

HOUSE BILL NO. 5490

February 13, 2020, Introduced by Rep. Iden and referred to the Committee on Judiciary.

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 2018 PA 648, 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.**



1 (b) "Affiliate" means any person that controls, is controlled
 2 by, or is under common control with; is in a partnership or joint
 3 venture relationship with; or is a co-shareholder of a corporation,
 4 a co-member of a limited liability company, or a co-partner in a
 5 limited liability partnership with a licensee or applicant.

6 (c) "Applicant" means a person who applies for a state
 7 operating license. Applicant includes, with respect to disclosures
 8 in an application, for purposes of ineligibility for a license
 9 under section 402, or for purposes of prior ~~board~~-**marijuana**
 10 **regulatory agency** approval of a transfer of interest under section
 11 406, and only for applications submitted on or after January 1,
 12 2019, a managerial employee of the applicant, a person holding a
 13 direct or indirect ownership interest of more than 10% in the
 14 applicant, and the following for each type of applicant:

15 (i) For an individual or sole proprietorship: the proprietor
 16 and **the proprietor's** 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 10% or less and who does not exercise control
 22 over or participate in the management of the partnership, and their
 23 spouses. For a limited liability company: all members and managers,
 24 not including a member holding a direct or indirect ownership
 25 interest of 10% or less and who does not exercise control over or
 26 participate in the management of the company, and their spouses.

27 (iii) For a privately held corporation: all corporate officers
 28 or persons with equivalent titles and their spouses, all directors
 29 and their spouses, and all stockholders, not including those



1 holding a direct or indirect ownership interest of 10% or less, and
2 their spouses.

3 (iv) For a publicly held corporation: all corporate officers or
4 persons with equivalent titles and their spouses, all directors and
5 their spouses, and all stockholders, not including those holding a
6 direct or indirect ownership interest of 10% or less, and their
7 spouses.

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

12 (vi) For a nonprofit corporation: all individuals and entities
13 with membership or shareholder rights in accordance with the
14 articles of incorporation or the bylaws and ~~their~~**the** spouses **of**
15 **the individuals.**

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

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

20 (f) "Department" means the department of licensing and
21 regulatory affairs.

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

26 (h) "Industrial hemp" means that term as defined in section
27 7106 of the public health code, 1978 PA 368, MCL 333.7106.

28 (i) "Industrial hemp research and development act" means the
29 industrial hemp research and development act, 2014 PA 547, **MCL**



1 **286.841 to 286.859.**

2 (j) "Licensee" means a person holding a state operating
3 license.

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

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

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

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

16 (o) "Marihuana tracking act" means the marihuana tracking act,
17 2016 PA 282, MCL 333.27901 to 333.27904.

18 (p) **"Marijuana regulatory agency" means the marijuana**
19 **regulatory agency created under Executive Reorganization Order No.**
20 **2019-2, MCL 333.27001.**

21 (q) ~~(p)~~ "Michigan medical marihuana act" means the Michigan
22 ~~medical marihuana act,~~ **Medical Marihuana Act**, 2008 IL 1, MCL
23 333.26421 to 333.26430.

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

25 (s) ~~(r)~~ "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,
28 storing, processing, preparing, transporting, injecting, smoking,
29 ingesting, inhaling, or otherwise introducing into the human body,



1 marihuana.

2 **(t)** ~~(s)~~—"Person" means an individual, corporation, limited
3 liability company, partnership, limited partnership, limited
4 liability partnership, limited liability limited partnership,
5 trust, or other legal entity.

6 **(u)** ~~(t)~~—"Plant" means any living organism that produces its
7 own food through photosynthesis and has observable root formation
8 or is in growth material.

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

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

26 **(x)** ~~(w)~~—"Registered primary caregiver" means a primary
27 caregiver who has been issued a current registry identification
28 card under the Michigan ~~medical marihuana act~~ **Medical Marihuana**
29 **Act**.



1 **(y)** ~~(x)~~—"Registered qualifying patient" means a qualifying
2 patient who has been issued a current registry identification card
3 under the Michigan ~~medical marihuana act~~ **Medical Marihuana Act** or a
4 visiting qualifying patient as that term is defined in section 3 of
5 the Michigan ~~medical marihuana act~~, **Medical Marihuana Act**, MCL
6 333.26423.

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

10 **(aa)** ~~(z)~~—"Rules" means rules promulgated under the
11 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
12 24.328, by the ~~department in consultation with the board~~ **marijuana**
13 **regulatory agency** to implement this act.

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

20 **(cc)** ~~(bb)~~—"Secure transporter" means a licensee that is a
21 commercial entity located in this state that stores marihuana and
22 transports marihuana between marihuana facilities for a fee.

23 **(dd)** ~~(cc)~~—"Seed" means the fertilized, ungerminated, matured
24 ovule, containing an embryo or rudimentary plant, of a marihuana
25 plant that is flowering.

26 **(ee)** ~~(dd)~~—"Seedling" means a marihuana plant that has
27 germinated and has not flowered and is not harvestable.

28 **(ff)** ~~(ee)~~—"State operating license" or, unless the context
29 requires a different meaning, "license" means a license that is



1 issued under this act that allows the licensee to operate as 1 of
2 the following, specified in the license:

3 (i) A grower.

4 (ii) A processor.

5 (iii) A secure transporter.

6 (iv) A provisioning center.

7 (v) A safety compliance facility.

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

15 (i) Verifying registry identification cards.

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

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

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

27 **(ii)** ~~(hh)~~—"Usable marihuana" means the dried leaves, flowers,
28 plant resin, or extract of the marihuana plant, but does not
29 include the seeds, stalks, and roots of the plant.



1 Sec. 206. The ~~department, in consultation with the board,~~
2 **marijuana regulatory agency** shall promulgate rules and emergency
3 rules as necessary to implement, administer, and enforce this act.
4 The rules must ensure the safety, security, and integrity of the
5 operation of marihuana facilities, and must include rules to do the
6 following:

7 (a) Set appropriate standards for marihuana facilities and
8 associated equipment.

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

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

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

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

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

20 (g) Prescribe use of the statewide monitoring system to track
21 all marihuana transfers, as provided in the marihuana tracking act
22 and this act, and provide for a funding mechanism to support the
23 system.

24 (h) Establish quality control standards, procedures, and
25 requirements for marihuana facilities.

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

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



1 (k) Establish chemical storage standards, procedures, and
2 requirements for marihuana facilities.

3 (l) Establish standards, procedures, and requirements for
4 securely and safely transporting marihuana between marihuana
5 facilities.

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

8 (n) Establish labeling and packaging standards, procedures,
9 and requirements for marihuana sold or transferred through
10 provisioning centers, including a prohibition on labeling or
11 packaging that is intended to appeal to or has the effect of
12 appealing to minors.

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

17 (p) Establish marketing and advertising restrictions for
18 marihuana products and marihuana facilities.

19 (q) Establish maximum tetrahydrocannabinol levels for
20 marihuana-infused products sold or transferred through provisioning
21 centers.

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

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

27 (t) Establish standards, procedures, and requirements for the
28 sale of industrial hemp from a provisioning center to a registered
29 qualified patient. The rules promulgated under this subdivision



1 must be promulgated before March 1, 2019.

2 (u) Establish procedures and standards for approving an
3 appointee to operate a marihuana facility under section 206a.

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

6 (a) A court-appointed personal representative, guardian, or
7 conservator of an individual who holds a state license or has an
8 interest in a person that holds a state license.

9 (b) A court-appointed receiver or trustee.

10 (2) If an individual approved to operate a marihuana facility
11 under subsection (1) receives notice from the marijuana regulatory
12 agency that the marihuana facility the individual is operating is
13 in violation of this act or rules, the individual shall notify the
14 court that appointed the individual of the notice of violation
15 within 2 days after receiving the notice of violation.

