

HOUSE BILL No. 5445

January 25, 2018, Introduced by Reps. Singh, Kelly, Sabo, Zemke, Lasinski, Rabhi, Gay-Dagnogo, Moss, Liberati and Chang and referred to the Committee on Law and Justice.

A bill to amend 2008 IL 1, entitled
"Michigan medical marihuana act,"
by amending section 4 (MCL 333.26424), as amended by 2016 PA 283.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 4. Protections for the Medical Use of Marihuana.

2 Sec. 4. (a) A qualifying patient who has been issued and
3 possesses a registry identification card is not subject to arrest,
4 prosecution, or penalty in any manner, or ~~denied~~ **DENIAL OF** any
5 right or privilege, including, but not limited to, civil penalty or
6 disciplinary action by a business or occupational or professional
7 licensing board or bureau, for the medical use of marihuana in
8 accordance with this act, provided that the qualifying patient
9 possesses an amount of marihuana that does not exceed a combined
10 total of 2.5 ounces of usable marihuana and usable marihuana

1 equivalents, and, if the qualifying patient has not specified that
2 a primary caregiver will be allowed under state law to cultivate
3 marihuana for the qualifying patient, 12 marihuana plants kept in
4 an enclosed, locked facility. Any incidental amount of seeds,
5 stalks, and unusable roots ~~shall~~**MUST** also be allowed under state
6 law and ~~shall~~ not be included in this amount. The privilege from
7 arrest under this subsection applies only if the qualifying patient
8 presents both his or her registry identification card and a valid
9 driver license or government-issued identification card that bears
10 a photographic image of the qualifying patient. **SUBJECT TO SECTION**
11 **7(C) (2) , AN EMPLOYER SHALL NOT TERMINATE OR TAKE ADVERSE EMPLOYMENT**
12 **ACTION AGAINST AN EMPLOYEE FOR MEDICAL USE OF MARIHUANA THAT IS IN**
13 **ACCORD WITH THIS ACT IF THE USE IS NOT INCOMPATIBLE WITH AND DOES**
14 **NOT HINDER JOB PERFORMANCE AND THE EMPLOYEE PRODUCES HIS OR HER**
15 **REGISTRY IDENTIFICATION CARD FOR THE EMPLOYER'S INSPECTION. AN**
16 **EMPLOYER SHALL NOT DO EITHER OF THE FOLLOWING:**

17 (1) ASK WHETHER AN EMPLOYEE HAS A REGISTRY IDENTIFICATION CARD
18 UNLESS THE EMPLOYEE IS SUBJECT TO TERMINATION OR ADVERSE EMPLOYMENT
19 ACTION FOR A SPECIFIC INCIDENT INVOLVING MARIHUANA AND PRODUCTION
20 OF THE CARD WOULD PRECLUDE THE TERMINATION OR ACTION.

21 (2) TERMINATE OR TAKE ADVERSE EMPLOYMENT ACTION AGAINST AN
22 EMPLOYEE AFTER FAILURE TO PRODUCE A REGISTRY IDENTIFICATION CARD
23 UNLESS THE EMPLOYEE IS SUBJECT TO TERMINATION OR ADVERSE EMPLOYMENT
24 ACTION FOR A SPECIFIC INCIDENT INVOLVING MARIHUANA AND PRODUCTION
25 OF THE CARD WOULD PRECLUDE THE TERMINATION OR ACTION.

26 (b) A primary caregiver who has been issued and possesses a
27 registry identification card is not subject to arrest, prosecution,

1 or penalty in any manner, or ~~denied~~ **DENIAL OF** any right or
2 privilege, including but not limited to civil penalty or
3 disciplinary action by a business or occupational or professional
4 licensing board or bureau, for assisting a qualifying patient to
5 whom he or she is connected through the department's registration
6 process with the medical use of marihuana in accordance with this
7 act. The privilege from arrest under this subsection applies only
8 if the primary caregiver presents both his or her registry
9 identification card and a valid driver license or government-issued
10 identification card that bears a photographic image of the primary
11 caregiver. This subsection applies only if the primary caregiver
12 possesses marihuana in forms and amounts that do not exceed any of
13 the following:

14 (1) For each qualifying patient to whom he or she is connected
15 through the department's registration process, a combined total of
16 2.5 ounces of usable marihuana and usable marihuana equivalents.

17 (2) For each registered qualifying patient who has specified
18 that the primary caregiver will be allowed under state law to
19 cultivate marihuana for the qualifying patient, 12 marihuana plants
20 kept in an enclosed, locked facility.

21 (3) Any incidental amount of seeds, stalks, and unusable
22 roots.

23 (c) For purposes of determining usable marihuana equivalency,
24 the following ~~shall be~~ **ARE** considered equivalent to 1 ounce of
25 usable marihuana:

26 (1) 16 ounces of marihuana-infused product if in a solid form.

27 (2) 7 grams of marihuana-infused product if in a gaseous form.

1 (3) 36 fluid ounces of marihuana-infused product if in a
2 liquid form.

3 (d) A person shall not be denied custody or visitation of a
4 minor for acting in accordance with this act, unless the person's
5 behavior is such that it creates an unreasonable danger to the
6 minor that can be clearly articulated and substantiated.

7 (e) There is a presumption that a qualifying patient or
8 primary caregiver is engaged in the medical use of marihuana in
9 accordance with this act if the qualifying patient or primary
10 caregiver complies with both of the following:

11 (1) Is in possession of a registry identification card.

12 (2) Is in possession of an amount of marihuana that does not
13 exceed the amount allowed under this act. The presumption may be
14 rebutted by evidence that conduct related to marihuana was not for
15 the purpose of alleviating the qualifying patient's debilitating
16 medical condition or symptoms associated with the debilitating
17 medical condition, in accordance with this act.

18 (f) A registered primary caregiver may receive compensation
19 for costs associated with assisting a registered qualifying patient
20 in the medical use of marihuana. Any such compensation does not
21 constitute the sale of controlled substances.

22 (g) A physician ~~shall~~**IS** not ~~be~~ subject to arrest,
23 prosecution, or penalty in any manner, or ~~denied~~**DENIAL OF** any
24 right or privilege, including but not limited to civil penalty or
25 disciplinary action by the Michigan board of medicine, the Michigan
26 board of osteopathic medicine and surgery, or any other business or
27 occupational or professional licensing board or bureau, solely for

1 providing written certifications, in the course of a bona fide
2 physician-patient relationship and after the physician has
3 completed a full assessment of the qualifying patient's medical
4 history, or for otherwise stating that, in the physician's
5 professional opinion, a patient is likely to receive therapeutic or
6 palliative benefit from the medical use of marihuana to treat or
7 alleviate the patient's serious or debilitating medical condition
8 or symptoms associated with the serious or debilitating medical
9 condition, ~~provided that nothing shall prevent~~ **BUT** a professional
10 licensing board ~~from sanctioning~~ **MAY SANCTION** a physician for
11 failing to properly evaluate a patient's medical condition or
12 otherwise violating the standard of care for evaluating medical
13 conditions.

14 (h) A person ~~shall~~ **IS** not ~~be~~ subject to arrest, prosecution,
15 or penalty in any manner, or ~~denied~~ **DENIAL OF** any right or
16 privilege, including but not limited to civil penalty or
17 disciplinary action by a business or occupational or professional
18 licensing board or bureau, for providing a registered qualifying
19 patient or a registered primary caregiver with marihuana
20 paraphernalia for purposes of a qualifying patient's medical use of
21 marihuana.

22 (i) ~~Any~~ **A PERSON SHALL NOT SEIZE OR FORFEIT ANY** marihuana,
23 marihuana paraphernalia, or licit property that is possessed,
24 owned, or used in connection with the medical use of marihuana, as
25 allowed under this act, or acts incidental to such use. ~~, shall not~~
26 ~~be seized or forfeited.~~

27 (j) A person ~~shall~~ **IS** not ~~be~~ subject to arrest, prosecution,

1 or penalty in any manner, or ~~denied~~**DENIAL OF** any right or
2 privilege, including but not limited to civil penalty or
3 disciplinary action by a business or occupational or professional
4 licensing board or bureau, solely for being in the presence or
5 vicinity of the medical use of marihuana in accordance with this
6 act, or for assisting a registered qualifying patient with using or
7 administering marihuana.

8 (k) A registry identification card, or its equivalent, that is
9 issued under the laws of another state, district, territory,
10 commonwealth, or insular possession of the United States that
11 allows the medical use of marihuana by a visiting qualifying
12 patient, or ~~to allow~~**ALLOWS** a person to assist with a visiting
13 qualifying patient's medical use of marihuana, ~~shall have~~**HAS** the
14 same force and effect as a registry identification card issued by
15 the department.

16 (l) Any registered qualifying patient or registered primary
17 caregiver who sells marihuana to someone who is not allowed the
18 medical use of marihuana under this act shall have his or her
19 registry identification card revoked and is guilty of a felony
20 punishable by imprisonment for not more than 2 years or a fine of
21 not more than \$2,000.00, or both, in addition to any other
22 penalties for the distribution of marihuana.

23 (m) A person ~~shall~~**IS** not ~~be~~ subject to arrest, prosecution,
24 or penalty in any manner or ~~denied~~**DENIAL OF** any right or
25 privilege, including, but not limited to, civil penalty or
26 disciplinary action by a business or occupational or professional
27 licensing board or bureau, for manufacturing a marihuana-infused

1 product if the person is any of the following:

2 (1) A registered qualifying patient, manufacturing for his or
3 her own personal use.

4 (2) A registered primary caregiver, manufacturing for the use
5 of a patient to whom he or she is connected through the
6 department's registration process.

7 (n) A qualifying patient shall not transfer a marihuana-
8 infused product or marihuana to any individual.

9 (o) A primary caregiver shall not transfer a marihuana-infused
10 product to any individual who is not a qualifying patient to whom
11 he or she is connected through the department's registration
12 process.

13 Enacting section 1. This amendatory act takes effect 90 days
14 after the date it is enacted into law.