

Act No. 3
Public Acts of 2019
Approved by the Governor
April 16, 2019
Filed with the Secretary of State
April 16, 2019
EFFECTIVE DATE: April 16, 2019

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2019**

Introduced by Senators MacDonald and Lucido

ENROLLED SENATE BILL No. 203

AN ACT to amend 2016 PA 281, entitled “An act to license and regulate medical marihuana growers, processors, provisioning centers, secure transporters, and safety compliance facilities; to provide for the powers and duties of certain state and local governmental officers and entities; to create a medical marihuana licensing board; to provide for interaction with the statewide monitoring system for commercial marihuana transactions; to create an advisory panel; to provide immunity from prosecution for marihuana-related offenses for persons engaging in certain activities in compliance with this act; to prescribe civil fines and sanctions and provide remedies; to provide for forfeiture of contraband; to provide for taxes, fees, and assessments; and to require the promulgation of rules,” by amending section 102 (MCL 333.27102), as amended by 2018 PA 648.

The People of the State of Michigan enact:

Sec. 102. As used in this act:

(a) “Advisory panel” or “panel” means the marihuana advisory panel created in section 801.

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

(c) “Applicant” means a person who applies for a state operating license. Applicant includes, with respect to disclosures in an application, for purposes of ineligibility for a license under section 402, or for purposes of prior board approval of a transfer of interest under section 406, 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:

(i) For an individual or sole proprietorship: the proprietor and spouse.

(ii) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or 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 holding 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.

(iii) For a privately 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.

(iv) For a 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.

- (v) 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.
- (vi) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.
- (d) “Board” means the medical marihuana licensing board created in section 301.
- (e) “Cutting” means a section of a lead stem or root stock that is used for vegetative asexual propagation.
- (f) “Department” means the department of licensing and regulatory affairs.
- (g) “Grower” means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.
- (h) “Industrial hemp” means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (i) “Industrial hemp research and development act” means the industrial hemp research and development act, 2014 PA 547.
- (j) “Licensee” means a person holding a state operating license.
- (k) “Marihuana” means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (l) “Marihuana facility” means a location at which a licensee is licensed to operate under this act.
- (m) “Marihuana plant” means any plant of the species *Cannabis sativa* L. Marihuana plant does not include industrial hemp.
- (n) “Marihuana-infused product” means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product is not considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.
- (o) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.
- (p) “Michigan medical marihuana act” means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.
- (q) “Municipality” means a city, township, or village.
- (r) “Paraphernalia” means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.
- (s) “Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- (t) “Plant” means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.
- (u) “Processor” means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center or another processor.
- (v) “Provisioning center” means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the department’s marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.
- (w) “Registered primary caregiver” means a primary caregiver who has been issued a current registry identification card under the Michigan medical marihuana act.
- (x) “Registered qualifying patient” means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.
- (y) “Registry identification card” means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.
- (z) “Rules” means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.
- (aa) “Safety compliance facility” means a licensee that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

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

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

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

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

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A provisioning center.
- (v) A safety compliance facility.

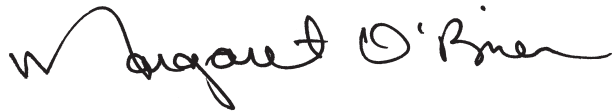
(ff) "Statewide monitoring system" or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized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

- (i) Verifying registry identification cards.
- (ii) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (iii) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, MCL 333.26424.

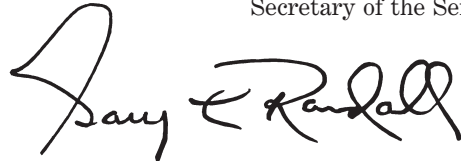
(gg) "Tissue culture" means a marihuana plant cell, cutting, tissue, or organ, that is kept under a sterile condition on a nutrient culture medium of known composition and that does not have visible root formation. A tissue culture is not a marihuana plant for purposes of a grower.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor