

HOUSE BILL No. 4440

April 9, 2019, Introduced by Rep. Lilly and referred to the Committee on Government Operations.

A bill to amend 2016 PA 281, entitled "Medical marihuana facilities licensing act," by amending section 402 (MCL 333.27402), as amended by 2018 PA 582.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

9 (a) The applicant has been convicted of or released from
10 incarceration for a felony under the laws of this state, any other

1 state, or the United States within the past 10 years or has been
2 convicted of a controlled substance-related felony within the past
3 10 years.

4 (b) Within the past 5 years the applicant has been convicted
5 of a misdemeanor involving a controlled substance, theft,
6 dishonesty, or fraud in any state or been found responsible for
7 violating a local ordinance in any state involving a controlled
8 substance, dishonesty, theft, or fraud that substantially
9 corresponds to a misdemeanor in that state.

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

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

13 (e) The applicant fails to demonstrate the applicant's ability
14 to maintain adequate premises liability and casualty insurance for
15 its proposed marihuana facility.

16 (f) The applicant holds an elective office of a governmental
17 unit of this state, another state, or the federal government; is a
18 member of or employed by a regulatory body of a governmental unit
19 in this state, another state, or the federal government; or is
20 employed by a governmental unit of this state. This subdivision
21 does not apply to an elected officer of or employee of a federally
22 recognized Indian tribe or to an elected precinct delegate.

23 (g) The board determines that the applicant is not in
24 compliance with section 205(1).

25 **(H) THE DEPARTMENT DETERMINES THAT THE APPLICANT, AT ANY TIME**
26 **AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS**
27 **SUBDIVISION, HELD ITSELF OUT AS OPERATING A MARIHUANA FACILITY AND**

1 DID NOT HAVE A LICENSE TO OPERATE THAT FACILITY OR THE APPLICANT'S
2 LICENSE TO OPERATE THAT MARIHUANA FACILITY WAS SUSPENDED, REVOKED,
3 LAPSED, VOID, FRAUDULENTLY OBTAINED, OR TRANSFERRED TO THE
4 APPLICANT OTHER THAN PURSUANT TO SECTION 406. IF THE DEPARTMENT
5 DETERMINES THAT AN APPLICANT IS INELIGIBLE TO RECEIVE A LICENSE
6 UNDER THIS SUBDIVISION, THE APPLICANT IS INELIGIBLE TO RECEIVE A
7 LICENSE FOR 1 YEAR AFTER THE DATE OF THE DEPARTMENT'S
8 DETERMINATION.

9 (I) ~~(h)~~—The applicant fails to meet other criteria established
10 by rule.

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

13 (a) The integrity, moral character, and reputation; personal
14 and business probity; financial ability and experience; and
15 responsibility or means to operate or maintain a marihuana facility
16 of the applicant and of any other person that meets either of the
17 following:

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

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

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

23 (c) The sources and total amount of the applicant's
24 capitalization to operate and maintain the proposed marihuana
25 facility.

26 (d) Whether the applicant has been indicted for, charged with,
27 arrested for, or convicted of, pled guilty or nolo contendere to,

1 forfeited bail concerning, or had expunged any relevant criminal
2 offense under the laws of any jurisdiction, either felony or
3 misdemeanor, not including traffic violations, regardless of
4 whether the offense has been expunged, pardoned, or reversed on
5 appeal or otherwise.

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

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

12 (g) Whether the applicant has a history of noncompliance with
13 any regulatory requirements in this state or any other
14 jurisdiction.

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

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

19 (4) Each applicant shall ensure that 1 set of fingerprints is
20 submitted to the department of state police. The applicant shall
21 submit with its application the applicant's written consent to the
22 criminal history check described in this section and the submission
23 of the applicant's fingerprints to, and the inclusion of the
24 applicant's fingerprints in, the state and federal database systems
25 described in subsection (7).

26 (5) The fingerprints required under subsection (4) may be
27 taken by a law enforcement agency or any other person determined by

1 the department of state police to be qualified to take
2 fingerprints. The applicant shall submit a fingerprint processing
3 fee to the department in an amount required under section 3 of 1935
4 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of
5 Investigation.

6 (6) The department of state police shall do all of the
7 following:

8 (a) Conduct a criminal history check on each applicant and
9 request the Federal Bureau of Investigation to make a determination
10 of the existence of any national criminal history pertaining to
11 each applicant.

12 (b) Provide the board with a written report containing the
13 criminal history record information of each applicant.

14 (7) All of the following apply concerning fingerprints
15 submitted to the department of state police under this section:

16 (a) The department of state police shall store and retain all
17 fingerprints submitted under this section in an automated
18 fingerprint identification system database that searches against
19 latent fingerprints, and provides for an automatic notification if
20 and when a subsequent fingerprint is submitted into the system that
21 matches a set of fingerprints previously submitted under this
22 section or if and when the criminal history of an individual whose
23 fingerprints are retained in the system is updated. Upon receiving
24 a notification, the department of state police shall immediately
25 notify the board. Information in the database maintained under this
26 subsection is confidential, is not subject to disclosure under the
27 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and

1 shall not be disclosed to any person except for purposes of this
2 act or for law enforcement purposes.

3 (b) The department of state police shall forward all
4 fingerprints submitted to it under this section to the Federal
5 Bureau of Investigation for submission of those fingerprints into
6 the FBI automatic notification system. This subdivision does not
7 apply until the department of state police is a participant in the
8 FBI automatic notification system. As used in this subdivision:

9 (i) "Automatic notification system" means a system that stores
10 and retains fingerprints, and that provides for an automatic
11 notification to a participant if and when a fingerprint is
12 submitted into the system that matches an individual whose
13 fingerprints are retained in the system or if and when the criminal
14 history of an individual whose fingerprints are retained in the
15 system is updated.

16 (ii) "FBI automatic notification system" means the automatic
17 notification system that is maintained by the Federal Bureau of
18 Investigation.

19 (8) The board shall review all applications for licenses and
20 shall inform each applicant of the board's decision.

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

25 (a) The licensee applies to the board on a renewal form
26 provided by the board that requires information prescribed in
27 rules.

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

3 (c) The licensee pays the regulatory assessment under section
4 603.

5 (d) The licensee meets the requirements of this act and any
6 other renewal requirements set forth in rules.

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

13 (11) If a license renewal application is not submitted by the
14 license expiration date, the license may be renewed within 60 days
15 after its expiration date upon application, payment of the
16 regulatory assessment under section 603, and satisfaction of any
17 renewal requirement and late fee set forth in rules. The licensee
18 may continue to operate during the 60 days after the license
19 expiration date if the license is renewed by the end of the 60-day
20 period.

21 (12) License expiration does not terminate the board's
22 authority to impose sanctions on a licensee whose license has
23 expired.

24 (13) In its decision on an application for renewal, the board
25 shall consider any specific written input it receives from an
26 individual or entity within the local unit of government in which
27 the applicant for renewal is located.

1 (14) A licensee must consent in writing to inspections,
2 examinations, searches, and seizures that are permitted under this
3 act and must provide a handwriting exemplar, fingerprints,
4 photographs, and information as authorized in this act or by rules.

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