

SUBSTITUTE FOR
HOUSE BILL NO. 5159

A bill to amend 2016 PA 281, entitled
"Medical marihuana facilities licensing act,"
by amending sections 102, 502, and 504 (MCL 333.27102, 333.27502,
and 333.27504), section 102 as amended by 2019 PA 3, section 502 as
amended by 2018 PA 648, and section 504 as amended by 2018 PA 10,
and by adding section 407b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. As used in this act:

2 (a) "Advisory panel" or "panel" means the ~~marihuana advisory~~
3 ~~panel created in section 801.~~ **marijuana regulatory agency.**

4 (b) "Affiliate" means any person that controls, is controlled
5 by, or is under common control with; is in a partnership or joint
6 venture relationship with; or is a co-shareholder of a corporation,



1 a co-member of a limited liability company, or a co-partner in a
2 limited liability partnership with a licensee or applicant.

3 (c) "Applicant" means a person who applies for a state
4 operating license. Applicant includes, with respect to disclosures
5 in an application, for purposes of ineligibility for a license
6 under section 402, or for purposes of prior ~~board~~-**marijuana**
7 **regulatory agency** approval of a transfer of interest under section
8 406, and only for applications submitted on or after January 1,
9 2019, a managerial employee of the applicant, a person holding a
10 direct or indirect ownership interest of more than 10% in the
11 applicant, and the following for each type of applicant:

12 (i) For an individual or sole proprietorship: the proprietor
13 and spouse.

14 (ii) For a partnership and limited liability partnership: all
15 partners and their spouses. For a limited partnership and limited
16 liability limited partnership: all general and limited partners,
17 not including a limited partner holding a direct or indirect
18 ownership interest of 10% or less and who does not exercise control
19 over or participate in the management of the partnership, and their
20 spouses. For a limited liability company: all members and managers,
21 not including a member holding a direct or indirect ownership
22 interest of 10% or less and who does not exercise control over or
23 participate in the management of the company, and their spouses.

24 (iii) For a privately held corporation: all corporate officers
25 or persons with equivalent titles and their spouses, all directors
26 and their spouses, and all stockholders, not including those
27 holding a direct or indirect ownership interest of 10% or less, and
28 their spouses.

29 (iv) For a publicly held corporation: all corporate officers or



persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(v) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(vi) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(d) "Board" means the ~~medical marihuana licensing board created in section 301.~~ **marijuana regulatory agency.**

(e) "Cutting" means a section of a lead stem or root stock that is used for vegetative asexual propagation.

(f) "Department" means the department of licensing and regulatory affairs.

(g) "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.

(h) "Industrial hemp" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(i) "Industrial hemp research and development act" means the industrial hemp research and development act, 2014 PA 547, **MCL 286.841 to 286.859.**

(j) "Licensee" means a person holding a state operating license.

(k) "Marihuana" means that term as defined in section 7106 of



1 the public health code, 1978 PA 368, MCL 333.7106.

2 (l) "Marihuana facility" means a location at which a licensee
3 is licensed to operate under this act.

4 (m) "Marihuana plant" means any plant of the species *Cannabis*
5 *sativa* L. Marihuana plant does not include industrial hemp.

6 (n) "Marihuana-infused product" means a topical formulation,
7 tincture, beverage, edible substance, or similar product containing
8 any usable marihuana that is intended for human consumption in a
9 manner other than smoke inhalation. Marihuana-infused product is
10 not considered a food for purposes of the food law, 2000 PA 92, MCL
11 289.1101 to 289.8111.

12 (o) "Marihuana tracking act" means the marihuana tracking act,
13 2016 PA 282, MCL 333.27901 to 333.27904.

14 (p) **"Marijuana regulatory agency" means the marijuana**
15 **regulatory agency created under Executive Reorganization Order No.**
16 **2019-2, MCL 333.27001.**

17 (q) ~~(p)~~ "Michigan ~~medical marihuana act~~" **Medical Marihuana**
18 **Act**" means the Michigan ~~medical marihuana act~~, **Medical Marihuana**
19 **Act**, 2008 IL 1, MCL 333.26421 to 333.26430.

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

21 (s) ~~(r)~~ "Paraphernalia" means any equipment, product, or
22 material of any kind that is designed for or used in growing,
23 cultivating, producing, manufacturing, compounding, converting,
24 storing, processing, preparing, transporting, injecting, smoking,
25 ingesting, inhaling, or otherwise introducing into the human body,
26 marihuana.

27 (t) ~~(s)~~ "Person" means an individual, corporation, limited
28 liability company, partnership, limited partnership, limited
29 liability partnership, limited liability limited partnership,



1 trust, or other legal entity.

2 (u) ~~(t)~~ "Plant" means any living organism that produces its
3 own food through photosynthesis and has observable root formation
4 or is in growth material.

5 (v) ~~(u)~~ "Processor" means a licensee that is a commercial
6 entity located in this state that purchases marihuana from a grower
7 and that extracts resin from the marihuana or creates a marihuana-
8 infused product for sale and transfer in packaged form to a
9 provisioning center or another processor.

10 (w) ~~(v)~~ "Provisioning center" means a licensee that is a
11 commercial entity located in this state that purchases marihuana
12 from a grower or processor and sells, supplies, or provides
13 marihuana to registered qualifying patients, directly or through
14 the patients' registered primary caregivers. Provisioning center
15 includes any commercial property where marihuana is sold at retail
16 to registered qualifying patients or registered primary caregivers.
17 A noncommercial location used by a registered primary caregiver to
18 assist a qualifying patient connected to the caregiver through the
19 department's marihuana registration process in accordance with the
20 Michigan ~~medical marihuana act~~ **Medical Marihuana Act** is not a
21 provisioning center for purposes of this act.

22 (x) ~~(w)~~ "Registered primary caregiver" means a primary
23 caregiver who has been issued a current registry identification
24 card under the Michigan ~~medical marihuana act~~ **Medical Marihuana**
25 **Act**.

26 (y) ~~(x)~~ "Registered qualifying patient" means a qualifying
27 patient who has been issued a current registry identification card
28 under the Michigan ~~medical marihuana act~~ **Medical Marihuana Act** or a
29 visiting qualifying patient as that term is defined in section 3 of



1 the Michigan ~~medical marihuana act~~, **Medical Marihuana Act**, MCL
2 333.26423.

3 (z) ~~(y)~~ "Registry identification card" means that term as
4 defined in section 3 of the Michigan ~~medical marihuana act~~, **Medical**
5 **Marihuana Act**, MCL 333.26423.

6 (aa) ~~(z)~~ "Rules" means rules promulgated under the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328, by the ~~department in consultation with the board~~ **marijuana**
9 **regulatory agency** to implement this act.

10 (bb) ~~(aa)~~ "Safety compliance facility" means a licensee that
11 is a commercial entity that takes marihuana from a marihuana
12 facility or receives marihuana from a registered primary caregiver,
13 tests the marihuana for contaminants and for tetrahydrocannabinol
14 and other cannabinoids, returns the test results, and may return
15 the marihuana to the marihuana facility.

16 (cc) ~~(bb)~~ "Secure transporter" means a licensee that is a
17 commercial entity located in this state that stores marihuana and
18 transports marihuana between marihuana facilities for a fee.

19 (dd) ~~(cc)~~ "Seed" means the fertilized, ungerminated, matured
20 ovule, containing an embryo or rudimentary plant, of a marihuana
21 plant that is flowering.

22 (ee) ~~(dd)~~ "Seedling" means a marihuana plant that has
23 germinated and has not flowered and is not harvestable.

24 (ff) ~~(ee)~~ "State operating license" or, unless the context
25 requires a different meaning, "license" means a license that is
26 issued under this act that allows the licensee to operate as 1 of
27 the following, specified in the license:

28 (i) A grower.

29 (ii) A processor.



(iii) A secure transporter.

(iv) A provisioning center.

(v) A safety compliance facility.

(gg) ~~(ff)~~ "Statewide monitoring system" or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

(i) Verifying registry identification cards.

(ii) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.

(iii) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan ~~medical marihuana act~~, **Medical Marihuana Act**, MCL 333.26424.

(hh) ~~(gg)~~ "Tissue culture" means a marihuana plant cell, cutting, tissue, or organ, that is kept under a sterile condition on a nutrient culture medium of known composition and that does not have visible root formation. A tissue culture is not a marihuana plant for purposes of a grower.

(ii) ~~(hh)~~ "Usable marihuana" means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

Sec. 407b. A processor that violates section 502(7) or a provisioning center that violates section 504(4)(f) is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

Sec. 502. (1) A processor license authorizes purchase of



1 marihuana only from a grower and sale of marihuana-infused products
2 or marihuana only to a provisioning center or another processor.

3 (2) Except as otherwise provided in section 505 and this
4 subsection, a processor license authorizes the processor to
5 transfer marihuana only by means of a secure transporter. A
6 processor license authorizes a processor to transfer marihuana
7 without using a secure transporter to a grower or provisioning
8 center if both of the following are met:

9 (a) The grower or provisioning center occupies the same
10 location as the processor and the marihuana is transferred using
11 only private real property without accessing public roadways.

12 (b) The processor enters each transfer into the statewide
13 monitoring system.

14 (3) To be eligible for a processor license, the applicant and
15 each investor in the processor must not have an interest in a
16 secure transporter or safety compliance facility.

17 (4) Until December 31, 2018, for a period of 30 days after the
18 issuance of a processor license and in accord with rules, a
19 processor may transfer any of the following that are lawfully
20 possessed by an individual formerly registered as a primary
21 caregiver who is an active employee of the processor:

22 (a) Marihuana plants.

23 (b) Usable marihuana.

24 (5) A processor shall comply with all of the following:

25 (a) Until December 31, 2021, have, or have as an active
26 employee an individual who has, a minimum of 2 years' experience as
27 a registered primary caregiver.

28 (b) While holding a license as a processor, not be a
29 registered primary caregiver and not employ an individual who is



1 simultaneously a registered primary caregiver.

2 (c) Enter all transactions, current inventory, and other
3 information into the statewide monitoring system as required in
4 this act, rules, and the marihuana tracking act.

5 (6) This act does not prohibit a processor from handling,
6 processing, marketing, or brokering, as those terms are defined in
7 section 2 of the industrial hemp research and development act, MCL
8 286.842, industrial hemp.

9 **(7) A processor shall not process marihuana intended for**
10 **inhalation or a marihuana-infused product intended for inhalation**
11 **if the marihuana or marihuana-infused product contains or has been**
12 **combined with vitamin E acetate.**

13 Sec. 504. (1) A provisioning center license authorizes the
14 purchase or transfer of marihuana only from a grower or processor
15 and sale or transfer to only a registered qualifying patient or
16 registered primary caregiver. Except as otherwise provided in
17 section 505 and this subsection, all transfers of marihuana to a
18 provisioning center from a separate marihuana facility must be by
19 means of a secure transporter. A transfer of marihuana to a
20 provisioning center from a marihuana facility that occupies the
21 same location as the provisioning center does not require a secure
22 transporter if the marihuana is transferred to the provisioning
23 center using only private real property without accessing public
24 roadways.

25 (2) A provisioning center license authorizes the provisioning
26 center to transfer marihuana to or from a safety compliance
27 facility for testing by means of a secure transporter or as
28 provided in section 505.

29 (3) To be eligible for a provisioning center license, the



1 applicant and each investor in the provisioning center must not
2 have an interest in a secure transporter or safety compliance
3 facility.

4 (4) A provisioning center shall comply with all of the
5 following:

6 (a) Sell or transfer marihuana to a registered qualifying
7 patient or registered primary caregiver only after it has been
8 tested and bears the label required for retail sale.

9 (b) Enter all transactions, current inventory, and other
10 information into the statewide monitoring system as required in
11 this act, rules, and the marihuana tracking act.

12 (c) Before selling or transferring marihuana to a registered
13 qualifying patient or to a registered primary caregiver on behalf
14 of a registered qualifying patient, inquire of the statewide
15 monitoring system to determine whether the patient and, if
16 applicable, the caregiver hold a valid, current, unexpired, and
17 unrevoked registry identification card and that the sale or
18 transfer will not exceed the daily and monthly purchasing limit
19 established by the ~~medical marihuana licensing board~~ **marijuana**
20 **regulatory agency** under this act.

21 (d) Not allow the sale, consumption, or use of alcohol or
22 tobacco products on the premises.

23 (e) Not allow a physician to conduct a medical examination or
24 issue a medical certification document on the premises for the
25 purpose of obtaining a registry identification card.

26 **(f) Not sell marihuana intended for inhalation or a marihuana-**
27 **infused product intended for inhalation if the marihuana or**
28 **marihuana-infused product contains or has been combined with**
29 **vitamin E acetate.**

