

# HOUSE BILL No. 6453

October 17, 2018, Introduced by Rep. Inman and referred to the Committee on Law and Justice.

A bill to amend 2016 PA 281, entitled  
"Medical marihuana facilities licensing act,"  
by amending sections 201 and 402 (MCL 333.27201 and 333.27402),  
section 201 as amended by 2018 PA 10 and section 402 as amended by  
2017 PA 105.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 201. (1) Except as otherwise provided in this act, if a  
2 person has been granted a state operating license and is operating  
3 within the scope of the license, the licensee and its agents are  
4 not subject to any of the following for engaging in activities  
5 described in subsection (2):

6       (a) Criminal penalties under state law or local ordinances  
7 regulating marihuana.

1 (b) State or local criminal prosecution for a marihuana-  
2 related offense.

3 (c) State or local civil prosecution for a marihuana-related  
4 offense.

5 (d) Search or inspection, except for an inspection authorized  
6 under this act by law enforcement officers, the municipality, or  
7 the department.

8 (e) Seizure of marihuana, real property, personal property, or  
9 anything of value based on a marihuana-related offense.

10 (f) Any sanction, including disciplinary action or denial of a  
11 right or privilege, by a business or occupational or professional  
12 licensing board or bureau based on a marihuana-related offense.

13 (2) The following activities are protected under subsection  
14 (1) if performed under a state operating license within the scope  
15 of that license and in accord with this act, rules, and any  
16 ordinance adopted under section 205:

17 (a) Growing marihuana.

18 (b) Purchasing, receiving, selling, transporting, or  
19 transferring marihuana from or to a licensee, a licensee's agent, a  
20 registered qualifying patient, or a registered primary caregiver.

21 (c) Possessing marihuana.

22 (d) Possessing or manufacturing marihuana paraphernalia for  
23 medical use.

24 (e) Processing marihuana.

25 (f) Transporting marihuana.

26 (g) Testing, transferring, infusing, extracting, altering, or  
27 studying marihuana.

1 (h) Receiving or providing compensation for products or  
2 services.

3 (3) Except as otherwise provided in this act, a person who  
4 owns or leases real property upon which a marihuana facility is  
5 located and who has no knowledge that the licensee violated this  
6 act is not subject to any of the following for owning, leasing, or  
7 permitting the operation of a marihuana facility on the real  
8 property:

9 (a) Criminal penalties under state law or local ordinances  
10 regulating marihuana.

11 (b) State or local civil prosecution based on a marihuana-  
12 related offense.

13 (c) State or local criminal prosecution based on a marihuana-  
14 related offense.

15 (d) Search or inspection, except for an inspection authorized  
16 under this act by law enforcement officers, the municipality, or  
17 the department.

18 (e) Seizure of any real or personal property or anything of  
19 value based on a marihuana-related offense.

20 (f) Any sanction, including disciplinary action or denial of a  
21 right or privilege, by a business or occupational or professional  
22 licensing board or bureau.

23 (4) Except as otherwise provided in this act, a certified  
24 public accountant who is licensed under article 7 of the  
25 occupational code, 1980 PA 299, MCL 339.720 to 339.736, is not  
26 subject to any of the following for engaging in the practice of  
27 public accounting as that term is defined in section 720 of the

1 occupational code, 1980 PA 299, MCL 339.720, for an applicant or  
2 licensee who is in compliance with this act, rules, and the  
3 Michigan medical marihuana act:

4 (a) Criminal penalties under state law or local ordinances  
5 regulating marihuana.

6 (b) State or local civil prosecution based on a marihuana-  
7 related offense.

8 (c) State or local criminal prosecution based on a marihuana-  
9 related offense.

10 (d) Seizure of any real or personal property or anything of  
11 value based on a marihuana-related offense.

12 (e) Any sanction, including disciplinary action or denial of a  
13 right or privilege, by a business or occupational or professional  
14 licensing board or bureau based on a marihuana-related offense.

15 (5) Except as otherwise provided in this act, a financial  
16 institution is not subject to any of the following for providing a  
17 financial service to a licensee under this act:

18 (a) Criminal penalties under state law or local ordinances  
19 regulating marihuana.

20 (b) State or local civil prosecution based on a marihuana-  
21 related offense.

22 (c) State or local criminal prosecution based on a marihuana-  
23 related offense.

24 (d) Seizure of any real or personal property or anything of  
25 value based on a marihuana-related offense.

26 (e) Any sanction, including disciplinary action or denial of a  
27 right or privilege, by a business or occupational or professional

1 licensing board or bureau based on a marihuana-related offense.

2 (6) For the purposes of regulating the commercial entities  
3 established under this act, any provisions of the following acts  
4 that are inconsistent with this act do not apply to a grower,  
5 processor, secure transporter, provisioning center, or safety  
6 compliance facility operating in compliance with this act:

7 (a) The business corporation act, 1972 PA 284, MCL 450.1101 to  
8 450.2098.

9 (b) The nonprofit corporation act, 1982 PA 162, MCL 450.2101  
10 to 450.3192.

11 (c) 1931 PA 327, MCL 450.98 to 450.192.

12 (d) The Michigan revised uniform limited partnership act, 1982  
13 PA 213, MCL 449.1101 to 449.2108.

14 (e) The Michigan limited liability company act, 1993 PA 23,  
15 MCL 450.4101 to 450.5200.

16 (f) 1907 PA 101, MCL 445.1 to 445.5.

17 (g) 1913 PA 164, MCL 449.101 to 449.106.

18 (h) The uniform partnership act, 1917 PA 72, MCL 449.1 to  
19 449.48.

20 **(7) AN APPLICANT WHO, ON OR BEFORE THE EFFECTIVE DATE OF THE**  
21 **2018 AMENDATORY ACT THAT ADDED THIS PROVISION, SUBMITTED A COMPLETE**  
22 **APPLICATION AND PAID THE NONREFUNDABLE APPLICATION FEE REQUIRED**  
23 **UNDER SECTION 401(5) IS NOT SUBJECT TO ANY OF THE ACTIONS LISTED IN**  
24 **SUBSECTION (1) FOR, ON OR BEFORE MARCH 31, 2019, ENGAGING IN AN**  
25 **ACTIVITY LISTED IN SUBSECTION (2) (A) TO (H) .**

26 **(8) ~~(7)~~—As used in this section:**

27 (a) "Financial institution" means any of the following:

1 (i) A state or national bank.

2 (ii) A state or federally chartered savings and loan  
3 association.

4 (iii) A state or federally chartered savings bank.

5 (iv) A state or federally chartered credit union.

6 (v) An insurance company.

7 (vi) An entity that offers any of the following to a resident  
8 of this state:

9 (A) A mutual fund account.

10 (B) A securities brokerage account.

11 (C) A money market account.

12 (D) A retail investment account.

13 (vii) An entity regulated by the Securities and Exchange  
14 Commission that collects funds from the public.

15 (viii) An entity that is a member of the National Association  
16 of Securities Dealers and that collects funds from the public.

17 (ix) Another entity that collects funds from the public.

18 (b) "Financial service" means a deposit; withdrawal; transfer  
19 between accounts; exchange of currency; loan; extension of credit;  
20 purchase or sale of any stock, bond, certificate of deposit, or  
21 other monetary instrument; or any other payment, transfer, or  
22 delivery by, through, or to a financial institution, by whatever  
23 means effected.

24 Sec. 402. (1) The board shall issue a license to an applicant  
25 who submits a complete application and pays both the nonrefundable  
26 application fee required under section 401(5) and the regulatory  
27 assessment established by the board for the first year of

1 operation, if the board determines that the applicant is qualified  
2 to receive a license under this act.

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

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

10 (b) Within the past 5 years the applicant has been convicted  
11 of a misdemeanor involving a controlled substance, theft,  
12 dishonesty, or fraud in any state or been found responsible for  
13 violating a local ordinance in any state involving a controlled  
14 substance, dishonesty, theft, or fraud that substantially  
15 corresponds to a misdemeanor in that state.

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

18 (d) The applicant is a member of the board.

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

22 (f) The applicant holds an elective office of a governmental  
23 unit of this state, another state, or the federal government; is a  
24 member of or employed by a regulatory body of a governmental unit  
25 in this state, another state, or the federal government; or is  
26 employed by a governmental unit of this state. This subdivision  
27 does not apply to an elected officer of or employee of a federally

1 recognized Indian tribe or to an elected precinct delegate.

2 (g) The applicant, if an individual, has been a resident of  
3 this state for less than a continuous 2-year period immediately  
4 preceding the date of filing the application. The requirements in  
5 this subdivision do not apply after June 30, 2018.

6 (h) The board determines that the applicant is not in  
7 compliance with section 205(1).

8 (i) The applicant fails to meet other criteria established by  
9 rule.

10 (3) In determining whether to grant a license to an applicant,  
11 the board **SHALL NOT CONSIDER WHETHER THE APPLICANT IS AN APPLICANT**  
12 **DESCRIBED IN SECTION 201(7), BUT** may ~~also~~ consider all of the  
13 following:

14 (a) The integrity, moral character, and reputation; personal  
15 and business probity; financial ability and experience; and  
16 responsibility or means to operate or maintain a marihuana facility  
17 of the applicant and of any other person that meets either of the  
18 following:

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

20 (ii) Is controlled, directly or indirectly, by the applicant  
21 or by a person who controls, directly or indirectly, the applicant.

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

24 (c) The sources and total amount of the applicant's  
25 capitalization to operate and maintain the proposed marihuana  
26 facility.

27 (d) Whether the applicant has been indicted for, charged with,



1 arrested for, or convicted of, pled guilty or nolo contendere to,  
2 forfeited bail concerning, or had expunged any relevant criminal  
3 offense under the laws of any jurisdiction, either felony or  
4 misdemeanor, not including traffic violations, regardless of  
5 whether the offense has been expunged, pardoned, or reversed on  
6 appeal or otherwise.

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

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

13 (g) Whether the applicant has a history of noncompliance with  
14 any regulatory requirements in this state or any other  
15 jurisdiction.

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

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

20 (4) Each applicant shall submit with its application, on forms  
21 provided by the board, a passport quality photograph and shall  
22 ensure that 1 set of fingerprints is submitted to the department of  
23 state police for each person having any ownership interest in the  
24 marihuana facility and each person who is an officer, director, or  
25 managerial employee of the applicant, in order for the department  
26 of state police to conduct a criminal history check on each person  
27 and to forward each person's fingerprints to the Federal Bureau of

1 Investigation for a national criminal history check. The applicant  
2 shall submit with its application each person's written consent to  
3 the criminal history check described in this section and the  
4 submission of each person's fingerprints to, and the inclusion of  
5 each person's fingerprints in, the state and federal database  
6 systems described in subsection (7).

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

14 (6) The department of state police shall conduct a criminal  
15 history check on each person described in subsection (4) and shall  
16 request the Federal Bureau of Investigation to make a determination  
17 of the existence of any national criminal history pertaining to  
18 each person. The department of state police shall provide the board  
19 with a written report containing the criminal history record  
20 information of each person who was the subject of the criminal  
21 history check conducted under this section.

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

24 (a) The department of state police shall store and retain all  
25 fingerprints submitted under this section in an automated  
26 fingerprint identification system database that searches against  
27 latent fingerprints, and provides for an automatic notification if

1 and when a subsequent fingerprint is submitted into the system that  
2 matches a set of fingerprints previously submitted under this  
3 section or if and when the criminal history of an individual whose  
4 fingerprints are retained in the system is updated. Upon receiving  
5 a notification, the department of state police shall immediately  
6 notify the board. Information in the database maintained under this  
7 subsection is confidential, is not subject to disclosure under the  
8 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and  
9 ~~shall~~**MUST** not be disclosed to any person except for purposes of  
10 this act or for law enforcement purposes.

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

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

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

27 (8) The board shall review all applications for licenses and

1 shall inform each applicant of the board's decision.

2 (9) A license shall be issued for a 1-year period and is  
3 renewable annually. Except as otherwise provided in this act, the  
4 board shall renew a license if all of the following requirements  
5 are met:

6 (a) The licensee applies to the board on a renewal form  
7 provided by the board that requires information prescribed in  
8 rules.

9 (b) The application is received by the board on or before the  
10 expiration date of the current license.

11 (c) The licensee pays the regulatory assessment under section  
12 603.

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

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

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

1 period.

2 (12) License expiration does not terminate the board's  
3 authority to impose sanctions on a licensee whose license has  
4 expired.

5 (13) In its decision on an application for renewal, the board  
6 shall consider any specific written input it receives from an  
7 individual or entity within the local unit of government in which  
8 the applicant for renewal is located.

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

13 (15) An applicant or licensee has a continuing duty to provide  
14 information requested by the board and to cooperate in any  
15 investigation, inquiry, or hearing conducted by the board.