

# HOUSE BILL NO. 4295

February 23, 2021, Introduced by Reps. Alexander and Wozniak and referred to the Committee on Regulatory Reform.

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

1 required under section 401(5) and the regulatory assessment  
2 established by the ~~board~~ **marijuana regulatory agency** for the first  
3 year of operation. ~~, if the board~~

4 **(c) The marijuana regulatory agency** determines that the  
5 applicant is qualified to receive a license under this act.

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

8 (a) The applicant has been convicted of or released from  
9 incarceration for a felony under the laws of this state, any other  
10 state, or the United States within the past 10 years or has been  
11 convicted of a controlled substance-related felony within the past  
12 10 years.

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.

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

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

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

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

1 **precinct delegate.**

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

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

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

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

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

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

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

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

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

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

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

29 (ii) Is controlled, directly or indirectly, by the applicant or

1 by a person who controls, directly or indirectly, the applicant.

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

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

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

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

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

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

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

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

27 (4) Each applicant shall ensure that 1 set of fingerprints is  
28 submitted to the department of state police. The applicant shall  
29 submit with its application the applicant's written consent to the

1 criminal history check described in this section and the submission  
 2 of the applicant's fingerprints to, and the inclusion of the  
 3 applicant's fingerprints in, the state and federal database systems  
 4 described in subsection (7).

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

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

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

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

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

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

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

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

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

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

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

28 (9) A license shall be issued for a 1-year period and is  
29 renewable annually. Except as otherwise provided in this act, the

1 ~~board~~**marijuana regulatory agency** shall renew a license if all of  
2 the following requirements are met:

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

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

9 (c) The licensee pays the regulatory assessment under section  
10 603.

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

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

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

28 (12) License expiration does not terminate the ~~board's~~  
29 **marijuana regulatory agency's** authority to impose sanctions on a

1 licensee whose license has expired.

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

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

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