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House Bill 4440 (Substitute H-1 as passed by the House)

Sponsor: Representative Jim Lilly

House Committee: Government Operations

Senate Committee: Judiciary and Public Safety

Date Completed: 4-24-19

CONTENT

The bill would amend the Medical Marihuana Facilities Licensing Act (MMFLA) to do the following:

- **Specify that a person operating a marihuana facility without a license after June 1, 2019, would be ineligible for a license for a period of one year.**
- **Specify that the prohibition would not apply to an applicant who was provided with protection from denial by the Medical Marihuana Licensing Board if the applicant ceased holding itself out as operating a marihuana facility immediately upon notification of denial by the Board.**
- **Prohibit the Board from denying an applicant solely because the applicant continued to operate a facility during the public investigative hearing process if the applicant complied with certain requirements.**
- **Require the Board to issue, before June 1, 2019, a license or deny an application if the applicant met certain conditions.**

The MMFLA requires the Medical Marihuana Licensing Board to issue a license to an applicant who submits a complete application and pays both a nonrefundable application fee and a regulatory assessment, if the Board determines that the applicant is qualified to receive a license.

An applicant is ineligible to receive a license if certain circumstances exist, including if the applicant has been convicted of or released from incarceration for certain criminal offenses, is a member of the Board, or holds an elective office.

Under the bill, an applicant also would be ineligible to receive a license if the Department of Licensing and Regulatory Affairs determined that the applicant, at any time after June 1, 2019, held itself out as operating a marihuana facility and did not have a license to operate that facility or the applicant's license to operate that facility was suspended, revoked, lapsed, void, fraudulently obtained, or transferred to the applicant other than a license transferred, sold, or purchased without the Board's approval. If the Department determined that an applicant were ineligible to receive a license for these reasons, the applicant would be ineligible to receive a license for one year after the date of the Department's determination.

This provision would not apply if the applicant were provided with protection from denial under rules or a resolution adopted by the Board, but only if the applicant ceased holding itself out as operating a marihuana facility immediately upon notification of denial by the Board. If the Board denied the application, and the applicant requested a public investigative hearing, the

Board could not deny the application solely because the applicant continued to operate a facility during the public investigative hearing process if the applicant complied with the following:

- Within 30 days after receiving notice of the initial denial or within 30 days after the bill's effective date, whichever was later, the applicant paid an amount equal to the regulatory assessment, which would not be refundable, and demonstrated compliance with all applicable provisions of the MMFLA and rules applicable to the type of facility for which the applicant was seeking licensure.
- The applicant ceased holding itself out as operating a marihuana facility immediately after receiving notification from the Board, after the public investigative hearing, that the applicant's application was denied.

Before June 1, 2019, the Board would have to issue a license or deny the application of an applicant who met both of the following conditions:

- Had not requested a hearing.
- Was provided with protection from denial under rules or a resolution adopted by the Board.

An individual who had not requested a hearing and was not provided with protection from denial would have a continuing duty to provide information requested by the Board and to cooperate in an investigation, inquiry, or hearing conducted by the Board.

MCL 333.27402

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have a minor negative fiscal impact on the Department of Licensing and Regulatory Affairs. The magnitude of the impact would depend on the number of facilities determined to be temporarily ineligible for licensure.

Fiscal Analyst: Elizabeth Raczkowski

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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.