

HOUSE BILL NO. 4797

May 06, 2021, Introduced by Reps. Garza, Steckloff, Rabhi, Coleman, Aiyash, Hood and Cynthia Johnson and referred to the Committee on Education.

A bill to amend 2008 IL 1, entitled "Michigan Medical Marihuana Act," by amending sections 4 and 7 (MCL 333.26424 and 333.26427), section 4 as amended by 2016 PA 283 and section 7 as amended by 2016 PA 546.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 4. Protections for the Medical Use of Marihuana.
- 2 Sec. 4. (a) A qualifying patient who has been issued and
- 3 possesses a registry identification card **must not be denied any**

1 **right or privilege and** is not subject to arrest, prosecution, or
2 penalty in any manner, ~~or denied any right or privilege,~~ including,
3 but not limited to, civil penalty or disciplinary action by a
4 business or occupational or professional licensing board or bureau,
5 for the medical use of marihuana in accordance with this act. ~~7~~
6 ~~provided that the qualifying patient possesses an amount of~~
7 ~~marihuana that does not exceed a combined total of 2.5 ounces of~~
8 ~~usable marihuana and usable marihuana equivalents, and, if the~~
9 ~~qualifying patient has not specified that a primary caregiver will~~
10 ~~be allowed under state law to cultivate marihuana for the~~
11 ~~qualifying patient, 12 marihuana plants kept in an enclosed, locked~~
12 ~~facility. Any incidental amount of seeds, stalks, and unusable~~
13 ~~roots shall also be allowed under state law and shall not be~~
14 ~~included in this amount.~~ The privilege from arrest under this
15 subsection applies only if the qualifying patient presents both his
16 or her registry identification card and a valid driver license or
17 government-issued identification card that bears a photographic
18 image of the qualifying patient. **This subsection applies only if**
19 **the qualifying patient possesses marihuana in forms and amounts**
20 **that do not exceed any combination of the following:**

21 (1) A combined total of 2.5 ounces of usable marihuana and
22 usable marihuana equivalents.

23 (2) If the qualifying patient has not specified that a primary
24 caregiver will be allowed under state law to cultivate marihuana
25 for the qualifying patient, 12 marihuana plants kept in an
26 enclosed, locked facility.

27 (3) Any incidental amount of seeds, stalks, and unusable
28 roots.

29 (b) A primary caregiver who has been issued and possesses a

1 registry identification card **must not be denied any right or**
 2 **privilege and** is not subject to arrest, prosecution, or penalty in
 3 any manner, ~~or denied any right or privilege,~~ including, but not
 4 limited to, civil penalty or disciplinary action by a business or
 5 occupational or professional licensing board or bureau, for
 6 assisting a qualifying patient to whom he or she is connected
 7 through the department's registration process with the medical use
 8 of marihuana in accordance with this act. The privilege from arrest
 9 under this subsection applies only if the primary caregiver
 10 presents both his or her registry identification card and a valid
 11 driver license or government-issued identification card that bears
 12 a photographic image of the primary caregiver. This subsection
 13 applies only if the primary caregiver possesses marihuana in forms
 14 and amounts that do not exceed any **combination** of the following:

15 (1) For each qualifying patient to whom he or she is connected
 16 through the department's registration process, a combined total of
 17 2.5 ounces of usable marihuana and usable marihuana equivalents.

18 (2) For each registered qualifying patient who has specified
 19 that the primary caregiver will be allowed under state law to
 20 cultivate marihuana for the qualifying patient, 12 marihuana plants
 21 kept in an enclosed, locked facility.

22 (3) Any incidental amount of seeds, stalks, and unusable
 23 roots.

24 (c) For purposes of determining usable marihuana equivalency,
 25 the following ~~shall be~~ **are** considered equivalent to 1 ounce of
 26 usable marihuana:

27 (1) 16 ounces of marihuana-infused product if in a solid form.

28 (2) 7 grams of marihuana-infused product if in a gaseous form.

29 (3) 36 fluid ounces of marihuana-infused product if in a

1 liquid form.

2 (d) A person ~~shall~~**must** not be denied custody or visitation of
3 a minor for acting in accordance with this act, unless the person's
4 behavior ~~is such that it~~ creates an unreasonable danger to the
5 minor that can be clearly articulated and substantiated.

6 (e) There is a presumption that a qualifying patient or
7 primary caregiver is engaged in the medical use of marihuana in
8 accordance with this act if the qualifying patient or primary
9 caregiver complies with ~~both~~**all** of the following:

10 (1) Is in possession of a registry identification card.

11 (2) Is in possession of an amount of marihuana that does not
12 exceed the amount allowed under this act. The presumption may be
13 rebutted by evidence that conduct related to marihuana was not for
14 the purpose of alleviating the qualifying patient's debilitating
15 medical condition or symptoms associated with the debilitating
16 medical condition, in accordance with this act.

17 **(3) If applicable, section 1182 of the revised school code,**
18 **1976 PA 451, MCL 380.1182.**

19 (f) A registered primary caregiver may receive compensation
20 for costs associated with assisting a registered qualifying patient
21 in the medical use of marihuana. Any such compensation does not
22 constitute the sale of ~~controlled substances~~**a controlled**
23 **substance.**

24 (g) A physician ~~shall~~**must** not be **denied any right or**
25 **privilege and is not** subject to arrest, prosecution, or penalty in
26 any manner, ~~or denied any right or privilege,~~ including, but not
27 limited to, civil penalty or disciplinary action by the Michigan
28 board of medicine, the Michigan board of osteopathic medicine and
29 surgery, or any other business or occupational or professional

1 licensing board or bureau, solely for providing written
 2 certifications, in the course of a bona fide physician-patient
 3 relationship and after the physician has completed a full
 4 assessment of the qualifying patient's medical history, or for
 5 otherwise stating that, in the physician's professional opinion, a
 6 patient is likely to receive therapeutic or palliative benefit from
 7 the medical use of marihuana to treat or alleviate the patient's
 8 serious or debilitating medical condition or symptoms associated
 9 with the serious or debilitating medical condition. ~~, provided that~~
 10 ~~nothing shall prevent~~ **However, this section does not prevent** a
 11 professional licensing board from sanctioning a physician for
 12 failing to properly evaluate a patient's medical condition or
 13 otherwise violating the standard of care for evaluating medical
 14 conditions.

15 (h) A person ~~shall~~ **must** not be **denied any right or privilege**
 16 **and is not** subject to arrest, prosecution, or penalty in any
 17 manner, ~~or denied any right or privilege,~~ including, but not
 18 limited to, civil penalty or disciplinary action by a business or
 19 occupational or professional licensing board or bureau, for
 20 providing a registered qualifying patient or a registered primary
 21 caregiver with marihuana paraphernalia for purposes of a qualifying
 22 patient's medical use of marihuana.

23 (i) ~~Any~~ **A person shall not seize or forfeit any** marihuana,
 24 marihuana paraphernalia, or licit property that is possessed,
 25 owned, or used in connection with the medical use of marihuana, as
 26 allowed under this act, or acts incidental to such use. ~~, shall not~~
 27 ~~be seized or forfeited.~~

28 (j) A person ~~shall~~ **must** not be **denied any right or privilege**
 29 **and is not** subject to arrest, prosecution, or penalty in any

1 manner, ~~or denied any right or privilege,~~ including, but not
2 limited to, civil penalty or disciplinary action by a business or
3 occupational or professional licensing board or bureau, solely for
4 ~~being~~ **any of the following:**

5 (1) **Being** in the presence or vicinity of the medical use of
6 marihuana in accordance with this act. ~~, or for assisting~~

7 (2) **Assisting** a registered qualifying patient with using or
8 administering marihuana.

9 (3) **Complying with section 1182 of the revised school code,**
10 **1976 PA 451, MCL 380.1182.**

11 (k) A registry identification card, or its equivalent, that is
12 issued under the laws of another state, district, territory,
13 commonwealth, or insular possession of the United States that
14 allows the medical use of marihuana by a visiting qualifying
15 patient, ~~or to allow~~ **allows** a person to assist with a visiting
16 qualifying patient's medical use of marihuana, ~~shall have~~ **has** the
17 same force and effect as a registry identification card issued by
18 the department.

19 (l) Any registered qualifying patient or registered primary
20 caregiver who sells marihuana to someone who is not allowed the
21 medical use of marihuana under this act ~~shall~~ **must** have his or her
22 registry identification card revoked and is guilty of a felony
23 punishable by imprisonment for not more than 2 years or a fine of
24 not more than \$2,000.00, or both, in addition to any other
25 penalties for the distribution of marihuana.

26 (m) A person ~~shall~~ **must** not be **denied any right or privilege**
27 **and is not** subject to arrest, prosecution, or penalty in any
28 manner, ~~or denied any right or privilege,~~ including, but not
29 limited to, civil penalty or disciplinary action by a business or

1 occupational or professional licensing board or bureau, for
 2 manufacturing a marihuana-infused product if the person is any of
 3 the following:

4 (1) A registered qualifying patient, manufacturing for his or
 5 her own personal use.

6 (2) A registered primary caregiver, manufacturing for the use
 7 of a patient to whom he or she is connected through the
 8 department's registration process.

9 (n) A qualifying patient shall not transfer a marihuana-
 10 infused product or marihuana to any individual.

11 (o) ~~A~~ **Except as allowed under section 1182 of the revised**
 12 **school code, 1976 PA 451, MCL 380.1182, a** primary caregiver shall
 13 not transfer a marihuana-infused product to ~~any~~ **an** individual who
 14 is not a qualifying patient to whom he or she is connected through
 15 the department's registration process.

16 7. Scope of Act.

17 Sec. 7. (a) The medical use of marihuana is allowed under
 18 state law to the extent that it is ~~carried out~~ **done** in accordance
 19 with ~~the provisions of this act~~.

20 (b) This act does not permit ~~any~~ **a** person to do any of the
 21 following:

22 (1) Undertake any task under the influence of marihuana, ~~when~~
 23 **if** doing so would constitute negligence or professional
 24 malpractice.

25 (2) Possess marihuana, or ~~otherwise~~ engage in the medical use
 26 of marihuana, at any of the following locations:

27 (A) ~~In~~ **Except as allowed under section 1182 of the revised**
 28 **school code, 1976 PA 451, MCL 380.1182, in** a school bus.

29 (B) ~~On~~ **Except as allowed under section 1182 of the revised**

1 **school code, 1976 PA 451, MCL 380.1182, on** the grounds of any
2 preschool or primary or secondary school.

3 (C) In any correctional facility.

4 (3) Smoke marihuana at any of the following locations:

5 (A) On any form of public transportation.

6 (B) In any public place.

7 (4) Operate, navigate, or be in actual physical control of any
8 motor vehicle, aircraft, snowmobile, off-road recreational vehicle,
9 or motorboat while under the influence of marihuana.

10 (5) Use marihuana if that person does not have a serious or
11 debilitating medical condition.

12 (6) Separate plant resin from a marihuana plant by butane
13 extraction in any public place or motor vehicle, or inside or
14 within the curtilage of any residential structure.

15 (7) Separate plant resin from a marihuana plant by butane
16 extraction in a manner that demonstrates a failure to exercise
17 reasonable care or reckless disregard for the safety of others.

18 (c) Nothing in this act ~~shall be construed to require~~ **requires**
19 any of the following:

20 (1) A government medical assistance program or commercial or
21 ~~non-profit~~ **nonprofit** health insurer to reimburse a person for costs
22 associated with the medical use of marihuana.

23 (2) An employer to accommodate the ingestion of marihuana in
24 any workplace or any employee working while under the influence of
25 marihuana.

26 (3) A private property owner to lease residential property to
27 any person who smokes or cultivates marihuana on the premises, if
28 the prohibition against smoking or cultivating marihuana is in the
29 written lease.

1 (d) Fraudulent representation to a law enforcement official of
2 any fact or circumstance relating to the medical use of marihuana
3 to avoid arrest or prosecution is punishable by a fine of \$500.00,
4 ~~which is in addition to any other penalties that may apply for~~
5 making a false statement or for the use of marihuana other than use
6 ~~undertaken pursuant to~~ **in compliance with** this act.

7 (e) All other acts and parts of acts inconsistent with this
8 act do not apply to the medical use of marihuana as provided for by
9 this act.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. _____ or House Bill No. 4796 (request no.
12 02197'21) of the 101st Legislature is enacted into law.