

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 marihuana-related
9 felony.**

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

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

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

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

25 (f) The applicant holds an elective office of a governmental
26 unit of this state, another state, or the federal government. **÷
27 This subdivision does not apply to an elected officer of or
28 employee of a federally recognized Indian tribe or to an elected
29 precinct delegate.**

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

5 **(i) An** elected officer of or employee of a federally recognized
 6 Indian tribe. ~~or to an~~

7 **(ii) An** elected precinct delegate.

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

11 **(A) The marijuana regulatory agency.**

12 **(B) A regulatory body of a governmental unit in this state,**
 13 **another state, or the federal government that make decisions**
 14 **regarding medical marihuana.**

15 **(h) ~~(g)~~The board-marijuana regulatory agency** determines that
 16 the applicant is not in compliance with section 205(1).

17 **(i) ~~(h)~~The applicant** fails to meet other criteria established
 18 by rule.

19 (3) In determining whether to grant a license to an applicant,
 20 the ~~board-marijuana regulatory agency~~ may also consider all of the
 21 following:

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

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

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

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

3 (c) The sources and total amount of the applicant's
4 capitalization to operate and maintain the proposed marihuana
5 facility.

6 (d) Whether the applicant has been indicted for, charged with,
7 arrested for, or convicted of, pled guilty or nolo contendere to,
8 forfeited bail concerning, or had expunged any relevant criminal
9 offense under the laws of any jurisdiction, either felony or
10 misdemeanor, not including traffic violations **or marihuana-related**
11 **offenses**, regardless of whether the offense has been expunged,
12 pardoned, or reversed on appeal or otherwise.

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

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

19 (g) Whether the applicant has a history of noncompliance with
20 any regulatory requirements in this state or any other
21 jurisdiction.

22 (h) Whether at the time of application the applicant is a
23 defendant in litigation involving its business practices.

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

26 (4) Each applicant shall ensure that 1 set of fingerprints is
27 submitted to the department of state police. The applicant shall
28 submit with its application the applicant's written consent to the
29 criminal history check described in this section and the submission

1 of the applicant's fingerprints to, and the inclusion of the
 2 applicant's fingerprints in, the state and federal database systems
 3 described in subsection (7).

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

11 (6) The department of state police shall do all of the
 12 following:

13 (a) Conduct a criminal history check on each applicant and
 14 request the Federal Bureau of Investigation to make a determination
 15 of the existence of any national criminal history pertaining to
 16 each applicant.

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

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

22 (a) The department of state police shall store and retain all
 23 fingerprints submitted under this section in an automated
 24 fingerprint identification system database that searches against
 25 latent fingerprints, and provides for an automatic notification ~~if~~
 26 ~~and~~ when a subsequent fingerprint is submitted into the system that
 27 matches a ~~set of fingerprints~~ **fingerprint** previously submitted
 28 under this section or ~~if and~~ when the criminal history of an
 29 individual whose fingerprints are retained in the system is

1 updated. Upon receiving a notification, the department of state
2 police shall immediately notify the ~~board~~. **marijuana regulatory**
3 **agency**. Information in the database maintained under this
4 subsection is confidential, is not subject to disclosure under the
5 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and
6 shall not be disclosed to any person except for purposes of this
7 act or for law enforcement purposes.

8 (b) The department of state police shall forward all
9 fingerprints submitted to it under this section to the Federal
10 Bureau of Investigation for submission of those fingerprints into
11 the FBI automatic notification system. This subdivision does not
12 apply until the department of state police is a participant in the
13 FBI automatic notification system. As used in this subdivision:

14 (i) "Automatic notification system" means a system that stores
15 and retains fingerprints, and that provides for an automatic
16 notification to a participant if and when a fingerprint is
17 submitted into the system that matches an individual whose
18 fingerprints are retained in the system or if and when the criminal
19 history of an individual whose fingerprints are retained in the
20 system is updated.

21 (ii) "FBI automatic notification system" means the automatic
22 notification system that is maintained by the Federal Bureau of
23 Investigation.

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

27 (9) A license shall be issued for a 1-year period and is
28 renewable annually. Except as otherwise provided in this act, the
29 ~~board~~ **marijuana regulatory agency** shall renew a license if all of

1 the following requirements are met:

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

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

8 (c) The licensee pays the regulatory assessment under section
9 603.

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

12 (10) The department shall notify the licensee by mail or
13 electronic mail at the last known address on file with the ~~board~~
14 **marijuana regulatory agency** advising of the time ~~and~~ procedure ~~and~~
15 **for paying** and **the amount of the** regulatory assessment under
16 section 603. The failure of the licensee to receive notice under
17 this subsection does not relieve the licensee of the responsibility
18 for renewing the license.

19 (11) If a license renewal application is not submitted by the
20 license expiration date, the license may be renewed within 60 days
21 after its expiration date upon application, payment of the
22 regulatory assessment under section 603, and satisfaction of any
23 renewal requirement and late fee set forth in rules. The licensee
24 may continue to operate during the 60 days after the license
25 expiration date if the license is renewed by the end of the 60-day
26 period.

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

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

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

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