

HOUSE BILL No. 4877

September 17, 2015, Introduced by Reps. Irwin, Singh, Robinson, Hovey-Wright, Chang, Hoadley and Sarah Roberts and referred to the Committee on Judiciary.

A bill to decriminalize and regulate marihuana cultivation, production, testing, sale, possession, and use for nonmedical purposes; to provide for licensing of certain marihuana facilities and stores; to authorize collection of fees; to impose an excise tax on marihuana transfers by a marihuana cultivation facility; to provide for the powers and duties of certain state and local governmental officers and agencies; to authorize local units of government to adopt limited regulation of marihuana facilities and stores; and to require the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "marihuana legalization and regulation act".

3 (2) The cultivation, processing, testing, possession, and use
4 of marihuana for nonmedical purposes are decriminalized and

1 regulated under the this act for use by individuals 21 years of age
2 or older in the manner provided in this act.

3 Sec. 2. As used in this act, and unless the context otherwise
4 requires:

5 (a) "Consumer" means an individual 21 years of age or older
6 who purchases marihuana or marihuana products for personal use by
7 himself or herself or another individual 21 years of age or older,
8 but not for resale.

9 (b) "Department" means the department of licensing and
10 regulatory affairs.

11 (c) "Industrial hemp" means a plant of the genus Cannabis and
12 any part of that plant, whether growing or not, with a delta-9
13 tetrahydrocannabinol concentration that does not exceed 0.3% on a
14 dry weight basis.

15 (d) "License" means an exemption from arrest, prosecution,
16 forfeiture, or penalty in any manner by this state or local
17 authority for conduct identified in this act.

18 (e) "Locality" means a county, city, village, or township.

19 (f) "Marihuana" means any part of the plant of the genus
20 Cannabis whether growing or not, its seeds, the resin extracted
21 from any part of the plant, and every compound, manufacture, salt,
22 derivative, mixture, or preparation of the plant, its seeds, or its
23 resin, including marihuana concentrate. Marihuana does not include
24 industrial hemp, the fiber produced from the stalks of the plant,
25 oil or cake made from the seeds of the plant, sterilized seed of
26 the plant that is incapable of germination. The weight of any other
27 ingredient combined with marihuana to prepare topical or oral

1 administrations, food, drink, or other products is not included
2 when determining the weight of marihuana.

3 (g) "Marihuana cultivation facility" means an entity licensed
4 to cultivate, prepare, or package and sell marihuana to marihuana
5 distributors, retail marihuana stores, marihuana product
6 manufacturing facilities, or other marihuana cultivation
7 facilities, but not to consumers.

8 (h) "Marihuana distributor" means an entity licensed to
9 purchase marihuana from a marihuana cultivation facility, to
10 purchase marihuana and marihuana products from a marihuana product
11 manufacturing facility, and to sell marihuana and marihuana
12 products to a retail marihuana store.

13 (i) "Marihuana establishment" means a marihuana cultivation
14 facility, a marihuana testing facility, a marihuana product
15 manufacturing facility, a marihuana distributor, or a retail
16 marihuana store.

17 (j) "Marihuana product manufacturing facility" means an entity
18 licensed to purchase marihuana; manufacture, prepare, and package
19 marihuana products; and sell marihuana and marihuana products to
20 other marihuana product manufacturing facilities, to marihuana
21 distributors, and to retail marihuana stores, but not to consumers.

22 (k) "Marihuana products" means products containing
23 concentrated marihuana and products that are composed of marihuana
24 and other ingredients and are intended for use or consumption, such
25 as, but not limited to, edible products, ointments, and tinctures.

26 (l) "Marihuana testing facility" means an entity licensed to
27 analyze and certify the safety and potency of marihuana.

1 (m) "Medical marihuana act" means the Michigan medical
2 marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, and any other
3 law of this state regulating marihuana for medical use.

4 (n) "Medical marihuana center" means an entity licensed by a
5 state agency to sell marihuana and marihuana products for use as
6 provided in the medical marihuana act.

7 (o) "Retail marihuana store" means an entity licensed to
8 purchase marihuana from marihuana cultivation facilities and
9 marihuana and marihuana products from marihuana distributors or
10 marihuana product manufacturing facilities and to sell marihuana
11 and marihuana products to consumers.

12 (p) "Unreasonably impracticable" means that the measures
13 necessary to comply with the regulations require such a high risk
14 or investment of money, time, or any other resource or asset that a
15 reasonably prudent businessperson would not engage in the operation
16 of a marihuana establishment.

17 Sec. 3. Notwithstanding any other law, the following acts
18 performed by an individual 21 years of age or older without
19 remuneration are not unlawful, are not an offense under the law of
20 this state or any locality within this state, are not grounds for
21 seizing or forfeiting property, and are not grounds for arrest,
22 prosecution, or penalty in any manner:

23 (a) Possessing, using, displaying, purchasing, or transporting
24 marihuana accessories or 1 ounce or less of marihuana.

25 (b) Possessing, growing, processing, or transporting 12 or
26 fewer marihuana plants that exceed 12 inches in either height or
27 diameter and possessing the marihuana derived from those plants on

1 the premises where the plants are grown. This subdivision applies
2 only if the plants are grown in an enclosed, locked space and not
3 openly or publicly displayed.

4 (c) Transferring 1 ounce or less of marihuana to an individual
5 who is 21 years of age or older.

6 (d) Consuming marihuana, if the consumption is not conducted
7 openly and publicly or in a manner that endangers others.

8 (e) Possessing, growing, receiving, or transferring marihuana
9 seed stock or any number of immature plants less than 12 inches in
10 height and diameter that do not have buds or flowers.

11 (f) Assisting another individual who is 21 years of age or
12 older in any of the acts described in subdivisions (a) to (e).

13 Sec. 4. (1) Notwithstanding any other provision of law, the
14 following acts performed by persons 21 years of age or older in
15 accordance with this act are not unlawful, are not an offense under
16 the law of this state or any locality within this state, are not
17 grounds for seizing or forfeiting property, and are not grounds for
18 arrest, prosecution, or penalty in any manner:

19 (a) Manufacturing, possessing, or purchasing marihuana
20 accessories or selling marihuana accessories to an individual who
21 is 21 years of age or older.

22 (b) Possessing, displaying, or transporting marihuana or
23 marihuana products; purchasing marihuana from a marihuana
24 cultivation facility; purchasing marihuana or marihuana products
25 from a marihuana product manufacturing facility; or selling
26 marihuana or marihuana products to consumers, if the person
27 conducting the activity under this subdivision has obtained a

1 current, valid license to operate a retail marihuana store or as a
2 marihuana distributor or is acting in his or her capacity as an
3 owner, employee, or agent of a licensed retail marihuana store or
4 marihuana distributor.

5 (c) Cultivating, harvesting, processing, packaging,
6 transporting, displaying, or possessing marihuana; delivering or
7 transferring marihuana to a marihuana testing facility; selling
8 marihuana to another marihuana cultivation facility, a marihuana
9 product manufacturing facility, a marihuana distributor, or a
10 retail marihuana store; or purchasing marihuana from another
11 marihuana cultivation facility, if the person conducting any
12 activity under this subdivision has obtained a current, valid
13 license to operate a marihuana cultivation facility or is acting in
14 his or her capacity as an owner, employee, or agent of a licensed
15 marihuana cultivation facility.

16 (d) Packaging, processing, transporting, manufacturing,
17 displaying, or possessing marihuana or marihuana products;
18 delivering or transferring marihuana or marihuana products to a
19 marihuana testing facility; selling marihuana or marihuana products
20 to a marihuana distributor, a retail marihuana store, or another
21 marihuana product manufacturing facility or a marihuana
22 distributor; purchasing marihuana from a marihuana cultivation
23 facility; or purchasing marihuana or marihuana products from
24 another marihuana product manufacturing facility, if the person
25 conducting any activity under this subdivision has obtained a
26 current, valid license to operate a marihuana product manufacturing
27 facility or is acting in his or her capacity as an owner, employee,

1 or agent of a licensed marihuana product manufacturing facility.

2 (e) Possessing, cultivating, processing, repackaging, storing,
3 transporting, displaying, transferring or delivering marihuana or
4 marihuana products if the person has obtained a current, valid
5 license to operate a marihuana testing facility or is acting in his
6 or her capacity as an owner, employee, or agent of a licensed
7 marihuana testing facility.

8 (f) Leasing or otherwise allowing the use of property owned,
9 occupied, or controlled by any person, corporation, or other entity
10 for any of the activities conducted lawfully in accordance with
11 subdivisions (a) to (e).

12 (2) To ensure the most secure, reliable, and accountable
13 system for producing and distributing marihuana and marihuana
14 products in accordance with this act, the department shall use the
15 following criteria as primary considerations in any competitive
16 application by applicants for a license under this act:

17 (a) Prior experience producing or distributing marihuana or
18 marihuana products under this act in the locality in which the
19 applicant seeks to operate a marihuana establishment.

20 (b) Consistent compliance with this act and relevant state law
21 and administrative rules during the experience described in
22 subdivision (a).

23 (3) The department shall not require a consumer to provide a
24 retail marihuana store with personal information other than
25 government-issued identification to determine the consumer's age
26 and shall not require a retail marihuana store to acquire or record
27 personal information about consumers other than information

1 typically acquired in a financial transaction conducted at a retail
2 liquor store.

3 Sec. 5. Marihuana sold or otherwise transferred by a marihuana
4 cultivation facility to a marihuana product manufacturing facility,
5 a marihuana distributor, or a retail marihuana store is subject to
6 an excise tax. The excise tax rate is 5% in 2017 and increases by
7 1% each successive January 1 until it reaches 10%. The department
8 of treasury shall establish procedures for collecting the excise
9 tax. After depositing into the general fund an amount equal to the
10 department's necessary administrative costs that exceed the amount
11 collected in license application fees, 40% of the balance of the
12 proceeds of the excise tax shall be deposited in the school aid
13 fund to be used exclusively for early childhood education, 40%
14 shall be deposited in the Michigan transportation fund, and 20%
15 shall be allocated to the department of health and human services
16 to be used exclusively for substance abuse treatment programs.
17 Marihuana intended for sale at medical marihuana centers is exempt
18 from the excise tax under this section.

19 Sec. 6. A locality may adopt an ordinance that does not
20 conflict with this act or administrative rules implementing this
21 act. The ordinance may govern the time, place, manner, and number
22 of marihuana establishments. The ordinance shall designate a
23 violation of the ordinance as a municipal civil infraction and
24 provide a civil fine for that violation. A locality may prohibit
25 the operation of marihuana cultivation facilities, marihuana
26 product manufacturing facilities, marihuana testing facilities, or
27 retail marihuana stores by ordinance or an initiated or referred

1 measure. An initiated or referred measure to prohibit the operation
2 of marihuana cultivation facilities, marihuana product
3 manufacturing facilities, marihuana testing facilities, or retail
4 marihuana stores must be submitted to the voters at a general
5 election.

6 Sec. 7. Each application for a new annual license to operate a
7 marihuana establishment or annual license renewal shall be
8 submitted to the department. The department shall do all of the
9 following:

10 (a) Begin accepting and processing applications on January 1,
11 2017.

12 (b) Immediately upon receipt, forward a copy of the
13 application to the locality in which the applicant desires to
14 operate the marihuana establishment. The application fee shall be
15 deposited into the state treasury, and upon appropriation, 1/2 of
16 the fee shall be paid to the locality in which the establishment
17 will be located.

18 (c) Issue an annual license to the applicant between 45 and 90
19 days after receipt of an application unless the department finds
20 the applicant is not in compliance with rules adopted under section
21 10 or the department is notified by the relevant locality that the
22 applicant is not in compliance with an ordinance or initiated
23 measure adopted under section 6 and in effect at the time of
24 application. If a locality has enacted a numerical limit on the
25 number of marihuana establishments and a greater number of
26 applicants seek licenses, the department shall solicit and consider
27 input from the locality as to the locality's preference or

1 preferences for licensure.

2 (d) If the department makes a finding of noncompliance or
3 otherwise does not issue a license under subdivision (c), promptly
4 notify the applicant in writing of the specific reason for failure
5 to issue the license.

6 Sec. 8. (1) This act does not require an employer to permit or
7 accommodate the use, consumption, possession, transfer, display,
8 transportation, sale, or growing of marihuana in the workplace or
9 prohibit an employer from adopting a policy restricting employee
10 use of marihuana.

11 (2) This act does not authorize driving or operating under the
12 influence of marihuana or driving while impaired by marihuana or
13 supersede or restrict state law related to driving under the
14 influence of marihuana or driving while impaired by marihuana.

15 (3) This act does not authorize the transfer of marihuana or
16 marihuana accessories, with or without remuneration, to an
17 individual under the age of 21 or allow an individual under the age
18 of 21 to purchase, possess, use, transport, grow, or consume
19 marihuana.

20 (4) This act does not prohibit a person, employer, school,
21 hospital, detention facility, corporation, or any other entity that
22 occupies, owns, or controls private property from prohibiting or
23 otherwise regulating the possession, consumption, use, display,
24 transfer, distribution, sale, transportation, or growing of
25 marihuana on or in that private property.

26 Sec. 9. This act does not do any of the following:

27 (a) Limit any privileges or rights of a medical marihuana

1 patient, primary caregiver, or licensed entity as provided in the
2 medical marihuana act.

3 (b) Authorize a medical marihuana center to distribute
4 marihuana to a person who is not permitted to receive that
5 distribution under the medical marihuana act.

6 (c) Authorize a medical marihuana center to purchase marihuana
7 or marihuana products in a manner or from a source not authorized
8 under the medical marihuana act.

9 (d) Authorize any medical marihuana center operating under the
10 medical marihuana act to operate on the same premises as a retail
11 marihuana store.

12 (e) Discharge a state department, agency, board, or commission
13 from any statutory and constitutional duty to regulate medical
14 marihuana under the medical marihuana act.

15 Sec. 10. Not later than January 1, 2017, the department shall
16 adopt rules necessary to implement this act under the
17 administrative procedure act of 1969, 1969 PA 306, MCL 24.201 to
18 301.328. The rules shall not prohibit the operation of marihuana
19 establishments, either expressly or through regulations that are
20 unreasonably impracticable. The rules shall include:

21 (a) Procedures for issuing, renewing, suspending, and revoking
22 a license to operate a marihuana establishment.

23 (b) A schedule of application, licensing, and renewal fees. An
24 original application fee shall not exceed \$5,000.00, and a renewal
25 application fee shall not exceed \$500.00, adjusted annually by the
26 department for inflation, unless the department determines that a
27 greater fee is necessary to carry out its responsibilities under

1 this act.

2 (c) Qualifications for licensure that are directly and
3 demonstrably related to the operation of a marihuana establishment,
4 such as the applicant's business experience and tax payment status.

5 (d) Security requirements for marihuana establishments.

6 (e) Requirements to prevent the sale or diversion of marihuana
7 and marihuana products to individuals under the age of 21.

8 (f) Labeling requirements for marihuana and marihuana products
9 sold or distributed by a marihuana establishment to ensure that
10 consumers are informed and protected.

11 (g) Health and safety regulations and standards for the
12 manufacture of marihuana products and the cultivation of marihuana.

13 (h) Reasonable restrictions on advertising and displaying
14 marihuana and marihuana products.

15 (i) A schedule of civil fines for violations of this act or
16 rules implementing this act, based on the severity of the
17 violation. Any civil fine shall not exceed \$1,000.00.

18 Sec. 11. A person who violates this act is responsible for a
19 civil fine in an amount provided in the schedule adopted under
20 section 10(i).

21 Sec. 12. Except as otherwise indicated in this act, this act
22 supersedes a conflicting state statute or administrative rule and a
23 local charter, ordinance, or resolution.