



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 72 (as enrolled)
Sponsor: Senator Rick Jones
Senate Committee: Judiciary
House Committee: Judiciary

Date Completed: 12-21-16

CONTENT

The bill would amend the Michigan Medical Marihuana Act (MMMA) to specify that the Act could not be construed to require a private property owner to lease residential property to a person who smoked or cultivated marihuana on the premises, if a written lease prohibited smoking or cultivating marihuana.

The MMMA authorizes the possession and use of limited amounts of marihuana by individuals with certain conditions who have been issued medical marihuana registry identification cards. The Act provides, however, that it does not permit any person to smoke marihuana in any public place.

The bill would add the language stated above.

MCL 333.26427

BACKGROUND

On September 15, 2011, the Attorney General issued Opinion #7261 in response to a series of questions posed by a legislator concerning the application of the MMMA to smoking marihuana in certain places. One of those questions was whether the owner of a food service establishment, hotel, motel, or apartment building could prohibit the smoking of marihuana within its facility.

In response to earlier questions, the Attorney General had already opined that "the plain language of the MMMA prohibits the smoking of marihuana in 'any public place,' which includes the public areas of food service establishments, hotels, motels, and apartment buildings". The remaining question was whether an owner of a facility such as a hotel, motel, or apartment building could prohibit the smoking of marihuana in what is considered a nonpublic area, such as an individual room or unit or other area not open to the public. Although the legislator's questions referred only to smoking marihuana, the Attorney General Opinion also addressed the growing of marihuana plants.

In the Opinion, the Attorney General reviewed the MMMA and Michigan civil rights laws and concluded that "neither the MMMA nor any other law precludes the owner of a hotel, motel, apartment building, or any other similar facility from prohibiting the smoking of marihuana or the growing of marihuana plants anywhere on the premises". In addition, the Attorney General found that the MMMA does not require a hotel, motel, or apartment building owner to allow the use of medical marihuana on the premises of that facility.

The Attorney General concluded that "an owner of a hotel, motel, apartment building, or other similar facility can prohibit the smoking of marihuana and the growing of marihuana plants

anywhere within the facility, and imposing such a prohibition does not violate the Michigan Medical Marihuana Act".

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.