

**SUBSTITUTE FOR
HOUSE BILL NO. 5160**

A bill to amend 2018 IL 1, entitled
"Michigan Regulation and Taxation of Marihuana Act,"
by amending sections 3, 11, and 15 (MCL 333.27953, 333.27961, and
333.27965).

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 the marihuana plant by manual or
4 mechanical means.

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

7 (c) "Industrial hemp" means ~~a plant of the genus cannabis and~~
8 ~~any part of that plant, whether growing or not, with a delta-9~~



1 ~~tetrahydrocannabinol concentration that does not exceed 0.3% on a~~
 2 ~~dry-weight basis, or per volume or weight of marihuana-infused~~
 3 ~~product, or the combined percent of delta-9-tetrahydrocannabinol~~
 4 ~~and tetrahydrocannabinolic acid in any part of the plant of the~~
 5 ~~genus cannabis regardless of moisture content.~~ **that term as defined**
 6 **in section 7106 of the public health code, 1978 PA 368, MCL**
 7 **333.7106.**

8 (d) "Licensee" means a person holding a state license.

9 (e) ~~"Marihuana" means all parts of the plant of the genus~~
 10 ~~cannabis, growing or not; the seeds of the plant; the resin~~
 11 ~~extracted from any part of the plant; and every compound,~~
 12 ~~manufacture, salt, derivative, mixture, or preparation of the plant~~
 13 ~~or its seeds or resin, including marihuana concentrate and~~
 14 ~~marihuana-infused products. For purposes of this act, marihuana~~
 15 ~~does not include:~~

16 ~~(1) the mature stalks of the plant, fiber produced from the~~
 17 ~~stalks, oil or cake made from the seeds of the plant, any other~~
 18 ~~compound, manufacture, salt, derivative, mixture, or preparation of~~
 19 ~~the mature stalks, except the resin extracted from those stalks,~~
 20 ~~fiber, oil, or cake, or any sterilized seed of the plant that is~~
 21 ~~incapable of germination;~~

22 ~~(2) industrial hemp; or~~

23 ~~(3) any other ingredient combined with marihuana to prepare~~
 24 ~~topical or oral administrations, food, drink, or other~~
 25 ~~products.~~ **that term as defined in section 7106 of the public health**
 26 **code, 1978 PA 368, MCL 333.7106.**

27 (f) "Marihuana accessories" means any equipment, product,
 28 material, or combination of equipment, products, or materials,
 29 ~~which~~ **that** is specifically designed for use in planting,



1 propagating, cultivating, growing, harvesting, manufacturing,
2 compounding, converting, producing, processing, preparing, testing,
3 analyzing, packaging, repackaging, storing, containing, ingesting,
4 inhaling, or otherwise introducing marihuana into the human body.

5 (g) "Marihuana concentrate" means the resin extracted from any
6 part of the plant of the genus ~~cannabis~~. **Cannabis**.

7 (h) "Marihuana establishment" means a marihuana grower,
8 marihuana safety compliance facility, marihuana processor,
9 marihuana microbusiness, marihuana retailer, marihuana secure
10 transporter, or any other type of marihuana-related business
11 licensed by the ~~department~~. **marijuana regulatory agency**.

12 (i) "Marihuana grower" means a person licensed to cultivate
13 marihuana and sell or otherwise transfer marihuana to marihuana
14 establishments.

15 (j) "Marihuana-infused product" means a topical formulation,
16 tincture, beverage, edible substance, or similar product containing
17 marihuana and other ingredients and that is intended for human
18 consumption.

19 (k) "Marihuana microbusiness" means a person licensed to
20 cultivate not more than 150 marihuana plants; process and package
21 marihuana; and sell or otherwise transfer marihuana to individuals
22 who are 21 years of age or older or to a marihuana safety
23 compliance facility, but not to other marihuana establishments.

24 (l) "Marihuana processor" means a person licensed to obtain
25 marihuana from marihuana establishments; process and package
26 marihuana; and sell or otherwise transfer marihuana to marihuana
27 establishments.

28 (m) "Marihuana retailer" means a person licensed to obtain
29 marihuana from marihuana establishments and to sell or otherwise



1 transfer marihuana to marihuana establishments and to individuals
2 who are 21 years of age or older.

3 (n) "Marihuana secure transporter" means a person licensed to
4 obtain marihuana from marihuana establishments in order to
5 transport marihuana to marihuana establishments.

6 (o) "Marihuana safety compliance facility" means a person
7 licensed to test marihuana, including certification for potency and
8 the presence of contaminants.

9 (p) **"Marijuana regulatory agency" means the marijuana**
10 **regulatory agency created under Executive Reorganization Order No.**
11 **2019-2, MCL 333.27001.**

12 (q) ~~(p)~~ "Municipal license" means a license issued by a
13 municipality pursuant to section 16 ~~of this act~~ that allows a
14 person to operate a marihuana establishment in that municipality.

15 (r) ~~(q)~~ "Municipality" means a city, village, or township.

16 (s) ~~(r)~~ "Person" means an individual, corporation, limited
17 liability company, partnership of any type, trust, or other legal
18 entity.

19 (t) ~~(s)~~ "Process" or "Processing" means to separate or
20 otherwise prepare parts of the marihuana plant and to compound,
21 blend, extract, infuse, or otherwise make or prepare marihuana
22 concentrate or marihuana-infused products.

23 (u) ~~(t)~~ "State license" means a license issued by the
24 ~~department~~ **marijuana regulatory agency** that allows a person to
25 operate a marihuana establishment.

26 (v) ~~(u)~~ "Unreasonably impracticable" means that the measures
27 necessary to comply with the rules or ordinances adopted pursuant
28 to this act subject licensees to unreasonable risk or require such
29 a high investment of money, time, or any other resource or asset



1 that a reasonably prudent businessperson would not operate the
2 marihuana establishment.

3 Sec. 11. (1) ~~(a)~~ A marihuana establishment ~~may~~ **shall** not allow
4 cultivation, ~~processing, sale,~~ **do any of the following:**

5 (a) **Cultivate, process, sell,** or display of marihuana or **sell**
6 **or display** marihuana accessories ~~to be if the cultivating,~~
7 **processing, selling, or displaying is** visible from a public place
8 outside of the marihuana establishment without the use of
9 binoculars, aircraft, or other optical aids.

10 (b) ~~A marihuana establishment may not cultivate,~~ **Cultivate,**
11 process, test, or store marihuana at any location other than a
12 physical address approved by the department. ~~and within an enclosed~~
13 ~~area that is secured in a manner that prevents access by persons~~
14 ~~not permitted by the marihuana establishment to access the area.~~

15 (c) **Allow an individual who is younger than 21 years of age to**
16 **volunteer or work for the marihuana establishment.**

17 (d) **Sell or otherwise transfer marihuana that was not**
18 **produced, distributed, and taxed in compliance with this act.**

19 (e) **Sell or otherwise transfer tobacco.**

20 (2) A marihuana establishment shall ~~secure~~ **comply with all or**
21 **the following:**

22 (a) **Cultivate, process, test, and store marihuana within an**
23 **enclosed area that is secured in a manner that prevents access by**
24 **persons not allowed by the marihuana establishment to access the**
25 **area.**

26 (b) **Secure** every entrance to the **marihuana** establishment so
27 that access to areas containing marihuana is restricted to
28 ~~employees~~ **only the following:**

29 (i) **Employees** and other persons ~~permitted~~ **allowed** by the



1 marihuana establishment to access the area. ~~and to agents~~

2 **(ii) Agents** of the ~~department~~ **marijuana regulatory agency.** ~~or~~
3 state

4 **(iii) State** and local law enforcement officers and emergency
5 personnel. ~~and shall secure~~

6 **(c) Secure** its inventory and equipment during and after
7 operating hours to deter and prevent theft of marihuana and
8 marihuana accessories.

9 ~~(d) No marihuana establishment may refuse representatives~~
10 **Allow agents** of the ~~department~~ **marijuana regulatory**
11 **agency,** during the **marihuana establishment's** hours of operation to
12 inspect the licensed premises or to audit the books and records of
13 the marihuana establishment.

14 ~~(e) No marihuana establishment may allow a person under 21~~
15 ~~years of age to volunteer or work for the marihuana establishment.~~

16 ~~(f) No marihuana establishment may sell or otherwise transfer~~
17 ~~marihuana that was not produced, distributed, and taxed in~~
18 ~~compliance with this act.~~

19 **(3) (g)** ~~A marihuana grower, marihuana retailer, marihuana~~
20 ~~processor, marihuana microbusiness, or marihuana testing facility~~
21 ~~or agents acting on their behalf may~~ **its agent shall** not transport
22 more than 15 ounces of marihuana or more than 60 grams of marihuana
23 concentrate at one time.

24 **(4) (h)** ~~A marihuana secure transporter may~~ **shall** not hold
25 title to marihuana.

26 **(5) (i)** ~~No~~ **A** marihuana processor ~~may~~ **shall not** process and ~~no~~
27 **a** marihuana retailer ~~may~~ **shall not** sell ~~edible~~ **any of the**
28 **following:**

29 **(a) Edible** marihuana-infused candy in shapes or packages that



1 are attractive to children or that are easily confused with
2 commercially sold candy that does not contain marihuana.

3 **(b) Marihuana intended for inhalation or a marihuana-infused**
4 **product intended for inhalation if the marihuana or marihuana-**
5 **infused product contains or has been combined with vitamin E**
6 **acetate.**

7 **(6) ~~(j) No~~ A marihuana retailer ~~may~~ shall not** sell or
8 otherwise transfer marihuana ~~that~~ **unless it** is not contained in an
9 opaque, resealable, child-resistant package designed to be
10 significantly difficult for children ~~under~~ **younger than** 5 years of
11 age to open and not difficult for normal adults to use properly as
12 ~~defined by 16 C.F.R. 1700.20 (1995),~~ **provided for under 16 CFR**
13 **1700.20**, unless the marihuana is transferred for consumption on the
14 premises where sold.

15 ~~(k) No marihuana establishment may sell or otherwise transfer~~
16 ~~tobacco.~~

17 Sec. 15. **(1)** A person who commits any of the following acts,
18 and is not otherwise authorized by this act to ~~conduct such~~
19 ~~activities,~~ **commit the acts**, may be punished only as provided in
20 this section and is not subject to any other form of punishment or
21 disqualification, unless the person consents to another disposition
22 authorized by law:

23 **(a) ~~1.~~** Except for a person who engaged in conduct described in
24 ~~sections~~ **section** 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d), 4(1)(g), ~~or~~
25 ~~4(1)(h),~~ **(b), (c), (d), (g), or (h)**, a person who possesses not
26 more than the amount of marihuana allowed ~~by~~ **under** section 5,
27 cultivates not more than the amount of marihuana allowed ~~by~~ **under**
28 section 5, delivers without receiving any remuneration to a person
29 who is ~~at least~~ 21 years of age **or older** not more than the amount



1 of marihuana allowed ~~by~~**under** section 5, or possesses with intent
 2 to deliver not more than the amount of marihuana allowed ~~by~~**under**
 3 section 5, is responsible for a civil infraction and may be
 4 punished by a fine of not more than ~~\$100~~**\$100.00** and forfeiture of
 5 the marihuana.

6 **(b) 2.**~~Except for a person who engaged in conduct described in~~
 7 section 4, a person who possesses not more than twice the amount of
 8 marihuana allowed ~~by~~**under** section 5, cultivates not more than
 9 twice the amount of marihuana allowed ~~by~~**under** section 5, delivers
 10 without receiving any remuneration to a person who is ~~at least~~21
 11 years of age **or older** not more than twice the amount of marihuana
 12 allowed ~~by~~**under** section 5, or possesses with intent to deliver not
 13 more than twice the amount of marihuana allowed ~~by~~**under** section 5,
 14 **may be punished as follows:**

15 **(i)** ~~(a) for~~**For** a first violation, **the person** is responsible
 16 for a civil infraction and may be punished by a fine of not more
 17 than ~~\$500~~**\$500.00** and forfeiture of the marihuana. †

18 **(ii)** ~~(b) for~~**For** a second violation, **the person** is responsible
 19 for a civil infraction and may be punished by a fine of not more
 20 than ~~\$1,000~~**\$1,000.00** and forfeiture of the marihuana. †

21 **(iii)** ~~(c) for~~**For** a third ~~or~~**and any** subsequent violation, **the**
 22 **person** is guilty of a misdemeanor and may be punished by a fine of
 23 not more than ~~\$2,000~~**\$2,000.00** and forfeiture of the marihuana.

24 **(c) 3.**~~Except for a person who engaged in conduct described by~~
 25 **in** section 4(1)(a), ~~4(1)(d), or 4(1)(g),~~ **(d), or (g),** a person
 26 ~~under~~**younger than** 21 years of age who possesses not more than 2.5
 27 ounces of marihuana or who cultivates not more than 12 marihuana
 28 plants **may be punished as follows:**

29 **(i)** ~~(a) for~~**For** a first violation, **the person** is responsible



1 for a civil infraction and may be punished as follows:

2 (A) ~~(1) if~~ **If** the person is ~~less~~ **younger** than 18 years of age,
3 by a fine of not more than ~~\$100~~ **\$100.00** or community service,
4 forfeiture of the marihuana, and completion of 4 hours of drug
5 education or counseling. ~~;~~ ~~or~~

6 (B) ~~(2) if~~ **If** the person is ~~at least~~ 18 years of age **or older**,
7 by a fine of not more than ~~\$100~~ **\$100.00** and forfeiture of the
8 marihuana.

9 (ii) ~~(b) for~~ **For** a second violation, **the person** is responsible
10 for a civil infraction and may be punished as follows:

11 (A) ~~(1) if~~ **If** the person is ~~less~~ **younger** than 18 years of age,
12 by a fine of not more than ~~\$500~~ **\$500.00** or community service,
13 forfeiture of the marihuana, and completion of 8 hours of drug
14 education or counseling. ~~;~~ ~~or~~

15 (B) ~~(2) if~~ **If** the person is ~~at least~~ 18 years of age **or older**,
16 by a fine of not more than ~~\$500~~ **\$500.00** and forfeiture of the
17 marihuana.

18 (d) ~~4.~~ Except for a person who engaged in conduct described in
19 section 4, a person who possesses more than twice the amount of
20 marihuana allowed ~~by~~ **under** section 5, cultivates more than twice
21 the amount of marihuana allowed ~~by~~ **under** section 5, or delivers
22 without receiving any remuneration to a person who is ~~at least~~ 21
23 years of age **or older** more than twice the amount of marihuana
24 allowed ~~by~~ **under** section 5, ~~shall be~~ **is** responsible for a
25 misdemeanor, but ~~shall~~ **is** not ~~be~~ subject to imprisonment unless the
26 violation was habitual, willful, and for a commercial purpose or
27 the violation involved violence.

28 (2) **A marihuana processor or marihuana retailer that violates**
29 **section 11(5) (b) is guilty of a misdemeanor punishable by a fine of**



1 not more than \$10,000.00.

