

# Legislative Analysis



## AMEND DEFINITION OF 'APPLICANT' FOR MEDICAL MARIJUANA LICENSE

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Senate Bill 203 as reported from House committee

Sponsor: Sen. Michael MacDonald

House Committee: Judiciary

Senate Committee: Judiciary and Public Safety

Complete to 4-10-19

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 3 of 2019)*

**BRIEF SUMMARY:** Senate Bill 203 would amend the Medical Marijuana Facilities Licensing Act (MMFLA) to revise the definition of *applicant* for an operating license under the act.

**FISCAL IMPACT:** Senate Bill 203 would not have a fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) or on any other unit of state or local government.

### **THE APPARENT PROBLEM:**

Among other things, 2018 PA 582 amended the MMFLA to revise the level of ownership interest a person had to have to be included in the definition of *applicant* for purposes of required disclosures and determining eligibility for a license to operate a facility under the act.<sup>1</sup> However, 2018 PA 648, which amended the same section of the MMFLA, did not incorporate the changes to that section made by the earlier act.<sup>2</sup> Because 2018 PA 648 was enacted after 2018 PA 582, it essentially overwrote and negated the changes that 2018 PA 582 had made. Senate Bill 203 would amend the relevant section of the MMFLA one more time, to restore the definition of *applicant* that was enacted into law, however briefly, by 2018 PA 582.

### **THE CONTENT OF THE BILL:**

Currently, the MMFLA defines *applicant* as a person who applies for a license to operate as a grower, processor, secure transporter, provisioning center, or safety compliance facility. With respect to disclosure in an application, or for purposes of ineligibility for a license, *applicant* includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

Under the bill, *applicant* would include, with respect to disclosure in an application, for purposes of ineligibility for a license, or for purposes of prior board approval of a transfer of interest, and only for applications submitted on or after January 1, 2019, a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

- For an individual or sole proprietorship: the proprietor and spouse.
- For a partnership or limited liability partnership: all partners and their spouses.
- For a limited partnership or limited liability partnership: all general and limited partners, not including a limited partner who holds a direct or indirect ownership interest of 10% or

<sup>1</sup> <http://legislature.mi.gov/doc.aspx?2018-SB-1262>

<sup>2</sup> <http://legislature.mi.gov/doc.aspx?2018-HB-6380>

less and who does not exercise control over or participate in the management of the partnership, and their spouses.

- For a limited liability company: all members and managers, not including a member who holds a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the company, and their spouses.
- For a privately or publicly held corporation: all corporate officers or persons with equivalent titles and their spouses; all directors and their spouses; and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
- For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or bylaws and their spouses.

MCL 333.27102

***HOUSE COMMITTEE ACTION:***

The House Judiciary Committee reported the Senate-passed version of the bill without amendment.

***ARGUMENTS:***

***For:***

Supporters of the bill argued that the definition of “applicant” should be revised to restore the definition passed last legislative session (in 2018 PA 582) so that other changes made to the MMFLA can be implemented effectively and efficiently. Without this change, certain applicants would be unable to receive a license under the MMFLA.

***Against:***

No arguments against the bill were presented in House committee.

***POSITIONS:***

A representative of LARA testified in support of the bill. (4-9-19)

The following organizations indicated support for the bill (4-9-19):

- Great Lakes Cannabis Chamber of Commerce
- Michigan Cannabis Industry Association

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.