

# HOUSE BILL NO. 5126

June 24, 2021, Introduced by Reps. Garza and Hauck and referred to the Committee on Regulatory Reform.

A bill to amend 2016 PA 281, entitled  
"Medical marihuana facilities licensing act,"  
by amending section 408 (MCL 333.27408).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 408. (1) Before the ~~board~~**marijuana regulatory agency**  
2 grants or renews any license under this act, the licensee or  
3 applicant shall file with the ~~department~~**marijuana regulatory**  
4 **agency** proof of financial responsibility for liability for bodily  
5 injury to lawful users resulting from the manufacture,

1 distribution, transportation, or sale of adulterated marihuana or  
2 adulterated marihuana-infused product in an amount not less than  
3 \$100,000.00 **for each license**. The proof of financial responsibility  
4 ~~may must be in the form of cash, unencumbered securities, a~~  
5 ~~liability insurance policy , or a constant value bond executed by a~~  
6 ~~surety company authorized to do business in this state.~~**that meets**  
7 **all of the following requirements:**

8 (a) Is issued by an authorized insurer or captive insurance  
9 company authorized under the insurance code of 1956, 1956 PA 218,  
10 MCL 500.100 to 500.8302, to transact insurance business of the type  
11 and nature required to comply with this section.

12 (b) Does not include a condition, provision, stipulation, or  
13 limitation contained in the policy, or any other endorsement, that  
14 relieves the insurer from liability for the payment of any claim  
15 for which the insured may be held liable under this act.

16 (c) Covers bodily injuries to a qualifying patient including  
17 injuries that are caused by the intentional conduct of the licensee  
18 or its employee or agent. However, the proof of financial  
19 responsibility is not required to cover bodily injuries to  
20 qualifying patients caused by the licensee or its employee or agent  
21 if the licensee or its employee or agent acted with the intent to  
22 harm.

23 (2) A licensee or applicant must include with its filing under  
24 subsection (1) an attestation of compliance with this section on a  
25 form approved by the marijuana regulatory agency. An officer of the  
26 authorized insurer or captive insurance company that issues the  
27 policy described in subsection (1) must sign the attestation of  
28 compliance that the licensee or applicant is required to file under  
29 this subsection.

(3) A licensee or applicant may furnish proof of financial responsibility that exceeds the requirements of this section.

(4) If at any time a licensee fails to maintain proof of financial responsibility as required under this section, the marijuana regulatory agency shall immediately suspend the licensee's license until the licensee provides to the marijuana regulatory agency proof of financial responsibility as required under this section.

(5) As used in this section:

(a) "Adulterated marihuana" means a product sold as marihuana that contains any unintended substance or chemical or biological matter other than marihuana that causes adverse reaction after ingestion or consumption.

(b) "Authorized" insurer means that term as defined in section 108 of the insurance code of 1956, 1956 PA 218, MCL 500.108.

(c) ~~(b)~~ "Bodily injury" does not include expected or intended effect or long-term adverse effect of smoking, ingestion, or consumption of marihuana or marihuana-infused product.

(d) "Captive insurance company" means that term as defined in section 4601 of the insurance code of 1956, 1956 PA 218, MCL 500.4601.

(6) ~~(2)~~ An insured licensee shall not cancel liability insurance required under this section unless the licensee ~~complies with~~ **does** both of the following:

(a) Gives 30 days' prior written notice to the ~~department~~ **marijuana regulatory agency**.

(b) Procures new proof of financial responsibility required under this section and delivers that proof to the ~~department~~ **marijuana regulatory agency** within 30 days after giving the

1 ~~department~~**-marijuana regulatory agency** the notice under subdivision  
2 (a).

3 Enacting section 1. This amendatory act does not take effect  
4 unless Senate Bill No.\_\_\_\_ or House Bill No. 5127 (request no.  
5 02306'21) of the 101st Legislature is enacted into law.