

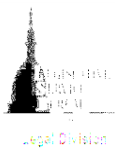
HOUSE BILL NO. 5700

March 17, 2020, Introduced by Rep. Alexander and referred to the Committee on Judiciary.

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



1 by, or is under common control with; is in a partnership or joint
 2 venture relationship with; or is a co-shareholder of a corporation,
 3 a co-member of a limited liability company, or a co-partner in a
 4 limited liability partnership with a licensee or applicant.

5 (c) "Applicant" means a person who applies for a state
 6 operating license. Applicant includes, with respect to disclosures
 7 in an application, for purposes of ineligibility for a license
 8 under section 402, or for purposes of prior ~~board~~ **marijuana**
 9 **regulatory agency** approval of a transfer of interest under section
 10 406, and only for applications submitted on or after January 1,
 11 2019, a managerial employee of the applicant, a person holding a
 12 direct or indirect ownership interest of more than 10% in the
 13 applicant, and the following for each type of applicant:

14 (i) For an individual or sole proprietorship: the proprietor
 15 and spouse.

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

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



1 their spouses.

2 (iv) For a publicly held corporation: all corporate officers or
3 persons with equivalent titles and their spouses, all directors and
4 their spouses, and all stockholders, not including those holding a
5 direct or indirect ownership interest of 10% or less, and their
6 spouses.

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

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

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

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

18 (f) "Department" means the department of licensing and
19 regulatory affairs.

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

24 (h) "Industrial hemp" means that term as defined in section
25 7106 of the public health code, 1978 PA 368, MCL 333.7106.

26 (i) "Industrial hemp research and development act" means the
27 industrial hemp research and development act, 2014 PA 547, **MCL**
28 **286.841 to 286.859.**

29 (j) "Licensee" means a person holding a state operating



1 license.

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

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

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

8 (n) "Marihuana-infused product" means a topical formulation,
9 tincture, beverage, edible substance, or similar product containing
10 any usable marihuana that is intended for human consumption in a
11 manner other than smoke inhalation. Marihuana-infused product is
12 not considered a food for purposes of the food law, 2000 PA 92, MCL
13 289.1101 to 289.8111.

14 (o) "Marihuana tracking act" means the marihuana tracking act,
15 2016 PA 282, MCL 333.27901 to 333.27904.

16 (p) **"Marijuana regulatory agency" means the marijuana**
17 **regulatory agency created under Executive Reorganization Order No.**
18 **2019-2, MCL 333.27001.**

19 (q) ~~(p)~~—"Michigan ~~medical marihuana act~~" **Medical Marihuana**
20 **Act**" means the Michigan ~~medical marihuana act~~, **Medical Marihuana**
21 **Act**, 2008 IL 1, MCL 333.26421 to 333.26430.

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

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

29 (t) ~~(s)~~—"Person" means an individual, corporation, limited



1 liability company, partnership, limited partnership, limited
 2 liability partnership, limited liability limited partnership,
 3 trust, or other legal entity.

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

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

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

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

28 (y) ~~(x)~~—"Registered qualifying patient" means a qualifying
 29 patient who has been issued a current registry identification card



1 under the Michigan ~~medical marihuana act~~ **Medical Marihuana Act** or a
 2 visiting qualifying patient as that term is defined in section 3 of
 3 the Michigan ~~medical marihuana act~~, **Medical Marihuana Act**, MCL
 4 333.26423.

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

8 (aa) ~~(z)~~ "Rules" means rules promulgated under the
 9 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 10 24.328, by the department in consultation with the ~~board~~ **marijuana**
 11 **regulatory agency** to implement this act.

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

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

21 (dd) ~~(cc)~~ "Seed" means the fertilized, ungerminated, matured
 22 ovule, containing an embryo or rudimentary plant, of a marihuana
 23 plant that is flowering.

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

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



- 1 (i) A grower.
 2 (ii) A processor.
 3 (iii) A secure transporter.
 4 (iv) A provisioning center.
 5 (v) A safety compliance facility.

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

- 13 (i) Verifying registry identification cards.
 14 (ii) Tracking marihuana transfer and transportation by
 15 licensees, including transferee, date, quantity, and price.
 16 (iii) Verifying in commercially reasonable time that a transfer
 17 will not exceed the limit that the patient or caregiver is
 18 authorized to receive under section 4 of the Michigan ~~medical~~
 19 ~~marihuana act~~, **Medical Marihuana Act**, MCL 333.26424.

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

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

28 Sec. 402. (1) The ~~board~~ **marijuana regulatory agency** shall
 29 issue a license to an applicant ~~who~~ **if all of the following**



1 conditions are met:

2 (a) The applicant submits a complete application. ~~and~~

3 (b) The applicant pays both the nonrefundable application fee
4 required under section 401(5) and the regulatory assessment
5 established by the ~~board~~ **marijuana regulatory agency** for the first
6 year of operation. ~~, if the board~~

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

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

11 (a) The applicant has been convicted of or released from
12 incarceration for a felony under the laws of this state, any other
13 state, or the United States within the past 10 years or has been
14 convicted of a controlled substance-related felony within the past
15 10 years.

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

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

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

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

29 (f) The applicant holds an elective office of a governmental



1 unit of this state, another state, or the federal government; is a
 2 member of or employed by a regulatory body of a governmental unit
 3 in this state, another state, or the federal government; or is
 4 employed by a governmental unit of this state. This subdivision
 5 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 elected precinct delegate.

8 (ii) **The spouse of a person who applies for a state operating**
 9 **license unless the spouse's position is within the marijuana**
 10 **regulatory agency or would otherwise create a conflict of interest.**

11 (g) The ~~board~~**marijuana regulatory agency** determines that the
 12 applicant is not in compliance with section 205(1).

13 (h) The applicant fails to meet other criteria established by
 14 rule.

15 (3) In determining whether to grant a license to an applicant,
 16 the ~~board~~**marijuana regulatory agency** may also consider all of the
 17 following:

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

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

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

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

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



1 facility.

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

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

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

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

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

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

22 (4) Each applicant shall ensure that 1 set of fingerprints is
23 submitted to the department of state police. The applicant shall
24 submit with its application the applicant's written consent to the
25 criminal history check described in this section and the submission
26 of the applicant's fingerprints to, and the inclusion of the
27 applicant's fingerprints in, the state and federal database systems
28 described in subsection (7).

29 (5) The fingerprints required under subsection (4) may be



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

7 (6) The department of state police shall do all of the
8 following:

9 (a) Conduct a criminal history check on each applicant and
10 request the Federal Bureau of Investigation to make a determination
11 of the existence of any national criminal history pertaining to
12 each applicant.

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

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

18 (a) The department of state police shall store and retain all
19 fingerprints submitted under this section in an automated
20 fingerprint identification system database that searches against
21 latent fingerprints, and provides for an automatic notification ~~if~~
22 ~~and~~ when a subsequent fingerprint is submitted into the system that
23 matches a ~~set of fingerprints~~ **fingerprint** previously submitted
24 under this section or ~~if and~~ when the criminal history of an
25 individual whose fingerprints are retained in the system is
26 updated. Upon receiving a notification, the department of state
27 police shall immediately notify the ~~board~~ **marijuana regulatory**
28 **agency**. Information in the database maintained under this
29 subsection is confidential, is not subject to disclosure under the



1 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and
2 shall not be disclosed to any person except for purposes of this
3 act or for law enforcement purposes.

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

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

17 (ii) "FBI automatic notification system" means the automatic
18 notification system that is maintained by the Federal Bureau of
19 Investigation.

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

23 (9) A license shall be issued for a 1-year period and is
24 renewable annually. Except as otherwise provided in this act, the
25 ~~board~~ **marijuana regulatory agency** shall renew a license if all of
26 the following requirements are met:

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



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

4 (c) The licensee pays the regulatory assessment under section
5 603.

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

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

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

23 (12) License expiration does not terminate the ~~board's~~
24 **marijuana regulatory agency's** authority to impose sanctions on a
25 licensee whose license has expired.

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



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

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

