

**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

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Sec. 101. This act shall be known and may be cited as the

1 "medical marihuana facilities licensing act".

2 Sec. 102. As used in this act:

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

5 (b) "Affiliate" means any person that controls, is controlled
6 by, or is under common control with; is in a partnership or joint
7 venture relationship with; or is a co-shareholder of a corporation,
8 a co-member of a limited liability company, or a co-partner in a
9 limited liability partnership with a licensee or applicant.

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

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

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

21 (f) "Grower" means a licensee that is a commercial entity
22 located in this state that cultivates, dries, trims, or cures and
23 packages marihuana for sale to a processor or provisioning center.

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

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

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

3 (i) A grower.

4 (ii) A processor.

5 (iii) A secure transporter.

6 (iv) A provisioning center.

7 (v) A safety compliance facility.

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

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

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

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

20 (n) "Person" means an individual, corporation, limited
21 liability company, partnership, limited partnership, limited
22 liability partnership, limited liability limited partnership,
23 trust, or other legal entity.

24 (o) "Processor" means a licensee that is a commercial entity
25 located in this state that purchases marihuana from a grower and
26 that extracts resin from the marihuana or creates a marihuana-
27 infused product for sale and transfer in packaged form to a

1 provisioning center.

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

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

17 (r) "Registered qualifying patient" means a qualifying patient
18 who has been issued a current registry identification card under
19 the Michigan medical marihuana act or a visiting qualifying patient
20 as that term is defined in section 3 of the Michigan medical
21 marihuana act, MCL 333.26423.

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

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

27 (u) "Safety compliance facility" means a licensee that is a

1 commercial entity that receives marihuana from a marihuana facility
2 or a registered qualifying patient or a registered primary
3 caregiver, tests it for contaminants and for tetrahydrocannabinol
4 and other cannabinoids, and returns it to the marihuana facility or
5 a registered qualifying patient or registered primary caregiver
6 with the test results.

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

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

- 15 (i) A grower.
16 (ii) A processor.
17 (iii) A secure transporter.
18 (iv) A provisioning center.
19 (v) A safety compliance facility.

20 PART 2. APPLICATION OF OTHER LAWS

21 Sec. 201. (1) Except as otherwise provided in this act, if a
22 person has been granted a state operating license and is operating
23 within the scope of the license, the licensee and its agents are
24 not subject to any of the following for engaging in activities
25 described in subsection (2):

26 (a) Criminal penalties under state law or local ordinances
27 regulating marihuana.

1 (b) State or local criminal prosecution for a marihuana-
2 related offense.

3 (c) State or local civil prosecution for a marihuana-related
4 offense.

5 (d) Search or inspection, except for an inspection authorized
6 under this act by law enforcement officers, the municipality, or
7 the department.

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

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

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

17 (a) Growing marihuana.

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

21 (c) Possessing marihuana.

22 (d) Possessing or manufacturing marihuana paraphernalia for
23 medical use.

24 (e) Processing marihuana.

25 (f) Transporting marihuana.

26 (g) Testing, transferring, infusing, extracting, altering, or
27 studying marihuana.

1 (h) Receiving or providing compensation for products or
2 services.

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

9 (a) Criminal penalties under state law or local ordinances
10 regulating marihuana.

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

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

15 (d) Search or inspection, except for an inspection authorized
16 under this act by law enforcement officers, the municipality, or
17 the department.

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

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

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

26 Sec. 203. A registered qualifying patient or registered
27 primary caregiver is not subject to criminal prosecution or

1 sanctions for purchasing marihuana from a provisioning center if
2 the quantity purchased is within the limits established under the
3 Michigan medical marihuana act.

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

7 Sec. 205. A municipality may adopt an ordinance to authorize 1
8 or more types of marihuana facilities within its boundaries and to
9 limit the number of each type of marihuana facility. A marihuana
10 facility shall not be licensed unless the municipality in which the
11 marihuana facility is located has adopted an authorizing ordinance.
12 The ordinance may establish an annual, nonrefundable licensing fee
13 of not more than \$5,000.00 to help defray administrative and
14 enforcement costs associated with the operation of a marihuana
15 facility in the municipality. A municipality may adopt other
16 ordinances relating to marihuana facilities within its
17 jurisdiction, including zoning regulations, but shall not impose
18 regulations that would interfere or conflict with uniform statewide
19 regulation of licensees. A municipality must approve an applicant
20 for a new state operating license within its boundaries before the
21 board may consider the application. Information obtained by a
22 municipality from an applicant under this section is exempt from
23 disclosure under the freedom of information act, 1976 PA 442, MCL
24 15.231 to 15.246.

25 Sec. 206. The department, in consultation with the board,
26 shall promulgate rules and emergency rules as necessary to
27 implement, administer, and enforce this act. The rules shall ensure

1 the safety, security, and integrity of the operation of marihuana
2 facilities, and shall include, but are not limited to, rules to do
3 the following:

4 (a) Set appropriate standards for marihuana facilities and
5 associated equipment.

6 (b) Establish minimum levels of insurance that licensees must
7 maintain.

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

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

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

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

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

19 (h) Establish quality control standards, procedures, and
20 requirements for marihuana facilities.

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

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

25 (k) Establish chemical storage standards, procedures, and
26 requirements for marihuana facilities.

27 (l) Establish standards, procedures, and requirements for

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1 securely and safely transporting marihuana between marihuana
2 facilities.

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

5 (n) Establish labeling and packaging standards, procedures,
6 and requirements for marihuana sold or transferred through
7 provisioning centers, including a prohibition on labeling or
8 packaging that is intended to appeal to or has the effect of
9 appealing to minors.

10 (o) Establish daily purchasing limits at provisioning centers
11 for registered qualifying patients and registered primary
12 caregivers to ensure compliance with the Michigan medical marihuana
13 act.

14 (p) Establish marketing and advertising restrictions for
15 marihuana products and marihuana facilities.

16 (q) Establish maximum tetrahydrocannabinol levels for
17 marihuana-infused products sold or transferred through provisioning
18 centers.

[(r) Establish restrictions on edible marihuana-infused products to
prohibit shapes that would appeal to minors.]

19 PART 3. MEDICAL MARIHUANA LICENSING BOARD

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

22 (2) The board consists of 5 members who are residents of this
23 state, not more than 3 of whom are members of the same political
24 party. The governor shall appoint the members. One of the members
25 shall be appointed from 3 nominees submitted by the senate majority
26 leader and 1 from 3 nominees submitted by the speaker of the house.
27 The governor shall designate 1 of the members as chairperson.

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

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

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

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

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

26 (8) The department in conjunction with the board shall employ
27 an executive director and other personnel as necessary to assist

1 the board in carrying out its duties. The executive director shall
2 devote his or her full time to the duties of the office and shall
3 not hold any other office or employment.

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

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

18 (b) The individual or his or her spouse, parent, child,
19 child's spouse, sibling, or spouse of a sibling has an application
20 for a license pending before the board or is a member of the board
21 of directors of, or an individual financially interested in, any
22 licensee or marihuana facility.

23 (10) Each member of the board, the executive director, and
24 each key employee as determined by the department shall file with
25 the governor a financial disclosure statement listing all assets
26 and liabilities, property and business interests, and sources of
27 income of the member, executive director, and key employee and his

1 or her spouse, if any, affirming that the member, executive
2 director, and key employee are in compliance with subsection (9) (a)
3 and (b). The financial disclosure statement shall be made under
4 oath and filed at the time of employment and annually thereafter.

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

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

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

22 (14) For 2 years after the termination of his or her office or
23 employment with the board, a board member or an individual employed
24 by the board shall not represent any person or party other than
25 this state before or against the board.

26 (15) A business entity in which a former board member or
27 employee or agent has an interest, or any partner, officer, or

1 employee of the business entity, shall not make any appearance or
2 represent a party that the former member, employee, or agent is
3 prohibited from appearing for or representing. As used in this
4 subsection, "business entity" means a corporation, limited
5 liability company, partnership, limited liability partnership,
6 association, trust, or other form of legal entity.

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

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

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

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

22 (d) Consulting with the department in promulgating rules and
23 emergency rules as necessary to implement, administer, and enforce
24 this act.

25 (e) Implementing and collecting the application fee described
26 in section 401 and, in conjunction with the department of treasury,
27 the tax described in section 601 and regulatory assessment

1 described in section 603.

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

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

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

21 (i) Holding at least 2 public meetings each year. Upon 72
22 hours' written notice to each member, the chairperson or any 2
23 board members may call a special meeting. Three members of the
24 board constitute a quorum, including when making determinations on
25 an application for a license. Three votes are required in support
26 of final determinations of the board on applications for licenses
27 and all other licensing determinations, except that 4 votes are

1 required in support of a determination to suspend or revoke a
2 license. The board shall keep a complete and accurate record of all
3 of its meetings and hearings. Upon order of the board, 1 of the
4 board members or a hearing officer designated by the board may
5 conduct any hearing provided for under this act or by rules and may
6 recommend findings and decisions to the board. The board member or
7 hearing officer conducting the hearing has all powers and rights
8 regarding the conduct of hearings granted to the board under this
9 act. The record made at the time of the hearing shall be reviewed
10 by the board or a majority of the board, and the findings and
11 decision of the majority of the board are the order of the board in
12 the case.

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

17 (k) Reviewing the patterns of marihuana transfers by the
18 licensees under this act as recorded in a statewide database
19 established for use in administering and enforcing this act and
20 making recommendations to the governor and the legislature in a
21 written annual report to the governor and the legislature and
22 additional reports that the governor requests. The annual report
23 shall be submitted by April 15 of each year and shall include the
24 report required under section 702, a statement of receipts and
25 disbursements by the board, the actions taken by the board, and any
26 additional information and recommendations that the board considers
27 appropriate or that the governor requests.

1 (i) Except as otherwise provided in this act, all information,
2 records, interviews, reports, statements, memoranda, or other data
3 supplied to or used by the board are subject to the freedom of
4 information act, 1976 PA 442, MCL 15.231 to 15.246, except for the
5 following:

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

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

20 (iv) All information in the statewide database of marihuana
21 transactions.

22 Sec. 303. (1) The board has jurisdiction over the operation of
23 all marihuana facilities. The board has all powers necessary and
24 proper to fully and effectively oversee the operation of marihuana
25 facilities, including, but not limited to, the authority to do all
26 of the following:

27 (a) Investigate applicants for state operating licenses,

1 determine the eligibility for licenses, and grant licenses to
2 applicants in accordance with this act and the rules.

3 (b) Investigate all individuals employed by marihuana
4 facilities.

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

12 (i) To inspect and examine all premises of marihuana
13 facilities.

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

22 (iii) To inspect the person, and inspect or examine personal
23 effects present in a marihuana facility, of any holder of a state
24 operating license while that person is present in a licensed
25 facility.

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

27 (d) Investigate alleged violations of this act or rules and

1 take appropriate disciplinary action against a licensee.

2 (e) Consult with the department in adopting rules to establish
3 appropriate standards for marihuana facilities and associated
4 equipment.

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

9 (g) Require that each licensee of a marihuana facility submit
10 to the board a list of the stockholders or other persons having a
11 1% or greater beneficial interest in the facility in addition to
12 any other information the board considers necessary to effectively
13 administer this act and rules, orders, and final decisions made
14 under this act.

15 (h) Eject, or exclude or authorize the ejection or exclusion
16 of, an individual from a facility if the individual violates this
17 act, rules, or final orders of the board. However, the propriety of
18 the ejection or exclusion is subject to a subsequent hearing by the
19 board.

20 (i) Conduct periodic audits of facilities licensed under this
21 act.

22 (j) Consult with the department in establishing minimum levels
23 of insurance that licensees must maintain.

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

27 (l) Take disciplinary action as the board considers appropriate

1 to prevent practices that violate this act and rules.

2 (m) Review a licensee if that licensee is under review or the
3 subject of discipline by a regulatory body in any other
4 jurisdiction for a violation of a controlled substance or marihuana
5 law or regulation in that jurisdiction.

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

8 (2) The board may seek and shall receive the cooperation and
9 assistance of the department of state police and department of
10 attorney general in conducting background investigations of
11 applicants and in fulfilling its responsibilities under this act.

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

16 (a) Affirms that the member or the member's spouse, parent,
17 child, or child's spouse is not a member of the board of directors
18 of, financially interested in, or employed by a licensee or
19 applicant.

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

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

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

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

4 (a) Affirms the absence of financial interests prohibited by
5 this act.

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

9 (c) Discloses whether the employee or the employee's spouse,
10 parent, child, or child's spouse is financially interested in or
11 employed by a licensee or an applicant for a license under this
12 act.

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

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

21 (4) A member, employee, or agent of the board who within the
22 previous 10 years has been indicted for, charged with, or convicted
23 of, pled guilty or nolo contendere to, or forfeited bail concerning
24 a misdemeanor involving controlled substances, dishonesty, theft,
25 or fraud or a local ordinance in any state involving controlled
26 substances, dishonesty, theft, or fraud that substantially
27 corresponds to a misdemeanor in that state, or a felony under

1 Michigan law, the laws of any other state, or the laws of the
2 United States or any other jurisdiction shall immediately provide
3 detailed written notice of the conviction or charge to the
4 chairperson.

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

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

19 (7) Any member, employee, or agent of the board who receives
20 an invitation, written or oral, to initiate a discussion concerning
21 employment or the possibility of employment with a person or
22 affiliate of a person who is a licensee or an applicant shall
23 immediately report that he or she received the invitation to the
24 chairperson. The member, employee, or agent of the board shall not
25 take action on behalf of the board with respect to the person.

26 (8) A licensee or applicant shall not knowingly initiate a
27 negotiation for or discussion of employment with a member,

1 employee, or agent of the board. A licensee or applicant who
2 initiates a negotiation or discussion about employment shall
3 immediately provide written notice of the details of the
4 negotiation or discussion to the chairperson as soon as he or she
5 becomes aware that the negotiation or discussion has been initiated
6 with a member, employee, or agent of the board.

7 (9) A member, employee, or agent of the board, or former
8 member, employee, or agent of the board, shall not disseminate or
9 otherwise disclose any material or information in the possession of
10 the board that the board considers confidential unless specifically
11 authorized to do so by the chairperson or the board.

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

25 (11) A licensee or applicant, or an affiliate or
26 representative of an applicant or licensee, shall not, directly or
27 indirectly, give or offer to give any gift, gratuity, compensation,

1 travel, lodging, or anything of value to any member, employee, or
2 agent of the board that the member, employee, or agent of the board
3 is prohibited from accepting under subsection (10).

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

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

16 (14) A member, employee, or agent of the board shall disclose
17 his or her past involvement with any marihuana enterprise in the
18 past 5 years and shall not engage in political activity or
19 politically related activity during the duration of his or her
20 appointment or employment.

21 (15) A former member, employee, or agent of the board may
22 appear before the board as a fact witness about matters or actions
23 handled by the member, employee, or agent during his or her tenure
24 as a member, employee, or agent of the board. The member, employee,
25 or agent of the board shall not receive compensation for such an
26 appearance other than a standard witness fee and reimbursement for
27 travel expenses as established by statute or court rule.

1 (16) A licensee or applicant or any affiliate or
2 representative of an applicant or licensee shall not engage in ex
3 parte communications with a member of the board. A member of the
4 board shall not engage in any ex parte communications with a
5 licensee or an applicant or with any affiliate or representative of
6 an applicant or licensee.

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

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

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

9 (20) An employee or agent of the board granted permission for
10 outside employment shall not conduct any business or perform any
11 activities, including solicitation, related to outside employment
12 on premises used by the board or during the employee's working
13 hours for the board.

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

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

23 (23) If a licensee or applicant, or an affiliate or
24 representative of a licensee or applicant, violates this section,
25 the board may deny a license application, revoke or suspend a
26 license, or take other disciplinary action as provided in section
27 407.

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

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

9 (a) If, after being offered employment or beginning employment
10 with the board, the employee or agent intentionally acquires a
11 financial interest in a licensee or an applicant, or an affiliate
12 or representative of a licensee or applicant, the offer or
13 employment with the board shall be terminated.

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

22 (c) Employment shall be terminated if the employee or agent is
23 a spouse, parent, child, or spouse of a child of a board member.

24 (26) Violation of this section does not create a civil cause
25 of action.

26 (27) As used in this section:

27 (a) "Outside employment", in addition to employment by a third

1 party, includes, but is not limited to, the following:

2 (i) Operation of a proprietorship.

3 (ii) Participation in a partnership or group business
4 enterprise.

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

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

8 (b) "Political activity" or "politically related activity"
9 includes all of the following:

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

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

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

16 (iv) Knowingly soliciting or discouraging the participation in
17 any political activity of any person who is either of the
18 following:

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

21 (B) The subject of or a participant in an ongoing audit,
22 investigation, or enforcement action being carried out by the
23 board.

24 PART 4. LICENSING

25 Sec. 401. (1) Beginning 180 days after the effective date of
26 this act, a person may apply to the board for state operating
27 licenses in the categories of class A, B, or C grower; processor;

1 provisioning center; secure transporter; and safety compliance
2 facility as provided in this act. The application shall be made
3 under oath on a form provided by the board and shall contain
4 information as prescribed by the board, including, but not limited
5 to, all of the following:

6 (a) The name, business address, business telephone number,
7 social security number, and, if applicable, federal tax
8 identification number of the applicant.

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

20 (c) An identification of any business that is directly or
21 indirectly involved in the growing, processing, testing,
22 transporting, or sale of marihuana, including, if applicable, the
23 state of incorporation or registration, in which an applicant or,
24 if the applicant is an individual, the applicant's spouse, parent,
25 or child has an equity interest of more than 5%. If an applicant is
26 a corporation, partnership, or other business entity, the applicant
27 shall identify any other corporation, partnership, or other

1 business entity that is directly or indirectly involved in the
2 growing, processing, testing, transporting, or sale of marihuana in
3 which it has an equity interest of 5% or more, including, if
4 applicable, the state of incorporation or registration. An
5 applicant may comply with this subdivision by filing a copy of the
6 applicant's registration with the Securities and Exchange
7 Commission if the registration contains the information required by
8 this subdivision.

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

19 (e) Whether an applicant has ever applied for or has been
20 granted any commercial license or certificate issued by a licensing
21 authority in Michigan or any other jurisdiction that has been
22 denied, restricted, suspended, revoked, or not renewed and a
23 statement describing the facts and circumstances concerning the
24 application, denial, restriction, suspension, revocation, or
25 nonrenewal, including the licensing authority, the date each action
26 was taken, and the reason for each action.

27 (f) Whether an applicant has filed, or been served with, a

1 complaint or other notice filed with any public body, regarding the
2 delinquency in the payment of, or a dispute over the filings
3 concerning the payment of, any tax required under federal, state,
4 or local law, including the amount, type of tax, taxing agency, and
5 time periods involved.

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

16 (h) A description of the type of marihuana facility; written
17 approval of the marihuana facility location from the municipality;
18 anticipated or actual number of employees; and projected or actual
19 gross receipts.

20 (i) Financial information in the manner and form prescribed by
21 the board.

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

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

26 (2) The board shall use information provided on the
27 application as a basis to conduct a thorough background

1 investigation on the applicant. A false application is cause for
2 the board to deny a license. The board shall not consider an
3 incomplete application but shall, within a reasonable time, return
4 the application to the applicant with notification of the
5 deficiency and instructions for submitting a corrected application.
6 Information the board obtains from the background investigation is
7 exempt from disclosure under the freedom of information act, 1976
8 PA 442, MCL 15.231 to 15.246.

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

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

21 (5) A nonrefundable application fee must be paid at the time
22 of filing to defray the costs associated with the background
23 investigation conducted by the board. The department in
24 consultation with the board shall set the amount of the application
25 fee for each category and class of license by rule. If the costs of
26 the investigation and processing the application exceed the
27 application fee, the applicant shall pay the additional amount to

1 the board. All information, records, interviews, reports,
2 statements, memoranda, or other data supplied to or used by the
3 board in the course of its review or investigation of an
4 application for a license under this act shall be disclosed only in
5 accordance with this act. The information, records, interviews,
6 reports, statements, memoranda, or other data are not admissible as
7 evidence or discoverable in any action of any kind in any court or
8 before any tribunal, board, agency, or person, except for any
9 action considered necessary by the board.

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

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

18 (a) The applicant has been convicted of or released from
19 incarceration for a felony under the laws of this state, any other
20 state, or the United States within the past 5 years or has been
21 convicted of a controlled substance-related felony within the past
22 10 years.

23 (b) Within the past 5 years the applicant has been convicted
24 of a misdemeanor involving a controlled substance, theft,
25 dishonesty, or fraud in any state or been found responsible for
26 violating a local ordinance in any state involving a controlled
27 substance, dishonesty, theft, or fraud that substantially

1 corresponds to a misdemeanor in that state.

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

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

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

8 (f) The applicant holds an elective office of a governmental
9 unit of this state, another state, or the federal government; is a
10 member of or employed by a regulatory body of a governmental unit
11 in this state, another state, or the federal government; or is
12 employed by a governmental unit of this state. This subdivision
13 does not apply to an elected officer of or employee of a federally
14 recognized Indian tribe or to an elected precinct delegate.

15 (g) The applicant fails to meet other criteria established by
16 rule.

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

19 (a) The integrity, moral character, and reputation; personal
20 and business probity; financial ability and experience; and
21 responsibility or means to operate or maintain a facility of the
22 applicant and of any other person that either:

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

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

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

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

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

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

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

16 (g) Whether the applicant has a history of noncompliance with
17 any regulatory requirements in this state or any other
18 jurisdiction.

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

21 (i) Whether the applicant meets other standards in rules
22 applicable to the license category.

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

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

3 (6) A license shall be issued for a 1-year period and is
4 renewable annually. Except as otherwise provided in this act, the
5 board shall renew a license if all of the following requirements
6 are met:

7 (a) The licensee applies to the board on a renewal form
8 provided by the board that requires information prescribed in
9 rules.

10 (b) The application is received by the board on or before the
11 expiration date of the current license.

12 (c) The licensee pays the regulatory assessment under section
13 603.

14 (d) The licensee meets any other renewal requirements set
15 forth in rules.

16 (7) The department shall notify the licensee by mail or
17 electronic mail at the last known address on file with the board
18 advising of the time, procedure, and regulatory assessment under
19 section 603. The failure of the licensee to receive notice under
20 this subsection does not relieve the licensee of the responsibility
21 for renewing the license.

22 (8) If a license renewal application is not submitted by the
23 license expiration date, the license may be renewed within 60 days
24 after its expiration date upon application, payment of the
25 regulatory assessment under section 603, and satisfaction of any
26 renewal requirement and late fee set forth in rules. The licensee
27 may continue to operate during the 60 days after the license

1 expiration date if the license is renewed by the end of the 60-day
2 period.

3 (9) License expiration does not terminate the board's
4 authority to impose sanctions on a licensee whose license has
5 expired.

6 (10) In its decision on an application for renewal, the board
7 shall consider any specific written input it receives from an
8 individual or entity within the local unit of government in which
9 the applicant for renewal is located.

10 (11) A licensee must consent in writing to inspections,
11 examinations, searches, and seizures that are permitted under this
12 act and must provide a handwriting exemplar, fingerprints,
13 photographs, and information as authorized in this act or by rules.

14 (12) An applicant or licensee has a continuing duty to provide
15 information requested by the board and to cooperate in any
16 investigation, inquiry, or hearing conducted by the board.

17 Sec. 403. If the board identifies a deficiency in an
18 application, the board shall provide the applicant with a
19 reasonable period of time to correct the deficiency.

20 Sec. 404. (1) The board shall issue a license only in the name
21 of the true party of interest.

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

25 (a) For an individual or sole proprietorship: the proprietor
26 and spouse.

27 (b) For a partnership and limited liability partnership: all

1 partners and their spouses. For a limited partnership and limited
2 liability limited partnership: all general and limited partners and
3 their spouses. For a limited liability company: all members,
4 managers, and their spouses.

5 (c) For a privately held corporation: all corporate officers
6 or persons with equivalent titles and their spouses and all
7 stockholders and their spouses.

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

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

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

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

19 (a) A person or entity receiving reasonable payment for rent
20 on a fixed basis under a bona fide lease or rental obligation,
21 unless the lessor or property manager exercises control over or
22 participates in the management of the business.

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

1 Sec. 405. Subject to the laws of this state, before hiring a
2 prospective employee, the holder of a license shall conduct a
3 background check of the prospective employee. If the background
4 check indicates a pending charge or conviction within the past 5
5 years for a controlled substance-related felony, a licensee shall
6 not hire the prospective employee without written permission of the
7 board.

8 Sec. 406. Each license is exclusive to the licensee, and a
9 licensee or any other person must apply for and receive the board's
10 approval before a license is transferred, sold, or purchased. The
11 attempted transfer, sale, or other conveyance of an interest of
12 more than 1% in a license without prior board approval is grounds
13 for suspension or revocation of the license or for other sanction
14 considered appropriate by the board.

15 Sec. 407. (1) If an applicant or licensee fails to comply with
16 this act or rules, if a licensee fails to comply with the marihuana
17 tracking act, if a licensee no longer meets the eligibility
18 requirements for a license under this act, or if an applicant or
19 licensee fails to provide information the board requests to assist
20 in any investigation, inquiry, or board hearing, the board may
21 deny, suspend, revoke, or restrict a license. The board may
22 suspend, revoke, or restrict a license and require the removal of a
23 licensee or an employee of a licensee for a violation of this act,
24 rules, the marihuana tracking act, or any ordinance adopted under
25 section 205. The board may impose civil fines of up to \$5,000.00
26 against an individual and up to \$10,000.00 or an amount equal to
27 the daily gross receipts, whichever is greater, against a licensee

1 for each violation of this act, rules, or an order of the board.

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

16 (3) After denying an application for a license, the board
17 shall, upon request, provide a public investigative hearing at
18 which the applicant is given the opportunity to present testimony
19 and evidence to establish its suitability for a license. Other
20 testimony and evidence may be presented at the hearing, but the
21 board's decision must be based on the whole record before the board
22 and is not limited to testimony and evidence submitted at the
23 public investigative hearing.

24 (4) Except for license applicants who may be granted a hearing
25 at the discretion of the board under subsection (3), any party
26 aggrieved by an action of the board suspending, revoking,
27 restricting, or refusing to renew a license, or imposing a fine,

1 shall be given a hearing before the board upon request. A request
2 for a hearing must be made to the board in writing within 21 days
3 after service of notice of the action of the board. Notice of the
4 action of the board must be served either by personal delivery or
5 by certified mail, postage prepaid, to the aggrieved party. Notice
6 served by certified mail is considered complete on the business day
7 following the date of the mailing.

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

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

19 PART 5. LICENSEES

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

23 (a) Class A - 500 plants.

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

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

26 (2) A grower license authorizes sale of marihuana seeds or
27 seedlings only to a grower by means of a secure transporter and

1 purchase of marihuana seeds or seedlings only from a grower,
2 registered qualifying patient, or registered primary caregiver.

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

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

8 (5) A grower license authorizes the grower to transfer
9 marihuana to and from a safety compliance facility for testing or
10 to or from a processor or provisioning center located within the
11 same marihuana facility.

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

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

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

19 (b) While holding a license as a grower, not be a registered
20 primary caregiver and not employ an individual who is
21 simultaneously a registered primary caregiver.

22 (c) Enter each transfer of marihuana into this state's
23 database for marihuana tracking, as provided in the marihuana
24 tracking act.

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

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

4 (3) A processor license authorizes the processor to transfer
5 marihuana to and from a safety compliance facility for testing or
6 to or from a grower or provisioning center located within the same
7 marihuana facility.

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

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

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

15 (b) While holding a license as a processor, not be a
16 registered primary caregiver and not employ an individual who is
17 simultaneously a registered primary caregiver.

18 (c) Enter each transfer of marihuana into this state's
19 database for marihuana tracking, as provided in the marihuana
20 tracking act.

21 Sec. 503. (1) A secure transporter license authorizes the
22 licensee to store and transport marihuana and money associated with
23 the purchase or sale of marihuana between marihuana facilities for
24 a fee upon request of a person with legal custody of that marihuana
25 or money.

26 (2) To be eligible for a secure transporter license, the
27 applicant and each investor with a greater than 10% interest in the

1 secure transporter must not have a greater than 10% interest in a
2 grower, processor, provisioning center, or safety compliance
3 facility.

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

7 Sec. 504. (1) A provisioning center license authorizes the
8 purchase or transfer of marihuana only from a grower or processor
9 and sale or transfer to only a registered qualifying patient or
10 registered primary caregiver. Except as provided in subsection (2),
11 all transfers of marihuana to a provisioning center from a separate
12 marihuana facility shall be by means of a secure transporter.

13 (2) A provisioning center license authorizes the provisioning
14 center to transfer marihuana to or from a safety compliance
15 facility for testing.

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

20 (4) A provisioning center shall comply with all of the
21 following:

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

25 (b) Enter each transfer of marihuana into this state's
26 database for marihuana tracking as provided in the marihuana
27 tracking act.

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

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

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

13 (4) A safety compliance facility shall comply with all of the
14 following:

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

17 (b) Use validated test methods to determine
18 tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and
19 cannabidiol acid levels.

20 (c) Perform tests that determine whether marihuana complies
21 with the standards the department establishes for microbial and
22 mycotoxin contents.

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

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

PART 6. TAXES AND FEES

1
2 Sec. 601. (1) A tax is imposed on each provisioning center at
3 the rate of 3% of the provisioning center's gross retail income. If
4 a law authorizing the recreational or non-medical use of marihuana
5 in this state is enacted, this section does not apply beginning 90
6 days after the effective date of that law.

7 (2) The taxes imposed under this section shall be administered
8 by the department of treasury in accordance with 1941 PA 122, MCL
9 205.1 to 205.31, and this act. In case of conflict between the
10 provisions of 1941 PA 122, MCL 205.1 to 205.31, and this act, the
11 provisions of this act prevail.

12 Sec. 602. (1) The medical marihuana excise fund is created in
13 the state treasury.

14 (2) Except for the application fee under section 401, the
15 regulatory assessment under section 603, and any local licensing
16 fees, all money collected under section 601 and all other fees,
17 fines, and charges, imposed under this act shall be deposited in
18 the medical marihuana excise fund. The state treasurer shall direct
19 the investment of the fund. The state treasurer shall credit to the
20 fund interest and earnings from fund investments.

21 (3) Money in the medical marihuana excise fund at the close of
22 the fiscal year shall remain in the fund and shall not lapse to the
23 general fund.

24 (4) The department shall be the administrator of the medical
25 marihuana excise fund for auditing purposes.

26 (5) The money in the medical marihuana excise fund shall be
27 allocated, upon appropriation, as follows:

1 (a) 30% to municipalities in which a marihuana facility is
2 located, allocated in proportion to the number of marihuana
3 facilities within the municipality.

4 (b) 40% to counties in which a marihuana facility is located,
5 allocated in proportion to the number of marihuana facilities
6 within the county.

7 (c) 5% to counties in which a marihuana facility is located,
8 allocated in proportion to the number of marihuana facilities
9 within the county. Money allocated under this subdivision shall be
10 used exclusively to support the county sheriffs and shall be in
11 addition to and not in replacement of any other funding received by
12 the county sheriffs.

13 (d) 25% to this state to be deposited in the state general
14 fund.

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

19 (a) The department's costs to implement, administer, and
20 enforce this act, except for the costs to process and investigate
21 applications for licenses supported with the application fee
22 described in section 401.

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

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

27 (d) \$500,000.00 to be allocated to the department for

1 expenditures of the department for licensing substance use disorder
2 programs.

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

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

11 (3) The regulatory assessment shall be collected annually from
12 licensed growers, processors, provisioning centers, and secure
13 transporters. The regulatory assessment for a class A grower
14 license shall not exceed \$10,000.00.

15 (4) Beginning in the first year marihuana facilities are
16 authorized to operate in this state, and annually thereafter, the
17 department, in consultation with the board, shall establish the
18 total regulatory assessment at an amount that is estimated to be
19 sufficient to cover the actual costs and support the expenditures
20 listed in subsection (1).

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

27 Sec. 604. (1) The marihuana regulatory fund is created in the

1 state treasury.

2 (2) The application fee collected under section 401 and the
3 regulatory assessment collected under section 603 shall be
4 deposited in the marihuana regulatory fund. The state treasurer
5 shall direct the investment of the fund. The state treasurer shall
6 credit to the fund interest and earnings from fund investments.

7 (3) Money in the marihuana regulatory fund at the close of the
8 fiscal year shall remain in the fund and shall not lapse to the
9 general fund.

10 (4) The state treasurer shall be the administrator of the
11 marihuana regulatory fund for auditing purposes.

12 (5) Except as provided in section 603(1)(d) and (e), the
13 department shall expend money from the marihuana regulatory fund,
14 upon appropriation, only for implementing, administering, and
15 enforcing this act.

16 Sec. 605. There is appropriated to the department for the
17 fiscal year ending September 30, 2016 \$8,500,000.00 from the
18 marihuana regulatory fund for the purpose of funding the operations
19 of the department and the board in implementing, administering, and
20 enforcing this act.

21 PART 7. REPORTS

22 Sec. 701. By 30 days after the end of each state fiscal year,
23 each licensee shall transmit to the board and to the municipality
24 compiled financial statements of the licensee's total operations.
25 The financial statements shall be compiled by a certified public
26 accountant in a manner and form prescribed by the board. The
27 certified public accountant must be licensed in this state under

1 article 7 of the occupational code, 1980 PA 299, MCL 339.720 to
2 339.736. The compensation for the certified public accountant shall
3 be paid directly by the licensee to the certified public
4 accountant.

5 Sec. 702. The board shall submit with the annual report to the
6 governor under section 302(k) and to the chairs of the legislative
7 committees that govern issues related to marihuana facilities a
8 report covering the previous year. The report shall include an
9 account of the board actions, its financial position, results of
10 operation under this act, and any recommendations for legislation
11 that the board considers advisable.

12 PART 8. MARIHUANA ADVISORY PANEL

13 Sec. 801. (1) The marihuana advisory panel is created within
14 the department.

15 (2) The marihuana advisory panel shall consist of 15 members,
16 including the director of state police or his or her designee, the
17 director of this state's department of health and human services or
18 his or her designee, the director of the department of licensing
19 and regulatory affairs or his or her designee, the attorney general
20 or his or her designee, the director of the department of
21 agriculture and rural development or his or her designee, and the
22 following members appointed by the governor:

23 (a) One registered medical marihuana patient or medical
24 marihuana primary caregiver.

25 (b) One representative of growers.

26 (c) One representative of provisioning centers.

27 (d) One representative of safety compliance facilities.

1 (e) One representative of townships.

2 (f) One representative of cities and villages.

3 (g) One representative of counties.

4 (h) One representative of sheriffs.

5 (i) One representative of local police.

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

8 (3) The members first appointed to the panel shall be
9 appointed within 3 months after the effective date of this act and
10 shall serve at the pleasure of the governor. Appointed members of
11 the panel shall serve for terms of 3 years or until a successor is
12 appointed, whichever is later.

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

16 (5) The first meeting of the panel shall be called by the
17 director of the department or his or her designee within 1 month
18 after the advisory panel is appointed. At the first meeting, the
19 panel shall elect from among its members a chairperson and any
20 other officers it considers necessary or appropriate. After the
21 first meeting, the panel shall meet at least 2 times each year, or
22 more frequently at the call of the chairperson.

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

26 (7) The business that the panel performs shall be conducted at
27 a public meeting held in compliance with the open meetings act,

1 1976 PA 267, MCL 15.261 to 15.275.

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

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

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

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

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

18 Enacting section 2. The legislature finds that the necessity
19 for access to safe sources of marihuana for medical use and the
20 immediate need for growers, processors, secure transporters,
21 provisioning centers, and safety compliance facilities to operate
22 under clear requirements establish the need to promulgate emergency
23 rules to preserve the public health, safety, or welfare.

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