

**SUBSTITUTE FOR  
HOUSE BILL NO. 4209**

A bill 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 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 taxes, fees, and assessments; to make an appropriation; and to require the promulgation of rules.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1** PART 1. GENERAL PROVISIONS

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

1           Sec. 102. As used in this act:

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

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  
8 limited liability partnership with a licensee or applicant.

9           (c) "Applicant" means a person who applies for a state  
10 operating license. With respect to disclosures in an application,  
11 or for purposes of ineligibility for a license under section  
12 402(2), the term applicant includes an officer, director, or  
13 managerial employee of the applicant or a person who holds a  
14 greater than 1% direct or indirect ownership interest in the  
15 applicant.

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

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

20           (f) "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 or provisioning center.

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

25           (h) "Marihuana" includes all of the following that are grown,  
26 processed, or sold for medical use as described in the Michigan  
27 medical marihuana act:

1 (i) All parts of the plant Cannabis sativa L.

2 (ii) The seeds or seedlings of Cannabis sativa L.

3 (iii) The resin extracted from any part of Cannabis sativa L.

4 (iv) Every compound, manufacture, salt, derivative, mixture,  
5 or preparation of Cannabis sativa L. or its seeds or resin.

6 (i) "Marihuana facility" means a location from which any of  
7 the following license holders operate:

8 (i) A grower.

9 (ii) A processor.

10 (iii) A secure transporter.

11 (iv) A provisioning center.

12 (v) A safety compliance facility.

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

17 (k) "Michigan medical marihuana act" means the Michigan  
18 medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

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

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

25 (n) "Person" means an individual, corporation, limited  
26 liability company, partnership, limited partnership, limited  
27 liability partnership, limited liability limited partnership,

1 trust, or other legal entity.

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

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

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

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

27 (s) "Registry identification card" means that term as defined

1 in section 3 of the Michigan medical marihuana act, MCL 333.26423.

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

5 (u) "Safety compliance facility" means a licensee that is a  
6 commercial entity that receives marihuana from a marihuana facility  
7 or a registered qualifying patient or a registered primary  
8 caregiver, tests it for contaminants and for tetrahydrocannabinol  
9 and other cannabinoids, and returns it to the marihuana facility or  
10 a registered qualifying patient or registered primary caregiver  
11 with the test results.

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

15 (w) "State operating license" or, unless the context requires  
16 a different meaning, "license" means a license that is issued under  
17 this act that, except for a secure transporter authorized for  
18 mobile operations at multiple sites, allows the licensee to operate  
19 at a single site as any of the following, specified in the license:

20 (i) A grower.

21 (ii) A processor.

22 (iii) A secure transporter.

23 (iv) A provisioning center.

24 (v) A safety compliance facility.

## 25 PART 2. APPLICATION OF OTHER LAWS

26 Sec. 201. (1) Except as otherwise provided in this act, if a  
27 person has been granted a state operating license and is operating

1 within the scope of the license, the licensee and its agents are  
2 not subject to any of the following for engaging in activities  
3 described in subsection (2):

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

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

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

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

13 (e) Seizure of marihuana, real property, personal property, or  
14 any thing of value based on a marihuana-related offense.

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

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

22 (a) Growing marihuana.

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

26 (c) Possessing marihuana.

27 (d) Possessing or manufacturing marihuana paraphernalia for

1 medical use.

2 (e) Processing marihuana.

3 (f) Transporting marihuana.

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

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

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

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

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

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

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

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

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

1           (4) Any other state law that is inconsistent with this act  
2 does not apply to a marihuana facility operating in compliance with  
3 this act.

4           Sec. 203. A registered qualifying patient or registered  
5 primary caregiver is not subject to criminal prosecution or  
6 sanctions for purchasing marihuana from a provisioning center if  
7 the quantity purchased is within the limits established under the  
8 Michigan medical marihuana act.

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

12           Sec. 205. A municipality may adopt an ordinance to authorize 1  
13 or more types of marihuana facilities within its boundaries and to  
14 limit the number of each type of marihuana facility. A marihuana  
15 facility shall not be licensed unless the municipality in which the  
16 marihuana facility is located has adopted an authorizing ordinance.  
17 The ordinance may establish an annual, nonrefundable licensing fee  
18 of not more than \$1,000.00 to help defray administrative and  
19 enforcement costs associated with the operation of a marihuana  
20 facility in the municipality. A municipality may adopt other  
21 ordinances relating to marihuana facilities within its  
22 jurisdiction, including zoning regulations, but shall not impose  
23 regulations that would interfere or conflict with uniform statewide  
24 regulation of licensees. A municipality must approve an applicant  
25 for a new state operating license within its boundaries before the  
26 board may consider the application. Information obtained by a  
27 municipality from an applicant under this section is exempt from



1 disclosure under the freedom of information act, 1976 PA 442, MCL  
2 15.231 to 15.246.

3 Sec. 206. The department, in consultation with the board,  
4 shall promulgate rules and emergency rules as necessary to  
5 implement, administer, and enforce this act. The rules shall ensure  
6 the safety, security, and integrity of the operation of marihuana  
7 facilities, and shall include, but are not limited to, rules to do  
8 the following:

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

11 (b) Establish minimum levels of insurance that licensees must  
12 maintain.

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

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

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

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

22 (g) Prescribe use of a statewide database to track all  
23 marihuana transfers, as provided in the marihuana tracking act.

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

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

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

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

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

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

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

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

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

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

24 PART 3. MEDICAL MARIHUANA LICENSING BOARD

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

27 (2) The board consists of 5 members who are residents of this

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

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

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

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

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

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

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

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

11 (a) During the 3 years immediately preceding appointment or  
12 employment, the individual held any direct or indirect interest in,  
13 or was employed by, a person who is licensed to operate under this  
14 act or under a corresponding license in another jurisdiction or a  
15 person with an application for an operating license pending before  
16 the board or in any other jurisdiction. The board shall not employ  
17 an individual if his or her interest in a licensee or marihuana  
18 facility constitutes a controlling interest in that licensee or  
19 facility. However, an individual may be employed if his or her  
20 interest in any licensee or marihuana facility is not a controlling  
21 interest and would not, in the opinion of the board, interfere with  
22 the objective discharge of the individual's employment obligations.

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

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

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

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

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

27           (14) For 2 years after the termination of his or her office or

1 employment with the board, a board member or an individual employed  
2 by the board shall not represent any person or party other than  
3 this state before or against the board.

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

12 Sec. 302. The board has general responsibility for  
13 implementing this act. The board has the powers and duties  
14 specified in this act and all other powers necessary and proper to  
15 fully and effectively implement and administer this act for the  
16 purpose of licensing, regulating, and enforcing the licensing and  
17 regulation system established under this act for marihuana growth,  
18 processing, testing, and transporting. The board is subject to the  
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
20 24.328. The board's duties include, but are not limited to, all of  
21 the following:

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

24 (b) Deciding all license applications in reasonable order.

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

27 (d) Consulting with the department in promulgating rules and

1 emergency rules as necessary to implement, administer, and enforce  
2 this act.

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

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

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

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

26 (i) Holding at least 2 public meetings each year. Upon 72  
27 hours' written notice to each member, the chairperson or any 2

1 board members may call a special meeting. Three members of the  
2 board constitute a quorum, including when making determinations on  
3 an application for a license. Three votes are required in support  
4 of final determinations of the board on applications for licenses  
5 and all other licensing determinations, except that 4 votes are  
6 required in support of a determination to suspend or revoke a  
7 license. The board shall keep a complete and accurate record of all  
8 of its meetings and hearings. Upon order of the board, 1 of the  
9 board members or a hearing officer designated by the board may  
10 conduct any hearing provided for under this act or by rules and may  
11 recommend findings and decisions to the board. The board member or  
12 hearing officer conducting the hearing has all powers and rights  
13 regarding the conduct of hearings granted to the board under this  
14 act. The record made at the time of the hearing shall be reviewed  
15 by the board or a majority of the board, and the findings and  
16 decision of the majority of the board are the order of the board in  
17 the case.

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

22 (k) Reviewing the patterns of marihuana transfers by the  
23 licensees under this act as recorded in a statewide database  
24 established for use in administering and enforcing this act and  
25 making recommendations to the governor and the legislature in a  
26 written annual report to the governor and the legislature and  
27 additional reports that the governor requests. The annual report



1 shall be submitted by April 15 of each year and shall include the  
2 report required under section 702, a statement of receipts and  
3 disbursements by the board, the actions taken by the board, and any  
4 additional information and recommendations that the board considers  
5 appropriate or that the governor requests.

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

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

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

25 (iii) All information in the statewide database of marihuana  
26 transactions.

27 Sec. 303. (1) The board has jurisdiction over the operation of

1 all marihuana facilities. The board has all powers necessary and  
2 proper to fully and effectively oversee the operation of marihuana  
3 facilities, including, but not limited to, the authority to do all  
4 of the following:

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

8 (b) Investigate all individuals employed by marihuana  
9 facilities.

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

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

19 (ii) To inspect, examine, and audit relevant records of the  
20 license, and, if the licensee fails to cooperate with an  
21 investigation, impound, seize, assume physical control of, or  
22 summarily remove from the premises all books, ledgers, documents,  
23 writings, photocopies, correspondence, records, videotapes,  
24 including electronically stored records, money receptacles, other  
25 containers and their contents, or equipment in which the records  
26 are stored.

27 (iii) To inspect the person, and inspect or examine personal

1 effects present in a marihuana facility, of any holder of a state  
2 operating license while that person is present in a licensed  
3 facility.

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

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

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

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

14 (g) Require that each licensee of a marihuana facility submit  
15 to the board a list of the stockholders or other persons having a  
16 1% or greater beneficial interest in the facility in addition to  
17 any other information the board considers necessary to effectively  
18 administer this act and rules, orders, and final decisions made  
19 under this act.

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

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

27 (j) Consult with the department in establishing minimum levels

1 of insurance that licensees must maintain.

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

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

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

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

13 (2) The board may seek and shall receive the cooperation and  
14 assistance of the department of state police and department of  
15 attorney general in conducting background investigations of  
16 applicants and in fulfilling its responsibilities under this act.

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

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

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

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

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

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

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

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

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

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

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

26 (4) A member, employee, or agent of the board who within the  
27 previous 10 years has been indicted for, charged with, or convicted

1 of, pled guilty or nolo contendere to, or forfeited bail concerning  
2 a misdemeanor involving controlled substances, dishonesty, theft,  
3 or fraud or a local ordinance in any state involving controlled  
4 substances, dishonesty, theft, or fraud that substantially  
5 corresponds to a misdemeanor in that state, or a felony under  
6 Michigan law, the laws of any other state, or the laws of the  
7 United States or any other jurisdiction shall immediately provide  
8 detailed written notice of the conviction or charge to the  
9 chairperson.

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

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

24 (7) Any member, employee, or agent of the board who receives  
25 an invitation, written or oral, to initiate a discussion concerning  
26 employment or the possibility of employment with a person or  
27 affiliate of a person who is a licensee or an applicant shall

1 immediately report that he or she received the invitation to the  
2 chairperson. The member, employee, or agent of the board shall not  
3 take action on behalf of the board with respect to the person.

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

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

17 (10) A member, employee, or agent of the board or a parent,  
18 spouse, sibling, spouse of a sibling, child, or spouse of a child  
19 of a member, employee, or agent of the board shall not accept any  
20 gift, gratuity, compensation, travel, lodging, or anything of  
21 value, directly or indirectly, from any licensee or any applicant  
22 or affiliate or representative of a licensee or applicant, unless  
23 the acceptance conforms to a written policy or directive that is  
24 issued by the chairperson or the board. Any member, employee, or  
25 agent of the board who is offered or receives any gift, gratuity,  
26 compensation, travel, lodging, or anything of value, directly or  
27 indirectly, from any licensee or any applicant or affiliate or

1 representative of an applicant or licensee shall immediately  
2 provide written notification of the details to the chairperson.

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

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

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

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

26 (15) A former member, employee, or agent of the board may  
27 appear before the board as a fact witness about matters or actions



1 handled by the member, employee, or agent during his or her tenure  
2 as a member, employee, or agent of the board. The member, employee,  
3 or agent of the board shall not receive compensation for such an  
4 appearance other than a standard witness fee and reimbursement for  
5 travel expenses as established by statute or court rule.

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

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

19 (18) Any member of the board who receives an ex parte  
20 communication in an attempt to influence that member's official  
21 action shall disclose the source and content of the communication  
22 to the chairperson. The chairperson may investigate or initiate an  
23 investigation of the matter with the assistance of the attorney  
24 general and state police to determine if the communication violates  
25 subsection (16) or subsection (17) or other state law. The  
26 disclosure under this section and the investigation are  
27 confidential. Following an investigation, the chairperson shall

1 advise the governor or the board, or both, of the results of the  
2 investigation and may recommend action as the chairperson considers  
3 appropriate. If the chairperson receives such an ex parte  
4 communication, he or she shall report the communication to the  
5 governor's office for appropriate action.

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

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

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

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

1           (23) If a licensee or applicant, or an affiliate or  
2 representative of a licensee or applicant, violates this section,  
3 the board may deny a license application, revoke or suspend a  
4 license, or take other disciplinary action as provided in section  
5 407.

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

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

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

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

27           (c) Employment shall be terminated if the employee or agent is

1 a spouse, parent, child, or spouse of a child of a board member.

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

4 (27) As used in this section:

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

7 (i) Operation of a proprietorship.

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

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

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

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

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

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

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

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

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

27 (B) The subject of or a participant in an ongoing audit,

1 investigation, or enforcement action being carried out by the  
2 board.

3 PART 4. LICENSING

4 Sec. 401. (1) Beginning 180 days after the effective date of  
5 this act, a person may apply to the board for a state operating  
6 license in the category of class A, B, or C grower; processor;  
7 provisioning center; secure transporter; or safety compliance  
8 facility as provided in this act. The application shall be made  
9 under oath on a form provided by the board and shall contain  
10 information as prescribed by the board, including, but not limited  
11 to, all of the following:

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

15 (b) The identity of every person having a greater than 1%  
16 direct or indirect ownership interest in the applicant with respect  
17 to which the license is sought. If the disclosed entity is a trust,  
18 the application shall disclose the names and addresses of the  
19 beneficiaries; if a corporation, the names and addresses of all  
20 shareholders, officers, and directors; if a partnership or limited  
21 liability partnership, the names and addresses of all partners; if  
22 a limited partnership or limited liability limited partnership, the  
23 names of all partners, both general and limited; or if a limited  
24 liability company, the names and addresses of all members and  
25 managers.

26 (c) An identification of any business that is directly or  
27 indirectly involved in the growing, processing, testing,

1 transporting, or sale of marihuana, including, if applicable, the  
2 state of incorporation or registration, in which an applicant or,  
3 if the applicant is an individual, the applicant's spouse, parent,  
4 or child has an equity interest of more than 5%. If an applicant is  
5 a corporation, partnership, or other business entity, the applicant  
6 shall identify any other corporation, partnership, or other  
7 business entity that is directly or indirectly involved in the  
8 growing, processing, testing, transporting, or sale of marihuana in  
9 which it has an equity interest of 5% or more, including, if  
10 applicable, the state of incorporation or registration. An  
11 applicant may comply with this subdivision by filing a copy of the  
12 applicant's registration with the Securities and Exchange  
13 Commission if the registration contains the information required by  
14 this subdivision.

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

25 (e) Whether an applicant has ever applied for or has been  
26 granted any commercial license or certificate issued by a licensing  
27 authority in Michigan or any other jurisdiction that has been

1 denied, restricted, suspended, revoked, or not renewed and a  
2 statement describing the facts and circumstances concerning the  
3 application, denial, restriction, suspension, revocation, or  
4 nonrenewal, including the licensing authority, the date each action  
5 was taken, and the reason for each action.

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

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

22 (h) A description of the type of marihuana facility; written  
23 approval of the marihuana facility location from the municipality;  
24 anticipated or actual number of employees; and projected or actual  
25 gross receipts.

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

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

4 (k) Any other information the department requires by rule.

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

15 (3) An applicant must provide written consent to the  
16 inspections, examinations, searches, and seizures provided for in  
17 section 303(1)(c)(i) to (iv) and to disclosure to the board and its  
18 agents of otherwise confidential records, including tax records  
19 held by any federal, state, or local agency, or credit bureau or  
20 financial institution, while applying for or holding a license.  
21 Information the board receives under this subsection is exempt from  
22 disclosure under the freedom of information act, 1976 PA 442, MCL  
23 15.231 to 15.246.

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

27 (5) A nonrefundable application fee must be paid at the time



1 of filing to defray the costs associated with the background  
2 investigation conducted by the board. The department in  
3 consultation with the board shall set the amount of the application  
4 fee for each category and class of license by rule. If the costs of  
5 the investigation and processing the application exceed the  
6 application fee, the applicant shall pay the additional amount to  
7 the board. All information, records, interviews, reports,  
8 statements, memoranda, or other data supplied to or used by the  
9 board in the course of its review or investigation of an  
10 application for a license under this act shall be disclosed only in  
11 accordance with this act. The information, records, interviews,  
12 reports, statements, memoranda, or other data are not admissible as  
13 evidence or discoverable in any action of any kind in any court or  
14 before any tribunal, board, agency, or person, except for any  
15 action considered necessary by the board.

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

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

24       (a) The applicant has been convicted of or released from  
25 incarceration for a felony under the laws of this state, any other  
26 state, or the United States within the past 5 years or has been  
27 convicted of a controlled substance-related felony within the past

1 10 years.

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

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

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

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

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

21 (g) The applicant fails to meet other criteria established by  
22 rule.

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

25 (a) The integrity, moral character, and reputation; personal  
26 and business probity; financial ability and experience; and  
27 responsibility or means to operate or maintain a facility of the

1 applicant and of any other person that either:

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

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

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

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

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

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

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

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

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

27 (i) Whether the applicant meets other standards in rules

1 applicable to the license category.

2 (4) Each applicant shall submit with its application, on forms  
3 provided by the board, a passport quality photograph and 1 set of  
4 fingerprints for each person having a greater than 1% direct or  
5 indirect ownership interest in the facility and each person who is  
6 an officer, director, or managerial employee of the applicant.

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

9 (6) A license shall be issued for a 1-year period. A license  
10 is renewable annually upon payment of the regulatory assessment  
11 under section 603 and after providing the board with an annual  
12 report that includes information required by rules. In its decision  
13 on an application for renewal, the board shall consider any  
14 specific written input it receives from an individual or entity  
15 within the local unit of government in which the applicant for  
16 renewal is located.

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

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

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

27 Sec. 404. (1) The board shall issue a license only in the name

1 of the true party of interest.

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

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

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

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

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

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

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

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

26 (a) A person or entity receiving reasonable payment for rent  
27 on a fixed basis under a bona fide lease or rental obligation,

1 unless the lessor or property manager exercises control over or  
2 participates in the management of the business.

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

8 Sec. 405. Subject to the laws of this state, before hiring a  
9 prospective employee, the holder of a license shall conduct a  
10 background check of the prospective employee. If the background  
11 check indicates a pending charge or conviction within the past 5  
12 years for a controlled substance-related felony, a licensee shall  
13 not hire the prospective employee without written permission of the  
14 board.

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

22 Sec. 407. (1) If an applicant or licensee fails to comply with  
23 this act or rules, if a licensee no longer meets the eligibility  
24 requirements for a license under this act, or if an applicant or  
25 licensee fails to provide information the board requests to assist  
26 in any investigation, inquiry, or board hearing, the board may  
27 deny, suspend, revoke, or restrict a license. The board may

1 suspend, revoke, or restrict a license and require the removal of a  
2 licensee or an employee of a licensee for a violation of this act,  
3 rules, or any ordinance adopted under section 205. The board may  
4 impose civil fines of up to \$5,000.00 against an individual and up  
5 to \$10,000.00 or an amount equal to the daily gross receipts,  
6 whichever is greater, against a licensee for each violation of this  
7 act, rules, or an order of the board.

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

22 (3) After denying an application for a license, the board  
23 shall, upon request, provide a public investigative hearing at  
24 which the applicant is given the opportunity to present testimony  
25 and evidence to establish its suitability for a license. Other  
26 testimony and evidence may be presented at the hearing, but the  
27 board's decision must be based on the whole record before the board

1 and is not limited to testimony and evidence submitted at the  
2 public investigative hearing.

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

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

23 (6) If a licensee has ceased business operations for 60  
24 consecutive days, the licensee shall return the license to the  
25 board. If the licensee demonstrates good cause and all required  
26 fees are paid, the board may place the license in escrow for up to  
27 3 years. To remove a license from escrow, the licensee must submit



1 to the board a written request and any other information required  
2 by rule.

3 Sec. 408. Alcoholic beverages shall not be sold, distributed,  
4 or consumed on the premises of a provisioning center.

5 PART 5. LICENSEES

6 Sec. 501. (1) A grower license authorizes the grower to grow  
7 not more than the following number of plants under the indicated  
8 license class:

9 (a) Class A - 500 plants.

10 (b) Class B - 1,000 plants.

11 (c) Class C - 1,500 plants.

12 (2) A grower license authorizes sale of marihuana seeds or  
13 seedlings only to a grower by means of a secure transporter and  
14 purchase of marihuana seeds or seedlings only from a grower,  
15 registered qualifying patient, or registered primary caregiver.

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

18 (4) Except as provided in subsection (5), a grower license  
19 authorizes the grower to transfer marihuana only by means of a  
20 secure transporter.

21 (5) A grower license authorizes the grower to transfer  
22 marihuana to and from a safety compliance facility for testing or  
23 to or from a processor or provisioning center located within the  
24 same marihuana facility.

25 (6) To be eligible for a grower license, the applicant and  
26 each investor in the grower must not have a greater than 10%  
27 interest in a secure transporter or a safety compliance facility.

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

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

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

8 (c) Enter each transfer of marihuana into this state's  
9 database for marihuana tracking, as provided in the marihuana  
10 tracking act.

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

14 (2) Except as provided in subsection (3), a processor license  
15 authorizes the processor to transfer marihuana only by means of a  
16 secure transporter.

17 (3) A processor license authorizes the processor to transfer  
18 marihuana to and from a safety compliance facility for testing or  
19 to or from a grower or provisioning center located within the same  
20 marihuana facility.

21 (4) To be eligible for a processor license, the applicant and  
22 each investor in the processor must not have a greater than 10%  
23 interest in a secure transporter or safety compliance facility.

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

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

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

4 (c) Enter each transfer of marihuana into this state's  
5 database for marihuana tracking, as provided in the marihuana  
6 tracking act.

7 Sec. 503. (1) A secure transporter license authorizes the  
8 licensee to store and transport marihuana and money associated with  
9 the purchase or sale of marihuana between marihuana facilities for  
10 a fee upon request of a person with legal custody of that marihuana  
11 or money.

12 (2) To be eligible for a secure transporter license, the  
13 applicant and each investor with a greater than 10% interest in the  
14 secure transporter must not have a greater than 10% interest in a  
15 grower, processor, provisioning center, or safety compliance  
16 facility.

17 (3) A secure transporter shall enter each transfer of  
18 marihuana into this state's database for marihuana tracking, as  
19 provided in the marihuana tracking act.

20 Sec. 504. (1) A provisioning center license authorizes the  
21 purchase or transfer of marihuana only from a grower or processor  
22 and sale or transfer to only a registered qualifying patient or  
23 registered primary caregiver. Except as provided in subsection (2),  
24 all transfers of marihuana to a provisioning center from a separate  
25 marihuana facility shall be by means of a secure transporter.

26 (2) A provisioning center license authorizes the provisioning  
27 center to transfer marihuana to or from a safety compliance

1 facility for testing.

2 (3) To be eligible for a provisioning center license, the  
3 applicant and each investor in the provisioning center must not  
4 have a greater than 10% interest in a secure transporter or safety  
5 compliance facility.

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

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

11 (b) Enter each transfer of marihuana into this state's  
12 database for marihuana tracking as provided in the marihuana  
13 tracking act.

14 Sec. 505. (1) A safety compliance facility license authorizes  
15 the facility to receive, test, and return marihuana.

16 (2) A safety compliance facility must be accredited by an  
17 entity approved by the board by 1 year after the date the license  
18 is issued. The board may grant a variance from this requirement  
19 upon a finding that the variance is necessary to protect and  
20 preserve the public health, safety, or welfare.

21 (3) To be eligible for a safety compliance facility license,  
22 the applicant and each investor with a greater than 10% interest in  
23 the safety compliance facility must not have a greater than 10%  
24 interest in a grower, secure transporter, processor, or  
25 provisioning center.

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

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

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

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

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

11 (e) Enter each transfer of marihuana into this state's  
12 database for marihuana tracking, as provided in the marihuana  
13 tracking act, along with test results.

14 PART 6. TAXES AND FEES

15 Sec. 601. (1) A tax is imposed on each provisioning center at  
16 the rate of 8% of the provisioning center's gross retail income.

17 (2) The taxes imposed under this section shall be administered  
18 by the department of treasury in accordance with 1941 PA 122, MCL  
19 205.1 to 205.31, and this act. In case of conflict between the  
20 provisions of 1941 PA 122, MCL 205.1 to 205.31, and this act, the  
21 provisions of this act prevail.

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

24 (2) Except for the application fee under section 401, the  
25 regulatory assessment under section 603, and any local licensing  
26 fees, all money collected under section 601 and all other fees,  
27 fines, and charges, imposed under this act shall be deposited in

1 the medical marihuana regulatory fund. The state treasurer shall  
2 direct the investment of the fund. The state treasurer shall credit  
3 to the fund interest and earnings from fund investments.

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

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

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

11 (a) 27.5% to municipalities in which a marihuana facility is  
12 located, allocated in proportion to the number of marihuana  
13 facilities within the municipality.

14 (b) 27.5% to counties in which a marihuana facility is  
15 located, allocated in proportion to the number of marihuana  
16 facilities within the county.

17 (c) 5% to counties in which a marihuana facility is located,  
18 allocated in proportion to the number of marihuana facilities  
19 within the county. Money allocated under this subdivision shall be  
20 used exclusively to support the county sheriffs.

21 (d) 40% to this state to be deposited in the state general  
22 fund.

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

27 (a) The department's costs to implement, administer, and

1 enforce this act, except for the costs to process and investigate  
2 applications for licenses supported with the application fee  
3 described in section 401.

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

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

8 (d) \$500,000.00 to be allocated to the department for  
9 expenditures of the department for licensing substance use disorder  
10 programs.

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

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

19 (3) The regulatory assessment shall be collected annually from  
20 licensed growers, processors, provisioning centers, and secure  
21 transporters.

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

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

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

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

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

18           (4) The state treasurer shall be the administrator of the  
19 marihuana facilities regulatory restricted fund for auditing  
20 purposes.

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

25           Sec. 605. There is appropriated to the department for the  
26 fiscal year ending September 30, 2016 \$8,500,000.00 from the  
27 marihuana facilities regulatory restricted fund for the purpose of



1 funding the operations of the department and the board in  
2 implementing, administering, and enforcing this act.

3 PART 7. REPORTS

4 Sec. 701. By 30 days after the end of each state fiscal year,  
5 each licensee shall transmit to the board and to the municipality  
6 compiled financial statements of the licensee's total operations.  
7 The financial statements shall be compiled by a certified public  
8 accountant in a manner and form prescribed by the board. The  
9 certified public accountant must be licensed in this state under  
10 article 7 of the occupational code, 1980 PA 299, MCL 339.720 to  
11 339.736. The compensation for the certified public accountant shall  
12 be paid directly by the licensee to the certified public  
13 accountant.

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

21 PART 8. MARIHUANA ADVISORY PANEL

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

24 (2) The marihuana advisory panel shall consist of 14 members,  
25 including the director of state police or his or her designee, the  
26 director of this state's department of health and human services or  
27 his or her designee, the director of the department of licensing

1 and regulatory affairs or his or her designee, the attorney general  
2 or his or her designee, the director of the department of  
3 agriculture and rural development or his or her designee, and the  
4 following members appointed by the governor:

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

7 (b) One representative of growers.

8 (c) One representative of provisioning centers.

9 (d) One representative of safety compliance facilities.

10 (e) One representative of townships.

11 (f) One representative of cities and villages.

12 (g) One representative of counties.

13 (h) One representative of local law enforcement agencies.

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

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

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

24 (5) The first meeting of the panel shall be called by the  
25 director of the department or his or her designee within 1 month  
26 after the advisory panel is appointed. At the first meeting, the  
27 panel shall elect from among its members a chairperson and any

1 other officers it considers necessary or appropriate. After the  
2 first meeting, the panel shall meet at least 2 times each year, or  
3 more frequently at the call of the chairperson.

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

7 (7) The business that the panel performs shall be conducted at  
8 a public meeting held in compliance with the open meetings act,  
9 1976 PA 267, MCL 15.261 to 15.275.

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

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

18 (10) The panel shall make recommendations to the board  
19 concerning promulgation of rules and, as requested by the board or  
20 the department, the administration of this act.

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

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

26 Enacting section 2. The legislature finds that the necessity  
27 for access to safe sources of marihuana for medical use and the

1 immediate need for growers, processors, secure transporters,  
2 provisioning centers, and safety compliance facilities to operate  
3 under clear requirements establish the need to promulgate emergency  
4 rules to preserve the public health, safety, or welfare.

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