

SENATE BILL No. 1262

December 6, 2018, Introduced by Senator MEEKHOF and referred to the Committee on Government Operations.

A bill to amend 2016 PA 281, entitled "Medical marihuana facilities licensing act," by amending sections 102, 301, 305, 401, 402, 407, 409, and 702 (MCL 333.27102, 333.27301, 333.27305, 333.27401, 333.27402, 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
6 venture relationship with; or is a co-shareholder of a corporation,
7 a co-member of a limited liability company, or a co-partner in a

1 limited liability partnership with a licensee or applicant.

2 (c) "Applicant" means a person who applies for a state
3 operating license. With

4 (D) "APPLICANT" INCLUDES, WITH respect to disclosures in an
5 application, —or for purposes of ineligibility for a license under
6 section 402, ~~the term applicant includes an officer, director, and~~
7 ~~managerial employee of the applicant and a person who holds any~~
8 ~~direct or indirect ownership interest in the applicant.~~FOR
9 APPLICATIONS SUBMITTED ON OR AFTER DECEMBER 15, 2017, A MANAGERIAL
10 EMPLOYEE AND THE FOLLOWING FOR EACH TYPE OF APPLICANT:

11 (i) FOR AN INDIVIDUAL OR SOLE PROPRIETORSHIP: THE PROPRIETOR
12 AND SPOUSE.

13 (ii) FOR A PARTNERSHIP AND LIMITED LIABILITY PARTNERSHIP: ALL
14 PARTNERS AND THEIR SPOUSES. FOR A LIMITED PARTNERSHIP AND LIMITED
15 LIABILITY PARTNERSHIP: ALL GENERAL AND LIMITED PARTNERS AND THEIR
16 SPOUSES. FOR A LIMITED LIABILITY COMPANY: ALL MEMBERS, MANAGERS,
17 AND THEIR SPOUSES.

18 (iii) FOR A PRIVATELY HELD CORPORATION: ALL CORPORATE
19 OFFICERS, DIRECTORS, OR PERSONS WITH EQUIVALENT TITLES AND THEIR
20 SPOUSES AND ALL STOCKHOLDERS HOLDING A DIRECT OR INDIRECT INTEREST
21 OF MORE THAN 5% AND THEIR SPOUSES.

22 (iv) FOR A PUBLICLY HELD CORPORATION: ALL CORPORATE OFFICERS,
23 DIRECTORS, OR PERSONS WITH EQUIVALENT TITLES AND THEIR SPOUSES AND
24 ALL STOCKHOLDERS HOLDING A DIRECT OR INDIRECT INTEREST OF MORE THAN
25 5% AND THEIR SPOUSES.

26 (v) FOR A MULTILEVEL OWNERSHIP ENTERPRISE: ANY ENTITY OR
27 PERSON THAT RECEIVES OR HAS THE RIGHT TO RECEIVE MORE THAN 5% OF

1 THE GROSS OR NET PROFIT FROM THE ENTERPRISE DURING ANY FULL OR
2 PARTIAL CALENDAR OR FISCAL YEAR.

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

6 (E) ~~(d)~~—"Board" means the medical marihuana licensing board
7 created in section 301.

8 (F) ~~(e)~~—"Cutting" means a section of a lead stem or root stock
9 that is used for vegetative asexual propagation.

10 (G) ~~(f)~~—"Department" means the department of licensing and
11 regulatory affairs.

12 (H) ~~(g)~~—"Grower" means a licensee that is a commercial entity
13 located in this state that cultivates, dries, trims, or cures and
14 packages marihuana for sale to a processor, provisioning center, or
15 another grower.

16 (I) ~~(h)~~—"Licensee" means a person holding a state operating
17 license.

18 (J) ~~(i)~~—"Marihuana" means that term as defined in section 7106
19 of the public health code, 1978 PA 368, MCL 333.7106.

20 (K) ~~(j)~~—"Marihuana facility" means a location at which a
21 licensee is licensed to operate under this act.

22 (L) ~~(k)~~—"Marihuana plant" means any plant of the species
23 *Cannabis sativa* L.

24 (M) ~~(l)~~—"Marihuana-infused product" means a topical
25 formulation, tincture, beverage, edible substance, or similar
26 product containing any usable marihuana that is intended for human
27 consumption in a manner other than smoke inhalation. Marihuana-

1 infused product is not considered a food for purposes of the food
2 law, 2000 PA 92, MCL 289.1101 to 289.8111.

3 (N) ~~(m)~~—"Marihuana tracking act" means the marihuana tracking
4 act, 2016 PA 282, MCL 333.27901 to 333.27904.

5 (O) ~~(n)~~—"Michigan medical marihuana act" means the Michigan
6 medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

7 (P) ~~(o)~~—"Municipality" means a city, township, or village.

8 (Q) ~~(p)~~—"Paraphernalia" means any equipment, product, or
9 material of any kind that is designed for or used in growing,
10 cultivating, producing, manufacturing, compounding, converting,
11 storing, processing, preparing, transporting, injecting, smoking,
12 ingesting, inhaling, or otherwise introducing into the human body,
13 marihuana.

14 (R) ~~(q)~~—"Person" means an individual, corporation, limited
15 liability company, partnership, limited partnership, limited
16 liability partnership, limited liability limited partnership,
17 trust, or other legal entity.

18 (S) ~~(r)~~—"Plant" means any living organism that produces its
19 own food through photosynthesis and has observable root formation
20 or is in growth material.

21 (T) ~~(s)~~—"Processor" means a licensee that is a commercial
22 entity located in this state that purchases marihuana from a grower
23 and that extracts resin from the marihuana or creates a marihuana-
24 infused product for sale and transfer in packaged form to a
25 provisioning center or another processor.

26 (U) ~~(t)~~—"Provisioning center" means a licensee that is a
27 commercial entity located in this state that purchases marihuana

1 from a grower or processor and sells, supplies, or provides
2 marihuana to registered qualifying patients, directly or through
3 the patients' registered primary caregivers. Provisioning center
4 includes any commercial property where marihuana is sold at retail
5 to registered qualifying patients or registered primary caregivers.
6 A noncommercial location used by a primary caregiver to assist a
7 qualifying patient connected to the caregiver through the
8 department's marihuana registration process in accordance with the
9 Michigan medical marihuana act is not a provisioning center for
10 purposes of this act.

11 (V) ~~(u)~~—"Registered primary caregiver" means a primary
12 caregiver who has been issued a current registry identification
13 card under the Michigan medical marihuana act.

14 (W) ~~(v)~~—"Registered qualifying patient" means a qualifying
15 patient who has been issued a current registry identification card
16 under the Michigan medical marihuana act or a visiting qualifying
17 patient as that term is defined in section 3 of the Michigan
18 medical marihuana act, MCL 333.26423.

19 (X) ~~(w)~~—"Registry identification card" means that term as
20 defined in section 3 of the Michigan medical marihuana act, MCL
21 333.26423.

22 (Y) ~~(x)~~—"Rules" means rules promulgated under the
23 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
24 24.328, by the department in consultation with the board to
25 implement this act.

26 (Z) ~~(y)~~—"Safety compliance facility" means a licensee that is
27 a commercial entity that takes marihuana from a marihuana facility

1 or receives marihuana from a registered primary caregiver, tests
2 the marihuana for contaminants and for tetrahydrocannabinol and
3 other cannabinoids, returns the test results, and may return the
4 marihuana to the marihuana facility.

5 **(AA)** ~~(z)~~—"Secure transporter" means a licensee that is a
6 commercial entity located in this state that stores marihuana and
7 transports marihuana between marihuana facilities for a fee.

8 **(BB)** ~~(aa)~~—"Seed" means the fertilized, ungerminated, matured
9 ovule, containing an embryo or rudimentary plant, of a marihuana
10 plant that is flowering.

11 **(CC)** ~~(bb)~~—"Seedling" means a marihuana plant that has
12 germinated and has not flowered and is not harvestable.

13 **(DD)** ~~(ee)~~—"State operating license" or, unless the context
14 requires a different meaning, "license" means a license that is
15 issued under this act that allows the licensee to operate as 1 of
16 the following, specified in the license:

- 17 (i) A grower.
- 18 (ii) A processor.
- 19 (iii) A secure transporter.
- 20 (iv) A provisioning center.
- 21 (v) A safety compliance facility.

22 **(EE)** ~~(dd)~~—"Statewide monitoring system" or, unless the context
23 requires a different meaning, "system" means an internet-based,
24 statewide database established, implemented, and maintained by the
25 department under the marihuana tracking act, that is available to
26 licensees, law enforcement agencies, and authorized state
27 departments and agencies on a 24-hour basis for all of the

1 following:

2 (i) Verifying registry identification cards.

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

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

9 **(FF)** ~~(ee)~~—"Tissue culture" means a marihuana plant cell,
10 cutting, tissue, or organ, that is kept under a sterile condition
11 on a nutrient culture medium of known composition and that does not
12 have visible root formation. A tissue culture is not a marihuana
13 plant for purposes of a grower.

14 **(GG)** ~~(ff)~~—"Usable marihuana" means the dried leaves, flowers,
15 plant resin, or extract of the marihuana plant, but does not
16 include the seeds, stalks, and roots of the plant.

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

19 (2) The board consists of 5 members who are residents of this
20 state, not more than 3 of whom are members of the same political
21 party. The governor shall appoint the members. One of the members
22 shall be appointed from 3 nominees submitted by the senate majority
23 leader and 1 from 3 nominees submitted by the speaker of the house.
24 The governor shall designate 1 of the members as chairperson.

25 (3) The members shall be appointed for terms of 4 years,
26 except, of those who are first appointed, 1 member shall be
27 appointed for a term of 2 years and 2 members shall be appointed

1 for a term of 3 years. A member's term expires on December 31 of
2 the last year of the member's term. If a vacancy occurs, the
3 governor shall appoint a successor to fill the unexpired term in
4 the manner of the original appointment.

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

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

11 (6) A person who is not of good moral character or who has
12 been indicted for, charged with, or convicted of, pled guilty or
13 nolo contendere to, or forfeited bail concerning any felony or a
14 misdemeanor involving a controlled substance violation, theft,
15 dishonesty, or fraud under the laws of this state, any other state,
16 or the United States or a local ordinance in any state involving a
17 controlled substance violation, dishonesty, theft, or fraud that
18 substantially corresponds to a misdemeanor in that state is not
19 eligible to serve on the board.

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

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

1 (8) ~~(9)~~—The board shall not appoint or employ an individual if
2 any of the following circumstances exist:

3 (a) During the 3 years immediately preceding appointment or
4 employment, the individual held any direct or indirect interest in,
5 or was employed by, a person who is licensed to operate under this
6 act or under a corresponding license in another jurisdiction or a
7 person with an application for an operating license pending before
8 the board or in any other jurisdiction. The board shall not employ
9 an individual who has a direct or indirect interest in a licensee
10 or a marihuana facility.

11 (b) The individual or his or her spouse, parent, child,
12 child's spouse, sibling, or spouse of a sibling has an application
13 for a license pending before the board or is a member of the board
14 of directors of, or an individual financially interested in, any
15 licensee or marihuana facility.

16 (9) ~~(10)~~—Each member of the board ~~, the executive director,~~
17 and each key employee as determined by the department shall file
18 with the governor a financial disclosure statement listing all
19 assets and liabilities, property and business interests, and
20 sources of income of the member ~~, executive director,~~ and key
21 employee and his or her spouse, if any, affirming that the member ~~,
22 executive director,~~ and key employee are in compliance with
23 subsection ~~(9) (a)~~ **(8) (A)** and (b). The financial disclosure
24 statement shall be made under oath and filed at the time of
25 employment and annually thereafter.

26 (10) ~~(11)~~—Each employee of the board shall file with the board
27 a financial disclosure statement listing all assets and

1 liabilities, property and business interests, and sources of income
2 of the employee and his or her spouse. This subsection does not
3 apply to ~~the executive director or~~ a key employee.

4 (11) ~~(12)~~ A member of the board, ~~executive director,~~ or key
5 employee shall not hold any direct or indirect interest in, be
6 employed by, or enter into a contract for services with an
7 applicant, a board licensee, or a marihuana facility for a period
8 of 4 years after the date his or her employment or membership on
9 the board terminates. The department in consultation with the board
10 shall define the term "direct or indirect interest" by rule.

11 (12) ~~(13)~~ For 2 years after the date his or her employment
12 with the board is terminated, an employee of the board shall not
13 acquire any direct or indirect interest in, be employed by, or
14 enter into a contract for services with any applicant, licensee, or
15 marihuana facility.

16 (13) ~~(14)~~ For 2 years after the termination of his or her
17 office or employment with the board, a board member or an
18 individual employed by the board shall not represent any person or
19 party other than this state before or against the board.

20 (14) ~~(15)~~ A business entity in which a former board member or
21 employee or agent has an interest, or any partner, officer, or
22 employee of the business entity, shall not make any appearance or
23 represent a party that the former member, employee, or agent is
24 prohibited from appearing for or representing. As used in this
25 subsection, "business entity" means a corporation, limited
26 liability company, partnership, limited liability partnership,
27 association, trust, or other form of legal entity.

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

5 (a) Affirms that the member or the member's spouse, parent,
6 child, or child's spouse is not a member of the board of directors
7 of, financially interested in, or employed by a licensee or
8 applicant.

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

12 (c) Discloses any legal or beneficial interests in any real
13 property that is or that may be directly or indirectly involved
14 with operations authorized by this act.

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

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

20 (a) Affirms the absence of financial interests prohibited by
21 this act.

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

25 (c) Discloses whether the employee or the employee's spouse,
26 parent, child, or child's spouse is financially interested in or
27 employed by a licensee or an applicant for a license under this

1 act.

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

4 (3) A member, employee, or agent of the board who becomes
5 aware that the member, employee, or agent of the board or his or
6 her spouse, parent, or child is a member of the board of directors
7 of, financially interested in, or employed by a licensee or an
8 applicant shall immediately provide detailed written notice thereof
9 to the chairperson.

10 (4) A member, employee, or agent of the board who within the
11 previous 10 years has been indicted for, charged with, or convicted
12 of, pled guilty or nolo contendere to, or forfeited bail concerning
13 a misdemeanor involving controlled substances, dishonesty, theft,
14 or fraud or a local ordinance in any state involving controlled
15 substances, dishonesty, theft, or fraud that substantially
16 corresponds to a misdemeanor in that state, or a felony under
17 Michigan law, the laws of any other state, or the laws of the
18 United States or any other jurisdiction shall immediately provide
19 detailed written notice of the conviction or charge to the
20 chairperson.

21 (5) Any member, employee, or agent of the board who is
22 negotiating for, or acquires by any means, any interest in any
23 person who is a licensee or an applicant, or any person affiliated
24 with such a person, shall immediately provide written notice of the
25 details of the interest to the chairperson. The member, employee,
26 or agent of the board shall not act on behalf of the board with
27 respect to that person.

1 (6) A member, employee, or agent of the board shall not enter
2 into any negotiations for employment with any person or affiliate
3 of any person who is a licensee or an applicant and shall
4 immediately provide written notice of the details of any such
5 negotiations or discussions in progress to the chairperson. The
6 member, employee, or agent of the board shall not take action on
7 behalf of the board with respect to that person.

8 (7) Any member, employee, or agent of the board who receives
9 an invitation, written or oral, to initiate a discussion concerning
10 employment or the possibility of employment with a person or
11 affiliate of a person who is a licensee or an applicant shall
12 immediately report that he or she received the invitation to the
13 chairperson. The member, employee, or agent of the board shall not
14 take action on behalf of the board with respect to the person.

15 (8) A licensee or applicant shall not knowingly initiate a
16 negotiation for or discussion of employment with a member,
17 employee, or agent of the board. A licensee or applicant who
18 initiates a negotiation or discussion about employment shall
19 immediately provide written notice of the details of the
20 negotiation or discussion to the chairperson as soon as he or she
21 becomes aware that the negotiation or discussion has been initiated
22 with a member, employee, or agent of the board.

23 (9) A member, employee, or agent of the board, or former
24 member, employee, or agent of the board, shall not disseminate or
25 otherwise disclose any material or information in the possession of
26 the board that the board considers confidential unless specifically
27 authorized to do so by the chairperson or the board.

1 (10) A member, employee, or agent of the board or a parent,
2 spouse, sibling, spouse of a sibling, child, or spouse of a child
3 of a member, employee, or agent of the board shall not accept any
4 gift, gratuity, compensation, travel, lodging, or anything of
5 value, directly or indirectly, from any licensee or any applicant
6 or affiliate or representative of a licensee or applicant, unless
7 the acceptance conforms to a written policy or directive that is
8 issued by the chairperson or the board. Any member, employee, or
9 agent of the board who is offered or receives any gift, gratuity,
10 compensation, travel, lodging, or anything of value, directly or
11 indirectly, from any licensee or any applicant or affiliate or
12 representative of an applicant or licensee shall immediately
13 provide written notification of the details to the chairperson.

14 (11) A licensee or applicant, or an affiliate or
15 representative of an applicant or licensee, shall not, directly or
16 indirectly, give or offer to give any gift, gratuity, compensation,
17 travel, lodging, or anything of value to any member, employee, or
18 agent of the board that the member, employee, or agent of the board
19 is prohibited from accepting under subsection (10).

20 (12) A member, employee, or agent of the board shall not
21 engage in any conduct that constitutes a conflict of interest and
22 shall immediately advise the chairperson in writing of the details
23 of any incident or circumstances that would present the existence
24 of a conflict of interest with respect to performing board-related
25 work or duties.

26 (13) A member, employee, or agent of the board who is
27 approached and offered a bribe as described in section 118 of the

1 Michigan penal code, 1931 PA 328, MCL 750.118, or this act shall
2 immediately provide written account of the details of the incident
3 to the chairperson and to a law enforcement officer of a law
4 enforcement agency having jurisdiction.

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

10 (15) A former member, employee, or agent of the board may
11 appear before the board as a fact witness about matters or actions
12 handled by the member, employee, or agent during his or her tenure
13 as a member, employee, or agent of the board. The member, employee,
14 or agent of the board shall not receive compensation for such an
15 appearance other than a standard witness fee and reimbursement for
16 travel expenses as established by statute or court rule.

17 (16) A licensee or applicant or any affiliate or
18 representative of an applicant or licensee shall not engage in ex
19 parte communications with a member of the board. A member of the
20 board shall not engage in any ex parte communications with a
21 licensee or an applicant or with any affiliate or representative of
22 an applicant or licensee.

23 (17) Any board member, licensee, or applicant or affiliate or
24 representative of a board member, licensee, or applicant who
25 receives any ex parte communication in violation of subsection
26 (16), or who is aware of an attempted communication in violation of
27 subsection (16), shall immediately report details of the

1 communication or attempted communication in writing to the
2 chairperson.

3 (18) Any member of the board who receives an ex parte
4 communication in an attempt to influence that member's official
5 action shall disclose the source and content of the communication
6 to the chairperson. The chairperson may investigate or initiate an
7 investigation of the matter with the assistance of the attorney
8 general and state police to determine if the communication violates
9 subsection (16) or subsection (17) or other state law. The
10 disclosure under this section and the investigation are
11 confidential. Following an investigation, the chairperson shall
12 advise the governor or the board, or both, of the results of the
13 investigation and may recommend action as the chairperson considers
14 appropriate. If the chairperson receives such an ex parte
15 communication, he or she shall report the communication to the
16 governor's office for appropriate action.

17 (19) A new or current employee or agent of the board shall
18 obtain written permission from the ~~executive~~ director **OF THE**
19 **DEPARTMENT OR HIS OR HER DESIGNEE** before continuing outside
20 employment held at the time the employee begins to work for the
21 board. Permission shall be denied, or permission previously granted
22 shall be revoked, if the ~~executive~~ director **OF THE DEPARTMENT OR**
23 **HIS OR HER DESIGNEE** considers the nature of the work to create a
24 possible conflict of interest or if it would otherwise interfere
25 with the duties of the employee or agent for the board.

26 (20) An employee or agent of the board granted permission for
27 outside employment shall not conduct any business or perform any

1 activities, including solicitation, related to outside employment
2 on premises used by the board or during the employee's working
3 hours for the board.

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

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

13 (23) If a licensee or applicant, or an affiliate or
14 representative of a licensee or applicant, violates this section,
15 the board may deny a license application, revoke or suspend a
16 license, or take other disciplinary action as provided in section
17 407.

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

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

26 (a) If, after being offered employment or beginning employment
27 with the board, the employee or agent intentionally acquires a

1 financial interest in a licensee or an applicant, or an affiliate
2 or representative of a licensee or applicant, the offer or
3 employment with the board shall be terminated.

4 (b) If a financial interest in a licensee or an applicant, or
5 an affiliate or representative of a licensee or applicant, is
6 acquired by an employee or agent that has been offered employment
7 with the board, an employee of the board, or the employee's or
8 agent's spouse, parent, or child, through no intentional action of
9 the employee or agent, the individual shall have up to 30 days to
10 divest or terminate the financial interest. Employment may be
11 terminated if the interest has not been divested after 30 days.

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

14 (26) Violation of this section does not create a civil cause
15 of action.

16 (27) As used in this section:

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

19 (i) Operation of a proprietorship.

20 (ii) Participation in a partnership or group business
21 enterprise.

22 (iii) Performance as a director or corporate officer of any
23 for-profit or nonprofit corporation or banking or credit
24 institution.

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

26 (b) "Political activity" or "politically related activity"
27 includes all of the following:

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

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

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

7 (iv) Knowingly soliciting or discouraging the participation in
8 any political activity of any person who is either of the
9 following:

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

12 (B) The subject of or a participant in an ongoing audit,
13 investigation, or enforcement action being carried out by the
14 board.

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

23 (a) The name, business address, business telephone number,
24 social security number, and, if applicable, federal tax
25 identification number of the applicant.

26 (b) The identity of every person having any ownership interest
27 in the applicant with respect to which the license is sought. If

1 the disclosed entity is a trust, the application shall disclose the
2 names and addresses of the beneficiaries; if a **PRIVATELY HELD**
3 corporation, the names and addresses of all shareholders, officers,
4 and directors; **IF A PUBLICLY HELD CORPORATION, THE NAMES AND**
5 **ADDRESSES OF ALL SHAREHOLDERS HOLDING A DIRECT OR INDIRECT INTEREST**
6 **OF GREATER THAN 5%, OFFICERS, AND DIRECTORS;** if a partnership or
7 limited liability partnership, the names and addresses of all
8 partners; if a limited partnership or limited liability limited
9 partnership, the names of all partners, both general and limited;
10 or if a limited liability company, the names and addresses of all
11 members and managers.

12 (c) An identification of any business that is directly or
13 indirectly involved in the growing, processing, testing,
14 transporting, or sale of marihuana, including, if applicable, the
15 state of incorporation or registration, in which an applicant or,
16 if the applicant is an individual, the applicant's spouse, parent,
17 or child has any equity interest. If an applicant is a corporation,
18 partnership, or other business entity, the applicant shall identify
19 any other corporation, partnership, or other business entity that
20 is directly or indirectly involved in the growing, processing,
21 testing, transporting, or sale of marihuana in which it has any
22 equity interest, including, if applicable, the state of
23 incorporation or registration. An applicant may comply with this
24 subdivision by filing a copy of the applicant's registration with
25 the Securities and Exchange Commission if the registration contains
26 the information required by this subdivision.

27 (d) Whether an applicant has been ~~indicted for, charged with,~~

1 ~~arrested for, or~~ convicted of, pled guilty or nolo contendere to,
2 **OR** forfeited bail concerning any criminal offense under the laws of
3 any jurisdiction, either felony or controlled-substance-related
4 misdemeanor, not including traffic violations, ~~regardless of~~
5 ~~whether the offense has been reversed on appeal or otherwise,~~
6 including the date, the name and location of the court, arresting
7 agency, and prosecuting agency, the case caption, the docket
8 number, the offense, the disposition, and the location and length
9 of incarceration.

10 (e) Whether an applicant has ever applied for or has been
11 granted any commercial license or certificate issued by a licensing
12 authority in Michigan or any other jurisdiction that has been
13 denied, restricted, suspended, revoked, or not renewed and a
14 statement describing the facts and circumstances concerning the
15 application, denial, restriction, suspension, revocation, or
16 nonrenewal, including the licensing authority, the date each action
17 was taken, and the reason for each action.

18 (f) Whether an applicant has filed, or been served with, a
19 complaint or other notice filed with any public body, regarding the
20 delinquency in the payment of, or a dispute over the filings
21 concerning the payment of, any tax required under federal, state,
22 or local law, including the amount, type of tax, taxing agency, and
23 time periods involved.

24 (g) A statement listing the names and titles of all public
25 officials or officers of any unit of government, and the spouses,
26 parents, and children of those public officials or officers, who,
27 directly or indirectly, own any financial interest in, have any

1 beneficial interest in, are the creditors of or hold any debt
2 instrument issued by, or hold or have any interest in any
3 contractual or service relationship with an applicant. As used in
4 this subdivision, public official or officer does not include a
5 person who would have to be listed solely because of his or her
6 state or federal military service.

7 (h) A description of the type of marihuana facility;
8 anticipated or actual number of employees; and projected or actual
9 gross receipts.

10 (i) Financial information in the manner and form prescribed by
11 the board.

12 (j) A paper copy or electronic posting website reference for
13 the ordinance or zoning restriction that the municipality adopted
14 to authorize or restrict operation of 1 or more marihuana
15 facilities in the municipality.

16 (k) A copy of the notice informing the municipality by
17 registered mail that the applicant has applied for a license under
18 this act. The applicant shall also certify that it has delivered
19 the notice to the municipality or will do so by 10 days after the
20 date the applicant submits the application for a license to the
21 board.

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

23 (2) The board shall use information provided on the
24 application as a basis to conduct a thorough background
25 investigation on the applicant. A false application is cause for
26 the board to deny a license. The board shall not consider an
27 incomplete application but shall, within a reasonable time, return

1 the application to the applicant with notification of the
2 deficiency and instructions for submitting a corrected application.
3 Information the board obtains from the background investigation is
4 exempt from disclosure under the freedom of information act, 1976
5 PA 442, MCL 15.231 to 15.246.

6 (3) An applicant must provide written consent to the
7 inspections, examinations, searches, and seizures provided for in
8 section 303(1)(c)(i) to (iv) and to disclosure to the board and its
9 agents of otherwise confidential records, including tax records
10 held by any federal, state, or local agency, or credit bureau or
11 financial institution, while applying for or holding a license.
12 Information the board receives under this subsection is exempt from
13 disclosure under the freedom of information act, 1976 PA 442, MCL
14 15.231 to 15.246.

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

18 (5) A nonrefundable application fee must be paid at the time
19 of filing to defray the costs associated with the background
20 investigation conducted by the board. The department in
21 consultation with the board shall set the amount of the application
22 fee for each category and class of license by rule. If the costs of
23 the investigation and processing the application exceed the
24 application fee, the applicant shall pay the additional amount to
25 the board. All information, records, interviews, reports,
26 statements, memoranda, or other data supplied to or used by the
27 board in the course of its review or investigation of an

1 application for a license under this act shall be disclosed only in
2 accordance with this act. The information, records, interviews,
3 reports, statements, memoranda, or other data are not admissible as
4 evidence or discoverable in any action of any kind in any court or
5 before any tribunal, board, agency, or person, except for any
6 action considered necessary by the board.

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

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

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

19 (a) The applicant has been convicted of or released from
20 incarceration for a felony under the laws of this state, any other
21 state, or the United States within the past 10 years or has been
22 convicted of a controlled substance-related felony within the past
23 10 years.

24 (b) Within the past 5 years the applicant has been convicted
25 of a misdemeanor involving a controlled substance, theft,
26 dishonesty, or fraud in any state or been found responsible for
27 violating a local ordinance in any state involving a controlled

1 substance, dishonesty, theft, or fraud that substantially
2 corresponds to a misdemeanor in that state.

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

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

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

9 (f) The applicant holds an elective office of a governmental
10 unit of this state, another state, or the federal government; is a
11 member of or employed by a regulatory body of a governmental unit
12 in this state, another state, or the federal government; or is
13 employed by a governmental unit of this state. This subdivision
14 does not apply to an elected officer of or employee of a federally
15 recognized Indian tribe or to an elected precinct delegate.

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

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

22 (H) ~~(i)~~ The applicant fails to meet other criteria established
23 by rule.

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

26 (a) The integrity, moral character, and reputation; personal
27 and business probity; financial ability and experience; and

1 responsibility or means to operate or maintain a marihuana facility
2 of the applicant and of any other person that meets either of the
3 following:

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

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

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

9 (c) The sources and total amount of the applicant's
10 capitalization to operate and maintain the proposed marihuana
11 facility.

12 (d) Whether the applicant has been ~~indicted for, charged with,~~
13 ~~arrested for, or convicted of,~~ pled guilty or nolo contendere to,
14 **OR** forfeited bail concerning ~~, or had expunged~~ any relevant
15 criminal offense under the laws of any jurisdiction, either felony
16 or misdemeanor, not including traffic violations. ~~, regardless of~~
17 ~~whether the offense has been expunged, pardoned, or reversed on~~
18 ~~appeal or otherwise.~~

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

21 **(E)** ~~(f)~~ Whether the applicant has been served with a complaint
22 or other notice filed with any public body regarding payment of any
23 tax required under federal, state, or local law that has been
24 delinquent for 1 or more years.

25 **(F)** ~~(g)~~ Whether the applicant has a history of noncompliance
26 with any regulatory requirements in this state or any other
27 jurisdiction.

1 (G) ~~(h)~~ Whether at the time of application the applicant is a
2 defendant in litigation involving its business practices.

3 (H) ~~(i)~~ Whether the applicant meets other standards in rules
4 applicable to the license category.

5 (4) Each applicant ~~shall submit with its application, on forms~~
6 ~~provided by the board, a passport quality photograph and shall~~
7 ensure that 1 set of **THE APPLICANT'S** fingerprints is submitted to
8 the department of state police. ~~for each person having any~~
9 ~~ownership interest in the marihuana facility and each person who is~~
10 ~~an officer, director, or managerial employee of the applicant, in~~
11 ~~order for the department of state police to conduct a criminal~~
12 ~~history check on each person and to forward each person's~~
13 ~~fingerprints to the Federal Bureau of Investigation for a national~~
14 ~~eriminal history check.~~ The applicant shall submit with its
15 application each person's **THE APPLICANT'S** written consent to the
16 criminal history check described in this section and the submission
17 of each person's **THE APPLICANT'S** fingerprints to, and the inclusion
18 of each person's **THE APPLICANT'S** fingerprints in, the state and
19 federal database systems described in subsection (7).

20 (5) The fingerprints required under subsection (4) may be
21 taken by a law enforcement agency or any other person determined by
22 the department of state police to be qualified to take
23 fingerprints. The applicant shall submit a fingerprint processing
24 fee to the department in an amount required under section 3 of 1935
25 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of
26 Investigation.

27 (6) The department of state police shall ~~conduct~~ **DO ALL OF THE**

1 **FOLLOWING:**

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

7 (B) **PROVIDE** the board with a written report containing the
8 criminal history record information of each ~~person who was the~~
9 ~~subject of the criminal history check conducted under this~~
10 ~~section. APPLICANT.~~

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

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

27 (b) The department of state police shall forward all

1 fingerprints submitted to it under this section to the Federal
2 Bureau of Investigation for submission of those fingerprints into
3 the FBI automatic notification system. This subdivision does not
4 apply until the department of state police is a participant in the
5 FBI automatic notification system. As used in this subdivision:

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

13 (ii) "FBI automatic notification system" means the automatic
14 notification system that is maintained by the Federal Bureau of
15 Investigation.

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

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

22 (a) The licensee applies to the board on a renewal form
23 provided by the board that requires information prescribed in
24 rules.

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

27 (c) The licensee pays the regulatory assessment under section

1 603.

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

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

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

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

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

25 (14) A licensee must consent in writing to inspections,
26 examinations, searches, and seizures that are permitted under this
27 act and must provide a handwriting exemplar, fingerprints,

1 photographs, and information as authorized in this act or by rules.

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

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

24 (2) The board shall comply with the administrative procedures
25 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, when denying,
26 revoking, suspending, or restricting a license or imposing a fine.
27 The board may suspend a license without notice or hearing upon a

1 determination that the safety or health of patrons or employees is
2 jeopardized by continuing a marihuana facility's operation. If the
3 board suspends a license under this subsection without notice or
4 hearing, a prompt postsuspension hearing must be held to determine
5 if the suspension should remain in effect. The suspension may
6 remain in effect until the board determines that the cause for
7 suspension has been abated. The board may revoke the license or
8 approve a transfer or sale of the license upon a determination that
9 the licensee has not made satisfactory progress toward abating the
10 hazard.

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

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

1 served by certified mail is considered complete on the business day
2 following the date of the mailing.

3 (5) The board may conduct investigative and contested case
4 hearings; issue subpoenas for the attendance of witnesses; issue
5 subpoenas duces tecum for the production of books, ledgers,
6 records, memoranda, electronically retrievable data, and other
7 pertinent documents; and administer oaths and affirmations to
8 witnesses as appropriate to exercise and discharge the powers and
9 duties of the board under this act. The ~~executive~~ director **OF THE**
10 **DEPARTMENT** or his or her designee may issue subpoenas and
11 administer oaths and affirmations to witnesses.

12 **SEC. 407A. A PERSON SHALL NOT HOLD ITSELF OUT AS OPERATING A**
13 **MARIHUANA FACILITY IF THE PERSON DOES NOT HOLD A LICENSE TO OPERATE**
14 **THAT MARIHUANA FACILITY OR IF THE PERSON'S LICENSE TO OPERATE THAT**
15 **MARIHUANA FACILITY IS SUSPENDED, REVOKED, LAPSED, OR VOID, OR WAS**
16 **FRAUDULENTLY OBTAINED OR WAS TRANSFERRED TO THE PERSON IN VIOLATION**
17 **OF SECTION 406. A PERSON THAT VIOLATES THIS SECTION IS GUILTY AS**
18 **FOLLOWS:**

19 (A) FOR A FIRST VIOLATION, A MISDEMEANOR PUNISHABLE BY A FINE
20 OF NOT LESS THAN \$10,000.00 OR MORE THAN \$25,000.00 OR IMPRISONMENT
21 OF NOT MORE THAN 93 DAYS, OR BOTH.

22 (B) FOR A SECOND OR SUBSEQUENT VIOLATION, A MISDEMEANOR
23 PUNISHABLE BY A FINE OF NOT LESS THAN \$10,000.00 OR MORE THAN
24 \$25,000.00 OR IMPRISONMENT OF NOT MORE THAN 1 YEAR, OR BOTH.

25 (C) IF THE VIOLATION CAUSES DEATH OR SERIOUS INJURY, A FELONY
26 PUNISHABLE BY A FINE OF NOT LESS THAN \$10,000.00 OR MORE THAN
27 \$25,000.00 OR IMPRISONMENT FOR NOT MORE THAN 4 YEARS, OR BOTH.

1 Sec. 409. A state operating license is a revocable privilege
2 granted by this state and is not a property right. Granting a
3 license does not create or vest any right, title, franchise, or
4 other property interest. ~~Each license is exclusive to the licensee,~~
5 ~~and a licensee or any other person must apply for and receive the~~
6 ~~board's and municipality's approval before a license is~~
7 ~~transferred, sold, or purchased.~~ A licensee or any other person
8 shall not lease, pledge, or borrow or loan money against a license.
9 ~~The attempted transfer, sale, or other conveyance of an interest in~~
10 ~~a license without prior board approval is grounds for suspension or~~
11 ~~revocation of the license or for other sanction considered~~
12 ~~appropriate by the board.~~

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

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