

HOUSE BILL NO. 5127

June 24, 2021, Introduced by Rep. 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 402 (MCL 333.27402), as amended by 2018 PA 582.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 402. (1) The ~~board~~**-marijuana regulatory agency** shall
2 issue a license to an applicant who submits a complete application
3 and pays both the nonrefundable application fee required under
4 section 401(5) and the regulatory assessment established by the
5 ~~board~~**-marijuana regulatory agency** for the first year of operation,

1 if the ~~board~~**marijuana regulatory agency** determines that the
2 applicant is qualified 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~~**an employee** of the
19 ~~board~~**marijuana regulatory agency**.

20 (e) The applicant ~~fails to~~**does not** demonstrate ~~the~~
21 ~~applicant's~~**an** ability to maintain adequate premises liability and
22 casualty insurance for its proposed marihuana facility.

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

1 (g) The ~~board~~ **marijuana regulatory agency** determines that the
2 applicant is not in compliance with section 205(1).

3 (h) **The marijuana regulatory agency determines that the**
4 **applicant is not in compliance with section 408.**

5 (i) ~~(h)~~ The applicant fails to meet other criteria established
6 by rule.

7 (3) In determining whether to grant a license to an applicant,
8 the ~~board~~ **marijuana regulatory agency** may also consider all of the
9 following:

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

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

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

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

20 (c) The sources and total amount of the applicant's
21 capitalization to operate and maintain the proposed marihuana
22 facility.

23 (d) Whether the applicant has been indicted for, charged with,
24 arrested for, or convicted of, pled guilty or nolo contendere to,
25 forfeited bail concerning, or had expunged any relevant criminal
26 offense under the laws of any jurisdiction, either felony or
27 misdemeanor, not including traffic violations, regardless of
28 whether the offense has been expunged, pardoned, or reversed on
29 appeal or otherwise.

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

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

7 (g) Whether the applicant has a history of noncompliance with
8 any regulatory requirements in this state or any other
9 jurisdiction.

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

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

14 (4) Each applicant shall ensure that 1 set of fingerprints is
15 submitted to the department of state police. The applicant shall
16 submit with its application the applicant's written consent to the
17 criminal history check described in this section and the submission
18 of the applicant's fingerprints to, and the inclusion of the
19 applicant's fingerprints in, the state and federal database systems
20 described in subsection (7).

21 (5) The fingerprints required under subsection (4) may be
22 taken by a law enforcement agency or any other person determined by
23 the department of state police to be qualified to take
24 fingerprints. The applicant shall submit a fingerprint processing
25 fee to the ~~department~~ **marijuana regulatory agency** in an amount
26 required under section 3 of 1935 PA 120, MCL 28.273, and any costs
27 imposed by the Federal Bureau of Investigation.

28 (6) The department of state police shall do all of the
29 following:

1 (a) Conduct a criminal history check on each applicant and
2 request the Federal Bureau of Investigation to make a determination
3 of the existence of any national criminal history pertaining to
4 each applicant.

5 (b) Provide the ~~board~~**-marijuana regulatory agency** with a
6 written report containing the criminal history record information
7 of each applicant.

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

10 (a) The department of state police shall store and retain all
11 fingerprints submitted under this section in an automated
12 fingerprint identification system database that searches against
13 latent fingerprints, and provides for an automatic notification if
14 and when a subsequent fingerprint is submitted into the system that
15 matches a set of fingerprints previously submitted under this
16 section or if and when the criminal history of an individual whose
17 fingerprints are retained in the system is updated. Upon receiving
18 a notification, the department of state police shall immediately
19 notify the ~~board~~**-marijuana regulatory agency**. Information in the
20 database maintained under this subsection is confidential, is not
21 subject to disclosure under the freedom of information act, 1976 PA
22 442, MCL 15.231 to 15.246, and shall not be disclosed to any person
23 except for purposes of this act or for law enforcement purposes.

24 (b) The department of state police shall forward all
25 fingerprints submitted to it under this section to the Federal
26 Bureau of Investigation for submission of those fingerprints into
27 the FBI automatic notification system. This subdivision does not
28 apply until the department of state police is a participant in the
29 FBI automatic notification system. As used in this subdivision:

1 (i) "Automatic notification system" means a system that stores
2 and retains fingerprints, and that provides for an automatic
3 notification to a participant if and when a fingerprint is
4 submitted into the system that matches an individual whose
5 fingerprints are retained in the system or if and when the criminal
6 history of an individual whose fingerprints are retained in the
7 system is updated.

8 (ii) "FBI automatic notification system" means the automatic
9 notification system that is maintained by the Federal Bureau of
10 Investigation.

11 (8) The ~~board~~ **marijuana regulatory agency** shall review all
12 applications for licenses and shall inform each applicant of the
13 ~~board's~~ **marijuana regulatory agency's** decision.

14 (9) A license shall be issued for a 1-year period and is
15 renewable annually. Except as otherwise provided in this act, the
16 ~~board~~ **marijuana regulatory agency** shall renew a license if all of
17 the following requirements are met:

18 (a) The licensee applies to the ~~board~~ **marijuana regulatory**
19 **agency** on a renewal form provided by the ~~board~~ **marijuana regulatory**
20 **agency** that requires information prescribed in rules.

21 (b) The application is received by the ~~board~~ **marijuana**
22 **regulatory agency** on or before the expiration date of the current
23 license.

24 (c) The licensee pays the regulatory assessment under section
25 603.

26 (d) The licensee meets the requirements of this act. ~~and any~~
27 **(e) The licensee meets any** other renewal requirements set
28 forth in rules.

29 (10) The ~~department~~ **marijuana regulatory agency** shall notify

1 the licensee by mail or ~~electronic mail~~ **email** at the last known
2 address on file with the ~~board~~ **marijuana regulatory agency** advising
3 of the time, procedure, and regulatory assessment under section
4 603. The failure of the licensee to receive notice under this
5 subsection does not relieve the licensee of the responsibility for
6 renewing the license.

7 (11) If a license renewal application is not submitted by the
8 license expiration date, the license may be renewed within 60 days
9 after its expiration date upon application, payment of the
10 regulatory assessment under section 603, and satisfaction of any
11 renewal requirement and late fee set forth in rules. The licensee
12 may continue to operate during the 60 days after the license
13 expiration date if the license is renewed by the end of the 60-day
14 period.

15 (12) License expiration does not terminate the ~~board's~~
16 **marijuana regulatory agency's** authority to impose sanctions on a
17 licensee whose license has expired.

18 (13) In its decision on an application for renewal, the ~~board~~
19 **marijuana regulatory agency** shall consider any specific written
20 input it receives from an individual or entity within the local
21 unit of government in which the applicant for renewal is located.

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

26 (15) An applicant or licensee has a continuing duty to provide
27 information requested by the ~~board~~ **marijuana regulatory agency** and
28 to cooperate in any investigation, inquiry, or hearing conducted by
29 the ~~board~~ **marijuana regulatory agency**.

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No.____ or House Bill No. 5126 (request no.
3 02303'21) of the 101st Legislature is enacted into law.