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(c) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(7) A grower license does not authorize the grower to operate in an area unless the area is zoned for industrial or agricultural uses or is unzoned and otherwise meets the requirements established in section 205(1).

Sec. 502. (1) A processor license authorizes purchase of marihuana only from a grower and sale of marihuana-infused products or marihuana only to a provisioning center.

(2) A processor license authorizes the processor to transfer marihuana only by means of a secure transporter.

(3) To be eligible for a processor license, the applicant and each investor in the processor must not have an interest in a secure transporter or safety compliance facility.

(4) A processor shall comply with all of the following:

(a) Until December 31, 2021, have, or have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.

(b) While holding a license as a processor, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(c) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

Sec. 503. (1) A secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver.

(2) To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter must not have an interest in a grower, processor, provisioning center, or safety compliance facility and must not be a registered qualifying patient or a registered primary caregiver.

(3) A secure transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(4) A secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(c) Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(d) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(e) The marihuana shall be transported in 1 or more sealed containers and not be accessible while in transit.

(f) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(5) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with this act.

Sec. 504. (1) A provisioning center license authorizes the purchase or transfer of marihuana only from a grower or processor and sale or transfer to only a registered qualifying patient or registered primary caregiver. All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.

(2) A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

(3) To be eligible for a provisioning center license, the applicant and each investor in the provisioning center must not have an interest in a secure transporter or safety compliance facility.

(4) A provisioning center shall comply with all of the following:

(a) Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.

(b) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(c) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the medical marihuana licensing board under this act.

(d) Not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

(e) Not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

Sec. 505. (1) In addition to transfer and testing authorized in section 203, a safety compliance facility license authorizes the facility to receive marihuana from, test marihuana for, and return marihuana to only a marihuana facility.

(2) A safety compliance facility must be accredited by an entity approved by the board by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The board may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) To be eligible for a safety compliance facility license, the applicant and each investor with any interest in the safety compliance facility must not have an interest in a grower, secure transporter, processor, or provisioning center.

(4) A safety compliance facility shall comply with all of the following:

(a) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.

(b) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.

(c) Perform tests that determine whether marihuana complies with the standards the board establishes for microbial and mycotoxin contents.

(d) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.

(e) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(f) Have a secured laboratory space that cannot be accessed by the general public.

(g) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.

PART 6. TAXES AND FEES

Sec. 601. (1) A tax is imposed on each provisioning center at the rate of 3% of the provisioning center's gross retail receipts. By 30 days after the end of the calendar quarter, a provisioning center shall remit the tax for the preceding calendar quarter to the department of treasury accompanied by a form prescribed by the department of treasury that shows the gross quarterly retail income of the provisioning center and the amount of tax due, and shall submit a copy of the form to the department. If a law authorizing the recreational or nonmedical use of marihuana in this state is enacted, this section does not apply beginning 90 days after the effective date of that law.

(2) The taxes imposed under this section shall be administered by the department of treasury in accordance with 1941 PA 122, MCL 205.1 to 205.31, and this act. In case of conflict between the provisions of 1941 PA 122, MCL 205.1 to 205.31, and this act, the provisions of this act prevail.

Sec. 602. (1) The medical marihuana excise fund is created in the state treasury.

(2) Except for the application fee under section 401, the regulatory assessment under section 603, and any local licensing fees, all money collected under section 601 and all other fees, fines, and charges, imposed under this act shall be deposited in the medical marihuana excise fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the medical marihuana excise fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The state treasurer shall be the administrator of the medical marihuana excise fund for auditing purposes.

(5) The money in the medical marihuana excise fund shall be allocated, upon appropriation, as follows:

(a) 25% to municipalities in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the municipality.

(b) 30% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county.

(c) 5% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county. Money allocated under this subdivision shall be used exclusively to support the county sheriffs and shall be in addition to and not in replacement of any other funding received by the county sheriffs.

(d) 30% to this state for the following:

(*i*) Until September 30, 2017, for deposit in the general fund of the state treasury.

(*ii*) Beginning October 1, 2017, for deposit in the first responder presumed coverage fund created in section 405 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.405.

(e) 5% to the Michigan commission on law enforcement standards for training local law enforcement officers.

(f) 5% to the department of state police.

Sec. 603. (1) A regulatory assessment is imposed on certain licensees as provided in this section. All of the following shall be included in establishing the total amount of the regulatory assessment established under this section:

(a) The department's costs to implement, administer, and enforce this act, except for the costs to process and investigate applications for licenses supported with the application fee described in section 401.

(b) Expenses of medical-marihuana-related legal services provided to the department by the department of attorney general.

(c) Expenses of medical-marihuana-related services provided to the department by the department of state police.

(d) Expenses of medical-marihuana-related services provided by the department of treasury.

(e) $500,000.00 to be allocated to the department for expenditures of the department for licensing substance use disorder programs.

(f) An amount equal to 5% of the sum of the amounts provided for under subdivisions (a) to (d) to be allocated to the department of health and human services for substance-abuse-related expenditures including, but not limited to, substance use disorder prevention, education, and treatment programs.

(g) Expenses related to the standardized field sobriety tests administered in enforcing the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(h) An amount sufficient to provide for the administrative costs of the Michigan commission on law enforcement standards.

(2) The regulatory assessment is in addition to the application fee described in section 401, the tax described in section 601, and any local licensing fees.

(3) The regulatory assessment shall be collected annually from licensed growers, processors, provisioning centers, and secure transporters. The regulatory assessment for a class A grower license shall not exceed $10,000.00.

(4) Beginning in the first year marihuana facilities are authorized to operate in this state, and annually thereafter, the department, in consultation with the board, shall establish the total regulatory assessment at an amount that is estimated to be sufficient to cover the actual costs and support the expenditures listed in subsection (1).

(5) On or before the date the licensee begins operating and annually thereafter, each grower, processor, provisioning center, and secure transporter shall pay to the state treasurer an amount determined by the department to reasonably reflect the licensee's share of the total regulatory assessment established under subsection (4).

Sec. 604. (1) The marihuana regulatory fund is created in the state treasury.

(2) The application fee collected under section 401 and the regulatory assessment collected under section 603 shall be deposited in the marihuana regulatory fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the marihuana regulatory fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the marihuana regulatory fund for auditing purposes.

(5) Except as provided in section 603(1)(d) and (e), the department shall expend money from the marihuana regulatory fund, upon appropriation, only for implementing, administering, and enforcing this act.

Sec. 605. The department may use any money appropriated to it from the marihuana registry fund created in section 6 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26426, for the purpose of funding the operations of the department and the board in the initial implementation and subsequent administration and enforcement of this act.

PART 7. REPORTS

Sec. 701. By 30 days after the end of each state fiscal year, each licensee shall transmit to the board and to the municipality financial statements of the licensee's total operations. The financial statements shall be reviewed by a certified public accountant in a manner and form prescribed by the board. The certified public accountant must be licensed in this state under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736. The compensation for the certified public accountant shall be paid directly by the licensee to the certified public accountant.

Sec. 702. The board shall submit with the annual report to the governor under section 302(k) and to the chairs of the legislative committees that govern issues related to marihuana facilities a report covering the previous year. The report shall include an account of the board actions, its financial position, results of operation under this act, and any recommendations for legislation that the board considers advisable.

PART 8. MARIHUANA ADVISORY PANEL

Sec. 801. (1) The marihuana advisory panel is created within the department.

(2) The marihuana advisory panel shall consist of 17 members, including the director of state police or his or her designee, the director of this state's department of health and human services or his or her designee, the director of the department of licensing and regulatory affairs or his or her designee, the attorney general or his or her designee, the director of the department of agriculture and rural development or his or her designee, and the following members appointed by the governor:

(a) One registered medical marihuana patient or medical marihuana primary caregiver.

(b) One representative of growers.

(c) One representative of processors.

(d) One representative of provisioning centers.

(e) One representative of safety compliance facilities.

(f) One representative of townships.

(g) One representative of cities and villages.

(h) One representative of counties.

(i) One representative of sheriffs.

(j) One representative of local police.

(k) One physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(*l*) One representative of a secure transporter.

(3) The members first appointed to the panel shall be appointed within 3 months after the effective date of this act and shall serve at the pleasure of the governor. Appointed members of the panel shall serve for terms of 3 years or until a successor is appointed, whichever is later.

(4) If a vacancy occurs on the advisory panel, the governor shall make an appointment for the unexpired term in the same manner as the original appointment.

(5) The first meeting of the panel shall be called by the director of the department or his or her designee within 1 month after the advisory panel is appointed. At the first meeting, the panel shall elect from among its members a chairperson and any other officers it considers necessary or appropriate. After the first meeting, the panel shall meet at least 2 times each year, or more frequently at the call of the chairperson.

(6) A majority of the members of the panel constitute a quorum for the transaction of business. A majority of the members present and serving are required for official action of the panel.

(7) The business that the panel performs shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A writing prepared, owned, used, in the possession of, or retained by the panel in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) Members of the panel shall serve without compensation. However, members of the panel may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the panel.

(10) The panel may make recommendations to the board concerning promulgation of rules and, as requested by the board or the department, the administration, implementation, and enforcement of this act and the marihuana tracking act.

(11) State departments and agencies shall cooperate with the panel and, upon request, provide it with meeting space and other necessary resources to assist it in the performance of its duties.

Enacting section 1. This act takes effect 90 days after the date it is enacted into law.

Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare.

Enacting section 3. This act does not take effect unless House Bill No. 4827 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved ----------

Governor

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Reps. Lyons, Goike, Bumstead, Yonker, Kelly, Pettalia, Callton, Pscholka, Potvin, Dillon, Irwin, Hoadley, Maturen, Singh, Sarah Roberts and Kosowski

ENROLLED HOUSE BILL No. 4210

AN ACT to amend 2008 IL 1, entitled "An initiation of Legislation to allow under state law the medical use of marihuana; to provide protections for the medical use of marihuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers; to impose a fee for registry application and renewal; to provide for the promulgation of rules; to provide for the administration of this act; to provide for enforcement of this act; to provide for affirmative defenses; and to provide for penalties for violations of this act," by amending the title and sections 3, 4, 6, and 7 (MCL 333.26423, 333.26424, 333.26426, and 333.26427), sections 3 and 4 as amended by 2012 PA 512 and section 6 as amended by 2012 PA 514, and by adding sections 4a and 4b.

The People of the State of Michigan enact:

TITLE

An initiation of Legislation to allow under state law the medical use of marihuana; to provide protections for the medical use of marihuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers; to impose a fee for registry application and renewal; to make an appropriation; to provide for the promulgation of rules; to provide for the administration of this act; to provide for enforcement of this act; to provide for affirmative defenses; and to provide for penalties for violations of this act.

3. Definitions.

Sec. 3. As used in this act:

(a) "Bona fide physician-patient relationship" means a treatment or counseling relationship between a physician and patient in which all of the following are present:

(1) The physician has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.

(2) The physician has created and maintained records of the patient's condition in accord with medically accepted standards.

(3) The physician has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marihuana as a treatment of the patient's debilitating medical condition.

(4) If the patient has given permission, the physician has notified the patient's primary care physician of the patient's debilitating medical condition and certification for the medical use of marihuana to treat that condition.

(b) "Debilitating medical condition" means 1 or more of the following:

(1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions.

(2) A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.

(3) Any other medical condition or its treatment approved by the department, as provided for in section 6(k).

(c) "Department" means the department of licensing and regulatory affairs.

(d) "Enclosed, locked facility" means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient or a person designated through the departmental registration process as the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:

(1) The vehicle is being used temporarily to transport living marihuana plants from 1 location to another with the intent to permanently retain those plants at the second location.

(2) An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong or the individual designated through the departmental registration process as the primary caregiver for the registered qualifying patient.

(e) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(f) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

(g) "Marihuana plant" means any plant of the species Cannabis sativa L.

(h) "Medical use of marihuana" means the acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

(i) "Physician" means an individual licensed as a physician under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(j) "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

(k) "Primary caregiver" or "caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(*l*) "Qualifying patient" or "patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(m) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.

(n) "Usable marihuana" means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

(o) "Usable marihuana equivalent" means the amount of usable marihuana in a marihuana-infused product that is calculated as provided in section 4(c).

(p) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.

(q) "Written certification" means a document signed by a physician, stating all of the following:

(1) The patient's debilitating medical condition.

(2) The physician has completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation.

(3) In the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

4. Protections for the Medical Use of Marihuana.

Sec. 4. (a) A qualifying patient who has been issued and possesses a registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marihuana in accordance with this act, provided that the qualifying patient possesses an amount of marihuana that does not exceed a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount. The privilege from arrest under this subsection applies only if the qualifying patient presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the qualifying patient.

(b) A primary caregiver who has been issued and possesses a registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act. The privilege from arrest under this subsection applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary caregiver. This subsection applies only if the primary caregiver possesses marihuana in forms and amounts that do not exceed any of the following:

(1) For each qualifying patient to whom he or she is connected through the department's registration process, a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents.

(2) For each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility.

(3) Any incidental amount of seeds, stalks, and unusable roots.

(c) For purposes of determining usable marihuana equivalency, the following shall be considered equivalent to 1 ounce of usable marihuana:

(1) 16 ounces of marihuana-infused product if in a solid form.

(2) 7 grams of marihuana-infused product if in a gaseous form.

(3) 36 fluid ounces of marihuana-infused product if in a liquid form.

(d) A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(e) There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marihuana in accordance with this act if the qualifying patient or primary caregiver complies with both of the following:

(1) Is in possession of a registry identification card.

(2) Is in possession of an amount of marihuana that does not exceed the amount allowed under this act. The presumption may be rebutted by evidence that conduct related to marihuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this act.

(f) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana. Any such compensation does not constitute the sale of controlled substances.

(g) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, or any other business or occupational or professional licensing board or bureau, solely for providing written certifications, in the course of a bona fide physician-patient relationship and after the physician has completed a full assessment of the qualifying patient's medical history, or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use

of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(h) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marihuana paraphernalia for purposes of a qualifying patient's medical use of marihuana.

(i) Any marihuana, marihuana paraphernalia, or licit property that is possessed, owned, or used in connection with the medical use of marihuana, as allowed under this act, or acts incidental to such use, shall not be seized or forfeited.

(j) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for being in the presence or vicinity of the medical use of marihuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marihuana.

(k) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana, shall have the same force and effect as a registry identification card issued by the department.

(*l*) Any registered qualifying patient or registered primary caregiver who sells marihuana to someone who is not allowed the medical use of marihuana under this act shall have his or her registry identification card revoked and is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both, in addition to any other penalties for the distribution of marihuana.

(m) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for manufacturing a marihuana-infused product if the person is any of the following:

(1) A registered qualifying patient, manufacturing for his or her own personal use.

(2) A registered primary caregiver, manufacturing for the use of a patient to whom he or she is connected through the department's registration process.

(n) A qualifying patient shall not transfer a marihuana-infused product or marihuana to any individual.

(o) A primary caregiver shall not transfer a marihuana-infused product to any individual who is not a qualifying patient to whom he or she is connected through the department's registration process.

Sec. 4a. (1) This section does not apply unless the medical marihuana facilities licensing act is enacted.

(2) A registered qualifying patient or registered primary caregiver shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for any of the following:

(a) Transferring or purchasing marihuana in an amount authorized by this act from a provisioning center licensed under the medical marihuana facilities licensing act.

(b) Transferring or selling marihuana seeds or seedlings to a grower licensed under the medical marihuana facilities licensing act.

(c) Transferring marihuana for testing to and from a safety compliance facility licensed under the medical marihuana facilities licensing act.

Sec. 4b. (1) Except as provided in subsections (2) to (4), a qualifying patient or primary caregiver shall not transport or possess a marihuana-infused product in or upon a motor vehicle.

(2) This section does not prohibit a qualifying patient from transporting or possessing a marihuana-infused product in or upon a motor vehicle if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the person from whom the marihuana-infused product was received, and date of receipt.

(3) This section does not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle if the marihuana-infused product is accompanied by an accurate marihuana transportation manifest and enclosed in a case carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is enclosed in a case and carried so as not to be readily accessible from the interior of the vehicle. The manifest form must state the

weight of each marihuana-infused product in ounces, name and address of the manufacturer, date of manufacture, destination name and address, date and time of departure, estimated date and time of arrival, and, if applicable, name and address of the person from whom the product was received and date of receipt.

(4) This section does not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle for the use of his or her child, spouse, or parent who is a qualifying patient if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the qualifying patient, and, if applicable, name of the person from whom the marihuana-infused product was received and date of receipt.

(5) For purposes of determining compliance with quantity limitations under section 4, there is a rebuttable presumption that the weight of a marihuana-infused product listed on its package label or on a marihuana transportation manifest is accurate.

(6) A qualifying patient or primary caregiver who violates this section is responsible for a civil fine of not more than $250.00.

6. Administering the Department's Rules.

Sec. 6. (a) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's rules:

(1) A written certification;

(2) Application or renewal fee;

(3) Name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) Name, address, and telephone number of the qualifying patient's physician;

(5) Name, address, and date of birth of the qualifying patient's primary caregiver, if any;

(6) Proof of Michigan residency. For the purposes of this subdivision, a person shall be considered to have proved legal residency in this state if any of the following apply:

(*i*) The person provides a copy of a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(*ii*) The person provides a copy of a valid Michigan voter registration.

(7) If the qualifying patient designates a primary caregiver, a designation as to whether the qualifying patient or primary caregiver will be allowed under state law to possess marihuana plants for the qualifying patient's medical use.

(b) The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marihuana to the qualifying patient and to his or her parent or legal guardian;

(2) The qualifying patient's parent or legal guardian submits a written certification from 2 physicians; and

(3) The qualifying patient's parent or legal guardian consents in writing to:

(A) Allow the qualifying patient's medical use of marihuana;

(B) Serve as the qualifying patient's primary caregiver; and

(C) Control the acquisition of the marihuana, the dosage, and the frequency of the medical use of marihuana by the qualifying patient.

(c) The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 business days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.

(d) The department shall issue a registry identification card to the primary caregiver, if any, who is named in a qualifying patient's approved application; provided that each qualifying patient can have no more than 1 primary caregiver, and a primary caregiver may assist no more than 5 qualifying patients with their medical use of marihuana.

(e) The department shall issue registry identification cards within 5 business days of approving an application or renewal, which shall expire 2 years after the date of issuance. Registry identification cards shall contain all of the following:

(1) Name, address, and date of birth of the qualifying patient.

(2) Name, address, and date of birth of the primary caregiver, if any, of the qualifying patient.

(3) The date of issuance and expiration date of the registry identification card.

(4) A random identification number.

(5) A photograph, if the department requires one by rule.

(6) A clear designation showing whether the primary caregiver or the qualifying patient will be allowed under state law to possess the marihuana plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference.

(f) If a registered qualifying patient's certifying physician notifies the department in writing that the patient has ceased to suffer from a debilitating medical condition, the card shall become null and void upon notification by the department to the patient.

(g) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any local, county or state governmental agency.

(h) The following confidentiality rules shall apply:

(1) Subject to subdivisions (3) and (4), applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and physicians, are confidential.

(2) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Except as provided in subdivisions (3) and (4), individual names and other identifying information on the list are confidential and are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The department shall verify to law enforcement personnel and to the necessary database created in the marihuana tracking act as established by the medical marihuana facilities licensing act whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) A person, including an employee, contractor, or official of the department or another state agency or local unit of government, who discloses confidential information in violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than $1,000.00, or both. Notwithstanding this provision, department employees may notify law enforcement about falsified or fraudulent information submitted to the department.

(i) The department shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:

(1) The number of applications filed for registry identification cards.

(2) The number of qualifying patients and primary caregivers approved in each county.

(3) The nature of the debilitating medical conditions of the qualifying patients.

(4) The number of registry identification cards revoked.

(5) The number of physicians providing written certifications for qualifying patients.

(j) The department may enter into a contract with a private contractor to assist the department in performing its duties under this section. The contract may provide for assistance in processing and issuing registry identification cards, but the department shall retain the authority to make the final determination as to issuing the registry identification card. Any contract shall include a provision requiring the contractor to preserve the confidentiality of information in conformity with subsection (h).

(k) Not later than 6 months after the effective date of the amendatory act that added this subsection, the department shall appoint a panel to review petitions to approve medical conditions or treatments for addition to the list of debilitating medical conditions under the administrative rules. The panel shall meet at least twice each year and shall review and make a recommendation to the department concerning any petitions that have been submitted that are completed and include any documentation required by administrative rule.

(1) A majority of the panel members shall be licensed physicians, and the panel shall provide recommendations to the department regarding whether the petitions should be approved or denied.

(2) All meetings of the panel are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(*l*) The marihuana registry fund is created within the state treasury. All fees collected under this act shall be deposited into the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of licensing and regulatory affairs shall be the administrator of the fund for auditing purposes. The department shall expend money from the fund, upon appropriation, for the operation and oversight of the Michigan medical marihuana program. For the fiscal year ending September 30, 2016, $8,500,000.00 is appropriated from the marihuana registry fund to the department for its initial costs of implementing the medical marihuana facilities licensing act and the marihuana tracking act.

7. Scope of Act.

Sec. 7. (a) The medical use of marihuana is allowed under state law to the extent that it is carried out in accordance with the provisions of this act.

(b) This act does not permit any person to do any of the following:

(1) Undertake any task under the influence of marihuana, when doing so would constitute negligence or professional malpractice.

(2) Possess marihuana, or otherwise engage in the medical use of marihuana at any of the following locations:

(A) In a school bus.

(B) On the grounds of any preschool or primary or secondary school.

(C) In any correctional facility.

(3) Smoke marihuana at any of the following locations:

(A) On any form of public transportation.

(B) In any public place.

(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana.

(5) Use marihuana if that person does not have a serious or debilitating medical condition.

(6) Separate plant resin from a marihuana plant by butane extraction in any public place or motor vehicle, or inside or within the curtilage of any residential structure.

(7) Separate plant resin from a marihuana plant by butane extraction in a manner that demonstrates a failure to exercise reasonable care or reckless disregard for the safety of others.

(c) Nothing in this act shall be construed to require any of the following:

(1) A government medical assistance program or commercial or non-profit health insurer to reimburse a person for costs associated with the medical use of marihuana.

(2) An employer to accommodate the ingestion of marihuana in any workplace or any employee working while under the influence of marihuana.

(d) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marihuana to avoid arrest or prosecution is punishable by a fine of $500.00, which is in addition to any other penalties that may apply for making a false statement or for the use of marihuana other than use undertaken pursuant to this act.

(e) All other acts and parts of acts inconsistent with this act do not apply to the medical use of marihuana as provided for by this act.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act clarifies ambiguities in the law in accordance with the original intent of the people, as expressed in section 2(b) of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26422:

"(b) Data from the Federal Bureau of Investigation Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marihuana arrests in the United States are made under state law, rather than under federal law. *Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marihuana.*". [Emphasis added.]

This amendatory act is curative and applies retroactively as to the following: clarifying the quantities and forms of marihuana for which a person is protected from arrest, precluding an interpretation of "weight" as aggregate weight, and excluding an added inactive substrate component of a preparation in determining the amount of marihuana, medical marihuana, or usable marihuana that constitutes an offense. Retroactive application of this amendatory act does not create a cause of action against a law enforcement officer or any other state or local governmental officer, employee, department, or agency that enforced this act under a good-faith interpretation of its provisions at the time of enforcement.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Rep. Kesto

ENROLLED HOUSE BILL No. 4827

AN ACT to establish a statewide monitoring system to track marihuana and marihuana products in commercial trade; to monitor compliance with laws authorizing commercial traffic in medical marihuana; to identify threats to health from particular batches of marihuana or medical marihuana; to require persons engaged in commercial marihuana trade to submit certain information for entry into the system; to provide the powers and duties of certain state departments and agencies; to provide for remedies; and to provide for the promulgation of rules.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "marihuana tracking act".

Sec. 2. As used in this act:

(a) "Department" means the department of licensing and regulatory affairs.

(b) "Licensee" means that term as defined in section 102 of the medical marihuana facilities licensing act.

(c) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(d) "Registered primary caregiver" means that term as defined in section 102 of the medical marihuana facilities licensing act.

(e) "Registered qualifying patient" means that term as defined in section 102 of the medical marihuana facilities licensing act.

(f) "Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26423.

(g) "Statewide monitoring system" or "system" means an internet-based, statewide database established, implemented, and maintained directly or indirectly by the department that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

(*i*) Verifying registry identification cards.

(*ii*) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.

(*iii*) Verifying in a commercially reasonable time that a transfer will not exceed the limit that the registered qualifying patient or registered primary caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26424.

Sec. 3. (1) The department shall establish a statewide monitoring system for use as an integrated marihuana tracking, inventory, and verification system. The system must allow for interface with third-party inventory and tracking systems as described in section 207 of the medical marihuana facilities licensing act to provide for access by this state, licensees, and law enforcement personnel, to the extent that they need and are authorized to receive or submit the information, to comply with, enforce, or administer this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; or the medical marihuana facilities licensing act.

(2) At a minimum, the system must be capable of storing and providing access to information that, in conjunction with 1 or more third-party inventory control and tracking systems under section 207 of the medical marihuana facilities licensing act, allows all of the following:

(a) Verification that a registry identification card is current and valid and has not been suspended, revoked, or denied.

(b) Retention of a record of the date, time, quantity, and price of each sale or transfer of marihuana to a registered qualifying patient or registered primary caregiver.

(c) Determination of whether a particular sale or transfer transaction will exceed the permissible limit established under the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(d) Effective monitoring of marihuana seed-to-sale transfers.

(e) Receipt and integration of information from third-party inventory control and tracking systems under section 207 of the medical marihuana facilities licensing act.

(3) The department shall promulgate rules to govern the process for incorporating information concerning registry identification card renewal, revocation, suspension, and changes and other information applicable to licensees, registered primary caregivers, and registered qualifying patients that must be included and maintained in the statewide monitoring system.

(4) The department shall seek bids to establish, operate, and maintain the statewide monitoring system under this section. The department shall do all of the following:

(a) Evaluate bidders based on the cost of the service and the ability to meet all of the requirements of this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; and the medical marihuana facilities licensing act.

(b) Give strong consideration to the bidder's ability to prevent fraud, abuse, and other unlawful or prohibited activities associated with the commercial trade in marihuana in this state, and the ability to provide additional tools for the administration and enforcement of this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; and the medical marihuana facilities licensing act.

(c) Institute procedures to ensure that the contract awardee does not disclose or use the information in the system for any use or purpose except for the enforcement, oversight, and implementation of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, or the medical marihuana facilities licensing act.

(d) Require the contract awardee to deliver the functioning system by 180 days after award of the contract.

(5) The department may terminate a contract with a contract awardee under this act for a violation of this act. A contract awardee may be debarred from award of other state contracts under this act for a violation of this act.

Sec. 4. The information in the system is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information in the system may be disclosed for purposes of enforcing this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; and the medical marihuana facilities licensing act.

Enacting section 1. This act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This act does not take effect unless House Bill No. 4209 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved .....

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Governor