

Legislative Analysis



PROOF OF FINANCIAL RESPONSIBILITY UNDER THE MEDICAL MARIHUANA FACILITIES LICENSING ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5126 as introduced
Sponsor: Rep. Alex Garza

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

House Bill 5127 as introduced
Sponsor: Rep. Roger Hauck

Committee: Regulatory Reform
Complete to 10-19-20

SUMMARY:

House Bills 5126 and 5127 would together amend the Medical Marihuana Facilities Licensing Act to require a liability insurance policy meeting certain requirements as proof of the financial responsibility of a licensee or applicant to and to make meeting those requirements a condition for licensure.

House Bill 5126 would amend section 408 of the act, which requires as a condition of initial licensure or license renewal that the applicant or licensee file proof of financial responsibility, in an amount of at least \$100,000, for liability for bodily injury to lawful users arising from adulterated marijuana or marijuana-infused product. Currently, this proof of financial responsibility can be in any of the following forms:

- Cash.
- Unencumbered securities.
- A liability insurance policy.
- A constant value bond executed by a surety company authorized to do business in this state.

The bill would require the proof of financial responsibility to be in the form of a liability insurance policy that meets both of the following conditions:

- The policy is issued by a carrier licensed or authorized in this state to transact insurance business of the applicable type and nature.
- The policy does not include a provision relieving an insurer from liability for payment of any claim for which the insured may be held liable under the act.
- The policy covers bodily injuries to a qualifying patient, including those caused by the intentional conduct of the licensee or its employee or agent. However, the policy would not have to cover bodily injuries to qualifying patients caused by the licensee or its employee or agent when acting with the intent to harm.

Currently the proof of financial responsibility must be filed with the Department of Licensing and Regulatory Affairs (LARA). The bill would instead require the applicant or licensee to file it with the Marijuana Regulatory Agency (MRA), which is an agency within LARA, and also require that the applicant or licensee include with its filing an attestation of compliance on a form approved by the MRA. An officer of the insurer issuing the policy would have to sign the attestation.

Finally, the bill would add the following provisions regarding proof of financial responsibility:

- An applicant or licensee could furnish proof of financial responsibility exceeding the requirements described above.
- If at any time a licensee failed to maintain the required proof of financial responsibility, the MRA would have to immediately suspend its license until the licensee provided the required proof of financial responsibility to the MRA.

MCL 333.27408

House Bill 5127 would amend section 402 of the act, which among other things describes circumstances under which an applicant is ineligible to receive a license under the act.

The bill would add that an applicant is ineligible if the MRA determines that the applicant is not in compliance with the proof of financial responsibility provisions described above.

The bill also would change references throughout section 402 to LARA and the Medical Marihuana Licensing Board to refer instead to the MRA.

Executive Reorganization Order 2019-2,¹ which created the MRA as an agency within LARA, also abolished the Marihuana Advisory Panel and the Medical Marihuana Licensing Board and transferred their authorities, powers, duties, functions, and responsibilities to the MRA. That order took effect April 30, 2019.

MCL 333.27402

The bills are tie-barred to one another, which means that neither bill could take effect unless both bills were enacted.

FISCAL IMPACT:

The bills would not have a fiscal impact on LARA or any other unit of state or local government.

Legislative Analyst: Rick Yuille
Fiscal Analyst: Marcus Coffin

■ 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.

¹ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-333-27001.pdf>