

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1262

A bill to amend 2016 PA 281, entitled  
"Medical marihuana facilities licensing act,"  
by amending sections 102, 207, 301, 305, 401, 402, 406, 407, 409,  
and 702 (MCL 333.27102, 333.27207, 333.27301, 333.27305, 333.27401,  
333.27402, 333.27406, 333.27407, 333.27409, and 333.27702), section  
102 as amended by 2018 PA 10 and section 402 as amended by 2017 PA  
105, and by adding section 407a; and to repeal acts and parts of  
acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 102. As used in this act:

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

4           (b) "Affiliate" means any person that controls, is controlled  
5 by, or is under common control with; is in a partnership or joint

1 venture relationship with; or is a co-shareholder of a corporation,  
2 a co-member of a limited liability company, or a co-partner in a  
3 limited liability partnership with a licensee or applicant.

4 (c) "Applicant" means a person who applies for a state  
5 operating license. ~~With~~ **APPLICANT INCLUDES, WITH** respect to  
6 disclosures in an application, ~~or~~ for purposes of ineligibility for  
7 a license under section 402, ~~the term applicant includes an~~  
8 ~~officer, director, and managerial employee of the applicant and a~~  
9 ~~person who holds any direct or indirect ownership interest in the~~  
10 ~~applicant.~~ **OR FOR PURPOSES OF PRIOR BOARD APPROVAL OF A TRANSFER OF**  
11 **INTEREST UNDER SECTION 406, AND ONLY FOR APPLICATIONS SUBMITTED ON**  
12 **OR AFTER JANUARY 1, 2019, A MANAGERIAL EMPLOYEE OF THE APPLICANT, A**  
13 **PERSON HOLDING AN INDIRECT OWNERSHIP INTEREST OF 10% OR MORE IN THE**  
14 **APPLICANT, AND THE FOLLOWING FOR EACH TYPE OF APPLICANT:**

15 (i) FOR AN INDIVIDUAL OR SOLE PROPRIETORSHIP: THE PROPRIETOR  
16 AND SPOUSE.

17 (ii) FOR A PARTNERSHIP AND LIMITED LIABILITY PARTNERSHIP: ALL  
18 PARTNERS AND THEIR SPOUSES. FOR A LIMITED PARTNERSHIP AND LIMITED  
19 LIABILITY LIMITED PARTNERSHIP: ALL GENERAL AND LIMITED PARTNERS,  
20 NOT INCLUDING A LIMITED PARTNER HOLDING A DIRECT OR INDIRECT  
21 OWNERSHIP INTEREST OF LESS THAN 10% AND WHO DOES NOT EXERCISE  
22 CONTROL OVER OR PARTICIPATE IN THE MANAGEMENT OF THE PARTNERSHIP,  
23 AND THEIR SPOUSES. FOR A LIMITED LIABILITY COMPANY: ALL MEMBERS AND  
24 MANAGERS, NOT INCLUDING A MEMBER HOLDING A DIRECT OR INDIRECT  
25 OWNERSHIP INTEREST OF LESS THAN 10% AND WHO DOES NOT EXERCISE  
26 CONTROL OVER OR PARTICIPATE IN THE MANAGEMENT OF THE COMPANY, AND  
27 THEIR SPOUSES.

1           (iii) FOR A PRIVATELY HELD CORPORATION: ALL CORPORATE OFFICERS  
2 OR PERSONS WITH EQUIVALENT TITLES AND THEIR SPOUSES, ALL DIRECTORS  
3 AND THEIR SPOUSES, AND ALL STOCKHOLDERS, NOT INCLUDING THOSE  
4 HOLDING A DIRECT OR INDIRECT OWNERSHIP INTEREST OF LESS THAN 10%,  
5 AND THEIR SPOUSES.

6           (iv) FOR A PUBLICLY HELD CORPORATION: ALL CORPORATE OFFICERS  
7 OR PERSONS WITH EQUIVALENT TITLES AND THEIR SPOUSES, ALL DIRECTORS  
8 AND THEIR SPOUSES, AND ALL STOCKHOLDERS, NOT INCLUDING THOSE  
9 HOLDING A DIRECT OR INDIRECT OWNERSHIP INTEREST OF LESS THAN 10%,  
10 AND THEIR SPOUSES.

11           (v) FOR A MULTILEVEL OWNERSHIP ENTERPRISE: ANY ENTITY OR  
12 PERSON THAT RECEIVES OR HAS THE RIGHT TO RECEIVE 10% OR MORE OF THE  
13 GROSS OR NET PROFIT FROM THE ENTERPRISE DURING ANY FULL OR PARTIAL  
14 CALENDAR OR FISCAL YEAR.

15           (vi) FOR A NONPROFIT CORPORATION: ALL INDIVIDUALS AND ENTITIES  
16 WITH MEMBERSHIP OR SHAREHOLDER RIGHTS IN ACCORDANCE WITH THE  
17 ARTICLES OF INCORPORATION OR THE BYLAWS AND THEIR SPOUSES.

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

20           (e) "Cutting" means a section of a lead stem or root stock  
21 that is used for vegetative asexual propagation.

22           (f) "Department" means the department of licensing and  
23 regulatory affairs.

24           (g) "Grower" means a licensee that is a commercial entity  
25 located in this state that cultivates, dries, trims, or cures and  
26 packages marihuana for sale to a processor, provisioning center, or  
27 another grower.

1 (H) "INDUSTRIAL HEMP" MEANS THAT TERM AS DEFINED IN SECTION  
2 7106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7106.

3 (I) "INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT" MEANS THE  
4 INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT, 2014 PA 547.

5 (J) ~~(h)~~ "Licensee" means a person holding a state operating  
6 license.

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

9 (L) ~~(j)~~ "Marihuana facility" means a location at which a  
10 licensee is licensed to operate under this act.

11 (M) ~~(k)~~ "Marihuana plant" means any plant of the species  
12 *Cannabis sativa* L. **MARIHUANA PLANT DOES NOT INCLUDE INDUSTRIAL**  
13 **HEMP.**

14 (N) ~~(l)~~ "Marihuana-infused product" means a topical  
15 formulation, tincture, beverage, edible substance, or similar  
16 product containing any usable marihuana that is intended for human  
17 consumption in a manner other than smoke inhalation. Marihuana-  
18 infused product is not considered a food for purposes of the food  
19 law, 2000 PA 92, MCL 289.1101 to 289.8111.

20 (O) ~~(m)~~ "Marihuana tracking act" means the marihuana tracking  
21 act, 2016 PA 282, MCL 333.27901 to 333.27904.

22 (P) ~~(n)~~ "Michigan medical marihuana act" means the Michigan  
23 medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

24 (Q) ~~(o)~~ "Municipality" means a city, township, or village.

25 (R) ~~(p)~~ "Paraphernalia" means any equipment, product, or  
26 material of any kind that is designed for or used in growing,  
27 cultivating, producing, manufacturing, compounding, converting,

1 storing, processing, preparing, transporting, injecting, smoking,  
2 ingesting, inhaling, or otherwise introducing into the human body,  
3 marihuana.

4 (S) ~~(e)~~ "Person" means an individual, corporation, limited  
5 liability company, partnership, limited partnership, limited  
6 liability partnership, limited liability limited partnership,  
7 trust, or other legal entity.

8 (T) ~~(r)~~ "Plant" means any living organism that produces its  
9 own food through photosynthesis and has observable root formation  
10 or is in growth material.

11 (U) ~~(s)~~ "Processor" means a licensee that is a commercial  
12 entity located in this state that purchases marihuana from a grower  
13 and that extracts resin from the marihuana or creates a marihuana-  
14 infused product for sale and transfer in packaged form to a  
15 provisioning center or another processor.

16 (V) ~~(t)~~ "Provisioning center" means a licensee that is a  
17 commercial entity located in this state that purchases marihuana  
18 from a grower or processor and sells, supplies, or provides  
19 marihuana to registered qualifying patients, directly or through  
20 the patients' registered primary caregivers. Provisioning center  
21 includes any commercial property where marihuana is sold at retail  
22 to registered qualifying patients or registered primary caregivers.  
23 A noncommercial location used by a primary caregiver to assist a  
24 qualifying patient connected to the caregiver through the  
25 department's marihuana registration process in accordance with the  
26 Michigan medical marihuana act is not a provisioning center for  
27 purposes of this act.

1           **(W)** ~~(u)~~—"Registered primary caregiver" means a primary  
2 caregiver who has been issued a current registry identification  
3 card under the Michigan medical marihuana act.

4           **(X)** ~~(v)~~—"Registered qualifying patient" means a qualifying  
5 patient who has been issued a current registry identification card  
6 under the Michigan medical marihuana act or a visiting qualifying  
7 patient as that term is defined in section 3 of the Michigan  
8 medical marihuana act, MCL 333.26423.

9           **(Y)** ~~(w)~~—"Registry identification card" means that term as  
10 defined in section 3 of the Michigan medical marihuana act, MCL  
11 333.26423.

12           **(Z)** ~~(x)~~—"Rules" means rules promulgated under the  
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
14 24.328, by the department in consultation with the board to  
15 implement this act.

16           **(AA)** ~~(y)~~—"Safety compliance facility" means a licensee that is  
17 a commercial entity that takes marihuana from a marihuana facility  
18 or receives marihuana from a registered primary caregiver, tests  
19 the marihuana for contaminants and for tetrahydrocannabinol and  
20 other cannabinoids, returns the test results, and may return the  
21 marihuana to the marihuana facility.

22           **(BB)** ~~(z)~~—"Secure transporter" means a licensee that is a  
23 commercial entity located in this state that stores marihuana and  
24 transports marihuana between marihuana facilities for a fee.

25           **(CC)** ~~(aa)~~—"Seed" means the fertilized, ungerminated, matured  
26 ovule, containing an embryo or rudimentary plant, of a marihuana  
27 plant that is flowering.

1           **(DD)** ~~(bb)~~ "Seedling" means a marihuana plant that has  
2 germinated and has not flowered and is not harvestable.

3           **(EE)** ~~(ee)~~ "State operating license" or, unless the context  
4 requires a different meaning, "license" means a license that is  
5 issued under this act that allows the licensee to operate as 1 of  
6 the following, specified in the license:

7           (i) A grower.

8           (ii) A processor.

9           (iii) A secure transporter.

10          (iv) A provisioning center.

11          (v) A safety compliance facility.

12          **(FF)** ~~(dd)~~ "Statewide monitoring system" or, unless the context  
13 requires a different meaning, "system" means an internet-based,  
14 statewide database established, implemented, and maintained by the  
15 department under the marihuana tracking act, that is available to  
16 licensees, law enforcement agencies, and authorized state  
17 departments and agencies on a 24-hour basis for all of the  
18 following:

19           (i) Verifying registry identification cards.

20           (ii) Tracking marihuana transfer and transportation by  
21 licensees, including transferee, date, quantity, and price.

22           (iii) Verifying in commercially reasonable time that a  
23 transfer will not exceed the limit that the patient or caregiver is  
24 authorized to receive under section 4 of the Michigan medical  
25 marihuana act, MCL 333.26424.

26          **(GG)** ~~(ee)~~ "Tissue culture" means a marihuana plant cell,  
27 cutting, tissue, or organ, that is kept under a sterile condition

1 on a nutrient culture medium of known composition and that does not  
2 have visible root formation. A tissue culture is not a marihuana  
3 plant for purposes of a grower.

4 **(HH)** ~~(ff)~~—"Usable marihuana" means the dried leaves, flowers,  
5 plant resin, or extract of the marihuana plant, but does not  
6 include the seeds, stalks, and roots of the plant.

7 Sec. 207. **(1) A—EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**  
8 **(2), A** licensee shall adopt and use a third-party inventory control  
9 and tracking system that is capable of interfacing with the  
10 statewide monitoring system to allow the licensee to enter or  
11 access information in the statewide monitoring system as required  
12 under this act and rules. The third-party inventory control and  
13 tracking system must have all of the following capabilities  
14 necessary for the licensee to comply with the requirements  
15 applicable to the licensee's license type:

16 (a) Tracking all marihuana plants, products, packages, patient  
17 and primary caregiver purchase totals, waste, transfers,  
18 conversions, sales, and returns that are linked to unique  
19 identification numbers.

20 (b) Tracking lot and batch information throughout the entire  
21 chain of custody.

22 (c) Tracking all products, conversions, and derivatives  
23 throughout the entire chain of custody.

24 (d) Tracking marihuana plant, batch, and product destruction.

25 (e) Tracking transportation of product.

26 (f) Performing complete batch recall tracking that clearly  
27 identifies all of the following details relating to the specific



1 batch subject to the recall:

2 (i) Sold product.

3 (ii) Product inventory that is finished and available for  
4 sale.

5 (iii) Product that is in the process of transfer.

6 (iv) Product being processed into another form.

7 (v) Postharvest raw product, such as product that is in the  
8 drying, trimming, or curing process.

9 (g) Reporting and tracking loss, theft, or diversion of  
10 product containing marihuana.

11 (h) Reporting and tracking all inventory discrepancies.

12 (i) Reporting and tracking adverse patient responses or dose-  
13 related efficacy issues.

14 (j) Reporting and tracking all sales and refunds.

15 (k) Electronically receiving and transmitting information as  
16 required under this act, the Michigan medical marihuana act, 2008  
17 IL 1, MCL 333.26421 to 333.26430, and the marihuana tracking act.

18 (l) Receiving testing results electronically from a safety  
19 compliance facility via a secured application program interface  
20 into the system and directly linking the testing results to each  
21 applicable source batch and sample.

22 (m) Identifying test results that may have been altered.

23 (n) Providing the licensee with access to information in the  
24 tracking system that is necessary to verify that the licensee is  
25 carrying out the marihuana transactions authorized under the  
26 licensee's license in accordance with this act.

27 (o) Providing information to cross-check that product sales

1 are made to a registered qualifying patient or a registered primary  
2 caregiver on behalf of a registered qualifying patient and that the  
3 product received the required testing.

4 (p) Providing the department and state agencies with access to  
5 information in the database that they are authorized to access.

6 (q) Providing law enforcement agencies with access to only the  
7 information in the database that is necessary to verify that an  
8 individual possesses a valid and current registry identification  
9 card.

10 (r) Providing licensees with access only to the information in  
11 the system that they are required to receive before a sale,  
12 transfer, transport, or other activity authorized under a license  
13 issued under this act.

14 (s) Securing the confidentiality of information in the  
15 database by preventing access by a person who is not authorized to  
16 access the statewide monitoring system or is not authorized to  
17 access the particular information.

18 (t) Providing analytics to the department regarding key  
19 performance indicators such as the following:

20 (i) Total daily sales.

21 (ii) Total marihuana plants in production.

22 (iii) Total marihuana plants destroyed.

23 (iv) Total inventory adjustments.

24 **(2) IF THE STATEWIDE MONITORING SYSTEM IS CAPABLE OF ALLOWING**  
25 **A LICENSEE TO ACCESS OR ENTER INFORMATION INTO THE STATEWIDE**  
26 **MONITORING SYSTEM WITHOUT USE OF A THIRD-PARTY INVENTORY CONTROL**  
27 **AND TRACKING SYSTEM, A LICENSEE MAY ACCESS OR ENTER INFORMATION**

1 INTO THE STATEWIDE MONITORING SYSTEM DIRECTLY AND THE LICENSEE IS  
2 NOT REQUIRED TO ADOPT AND USE A THIRD-PARTY INVENTORY CONTROL AND  
3 TRACKING SYSTEM.

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

6 (2) The board consists of 5 members who are residents of this  
7 state, not more than 3 of whom are members of the same political  
8 party. The governor shall appoint the members. One of the members  
9 shall be appointed from 3 nominees submitted by the senate majority  
10 leader and 1 from 3 nominees submitted by the speaker of the house.  
11 The governor shall designate 1 of the members as chairperson.

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

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

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

25 (6) A person who is not of good moral character or who has  
26 been indicted for, charged with, or convicted of, pled guilty or  
27 nolo contendere to, or forfeited bail concerning any felony or a

1 misdemeanor involving a controlled substance violation, theft,  
2 dishonesty, or fraud under the laws of this state, any other state,  
3 or the United States or a local ordinance in any state involving a  
4 controlled substance violation, dishonesty, theft, or fraud that  
5 substantially corresponds to a misdemeanor in that state is not  
6 eligible to serve on the board.

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

10 ~~— (8) The department in conjunction with the board shall employ~~  
11 ~~an executive director and other personnel as necessary to assist~~  
12 ~~the board in carrying out its duties. The executive director shall~~  
13 ~~devote his or her full time to the duties of the office and shall~~  
14 ~~not hold any other office or employment.~~

15 (8) ~~(9)~~—The board shall not appoint or employ an individual if  
16 any of the following circumstances exist:

17 (a) During the 3 years immediately preceding appointment or  
18 employment, the individual held any direct or indirect interest in,  
19 or was employed by, a person who is licensed to operate under this  
20 act or under a corresponding license in another jurisdiction or a  
21 person with an application for an operating license pending before  
22 the board or in any other jurisdiction. The board shall not employ  
23 an individual who has a direct or indirect interest in a licensee  
24 or a marihuana facility.

25 (b) The individual or his or her spouse, parent, child,  
26 child's spouse, sibling, or spouse of a sibling has an application  
27 for a license pending before the board or is a member of the board

1 of directors of, or an individual financially interested in, any  
2 licensee or marihuana facility.

3       **(9)** ~~(10)~~—Each member of the board ~~, the executive director,~~  
4 and each key employee as determined by the department shall file  
5 with the governor a financial disclosure statement listing all  
6 assets and liabilities, property and business interests, and  
7 sources of income of the member ~~, executive director,~~ and key  
8 employee and his or her spouse, if any, affirming that the member  ~~or~~  
9  ~~executive director,~~ and key employee are in compliance with  
10 subsection ~~(9)(a)~~ **(8) (A)** and (b). The financial disclosure  
11 statement shall be made under oath and filed at the time of  
12 employment and annually thereafter.

13       **(10)** ~~(11)~~—Each employee of the board shall file with the board  
14 a financial disclosure statement listing all assets and  
15 liabilities, property and business interests, and sources of income  
16 of the employee and his or her spouse. This subsection does not  
17 apply to ~~the executive director or~~ a key employee.

18       **(11)** ~~(12)~~—A member of the board ~~, executive director,~~ or key  
19 employee shall not hold any direct or indirect interest in, be  
20 employed by, or enter into a contract for services with an  
21 applicant, a board licensee, or a marihuana facility for a period  
22 of 4 years after the date his or her employment or membership on  
23 the board terminates. The department in consultation with the board  
24 shall define the term "direct or indirect interest" by rule.

25       **(12)** ~~(13)~~—For 2 years after the date his or her employment  
26 with the board is terminated, an employee of the board shall not  
27 acquire any direct or indirect interest in, be employed by, or

1 enter into a contract for services with any applicant, licensee, or  
2 marihuana facility.

3       **(13)** ~~(14)~~—For 2 years after the termination of his or her  
4 office or employment with the board, a board member or an  
5 individual employed by the board shall not represent any person or  
6 party other than this state before or against the board.

7       **(14)** ~~(15)~~—A business entity in which a former board member or  
8 employee or agent has an interest, or any partner, officer, or  
9 employee of the business entity, shall not make any appearance or  
10 represent a party that the former member, employee, or agent is  
11 prohibited from appearing for or representing. As used in this  
12 subsection, "business entity" means a corporation, limited  
13 liability company, partnership, limited liability partnership,  
14 association, trust, or other form of legal entity.

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

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

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

26       (c) Discloses any legal or beneficial interests in any real  
27 property that is or that may be directly or indirectly involved

1 with operations authorized by this act.

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

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

7 (a) Affirms the absence of financial interests prohibited by  
8 this act.

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

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

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

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

24 (4) A member, employee, or agent of the board who within the  
25 previous 10 years has been indicted for, charged with, or convicted  
26 of, pled guilty or nolo contendere to, or forfeited bail concerning  
27 a misdemeanor involving controlled substances, dishonesty, theft,

1 or fraud or a local ordinance in any state involving controlled  
2 substances, dishonesty, theft, or fraud that substantially  
3 corresponds to a misdemeanor in that state, or a felony under  
4 Michigan law, the laws of any other state, or the laws of the  
5 United States or any other jurisdiction shall immediately provide  
6 detailed written notice of the conviction or charge to the  
7 chairperson.

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

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

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



1 take action on behalf of the board with respect to the person.

2 (8) A licensee or applicant shall not knowingly initiate a  
3 negotiation for or discussion of employment with a member,  
4 employee, or agent of the board. A licensee or applicant who  
5 initiates a negotiation or discussion about employment shall  
6 immediately provide written notice of the details of the  
7 negotiation or discussion to the chairperson as soon as he or she  
8 becomes aware that the negotiation or discussion has been initiated  
9 with a member, employee, or agent of the board.

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

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

1           (11) A licensee or applicant, or an affiliate or  
2 representative of an applicant or licensee, shall not, directly or  
3 indirectly, give or offer to give any gift, gratuity, compensation,  
4 travel, lodging, or anything of value to any member, employee, or  
5 agent of the board that the member, employee, or agent of the board  
6 is prohibited from accepting under subsection (10).

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

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

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

24           (15) A former member, employee, or agent of the board may  
25 appear before the board as a fact witness about matters or actions  
26 handled by the member, employee, or agent during his or her tenure  
27 as a member, employee, or agent of the board. The member, employee,

1 or agent of the board shall not receive compensation for such an  
2 appearance other than a standard witness fee and reimbursement for  
3 travel expenses as established by statute or court rule.

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

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

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

1 appropriate. If the chairperson receives such an ex parte  
2 communication, he or she shall report the communication to the  
3 governor's office for appropriate action.

4 (19) A new or current employee or agent of the board shall  
5 obtain written permission from the ~~executive director~~ **OF THE**  
6 **DEPARTMENT OR HIS OR HER DESIGNEE** before continuing outside  
7 employment held at the time the employee begins to work for the  
8 board. Permission shall be denied, or permission previously granted  
9 shall be revoked, if the ~~executive director~~ **OF THE DEPARTMENT OR**  
10 **HIS OR HER DESIGNEE** considers the nature of the work to create a  
11 possible conflict of interest or if it would otherwise interfere  
12 with the duties of the employee or agent for the board.

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

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

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

27 (23) If a licensee or applicant, or an affiliate or

1 representative of a licensee or applicant, violates this section,  
2 the board may deny a license application, revoke or suspend a  
3 license, or take other disciplinary action as provided in section  
4 407.

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

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

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

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

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

1 (26) Violation of this section does not create a civil cause  
2 of action.

3 (27) As used in this section:

4 (a) "Outside employment", in addition to employment by a third  
5 party, includes, but is not limited to, the following:

6 (i) Operation of a proprietorship.

7 (ii) Participation in a partnership or group business  
8 enterprise.

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

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

13 (b) "Political activity" or "politically related activity"  
14 includes all of the following:

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

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

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

21 (iv) Knowingly soliciting or discouraging the participation in  
22 any political activity of any person who is either of the  
23 following:

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

26 (B) The subject of or a participant in an ongoing audit,  
27 investigation, or enforcement action being carried out by the

1 board.

2           Sec. 401. (1) Beginning ~~360 days after the effective date of~~  
3 ~~this act, **DECEMBER 15, 2017,**~~ a person may apply to the board for  
4 state operating licenses in the categories of class A, B, or C  
5 grower; processor; provisioning center; secure transporter; and  
6 safety compliance facility as provided in this act. The application  
7 shall be made under oath on a form provided by the board and shall  
8 contain information as prescribed by the board, including, but not  
9 limited to, all of the following:

10           (a) The name, business address, business telephone number,  
11 ~~social security~~ **SOCIAL SECURITY** number, and, if applicable, federal  
12 tax identification number of the applicant.

13           (b) The identity of every person having any ownership interest  
14 in the applicant with respect to which the license is sought. If  
15 the disclosed entity is a trust, the application shall disclose the  
16 names and addresses of the beneficiaries; if a **PRIVATELY HELD**  
17 corporation, the names and addresses of all shareholders, officers,  
18 and directors; **IF A PUBLICLY HELD CORPORATION, THE NAMES AND**  
19 **ADDRESSES OF ALL SHAREHOLDERS HOLDING A DIRECT OR INDIRECT INTEREST**  
20 **OF GREATER THAN 5%, OFFICERS, AND DIRECTORS;** if a partnership or  
21 limited liability partnership, the names and addresses of all  
22 partners; if a limited partnership or limited liability limited  
23 partnership, the names of all partners, both general and limited;  
24 or if a limited liability company, the names and addresses of all  
25 members and managers.

26           (c) An identification of any business that is directly or  
27 indirectly involved in the growing, processing, testing,

1 transporting, or sale of marihuana, including, if applicable, the  
2 state of incorporation or registration, in which an applicant or,  
3 if the applicant is an individual, the applicant's spouse, parent,  
4 or child has any equity interest. If an applicant is a corporation,  
5 partnership, or other business entity, the applicant shall identify  
6 any other corporation, partnership, or other business entity that  
7 is directly or indirectly involved in the growing, processing,  
8 testing, transporting, or sale of marihuana in which it has any  
9 equity interest, including, if applicable, the state of  
10 incorporation or registration. An applicant may comply with this  
11 subdivision by filing a copy of the applicant's registration with  
12 the Securities and Exchange Commission if the registration contains  
13 the information required by this subdivision.

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

24 (e) Whether an applicant has ever applied for or has been  
25 granted any commercial license or certificate issued by a licensing  
26 authority in Michigan or any other jurisdiction that has been  
27 denied, restricted, suspended, revoked, or not renewed and a



1 statement describing the facts and circumstances concerning the  
2 application, denial, restriction, suspension, revocation, or  
3 nonrenewal, including the licensing authority, the date each action  
4 was taken, and the reason for each action.

5 (f) Whether an applicant has filed, or been served with, a  
6 complaint or other notice filed with any public body, regarding the  
7 delinquency in the payment of, or a dispute over the filings  
8 concerning the payment of, any tax required under federal, state,  
9 or local law, including the amount, type of tax, taxing agency, and  
10 time periods involved.

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

21 (h) A description of the type of marihuana facility;  
22 anticipated or actual number of employees; and projected or actual  
23 gross receipts.

24 (i) Financial information in the manner and form prescribed by  
25 the board.

26 (j) A paper copy or electronic posting website reference for  
27 the ordinance or zoning restriction that the municipality adopted

1 to authorize or restrict operation of 1 or more marihuana  
2 facilities in the municipality.

3 (k) A copy of the notice informing the municipality by  
4 registered mail that the applicant has applied for a license under  
5 this act. The applicant shall also certify that it has delivered  
6 the notice to the municipality or will do so by 10 days after the  
7 date the applicant submits the application for a license to the  
8 board.

9 (l) Any other information the department requires by rule.

10 (2) The board shall use information provided on the  
11 application as a basis to conduct a thorough background  
12 investigation on the applicant. A false application is cause for  
13 the board to deny a license. The board shall not consider an  
14 incomplete application but shall, within a reasonable time, return  
15 the application to the applicant with notification of the  
16 deficiency and instructions for submitting a corrected application.  
17 Information the board obtains from the background investigation is  
18 exempt from disclosure under the freedom of information act, 1976  
19 PA 442, MCL 15.231 to 15.246.

20 (3) An applicant must provide written consent to the  
21 inspections, examinations, searches, and seizures provided for in  
22 section 303(1)(c)(i) to (iv) and to disclosure to the board and its  
23 agents of otherwise confidential records, including tax records  
24 held by any federal, state, or local agency, or credit bureau or  
25 financial institution, while applying for or holding a license.  
26 Information the board receives under this subsection is exempt from  
27 disclosure under the freedom of information act, 1976 PA 442, MCL

1 15.231 to 15.246.

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

5 (5) A nonrefundable application fee must be paid at the time  
6 of filing to defray the costs associated with the background  
7 investigation conducted by the board. The department in  
8 consultation with the board shall set the amount of the application  
9 fee for each category and class of license by rule. If the costs of  
10 the investigation and processing the application exceed the  
11 application fee, the applicant shall pay the additional amount to  
12 the board. All information, records, interviews, reports,  
13 statements, memoranda, or other data supplied to or used by the  
14 board in the course of its review or investigation of an  
15 application for a license under this act shall be disclosed only in  
16 accordance with this act. The information, records, interviews,  
17 reports, statements, memoranda, or other data are not admissible as  
18 evidence or discoverable in any action of any kind in any court or  
19 before any tribunal, board, agency, or person, except for any  
20 action considered necessary by the board.

21 (6) By 10 days after the date the applicant submits an  
22 application to the board, the applicant shall notify the  
23 municipality by registered mail that it has applied for a license  
24 under this act.

25 Sec. 402. (1) The board shall issue a license to an applicant  
26 who submits a complete application and pays both the nonrefundable  
27 application fee required under section 401(5) and the regulatory

1 assessment established by the board for the first year of  
2 operation, if the board determines that the applicant is qualified  
3 to receive a license under this act.

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

6 (a) The applicant has been convicted of or released from  
7 incarceration for a felony under the laws of this state, any other  
8 state, or the United States within the past 10 years or has been  
9 convicted of a controlled substance-related felony within the past  
10 10 years.

11 (b) Within the past 5 years the applicant has been convicted  
12 of a misdemeanor involving a controlled substance, theft,  
13 dishonesty, or fraud in any state or been found responsible for  
14 violating a local ordinance in any state involving a controlled  
15 substance, dishonesty, theft, or fraud that substantially  
16 corresponds to a misdemeanor in that state.

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

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

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

23 (f) The applicant holds an elective office of a governmental  
24 unit of this state, another state, or the federal government; is a  
25 member of or employed by a regulatory body of a governmental unit  
26 in this state, another state, or the federal government; or is  
27 employed by a governmental unit of this state. This subdivision

1 does not apply to an elected officer of or employee of a federally  
2 recognized Indian tribe or to an elected precinct delegate.

3 ~~— (g) The applicant, if an individual, has been a resident of~~  
4 ~~this state for less than a continuous 2-year period immediately~~  
5 ~~preceding the date of filing the application. The requirements in~~  
6 ~~this subdivision do not apply after June 30, 2018.~~

7 (G) ~~(h)~~—The board determines that the applicant is not in  
8 compliance with section 205(1).

9 (H) ~~(i)~~—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 submit with its application, on forms~~  
20 ~~provided by the board, a passport quality photograph and shall~~  
21 ensure that 1 set of fingerprints is submitted to the department of  
22 state police. ~~for each person having any ownership interest in the~~  
23 ~~marihuana facility and each person who is an officer, director, or~~  
24 ~~managerial employee of the applicant, in order for the department~~  
25 ~~of state police to conduct a criminal history check on each person~~  
26 ~~and to forward each person's fingerprints to the Federal Bureau of~~  
27 ~~Investigation for a national criminal history check.~~ The applicant

1 shall submit with its application ~~each person's~~ **THE APPLICANT'S**  
2 written consent to the criminal history check described in this  
3 section and the submission of ~~each person's~~ **THE APPLICANT'S**  
4 fingerprints to, and the inclusion of ~~each person's~~ **THE APPLICANT'S**  
5 fingerprints in, the state and federal database systems described  
6 in subsection (7).

7 (5) The fingerprints required under subsection (4) may be  
8 taken by a law enforcement agency or any other person determined by  
9 the department of state police to be qualified to take  
10 fingerprints. The applicant shall submit a fingerprint processing  
11 fee to the department in an amount required under section 3 of 1935  
12 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of  
13 Investigation.

14 (6) The department of state police shall ~~conduct~~ **DO ALL OF THE**  
15 **FOLLOWING:**

16 (A) **CONDUCT** a criminal history check on each ~~person described~~  
17 ~~in subsection (4)~~ **APPLICANT** and shall request the Federal Bureau of  
18 Investigation to make a determination of the existence of any  
19 national criminal history pertaining to each ~~person~~. ~~The department~~  
20 ~~of state police shall provide~~ **APPLICANT**.

21 (B) **PROVIDE** the board with a written report containing the  
22 criminal history record information of each ~~person who was the~~  
23 ~~subject of the criminal history check conducted under this~~  
24 ~~section~~. **APPLICANT**.

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

27 (a) The department of state police shall store and retain all

1 fingerprints submitted under this section in an automated  
2 fingerprint identification system database that searches against  
3 latent fingerprints, and provides for an automatic notification if  
4 and when a subsequent fingerprint is submitted into the system that  
5 matches a set of fingerprints previously submitted under this  
6 section or if and when the criminal history of an individual whose  
7 fingerprints are retained in the system is updated. Upon receiving  
8 a notification, the department of state police shall immediately  
9 notify the board. Information in the database maintained under this  
10 subsection is confidential, is not subject to disclosure under the  
11 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and  
12 shall not be disclosed to any person except for purposes of this  
13 act or for law enforcement purposes.

14 (b) The department of state police shall forward all  
15 fingerprints submitted to it under this section to the Federal  
16 Bureau of Investigation for submission of those fingerprints into  
17 the FBI automatic notification system. This subdivision does not  
18 apply until the department of state police is a participant in the  
19 FBI automatic notification system. As used in this subdivision:

20 (i) "Automatic notification system" means a system that stores  
21 and retains fingerprints, and that provides for an automatic  
22 notification to a participant if and when a fingerprint is  
23 submitted into the system that matches an individual whose  
24 fingerprints are retained in the system or if and when the criminal  
25 history of an individual whose fingerprints are retained in the  
26 system is updated.

27 (ii) "FBI automatic notification system" means the automatic



1 notification system that is maintained by the Federal Bureau of  
2 Investigation.

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

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

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

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

14 (c) The licensee pays the regulatory assessment under section  
15 603.

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

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

24 (11) If a license renewal application is not submitted by the  
25 license expiration date, the license may be renewed within 60 days  
26 after its expiration date upon application, payment of the  
27 regulatory assessment under section 603, and satisfaction of any

1 renewal requirement and late fee set forth in rules. The licensee  
2 may continue to operate during the 60 days after the license  
3 expiration date if the license is renewed by the end of the 60-day  
4 period.

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

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

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

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

19 Sec. 406. Each license is exclusive to the licensee, and a  
20 licensee or any other person must apply for and receive the board's  
21 approval before a license is transferred, sold, or purchased. The  
22 attempted transfer, sale, or other conveyance of an interest ~~of~~  
23 ~~more than 1%~~ in a license without prior board approval is grounds  
24 for suspension or revocation of the license or for other sanction  
25 considered appropriate by the board, **BUT ONLY IF THE TRANSFER,**  
26 **SALE, OR OTHER CONVEYANCE WOULD RESULT IN THE TRANSFEREE MEETING**  
27 **THE DEFINITION OF APPLICANT.**

1           Sec. 407. (1) If an applicant or licensee fails to comply with  
2 this act or rules, if a licensee fails to comply with the marihuana  
3 tracking act, if a licensee no longer meets the eligibility  
4 requirements for a license under this act, or if an applicant or  
5 licensee fails to provide information the board requests to assist  
6 in any investigation, inquiry, or board hearing, the board may  
7 deny, suspend, revoke, or restrict a license. The board may  
8 suspend, revoke, or restrict a license and require the removal of a  
9 licensee or an employee of a licensee for a violation of this act,  
10 rules, the marihuana tracking act, or any ordinance adopted under  
11 section 205. The board may impose civil fines of up to \$5,000.00  
12 against an individual and up to \$10,000.00 or an amount equal to  
13 the daily gross receipts, whichever is greater, against a licensee  
14 for each violation of this act, rules, or an order of the board.  
15 Assessment of a civil fine under this subsection is not a bar to  
16 the investigation, arrest, charging, or prosecution of an  
17 individual for any other violation of this act and is not grounds  
18 to suppress evidence in any criminal prosecution that arises under  
19 this act or any other law of this state.

20           (2) The board shall comply with the administrative procedures  
21 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, when denying,  
22 revoking, suspending, or restricting a license or imposing a fine.  
23 The board may suspend a license without notice or hearing upon a  
24 determination that the safety or health of patrons or employees is  
25 jeopardized by continuing a marihuana facility's operation. If the  
26 board suspends a license under this subsection without notice or  
27 hearing, a prompt postsuspension hearing must be held to determine

1 if the suspension should remain in effect. The suspension may  
2 remain in effect until the board determines that the cause for  
3 suspension has been abated. The board may revoke the license or  
4 approve a transfer or sale of the license upon a determination that  
5 the licensee has not made satisfactory progress toward abating the  
6 hazard.

7 (3) After denying an application for a license, the board  
8 shall, upon request, provide a public investigative hearing at  
9 which the applicant is given the opportunity to present testimony  
10 and evidence to establish its suitability for a license. Other  
11 testimony and evidence may be presented at the hearing, but the  
12 board's decision must be based on the whole record before the board  
13 and is not limited to testimony and evidence submitted at the  
14 public investigative hearing.

15 (4) Except for license applicants who may be granted a hearing  
16 at the discretion of the board under subsection (3), any party  
17 aggrieved by an action of the board suspending, revoking,  
18 restricting, or refusing to renew a license, or imposing a fine,  
19 shall be given a hearing before the board upon request. A request  
20 for a hearing must be made to the board in writing within 21 days  
21 after service of notice of the action of the board. Notice of the  
22 action of the board must be served either by personal delivery or  
23 by certified mail, postage prepaid, to the aggrieved party. Notice  
24 served by certified mail is considered complete on the business day  
25 following the date of the mailing.

26 (5) The board may conduct investigative and contested case  
27 hearings; issue subpoenas for the attendance of witnesses; issue

1 subpoenas duces tecum for the production of books, ledgers,  
2 records, memoranda, electronically retrievable data, and other  
3 pertinent documents; and administer oaths and affirmations to  
4 witnesses as appropriate to exercise and discharge the powers and  
5 duties of the board under this act. The ~~executive~~ director **OF THE**  
6 **DEPARTMENT** or his or her designee may issue subpoenas and  
7 administer oaths and affirmations to witnesses.

8 **SEC. 407A. BEGINNING JUNE 1, 2019, A PERSON SHALL NOT HOLD**  
9 **ITSELF OUT AS OPERATING A MARIHUANA FACILITY IF THE PERSON DOES NOT**  
10 **HOLD A LICENSE TO OPERATE THAT MARIHUANA FACILITY OR IF THE**  
11 **PERSON'S LICENSE TO OPERATE THAT MARIHUANA FACILITY IS SUSPENDED,**  
12 **REVOKED, LAPSED, OR VOID, OR WAS FRAUDULENTLY OBTAINED OR**  
13 **TRANSFERRED TO THE PERSON OTHER THAN PURSUANT TO SECTION 406. A**  
14 **PERSON THAT VIOLATES THIS SECTION IS GUILTY AS FOLLOWS:**

15 (A) IN THE CASE OF A FIRST VIOLATION, A MISDEMEANOR PUNISHABLE  
16 BY A FINE OF NOT LESS THAN \$10,000.00 OR MORE THAN \$25,000.00 OR  
17 IMPRISONMENT OF NOT MORE THAN 93 DAYS, OR BOTH.

18 (B) IN THE CASE OF A SECOND OR SUBSEQUENT VIOLATION, A  
19 MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN \$10,000.00 OR  
20 MORE THAN \$25,000.00 OR IMPRISONMENT OF NOT MORE THAN 1 YEAR, OR  
21 BOTH.

22 (C) IF THE VIOLATION CAUSES DEATH OR SERIOUS INJURY, A FELONY  
23 PUNISHABLE BY A FINE OF NOT LESS THAN \$10,000.00 OR MORE THAN  
24 \$25,000.00 OR IMPRISONMENT FOR NOT MORE THAN 4 YEARS, OR BOTH.

25 Sec. 409. A state operating license is a revocable privilege  
26 granted by this state and is not a property right. Granting a  
27 license does not create or vest any right, title, franchise, or

1 other property interest. ~~Each license is exclusive to the licensee,~~  
2 ~~and a licensee or any other person must apply for and receive the~~  
3 ~~board's and municipality's approval before a license is~~  
4 ~~transferred, sold, or purchased.~~ A licensee or any other person  
5 shall not lease, pledge, or borrow or loan money against a license.  
6 ~~The attempted transfer, sale, or other conveyance of an interest in~~  
7 ~~a license without prior board approval is grounds for suspension or~~  
8 ~~revocation of the license or for other sanction considered~~  
9 ~~appropriate by the board.~~

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

17       Enacting section 1. Section 404 of the medical marihuana  
18 facilities licensing act, 2016 PA 281, MCL 333.27404, is repealed.

19       Enacting section 2. This amendatory act takes effect January  
20 1, 2019.