

**SUBSTITUTE FOR
HOUSE BILL NO. 4210**

(As amended September 8, 2016)

A bill to amend 2008 IL 1, entitled
"Michigan medical marihuana act,"
by amending sections 3, 4, 6, and 7 (MCL 333.26423, 333.26424,
333.26426, and 333.26427), sections 3 and 4 as amended by 2012 PA
512 and section 6 as amended by 2012 PA 514, and by adding sections
4a and 4b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

<<TITLE

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

2

3. Definitions.

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Sec. 3. As used in this act:

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(a) "Bona fide physician-patient relationship" means a

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treatment or counseling relationship between a physician and

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patient in which all of the following are present:

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(1) The physician has reviewed the patient's relevant medical

1 records and completed a full assessment of the patient's medical
2 history and current medical condition, including a relevant, in-
3 person, medical evaluation of the patient.

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

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

10 (4) If the patient has given permission, the physician has
11 notified the patient's primary care physician of the patient's
12 debilitating medical condition and certification for the **MEDICAL**
13 use of ~~medical~~-marihuana to treat that condition.

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

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

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

27 (3) Any other medical condition or its treatment approved by

1 the department, as provided for in section 6(k).

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

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

26 (1) The vehicle is being used temporarily to transport living
27 marihuana plants from 1 location to another with the intent to

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1 permanently retain those plants at the second location.

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

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

9 (F) **"MARIHUANA-INFUSED PRODUCT" MEANS A TOPICAL FORMULATION,**
10 **TINCTURE, BEVERAGE, EDIBLE SUBSTANCE, OR SIMILAR PRODUCT CONTAINING**
11 **ANY USABLE MARIHUANA THAT IS INTENDED FOR HUMAN CONSUMPTION IN A**
12 **MANNER OTHER THAN SMOKE INHALATION. MARIHUANA-INFUSED PRODUCT SHALL**
13 **NOT BE CONSIDERED A FOOD FOR PURPOSES OF THE FOOD LAW, 2000 PA 92,**
14 **MCL 289.1101 TO 289.8111.**

<<(G) "MARIHUANA PLANT" MEANS ANY PLANT OF THE SPECIES CANNABIS SATIVA L.

15 **(H)>>** ~~(f)~~—"Medical use **OF MARIHUANA**" means the acquisition,
16 possession, cultivation, manufacture, **EXTRACTION**, use, internal
17 possession, delivery, transfer, or transportation of marihuana,
18 **MARIHUANA-INFUSED PRODUCTS**, or paraphernalia relating to the
19 administration of marihuana to treat or alleviate a registered
20 qualifying patient's debilitating medical condition or symptoms
21 associated with the debilitating medical condition.

22 **<<(I)>>** ~~(g)~~—"Physician" means an individual licensed as a
23 physician under ~~Part~~**PART** 170 of the public health code, 1978 PA
24 368, MCL 333.17001 to 333.17084, or an osteopathic physician under
25 ~~Part~~**PART** 175 of the public health code, 1978 PA 368, MCL 333.17501
26 to 333.17556.

<<(J) "PLANT" MEANS ANY LIVING ORGANISM THAT PRODUCES ITS OWN FOOD THROUGH PHOTOSYNTHESIS AND HAS OBSERVABLE ROOT FORMATION OR IS IN GROWTH MATERIAL.

27 **(K)>>** ~~(h)~~—"Primary caregiver" or "caregiver" means a person who

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

7 **<<(I)>>** ~~(i)~~—"Qualifying patient" or "patient" means a person who
 8 has been diagnosed by a physician as having a debilitating medical
 9 condition.

10 **<<(M)>>** ~~(j)~~—"Registry identification card" means a document issued
 11 by the department that identifies a person as a registered
 12 qualifying patient or registered primary caregiver.

13 **<<(N)>>** ~~(k)~~—"Usable marihuana" means the dried leaves, and
 14 flowers, **PLANT RESIN, OR EXTRACT** of the marihuana plant, ~~and any~~
 15 ~~mixture or preparation thereof,~~ but does not include the seeds,
 16 stalks, and roots of the plant.

17 **<<(O)>>** **"USABLE MARIHUANA EQUIVALENT" MEANS THE AMOUNT OF USABLE**
 18 **MARIHUANA IN A MARIHUANA-INFUSED PRODUCT THAT IS CALCULATED AS**
 19 **PROVIDED IN SECTION 4(C).**

20 **<<(P)>>** ~~(l)~~—"Visiting qualifying patient" means a patient who is
 21 not a resident of this state or who has been a resident of this
 22 state for less than 30 days.

23 **<<(Q)>>** ~~(m)~~—"Written certification" means a document signed by a
 24 physician, stating all of the following:

25 (1) The patient's debilitating medical condition.

26 (2) The physician has completed a full assessment of the

27 patient's medical history and current medical condition, including

1 a relevant, in-person, medical evaluation.

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

7 4. Protections for the Medical Use of Marihuana.

8 Sec. 4. (a) A qualifying patient who has been issued and
9 possesses a registry identification card ~~shall~~**IS** not ~~be~~ subject to
10 arrest, prosecution, or penalty in any manner, or denied any right
11 or privilege, including but not limited to civil penalty or
12 disciplinary action by a business or occupational or professional
13 licensing board or bureau, for the medical use of marihuana in
14 accordance with this act, provided that the qualifying patient
15 possesses an amount of marihuana that does not exceed **A COMBINED**
16 **TOTAL OF** 2.5 ounces of usable marihuana **AND USABLE MARIHUANA**
17 **EQUIVALENTS**, and, if the qualifying patient has not specified that
18 a primary caregiver will be allowed under state law to cultivate
19 marihuana for the qualifying patient, 12 marihuana plants kept in
20 an enclosed, locked facility. Any incidental amount of seeds,
21 stalks, and unusable roots shall also be allowed under state law
22 and shall not be included in this amount. The privilege from arrest
23 under this subsection applies only if the qualifying patient
24 presents both his or her registry identification card and a valid
25 driver license or government-issued identification card that bears
26 a photographic image of the qualifying patient.

27 (b) A primary caregiver who has been issued and possesses a

1 registry identification card ~~shall~~**IS** not be subject to arrest,
2 prosecution, or penalty in any manner, or denied any right or
3 privilege, including but not limited to civil penalty or
4 disciplinary action by a business or occupational or professional
5 licensing board or bureau, for assisting a qualifying patient to
6 whom he or she is connected through the department's registration
7 process with the medical use of marihuana in accordance with this
8 act. The privilege from arrest under this subsection applies only
9 if the primary caregiver presents both his or her registry
10 identification card and a valid driver license or government-issued
11 identification card that bears a photographic image of the primary
12 caregiver. This subsection applies only if the primary caregiver
13 possesses ~~an amount of marihuana~~ **IN FORMS AND AMOUNTS** that ~~does~~**DO**
14 not exceed **ANY OF THE FOLLOWING:**

15 (1) ~~2.5 ounces of usable marihuana for~~**FOR** each qualifying
16 patient to whom he or she is connected through the department's
17 registration process, ~~and~~**A COMBINED TOTAL OF 2.5 OUNCES OF**
18 **USABLE MARIHUANA AND USABLE MARIHUANA EQUIVALENTS.**

19 (2) ~~for~~**FOR** each registered qualifying patient who has
20 specified that the primary caregiver will be allowed under state
21 law to cultivate marihuana for the qualifying patient, 12 marihuana
22 plants kept in an enclosed, locked facility. ~~and~~

23 (3) ~~any~~**ANY** incidental amount of seeds, stalks, and unusable
24 roots.

25 **(C) FOR PURPOSES OF DETERMINING USABLE MARIHUANA EQUIVALENCY,**
26 **THE FOLLOWING SHALL BE CONSIDERED EQUIVALENT TO 1 OUNCE OF USABLE**
27 **MARIHUANA:**

- 1 (1) 16 OUNCES OF MARIHUANA-INFUSED PRODUCT IF IN A SOLID FORM.
2 (2) 7 GRAMS OF MARIHUANA-INFUSED PRODUCT IF IN A GASEOUS FORM.
3 (3) 36 FLUID OUNCES OF MARIHUANA-INFUSED PRODUCT IF IN A
4 LIQUID FORM.

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

9 (E) ~~(d)~~—There shall be ~~IS~~ a presumption that a qualifying
10 patient or primary caregiver is engaged in the medical use of
11 marihuana in accordance with this act if the qualifying patient or
12 primary caregiver **COMPLIES WITH BOTH OF THE FOLLOWING:**

13 (1) ~~is~~ **IS** in possession of a registry identification card. ~~+~~
14 ~~and~~

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

21 (F) ~~(e)~~—A registered primary caregiver may receive
22 compensation for costs associated with assisting a registered
23 qualifying patient in the medical use of marihuana. Any such
24 compensation shall ~~shall~~ **DOES** not constitute the sale of controlled
25 substances.

26 (G) ~~(f)~~—A physician shall not be subject to arrest,
27 prosecution, or penalty in any manner, or denied any right or

1 privilege, including but not limited to civil penalty or
2 disciplinary action by the Michigan board of medicine, the Michigan
3 board of osteopathic medicine and surgery, or any other business or
4 occupational or professional licensing board or bureau, solely for
5 providing written certifications, in the course of a bona fide
6 physician-patient relationship and after the physician has
7 completed a full assessment of the qualifying patient's medical
8 history, or for otherwise stating that, in the physician's
9 professional opinion, a patient is likely to receive therapeutic or
10 palliative benefit from the medical use of marihuana to treat or
11 alleviate the patient's serious or debilitating medical condition
12 or symptoms associated with the serious or debilitating medical
13 condition, provided that nothing shall prevent a professional
14 licensing board from sanctioning a physician for failing to
15 properly evaluate a patient's medical condition or otherwise
16 violating the standard of care for evaluating medical conditions.

17 **(H)** ~~(g)~~—A person shall not be subject to arrest, prosecution,
18 or penalty in any manner, or denied any right or privilege,
19 including but not limited to civil penalty or disciplinary action
20 by a business or occupational or professional licensing board or
21 bureau, for providing a registered qualifying patient or a
22 registered primary caregiver with marihuana paraphernalia for
23 purposes of a qualifying patient's medical use of marihuana.

24 **(I)** ~~(h)~~—Any marihuana, marihuana paraphernalia, or licit
25 property that is possessed, owned, or used in connection with the
26 medical use of marihuana, as allowed under this act, or acts
27 incidental to such use, shall not be seized or forfeited.

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

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

16 (L) ~~(k)~~—Any registered qualifying patient or registered
17 primary caregiver who sells marihuana to someone who is not allowed
18 ~~to use marihuana for medical purposes~~ **THE MEDICAL USE OF MARIHUANA**
19 under this act shall have his or her registry identification card
20 revoked and is guilty of a felony punishable by imprisonment for
21 not more than 2 years or a fine of not more than \$2,000.00, or
22 both, in addition to any other penalties for the distribution of
23 marihuana.

24 (M) **A PERSON SHALL NOT BE SUBJECT TO ARREST, PROSECUTION, OR**
25 **PENALTY IN ANY MANNER OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING,**
26 **BUT NOT LIMITED TO, CIVIL PENALTY OR DISCIPLINARY ACTION BY A**
27 **BUSINESS OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU,**

1 FOR MANUFACTURING A MARIHUANA-INFUSED PRODUCT IF THE PERSON IS ANY
2 OF THE FOLLOWING:

3 (1) A REGISTERED QUALIFYING PATIENT, MANUFACTURING FOR HIS OR
4 HER OWN PERSONAL USE.

5 (2) A REGISTERED PRIMARY CAREGIVER, MANUFACTURING FOR THE USE
6 OF A PATIENT TO WHOM HE OR SHE IS CONNECTED THROUGH THE
7 DEPARTMENT'S REGISTRATION PROCESS.

8 (N) A QUALIFYING PATIENT SHALL NOT TRANSFER A MARIHUANA-
9 INFUSED PRODUCT OR MARIHUANA TO ANY INDIVIDUAL.

10 (O) A PRIMARY CAREGIVER SHALL NOT TRANSFER A MARIHUANA-INFUSED
11 PRODUCT TO ANY INDIVIDUAL WHO IS NOT A QUALIFYING PATIENT TO WHOM
12 HE OR SHE IS CONNECTED THROUGH THE DEPARTMENT'S REGISTRATION
13 PROCESS.

14 SEC. 4A. (1) THIS SECTION DOES NOT APPLY UNLESS THE MEDICAL
15 MARIHUANA FACILITIES LICENSING ACT IS ENACTED.

16 (2) A REGISTERED QUALIFYING PATIENT OR REGISTERED PRIMARY
17 CAREGIVER SHALL NOT BE SUBJECT TO ARREST, PROSECUTION, OR PENALTY
18 IN ANY MANNER, OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING, BUT NOT
19 LIMITED TO, CIVIL PENALTY OR DISCIPLINARY ACTION BY A BUSINESS OR
20 OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU, FOR ANY OF
21 THE FOLLOWING:

22 (A) TRANSFERRING OR PURCHASING MARIHUANA IN AN AMOUNT
23 AUTHORIZED BY THIS ACT FROM A PROVISIONING CENTER LICENSED UNDER
24 THE MEDICAL MARIHUANA FACILITIES LICENSING ACT.

25 (B) TRANSFERRING OR SELLING MARIHUANA SEEDS OR SEEDLINGS TO A
26 GROWER LICENSED UNDER THE MEDICAL MARIHUANA FACILITIES LICENSING
27 ACT.

1 (C) TRANSFERRING MARIHUANA FOR TESTING TO AND FROM A SAFETY
2 COMPLIANCE FACILITY LICENSED UNDER THE MEDICAL MARIHUANA FACILITIES
3 LICENSING ACT.

4 SEC. 4B. (1) EXCEPT AS PROVIDED IN SUBSECTIONS (2) TO (4), A
5 QUALIFYING PATIENT OR PRIMARY CAREGIVER SHALL NOT TRANSPORT OR
6 POSSESS A MARIHUANA-INFUSED PRODUCT IN OR UPON A MOTOR VEHICLE.

7 (2) THIS SECTION DOES NOT PROHIBIT A QUALIFYING PATIENT FROM
8 TRANSPORTING OR POSSESSING A MARIHUANA-INFUSED PRODUCT IN OR UPON A
9 MOTOR VEHICLE IF THE MARIHUANA-INFUSED PRODUCT IS IN A SEALED AND
10 LABELED PACKAGE THAT IS CARRIED IN THE TRUNK OF THE VEHICLE OR, IF
11 THE VEHICLE DOES NOT HAVE A TRUNK, IS CARRIED SO AS NOT TO BE
12 READILY ACCESSIBLE FROM THE INTERIOR OF THE VEHICLE. THE LABEL MUST
13 STATE THE WEIGHT OF THE MARIHUANA-INFUSED PRODUCT IN OUNCES, NAME
14 OF THE MANUFACTURER, DATE OF MANUFACTURE, NAME OF THE PERSON FROM
15 WHOM THE MARIHUANA-INFUSED PRODUCT WAS RECEIVED, AND DATE OF
16 RECEIPT.

17 (3) THIS SECTION DOES NOT PROHIBIT A PRIMARY CAREGIVER FROM
18 TRANSPORTING OR POSSESSING A MARIHUANA-INFUSED PRODUCT IN OR UPON A
19 MOTOR VEHICLE IF THE MARIHUANA-INFUSED PRODUCT IS ACCOMPANIED BY AN
20 ACCURATE MARIHUANA TRANSPORTATION MANIFEST AND ENCLOSED IN A CASE
21 CARRIED IN THE TRUNK OF THE VEHICLE OR, IF THE VEHICLE DOES NOT
22 HAVE A TRUNK, IS ENCLOSED IN A CASE AND CARRIED SO AS NOT TO BE
23 READILY ACCESSIBLE FROM THE INTERIOR OF THE VEHICLE. THE MANIFEST
24 FORM MUST STATE THE WEIGHT OF EACH MARIHUANA-INFUSED PRODUCT IN
25 OUNCES, NAME AND ADDRESS OF THE MANUFACTURER, DATE OF MANUFACTURE,
26 DESTINATION NAME AND ADDRESS, DATE AND TIME OF DEPARTURE, ESTIMATED
27 DATE AND TIME OF ARRIVAL, AND, IF APPLICABLE, NAME AND ADDRESS OF

1 THE PERSON FROM WHOM THE PRODUCT WAS RECEIVED AND DATE OF RECEIPT.

2 (4) THIS SECTION DOES NOT PROHIBIT A PRIMARY CAREGIVER FROM
3 TRANSPORTING OR POSSESSING A MARIHUANA-INFUSED PRODUCT IN OR UPON A
4 MOTOR VEHICLE FOR THE USE OF HIS OR HER CHILD, SPOUSE, OR PARENT
5 WHO IS A QUALIFYING PATIENT IF THE MARIHUANA-INFUSED PRODUCT IS IN
6 A SEALED AND LABELED PACKAGE THAT IS CARRIED IN THE TRUNK OF THE
7 VEHICLE OR, IF THE VEHICLE DOES NOT HAVE A TRUNK, IS CARRIED SO AS
8 NOT TO BE READILY ACCESSIBLE FROM THE INTERIOR OF THE VEHICLE. THE
9 LABEL MUST STATE THE WEIGHT OF THE MARIHUANA-INFUSED PRODUCT IN
10 OUNCES, NAME OF THE MANUFACTURER, DATE OF MANUFACTURE, NAME OF THE
11 QUALIFYING PATIENT, AND, IF APPLICABLE, NAME OF THE PERSON FROM
12 WHOM THE MARIHUANA-INFUSED PRODUCT WAS RECEIVED AND DATE OF
13 RECEIPT.

14 (5) FOR PURPOSES OF DETERMINING COMPLIANCE WITH QUANTITY
15 LIMITATIONS UNDER SECTION 4, THERE IS A REBUTTABLE PRESUMPTION THAT
16 THE WEIGHT OF A MARIHUANA-INFUSED PRODUCT LISTED ON ITS PACKAGE
17 LABEL OR ON A MARIHUANA TRANSPORTATION MANIFEST IS ACCURATE.

18 (6) A QUALIFYING PATIENT OR PRIMARY CAREGIVER WHO VIOLATES
19 THIS SECTION IS RESPONSIBLE FOR A CIVIL FINE OF NOT MORE THAN
20 \$250.00.

21 6. Administering the Department's Rules.

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

25 (1) A written certification;

26 (2) Application or renewal fee;

27 (3) Name, address, and date of birth of the qualifying

1 patient, except that if the applicant is homeless, no address is
2 required;

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

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

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

10 (i) The person provides a copy of a valid, lawfully obtained
11 Michigan driver license issued under the Michigan vehicle code,
12 1949 PA 300, MCL 257.1 to 257.923, or an official state personal
13 identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

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

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

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

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

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

27 (3) The qualifying patient's parent or legal guardian consents

1 in writing to:

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

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

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

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

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

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

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

1 patient.

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

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

6 (4) A random identification number.

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

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

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

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

24 (h) The following confidentiality rules shall apply:

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

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1 confidential.

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

8 (3) The department shall verify to law enforcement personnel
9 **<<AND TO THE NECESSARY DATABASE CREATED IN THE MARIHUANA TRACKING ACT AS
10 ESTABLISHED BY THE MEDICAL MARIHUANA FACILITIES LICENSING ACT>>**
11 whether a registry identification card is valid, without disclosing
12 more information than is reasonably necessary to verify the
13 authenticity of the registry identification card.

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

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

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

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

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

3 (4) The number of registry identification cards revoked.

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

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

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

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

27 (2) All meetings of the panel are subject to the open meetings

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1 act, 1976 PA 267, MCL 15.261 to 15.275.

2 (l) The ~~Michigan medical marihuana~~ **REGISTRY** fund is created
 3 within the state treasury. All fees collected under this act shall
 4 be deposited into the fund. The state treasurer may receive money
 5 or other assets from any source for deposit into the fund. The
 6 state treasurer shall direct the investment of the fund. The state
 7 treasurer shall credit to the fund interest and earnings from fund
 8 investments. Money in the fund at the close of the fiscal year
 9 shall remain in the fund and shall not lapse to the general fund.
 10 The department of licensing and regulatory affairs shall be the
 11 administrator of the fund for auditing purposes. The department ~~of~~
 12 ~~licensing and regulatory affairs~~ shall expend money from the fund,
 13 upon appropriation, for the operation and oversight of the Michigan
 14 medical marihuana program. <<FOR THE FISCAL YEAR ENDING SEPTEMBER 30,
 2016, \$8,500,000.00 IS APPROPRIATED FROM THE MARIHUANA REGISTRY FUND TO
 THE DEPARTMENT FOR ITS INITIAL COSTS OF IMPLEMENTING THE MEDICAL
 MARIHUANA FACILITIES LICENSING ACT AND THE MARIHUANA TRACKING ACT.>>

15 7. Scope of Act.

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

19 (b) This act ~~shall~~ **DOES** not permit any person to do any of the
 20 following:

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

23 (2) Possess marihuana, or otherwise engage in the medical use
 24 of marihuana **AT ANY OF THE FOLLOWING LOCATIONS:**

25 (A) ~~in~~ **IN** a school bus. †

26 (B) ~~on~~ **ON** the grounds of any preschool or primary or secondary
 27 school. †~~or~~

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1 (C) ~~in~~**IN** any correctional facility.

2 (3) Smoke marihuana **AT ANY OF THE FOLLOWING LOCATIONS:**

3 (A) ~~on~~**ON** any form of public transportation. ~~or~~

4 (B) ~~in~~**IN** any public place.

5 (4) Operate, navigate, or be in actual physical control of any
6 motor vehicle, aircraft, **SNOWMOBILE, OFF-ROAD RECREATIONAL VEHICLE,**
7 or motorboat while under the influence of marihuana.

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

10 **(6) SEPARATE PLANT RESIN FROM A MARIHUANA PLANT BY BUTANE**

11 **EXTRACTION <<IN ANY PUBLIC PLACE OR MOTOR VEHICLE, OR INSIDE OR WITHIN
12 THE CURTILAGE OF ANY RESIDENTIAL STRUCTURE.**

**(7) SEPARATE PLANT RESIN FROM A MARIHUANA PLANT BY BUTANE
13 EXTRACTION IN A MANNER THAT DEMONSTRATES A FAILURE TO EXERCISE
14 REASONABLE CARE OR RECKLESS DISREGARD FOR THE SAFETY OF OTHERS.>>**

12 (c) Nothing in this act shall be construed to require **ANY OF
13 THE FOLLOWING:**

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

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

20 (d) Fraudulent representation to a law enforcement official of
21 any fact or circumstance relating to the medical use of marihuana
22 to avoid arrest or prosecution ~~shall be~~**IS** punishable by a fine of
23 \$500.00, which ~~shall be~~**IS** in addition to any other penalties that
24 may apply for making a false statement or for the use of marihuana
25 other than use undertaken pursuant to this act.

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

1 this act.

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

4 Enacting section 2. This amendatory act clarifies ambiguities
5 in the law in accordance with the original intent of the people, as
6 expressed in section 2(b) of the Michigan medical marihuana act,
7 2008 IL 1, MCL 333.26422:

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

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