

SENATE BILL No. 140

February 18, 2015, Introduced by Senators SHIRKEY, HORN, KNEZEK, YOUNG and ANANICH and referred to the Committee on Judiciary.

A bill to amend 2008 IL 1, entitled "Michigan medical marihuana act," by amending sections 3, 4, 6, 7, and 8 (MCL 333.26423, 333.26424, 333.26426, 333.26427, and 333.26428), sections 3, 4, and 8 as amended by 2012 PA 512 and section 6 as amended by 2012 PA 514, and by adding section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 3. Definitions.

2 Sec. 3. As used in this act:

3 (a) "Bona fide physician-patient relationship" means a
4 treatment or counseling relationship between a physician and
5 patient in which all of the following are present:

6 (1) The physician has reviewed the patient's relevant medical
7 records and completed a full assessment of the patient's medical

1 history and current medical condition, including a relevant, in-
2 person, medical evaluation of the patient.

3 (2) The physician has created and maintained records of the
4 patient's condition in accord with medically accepted standards.

5 (3) The physician has a reasonable expectation that he or she
6 will provide follow-up care to the patient to monitor the efficacy
7 of the use of medical marihuana as a treatment of the patient's
8 debilitating medical condition.

9 (4) If the patient has given permission, the physician has
10 notified the patient's primary care physician of the patient's
11 debilitating medical condition and certification for the **MEDICAL**
12 use of ~~medical~~-marihuana to treat that condition.

13 (b) "Debilitating medical condition" means 1 or more of the
14 following:

15 (1) Cancer, glaucoma, positive status for human
16 immunodeficiency virus, acquired immune deficiency syndrome,
17 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
18 agitation of Alzheimer's disease, nail patella, or the treatment of
19 these conditions.

20 (2) A chronic or debilitating disease or medical condition or
21 its treatment that produces 1 or more of the following: cachexia or
22 wasting syndrome; severe and chronic pain; severe nausea; seizures,
23 including but not limited to those characteristic of epilepsy; or
24 severe and persistent muscle spasms, including but not limited to
25 those characteristic of multiple sclerosis.

26 (3) Any other medical condition or its treatment approved by
27 the department, as provided for in section 6(k).

1 (c) "Department" means the department of licensing and
2 regulatory affairs.

3 (d) "Enclosed, locked facility" means a closet, room, or other
4 comparable, stationary, and fully enclosed area equipped with
5 secured locks or other functioning security devices that permit
6 access only by a registered primary caregiver or registered
7 qualifying patient. Marihuana plants grown outdoors are considered
8 to be in an enclosed, locked facility if they are not visible to
9 the unaided eye from an adjacent property when viewed by an
10 individual at ground level or from a permanent structure and are
11 grown within a stationary structure that is enclosed on all sides,
12 except for the base, by chain-link fencing, wooden slats, or a
13 similar material that prevents access by the general public and
14 that is anchored, attached, or affixed to the ground; located on
15 land that is owned, leased, or rented by either the registered
16 qualifying patient or a person designated through the departmental
17 registration process as the primary caregiver for the registered
18 qualifying patient or patients for whom the marihuana plants are
19 grown; and equipped with functioning locks or other security
20 devices that restrict access to only the registered qualifying
21 patient or the registered primary caregiver who owns, leases, or
22 rents the property on which the structure is located. Enclosed,
23 locked facility includes a motor vehicle if both of the following
24 conditions are met:

25 (1) The vehicle is being used temporarily to transport living
26 marihuana plants from 1 location to another with the intent to
27 permanently retain those plants at the second location.

1 (2) An individual is not inside the vehicle unless he or she
2 is either the registered qualifying patient to whom the living
3 marihuana plants belong or the individual designated through the
4 departmental registration process as the primary caregiver for the
5 registered qualifying patient.

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

8 **(F) "MARIHUANA-INFUSED PRODUCT" MEANS A TOPICAL FORMULATION,**
9 **TINCTURE, BEVERAGE, EDIBLE SUBSTANCE, OR SIMILAR PRODUCT CONTAINING**
10 **ANY USABLE MARIHUANA THAT IS INTENDED FOR HUMAN CONSUMPTION IN A**
11 **MANNER OTHER THAN SMOKE INHALATION. MARIHUANA-INFUSED PRODUCT SHALL**
12 **NOT BE CONSIDERED A FOOD FOR PURPOSES OF THE FOOD LAW, 2000 PA 92,**
13 **MCL 289.1101 TO 289.8111.**

14 **(G) ~~(f)~~"Medical use OF MARIHUANA"** means the acquisition,
15 possession, cultivation, manufacture, **EXTRACTION**, use, internal
16 possession, delivery, transfer, or transportation of marihuana,
17 **USABLE MARIHUANA**, or paraphernalia relating to the administration
18 of **USABLE** marihuana to treat or alleviate a registered qualifying
19 patient's debilitating medical condition or symptoms associated
20 with the debilitating medical condition.

21 **(H) ~~(g)~~"Physician"** means an individual licensed as a
22 physician under Part 170 of the public health code, 1978 PA 368,
23 MCL 333.17001 to 333.17084, or an osteopathic physician under Part
24 175 of the public health code, 1978 PA 368, MCL 333.17501 to
25 333.17556.

26 **(I) ~~(h)~~"Primary caregiver" or "caregiver"** means a person who
27 is at least 21 years old and who has agreed to assist with a

1 patient's medical use of marihuana and who has not been convicted
2 of any felony within the past 10 years and has never been convicted
3 of a felony involving illegal drugs or a felony that is an
4 assaultive crime as defined in section 9a of chapter X of the code
5 of criminal procedure, 1927 PA 175, MCL 770.9a.

6 (J) ~~(i)~~—"Qualifying patient" or "patient" means a person who
7 has been diagnosed by a physician as having a debilitating medical
8 condition.

9 (K) ~~(j)~~—"Registry identification card" means a document issued
10 by the department that identifies a person as a registered
11 qualifying patient or registered primary caregiver.

12 (L) ~~(k)~~—"Usable marihuana" means the dried leaves, ~~and flowers,~~
13 **PLANT RESIN, OR EXTRACT** of the marihuana plant, ~~and any mixture or~~
14 ~~preparation thereof,~~ but does not include the seeds, stalks, and
15 roots of the plant.

16 (M) **"USABLE MARIHUANA EQUIVALENT" MEANS THE AMOUNT OF USABLE**
17 **MARIHUANA IN A MARIHUANA-INFUSED PRODUCT THAT IS CALCULATED AS**
18 **PROVIDED IN SECTION 4(C).**

19 (N) ~~(l)~~—"Visiting qualifying patient" means a patient who is
20 not a resident of this state or who has been a resident of this
21 state for less than 30 days.

22 (O) ~~(m)~~—"Written certification" means a document signed by a
23 physician, stating all of the following:

24 (1) The patient's debilitating medical condition.

25 (2) The physician has completed a full assessment of the
26 patient's medical history and current medical condition, including
27 a relevant, in-person, medical evaluation.

1 (3) In the physician's professional opinion, the patient is
2 likely to receive therapeutic or palliative benefit from the
3 medical use of marihuana to treat or alleviate the patient's
4 debilitating medical condition or symptoms associated with the
5 debilitating medical condition.

6 4. Protections for the Medical Use of Marihuana.

7 Sec. 4. (a) A qualifying patient who has been issued and
8 possesses a registry identification card ~~shall~~**IS** not ~~be~~ subject to
9 arrest, prosecution, or penalty in any manner, or denied any right
10 or privilege, including but not limited to civil penalty or
11 disciplinary action by a business or occupational or professional
12 licensing board or bureau, for the medical use of marihuana in
13 accordance with this act, provided that the qualifying patient
14 possesses an amount of marihuana that does not exceed **A TOTAL OF**
15 **2.5 ounces of BOTH usable marihuana AND USABLE MARIHUANA**
16 **EQUIVALENTS**, and, if the qualifying patient has not specified that
17 a primary caregiver will be allowed under state law to cultivate
18 marihuana for the qualifying patient, 12 marihuana plants kept in
19 an enclosed, locked facility. Any incidental amount of seeds,
20 stalks, and unusable roots shall also be allowed under state law
21 and shall not be included in this amount. The privilege from arrest
22 under this subsection applies only if the qualifying patient
23 presents both his or her registry identification card and a valid
24 driver license or government-issued identification card that bears
25 a photographic image of the qualifying patient.

26 (b) A primary caregiver who has been issued and possesses a
27 registry identification card ~~shall~~**IS** not ~~be~~ subject to arrest,

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

14 (1) 2.5 ounces ~~of usable marihuana~~ for each qualifying patient
15 to whom he or she is connected through the department's
16 registration process. ~~and~~

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

21 (3) ~~any~~ **ANY** incidental amount of seeds, stalks, and unusable
22 roots.

23 (C) **FOR PURPOSES OF DETERMINING USABLE MARIHUANA EQUIVALENCY,**
24 **1 OUNCE OF USABLE MARIHUANA SHALL BE CONSIDERED EQUIVALENT TO THE**
25 **FOLLOWING:**

26 (1) **16 OUNCES OF MARIHUANA-INFUSED PRODUCT IF IN A SOLID FORM.**

27 (2) **7 GRAMS OF MARIHUANA-INFUSED PRODUCT IF IN A GASEOUS FORM.**

1 (3) 72 FLUID OUNCES OF MARIHUANA-INFUSED PRODUCT IF IN A
2 LIQUID FORM.

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

7 (E) ~~(d)~~—There ~~shall be~~ **IS** a presumption that a qualifying
8 patient or primary caregiver is engaged in the medical use of
9 marihuana in accordance with this act if the qualifying patient or
10 primary caregiver **COMPLIES WITH BOTH OF THE FOLLOWING:**

11 (1) ~~is~~ **IS** in possession of a registry identification card. ~~+~~
12 ~~and~~

13 (2) ~~is~~ **IS** in possession of an amount of marihuana **OR USABLE**
14 **MARIHUANA AND USABLE MARIHUANA EQUIVALENTS** that does not exceed the
15 amount allowed under this act. The presumption may be rebutted by
16 evidence that conduct related to marihuana **OR USABLE MARIHUANA** was
17 not for the purpose of alleviating the qualifying patient's
18 debilitating medical condition or symptoms associated with the
19 debilitating medical condition, in accordance with this act.

20 (F) ~~(e)~~—A registered primary caregiver may receive
21 compensation for costs associated with assisting a registered
22 qualifying patient in the medical use of marihuana. Any such
23 compensation ~~shall~~ **DOES** not constitute the sale of controlled
24 substances.

25 (G) ~~(f)~~—A physician shall not be subject to arrest,
26 prosecution, or penalty in any manner, or denied any right or
27 privilege, including but not limited to civil penalty or

1 disciplinary action by the Michigan board of medicine, the Michigan
2 board of osteopathic medicine and surgery, or any other business or
3 occupational or professional licensing board or bureau, solely for
4 providing written certifications, in the course of a bona fide
5 physician-patient relationship and after the physician has
6 completed a full assessment of the qualifying patient's medical
7 history, or for otherwise stating that, in the physician's
8 professional opinion, a patient is likely to receive therapeutic or
9 palliative benefit from the medical use of marihuana to treat or
10 alleviate the patient's serious or debilitating medical condition
11 or symptoms associated with the serious or debilitating medical
12 condition, provided that nothing shall prevent a professional
13 licensing board from sanctioning a physician for failing to
14 properly evaluate a patient's medical condition or otherwise
15 violating the standard of care for evaluating medical conditions.

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

23 (I) ~~(h)~~—Any marihuana, **USABLE MARIHUANA**, marihuana
24 paraphernalia, or licit property that is possessed, owned, or used
25 in connection with the medical use of marihuana, as allowed under
26 this act, or acts incidental to such use, shall not be seized or
27 forfeited.

1 (J) ~~(i)~~—A person shall not be subject to arrest, prosecution,
2 or penalty in any manner, or denied any right or privilege,
3 including but not limited to civil penalty or disciplinary action
4 by a business or occupational or professional licensing board or
5 bureau, solely for being in the presence or vicinity of the medical
6 use of marihuana in accordance with this act, or for assisting a
7 registered qualifying patient with using or administering marihuana
8 **OR USABLE MARIHUANA.**

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

16 (L) ~~(k)~~—Any registered qualifying patient or registered primary
17 caregiver who sells marihuana **OR USABLE MARIHUANA** to someone who is
18 not allowed to use marihuana for medical purposes **MEDICAL USE OF**
19 **MARIHUANA** under this act shall have his or her registry
20 identification card revoked and is guilty of a felony punishable by
21 imprisonment for not more than 2 years or a fine of not more than
22 \$2,000.00, or both, in addition to any other penalties for the
23 distribution of marihuana.

24 (M) **A PERSON IS NOT SUBJECT TO ARREST, PROSECUTION, OR PENALTY**
25 **IN ANY MANNER, AND SHALL NOT BE DENIED ANY RIGHT OR PRIVILEGE,**
26 **INCLUDING, BUT NOT LIMITED TO, CIVIL PENALTY OR DISCIPLINARY ACTION**
27 **BY A BUSINESS OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR**

1 BUREAU, FOR MANUFACTURING MARIHUANA-INFUSED PRODUCT IF THE PERSON
2 IS ANY OF THE FOLLOWING:

3 (1) A REGISTERED PATIENT, MANUFACTURING FOR HIS OR HER OWN
4 PERSONAL USE.

5 (2) A PRIMARY CAREGIVER, MANUFACTURING FOR THE USE OF A
6 PATIENT TO WHOM HE OR SHE IS CONNECTED THROUGH THE DEPARTMENT'S
7 REGISTRATION PROCESS.

8 (3) A MEDICAL MARIHUANA PROVISIONING CENTER.

9 (N) A QUALIFYING PATIENT SHALL NOT TRANSFER A MARIHUANA-
10 INFUSED PRODUCT TO ANY INDIVIDUAL.

11 (O) A REGISTERED CAREGIVER SHALL NOT TRANSFER A MARIHUANA-
12 INFUSED PRODUCT TO ANY INDIVIDUAL WHO IS NOT A QUALIFYING PATIENT
13 TO WHOM HE OR SHE IS CONNECTED THROUGH THE DEPARTMENT'S
14 REGISTRATION PROCESS.

15 (P) A MEDICAL MARIHUANA PROVISIONING CENTER SHALL NOT TRANSFER
16 A MARIHUANA-INFUSED PRODUCT TO ANY INDIVIDUAL WHO IS NOT A
17 QUALIFYING PATIENT OR REGISTERED CAREGIVER, OR PROVISIONING CENTER
18 AGENT.

19 SEC. 4A. (1) THIS SECTION DOES NOT APPLY UNLESS THE MEDICAL
20 MARIHUANA PROVISIONING CENTER REGULATION ACT IS ENACTED INTO LAW.

21 (2) A PERSON IS NOT SUBJECT TO ARREST, PROSECUTION, OR
22 CRIMINAL PENALTY FOR A TRANSFER OR USE OF MARIHUANA OR USABLE
23 MARIHUANA EQUIVALENTS FROM OR TO A PROVISIONING CENTER IN AN AMOUNT
24 AUTHORIZED BY LAW AND IN CONFORMITY WITH ANY RESTRICTIONS IN THIS
25 ACT OR THE MEDICAL MARIHUANA PROVISIONING CENTER REGULATION ACT.
26 HOWEVER, A QUALIFYING PATIENT OR REGISTERED CAREGIVER SHALL NOT
27 TRANSFER MORE THAN 50 OUNCES OF USABLE MARIHUANA TO A MEDICAL

1 **MARIHUANA PROVISIONING CENTER DURING A 30-DAY CALENDAR PERIOD.**

2 6. Administering the Department's Rules.

3 Sec. 6. (a) The department shall issue registry identification
4 cards to qualifying patients who submit the following, in
5 accordance with the department's rules:

6 (1) A written certification;

7 (2) Application or renewal fee;

8 (3) Name, address, and date of birth of the qualifying
9 patient, except that if the applicant is homeless, no address is
10 required;

11 (4) Name, address, and telephone number of the qualifying
12 patient's physician;

13 (5) Name, address, and date of birth of the qualifying
14 patient's primary caregiver, if any;

15 (6) Proof of Michigan residency. For the purposes of this
16 subdivision, a person shall be considered to have proved legal
17 residency in this state if any of the following apply:

18 (i) The person provides a copy of a valid, lawfully obtained
19 Michigan driver license issued under the Michigan vehicle code,
20 1949 PA 300, MCL 257.1 to 257.923, or an official state personal
21 identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

22 (ii) The person provides a copy of a valid Michigan voter
23 registration.

24 (7) If the qualifying patient designates a primary caregiver,
25 a designation as to whether the qualifying patient or primary
26 caregiver will be allowed under state law to possess marihuana
27 plants for the qualifying patient's medical use.

1 (b) The department shall not issue a registry identification
2 card to a qualifying patient who is under the age of 18 unless:

3 (1) The qualifying patient's physician has explained the
4 potential risks and benefits of the medical use of marihuana to the
5 qualifying patient and to his or her parent or legal guardian;

6 (2) The qualifying patient's parent or legal guardian submits
7 a written certification from 2 physicians; and

8 (3) The qualifying patient's parent or legal guardian consents
9 in writing to:

10 (A) Allow the qualifying patient's medical use of marihuana;

11 (B) Serve as the qualifying patient's primary caregiver; and

12 (C) Control the acquisition of the marihuana, the dosage, and
13 the frequency of the medical use of marihuana by the qualifying
14 patient.

15 (c) The department shall verify the information contained in
16 an application or renewal submitted pursuant to this section, and
17 shall approve or deny an application or renewal within 15 business
18 days of receiving it. The department may deny an application or
19 renewal only if the applicant did not provide the information
20 required pursuant to this section, or if the department determines
21 that the information provided was falsified. Rejection of an
22 application or renewal is considered a final department action,
23 subject to judicial review. Jurisdiction and venue for judicial
24 review are vested in the circuit court for the county of Ingham.

25 (d) The department shall issue a registry identification card
26 to the primary caregiver, if any, who is named in a qualifying
27 patient's approved application; provided that each qualifying

1 patient can have no more than 1 primary caregiver, and a primary
2 caregiver may assist no more than 5 qualifying patients with their
3 medical use of marihuana.

4 (e) The department shall issue registry identification cards
5 within 5 business days of approving an application or renewal,
6 which shall expire 2 years after the date of issuance. Registry
7 identification cards shall contain all of the following:

8 (1) Name, address, and date of birth of the qualifying
9 patient.

10 (2) Name, address, and date of birth of the primary caregiver,
11 if any, of the qualifying patient.

12 (3) The date of issuance and expiration date of the registry
13 identification card.

14 (4) A random identification number.

15 (5) A photograph, if the department requires one by rule.

16 (6) A clear designation showing whether the primary caregiver
17 or the qualifying patient will be allowed under state law to
18 possess the marihuana plants for the qualifying patient's medical
19 use, which shall be determined based solely on the qualifying
20 patient's preference.

21 (f) If a registered qualifying patient's certifying physician
22 notifies the department in writing that the patient has ceased to
23 suffer from a debilitating medical condition, the card shall become
24 null and void upon notification by the department to the patient.

25 (g) Possession of, or application for, a registry
26 identification card shall not constitute probable cause or
27 reasonable suspicion, nor shall it be used to support the search of

1 the person or property of the person possessing or applying for the
2 registry identification card, or otherwise subject the person or
3 property of the person to inspection by any local, county or state
4 governmental agency.

5 (h) The following confidentiality rules shall apply:

6 (1) Subject to subdivisions (3) and (4), applications and
7 supporting information submitted by qualifying patients, including
8 information regarding their primary caregivers and physicians, are
9 confidential.

10 (2) The department shall maintain a confidential list of the
11 persons to whom the department has issued registry identification
12 cards. Except as provided in subdivisions (3) and (4), individual
13 names and other identifying information on the list are
14 confidential and are exempt from disclosure under the freedom of
15 information act, 1976 PA 442, MCL 15.231 to 15.246.

16 (3) The department shall verify to law enforcement personnel
17 whether a registry identification card is valid, without disclosing
18 more information than is reasonably necessary to verify the
19 authenticity of the registry identification card.

20 (4) A person, including an employee, contractor, or official
21 of the department or another state agency or local unit of
22 government, who discloses confidential information in violation of
23 this act is guilty of a misdemeanor, punishable by imprisonment for
24 not more than 6 months, or a fine of not more than \$1,000.00, or
25 both. Notwithstanding this provision, department employees may
26 notify law enforcement about falsified or fraudulent information
27 submitted to the department.

1 (i) The department shall submit to the legislature an annual
2 report that does not disclose any identifying information about
3 qualifying patients, primary caregivers, or physicians, but does
4 contain, at a minimum, all of the following information:

5 (1) The number of applications filed for registry
6 identification cards.

7 (2) The number of qualifying patients and primary caregivers
8 approved in each county.

9 (3) The nature of the debilitating medical conditions of the
10 qualifying patients.

11 (4) The number of registry identification cards revoked.

12 (5) The number of physicians providing written certifications
13 for qualifying patients.

14 (j) The department may enter into a contract with a private
15 contractor to assist the department in performing its duties under
16 this section. The contract may provide for assistance in processing
17 and issuing registry identification cards, but the department shall
18 retain the authority to make the final determination as to issuing
19 the registry identification card. Any contract shall include a
20 provision requiring the contractor to preserve the confidentiality
21 of information in conformity with subsection (h).

22 (k) Not later than 6 months after the effective date of the
23 amendatory act that added this subsection, the department shall
24 appoint a panel to review petitions to approve medical conditions
25 or treatments for addition to the list of debilitating medical
26 conditions under the administrative rules. The panel shall meet at
27 least twice each year and shall review and make a recommendation to

1 the department concerning any petitions that have been submitted
2 that are completed and include any documentation required by
3 administrative rule.

4 (1) A majority of the panel members shall be licensed
5 physicians, and the panel shall provide recommendations to the
6 department regarding whether the petitions should be approved or
7 denied.

8 (2) All meetings of the panel are subject to the open meetings
9 act, 1976 PA 267, MCL 15.261 to 15.275.

10 (l) The Michigan medical marihuana fund is created within the
11 state treasury. All fees collected under this act shall be
12 deposited into the fund. The state treasurer may receive money or
13 other assets from any source for deposit into the fund. The state
14 treasurer shall direct the investment of the fund. The state
15 treasurer shall credit to the fund interest and earnings from fund
16 investments. Money in the fund at the close of the fiscal year
17 shall remain in the fund and shall not lapse to the general fund.
18 The department of licensing and regulatory affairs shall be the
19 administrator of the fund for auditing purposes. The department of
20 licensing and regulatory affairs shall expend money from the fund,
21 upon appropriation, for the operation and oversight of the Michigan
22 medical marihuana program **AND FOR THE CREATION AND MAINTENANCE OF**
23 **THE STATEWIDE DATABASE REQUIRED UNDER SECTION 14 OF THE MEDICAL**
24 **MARIHUANA PROVISIONING CENTER REGULATION ACT.**

25 7. Scope of Act.

26 Sec. 7. (a) The medical use of marihuana is allowed under
27 state law to the extent that it is carried out in accordance with

1 the provisions of this act.

2 (b) This act ~~shall~~**DOES** not permit any person to do any of the
3 following:

4 (1) Undertake any task under the influence of marihuana, when
5 doing so would constitute negligence or professional malpractice.

6 (2) Possess marihuana **OR USABLE MARIHUANA**, or otherwise engage
7 in the medical use of marihuana **AT ANY OF THE FOLLOWING LOCATIONS:**

8 (A) ~~in~~**IN** a school bus. †

9 (B) ~~en~~**ON** the grounds of any preschool or primary or secondary
10 school. †~~or~~

11 (C) ~~in~~**IN** any correctional facility.

12 (3) Smoke marihuana **AT ANY OF THE FOLLOWING LOCATIONS:**

13 (A) ~~en~~**ON** any form of public transportation. †~~or~~

14 (B) ~~in~~**IN** any public place.

15 (4) Operate, navigate, or be in actual physical control of any
16 motor vehicle, aircraft, or motorboat while under the influence of
17 marihuana.

18 (5) Use marihuana **OR USABLE MARIHUANA** if that person does not
19 have a serious or debilitating medical condition.

20 (c) Nothing in this act shall be construed to require **ANY OF**
21 **THE FOLLOWING:**

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

25 (2) An employer to accommodate the ingestion of marihuana **OR**
26 **USABLE MARIHUANA** in any workplace or any employee working while
27 under the influence of marihuana **OR USABLE MARIHUANA**.

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 ~~shall be~~ **IS** punishable by a fine of
4 \$500.00, which ~~shall be~~ **IS** in addition to any other penalties that
5 may apply for making a false statement or for the use of marihuana
6 **OR USABLE MARIHUANA** other than use undertaken pursuant to 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 8. Affirmative Defense and Dismissal for Medical Marihuana.

11 Sec. 8. (a) Except as provided in section 7(b), a patient and
12 a patient's primary caregiver, if any, may assert the medical
13 purpose for using marihuana **OR USABLE MARIHUANA** as a defense to any
14 prosecution involving marihuana **OR USABLE MARIHUANA**, and this
15 defense shall be presumed valid where the evidence shows that:

16 (1) A physician has stated that, in the physician's
17 professional opinion, after having completed a full assessment of
18 the patient's medical history and current medical condition made in
19 the course of a bona fide physician-patient relationship, the
20 patient is likely to receive therapeutic or palliative benefit from
21 the medical use of marihuana to treat or alleviate the patient's
22 serious or debilitating medical condition or symptoms of the
23 patient's serious or debilitating medical condition;

24 (2) The patient and the patient's primary caregiver, if any,
25 were collectively in possession of a quantity of marihuana **OR**
26 **USABLE MARIHUANA** that was not more than was reasonably necessary to
27 ensure the uninterrupted availability of marihuana **OR USABLE**

1 **MARIHUANA** for the purpose of treating or alleviating the patient's
2 serious or debilitating medical condition or symptoms of the
3 patient's serious or debilitating medical condition; and

4 (3) The patient and the patient's primary caregiver, if any,
5 were engaged in the acquisition, possession, cultivation,
6 manufacture, use, delivery, transfer, or transportation of
7 marihuana, **USABLE MARIHUANA**, or paraphernalia, relating to the use
8 of marihuana to treat or alleviate the patient's serious or
9 debilitating medical condition or symptoms of the patient's serious
10 or debilitating medical condition.

11 (b) A person may assert the medical purpose for using
12 marihuana **OR USABLE MARIHUANA** in a motion to dismiss, and the
13 charges shall be dismissed following an evidentiary hearing where
14 the person shows the elements listed in subsection (a).

15 (c) If a patient or a patient's primary caregiver demonstrates
16 the patient's medical purpose for using marihuana **OR USABLE**
17 **MARIHUANA** pursuant to this section, the patient and the patient's
18 primary caregiver ~~shall~~**ARE** not ~~be~~ subject to **ANY OF** the following
19 for the patient's medical use of marihuana:

20 (1) ~~disciplinary~~**DISCIPLINARY** action by a business or
21 occupational or professional licensing board or bureau. ~~+~~~~or~~

22 (2) ~~forfeiture~~**FORFEITURE** of any interest in or right to
23 property.

24 Enacting section 1. This amendatory act takes effect July 1,
25 2015.

26 Enacting section 2. This amendatory act clarifies ambiguities
27 in the law in accordance with the original intent of the people, as

1 expressed in section 2(b) of the Michigan medical marihuana act,
2 2008 IL 1, MCL 333.26422:

3 " (b) Data from the Federal Bureau of Investigation Uniform
4 Crime Reports and the Compendium of Federal Justice Statistics show
5 that approximately 99 out of every 100 marihuana arrests in the
6 United States are made under state law, rather than under federal
7 law. *Consequently, changing state law will have the practical*
8 *effect of protecting from arrest the vast majority of seriously ill*
9 *people who have a medical need to use marihuana.*" [Emphasis
10 added.]

11 This amendatory act is curative and applies retroactively as
12 to the following: clarifying the quantities and forms of marihuana
13 for which a person is protected from arrest, precluding an
14 interpretation of "weight" as aggregate weight, and excluding an
15 added inactive substrate component of a preparation in determining
16 the amount of marihuana, medical marihuana, or usable marihuana
17 that constitutes an offense.