CITY OF BURTON

PLANNING COMMISSION

AGENDA

NOVEMBER 13, 2017

Community Room	**Workshop**	**10:00 AM**

4303 S. CENTER ROAD
BURTON, MI 48519

A. CALL TO ORDER

B. STAFF PRESENT

C. AUDIENCE PARTICIPATION

Now is the time set aside for the members of the audience to address the Burton City Planning Commission members. I would ask each individual to give their name and address for the record, limit their comments to three (3) minutes to speak on tonight's agenda or topics germane to Planning Commission business.

D. BOARD DISCUSSION

1. Medical Marijuana Law review

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-53
Fax: (517) 373-19

House Bill 4209 (as enacted) **PUBLIC ACT 281 of 2016**
House Bill 4210 (as enacted) **PUBLIC ACT 283 of 2016**
House Bill 4827 (as enacted) **PUBLIC ACT 282 of 2016**
Sponsor: Representative Mike Callton, D.C. (H.B. 4209)
Representative Lisa Posthumus Lyons (H.B. 4210)
Representative Klint Kesto (H.B. 4827)
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 9-23-16

CONTENT

House Bill 4209 enacts the "Medical Marihuana Facilities Licensing Act" to do the following:

-- **Provide for the licensure of marihuana growers, processors, secure transporters, provisioning centers, and safety compliance facilities.**
-- **Establish the licensure process within the Department of Licensing and Regulatory Affairs (LARA).**
-- **Create the Medical Marihuana Licensing Board within LARA to implement the Act, including the licensing process, and give the Board jurisdiction over the operation of all marihuana facilities.**
-- **Require applicants for a license to pay an application fee and require licensees to pay an annual regulatory assessment, which will be deposited in a new "Marihuana Regulatory Fund".**
-- **Require money in that Fund to be used for implementing, administering, and enforcing the Act.**
-- **Require provisioning centers to pay a tax on their retail gross income, and require the tax to be deposited in a new "Medical Marihuana Excise Fund".**
-- **Require money in the Excise Fund to be distributed to municipalities and counties where marihuana facilities are located, the Michigan Commission on Law Enforcement Standards, the State Police, and, until September 30, 2017, the State General Fund.**
-- **Require money in the Excise Fund to be distributed to the First Responder Presumed Coverage Fund, rather than the State General Fund, beginning October 1, 2017.**
-- **Authorize the Board to impose license sanctions and civil fines for violations of the Act or rules.**
-- **Impose various restrictions on Board members, employees, and agents related to conflicts of interests and relationships with licensees, and require members, employees, and agents to make certain disclosures.**
-- **Exempt licensees from marihuana-related criminal or civil prosecution and penalties, and other sanctions, for performing activities within the scope of their license.**
-- **Provide that a registered qualifying patient or registered primary caregiver will not be subject to criminal prosecution or sanctions for purchasing marihuana from a provisioning center.**
-- **Require LARA to promulgate rules and emergency rules in consultation with the Board.**

-- Require licensees to adopt and use a third-party inventory control and tracking system.
-- Require licensees to file with LARA proof of financial responsibility for liability for bodily injury to a lawful user from adulterated marihuana.
-- Create the Marihuana Advisory Panel to make recommendations to the Board.

House Bill 4210 amends the Michigan Medical Marihuana Act (MMMA) to do the following concerning marihuana-infused products:

-- Prevent a person from being penalized for manufacturing a marihuana-infused product if the person is a qualified registered patient or a registered primary caregiver.
-- Prohibit a patient from transferring a marihuana-infused product or marihuana to another individual, and prohibit a caregiver from transferring a marihuana-infused product to someone other than a qualifying patient of the caregiver.
-- Prohibit a qualifying patient or primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle, unless certain conditions are satisfied, and prescribe a maximum civil fine of $250 for a violation.

Also, where the Act allows a qualifying patient or primary caregiver to possess 2.5 ounces of usable marihuana, the bill allows a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents (which refers to the amount of usable marihuana in a marihuana-infused product).

In addition, the bill extends criminal and civil immunity to a person for the transfer, purchase, or sale of marihuana pursuant to the Medical Marihuana Facilities Licensing Act.

The bill also does the following:

-- Specifies that the MMMA does not permit a person to separate plant resin from a marihuana plant by butane extraction in any public place or motor vehicle or inside or within the curtilage of a residential structure, or in a manner that that fails to exercise reasonable care or a disregard for the safety of others.
-- Requires LARA to verify the authenticity of a registry ID card to the database created in the Marihuana Tracking Act.
-- Appropriates $8.5 million to LARA for its initial costs of implementing the Marihuana Facilities Licensing Act and the Marihuana Tracking Act.
-- Includes statements of intent and retroactivity.

House Bill 4827 enacts the "Marihuana Tracking Act" to:

-- Require LARA to establish a statewide internet-based monitoring system for integrated tracking, inventory, and verification.
-- Require the system to have specified capabilities.
-- Require LARA to seek bids to establish, operate, and maintain the system.
-- Require the awardee to deliver the functioning system within 180 days after the contract is awarded.
-- Allow LARA to terminate the contract for a violation of the Act.
-- Provide for the confidentiality of information in the system.

Each bill will take effect on December 20, 2016.

(Two other bills are related to this legislation: Senate Bill 1014, which is tie-barred to House Bill 4209, and Senate Bill 141, which is tie-barred to House Bill 4210. Senate Bill 1014 would

amend the Administrative Procedures Act to exclude from the definition of "rule" a rule or order promulgated or issued before January 1, 2017, under authority granted by the Medical Marihuana Facilities Licensing Act. Senate Bill 141 would amend the sentencing guidelines in the Code of Criminal Procedure to revise the citation to a section of the Michigan Compiled Laws that House Bill 4210 changes.)

House Bill 4209

Licenses

Categories; Definitions. Beginning 360 days after the effective date of the Medical Marihuana Facilities Licensing Act, a person may apply to the proposed Medical Marihuana Licensing Board for State operating licenses in the following categories:

-- Class A, B, or C grower.
-- Processor.
-- Provisioning center.
-- Secure transporter.
-- Safety compliance facility.

"State operating license" means a license issued under the Act that allows the licensee to operate as a grower, processor, secure transporter, provisioning center, or safety compliance facility.

"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.

"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.

"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 their registered primary caregivers. The term 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 marihuana registration process of the Department of Licensing and Regulation in accordance with the Michigan Medical Marihuana Act will not be a provisioning center for purposes of the Licensing Act.

"Secure transporter" means a licensee that is a commercial entity located in this State that stores marihuana and transports it between marihuana facilities for a fee.

"Safety compliance facility" would mean 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 (THC) and other cannabinoids, returns the test results, and may return the marihuana to the facility.

"Marihuana facility" means a location from which a license holder is licensed to operate.

"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 products will not be considered a food for purposes of the Food Law.

"Registered qualifying patient" means a qualifying patient who has been issued a current registry identification card under the Michigan Medical Marihuana Act (MMMA) or a visiting qualifying patient as that term is defined in the MMMA.

"Registered primary caregiver" means a primary caregiver who has been issued a current registry identification card under the MMMA.

Grower License. A grower license will authorize the grower to grow not more than the following number of marihuana plants under the indicated class for each license the grower holds in that class:

-- Class A: 500 plants
-- Class B: 1,000 plants
-- Class C: 1,500 plants

A grower license will authorize the sale of marihuana seeds or marihuana plants only to a grower by means of a secure transporter and authorize the grower to transfer marihuana only by means of a secure transporter.

The license will authorize the sale of marihuana, other than seeds, only to a processor or provisioning center.

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

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

While holding a license as a grower, the grower may not be a registered primary caregiver or employ an individual who is simultaneously a registered primary caregiver.

A grower must enter all transactions, current inventory, and other information into the statewide monitoring system as required in the Licensing Act, rules, and the Marihuana Tracking Act.

A grower license will 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 local requirements.

Processor License. A processor license will authorize the purchase of marihuana only from a grower and the sale of marihuana-infused products or marihuana only to a provisioning center.

A processor license will authorize the processor to transfer marihuana only by means of a secure transporter.

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

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

While holding a license as a processor, the processor may not be a registered primary caregiver or employ an individual who is simultaneously a registered primary caregiver.

A processor must enter all transactions, current inventory, and other information into the statewide monitoring system.

Secure Transporter License. A secure transporter license will authorize 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 will not authorize transport to a registered qualifying patient or registered primary caregiver.

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

A secure transporter must enter all transactions, current inventory, and other information into the statewide monitoring system.

A secure transporter must comply with all of the following:

-- Each driver transporting marihuana must have a chauffeur's license issued by the State.
-- Each vehicle must be operated with a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana.
-- A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the vehicle and presented to a law enforcement officer upon request.
-- The marihuana must be transported in one or more sealed containers and may not be accessible while in transit.
-- A secure transporting vehicle may not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

Also, within the past five years, each employee who has custody of marihuana or money that is related to a marihuana transaction must not have been convicted of or released from incarceration for a felony under the laws of any state or the United States or have been convicted of a misdemeanor involving a controlled substance.

A secure transporter will be subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the Act.

Provisioning Center License. A provisioning center license will authorize the purchase or transfer or marihuana only from a grower or processor and the sale or transfer only to 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.

A provisioning center license will authorize the licensee to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

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

A provisioning center may 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.

A provisioning center must enter all transactions, current inventory, and other information into the statewide monitoring system.

Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver, a provisioning center must inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver holds a valid and current registry identification care and that the sale or transfer will not exceed the daily purchasing limit established by the Board.

A provisioning center may not allow the sale, consumption, or use of alcohol or tobacco products on the premises. It also may not allow a physician to conduct a medical exam or issue a medical certification document on the premises for the purpose of obtaining a registry ID card.

Safety Compliance Facility License. A safety compliance facility license will authorize the facility to receive marihuana from, test marihuana for, and return marihuana to only a marihuana facility.

A safety compliance facility must be accredited by an entity approved by the Board within one year after the date the license is issued or have previously provided drug testing services to the State or its court system and be a vendor in good standing in regard to those services. The Board may grant a variance from this requirement if it finds 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 an interest in the facility may not have any interest in a grower, secure transporter, processor, or provisioning center.

A safety compliance facility must do all of the following:

-- Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.
-- Use validated test methods to determine THC, THC acid, cannabidiol (CBD), and CBD acid levels.
-- Perform tests that determine whether marihuana complies with the standards the Board establishes for microbial and mycotoxin contents.
-- Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed by rules.
-- Enter all transactions, current inventory, and other information into the statewide monitoring system.
-- Have a secured laboratory space to which the general public cannot have access.
-- Retain and employ at least one staff member with a relevant advanced degree in medical or laboratory science.

Licensing Process

Application. A license application must be made under oath on a form prescribed by the Medical Marihuana Licensing Board. It must contain information prescribed by the Board, including all of the following:

-- The name, business address and telephone number, Social Security number, and, if applicable, Federal tax ID number of the applicant.
-- The identity of every person having any ownership interest in the applicant, as well the names and addresses of the following: beneficiaries if the applicant is a trust; all shareholders, officers, and directors if the applicant is a corporation; all partners if the applicant is a partnership or limited liability partnership; and the managers, if the applicant is a limited liability company.
-- An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marihuana.

-- Whether an applicant has been indicted for, charged with, arrested for, or convicted of, pleaded guilty or no contest to, or 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.
-- Whether an applicant has ever applied for or been granted any commercial license or certificate by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed.
-- Whether an applicant has filed, or been served with, a complaint or other notice filed with any public body regarding the delinquency in payment of, or a dispute over the filings concerning the payment of, any tax required under Federal, state, or local law.
-- A statement listing the names and titles of all public officials or officers of any unit of government, and their spouses, parents, and children, who directly or indirectly own any financial interest in, have any beneficial interest in, are creditors of, or hold any interest in any contractual or service relationship with an applicant.
-- A description of the type of marihuana facility; anticipated or actual number of employees; and projected or actual gross receipts.
-- A paper copy of electronic posting website reference for the ordinance that the municipality adopted to authorize operation of one or more licensed marihuana facilities in the municipality.
-- Financial information in the manner and form prescribed by the Board.
-- A copy of the notice informing the municipality by registered mail that the applicant has applied for a license under the Act.
-- Any other information the Board requires by rule.

In addition, each applicant must submit with its application, on forms provided by the Board, a passport quality photograph and one set of fingerprints for each person having any ownership interest in the 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 fingerprints, and the applicant will be responsible for the costs.

The Board must use information on an application as a basis to conduct a thorough background investigation on the applicant. Information the Board obtains from the background investigation will be exempt from disclosure under the Freedom of Information Act (FOIA).

A false application will be cause for the Board to deny a license.

The Board may not consider an incomplete application but, within a reasonable time, must return it to the applicant with notification of the deficiency and instructions for submitting a corrected application.

An applicant must provide written consent to the inspections, examinations, searches, and seizures provided for in the Licensing Act and to the disclosure to the Board and its agents of otherwise confidential records, including tax records, while applying for and holding a license. Information the Board receives under this provision will be exempt from FOIA.

An applicant must certify that the applicant does not have an interest in any other State operating license that is prohibited under the Act.

Application Fee. A nonrefundable application fee must be paid at the time an application is filed, to defray the costs associated with the background investigation. In consultation with the Board, LARA must set the amount of the fee for each category and class of license by rule. If the costs of investigation and processing exceed the fee, the applicant will have to pay the additional amount to the Board.

Eligibility. An applicant will be ineligible to receive a license if any of the following applies:

-- The applicant has been convicted of or released from incarceration for a felony under the laws of this or any other state or the United States within the past five years or has been convicted of a controlled substance-related felony within the past 10 years.
-- Within the past five years, the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or has been found responsible for violating a substantially corresponding local ordinance in any state.
-- The applicant has knowingly submitted a license application that contains false information.
-- The applicant is a member of the Board.
-- The applicant fails to demonstrate the ability to maintain adequate premises liability and casualty insurance for its proposed facility.
-- The Board determines that the applicant is not in compliance with the provision prohibiting a marihuana facility from operating in a municipality that has not adopted an ordinance authorizing that type of facility.
-- The applicant fails to meet other criteria established by rule.

An applicant also will be ineligible for a license if he or she holds an elective office of a governmental unit of this or another state or the Federal government; is a member of or employed by a regulatory body of a governmental unit in this or another state or the Federal government; or is employed by a governmental unit of this State. This provision does not apply to an elected officer or employee of a federally recognized Indian tribe or to an elected precinct delegate.

Until June 30, 2018, an applicant will be ineligible if he or she has not been a Michigan resident for the two-year period immediately before the date the application is filed.

In determining whether to grant a license, the Board also may consider various specified factors, including the following:

-- The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.
-- Whether the applicant has filed, or had filed against it, a bankruptcy proceeding within the past seven years.
-- Whether the applicant has a history of noncompliance with any regulatory requirements in this State or any other jurisdiction.
-- Whether at the time of application the applicant is a defendant in litigation involving its business practices.

License Issuance & Renewal. The Board must issue a license to an applicant who submits a complete application and pays both the application fee and a 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. The Board must review all applications and inform each applicant of its decision.

A license will be issued for a one-year period and be renewable annually. Except as otherwise provided in the Act, the Board must renew a license if all of the following are met:

-- The licensee applies to the Board on a renewal form provided by the Board that requires information prescribed by rules.
-- The Board receives the application on or before the expiration date of the current license.
-- The licensee pays the regulatory assessment required under the Act.
-- The licensee meets any other renewal requirements set forth in rules.

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

The expiration of a license will not terminate the Board's authority to impose sanctions on the licensee.

In deciding on a renewal application, the Board must consider any specific written input it receives from an individual or entity within the local unit of government where the applicant is located.

Provision of Consent & Information. A licensee must consent in writing to inspections, examinations, searches, and seizures that are permitted under the Act, and provide a handwriting exemplar, fingerprints, photographs, and information as authorized in the Act and rules.

An applicant or licensee will have a continuing duty to provide information requested by the Board and to cooperate in any investigation, inquiry, or hearing conducted by the Board.

True Party of Interest. The Board may issue a license only in the name of the true party of interest.

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

-- For an individual or sole proprietorship: the proprietor and spouse.
-- 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.
-- For a privately held corporation: all corporate officers or people with equivalent titles and their spouses and all stockholders and their spouses.
-- For a publicly held corporation: all corporate officers or people with equivalent titles and their spouses.
-- 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.
-- For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of corporation or the bylaws, and their spouses.

License Exclusivity. Each license will be 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 will be grounds for suspension or revocation of the license or other sanction considered appropriate by the Board.

A licensee or other person may not lease, pledge, or borrow money against a license.

A State operating license will be a revocable privilege granted by the State and not a property right.

Proof of Financial Responsibility. Before the Board grants or renews a license, the licensee or applicant must file with LARA proof of financial responsibility for liability for bodily injury to a lawful user resulting from the manufacture, distribution, transportation, or sale of adulterated

marihuana or adulterated marihuana-infused product, in an amount of at least $100,000. 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 the State. ("Bodily injury" does not include expected or intended effect or long-term adverse effect of smoking, ingesting, or consuming marihuana or marihuana-infused product.)

An insured licensee may not cancel liability insurance unless the licensee 1) gives 30 days prior written notice to LARA, and 2) procures new proof of financial responsibility and delivers that proof to LARA within 30 days after the Department receives the notice.

Licensing Board

The five-member Medical Marihuana Licensing Board will be created within LARA. The members must be residents of the State appointed by the Governor. Not more than three may be from the same political party. One member must be appointed from three nominees submitted by the Senate Majority Leader and one from three nominees submitted by the Speaker of the House. The Governor must designate one member as the chairperson.

The members will be appointed for terms of four years, except, of those first appointed, one will be appointed for two years and two will be appointed for three years. The Governor may remove a member for neglect of duty, misfeasance, malfeasance, nonfeasance, or any other just cause.

A board member may not hold any other public office for which he or she receives compensation, except necessary travel or other incidental expenses.

A person will not be eligible to serve on the Board if he or she is not of good moral character or has been indicted for, charged with, or convicted of, pleaded guilty or no contest to, or forfeited bail concerning any felony or a misdemeanor involving a controlled substance violation, theft, dishonesty, or fraud.

Members must be reimbursed for all actual and necessary expenses and disbursements incurred in carrying out official duties.

In conjunction with the Board, LARA must employ an executive director and other personnel as necessary to assist the Board in carrying out its duties. The executive director may not hold any other office or employment.

Board Responsibilities

The Board will have general responsibility for implementing the Act. The Board will have the powers 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 licensing and regulation system established under the Act for marihuana growth, processing, testing, and transportation. The Board will be subject to the Administrative Procedures Act.

The Board's duties will include the following:

-- Granting or denying each application for a State operating license within a reasonable time.
-- Deciding all license applications in reasonable order.
-- Implementing and collecting the application fee, the regulatory assessment, and the tax on provisioning centers.
-- Providing for the levy and collection of fines for a violation 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 purposes of certifying revenue, receiving complaints from the public, or conducting investigations into the operation of the facilities.
-- Reviewing and ruling on any complaint by a licensee regarding investigative procedures of the State that are believed to be unnecessarily disruptive of marihuana facility operations.
-- Holding at least two public meetings each year.

The Board also will be required to review the patterns of marihuana transfers by the licensees under the Act as recorded in a statewide database established for use in administering and enforcing the Act, and making recommendations to the Governor and the Legislature in a written annual report and additional reports requested by the Governor.

In addition, the Board will be required to provide 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.

The Board may not promulgate a rule establishing a limit on the number or type of marihuana facility licenses that may be granted.

Except as otherwise provided in the Act and as described below, all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the Board will be subject to FOIA.

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 investigations of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees and applicants will not be subject to FOIA.

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 whose release is otherwise barred by the statutes, rules, or regulations of that jurisdiction or agency or by an intergovernmental agreement, will not be subject to FOIA.

In addition, all information in the statewide monitoring system will not be subject to FOIA.

<u>Board Jurisdiction over Facilities; Examination by Police</u>

The Medical Marihuana Licensing Board will have jurisdiction over the operation of all marihuana facilities. The Board will have all powers necessary and proper to fully and effectively oversee the operation of marihuana facilities, including the authority to do all the following:

-- Investigate applicants for State operating licenses, determine the eligibility for licenses, and grant licenses to applicants according to the Act and rules.
-- Investigate all individuals employed by marihuana facilities.
-- Enter the premises, offices, facilities, or other places of business of a licensee, at any time and without a warrant or notice to the licensee, if evidence of compliance or noncompliance with the Act or rules is likely to be found and consistent with constitutional limitations, for specified purposes.
-- Investigate alleged violations of the Act or rules and take appropriate disciplinary action against a licensee.

-- Require all relevant records of licensees to be kept on the premises authorized for operation of the marihuana facility of the licensee or in the manner prescribed by the Board.
-- Require each licensee of a marihuana facility to submit to the Board a list of the stockholders or other people having a 1% or greater beneficial interest in the facility, in addition to any other information the Board considers necessary.
-- Eject or exclude, or authorize the ejection or exclusion of, an individual from a marihuana facility if he or she violates the Act, rules, or final orders of the Board, subject to a subsequent hearing by the Board concerning the propriety of the ejection or exclusion.
-- Conduct periodic audits of licensed facilities.
-- Take disciplinary action as the Board considers appropriate to prevent practices that violate the Act and rules.
-- Review a licensee that 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.

The Board may seek and must receive the cooperation and assistance of the Department of State Police in conducting background investigations of applicants and fulfilling its responsibilities under the Act. The Department of State Police may recover its costs of cooperation.

In addition, a marihuana facility and all articles of property in it will be subject to examination at any time by a local police agency or the Department of State Police.

Sanctions & Hearings

If an applicant or a licensee fails to comply with the Medical Marihuana Facilities Licensing Act or rules, if a licensee no longer meets the eligibility requirements for a license under the Act, if a licensee fails to comply with the Marihuana Tracking 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 also may suspend, revoke, or restrict a license and require the removal of a licensee or an employee of a licensee for a violation of the Licensing Act, rules, the Marihuana Tracking Act, or any ordinances adopted by a municipality under the Licensing Act.

The Board may impose civil fines of 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 for each violation of the Licensing Act, rules, or an order of the Board.

The Board must comply with the Administrative Procedures Act 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 does so, 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 removed. The Board may revoke the license or approve a transfer or sale of the license upon determining that the licensee has not made satisfactory progress toward abating the hazard.

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

Except for license applicants who may be granted a hearing at the discretion of the Board, any party aggrieved by an action of the Board suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, must be given a hearing before the Board upon request. A written request for a hearing must be made to the Board within 21 days after notice of the Board's action is served.

In addition, the Board may conduct investigative and contested case hearings, issue subpoenas for the attendance of witnesses; and issue subpoenas for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent records.

Rules

In consultation with the Board, LARA must 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, and include rules to do the following:

-- Set appropriate standards for marihuana facilities and associated equipment.
-- Provide for the levy and collection of fines for a violation of the Act or rules.
-- Prescribe use of the statewide monitoring system to track all marihuana transfers, and provide a funding mechanism to support the system.

The rules also must establish the following:

-- Operating regulations for each category of licensee.
-- Qualifications and restrictions for people participating in or involved with operating marihuana facilities.
-- Testing standards, procedures, and requirements for marihuana sold through provisioning centers.
-- Quality control standards, procedures, and requirements for marihuana facilities.
-- Chain of custody standards, procedures, and requirements for facilities.
-- Daily purchasing limits at provisioning centers for registered qualifying patients and registered primary caregivers to ensure compliance with the MMMA.
-- Marketing and advertising restrictions for marihuana products and facilities.
-- Maximum THC levels for marihuana and marihuana-infused products sold or transferred through provisioning centers.
-- Restrictions on edible marihuana-infused products to prohibit shapes that would appeal to minors.
-- Minimum levels of insurance that licensees must maintain.
-- Health standards to ensure the safe preparation of products containing marihuana that are intended for human consumption in a manner other than smoke inhalation.

In addition, the rules must establish standards, procedures, and requirements for the following:

-- Waste product disposal and storage by facilities.
-- Chemical storage.
-- The secure and safe transportation of marihuana between facilities.
-- Storage of marihuana.

Taxes, Fees, Funds, & Use of Appropriated Funds

Tax on Provisioning Center. A tax will be imposed on each provisioning center at the rate of 3% of its gross retail receipts. Within 30 days after the end of the calendar quarter, a provisioning center must remit the tax for the preceding quarter to the Department of

Treasury, along with a form showing the gross quarterly retail income of the center and the amount of tax due, and submit a copy to LARA.

The Department must administer the tax in accordance with the Licensing Act and the revenue Act. In the event of a conflict between those statutes, the Licensing Act will prevail.

If a law authorizing the recreational or nonmedical use of marihuana in the State is enacted, these provisions will not apply beginning 90 days after the effective date of that law.

Medical Marihuana Excise Fund. This Fund will be created in the State Treasury. Except for the application fee, the regulatory assessment, and any local licensing fees, all money collected from the tax on provisioning centers and all other fees, fines, and charges imposed under the Licensing Act must be deposited in the Medical Marihuana Excise Fund.

The money in the Fund must be allocated, upon appropriation, as follows:

-- 25% to municipalities in which a marihuana facility is located, allocated in proportion to the number of facilities within the municipality.
-- 30% to counties in which a marihuana facility is located, allocated in proportion to the number of facilities within the county.
-- 5% to counties in which a marihuana facility is located, allocated in proportion to the number of facilities within the county, to be used exclusively to support the county sheriffs.
-- 30% to the State for deposit in the State General Fund until September 30, 2017, and for deposit in the First Responder Presumed Coverage Fund beginning on October 1, 2017.
-- 5% to the Michigan Commission on Law Enforcement Standards (MCOLES) for training local law enforcement officers.
-- 5% to the Department of State Police.

The State Treasurer must direct the investment of the Medical Marihuana Excise Fund and credit to it interest and earnings from Fund investments. For auditing purposes, LARA will be the administrator of the Fund. Money in the Fund at the close of the fiscal year must remain in the Fund and not lapse to the General Fund.

Regulatory Assessment. A regulatory assessment must be collected annually from licensed growers, processors, provisioning centers, and secure transporters. Beginning in the first year in which marihuana facilities are authorized to operate in the State, and then annually, LARA, in consultation with the Board, must establish the total regulatory assessment at an amount that is estimated to be sufficient to cover the actual costs and support the expenditures listed below:

-- The Department's costs to implement, administer, and enforce the Act, except for the costs to process and investigate license applications supported with the application fee.
-- Expenses of medical marihuana-related legal services provided to LARA by the Department of Attorney General.
-- Expenses of medical marihuana-related services provided to LARA by the State Police.
-- Expenses of medical marihuana-related services provided by the Department of Treasury.
-- $500,000 to be allocated to LARA for expenditures of the Department for licensing substance use disorder programs.
-- An amount equal to 5% of the sum of the preceding amounts (except the $500,000) to be allocated to the Department of Health and Human Services (DHHS) for marihuana-related expenditures, including substance use disorder prevention, education, and treatment programs.
-- Expenses related to the standardized field sobriety tests administered in enforcing the Michigan Vehicle Code.
-- An amount sufficient to provide for the administrative costs of MCOLES.

By the date a licensee begins operating and then annually, 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 by the Department.

The regulatory assessment for a Class A grower license may not exceed $10,000.

Marihuana Regulatory Fund. The application fee and the regulatory assessment must be deposited in the Marihuana Regulatory Fund, which will be created in the State Treasury.

Except as provided for the allocation of $500,000 of the regulatory assessment to LARA and a portion to the DHHS, LARA must spend money from the Fund, upon appropriation, only for implementing, administering, and enforcing the Act.

The State Treasurer must direct the investment of the Fund and credit to it interest and earnings from Fund investments. The Treasurer will be the administrator of the Fund for auditing purposes. Money in the Fund at the close of the fiscal year must remain in the Fund and not lapse to the General Fund.

Use of Appropriated Funds. The Department of Licensing and Regulatory Affairs may use any money appropriated to it from the Marihuana Registry Fund created in the MMMA for the purpose of funding the Department's and Board's operations in the initial implementation and subsequent administration and enforcement of the Medical Marihuana Facilities Licensing Act.

Inventory Control & Tracking System

A licensee must 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 obtain information in that system, as required under the Act and rules. The inventory and control system must be capable of all of the following as necessary for the licensee to comply with the requirements applicable to the type of license:

-- Track all marihuana plants, products, packages, patient and primary caregiver purchase totals, waste, transfers, conversions, sales, and returns that are linked to unique identification numbers.
-- Track lot and batch information throughout the entire chain of custody.
-- Track all products, conversions, and derivatives throughout the chain of custody.
-- Track marihuana plant, batch, and product destruction.
-- Track transportation of product.
-- Report and track loss, theft, or diversion of product containing marihuana.
-- Report and track adverse patient responses or dose-related efficacy issues.
-- Report and track all sales and refunds.
-- Electronically receive and transmit information as required under the Licensing Act, the MMMA, and the Marihuana Tracking Act.
-- Receive test results electronically from a safety compliance facility via a secured application program interface into the system and directly link the testing results to each applicable source batch and sample.
-- Identify test results that might have been altered.
-- Provide 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 license according to the Licensing Act.
-- Provide information to cross-check that product sales are made to a registered qualifying patient or registered primary caregiver and that the product received the required testing.
-- Give LARA and State agencies access to information in the database to which they are authorized to have access.

-- Give law enforcement agencies access to only the information in the database that is necessary to verify that an individual possesses a valid and current registry ID card.
-- Give licensees 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.
-- Secure the confidentiality of information in the database by preventing access by an unauthorized person.
-- Give LARA analytics regarding key performance indicators such as total daily sales, total plants in production, total plants destroyed, and total inventory adjustments.

The inventory control and tracking system also must be capable of performing complete batch recall tracking that clearly identifies all of the following details related to the specific batch subject to the recall:

-- Sold product.
-- Product inventory that is finished and available for sale.
-- Product that is in the process of transfer.
-- Product being processed into another form.
-- Postharvest raw product, such as that in the drying, trimming, or curing process.

Protection from Prosecution & Other Sanctions

Licensees. Except as otherwise provided, if a person has been granted a State operating license and is operating within its scope, the licensee and its agents will not be subject to any of the following for activities described below:

-- Criminal penalties under State law or a local ordinance regulating marihuana.
-- State or local criminal prosecution for a marihuana-related offense.
-- State or local civil prosecution for a marihuana-related offense.
-- Search or inspection, except for an inspection authorized under the Act by law enforcement officers, the municipality, or LARA.
-- Seizure of marihuana, real or personal property, or anything of value based on a marihuana-related offense.
-- 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.

The activities that will be protected are as follows:

-- Growing, possessing, processing, or transporting marihuana.
-- 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.
-- Possessing or manufacturing marihuana paraphernalia for medical use.
-- Testing, transferring, infusing, extracting, altering, or studying marihuana.
-- Receiving or providing compensation for products or services.

Property Owner or Lessor. Except as otherwise provided, a person who owns or leases real property on which a licensed facility is located and who has no knowledge that the licensee violated the Act, will not be subject to criminal penalties, prosecution, search or inspection, seizure, or other sanction (as listed above) for a marihuana-related offense.

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

Affirmative Defense. The Act will not limit the medical purpose defense provided in Section 8 of the MMMA to any prosecution involving marihuana. (Section 8 allows a patient and a patient's primary caregiver, if any, to assert the medical purpose for using marihuana as a defense to any prosecution involving marihuana.)

Other Acts. For the purposes of regulating the commercial entities established under the Medical Marihuana Facilities Licensing Act, any provisions of the following acts that are inconsistent with that Act will not apply to a grower, processor, secure transporter, provisioning center, or safety compliance facility operating in compliance with the Licensing Act:

-- The Business Corporation Act.
-- The Nonprofit Corporation Act.
-- Public Act 327 of 1931, which provides for the organization, regulation, and classification of corporations.
-- The Michigan Revised Uniform Limited Partnership Act.
-- The Michigan Limited Liability Company Act.
-- Public Act 101 of 1907 (which regulates the conducting of business under an assumed or fictitious name).
-- Public Act 164 of 1913 (which regulates copartnerships).
-- The Uniform Partnership Act.

Marihuana Advisory Panel

The Marihuana Advisory Panel will be created in LARA and 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 the Licensing Act and the Marihuana Tracking Act.

The Panel must consist of 17 members, including the following individuals or their designees: the Director of State Police, the DHHS Director, the LARA Director, the Attorney General, and the Director of the Department of Agriculture and Rural Development. In addition, the panel must include one registered medical marihuana patient or medical marihuana primary caregiver and one representative of each of the following, appointed by the Governor:

-- Growers.
-- Processors.
-- Provisioning centers.
-- Safety compliance facilities.
-- Townships.
-- Cities and villages.
-- Counties.
-- Sheriffs.
-- Local police.
-- Licensed physicians.
-- Secure transporters.

The first appointed members must be appointed within three months after the Act's effective data. Appointed members will serve for terms of three years or until a successor is appointed, whichever is later.

The LARA Director must call the first meeting of the Panel within one month after it is appointed. At that meeting, the Panel must elect a chairperson and any other officers it considers necessary. After the first meeting, the Panel must meet at least twice each year, or more frequently at the call of the chairperson. The Panel will be subject to the Open Meetings Act, and its writings will be subject to FOIA.

Panel members must serve without compensation but may be reimbursed for their actual and necessary expenses incurred in performing their official duties as Panel members.

State departments and agencies must cooperate with the Panel and, upon request, provide it with meeting space and other necessary resources.

Reports

Within 30 days after the end of each State fiscal year, each licensee must transmit to the Board and the municipality financial statements of the licensee's total operations. The financial statements must be reviewed by a certified public accountant in a manner and form prescribed by the Board. The CPA must be licensed in this State under the Occupational Code. His or her compensation must be paid directly by the licensee.

With its annual report concerning patterns of marihuana transfers by licenses, the Board must submit a report covering the previous year to the Governor and to the chairpersons of the legislative committees governing issues related to marihuana facilities. The report must include an account of Board actions, its financial position, results of operation under the Act, and any recommendations for legislation that the Board considers advisable.

Licensee Employees

Subject to the laws of the State, before hiring a prospective employee, the holder of a license must conduct a background check of the individual. If the background check indicates a pending charge or conviction within the past 10 years for a controlled substance-related felony, a licensee may not hire the prospective employee without written permission of the Board.

Municipal Ordinance

A municipality (a city, township, or village) may adopt an ordinance authorizing one or more types of marihuana facilities within its boundaries and limiting the number of each type of facility. A marihuana facility may not operate in a municipality unless the municipality has adopted an ordinance authorizing that type of facility.

A municipality also may adopt other ordinances related to marihuana facilities within its jurisdiction, including zoning regulations, but may not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulation for licensing marihuana facilities.

A municipality must 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 the Act:

-- A copy of the local ordinance that authorizes the marihuana facility within the municipality.
-- A copy of any zoning regulations that apply to the proposed marihuana facility within the municipality.
-- A description of any violation of the local ordinance or zoning regulations committed by the applicant, but only if those violations relate to activities licensed under the Act or the MMMA.

The Board may consider the information provided to it from the municipality in the application process. The municipality's failure to provide the information to Board, however, may not be used against the applicant.

A municipal ordinance may establish an annual, nonrefundable fee of up to $5,000 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.

Information a municipality obtains from an applicant under these provisions will be exempt from disclosure under FOIA.

Provisions Concerning Board Members, Appointees, Employees & Agents

Interest in Licensee; Disclosure Statements & Forms. The Board may not appoint or employ an individual if, during the three years immediately before appointment or employment, he or she held any direct or indirect interest in, or was employed by, a person who is licensed to operate under the Licensing 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 also may not employ an individual who has a direct or indirect interest in a licensee or marihuana facility.

In addition, the Board may not appoint or employ an individual if the individual or his or 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.

Each member of the Board, the executive director, and each key employee as determined by LARA must file with the Governor a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the individual and his or her spouse, if any, affirming that the member, executive director, and key employee are in compliance with provisions described above.

Other than the executive director and a key employee, each Board employee must 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.

In addition, each Board member must prepare and file with the Governor's office and the Board a disclosure form, making certain affirmations and disclosures regarding various interests. Each Board employee also must file with the Board an annual employee disclosure form, making certain affirmations and disclosures. The forms must be filed by January 31 each year.

Additional Disclosures & Limitations. If a Board member, employee, or agent within the previous 10 years has been indicted for, charged with, or convicted of, pleaded guilty or no contest to, or forfeited bail concerning a misdemeanor involving controlled substances, dishonesty, theft, or fraud, or a substantially corresponding local ordinance in any state involving controlled substances, dishonesty, theft, or fraud, or a felony under Michigan law, the laws of any other state, or the laws of the United States or any other jurisdiction, the Board member, employee, or agent immediately must provide detailed written notice to the chairperson.
Any Board member, employee, or agent who is negotiating for, or who acquires by any means, any interest in any person who is a licensee or an applicant, or anyone affiliated with such a person, immediately must provide written notice of the details of that interest to the chairperson, and may not act on behalf of the Board with respect to that person.

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

The same notice requirement and restriction apply if a Board member, employee, or agent receives an invitation to initiate a discussion concerning employment with a person or an affiliate of a person who is a licensee or an applicant.

A licensee or applicant may not knowingly initiate a negotiation for or discussion of employment with a Board member, employee, or agent. A licensee or applicant who does so must notify the chairperson upon becoming aware that the negotiation or discussion has been initiated.

A Board member, employee, or agent may not disseminate or otherwise disclose any material or information in possession of the Board that it considers confidential unless specifically authorized to do so by the chairperson.

Additional restrictions apply to the acceptance of a gift, gratuity, compensation, travel, lodging, or anything of value from a licensee or applicant, by a Board member, employee, or agent or his or her parent, spouse, sibling, spouse of a sibling, child, or spouse of a child. A licensee or applicant also may not offer to give a Board member, employee, or agent anything that he or she may not accept.

A Board member, employee, or agent may not engage in any conduct that constitutes a conflict of interest and must advise the chairperson immediately of any incident or circumstances that would present a conflict of interest with respect to performing Board-related work or duties.

A Board member, employee, or agent who is approached and offered a bribe immediately must provide a written account of the details to the chairperson and to a law enforcement officer of an agency having jurisdiction.

A member, employee, or agency must disclose his or her past involvement with any marihuana enterprise in the past five years and may not engage in political activity or politically related activity during his or her appointment or employment.

Additional prohibitions and reporting requirements apply to ex parte communications between a licensee or applicant, or an affiliate or representative or a licensee or applicant, and a Board member. (An "ex parte" communication refers to a communication without notice to or participation of another party.)

A Board employee or agent must receive permission from the executive director before continuing outside employment held at the time of beginning work for the Board. If permission is granted, the employee or agent may not conduct any business or perform any activities related to outside employment on premises used by the Board or during the employee's working hours for the Board.

Except as allowed under the MMMA, a Board member, employee, or agent may not enter into any personal transaction involving marihuana with a licensee or applicant.
If a licensee or applicant, or an affiliate or representative of a licensee or applicant, violates these provisions, the Board may deny a license application, revoke or suspend a license, or take other disciplinary action, as provided above.

A violation by a Board member may result in disqualification or constitute cause for removal or other disciplinary action, as recommended by the Board to the Governor.

A violation by an employee or agent will not require termination of employment if the Board determines that the conduct did not violate the purpose of the Act. Termination will be required, however, under certain circumstances involving an employee or agent who acquires

a financial interest in a licensee or applicant, or if the employee or agent is a spouse, parent, child, or spouse of a child of a Board member.

Subsequent Employment, Interest, or Contract; Representation. A member of the Board, the executive director, or a key employee may 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 four years after the date his or her employment or Board membership terminates.

For two years after the date his or her employment with the Board is terminated, an employee may not acquire any direct or indirect interest, be employed by, or enter into a contract for services with any applicant, licensee, or marihuana facility.

For two years after the termination of his or her office or employment with the Board, a Board member or employee may not represent any person or party other than the State before or against the Board.

A business entity in which a former Board member, employee, or agent has an interest, or any partner, officer, or employee of the business entity, may not make any appearance or represent a party that the former member, employee, or agent is prohibited from appearing for or representing.

Legislative Finding

The Act states the following: "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."

House Bill 4210

Definitions

The bill defines "marihuana-infused product" as 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. A marihuana-infused product may not be considered a food for purposes of the Food Law.

Currently, "usable marihuana" means the dried leaves and flowers of the marihuana plant, and any mixture or preparation of them, but does not include the seeds, stalks, and roots of the plant. The bill defines "usable marihuana" as the dried leaves, flowers, plant resin, or extract of the marihuana plant, not including the seeds, stalks, or roots.

The bill defines "marihuana plant" as any plant of the species cannabis sativa L, and defines "plant" as any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

Currently, "medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or associated symptoms. Under the bill, this definition applies to the term "medical use of marihuana", and includes the extraction of marihuana, as well as its acquisition, possession, cultivation, etc. The term also applies to marihuana-infused products, in addition to marihuana and paraphernalia.

Manufacturing Marihuana-Infused Product

The MMMA authorizes the Department of Licensing and Regulatory Affairs to issue a registry identification card to a qualifying patient (a person who has been diagnosed by a physician as having a debilitating medical condition), if the person submits a written certification from a physician, a fee, and specified information. A registered patient is not subject to arrest, prosecution, or penalty for the medical use of marihuana if the amount does not exceed quantities specified in the Act and the possession and use of marihuana meet particular standards. The Act also extends privileges against arrest, prosecution, or other penalty to primary caregivers who assist qualifying patients with the medical use of marihuana, if they register with the Department, are connected with qualifying patients through the registration process, and comply with various restrictions.

Under the bill, a person will not be subject to arrest, prosecution, or penalty in any manner, and may not be denied any right or privilege, including 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 either of the following:

-- A registered qualifying patient, manufacturing for his or her own personal use.
-- A registered primary caregiver, manufacturing for the use of a patient to whom the caregiver is connected through LARA's registration process.

Illegal Transfer of Marihuana-Infused Product or Marihuana

The bill prohibits a qualifying patient from transferring a marihuana-infused product or marihuana to any individual.

The bill also prohibits a primary caregiver from transferring a marihuana-infused product to any individual who is not a qualifying patient to whom the caregiver is connected through LARA's registration process.

Transportation or Possession of Marihuana-Infused Product in Motor Vehicle

Except as provided below, the bill prohibits a qualifying patient or primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle.

The prohibition will not apply to 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, 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.

The prohibition also will not apply to a primary caregiver 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, carried so as not to be readily accessible from the interior of the vehicle. The manifest must state the weight of the 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.

In addition, the prohibition will 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 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,

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 product was received and date of receipt.

For purposes of determining compliance with quantity limitations under the MMMA, the bill creates 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 these provisions will be responsible for a maximum civil fine of $250.

Maximum Amount of Marihuana Allowed for Possession

The MMMA provides that a qualifying patient who has been issued and possesses a registry identification card may not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, for the medical use of marihuana in accordance with the Act, provided the qualifying patient possesses an amount of marihuana that does not exceed 2.5 ounces of usable marihuana.

The MMMA extends the same protections to a primary caregiver who assists a qualifying patient to whom the caregiver is connected through LARA's registration process with the medical use of marihuana in accordance with the Act. This applies only if the primary caregiver possesses an amount of marihuana that does not exceed 2.5 ounces of usable marihuana for each qualifying patient to whom he or she is connected through the registration process.

Under the bill, the amount that a qualifying patient or a primary caregiver may possess may not exceed "a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents".

For purposes of determining usable marihuana equivalency, the following must be considered equivalent to one ounce of usable marihuana:

-- Sixteen ounces of marihuana-infused product if in a solid form.
-- Seven grams of marihuana-infused product if in a gaseous form.
-- Thirty-six fluid ounces of marihuana-infused product if in a liquid form.

The bill defines "usable marihuana equivalent" as the amount of usable marihuana in a marihuana-infused product calculated as provided above.

Immunity for Transfer, Purchase, or Sale Pursuant to Licensing Act

Under the bill, a registered qualifying patient or registered primary caregiver will not be subject to arrest, prosecution, or penalty in any manner, and may not be denied any right or privilege, including 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.
-- Transferring or selling marihuana seeds or seedlings to a grower licensed under that Act.
-- Transferring marihuana for testing to and from a safety compliance facility licensed under that Act.

Scope of the MMMA

The MMMA states that it does not allow a person engage in certain activities. These include operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marihuana. The bill extends this to operating, navigating, or being in actual physical control of a snowmobile or off-road recreational vehicle.

Also, under the bill, the Act will not permit a person to 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. A person also will not be permitted to separate plant resin from a marihuana plant by butane extraction in a manner that demonstrates either a failure to exercise reasonable care or reckless disregard for the safety of others.

Verification of Registry ID Card

The Act requires LARA to verify to law enforcement personnel whether a registry ID card is valid, without disclosing more information that is reasonably necessary to verify the authenticity of the card. The bill also requires such verification to the necessary database created in the Marihuana Tracking Act as established by the Medical Marihuana Facilities Licensing Act.

Appropriation

The Act created the Michigan Medical Marihuana Fund. The bill refers to that Fund as the "Marihuana Registry Fund".

For the fiscal year ending September 30, 2016, the bill appropriates $8.5 million from the Marihuana Registry Fund to LARA for its initial costs of implementing the Medical Marihuana Facilities Licensing Act and the Marihuana Tracking Act.

Statements of Intent & Retroactivity

The bill contains the following language:

> 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…:
>
> "(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.]

(Please note: The emphasis is added in the bill.)

The bill also states, "This amendatory act is curative and applies retroactively 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."

The bill also specifies, "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 provision at the time of enforcement."

House Bill 4827

Tracking System

The Marihuana Tracking Act required the Department of Licensing and Regulatory Affairs to establish a statewide monitoring system for use as an integrated marihuana tracking, inventory, and verification system. "Statewide monitoring system" means an internet-based, statewide database established, implemented, and maintained directly or indirectly by LARA that is available to licensees under the Medical Marihuana Facilities Licensing Act, law enforcement agencies, and authorized State departments and agencies on a 24-hour basis for all of the following:

-- Verifying registry identification cards.
-- Tracking marihuana transfer and transportation by licensees, including the transferee, date, quantity, and price.
-- Verifying in a commercially reasonable time that a transfer will not exceed the limit that a registered qualifying patient or registered primary caregiver is authorized by receive under the MMMA.

The system must allow for interface with third-party inventory and tracking systems, as described in the Licensing Act, to provide for access by the State, licensees, and law enforcement personnel, to the extent they need and are authorized to receive or submit the information, to comply with, enforce, or administer the Marihuana Tracking Act, the MMMA, or the Licensing Act.

At a minimum, the system must be capable of storing and providing access to information that, in conjunction with one or more third-party inventory control and tracking systems under the Licensing Act, allows all of the following:

-- Verification that a registry ID card is current and valid and has not been suspended, revoked, or denied.
-- 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.
-- Determination of whether a particular sale or transfer transaction will exceed the permissible limit established under the MMMA.
-- Effective monitoring of marihuana seed-to-sale transfers.
-- Receipt and integration of information from third-party inventory control and tracking systems under the Licensing Act.

Rules for Incorporating Information

The Department must promulgate rules to govern the process for incorporating information concerning registry ID 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.

LARA Bids & Contract

The Department must seek bids to establish, operate, and maintain the statewide monitoring system. It must evaluate bids based on the cost of the service and the ability to meet all of the requirements of the Marihuana Tracking Act, the MMMA, and the Licensing Act.

The Department must 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 Michigan, and the ability to provide additional tools for the administration and enforcement of the Marihuana Tracking Act, the MMMA, and the Licensing Act.

The Department also must ensure that the contract awardee does not disclose or use the information in the system for any use or purpose except the enforcement, oversight, and implementation of the MMMA or the Licensing Act.

In addition, LARA must require the contract awardee to deliver the functioning system within 180 days after the contract is awarded.

The Department may terminate a contract with an awardee for a violation of the Marihuana Tracking Act. An awardee may be barred from award of other State contracts under the Act for a violation.

Information Disclosure

The information in the system will be confidential and exempt from disclosure under FOIA. Information in the system may be disclosed for purposes of enforcing the Marihuana Tracking Act, the Michigan Medical Marihuana Act, and the Medical Marihuana Facilities Licensing Act.

MCL 333.27101-333.27801 (H.B. 4209)
333.26423 et al. (H.B. 4210)
333.27901-333.27904 (H.B. 4827)

Legislative Analyst: Patrick Affholter
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FISCAL IMPACT

House Bills 4209 and 4827

In total, the bills would have a potentially positive fiscal impact on State government, and an indeterminate fiscal impact on local units of government.

House Bill 4209 creates the Medical Marihuana Licensing Board, which will be supported primarily by staff and resources from the Department of Licensing and Regulatory Affairs, as well as the Department of State Police and the Attorney General. In consultation with the Board, LARA will establish application fees for prospective licensees as well as an annual regulatory assessment. Revenue from these sources will be deposited into the Marihuana Regulatory Fund, which also will be established under the bill. It is unclear how much the fees will be for the various types of licenses, but the bill specifies that 1) application fees must reflect the actual costs associated with processing and investigating the application, and 2) the regulatory assessment must reflect the ongoing costs of implementation, administration, and enforcement of the Medical Marihuana Facilities Licensing Act, including costs incurred by LARA, the Department of State Police, and the Attorney General. The regulatory assessment also will include $500,000 for LARA to use for substance abuse disorder programs, and a 5% surcharge on the regulatory assessment factors, which will be allocated to the Department of Health and Human Services for marihuana-related expenditures including substance use disorder prevention, education, and treatment programs. The regulatory assessment also will include expenses related to field sobriety tests and a sufficient amount for that Michigan Commission Law Enforcement Standards to provide training and oversight. The total regulatory assessment burden will then be split between each licensee to reasonably reflect the proportion of the total cost that each licensee represents.

The Department of Licensing and Regulatory Affairs has estimated the ongoing cost to administer the Act at about $21.1 million annually. This figure includes $13.2 million to hire 113.0 full-time equated employees (FTEs) within LARA for application processing, licensing, and enforcement, $6.0 million to hire 34.0 FTEs within the Department of State Police for enforcement, and $550,000 for Attorney General costs. The remaining $1.5 million[1] is related

[1] Estimates do not add due to rounding.

to ongoing information technology (IT) costs, contractual services, Civil Service assessments, travel, and other overhead expenses.

These estimates are likely on the high end, as LARA's portion of the costs was estimated based on the current staffing of the Michigan Liquor Control Commission (MLCC), which oversees licensing and enforcement of 17,250 unique locations statewide. Since the medical marihuana market in Michigan cannot support this number of licensees (i.e., 17,250 licensees would mean one grower, processor, provisioning center, secure transporter, or safety compliance facility for every 11.8 registered medical marihuana patients, assuming all patients participated in the market, which is unlikely), the actual number of unique locations will likely be significantly smaller. On the other hand, the amount of regulatory and enforcement work done under the Act on behalf of each unique location could be greater than what the MLCC currently does at each location it regulates.

Conversely, the cost estimate for the Department of State Police was made using the Michigan Gaming Control Board (MGCB) as a model. This estimate may be lower than actual costs, depending on the amount of work required. The responsibilities of the State Police as they pertain to the MGCB are very different than what will be required under the Act. In their work with the MGCB, State Troopers actively patrol and are responsible for police work at the casinos in Detroit, which are three very large establishments in a small geographical area. Under the Act, the work done by the State Police will be statewide, covering a large number of relatively small establishments. Ultimately, the final determination as to the resources from the Marihuana Regulatory Fund that will be dedicated to the Department of State Police will be made when the regulatory assessment is finalized each year.

To help put these estimates in context, in 2015 in Colorado, which has a 2.9% tax on medical marihuana sold at provisioning centers, registered patients each spent an average of $3,487[2] on retail medical marihuana during the year. If Michigan patients follow similar buying patterns, based on 204,018 registered patients in FY 2015-16, the total medical marihuana market in Michigan will be about $711.4 million. This assumes that medical marihuana prices, buying habits, availability, and other factors will be consistent with those in Colorado. Using LARA's estimates, the regulatory cost of this market will be about 3.0% of gross sales. This estimate additionally assumes that the number of registered patients remains static, and assumes a developed market. It is likely that the actual size of Michigan's market will be significantly smaller for some period of time as market participants enter the market.

The bill also establishes a 3% tax on the gross retail receipts of provisioning centers. Revenue from this tax will be deposited in the Medical Marihuana Excise Fund (created under the bill), and will be distributed as follows: 25% to municipalities with medical marihuana facilities in proportion to the number of facilities; 30% to counties with medical marihuana facilities in proportion to the number of facilities; 5% to counties with medical marihuana facilities in proportion to the number of facilities, solely to support county sheriffs (funds that may not supplant other funding received by the county sheriffs); until September 30, 2017, 30% to the State General Fund; beginning October 1, 2017, 30% to the First Responder Presumed Coverage Fund; 5% to the Michigan Commission on Law Enforcement Standards for training on enforcement of the Act; and 5% to the Department of State Police. Using the above estimate for the size of Michigan's medical marihuana market, this tax will raise about $21.3 million per year, which will be distributed as follows: $5.3 million to municipalities, $6.4 million to counties, $6.4 million to the State General Fund/First Responder Presumed Coverage Fund (before/after September 30, 2017), and $1.1 million each to county sheriffs, the Michigan Commission on Law Enforcement Standards, and the Department of State Police. Table 1, below, summarizes the revenue distribution.

[2] Average is imputed using 2015 monthly patient count and excise tax revenue data from the Colorado Department of Public Health and Environment and the Colorado Department of Revenue.

Table 1
Medical Marihuana Excise Fund Distribution

Medical Marihuana Excise Fund Earmark	Percentage	Amount
First Responder Presumed Coverage Fund (GF/GP prior to 10/1/2017)	30%	$6,402,600
Counties	30%	6,402,600
Municipalities	25%	5,335,500
Sheriffs	5%	1,067,100
MCOLES	5%	1,067,100
State Police	5%	1,067,100
TOTAL	**100%**	**$21,342,000**

The sale of medical marihuana at provisioning centers also could be subject to sales tax, as a recommendation that a patient would benefit from use of marihuana will not necessarily be interpreted as "dispensed by prescription", a necessary condition for exemption from the sales tax. If medical marihuana sold at provisioning centers is subject to sales tax, those sales will generate an additional $42.7 million in sales tax revenue. Of that, about $31.3 million will go to the School Aid Fund, $4.3 million will be dedicated to constitutional revenue sharing, and $7.1 million will go to the State General Fund.

In addition, House Bill 4209 will have a number of smaller fiscal impacts on the State and local units of government. The bill allows for a local licensing fee of up to $5,000 annually for a marihuana facility, which will generate an unknown amount of revenue for local governments that elect to pursue that option. The bill also allows LARA to penalize violations of the Licensing Act by levying a civil fine of up to $5,000 against individuals and $10,000 against licensees. The bill does not specify who will receive this fine revenue, but in other similar cases, fine revenue is kept by the agency issuing the fine.

Finally, LARA has estimated that there will be $726,000 in initial IT and database costs related to the marijuana and database tracking system established in House Bill 4827 and the initial purchase of IT equipment for the new employees. These costs will be covered by the funds appropriated under House Bill 4210.

House Bill 4210

The bill will have a positive fiscal impact on the State and an indeterminate fiscal impact on local governments. It expands the allowable defenses to prosecution for consuming usable marihuana types and associated derivative products under the Michigan Medical Marihuana Act. For local government, there may be added administrative costs in interpreting what will become legal consumption of usable marihuana under the bill and what remains illegal. Additionally, the bill creates a new civil fine for the unauthorized transfer of a marihuana-infused product.

A decrease in misdemeanor or felony arrests and convictions may decrease resource demands on local court systems, law enforcement, and jails or prisons. For any decrease in prison intakes, in the short term, the marginal savings to State government will be approximately $3,764 per prisoner per year. In the long term, if the decreased intake of prisoners reduced the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government would be approximately $34,550 per prisoner per year. Any associated increase in fine revenue will increase funding to public libraries.

The bill also establishes a civil fine of up to $250 for qualifying patients or primary caregivers who improperly transport a marihuana-infused product. It is unknown how much revenue this

fine will raise; additionally, the bill does not specify who will receive this fine revenue, but in other similar cases, fine revenue is kept by the agency issuing the fine.

Finally, House Bill 4210 renames the Michigan Medical Marihuana Fund to the Marihuana Registry Fund, and appropriates $8.5 million from the Fund to the Department of Licensing and Regulatory Affairs for its initial costs related to the implementation of the Medical Marihuana Facilities Licensing Act and the Marihuana Tracking Act.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Act No. 281
Public Acts of 2016
Approved by the Governor
September 21, 2016
Filed with the Secretary of State
September 21, 2016
EFFECTIVE DATE: December 20, 2016

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

Act No. 282
Public Acts of 2016
Approved by the Governor
September 21, 2016
Filed with the Secretary of State
September 21, 2016
EFFECTIVE DATE: December 20, 2016

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 .....

Governor

Act No. 283
Public Acts of 2016
Approved by the Governor
September 21, 2016
Filed with the Secretary of State
September 21, 2016
EFFECTIVE DATE: December 20, 2016

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 .....

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Governor