

**SUBSTITUTE FOR
HOUSE BILL NO. 5700**

A bill to amend 2016 PA 281, entitled
"Medical marihuana facilities licensing act,"
by amending sections 102 and 402 (MCL 333.27102 and 333.27402),
section 102 as amended by 2019 PA 3 and section 402 as amended by
2018 PA 582.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. As used in this act:

2 (a) "Advisory panel" or "panel" means the ~~marihuana advisory~~
3 ~~panel created in section 801.~~ **marijuana regulatory agency.**

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



1 limited liability partnership with a licensee or applicant.

2 (c) "Applicant" means a person who applies for a state
 3 operating license. Applicant includes, with respect to disclosures
 4 in an application, for purposes of ineligibility for a license
 5 under section 402, or for purposes of prior ~~board-marijuana~~
 6 **regulatory agency** approval of a transfer of interest under section
 7 406, and only for applications submitted on or after January 1,
 8 2019, a managerial employee of the applicant, a person holding a
 9 direct or indirect ownership interest of more than 10% in the
 10 applicant, and the following for each type of applicant:

11 (i) For an individual or sole proprietorship: the proprietor
 12 and spouse.

13 (ii) For a partnership and limited liability partnership: all
 14 partners and their spouses. For a limited partnership and limited
 15 liability limited partnership: all general and limited partners,
 16 not including a limited partner holding a direct or indirect
 17 ownership interest of 10% or less and who does not exercise control
 18 over or participate in the management of the partnership, and their
 19 spouses. For a limited liability company: all members and managers,
 20 not including a member holding a direct or indirect ownership
 21 interest of 10% or less and who does not exercise control over or
 22 participate in the management of the company, and their spouses.

23 (iii) For a privately held corporation: all corporate officers
 24 or persons with equivalent titles and their spouses, all directors
 25 and their spouses, and all stockholders, not including those
 26 holding a direct or indirect ownership interest of 10% or less, and
 27 their spouses.

28 (iv) For a publicly held corporation: all corporate officers or
 29 persons with equivalent titles and their spouses, all directors and



1 their spouses, and all stockholders, not including those holding a
2 direct or indirect ownership interest of 10% or less, and their
3 spouses.

4 (v) For a multilevel ownership enterprise: any entity or
5 person that receives or has the right to receive more than 10% of
6 the gross or net profit from the enterprise during any full or
7 partial calendar or fiscal year.

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

11 (d) "Board" means the ~~medical marihuana licensing board~~
12 ~~created in section 301.~~ **marijuana regulatory agency.**

13 (e) "Cutting" means a section of a lead stem or root stock
14 that is used for vegetative asexual propagation.

15 (f) "Department" means the department of licensing and
16 regulatory affairs.

17 (g) "Grower" means a licensee that is a commercial entity
18 located in this state that cultivates, dries, trims, or cures and
19 packages marihuana for sale to a processor, provisioning center, or
20 another grower.

21 (h) "Industrial hemp" means that term as defined in section
22 7106 of the public health code, 1978 PA 368, MCL 333.7106.

23 (i) "Industrial hemp research and development act" means the
24 industrial hemp research and development act, 2014 PA 547, **MCL**
25 **286.841 to 286.859.**

26 (j) "Licensee" means a person holding a state operating
27 license.

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



1 (l) "Marihuana facility" means a location at which a licensee
2 is licensed to operate under this act.

3 (m) "Marihuana plant" means any plant of the species *Cannabis*
4 *sativa* L. Marihuana plant does not include industrial hemp.

5 (n) "Marihuana-infused product" means a topical formulation,
6 tincture, beverage, edible substance, or similar product containing
7 any usable marihuana that is intended for human consumption in a
8 manner other than smoke inhalation. Marihuana-infused product is
9 not considered a food for purposes of the food law, 2000 PA 92, MCL
10 289.1101 to 289.8111.

11 (o) "Marihuana tracking act" means the marihuana tracking act,
12 2016 PA 282, MCL 333.27901 to 333.27904.

13 (p) **"Marijuana regulatory agency" means the marijuana**
14 **regulatory agency created under Executive Reorganization Order No.**
15 **2019-2, MCL 333.27001.**

16 (q) ~~(p)~~ "Michigan ~~medical marihuana act~~" **Medical Marihuana**
17 **Act**" means the Michigan ~~medical marihuana act~~, **Medical Marihuana**
18 **Act**, 2008 IL 1, MCL 333.26421 to 333.26430.

19 (r) ~~(q)~~ "Municipality" means a city, township, or village.

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

26 (t) ~~(s)~~ "Person" means an individual, corporation, limited
27 liability company, partnership, limited partnership, limited
28 liability partnership, limited liability limited partnership,
29 trust, or other legal entity.



1 (u) ~~(t)~~—"Plant" means any living organism that produces its
2 own food through photosynthesis and has observable root formation
3 or is in growth material.

4 (v) ~~(u)~~—"Processor" means a licensee that is a commercial
5 entity located in this state that purchases marihuana from a grower
6 and that extracts resin from the marihuana or creates a marihuana-
7 infused product for sale and transfer in packaged form to a
8 provisioning center or another processor.

9 (w) ~~(v)~~—"Provisioning center" means a licensee that is a
10 commercial entity located in this state that purchases marihuana
11 from a grower or processor and sells, supplies, or provides
12 marihuana to registered qualifying patients, directly or through
13 the patients' registered primary caregivers. Provisioning center
14 includes any commercial property where marihuana is sold at retail
15 to registered qualifying patients or registered primary caregivers.
16 A noncommercial location used by a registered primary caregiver to
17 assist a qualifying patient connected to the caregiver through the
18 department's marihuana registration process in accordance with the
19 Michigan ~~medical marihuana act~~ **Medical Marihuana Act** is not a
20 provisioning center for purposes of this act.

21 (x) ~~(w)~~—"Registered primary caregiver" means a primary
22 caregiver who has been issued a current registry identification
23 card under the Michigan ~~medical marihuana act~~ **Medical Marihuana**
24 **Act**.

25 (y) ~~(x)~~—"Registered qualifying patient" means a qualifying
26 patient who has been issued a current registry identification card
27 under the Michigan ~~medical marihuana act~~ **Medical Marihuana Act** or a
28 visiting qualifying patient as that term is defined in section 3 of
29 the Michigan ~~medical marihuana act~~, **Medical Marihuana Act**, MCL



1 333.26423.

2 (z) ~~(y)~~ "Registry identification card" means that term as
 3 defined in section 3 of the Michigan ~~medical marihuana act,~~ **Medical**
 4 **Marihuana Act**, MCL 333.26423.

5 (aa) ~~(z)~~ "Rules" means rules promulgated under the
 6 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 7 24.328, by the department in consultation with the ~~board~~ **marijuana**
 8 **regulatory agency** to implement this act.

9 (bb) ~~(aa)~~ "Safety compliance facility" means a licensee that
 10 is a commercial entity that takes marihuana from a marihuana
 11 facility or receives marihuana from a registered primary caregiver,
 12 tests the marihuana for contaminants and for tetrahydrocannabinol
 13 and other cannabinoids, returns the test results, and may return
 14 the marihuana to the marihuana facility.

15 (cc) ~~(bb)~~ "Secure transporter" means a licensee that is a
 16 commercial entity located in this state that stores marihuana and
 17 transports marihuana between marihuana facilities for a fee.

18 (dd) ~~(ee)~~ "Seed" means the fertilized, ungerminated, matured
 19 ovule, containing an embryo or rudimentary plant, of a marihuana
 20 plant that is flowering.

21 (ee) ~~(dd)~~ "Seedling" means a marihuana plant that has
 22 germinated and has not flowered and is not harvestable.

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

- 27 (i) A grower.
 28 (ii) A processor.
 29 (iii) A secure transporter.



1 (iv) A provisioning center.

2 (v) A safety compliance facility.

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

10 (i) Verifying registry identification cards.

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

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

17 **(hh)** ~~(gg)~~ "Tissue culture" means a marihuana plant cell,
18 cutting, tissue, or organ, that is kept under a sterile condition
19 on a nutrient culture medium of known composition and that does not
20 have visible root formation. A tissue culture is not a marihuana
21 plant for purposes of a grower.

22 **(ii)** ~~(hh)~~ "Usable marihuana" means the dried leaves, flowers,
23 plant resin, or extract of the marihuana plant, but does not
24 include the seeds, stalks, and roots of the plant.

25 Sec. 402. (1) The ~~board~~ **marijuana regulatory agency** shall
26 issue a license to an applicant ~~who~~ **if all of the following**
27 **conditions are met:**

28 **(a) The applicant** submits a complete application. ~~and~~

29 **(b) The applicant** pays both the nonrefundable application fee



1 required under section 401(5) and the regulatory assessment
2 established by the ~~board~~ **marijuana regulatory agency** for the first
3 year of operation. ~~, if the board~~

4 **(c) The marijuana regulatory agency** determines that the
5 applicant is qualified to receive a license under this act.

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

8 (a) The applicant has been convicted of or released from
9 incarceration for a felony under the laws of this state, any other
10 state, or the United States within the past 10 years or has been
11 convicted of a controlled substance-related felony within the past
12 10 years.

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

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

21 (d) The applicant is ~~a member~~ **an employee** of the
22 ~~board~~ **marijuana regulatory agency**.

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

26 (f) The applicant holds an elective office of a governmental
27 unit of this state, another state, or the federal government. †
28 **This subdivision does not apply to an elected officer of or**
29 **employee of a federally recognized Indian tribe or to an elected**



1 **precinct delegate.**

2 (g) **The applicant** is a member of or employed by a regulatory
3 body of a governmental unit in this state, another state, or the
4 federal government, ~~;~~ or is employed by a governmental unit of this
5 state. This subdivision does not apply to ~~an~~ **any of the following:**

6 (i) **An** elected officer of or employee of a federally recognized
7 Indian tribe. ~~or to an~~

8 (ii) **An** elected precinct delegate.

9 (iii) **The spouse of a person who applies for a state operating**
10 **license unless the spouse's position creates a conflict of interest**
11 **or is within any of the following:**

12 (A) **The marijuana regulatory agency.**

13 (B) **A regulatory body of a governmental unit in this state,**
14 **another state, or the federal government that make decisions**
15 **regarding medical marihuana.**

16 (h) ~~(g)~~ **The board-marijuana regulatory agency** determines that
17 the applicant is not in compliance with section 205(1).

18 (i) ~~(h)~~ The applicant fails to meet other criteria established
19 by rule.

20 (3) In determining whether to grant a license to an applicant,
21 the ~~board-marijuana regulatory agency~~ may also consider all of the
22 following:

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

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

29 (ii) Is controlled, directly or indirectly, by the applicant or



1 by a person who controls, directly or indirectly, the applicant.

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

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

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

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

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

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

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

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

27 (4) Each applicant shall ensure that 1 set of fingerprints is
28 submitted to the department of state police. The applicant shall
29 submit with its application the applicant's written consent to the



1 criminal history check described in this section and the submission
 2 of the applicant's fingerprints to, and the inclusion of the
 3 applicant's fingerprints in, the state and federal database systems
 4 described in subsection (7).

5 (5) The fingerprints required under subsection (4) may be
 6 taken by a law enforcement agency or any other person determined by
 7 the department of state police to be qualified to take
 8 fingerprints. The applicant shall submit a fingerprint processing
 9 fee to the department in an amount required under section 3 of 1935
 10 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of
 11 Investigation.

12 (6) The department of state police shall do all of the
 13 following:

14 (a) Conduct a criminal history check on each applicant and
 15 request the Federal Bureau of Investigation to make a determination
 16 of the existence of any national criminal history pertaining to
 17 each applicant.

18 (b) Provide the ~~board~~ **marijuana regulatory agency** with a
 19 written report containing the criminal history record information
 20 of each applicant.

21 (7) All of the following apply concerning fingerprints
 22 submitted to the department of state police under this section:

23 (a) The department of state police shall store and retain all
 24 fingerprints submitted under this section in an automated
 25 fingerprint identification system database that searches against
 26 latent fingerprints, and provides for an automatic notification ~~if~~
 27 ~~and~~ when a subsequent fingerprint is submitted into the system that
 28 matches a ~~set of fingerprints~~ **fingerprint** previously submitted
 29 under this section or ~~if and~~ when the criminal history of an



1 individual whose fingerprints are retained in the system is
2 updated. Upon receiving a notification, the department of state
3 police shall immediately notify the ~~board~~ **marijuana regulatory**
4 **agency**. Information in the database maintained under this
5 subsection is confidential, is not subject to disclosure under the
6 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and
7 shall not be disclosed to any person except for purposes of this
8 act or for law enforcement purposes.

9 (b) The department of state police shall forward all
10 fingerprints submitted to it under this section to the Federal
11 Bureau of Investigation for submission of those fingerprints into
12 the FBI automatic notification system. This subdivision does not
13 apply until the department of state police is a participant in the
14 FBI automatic notification system. As used in this subdivision:

15 (i) "Automatic notification system" means a system that stores
16 and retains fingerprints, and that provides for an automatic
17 notification to a participant if and when a fingerprint is
18 submitted into the system that matches an individual whose
19 fingerprints are retained in the system or if and when the criminal
20 history of an individual whose fingerprints are retained in the
21 system is updated.

22 (ii) "FBI automatic notification system" means the automatic
23 notification system that is maintained by the Federal Bureau of
24 Investigation.

25 (8) The ~~board~~ **marijuana regulatory agency** shall review all
26 applications for licenses and shall inform each applicant of the
27 ~~board's~~ **marijuana regulatory agency's** decision.

28 (9) A license shall be issued for a 1-year period and is
29 renewable annually. Except as otherwise provided in this act, the



1 ~~board~~**marijuana regulatory agency** shall renew a license if all of
2 the following requirements are met:

3 (a) The licensee applies to the ~~board~~**marijuana regulatory**
4 **agency** on a renewal form provided by the ~~board~~**marijuana regulatory**
5 **agency** that requires information prescribed in rules.

6 (b) The application is received by the ~~board~~**marijuana**
7 **regulatory agency** on or before the expiration date of the current
8 license.

9 (c) The licensee pays the regulatory assessment under section
10 603.

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

13 (10) The department shall notify the licensee by mail or
14 electronic mail at the last known address on file with the ~~board~~
15 **marijuana regulatory agency** advising of the time ~~and~~ procedure ~~and~~
16 **for paying** and **the amount of the** regulatory assessment under
17 section 603. The failure of the licensee to receive notice under
18 this subsection does not relieve the licensee of the responsibility
19 for renewing the license.

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

28 (12) License expiration does not terminate the ~~board's~~
29 **marijuana regulatory agency's** authority to impose sanctions on a



1 licensee whose license has expired.

2 (13) In its decision on an application for renewal, the ~~board~~
3 **marijuana regulatory agency** shall consider any specific written
4 input it receives from an individual or entity within the local
5 unit of government in which the applicant for renewal is located.

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

10 (15) An applicant or licensee has a continuing duty to provide
11 information requested by the ~~board~~**marijuana regulatory agency** and
12 to cooperate in any investigation, inquiry, or hearing conducted by
13 the ~~board~~**marijuana regulatory agency**.

