



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 461 and 462 (as introduced 5-20-21)
Sponsor: Senator Curtis S. VanderWall (S.B 461)
Senator Paul Wojno (S.B. 462)
Committee: Regulatory Reform

Date Completed: 6-8-21

CONTENT

Senate Bill 461 would amend the Medical Marihuana Facilities Licensing Act (MMFLA) to do the following:

- **Require a proof of financial responsibility for a licensee under the Act to be a liability insurance policy that met all of the bill's requirements.**
- **Require a licensee or applicant to include with its filing of proof of financial responsibility for liability an attestation of compliance.**
- **Require the Marijuana Regulatory Agency to suspend a licensee's license until the licensee provided the required proof of financial responsibility if the licensee failed to maintain it.**
- **Refer to the Marijuana Regulatory Agency instead of the Department of Licensing and Regulatory Affairs (LARA) and the Medical Marihuana Licensing Board.**

Senate Bill 462 would amend the MMFLA to modify a provision requiring the Medical Marihuana Licensing Board to issue a license to an applicant who meets the prescribed qualifications to refer to the Marijuana Regulatory Agency instead of the Board.

The bills are tie-barred.

Senate Bill 461 is described in greater detail below.

Proof of Financial Responsibility

Section 408 of the MMFLA requires, before the Board grants or renews any license under the MMFLA, a licensee or applicant to file with LARA proof of financial responsibility for liability for bodily injury to lawful users resulting from the manufacture, distribution, transportation, or sale of adulterated marihuana or adulterated marihuana-infused product in an amount of at least \$100,000. The bill would refer to the Marijuana Regulatory Agency instead of the Board and the Department.

The proof of financial responsibility described above may be in the form of cash, unencumbered securities, a liability insurance policy, or a constant value bond executed by a surety company authorized to do business in Michigan. Under the bill, the proof of financial responsibility instead would have to be a liability insurance policy that met all of the following requirements:

- Was issued by an authorized insurer or captive insurance company authorized under the Insurance Code of 1956 to transact insurance business of the type required to comply with Section 408.
- Did not include a condition, provision, stipulation, or limitation contained in the policy, or any other endorsement, that relieved the insurer from liability for the payment of any claim for which the insured could be held liable under the MMFLA.
- The required proof of financial responsibility would have to cover bodily injuries to a qualifying patient including injuries that were caused by the intentional conduct of the licensee or its employee or agent; however, it would not have to cover bodily injuries to qualifying patients caused by the licensee or its employee or agent if the licensee or its employee or agent acted with the intent to harm.

"Authorized insurer" would mean that term as defined in the Insurance Code: an insurer duly authorized, by a subsisting certificate of authority issued by the Commissioner, to transact insurance in Michigan. "Captive insurance company" would mean that term as defined in the Insurance Code: a pure captive insurance company, association captive insurance company, sponsored captive insurance company, special purpose captive insurance company, or industrial insured captive insurance company authorized under Chapter 46 (Captive Insurance Company).

A licensee or applicant could furnish proof of financial responsibility that exceeded the requirements above.

Attestation of Compliance & Failure to Maintain Proof

A licensee or applicant would have to include with its filing an attestation of compliance with the above provisions on a form approved by the Marijuana Regulatory Agency. An officer of the authorized insurer or captive insurance company that issued the policy described above would have to sign the attestation of compliance that the licensee or applicant would be required to file.

If a licensee failed to maintain the required proof of financial responsibility, the Agency would have to suspend the licensee's license immediately until the licensee provided to the Agency the required proof of financial responsibility.

The Act prohibits an insured licensee from canceling liability insurance unless the licensee gives 30 days' prior written notice to the Department, procures new proof of financial responsibility, and delivers that proof to the Department within 30 days after giving the notice. The bill instead would refer to the Marijuana Regulatory Agency instead of the Department.

MCL 333.27408 (S.B. 461)
333.27402 (S.B. 462)

Legislative Analyst: Christian Schmidt

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.