

HOUSE BILL NO. 5548

February 25, 2020, Introduced by Reps. Rabhi, Filler, Brixie, LaGrand, Steven Johnson, Marino, Wittenberg, Cambensy, Chirkun, Hertel, Peterson, Warren, Lasinski, Tate and Cherry and referred to the Committee on Government Operations.

A bill to amend 2018 IL 1, entitled
"Michigan Regulation and Taxation of Marihuana Act,"
by amending sections 3, 9, and 10 (MCL 333.27953, 333.27959, and
333.27960).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3. As used in this act:
- 2 (a) "Cultivate" means to propagate, breed, grow, harvest, dry,
- 3 cure, or separate parts of the marihuana plant by manual or
- 4 mechanical means.
- 5 (b) "Department" means the department of licensing and



1 regulatory affairs.

2 (c) "Flowering marihuana plant" means a male or female
3 marihuana plant that has visible calices, stigma, or pre-flowers
4 located at the node of a stem or branch.

5 (d) ~~(e)~~ "Industrial hemp" means a plant of the genus ~~cannabis~~
6 **Cannabis** and any part of that plant, whether growing or not, with a
7 delta-9 tetrahydrocannabinol concentration ~~that does not exceed of~~
8 0.3% **or less** on a dry-weight basis ~~—~~ or per volume or weight of
9 marihuana-infused product, or **for which** the combined percent of
10 delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any
11 part of the plant, ~~of the genus cannabis~~ regardless of moisture
12 content, **is 0.3% or less.**

13 (e) ~~(d)~~ "Licensee" means a person holding a state license.

14 (f) ~~(e)~~ "Marihuana" means all parts of the **marihuana** plant, ~~of~~
15 ~~the genus cannabis,~~ growing or not; the seeds of the plant; the
16 resin extracted from any part of the plant; and every compound,
17 manufacture, salt, derivative, mixture, or preparation of the plant
18 or its seeds or resin, including marihuana concentrate and
19 marihuana-infused products. ~~For purposes of this act, marihuana~~
20 **Marihuana** does not include **any of the following:**

21 (i) ~~(1) the~~ **The** mature stalks of the plant, fiber produced from
22 the **mature** stalks, oil or cake made from the seeds of the plant, **or**
23 any other compound, manufacture, salt, derivative, mixture, or
24 preparation of the mature stalks. ~~— except the resin extracted from~~
25 ~~those stalks, fiber, oil, or cake, or any sterilized seed of the~~
26 ~~plant that is incapable of germination,~~

27 (ii) ~~(2) industrial~~ **Industrial** hemp. ~~— or~~

28 (iii) ~~(3) any~~ **Any** other ingredient combined with marihuana to
29 prepare topical or oral administrations, food, drink, or other



1 products.

2 (g) ~~(f)~~ "Marihuana accessories" means any equipment, product,
3 material, or combination of equipment, products, or materials,
4 ~~which~~ **that** is specifically designed for use in planting,
5 propagating, cultivating, growing, harvesting, manufacturing,
6 compounding, converting, producing, processing, preparing, testing,
7 analyzing, packaging, repackaging, storing, containing, ingesting,
8 inhaling, or otherwise introducing marihuana into the human body.

9 (h) ~~(g)~~ "Marihuana concentrate" means the resin extracted from
10 any part of the plant of the genus ~~cannabis~~ **Cannabis**.

11 (i) ~~(h)~~ "Marihuana establishment" means a marihuana grower,
12 marihuana safety compliance facility, marihuana processor,
13 marihuana microbusiness, marihuana retailer, marihuana secure
14 transporter, or any other type of marihuana-related business
15 licensed by the ~~department~~ **marijuana regulatory agency**.

16 (j) ~~(i)~~ "Marihuana grower" means a person licensed to
17 cultivate marihuana and sell or otherwise transfer marihuana to
18 marihuana establishments.

19 (k) ~~(j)~~ "Marihuana-infused product" means a topical
20 formulation, tincture, beverage, edible substance, or similar
21 product containing marihuana and other ingredients and that is
22 intended for human consumption.

23 (l) ~~(k)~~ "Marihuana microbusiness" means a person licensed to
24 cultivate not more than ~~150~~ **450** marihuana plants; process and
25 package marihuana; and sell or otherwise transfer marihuana to
26 individuals who are 21 years of age or older or to a marihuana
27 safety compliance facility, but not to other marihuana
28 establishments.

29 (m) "Marihuana plant" means a plant of the genus *cannabis*.



1 **Marihuana plant does not include industrial hemp.**

2 (n) ~~(h)~~—"Marihuana processor" means a person licensed to obtain
3 marihuana from marihuana establishments; process and package
4 marihuana; and sell or otherwise transfer marihuana to marihuana
5 establishments.

6 (o) ~~(m)~~—"Marihuana retailer" means a person licensed to obtain
7 marihuana from marihuana establishments and to sell or otherwise
8 transfer marihuana to marihuana establishments and to individuals
9 who are 21 years of age or older.

10 (p) ~~(n)~~—"Marihuana secure transporter" means a person licensed
11 to obtain marihuana from marihuana establishments in order to
12 transport marihuana to marihuana establishments.

13 (q) ~~(e)~~—"Marihuana safety compliance facility" means a person
14 licensed to test marihuana, including certification for potency and
15 the presence of contaminants.

16 (r) **"Marijuana regulatory agency" means the marijuana**
17 **regulatory agency created under Executive Reorganization Order No.**
18 **2019-2, MCL 333.27001.**

19 (s) ~~(p)~~—"Municipal license" means a license issued by a
20 municipality pursuant to section 16 ~~of this act~~ that allows a
21 person to operate a marihuana establishment in that municipality.

22 (t) ~~(q)~~—"Municipality" means a city, village, or township.

23 (u) ~~(r)~~—"Person" means an individual, corporation, limited
24 liability company, partnership of any type, trust, or other legal
25 entity.

26 (v) ~~(s)~~—"Process" or "Processing" means to separate or
27 otherwise prepare parts of the marihuana plant and to compound,
28 blend, extract, infuse, or otherwise make or prepare marihuana
29 concentrate or marihuana-infused products.



(w) ~~(t)~~ "State license" means a license issued by the department **marijuana regulatory agency** that allows a person to operate a marihuana establishment.

(x) ~~(u)~~ "Unreasonably impracticable" means that the measures necessary to comply with the rules or ordinances adopted pursuant to this act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

Sec. 9. (1) ~~1. Each~~ An application for a state license must be submitted to the department. ~~Upon receipt of~~ **marijuana regulatory agency**. Within 90 days after receiving a complete application and application fee, the department **marijuana regulatory agency** shall ~~forward~~ **do all of the following:**

(a) **Forward** a copy of the application to the municipality in which the marihuana establishment ~~is to~~ **will** be located. ~~7~~ determine

(b) **Determine** whether the applicant and the premises qualify for the state license and comply with this act. ~~7~~ and issue

(c) **Issue** the appropriate state license or send the applicant a notice of rejection ~~setting forth~~ **that states the** specific reasons why the department did not approve the state license application. ~~within 90 days.~~

(2) ~~2.~~ The department **marijuana regulatory agency** shall issue the following state license types: ~~marihuana~~

(a) **Marihuana** retailer. ~~7~~ ~~marihuana~~

(b) **Marihuana** safety compliance facility. ~~7~~ ~~marihuana~~

(c) **Marihuana** secure transporter. ~~7~~ ~~marihuana~~

(d) **Marihuana** processor. ~~7~~ ~~marihuana~~



1 (e) **Marihuana** microbusiness. ~~+-class~~

2 (f) **Class A** marihuana grower authorizing cultivation of not
3 more than ~~100~~**300** marihuana plants, **not more than 100 of which may**
4 **be flowering marihuana plants.** ~~+-class~~

5 (g) **Class B** marihuana grower authorizing cultivation of not
6 more than ~~500~~**1,500** marihuana plants, **not more than 500 of which**
7 **may be flowering marihuana plants.** ~~+-and-class~~

8 (h) **Class C** marihuana grower authorizing cultivation of not
9 more than ~~2,000~~**6,000** marihuana plants, **not more than 2,000 of**
10 **which may be flowering marihuana plants.**

11 (3) ~~3.~~ Except as otherwise provided in this section, the
12 ~~department~~**marijuana regulatory agency** shall approve a state
13 license application and issue a state license if **all of the**
14 **following conditions are met:**

15 (a) ~~the~~**The** applicant has submitted an application in
16 ~~compliance with~~**pursuant to** the rules promulgated ~~by the~~
17 ~~department,~~**under this act,** is in compliance with this act and the
18 rules **promulgated under this act,** and has paid the ~~required~~
19 **application fee.** ~~+~~

20 (b) ~~the~~**The** municipality in which the proposed marihuana
21 establishment will be located does not notify the department that
22 the proposed marihuana establishment ~~is~~**would** not ~~in compliance~~
23 **comply** with an ordinance ~~consistent with~~**adopted under** section 6 of
24 ~~this act and that is~~ in effect ~~at the time of application,~~**on the**
25 **date the application is submitted.**

26 (c) ~~the~~**The** property where the proposed marihuana
27 establishment ~~is to~~**will** be located is not within an area zoned
28 exclusively for residential use and is not within 1,000 feet, **or a**
29 **shorter distance prescribed by an applicable ordinance adopted**



under section 6, of a pre-existing public or private school providing education in kindergarten or any of grades 1 through to 12. ~~, unless a municipality adopts an ordinance that reduces this distance requirement;~~

(d) ~~no~~ **Approval of the application will not result in a person** who holds an ownership interest in the ~~marihuana establishment~~ applicant **holding any of the following:**

(i) ~~(1) will hold an~~ **An** ownership interest in ~~both a marihuana~~ safety compliance facility or ~~in a marihuana secure transporter and~~ in a marihuana grower, ~~a marihuana processor, a marihuana retailer,~~ or ~~a marihuana microbusiness. +~~

(ii) ~~(2) will hold an~~ **An** ownership interest in ~~both a marihuana~~ microbusiness and in a marihuana grower, ~~a marihuana processor, a~~ marihuana retailer, ~~a marihuana safety compliance facility, or a~~ marihuana secure transporter. ~~+ and~~

(iii) ~~(3) will hold an~~ **An** ownership interest in more than 5 marihuana growers or in more than 1 marihuana microbusiness, ~~except that the department may approve a license application from a person who holds an ownership interest in more than 5 marihuana growers or more than 1 marihuana microbusiness if,~~ **unless the marijuana regulatory agency**, after January 1, 2023, ~~the department~~ promulgates a rule authorizing ~~an individual~~ **a person** to hold an ownership interest in more than 5 marihuana growers or in more than 1 marihuana microbusiness.

(4) ~~4. If a municipality an ordinance adopted under section 6~~ limits the number of marihuana establishments that may be licensed in ~~the a municipality pursuant to section 6 of this act and if that~~ limit prevents the ~~department~~ **marijuana regulatory agency** from issuing a state license to ~~all applicants~~ **every applicant** who meet



1 ~~meets~~ the requirements of subsection ~~3 of this section,~~ (3) and
 2 **whose marihuana establishment would be located in that**
 3 **municipality,** the municipality shall decide ~~among competing~~
 4 ~~applications by a competitive process intended to select which~~
 5 ~~applicants who are best suited to operate~~ **a marihuana establishment**
 6 ~~in compliance with this act. within the municipality.~~

7 (5) ~~5. All~~ **A** state licenses ~~are~~ **license is** effective for 1
 8 year, unless the ~~department~~ **marijuana regulatory agency** issues the
 9 state license for a longer term. ~~A~~ **The marijuana regulatory agency**
 10 **shall renew a** state license ~~is renewed upon receipt of receiving a~~
 11 complete renewal application and ~~a renewal fee from any~~ **a** marihuana
 12 establishment in good standing.

13 (6) ~~6. The department~~ **marijuana regulatory agency** shall begin
 14 accepting applications for marihuana establishments ~~within 12~~
 15 ~~months after the effective date of this act. by~~ **December 6, 2019.**
 16 Except as otherwise provided in this section, for 24 months after
 17 the ~~department~~ **marijuana regulatory agency** begins ~~to receive~~
 18 **accepting** applications for marihuana establishments, the ~~department~~
 19 ~~may~~ **marijuana regulatory agency shall** only accept applications ~~for~~
 20 ~~licensure: for~~ **from the following:**

21 (a) **For** a class A marihuana grower or ~~for a~~ marihuana
 22 microbusiness, from ~~persons~~ **an applicant** who ~~are residents~~ **is a**
 23 **resident** of Michigan. ~~for~~

24 (b) **For** a marihuana retailer, marihuana processor, class B
 25 marihuana grower, class C marihuana grower, or a marihuana secure
 26 transporter, from ~~persons~~ **an applicant** holding a state operating
 27 license ~~pursuant to~~ **under** the medical marihuana facilities
 28 licensing act, 2016 PA 281, MCL 333.27101 to 333.27801. ~~and for~~

29 (c) **For** a marihuana safety compliance facility, from any



1 applicant. ~~One~~

2 (7) **Beginning 1** year after the ~~department~~ **marijuana regulatory**
 3 **agency** begins ~~to accept~~ **accepting** applications pursuant to ~~under~~
 4 this section, the ~~department~~ **marijuana regulatory agency** shall
 5 begin accepting applications from any applicant if the ~~department~~
 6 **marijuana regulatory agency** determines that additional state
 7 licenses are necessary to ~~minimize~~ **do any of the following:**

8 (a) **Minimize** the illegal market for marihuana in this state. ~~7~~
 9 ~~to efficiently~~

10 (b) **Efficiently** meet the demand for marihuana. ~~7~~ ~~or to provide~~

11 (c) **Provide** for reasonable access to marihuana in rural areas.

12 (8) ~~7.~~ Information obtained from an applicant related to
 13 licensure under this act is exempt from disclosure under the
 14 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

15 Sec. 10. (1) ~~1.~~ Notwithstanding any other law or provision of
 16 this act, and except as otherwise provided in section 4 ~~of this act~~
 17 or the rules promulgated ~~thereunder,~~ **under this act**, the following
 18 acts are not unlawful, are not an offense, are not grounds for
 19 seizing or forfeiting property, are not grounds for arrest,
 20 prosecution, or penalty in any manner, are not grounds for search
 21 or inspection except as authorized by this act, and are not grounds
 22 to deny any other right or privilege:

23 (a) **For** a marihuana grower, or an agent acting on behalf of a
 24 marihuana grower who is 21 years of age or older, ~~cultivating any~~
 25 **of the following:**

26 (i) **Cultivating** not more than the number of **flowering** marihuana
 27 plants authorized by the **marihuana grower's** state license. ~~class,~~
 28 ~~possessing,~~

29 (ii) **Possessing**, packaging, storing, or testing marihuana. ~~7~~



1 ~~acquiring~~

2 **(iii) Acquiring** marihuana seeds or seedlings from a person who
3 is 21 years of age or older. ~~÷selling~~

4 **(iv) Selling** or otherwise transferring, purchasing or otherwise
5 obtaining, or transporting marihuana to or from a marihuana
6 establishment. ~~÷or receiving~~

7 **(v) Receiving** compensation for goods or services. ~~÷~~

8 (b) **For** a marihuana processor, or **an** agent acting on behalf of
9 a marihuana processor who is 21 years of age or older, ~~possessing,~~
10 **any of the following:**

11 **(i) Possessing,** processing, packaging, storing, or testing
12 marihuana. ~~÷selling~~

13 **(ii) Selling** or otherwise transferring, purchasing or otherwise
14 obtaining, or transporting marihuana to or from a marihuana
15 establishment. ~~÷or receiving~~

16 **(iii) Receiving** compensation for goods or services. ~~÷~~

17 (c) ~~a~~**For a** marihuana secure transporter, or an agent acting
18 on behalf of a marihuana secure transporter who is 21 years of age
19 or older, ~~possessing~~**any of the following:**

20 **(i) Possessing** or storing marihuana. ~~÷transporting~~

21 **(ii) Transporting** marihuana to or from a marihuana
22 establishment. ~~÷or receiving~~

23 **(iii) Receiving** compensation for services. ~~÷~~

24 (d) **For** a marihuana safety compliance facility, or an agent
25 acting on behalf of a marihuana safety compliance facility who is
26 21 years of age or older, ~~testing,~~**any of the following:**

27 **(i) Testing,** possessing, repackaging, or storing marihuana. ~~÷~~
28 ~~transferring,~~



1 **(ii) Transferring**, obtaining, or transporting marihuana to or
 2 from a marihuana establishment. ~~† or receiving~~

3 **(iii) Receiving** compensation for services. ~~†~~

4 (e) **For** a marihuana retailer, or an agent acting on behalf of
 5 a marihuana retailer who is 21 years of age or older, ~~possessing,~~
 6 **any of the following:**

7 **(i) Possessing**, storing, or testing marihuana. ~~† selling~~

8 **(ii) Selling** or otherwise transferring, purchasing or otherwise
 9 obtaining, or transporting marihuana to or from a marihuana
 10 establishment. ~~† selling~~

11 **(iii) Selling** or otherwise transferring marihuana to ~~a person an~~
 12 **individual** 21 years of age or older. ~~† or receiving~~

13 **(iv) Receiving** compensation for goods or services. ~~† or~~

14 (f) **For** a marihuana microbusiness, or an agent acting on
 15 behalf of a marihuana microbusiness who is 21 years of age or
 16 older, ~~cultivating any of the following:~~

17 **(i) Cultivating** not more than ~~150~~ **450** marihuana plants, **not**
 18 **more than 150 of which may be flowering marihuana plants.** ~~†~~
 19 ~~possessing,~~

20 **(ii) Possessing**, processing, packaging, storing, or testing
 21 marihuana from **flowering** marihuana plants cultivated on the
 22 **marihuana microbusiness's** premises. ~~† selling~~

23 **(iii) Selling** or otherwise transferring marihuana cultivated or
 24 processed on the **marihuana microbusiness's** premises to ~~a person an~~
 25 **individual** 21 years of age or older. ~~† or receiving~~

26 **(iv) Receiving** compensation for goods or services.

27 (g) ~~leasing~~ **Leasing** or otherwise allowing the use of property
 28 owned, occupied, or managed for activities allowed under this act.



1 ~~+~~
 2 (h) ~~enrolling~~ **Enrolling** or employing ~~a person~~ **an individual**
 3 who engages in marihuana-related activities allowed under this act.

4 ~~+~~
 5 (i) ~~possessing~~ **Possessing**, cultivating, processing,
 6 obtaining, transferring, or transporting industrial hemp. ~~+~~ ~~or~~

7 (j) ~~providing~~ **Providing** professional services to prospective
 8 or licensed marihuana establishments related to activity under this
 9 act.

10 (2) ~~2. A person acting as an~~ **An** agent of a marihuana retailer
 11 **acting on behalf of the marihuana retailer** who sells or otherwise
 12 transfers marihuana or marihuana accessories to ~~a person under an~~
 13 **individual younger than** 21 years of age is not subject to arrest,
 14 prosecution, forfeiture of property, disciplinary action by a
 15 professional licensing board, denial of any right or privilege, or
 16 penalty in any manner, if the ~~person reasonably~~ **agent did both of**
 17 **the following:**

18 (a) **Reasonably** verified that the recipient **of the marihuana or**
 19 **marihuana accessories** appeared to be 21 years of age or older by
 20 ~~means of reviewing a~~ government-issued photographic identification
 21 containing a date of birth. ~~+~~ ~~and the person complied~~

22 (b) **Complied** with any **applicable** rules promulgated ~~pursuant to~~
 23 **under** this act.

24 (3) ~~3.~~ It is the public policy of this state that contracts
 25 related to the operation of marihuana establishments be
 26 enforceable.

