

**SUBSTITUTE FOR
HOUSE BILL NO. 5490**

A bill to amend 2016 PA 281, entitled
"Medical marihuana facilities licensing act,"
by amending sections 102 and 206 (MCL 333.27102 and 333.27206),
section 102 as amended by 2019 PA 3 and section 206 as amended by
2020 PA 32, and by adding section 206a.

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.~~ **marijuana regulatory agency.**

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. Applicant includes, with respect to disclosures
4 in an application, for purposes of ineligibility for a license
5 under section 402, or for purposes of prior ~~board-marijuana~~
6 **regulatory agency** approval of a transfer of interest under section
7 406, and only for applications submitted on or after January 1,
8 2019, a managerial employee of the applicant, a person holding a
9 direct or indirect ownership interest of more than 10% in the
10 applicant, and the following for each type of applicant:

11 (i) For an individual or sole proprietorship: the proprietor
12 and **the proprietor's** spouse.

13 (ii) For a partnership and limited liability partnership: all
14 partners and their spouses. For a limited partnership and limited
15 liability limited partnership: all general and limited partners,
16 not including a limited partner holding a direct or indirect
17 ownership interest of 10% or less and who does not exercise control
18 over or participate in the management of the partnership, and their
19 spouses. For a limited liability company: all members and managers,
20 not including a member holding a direct or indirect ownership
21 interest of 10% or less and who does not exercise control over or
22 participate in the management of the company, and their spouses.

23 (iii) For a privately held corporation: all corporate officers
24 or persons with equivalent titles and their spouses, all directors
25 and their spouses, and all stockholders, not including those
26 holding a direct or indirect ownership interest of 10% or less, and
27 their spouses.

28 (iv) For a publicly held corporation: all corporate officers or
29 persons with equivalent titles and their spouses, all directors and



1 their spouses, and all stockholders, not including those holding a
2 direct or indirect ownership interest of 10% or less, and their
3 spouses.

4 (v) For a multilevel ownership enterprise: any entity or
5 person that receives or has the right to receive more than 10% of
6 the gross or net profit from the enterprise during any full or
7 partial calendar or fiscal year.

8 (vi) For a nonprofit corporation: all individuals and entities
9 with membership or shareholder rights in accordance with the
10 articles of incorporation or the bylaws and ~~their~~**the** spouses **of**
11 **the individuals.**

12 (d) "Board" means the ~~medical marihuana licensing board~~
13 ~~created in section 301.~~**marijuana regulatory agency.**

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

16 (f) "Department" means the department of licensing and
17 regulatory affairs.

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

22 (h) "Industrial hemp" means that term as defined in section
23 7106 of the public health code, 1978 PA 368, MCL 333.7106.

24 (i) "Industrial hemp research and development act" means the
25 industrial hemp research and development act, 2014 PA 547, **MCL**
26 **286.841 to 286.859.**

27 (j) "Licensee" means a person holding a state operating
28 license.

29 (k) "Marihuana" means that term as defined in section 7106 of



1 the public health code, 1978 PA 368, MCL 333.7106.

2 (l) "Marihuana facility" means a location at which a licensee
3 is licensed to operate under this act.

4 (m) "Marihuana plant" means any plant of the species *Cannabis*
5 *sativa* L. Marihuana plant does not include industrial hemp.

6 (n) "Marihuana-infused product" means a topical formulation,
7 tincture, beverage, edible substance, or similar product containing
8 any usable marihuana that is intended for human consumption in a
9 manner other than smoke inhalation. Marihuana-infused product is
10 not considered a food for purposes of the food law, 2000 PA 92, MCL
11 289.1101 to 289.8111.

12 (o) "Marihuana tracking act" means the marihuana tracking act,
13 2016 PA 282, MCL 333.27901 to 333.27904.

14 (p) **"Marijuana regulatory agency" means the marijuana**
15 **regulatory agency created under Executive Reorganization Order No.**
16 **2019-2, MCL 333.27001.**

17 (q) ~~(p)~~ "Michigan medical marihuana act" means the Michigan
18 ~~medical marihuana act,~~ **Medical Marihuana Act**, 2008 IL 1, MCL
19 333.26421 to 333.26430.

20 (r) ~~(q)~~ "Municipality" means a city, township, or village.

21 (s) ~~(r)~~ "Paraphernalia" means any equipment, product, or
22 material of any kind that is designed for or used in growing,
23 cultivating, producing, manufacturing, compounding, converting,
24 storing, processing, preparing, transporting, injecting, smoking,
25 ingesting, inhaling, or otherwise introducing into the human body,
26 marihuana.

27 (t) ~~(s)~~ "Person" means an individual, corporation, limited
28 liability company, partnership, limited partnership, limited
29 liability partnership, limited liability limited partnership,



1 trust, or other legal entity.

2 (u) ~~(t)~~ "Plant" means any living organism that produces its
3 own food through photosynthesis and has observable root formation
4 or is in growth material.

5 (v) ~~(u)~~ "Processor" means a licensee that is a commercial
6 entity located in this state that purchases marihuana from a grower
7 and that extracts resin from the marihuana or creates a marihuana-
8 infused product for sale and transfer in packaged form to a
9 provisioning center or another processor.

10 (w) ~~(v)~~ "Provisioning center" means a licensee that is a
11 commercial entity located in this state that purchases marihuana
12 from a grower or processor and sells, supplies, or provides
13 marihuana to registered qualifying patients, directly or through
14 the patients' registered primary caregivers. Provisioning center
15 includes any commercial property where marihuana is sold at retail
16 to registered qualifying patients or registered primary caregivers.
17 A noncommercial location used by a registered primary caregiver to
18 assist a qualifying patient connected to the caregiver through the
19 department's marihuana registration process in accordance with the
20 Michigan ~~medical marihuana act~~ **Medical Marihuana Act** is not a
21 provisioning center for purposes of this act.

22 (x) ~~(w)~~ "Registered primary caregiver" means a primary
23 caregiver who has been issued a current registry identification
24 card under the Michigan ~~medical marihuana act~~ **Medical Marihuana**
25 **Act**.

26 (y) ~~(x)~~ "Registered qualifying patient" means a qualifying
27 patient who has been issued a current registry identification card
28 under the Michigan ~~medical marihuana act~~ **Medical Marihuana Act** or a
29 visiting qualifying patient as that term is defined in section 3 of



1 the Michigan ~~medical marihuana act~~, **Medical Marihuana Act**, MCL
2 333.26423.

3 (z) ~~(y)~~ "Registry identification card" means that term as
4 defined in section 3 of the Michigan ~~medical marihuana act~~, **Medical**
5 **Marihuana Act**, MCL 333.26423.

6 (aa) ~~(z)~~ "Rules" means rules promulgated under the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328, by the ~~department in consultation with the board~~ **marijuana**
9 **regulatory agency** to implement this act.

10 (bb) ~~(aa)~~ "Safety compliance facility" means a licensee that
11 is a commercial entity that takes marihuana from a marihuana
12 facility or receives marihuana from a registered primary caregiver,
13 tests the marihuana for contaminants and for tetrahydrocannabinol
14 and other cannabinoids, returns the test results, and may return
15 the marihuana to the marihuana facility.

16 (cc) ~~(bb)~~ "Secure transporter" means a licensee that is a
17 commercial entity located in this state that stores marihuana and
18 transports marihuana between marihuana facilities for a fee.

19 (dd) ~~(cc)~~ "Seed" means the fertilized, ungerminated, matured
20 ovule, containing an embryo or rudimentary plant, of a marihuana
21 plant that is flowering.

22 (ee) ~~(dd)~~ "Seedling" means a marihuana plant that has
23 germinated and has not flowered and is not harvestable.

24 (ff) ~~(ee)~~ "State operating license" or, unless the context
25 requires a different meaning, "license" means a license that is
26 issued under this act that allows the licensee to operate as 1 of
27 the following, specified in the license:

28 (i) A grower.

29 (ii) A processor.



1 (iii) A secure transporter.

2 (iv) A provisioning center.

3 (v) A safety compliance facility.

4 (gg) ~~(ff)~~ "Statewide monitoring system" or, unless the context
5 requires a different meaning, "system" means an internet-based,
6 statewide database established, implemented, and maintained by the
7 department under the marihuana tracking act, that is available to
8 licensees, law enforcement agencies, and authorized state
9 departments and agencies on a 24-hour basis for all of the
10 following:

11 (i) Verifying registry identification cards.

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

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

18 (hh) ~~(gg)~~ "Tissue culture" means a marihuana plant cell,
19 cutting, tissue, or organ, that is kept under a sterile condition
20 on a nutrient culture medium of known composition and that does not
21 have visible root formation. A tissue culture is not a marihuana
22 plant for purposes of a grower.

23 (ii) ~~(hh)~~ "Usable marihuana" means the dried leaves, flowers,
24 plant resin, or extract of the marihuana plant, but does not
25 include the seeds, stalks, and roots of the plant.

26 Sec. 206. (1) The marijuana regulatory agency shall promulgate
27 rules and emergency rules as necessary to implement, administer,
28 and enforce this act. The rules must ensure the safety, security,
29 and integrity of the operation of marihuana facilities, and must



1 include rules to do the following:

2 (a) Set appropriate standards for marihuana facilities and
3 associated equipment.

4 (b) Subject to section 408, establish minimum levels of
5 insurance that licensees must maintain.

6 (c) Establish operating regulations for each category of
7 license to ensure the health, safety, and security of the public
8 and the integrity of marihuana facility operations.

9 (d) Establish qualifications and restrictions for persons
10 participating in or involved with operating marihuana facilities.

11 (e) Establish testing standards, procedures, and requirements
12 for marihuana sold through provisioning centers.

13 (f) Provide for the levy and collection of fines for a
14 violation of this act or rules.

15 (g) Prescribe use of the statewide monitoring system to track
16 all marihuana transfers, as provided in the marihuana tracking act
17 and this act, and provide for a funding mechanism to support the
18 system.

19 (h) Establish quality control standards, procedures, and
20 requirements for marihuana facilities.

21 (i) Establish chain of custody standards, procedures, and
22 requirements for marihuana facilities.

23 (j) Establish standards, procedures, and requirements for
24 waste product disposal and storage by marihuana facilities.

25 (k) Establish chemical storage standards, procedures, and
26 requirements for marihuana facilities.

27 (l) Establish standards, procedures, and requirements for
28 securely and safely transporting marihuana between marihuana
29 facilities.



1 (m) Establish standards, procedures, and requirements for the
2 storage of marihuana by marihuana facilities.

3 (n) Establish labeling and packaging standards, procedures,
4 and requirements for marihuana sold or transferred through
5 provisioning centers, including, but not limited to:

6 (i) A prohibition on labeling or packaging that is intended to
7 appeal to or has the effect of appealing to minors.

8 (ii) A requirement that all marihuana sold through provisioning
9 centers include on the exterior of the marihuana packaging the
10 following warning printed in clearly legible type and surrounded by
11 a continuous heavy line:

12 **WARNING: USE BY PREGNANT OR BREASTFEEDING WOMEN, OR BY**
13 **WOMEN PLANNING TO BECOME PREGNANT, MAY RESULT IN FETAL**
14 **INJURY, PRETERM BIRTH, LOW BIRTH WEIGHT, OR DEVELOPMENTAL**
15 **PROBLEMS FOR THE CHILD.**

16 (o) Establish daily and monthly purchasing limits at
17 provisioning centers for registered qualifying patients and
18 registered primary caregivers to ensure compliance with the
19 Michigan ~~medical marihuana act.~~ **Medical Marihuana Act.**

20 (p) Establish marketing and advertising restrictions for
21 marihuana products and marihuana facilities.

22 (q) Establish maximum tetrahydrocannabinol levels for
23 marihuana-infused products sold or transferred through provisioning
24 centers.

25 (r) Establish health standards to ensure the safe preparation
26 of products containing marihuana that are intended for human
27 consumption in a manner other than smoke inhalation.

28 (s) Establish restrictions on edible marihuana-infused
29 products to prohibit shapes that would appeal to minors.



1 (t) Establish standards, procedures, and requirements for the
2 sale of industrial hemp from a provisioning center to a registered
3 qualified patient. The rules promulgated under this subdivision
4 must be promulgated before March 1, 2019.

5 (u) Establish informational pamphlet standards for
6 provisioning centers including, but not limited to, a requirement
7 to make available to every patron at the time of sale a pamphlet
8 measuring 3.5 inches by 5 inches that includes safety information
9 related to marihuana use by minors and the poison control hotline
10 number.

11 (v) **Establish procedures and standards for approving an**
12 **appointee to operate a marihuana facility under section 206a.**

13 (2) As used in this section, "marijuana regulatory agency"
14 means the marijuana regulatory agency created under Executive
15 Reorganization Order No. 2019-2, MCL 333.27001.

16 **Sec. 206a. (1) The marijuana regulatory agency may approve the**
17 **operation of a marihuana facility by any of the following:**

18 (a) **A court-appointed personal representative, guardian, or**
19 **conservator of an individual who holds a state license or has an**
20 **interest in a person that holds a state license.**

21 (b) **A court-appointed receiver or trustee.**

22 (2) **If an individual approved to operate a marihuana facility**
23 **under subsection (1) receives notice from the marijuana regulatory**
24 **agency that the marihuana facility the individual is operating is**
25 **in violation of this act or rules, the individual shall notify the**
26 **court that appointed the individual of the notice of violation**
27 **within 2 days after receiving the notice of violation.**

