

HOUSE BILL NO. 5706

February 01, 2022, Introduced by Rep. Hauck and referred to the Committee on Regulatory Reform.

A bill to amend 2018 IL 1, entitled "Michigan Regulation and Taxation of Marihuana Act," by amending sections 3, 7, 13, and 14 (MCL 333.27953, 333.27957, 333.27963, and 333.27964), section 3 as amended by 2021 PA 56.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Cultivate" means to propagate, breed, grow, harvest, dry,
3 cure, or separate parts of a marihuana plant by manual or
4 mechanical means.

5 (b) "Department" means the ~~department of licensing and~~
6 ~~regulatory affairs.~~ **marijuana regulatory agency.**

1 (c) "Indian lands" means that term as defined in 25 USC 2703.

2 (d) "Indian tribe" means that term as defined in 25 USC 2703.

3 (e) ~~(e)~~—"Industrial hemp" means any of the following:

4 (i) A plant of the genus *Cannabis*, whether growing or not, with
5 a THC concentration of 0.3% or less on a dry-weight basis.

6 (ii) A part of a plant of the genus *Cannabis*, whether growing
7 or not, with a THC concentration of 0.3% or less on a dry-weight
8 basis.

9 (iii) The seeds of a plant of the genus *Cannabis* with a THC
10 concentration of 0.3% or less on a dry-weight basis.

11 (iv) If it has a THC concentration of 0.3% or less on a dry-
12 weight basis, a compound, manufacture, derivative, mixture,
13 preparation, extract, cannabinoid, acid, salt, isomer, or salt of
14 an isomer of any of the following:

15 (A) A plant of the genus *Cannabis*.

16 (B) A part of a plant of the genus *Cannabis*.

17 (v) A product to which 1 of the following applies:

18 (A) If the product is intended for human or animal
19 consumption, the product, in the form in which it is intended for
20 sale to a consumer, meets both of the following requirements:

21 (I) Has a THC concentration of 0.3% or less on a dry-weight or
22 per volume basis.

23 (II) Contains a total amount of THC that is less than or equal
24 to the limit established by the marijuana regulatory agency under
25 section 8(1)(n).

26 (B) If the product is not intended for human or animal
27 consumption, the product meets both of the following requirements:

28 (I) Contains a substance listed in subparagraph (i), (ii), (iii),
29 or (iv).

1 (II) Has a THC concentration of 0.3% or less on a dry-weight
2 basis.

3 (f) ~~(d)~~—"Licensee" means a person holding a state license.

4 (g) ~~(e)~~—"Marihuana" means any of the following:

5 (i) A plant of the genus *Cannabis*, whether growing or not.

6 (ii) A part of a plant of the genus *Cannabis*, whether growing
7 or not.

8 (iii) The seeds of a plant of the genus *Cannabis*.

9 (iv) Marihuana concentrate.

10 (v) A compound, manufacture, salt, derivative, mixture,
11 extract, acid, isomer, salt of an isomer, or preparation of any of
12 the following:

13 (A) A plant of the genus *Cannabis*.

14 (B) A part of a plant of the genus *Cannabis*.

15 (C) The seeds of a plant of the genus *Cannabis*.

16 (D) Marihuana concentrate.

17 (vi) A marihuana-infused product.

18 (vii) A product with a THC concentration of more than 0.3% on a
19 dry-weight or per volume basis in the form in which it is intended
20 for sale to a consumer.

21 (viii) A product that is intended for human or animal
22 consumption and that contains, in the form in which it is intended
23 for sale to a consumer, a total amount of THC that is greater than
24 the limit established by the marijuana regulatory agency under
25 section 8(1)(n).

26 (h) ~~(f)~~—Except for marihuana concentrate extracted from any of
27 the following, "marihuana" does not include any of the following:

28 (i) The mature stalks of a plant of the genus *Cannabis*.

29 (ii) Fiber produced from the mature stalks of a plant of the

1 genus *Cannabis*.

2 (iii) Oil or cake made from the seeds of a plant of the genus
3 *Cannabis*.

4 (iv) A compound, manufacture, salt, derivative, mixture, or
5 preparation of the mature stalks of a plant of the genus *Cannabis*.

6 (v) Industrial hemp.

7 (vi) An ingredient combined with marihuana to prepare topical
8 or oral administrations, food, drink, or other products.

9 (vii) A drug for which an application filed in accordance with
10 21 USC 355 is approved by the Food and Drug Administration.

11 (i) ~~(g)~~—"Marihuana accessories" means any equipment, product,
12 material, or combination of equipment, products, or materials, that
13 is specifically designed for use in planting, propagating,
14 cultivating, growing, harvesting, manufacturing, compounding,
15 converting, producing, processing, preparing, testing, analyzing,
16 packaging, repackaging, storing, containing, ingesting, inhaling,
17 or otherwise introducing marihuana into the human body.

18 (j) ~~(h)~~—"Marihuana concentrate" means the resin extracted from
19 any part of a plant of the genus *Cannabis*.

20 (k) ~~(i)~~—"Marihuana establishment" means a marihuana grower,
21 marihuana safety compliance facility, marihuana processor,
22 marihuana microbusiness, marihuana retailer, marihuana secure
23 transporter, or any other type of marihuana-related business
24 licensed by the marijuana regulatory agency.

25 (l) ~~(j)~~—"Marihuana grower" means a person licensed to cultivate
26 marihuana and sell or otherwise transfer marihuana to marihuana
27 establishments.

28 (m) ~~(k)~~—"Marihuana-infused product" means a topical
29 formulation, tincture, beverage, edible substance, or similar

1 product containing marihuana and other ingredients and that is
2 intended for human consumption.

3 (n) ~~(l)~~—"Marihuana microbusiness" means a person licensed to
4 cultivate not more than 150 marihuana plants; process and package
5 marihuana; and sell or otherwise transfer marihuana to individuals
6 who are 21 years of age or older or to a marihuana safety
7 compliance facility, but not to other marihuana establishments.

8 (o) ~~(m)~~—"Marihuana processor" means a person licensed to
9 obtain marihuana from marihuana establishments; process and package
10 marihuana; and sell or otherwise transfer marihuana to marihuana
11 establishments.

12 (p) ~~(n)~~—"Marihuana retailer" means a person licensed to obtain
13 marihuana from marihuana establishments and to sell or otherwise
14 transfer marihuana to marihuana establishments and to individuals
15 who are 21 years of age or older.

16 (q) **"Marihuana safety compliance facility" means a person**
17 **licensed to test marihuana, including certification for potency and**
18 **the presence of contaminants.**

19 (r) ~~(o)~~—"Marihuana secure transporter" means a person licensed
20 to obtain marihuana from marihuana establishments in order to
21 transport marihuana to marihuana establishments.

22 ~~(p) "Marihuana safety compliance facility" means a person~~
23 ~~licensed to test marihuana, including certification for potency and~~
24 ~~the presence of contaminants.~~

25 (s) ~~(q)~~—"Marijuana regulatory agency" means the marijuana
26 regulatory agency created under Executive Reorganization Order No.
27 2019-2, MCL 333.27001.

28 (t) ~~(r)~~—"Municipal license" means a license issued by a
29 municipality pursuant to section 16 that allows a person to operate

1 a marihuana establishment in that municipality.

2 (u) ~~(s)~~—"Municipality" means a city, village, or township.

3 (v) ~~(t)~~—"Person" means an individual, corporation, limited
4 liability company, partnership of any type, trust, or other legal
5 entity.

6 (w) ~~(u)~~—"Process" or "processing" means to separate or
7 otherwise prepare parts of a marihuana plant and to compound,
8 blend, extract, infuse, or otherwise make or prepare marihuana
9 concentrate or marihuana-infused products.

10 (x) **"Qualifying Indian tribe" means an Indian tribe that has**
11 **entered into an agreement with the marijuana regulatory agency**
12 **under section 7(2) (b) .**

13 (y) ~~(v)~~—"State license" means a license issued by the
14 marijuana regulatory agency that allows a person to operate a
15 marihuana establishment.

16 (z) ~~(w)~~—"THC" means any of the following:

17 (i) Tetrahydrocannabinolic acid.

18 (ii) Unless excluded by the marijuana regulatory agency under
19 section 8(2) (c), a tetrahydrocannabinol, regardless of whether it
20 is artificially or naturally derived.

21 (iii) A tetrahydrocannabinol that is a structural, optical, or
22 geometric isomer of a tetrahydrocannabinol described in
23 subparagraph (ii).

24 (aa) **"Tribal marihuana business" means a business that meets**
25 **all of the following conditions:**

26 (i) **Engages in the type of activities licensed under this act.**

27 (ii) **Is wholly owned by a qualifying Indian tribe, the enrolled**
28 **members of a qualifying Indian tribe, or a combination of a**
29 **qualifying Indian tribe and the members of that qualifying Indian**

1 **tribe.**

2 **(iii) Is located in this state and in the qualifying Indian**
3 **tribe's Indian lands.**

4 **(bb)** ~~(*)~~ "Unreasonably impracticable" means that the measures
5 necessary to comply with the rules or ordinances adopted pursuant
6 to this act subject licensees to unreasonable risk or require such
7 a high investment of money, time, or any other resource or asset
8 that a reasonably prudent businessperson would not operate the
9 marihuana establishment.

10 Sec. 7. **(1)** ~~1.~~ ~~The department~~ **marijuana regulatory agency** is
11 responsible for implementing this act and has the powers and duties
12 necessary to control the commercial production and distribution of
13 marihuana. ~~The department~~ **marijuana regulatory agency** shall employ
14 personnel and may contract with advisors and consultants as
15 necessary to adequately perform its duties. ~~No person who is~~
16 ~~pecuniarily interested, directly or indirectly, in any marihuana~~
17 ~~establishment may be an employee, advisor, or consultant involved~~
18 ~~in the implementation, administration, or enforcement of this act.~~
19 ~~An employee, advisor, or consultant of the department may not be~~
20 ~~personally liable for any action at law for damages sustained by a~~
21 ~~person because of an action performed or done in the performance of~~
22 ~~their duties in the implementation, administration, or enforcement~~
23 ~~of this act. The department of state police shall cooperate and~~
24 ~~assist the department in conducting background investigations of~~
25 ~~applicants. Responsibilities of the department include:~~ **do all of**
26 **the following:**

27 (a) ~~promulgating~~ **Promulgate** rules pursuant to section 8 of
28 ~~this act~~ that are necessary to implement, administer, and enforce
29 this act. †

1 (b) ~~granting~~**Grant** or ~~denying~~**deny** each application for
 2 licensure and ~~investigating~~**investigate** each applicant to determine
 3 eligibility for licensure, including conducting a background
 4 investigation on each person holding an ownership interest in the
 5 applicant. †

6 (c) ~~ensuring compliance~~**Ensure that marihuana establishments**
 7 **comply** with this act and the rules promulgated ~~thereunder by~~
 8 ~~marihuana establishments under this act~~ by ~~performing~~**doing all of**
 9 **the following:**

10 (i) **Performing** investigations of compliance and regular
 11 inspections of marihuana establishments. ~~and by taking~~

12 (ii) **Taking** appropriate disciplinary action against a licensee,
 13 including prescribing civil fines for violations of this act or **the**
 14 rules **promulgated under this act** and suspending, restricting, or
 15 revoking a state license. †

16 (d) ~~holding~~**Hold** at least 4 public meetings each calendar year
 17 for the purpose of hearing complaints and receiving the views of
 18 the public with respect to administration of this act. †

19 (e) ~~collecting~~**Collect** fees for licensure and fines for
 20 violations of this act or **the** rules promulgated ~~thereunder,~~
 21 ~~depositing~~**under this act.**

22 (f) **Deposit** all fees collected ~~in for licensure into~~ the
 23 marihuana regulation fund established ~~by under~~ section 14 ~~of this~~
 24 act, ~~and remitting~~**remit** all fines collected ~~to be deposited in for~~
 25 **deposit into** the general fund. † ~~and~~

26 (g) ~~(f) submitting~~**Submit** an annual report to the governor
 27 covering the ~~previous~~**immediately preceding** year ~~, which report~~
 28 ~~shall include~~**that includes all of the following:**

29 (i) **The** number of state licenses of each class issued. †

1 demographie

2 (ii) Demographic information ~~en~~ of licensees. ~~ra~~

3 (iii) A description of enforcement and disciplinary actions
4 taken against licensees. ~~and a~~

5 (iv) A statement of revenues and expenses of the department
6 marijuana regulatory agency related to the implementation,
7 administration, and enforcement of this act.

8 (h) Employ personnel as necessary to adequately perform its
9 duties.

10 (2) The marijuana regulatory agency may do either of the
11 following:

12 (a) Enter into an agreement with an advisor or consultant as
13 necessary to adequately perform its duties under this act.

14 (b) Enter into an agreement with an Indian tribe regarding
15 marihuana-related regulatory issues that involve the interests of
16 this state and the Indian tribe, including, but not limited to,
17 issues related to the commercial growing, processing, sale,
18 testing, transportation, and possession of marihuana.

19 (3) A person who has a pecuniary interest, directly or
20 indirectly, in a marihuana establishment or tribal marihuana
21 business may not be an employee, advisor, or consultant involved in
22 the implementation, administration, or enforcement of this act. An
23 employee, advisor, or consultant of the marijuana regulatory agency
24 is not personally liable for any action at law for damages
25 sustained by a person because of an action performed or done in the
26 performance of employee's, advisor's, or consultant's duties in the
27 implementation, administration, or enforcement of this act.

28 (4) The department of state police shall cooperate and assist
29 the marijuana regulatory agency in performing the marijuana

1 regulatory agency's duties under this act, including, but not
 2 limited to, conducting background investigations of applicants. The
 3 department of state police may recover its costs of cooperation and
 4 assistance under this subsection from the marijuana regulatory
 5 agency.

6 Sec. 13. (1) ~~1. In~~ **Except as otherwise provided in subsection**
 7 **(4), in** addition to all other taxes, an excise tax is imposed ~~on~~
 8 ~~each marihuana retailer and on each marihuana microbusiness at the~~
 9 rate of 10% of the sales price for marihuana sold or otherwise
 10 transferred to anyone other than a marihuana establishment **or**
 11 **tribal marihuana business.**

12 (2) ~~2.~~ Except as otherwise provided by a rule promulgated by
 13 the department of treasury, a product subject to the tax imposed ~~by~~
 14 **under** this section may not be bundled in a single transaction with
 15 a product or service that is not subject to the tax imposed by this
 16 section.

17 (3) ~~3.~~ The department of treasury shall administer the taxes
 18 imposed under this act ~~and pursuant to 1941 PA 122, MCL 205.1 to~~
 19 **205.31. The department of treasury** may promulgate rules pursuant to
 20 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
 21 to MCL 24.328, that prescribe a method and manner for payment **and**
 22 **collection** of the ~~tax to ensure proper tax collection~~ **taxes imposed**
 23 under this act.

24 (4) **The tax imposed under subsection (1) does not apply to**
 25 **marihuana sold or otherwise transferred from a tribal marihuana**
 26 **business to another tribal marihuana business or a person other**
 27 **than a marihuana establishment if all of the following conditions**
 28 **are met:**

29 (a) **The qualifying Indian tribe on whose Indian lands the**

1 tribal marihuana business is located imposes its own tax on the
2 sale or transfer of marihuana.

3 (b) The tax described in subdivision (a) is based on the sales
4 price of the marihuana.

5 (c) The rate of the tax described in subdivision (a) is equal
6 to or greater than the rate of the tax imposed under subsection
7 (1).

8 Sec. 14. (1) ~~1.~~The marihuana regulation fund is created in
9 the state treasury. The department of treasury shall deposit **into**
10 **the fund** all money collected under section 13 ~~of this act~~ and the
11 ~~department~~ **marijuana regulatory agency** shall deposit **into the fund**
12 all fees collected ~~in the fund.~~ **under this act.** The state treasurer
13 shall direct the investment of the fund and shall credit **to** the
14 fund interest and earnings from fund investments. The ~~department~~
15 **marijuana regulatory agency** shall administer the fund for auditing
16 purposes. Money in the fund ~~shall~~ **at the close of the fiscal year**
17 **must remain in the fund and must** not lapse to the general fund.

18 (2) ~~2.~~Funds for the initial activities of the ~~department~~
19 **marijuana regulatory agency** to implement this act shall be
20 appropriated from the general fund. The ~~department~~ **marijuana**
21 **regulatory agency** shall repay any amount appropriated under this
22 subsection from proceeds in the fund.

23 (3) ~~3.~~The ~~department~~ **marijuana regulatory agency** shall expend
24 money in the fund ~~first for~~ **as follows:**

25 (a) **For** the implementation, administration, and enforcement of
26 this act. ~~, and second, until~~

27 (b) **Until** 2022 or for at least ~~two~~ **2** years, ~~to provide \$20~~
28 ~~million annually to one~~ **whichever is later, for 1** or more
29 **development and research projects, including** clinical trials, that

1 are approved by the United States ~~food~~**Food** and ~~drug administration~~
 2 **Drug Administration** and sponsored by a ~~non-profit~~**nonprofit**
 3 organization or researcher within an academic institution
 4 researching the efficacy of marihuana in treating the medical
 5 conditions **and preventing the suicide** of United States ~~armed~~
 6 ~~services~~**Armed Services** veterans. ~~and preventing veteran suicide.~~
 7 **The marijuana regulatory agency shall expend \$20,000,000.00 per**
 8 **year under this subdivision.**

9 (4) Upon appropriation, **the** unexpended balances **in the fund**
 10 must be allocated as follows:

11 (a) **Subject to subsection (5)**, 15% to municipalities in which
 12 a marihuana ~~retail store~~**retailer** or a marihuana microbusiness is
 13 located, allocated in proportion to the number of marihuana retail
 14 stores and marihuana microbusinesses within ~~the~~**each** municipality.
 15 †

16 (b) **Subject to subsection (5)**, 15% to counties in which a
 17 marihuana ~~retail store~~**retailer** or a marihuana microbusiness is
 18 located, allocated in proportion to the number of marihuana retail
 19 stores and marihuana microbusinesses within ~~the~~**each** county. †

20 (c) 35% to the school aid fund to be used for K-12 education.
 21 † ~~and~~

22 (d) 35% to the Michigan transportation fund to be used for the
 23 repair and maintenance of roads and bridges.

24 (5) **If a marihuana retailer or marihuana microbusiness is**
 25 **located in Indian lands, the portions of the unexpended balances**
 26 **attributable to the marihuana retailer or marihuana microbusiness**
 27 **that would have otherwise been allocated to a municipality under**
 28 **subsection (4) (a) and a county under subsection (4) (b) must instead**
 29 **be allocated to the Indian tribe in whose Indian lands the**

1 marihuana retailer or marihuana microbusiness is located.