A bill to amend 2008 IL 1, entitled "Michigan medical marihuana act," by amending sections 3, 4, 7, and 8 (MCL 333.26423, 333.26424, 333.26427, and 333.26428), sections 3, 4, and 8 as amended by 2012 PA 512, and by adding section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

3. Definitions.

Sec. 3. As used in this act:

(a) "Bona fide physician-patient relationship" means a treatment or counseling relationship between a physician and patient in which all of the following are present:

(1) The physician has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical
(2) The physician has created and maintained records of the patient's condition in accord with medically accepted standards.

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

(4) If the patient has given permission, the physician has notified the patient's primary care physician of the patient's debilitating medical condition and certification for the medical use of medical marihuana to treat that condition.

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

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

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

(3) Any other medical condition or its treatment approved by the department, as provided for in section 6(k).
(c) "Department" means the department of licensing and regulatory affairs.

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

(1) The vehicle is being used temporarily to transport living marihuana plants from 1 location to another with the intent to permanently retain those plants at the second location.
(2) An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong or the individual designated through the departmental registration process as the primary caregiver for the registered qualifying patient.

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

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

(G) (f) "Medical use of MARIHUANA" means the acquisition, possession, cultivation, manufacture, EXTRATION, use, internal possession, delivery, transfer, or transportation of marihuana, USABLE MARIHUANA, or paraphernalia relating to the administration of USABLE marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

(H) (g) "Physician" means an individual licensed as a physician under Part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under Part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(I) (h) "Primary caregiver" or "caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted
of a felony involving illegal drugs or a felony that is an
assaultive crime as defined in section 9a of chapter X of the code
of criminal procedure, 1927 PA 175, MCL 770.9a.

(J) (i) "Qualifying patient" or "patient" means a person who
has been diagnosed by a physician as having a debilitating medical
condition.

(K) (j) "Registry identification card" means a document issued
by the department that identifies a person as a registered
qualifying patient or registered primary caregiver.

(l) (k) "Usable marihuana" means the dried leaves, and flowers,
PLANT RESIN, OR EXTRACT of the marihuana plant, and any mixture or
preparation thereof, but does not include the seeds, stalks, and
roots of the plant.

(M) "USABLE MARIHUANA EQUIVALENT" MEANS THE AMOUNT OF USABLE
MARIHUANA IN A MARIHUANA-INFUSED PRODUCT THAT IS CALCULATED AS
PROVIDED IN SECTION 4(C).

(N) (l) "Visiting qualifying patient" means a patient who is
not a resident of this state or who has been a resident of this
state for less than 30 days.

(O) (m) "Written certification" means a document signed by a
physician, stating all of the following:

(1) The patient's debilitating medical condition.

(2) The physician has completed a full assessment of the
patient's medical history and current medical condition, including
a relevant, in-person, medical evaluation.

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

4. Protections for the Medical Use of Marihuana.

Sec. 4. (a) A qualifying patient who has been issued and
possesses a registry identification card shall not be subject to
arrest, prosecution, or penalty in any manner, or denied any right
or privilege, including but not limited to civil penalty or
disciplinary action by a business or occupational or professional
licensing board or bureau, for the medical use of marihuana in
accordance with this act, provided that the qualifying patient
possesses an amount of marihuana that does not exceed 2.5 ounces of
usable marihuana and usable marihuana equivalents, and, if the
qualifying patient has not specified that a primary caregiver will
be allowed under state law to cultivate marihuana for the
qualifying patient, 12 marihuana plants kept in an enclosed, locked
facility. Any incidental amount of seeds, stalks, and unusable
roots shall also be allowed under state law and shall not be
included in this amount. The privilege from arrest under this
subsection applies only if the qualifying patient presents both his
or her registry identification card and a valid driver license or
government-issued identification card that bears a photographic
image of the qualifying patient.

(b) A primary caregiver who has been issued and possesses a
registry identification card shall not be subject to arrest,
prosecution, or penalty in any manner, or denied any right or
privilege, including but not limited to civil penalty or
disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act. The privilege from arrest under this subsection applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary caregiver. This subsection applies only if the primary caregiver possesses an amount of **USABLE marihuana AND USABLE MARIHUANA EQUIVALENTS** that does not exceed:

1. 2.5 ounces of usable marihuana for each qualifying patient to whom he or she is connected through the department's registration process; and
2. for each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility; and
3. any incidental amount of seeds, stalks, and unusable roots.

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

1. 16 OUNCES OF MARIHUANA-INFUSED PRODUCT IF IN A SOLID FORM.
2. 7 GRAMS OF MARIHUANA-INFUSED PRODUCT IF IN A GASEOUS FORM.
3. 72 FLUID OUNCES OF MARIHUANA-INFUSED PRODUCT IF IN A LIQUID FORM.
(D) (c) A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(E) (d) There shall be a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marihuana in accordance with this act if the qualifying patient or primary caregiver:

1. is in possession of a registry identification card; and
2. is in possession of an amount of marihuana AND USABLE MARIHUANA that does not exceed the amount allowed under this act.

The presumption may be rebutted by evidence that conduct related to marihuana AND USABLE MARIHUANA was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this act.

(F) (e) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana. Any such compensation shall not constitute the sale of controlled substances.

(G) (f) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, or any other business or occupational or professional licensing board or bureau, solely for
providing written certifications, in the course of a bona fide physician-patient relationship and after the physician has completed a full assessment of the qualifying patient's medical history, or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

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

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

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

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

(l) (k) Any registered qualifying patient or registered primary caregiver who sells marihuana or usable marihuana to someone who is not allowed to use marihuana for medical purposes shall have his or her registry identification card revoked and is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both, in addition to any other penalties for the distribution of marihuana.

(M) A person is not subject to arrest, prosecution, or penalty in any manner, and shall not be denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for manufacturing marihuana-infused product if the person is any of the following:

(1) A registered patient, manufacturing for his or her own
PERSONAL USE.

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

(3) A MEDICAL MARIHUANA PROVISIONING CENTER.

(N) EXCEPT WHEN BEING MANUFACTURED OR CONSUMED, ANY MARIHUANA-INFUSED PRODUCT MUST BE INDIVIDUALLY PACKAGED AND CLEARLY LABELED WITH ALL OF THE FOLLOWING:

(1) THE WEIGHT OF THE MARIHUANA-INFUSED PRODUCT [IN OUNCES. THERE SHALL BE A REBUTTABLE PRESUMPTION THAT THE LISTED WEIGHT OF THE MARIHUANA-INFUSED PRODUCT IS TRUE AND CORRECT].

(2) THE NAME OF THE INDIVIDUAL WHO MANUFACTURED THE MARIHUANA-INFUSED PRODUCT.

(3) THE DATE ON WHICH THE MARIHUANA-INFUSED PRODUCT WAS MANUFACTURED.

(4) IF THE PATIENT RECEIVED THE MARIHUANA-INFUSED PRODUCT FROM HIS OR HER PRIMARY CAREGIVER OR A MEDICAL MARIHUANA PROVISIONING CENTER, THE DATE ON WHICH THE TRANSACTION OCCURRED.

(5) IF THE PATIENT RECEIVED THE MARIHUANA-INFUSED PRODUCT FROM HIS OR HER PRIMARY CAREGIVER OR A MEDICAL MARIHUANA PROVISIONING CENTER, THE NAME OF THE PRIMARY CAREGIVER OR MEDICAL MARIHUANA PROVISIONING CENTER.

(O) EACH OF THE FOLLOWING IS A [FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS, A FINE OF UP TO $2,000.00], OR BOTH:

(1) A QUALIFYING PATIENT SHALL NOT TRANSFER A MARIHUANA-INFUSED PRODUCT TO ANY INDIVIDUAL.

(2) A REGISTERED CAREGIVER SHALL NOT TRANSFER A MARIHUANA-INFUSED PRODUCT TO ANY INDIVIDUAL WHO IS NOT A QUALIFYING PATIENT TO WHOM HE OR SHE IS CONNECTED THROUGH THE DEPARTMENT'S REGISTRATION PROCESS.
REGISTRATION PROCESS.

(3) A MEDICAL MARIHUANA PROVISIONING CENTER SHALL NOT TRANSFER A MARIHUANA-INFUSED PRODUCT TO ANY INDIVIDUAL WHO IS NOT A QUALIFYING PATIENT OR REGISTERED CAREGIVER.

[ (P) IN A PUBLIC PLACE, THE PRIVILEGE FROM ARREST UNDER SUBSECTION (A) OR (B) DOES NOT APPLY UNLESS ALL OF THE FOLLOWING APPLY:
(1) THE USABLE MARIHUANA AND MARIHUANA-INFUSED PRODUCT ARE PACKAGED AND EACH PACKAGE IS LABELED WITH THE WEIGHT OF THE USABLE MARIHUANA.
(2) THE TOTAL WEIGHT INDICATED ON THE PACKAGE LABELS IS NOT MORE THAN THE AMOUNT PERMITTED UNDER SUBSECTION (A) OR (B). THE INDICATED WEIGHT IS PRESUMED TO BE TRUE AND CORRECT. HOWEVER, THIS PRESUMPTION DOES NOT PROHIBIT A LAW ENFORCEMENT OFFICIAL FROM ARRESTING AN INDIVIDUAL IF THERE IS AN ARTICULABLE SUSPICION THAT THE INDICATED WEIGHT IS NOT CORRECT AND THE TOTAL WEIGHT IS GREATER THAN THE AMOUNT PERMITTED UNDER SUBSECTION (A) OR (B).]

SEC. 4A. (1) THIS SECTION DOES NOT APPLY UNLESS THE MEDICAL MARIHUANA PROVISIONING CENTER REGULATION ACT IS ENACTED INTO LAW.

(2) [A PERSON IS NOT SUBJECT TO ARREST, PROSECUTION, OR CRIMINAL PENALTY FOR A TRANSFER OR USE OF MARIHUANA OR USABLE MARIHUANA EQUIVALENTS IN AN AMOUNT AUTHORIZED BY LAW AND IN CONFORMITY WITH ANY RESTRICTIONS IN THIS ACT OR THE MEDICAL MARIHUANA PROVISIONING CENTER REGULATION ACT. [HOWEVER, A QUALIFYING PATIENT OR REGISTERED CAREGIVER SHALL NOT TRANSFER MORE THAN 50 OUNCES OF USABLE MARIHUANA TO A MEDICAL MARIHUANA PROVISIONING CENTER DURING A 60-CALANDER-DAY PERIOD.]

7. Scope of Act.

Sec. 7. (a) The medical use of marihuana is allowed under state law to the extent that it is carried out in accordance with the provisions of this act.
(b) This act shall not permit any person to do any of the following:
(1) Undertake any task under the influence of marihuana, when doing so would constitute negligence or professional malpractice.
(2) Possess marihuana OR USABLE MARIHUANA, or otherwise engage in the medical use of marihuana:
(A) in a school bus;
(B) on the grounds of any preschool or primary or secondary school; or
(C) in any correctional facility.
(3) Smoke marihuana:
(A) on any form of public transportation; or
(B) in any public place.

(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marihuana.

(5) Use marihuana OR USABLE MARIHUANA if that person does not have a serious or debilitating medical condition.

(c) Nothing in this act shall be construed to require:

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

(2) An employer to accommodate the ingestion of marihuana OR USABLE MARIHUANA in any workplace or any employee working while under the influence of marihuana OR USABLE MARIHUANA.

(d) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marihuana to avoid arrest or prosecution shall be punishable by a fine of $500.00, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marihuana OR USABLE MARIHUANA other than use undertaken pursuant to this act.

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

8. Affirmative Defense and Dismissal for Medical Marihuana.

Sec. 8. (a) Except as provided in section 7(b), a patient and a patient's primary caregiver, if any, may assert the medical purpose for using marihuana OR USABLE MARIHUANA as a defense to any prosecution involving marihuana OR USABLE MARIHUANA, and this
defense shall be presumed valid where the evidence shows that:

(1) A physician has stated that, in the physician's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition;

(2) The patient and the patient's primary caregiver, if any, were collectively in possession of a quantity of marihuana AND USABLE MARIHUANA that was not more than was reasonably necessary to ensure the uninterrupted availability of marihuana OR USABLE MARIHUANA for the purpose of treating or alleviating the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition; and

(3) The patient and the patient's primary caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marihuana, USABLE MARIHUANA, or paraphernalia, relating to the use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition.

(b) A person may assert the medical purpose for using marihuana OR USABLE MARIHUANA in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the person shows the elements listed in subsection (a).
(c) If a patient or a patient's primary caregiver demonstrates the patient's medical purpose for using marihuana or usable marihuana pursuant to this section, the patient and the patient's primary caregiver shall not be subject to the following for the patient's medical use of marihuana:

   (1) disciplinary action by a business or occupational or professional licensing board or bureau; or

   (2) forfeiture of any interest in or right to property.