

# Legislative Analysis



## MARIHUANA-INFUSED PRODUCTS: ALLOW

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**House Bill 4210 as introduced**  
**Sponsor: Rep. Lisa Posthumus Lyons**  
**Committee: Judiciary**  
**Complete to 5-6-15**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

The bill would, among other things, revise the definitions of "medical use" and "usable marihuana" to include products using extracts and plant resins, define "marihuana-infused product" and "usable marihuana equivalent," provide immunity from prosecution for manufacturing marihuana-infused products under certain conditions, and allow a qualifying patient or caregiver to assert a "Section 8" defense when using usable marihuana.

House Bill 4210 would amend the Michigan Medical Marihuana Act to do the following:

#### Goal of act and retroactivity

The bill specifies that it clarifies ambiguities in the law in accordance with the original intent of the people, as expressed in Section 2(b) of the Michigan Medical Marihuana Act. Further, the bill states that it is curative and applies retroactively as to the following:

- Clarifying the quantities and forms of marihuana for which a person is protected from arrest.
- Precluding an interpretation of "weight" as aggregate weight.
- Excluding an added inactive substrate component of a preparation in determining the amount of marihuana, medical marihuana, or usable marihuana that constitutes an offense.

#### Definitions

- Change the term "medical use" to "medical use of marihuana" and revise the definition to include the extraction of marihuana and usable marihuana.
- Revise the definition of "usable marihuana" to include, in addition to dried leaves and flowers, the plant resin or extract of the marihuana plant. Currently, the term does not include the seeds, stalks, or roots of the plant.
- Define "marihuana-infused product" to mean 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 products would not be considered a food for purposes of the Food Law.
- Define "usable marihuana equivalent" as the amount of usable marihuana in a marihuana-infused product. To determine usable marihuana equivalency, the bill

would specify that one ounce of usable marihuana would be considered equivalent to (1) 16 ounces of marihuana-infused product if in a solid form; (2) 7 grams if in a gaseous form; and (3) 74 fluid ounces if in a liquid form. In determining whether a patient or primary caregiver did not exceed the 2.5 ounces per patient possession limit, both usable marijuana equivalents and usable marihuana would have to be considered.

#### Marihuana-infused product

A registered patient who was manufacturing a marihuana-infused product for personal use; a primary caregiver manufacturing for the use of his or her qualifying patient; or a medical marihuana provisioning center would not be subject to arrest, prosecution, or penalty in any manner, and could 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.

The following would be prohibited:

- A qualifying patient transferring a marihuana-infused product to any individual.
- A registered caregiver transferring a marihuana-infused product to any individual who is not one of the caregiver's qualifying patients.
- A medical marihuana provisioning center transferring a marihuana-infused product to any individual who is not a qualifying patient or registered caregiver.

#### Usable marihuana

- Include "usable marihuana" in provisions prohibiting certain conduct involving marihuana.
- Apply the presumption that a qualifying patient or primary caregiver is in compliance with the act if the amount of marihuana or usable marihuana and usable marihuana equivalents possessed does not exceed the amount allowed by the act, and allow that presumption to be rebutted by evidence that conduct related to marihuana or usable marihuana was not for the purpose of alleviating the patient's debilitating medical condition.
- Allow a "Section 8" affirmative defense and dismissal to be asserted for using usable marihuana.

#### Miscellaneous provisions

- Allow a patient or caregiver registry identification card to be revoked and the person subject to criminal penalties for selling marihuana or usable marihuana to someone not allowed medical use of marihuana under the act.
- Replace the term "use of medical marihuana" with "medical use of marihuana."
- Specify, provided that House Bill 4209 were enacted into law, that a person would not be subject to arrest, prosecution, or criminal penalty for a transfer or use of marihuana or usable marihuana equivalents from or to a provisioning center in an

amount authorized by law and in conformity with any restrictions in this act or the Medical Marihuana Provisioning Center Regulation Act (proposed by House Bill 4209). However, a qualifying patient or registered caregiver could not transfer more than 50 ounces of usable to a medical marihuana provisioning center during a 30-day calendar period.

- Require LARA to expend money from the Michigan Medical Marihuana Fund for the creation and maintenance of the statewide database required under Section 15 of the Michigan Marihuana Provisioning Center Regulation Act (proposed by House Bill 4209). Currently, the Department of Licensing and Regulatory Affairs is required to expend money, upon legislative appropriation, from the fund for the operation and oversight of the Michigan medical marihuana program.

The bill would take effect July 1, 2015.

MCL 333.26423 et al.

**FISCAL IMPACT:**

House Bill 4210 would not have a significant direct fiscal impact.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.