A bill to regulate medical marihuana provisioning centers and other related entities; to provide for the powers and duties of certain state and local governmental officers and entities; to provide immunity for persons engaging in certain activities in compliance with this act; to prescribe penalties and sanctions and provide remedies; and to allow the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the "medical marihuana provisioning center regulation act".

Sec. 2. As used in this act:

(a) "Debilitating medical condition" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(b) "Excluded felony offense" means a felony involving illegal
drugs. Excluded felony offense does not include a conviction for activity allowed under the Michigan medical marihuana act or this act, even if the activity occurred before the enactment of this act or the Michigan medical marihuana act.

(c) "Marihuana" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(d) "Medical marihuana" means marihuana for medical use as that term is defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(e) "Medical marihuana provisioning center" or "provisioning center" means a commercial entity located in this state that acquires, possesses, cultivates, manufactures, delivers, transfers, or transports medical marihuana and sells, supplies, or dispenses medical marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where medical marihuana is sold to registered qualifying patients and registered primary caregivers.

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

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

(h) "Paraphernalia" means drug paraphernalia as defined in section 7451 of the public health code, 1978 PA 368, MCL 333.7451, that is or may be used in association with medical marihuana.

(i) "Provisioning center agent" means a principal officer, board member, employee, or operator, or any other individual acting as an agent of a provisioning center.
(j) "Registered primary caregiver" means a person who has a valid, unexpired registry identification card as a primary caregiver or who satisfies the criteria listed in section 9(b) or (c) of the Michigan medical marihuana act, MCL 333.26429, and possesses the documentation that constitutes a valid registry identification card under that section.

(k) "Registered qualifying patient" means a person who meets any of the following requirements:

(i) Has a valid, unexpired registry identification card as a qualifying patient.

(ii) Satisfies the criteria listed in section 9(b) or (c) of the Michigan medical marihuana act, MCL 333.26429, and possesses the documentation that constitutes a valid registry identification card under that section.

(l) "Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(m) "Safety compliance facility" means an entity that tests marihuana produced for medical use for contaminants or potency.

(n) "Safety compliance facility agent" means a principal officer, board member, employee, operator, or agent of a safety compliance facility.

(o) "Seedling" means a marihuana plant that has no flowers, is less than 12 inches in height, and is less than 12 inches in diameter.

(p) "Usable marihuana" means the completely dried leaves and flowers of the marihuana plant but does not include the seeds, stalks, nondried leaves, or roots of the plant. Any cooking mixture
or preparation used to prepare marihuana infused ingestible or
topical products is not usable marihuana, if the ingestible or
topical product has or will have the amount of actual marihuana
plant material used in its preparation clearly marked on its
packaging.

(q) "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 and who possesses a registry identification card, or its equivalent, that was issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States and that allows the use of medical marihuana by the patient.

Sec. 3. (1) Except as otherwise provided in this act, if a provisioning center has been granted any applicable required municipal registration or license and is operating in compliance with this act and any applicable municipal ordinance, the provisioning center and the provisioning center agents acting on its behalf are not subject to any of the following for engaging in activities described in subsection (2):

(a) Criminal penalties under state law or local ordinances.

(b) State or local civil prosecution.

(c) Search or inspection, except for an inspection authorized by the municipality.

(d) Seizure.

(e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.
(2) Activities that are exempt from regulation and sanctions under subsection (1) include all of the following:

(a) Purchasing or receiving marihuana seeds to grow medical marihuana from visiting qualifying patients, registered qualifying patients, registered primary caregivers, or provisioning centers.

(b) Purchasing or receiving medical marihuana, including seedlings, from 1 or more other provisioning centers if purchasing or receiving medical marihuana from the provisioning center is not prohibited by the municipality where the provisioning center is located.

(c) Purchasing or receiving medical marihuana from a registered qualifying patient or a registered primary caregiver if purchasing or receiving medical marihuana from a registered qualifying patient or registered primary caregiver is not prohibited by the municipality where the provisioning center is located and if the amount purchased does not exceed the registered qualifying patient's or registered primary caregiver's medical marihuana possession limits under the Michigan medical marihuana act.

(d) Cultivating or manufacturing medical marihuana.

(e) Possessing or manufacturing paraphernalia.

(f) Possessing or processing medical marihuana produced by the provisioning center or obtained pursuant to subdivision (a) or (b) on the provisioning center premises or while the medical marihuana is being transported pursuant to this section.

(g) If not prohibited by municipal law, transporting medical marihuana, including seedlings, between the provisioning center and
another provisioning center or a safety compliance facility.

(h) Transporting or delivering medical marihuana or paraphernalia to the residence of a registered qualifying patient or a registered primary caregiver if transportation and delivery are not prohibited by the municipality in which the transportation and delivery occur.

(i) Supplying, selling, dispensing, transferring, or delivering medical marihuana, paraphernalia, or related supplies and educational materials in compliance with the procedures and limitations detailed in section 7(11) to (13).

Sec. 3a. An entity that, on the effective date of this act, is operating in this state as a provisioning center, is operating and continues to operate in compliance with this act, and is not prohibited by any applicable municipal ordinance may continue to operate as a provisioning center under this act. An entity described in this section is considered a provisioning center under this act, and the entity and the agents acting on its behalf are eligible for the immunity provided in this act and are subject to the penalties, sanctions, and remedies prescribed or provided in this act.

Sec. 4. (1) Except as otherwise provided in this act, a safety compliance facility that has been granted any applicable required municipal registration or license and is operating in compliance with any applicable municipal ordinance and this act is not subject to any of the following for engaging in activities described in subsection (2):

(a) Criminal penalties under state law or local ordinances.
(b) State or local civil prosecution.
(c) Search or inspection, except for an inspection authorized by the municipality.
(d) Seizure.
(e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(2) Activities that are exempt from regulation and sanction under subsection (1) include all of the following:

(a) Acquiring or possessing medical marihuana obtained from registered qualifying patients, registered primary caregivers, or provisioning centers.
(b) Returning the medical marihuana to the registered qualifying patient, registered primary caregiver, or provisioning center that delivered the medical marihuana to the safety compliance facility.
(c) Transporting medical marihuana to or from a registered qualifying patient, registered primary caregiver, or provisioning center.
(d) Possessing medical marihuana on the safety compliance facility's premises for testing, if the medical marihuana was obtained pursuant to subdivision (a) or (b).
(e) Receiving compensation for actions permitted pursuant to this section and municipal law.

Sec. 5. (1) A municipality may prohibit the operation of provisioning centers or safety compliance facilities within the municipality. A provisioning center is not exempt under section 3
from state criminal and civil penalties if it operates in a
municipality that prohibits provisioning centers. A safety
compliance facility is not exempt under section 4 from state
criminal and civil penalties if it operates in a municipality that
prohibits safety compliance facilities.

(2) A municipality may enact an ordinance to impose and
enforce additional local requirements on provisioning centers or
safety compliance facilities. A municipality may require and issue
a registration or license to a provisioning center or safety
compliance facility and may regulate operations and impose civil or
criminal penalties for the violations of the local ordinance. A
municipality may charge a registration or licensing fee for a
provisioning center or safety compliance facility that does not
exceed the costs to the municipality of regulation, licensing,
testing, and inspection.

(3) A provisioning center or safety compliance facility
located in a municipality that requires a registration or license
is exempt under section 3 or 4 from criminal penalties only if the
provisioning center or safety compliance facility holds that
license or registration.

(4) A municipality may require, as a condition of registration
or licensure, that a provisioning center or a safety compliance
facility provide results of testing of its medical marihuana and
medical marihuana products for quality control, purity,
contaminants, or any other analysis to protect the health and
safety of registered qualifying patients and to assure compliance
with this act and an ordinance adopted by the municipality as
described in this section.

Sec. 6. (1) The exemptions for a provisioning center or safety compliance facility under section 3 or 4 apply only if the indicated activities are carried out in compliance with this act.

(2) Except for the Michigan medical marihuana act, all other acts and parts of acts inconsistent with this act do not apply to the use of medical marihuana as provided for by this act.

Sec. 7. (1) Unless explicitly allowed by a municipal ordinance that was in effect before the effective date of this act, a provisioning center or a safety compliance facility shall not be located within 1,000 feet of the property line of a preexisting primary or secondary school.

(2) A provisioning center shall not share office space with a physician.

(3) The premises of a provisioning center shall have a security alarm system that is enabled when a provisioning center agent is not present.

(4) A provisioning center shall not sell, transfer, or dispense a marihuana-infused product for use as medical marihuana unless it is labeled with both of the following:

(a) The weight of marihuana contained in the product.

(b) The words "WARNING: This product contains marihuana. For a registered qualifying patient's medical use only." or substantially similar text.

(5) A provisioning center shall not advertise medical marihuana for sale on a billboard, television, or radio. The department of licensing and regulatory affairs may promulgate rules
restricting advertising of medical marihuana. The rules shall not prohibit appropriate signs on the property of a provisioning center, internet websites for a provisioning center or registered primary caregiver, listings in business directories or telephone books, listings in trade or medical print or online publications, or advertising the sponsorship of health or not-for-profit charity or advocacy events.

(6) A provisioning center or safety compliance facility shall not knowingly employ an individual who has been convicted of an excluded felony offense during the immediately preceding 10-year period or who is under 21 years of age. A provisioning center or safety compliance facility shall perform a background check on an individual before he or she is offered employment to verify that he or she has not been convicted of an excluded felony offense during the immediately preceding 10-year period.

(7) A provisioning center shall maintain records listing each individual employed by the provisioning center, including the beginning employment date and the date a background check was performed.

(8) A provisioning center shall not allow on-site consumption of medical marihuana, except that a provisioning center agent or employee who is a registered qualifying patient may be permitted to use a medical marihuana-infused topical product.

(9) A provisioning center shall not dispense more than 2.5 ounces of useable marihuana in any 10-day period to a registered qualifying patient, directly or through his or her registered primary caregiver.
(10) A provisioning center shall ensure compliance with the dispensing limit under subsection (9) by maintaining internal, confidential dispensing records that specify the amount of medical marihuana dispensed to each registered qualifying patient and registered primary caregiver and whether it was dispensed directly to the registered qualifying patient or the registered primary caregiver. Each entry shall include the date and time the medical marihuana was dispensed. Entries shall be maintained for at least 90 days. For any registered qualifying patient or registered qualifying caregiver in possession of a registry identification card, a record shall be kept using the patient's or caregiver's registry identification card number instead of the patient's or caregiver's name. Confidential dispensing records under this act are subject to reasonable inspection by a municipal employee authorized to inspect provisioning centers under municipal law to ensure compliance with this act, but may be stored off-site. Confidential dispensing records under this act are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Except as otherwise required by a court order, a provisioning center shall not disclose confidential dispensing records to any person other than a municipal employee performing an inspection in compliance with this subsection or to a provisioning center agent.

(11) A provisioning center agent shall not dispense, transfer, or sell medical marihuana to an individual knowing that the individual is not a registered qualifying patient, registered primary caregiver, or provisioning center agent working on behalf
of a provisioning center that is not prohibited from operating or obtaining medical marihuana from other provisioning centers under municipal law.

(12) Before medical marihuana is dispensed or sold from a provisioning center, in addition to complying with subsection (13), a provisioning center agent shall do 1 of the following:

(a) Verify that the individual requesting medical marihuana holds what the provisioning center agent reasonably believes to be a valid, unexpired registry identification card.

(b) Require the individual requesting medical marihuana to do all of the following:

(i) Certify that he or she is a qualifying patient who submitted a valid, complete application for a registry identification card under the Michigan medical marihuana act at least 20 days earlier.

(ii) Certify that, to the best of his or her knowledge, this state has not denied the application described in subparagraph (i) or issued a registry identification card.

(iii) Present a copy of the completed registry identification card application and proof of receipt by the state department that processes medical marihuana registry identification card applications at least 20 days before the date of the requested sale or transaction.

(c) If the individual requesting medical marihuana indicates that he or she is a provisioning center agent, make a diligent, good-faith effort to verify that the individual is a provisioning center agent for a provisioning center that is allowed to operate
by a municipality.

(13) Before medical marihuana is dispensed or sold from a provisioning center, a provisioning center agent shall make a diligent, good-faith effort to determine that the individual named in the registry identification card or other documentation submitted under subsection (12) is the individual seeking to obtain medical marihuana, by examining what the provisioning center agent reasonably believes to be valid government-issued photo identification.

(14) An individual who is under 21 years of age or who has been convicted of an excluded felony offense during the immediately preceding 10-year period shall not serve as a provisioning center agent or safety compliance facility agent. An individual who has not maintained a residence in this state for 2 years or more shall not serve as a principal officer, board member, or operator of a provisioning center or of a safety compliance facility.

(15) A provisioning center agent shall not, for monetary compensation, refer an individual to a physician.

(16) A provisioning center or safety compliance facility shall not permit a physician to advertise in a provisioning center or safety compliance facility or to hold any financial interest in or receive any compensation from the provisioning center or safety compliance facility.

(17) A provisioning center agent or safety compliance facility agent shall not transport or possess medical marihuana on behalf of the provisioning center or safety compliance facility in or upon a motor vehicle or any self-propelled vehicle designed for land
travel unless all of the following conditions are met:

(a) The agent possesses a document signed and dated by a manager or operator of the provisioning center or safety compliance facility that employs the agent, stating the agent's name, the date the medical marihuana will be transported, the approximate amount of medical marihuana transported, and the name of the provisioning center or safety compliance facility from which the medical marihuana is being transported.

(b) The medical marihuana is located in 1 or more of the following:

(i) An enclosed locked container, such as a safe, briefcase, or other case.

(ii) The trunk of the vehicle.

(iii) A space that is inaccessible from the passenger compartment of the vehicle.

Sec. 8. (1) A provisioning center that violates section 7(1) or (2) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $5,000.00. A city or county in which the provisioning center or safety compliance facility operates in violation of section 7(1) or (2) may petition the court for an injunction to close the provisioning center or safety compliance facility.

(2) A person who violates section 7(3) to (10), (15), or (16) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $1,000.00.

(3) A person who transfers medical marihuana in violation of section 7(11) to (13) or who works in violation of section 7(14) is
not exempt from arrest, prosecution, or criminal or other penalties under section 3 or 4.

(4) A person who violates section 7(17) is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than $500.00, or both.

Sec. 9. (1) A municipality may establish procedures to suspend or revoke a registration, license, or other permission to operate if a provisioning center knowingly or negligently allows medical marihuana to be dispensed to an individual who is not a registered qualifying patient or registered primary caregiver or if a provisioning center or safety compliance facility commits multiple or serious violations of this act or local ordinances.

(2) This act does not require the violation of federal law and does not give immunity from prosecution under federal law.

(3) This act does not prevent federal enforcement of federal law.

Sec. 10. (1) Except as otherwise provided in this act, a visiting qualifying patient, registered qualifying patient, or registered primary caregiver who supplies, sells, transfers, or delivers marihuana seeds to a provisioning center that is registered, licensed, or otherwise allowed by the municipality in which it operates in compliance with this act is not subject to any of the following for engaging in that activity:

(a) Criminal penalties under state law or local ordinances.

(b) State or local civil prosecution.

(c) Search or inspection, except for an inspection authorized by the municipality.
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(d) Seizure.

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

(2) Except as otherwise provided in this act, a registered
qualifying patient is not subject to any of the inspections or
sanctions listed in subsection (1)(a) to (e) for any of the
following:

(a) Purchasing or acquiring not more than 2.5 ounces of usable
marihuana from 1 or more provisioning centers within a 10-day
period.

(b) Supplying, selling, transferring, or delivering medical
marihuana to a provisioning center that is registered, licensed, or
otherwise allowed by the municipality in which it operates if all
of the following requirements are met:

(i) The medical marihuana was produced by the registered
qualifying patient or registered primary caregiver.

(ii) The municipality in which the provisioning center operates
allows the transfer of medical marihuana from a registered
qualifying patient to a provisioning center.

(iii) The amount of medical marihuana transferred does not
exceed the amount of medical marihuana the registered qualifying
patient is allowed to possess under the Michigan medical marihuana
act.

(3) Except as otherwise provided in this act, a registered
primary caregiver is not subject to any of the inspections or
sanctions listed in subsection (1)(a) to (e) for any of the
(a) Purchasing or acquiring from 1 or more provisioning centers not more than 2.5 ounces of usable marihuana in a 10-day period on behalf of a registered qualifying patient who has designated the registered primary caregiver on his or her application to the state department administering the medical marihuana program under the Michigan medical marihuana act.

(b) Supplying, selling, transferring, or delivering medical marihuana to a provisioning center that is registered, licensed, or otherwise allowed by the municipality in which it operates if all of the following requirements are met:

(i) The medical marihuana was produced by the registered primary caregiver and is excess medical marihuana above the amount necessary to satisfy the needs of the registered qualifying patients the primary caregiver is designated to serve.

(ii) The municipality in which the provisioning center operates allows the transfer of medical marihuana from a registered primary caregiver to a provisioning center.

(iii) The amount of medical marihuana transferred does not exceed the amount of medical marihuana the registered primary caregiver is allowed to possess under the Michigan medical marihuana act.