

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4295

A bill to amend 2016 PA 281, entitled
"Medical marihuana facilities licensing act,"
by amending section 402 (MCL 333.27402), as amended by 2018 PA 582.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 402. (1) The ~~board~~ **marijuana regulatory agency** shall
2 issue a license to an applicant ~~who~~ **if all of the following**
3 **conditions are met:**

4 **(a) The applicant** submits a complete application. ~~and~~

5 **(b) The applicant** pays both the nonrefundable application fee
6 required under section 401(5) and the regulatory assessment
7 established by the ~~board~~ **marijuana regulatory agency** for the first
8 year of operation. ~~, if the board~~

9 **(c) The marijuana regulatory agency** determines that the

1 applicant is qualified to receive a license under this act.

2 (2) An applicant is ineligible to receive a license if any of
3 the following circumstances exist:

4 (a) The applicant has been convicted of or released from
5 incarceration for a felony under the laws of this state, any other
6 state, or the United States within the past 10 years or has been
7 convicted of a controlled substance-related felony within the past
8 10 years. **This subdivision does not apply to a felony for the
9 manufacture, processing, or distribution of marihuana, or
10 possession with the intent to manufacture, process, or distribute
11 marihuana, unless the felony involved the distribution of marihuana
12 to a minor.**

13 (b) Within the past 5 years the applicant has been convicted
14 of a misdemeanor involving a controlled substance, theft,
15 dishonesty, or fraud in any state or been found responsible for
16 violating a local ordinance in any state involving a controlled
17 substance, dishonesty, theft, or fraud that substantially
18 corresponds to a misdemeanor in that state. **This subdivision does
19 not apply to a misdemeanor or ordinance violation for the
20 possession or use of marihuana.**

21 (c) The applicant has knowingly submitted an application for a
22 license under this act that contains false information.

23 (d) The applicant is ~~a member~~ **an employee** of the
24 ~~board~~ **marijuana regulatory agency.**

25 (e) The applicant fails to demonstrate the applicant's ability
26 to maintain adequate premises liability and casualty insurance for
27 its proposed marihuana facility.

28 (f) The applicant holds an elective office of a governmental
29 unit of this state, another state, or the federal government. †

1 This subdivision does not apply to an elected officer of or
 2 employee of a federally recognized Indian tribe or to an elected
 3 precinct delegate.

4 (g) The applicant is a member of or employed by a regulatory
 5 body of a governmental unit in this state, another state, or the
 6 federal government, ~~;~~ or is employed by a governmental unit of this
 7 state. This subdivision does not apply to ~~an~~ any of the following:

8 (i) An elected officer of or employee of a federally recognized
 9 Indian tribe. ~~or to an~~

10 (ii) An elected precinct delegate.

11 (iii) The spouse of a person who applies for a state operating
 12 license unless the spouse's position creates a conflict of interest
 13 or is within any of the following:

14 (A) The marijuana regulatory agency.

15 (B) A regulatory body of a governmental unit in this state,
 16 another state, or the federal government that make decisions
 17 regarding medical marihuana.

18 (h) ~~(g)~~ The ~~board~~ marijuana regulatory agency determines that
 19 the applicant is not in compliance with section 205(1).

20 (i) ~~(h)~~ The applicant fails to meet other criteria established
 21 by rule.

22 (3) In determining whether to grant a license to an applicant,
 23 the ~~board~~ marijuana regulatory agency may also consider all of the
 24 following:

25 (a) The ~~integrity, moral character, and reputation; personal~~
 26 ~~and~~ business probity; financial ability and experience; and
 27 responsibility or means to operate or maintain a marihuana facility
 28 of the applicant and of any other person that meets either of the
 29 following:

1 (i) Controls, directly or indirectly, the applicant.

2 (ii) Is controlled, directly or indirectly, by the applicant or
3 by a person who controls, directly or indirectly, the applicant.

4 (b) The financial ability of the applicant to purchase and
5 maintain adequate liability and casualty insurance.

6 (c) The sources and total amount of the applicant's
7 capitalization to operate and maintain the proposed marihuana
8 facility.

9 (d) Whether the applicant has been indicted for, charged with,
10 arrested for, or convicted of, pled guilty or nolo contendere to,
11 forfeited bail concerning, or had expunged any relevant criminal
12 offense under the laws of any jurisdiction, either felony or
13 misdemeanor, not including traffic violations, regardless of
14 whether the offense has been expunged, pardoned, or reversed on
15 appeal or otherwise. **This subdivision does not apply to a criminal
16 offense for the possession, use, manufacture, processing, or
17 distribution of marihuana, or possession with the intent to
18 manufacture, process, or distribute marihuana, unless the felony
19 involved the distribution of marihuana to a minor.**

20 (e) Whether the applicant has filed, or had filed against it,
21 a proceeding for bankruptcy within the past 7 years.

22 (f) Whether the applicant has been served with a complaint or
23 other notice filed with any public body regarding payment of any
24 tax required under federal, state, or local law that has been
25 delinquent for 1 or more years.

26 (g) Whether the applicant has a history of noncompliance with
27 any regulatory requirements in this state or any other
28 jurisdiction.

29 (h) Whether at the time of application the applicant is a

1 defendant in litigation involving its business practices.

2 (i) Whether the applicant meets other standards in rules
3 applicable to the license category.

4 (4) Each applicant shall ensure that 1 set of fingerprints is
5 submitted to the department of state police. The applicant shall
6 submit with its application the applicant's written consent to the
7 criminal history check described in this section and the submission
8 of the applicant's fingerprints to, and the inclusion of the
9 applicant's fingerprints in, the state and federal database systems
10 described in subsection (7).

11 (5) The fingerprints required under subsection (4) may be
12 taken by a law enforcement agency or any other person determined by
13 the department of state police to be qualified to take
14 fingerprints. The applicant shall submit a fingerprint processing
15 fee to the department in an amount required under section 3 of 1935
16 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of
17 Investigation.

18 (6) The department of state police shall do all of the
19 following:

20 (a) Conduct a criminal history check on each applicant and
21 request the Federal Bureau of Investigation to make a determination
22 of the existence of any national criminal history pertaining to
23 each applicant.

24 (b) Provide the ~~board~~ **marijuana regulatory agency** with a
25 written report containing the criminal history record information
26 of each applicant.

27 (7) All of the following apply concerning fingerprints
28 submitted to the department of state police under this section:

29 (a) The department of state police shall store and retain all

1 fingerprints submitted under this section in an automated
2 fingerprint identification system database that searches against
3 latent fingerprints, and provides for an automatic notification ~~if~~
4 ~~and~~ when a subsequent fingerprint is submitted into the system that
5 matches a ~~set of fingerprints~~ **fingerprint** previously submitted
6 under this section or ~~if and~~ when the criminal history of an
7 individual whose fingerprints are retained in the system is
8 updated. Upon receiving a notification, the department of state
9 police shall immediately notify the ~~board~~ **marijuana regulatory**
10 **agency**. Information in the database maintained under this
11 subsection is confidential, is not subject to disclosure under the
12 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and
13 shall not be disclosed to any person except for purposes of this
14 act or for law enforcement purposes.

15 (b) The department of state police shall forward all
16 fingerprints submitted to it under this section to the Federal
17 Bureau of Investigation for submission of those fingerprints into
18 the FBI automatic notification system. This subdivision does not
19 apply until the department of state police is a participant in the
20 FBI automatic notification system. As used in this subdivision:

21 (i) "Automatic notification system" means a system that stores
22 and retains fingerprints, and that provides for an automatic
23 notification to a participant if and when a fingerprint is
24 submitted into the system that matches an individual whose
25 fingerprints are retained in the system or if and when the criminal
26 history of an individual whose fingerprints are retained in the
27 system is updated.

28 (ii) "FBI automatic notification system" means the automatic
29 notification system that is maintained by the Federal Bureau of

1 Investigation.

2 (8) The ~~board~~ **marijuana regulatory agency** shall review all
3 applications for licenses and shall inform each applicant of the
4 ~~board's~~ **marijuana regulatory agency's** decision.

5 (9) A license shall be issued for a 1-year period and is
6 renewable annually. Except as otherwise provided in this act, the
7 ~~board~~ **marijuana regulatory agency** shall renew a license if all of
8 the following requirements are met:

9 (a) The licensee applies to the ~~board~~ **marijuana regulatory**
10 **agency** on a renewal form provided by the ~~board~~ **marijuana regulatory**
11 **agency** that requires information prescribed in rules.

12 (b) The application is received by the ~~board~~ **marijuana**
13 **regulatory agency** on or before the expiration date of the current
14 license.

15 (c) The licensee pays the regulatory assessment under section
16 603.

17 (d) The licensee meets the requirements of this act and any
18 other renewal requirements set forth in rules.

19 (10) The department shall notify the licensee by mail or
20 electronic mail at the last known address on file with the ~~board~~
21 **marijuana regulatory agency** advising of the time ~~and~~ procedure ~~and~~
22 **for paying** and **the amount of the** regulatory assessment under
23 section 603. The failure of the licensee to receive notice under
24 this subsection does not relieve the licensee of the responsibility
25 for renewing the license.

26 (11) If a license renewal application is not submitted by the
27 license expiration date, the license may be renewed within 60 days
28 after its expiration date upon application, payment of the
29 regulatory assessment under section 603, and satisfaction of any

1 renewal requirement and late fee set forth in rules. The licensee
2 may continue to operate during the 60 days after the license
3 expiration date if the license is renewed by the end of the 60-day
4 period.

5 (12) License expiration does not terminate the ~~board's~~
6 **marijuana regulatory agency's** authority to impose sanctions on a
7 licensee whose license has expired.

8 (13) In its decision on an application for renewal, the ~~board~~
9 **marijuana regulatory agency** shall consider any specific written
10 input it receives from an individual or entity within the local
11 unit of government in which the applicant for renewal is located.

12 (14) A licensee must consent in writing to inspections,
13 examinations, searches, and seizures that are permitted under this
14 act and must provide a handwriting exemplar, fingerprints,
15 photographs, and information as authorized in this act or by rules.

16 (15) An applicant or licensee has a continuing duty to provide
17 information requested by the ~~board~~**marijuana regulatory agency** and
18 to cooperate in any investigation, inquiry, or hearing conducted by
19 the ~~board~~**marijuana regulatory agency**.