

MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT (EXCERPT)
Initiated Law 1 of 2018

333.27953 Definitions.

Sec. 3.

As used in this act:

- (a) "Cannabis regulatory agency" means the marijuana regulatory agency created under Executive Reorganization Order No. 2019-2, MCL 333.27001, renamed the cannabis regulatory agency under Executive Reorganization Order No. 2022-1, MCL 333.27002.
- (b) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of a marihuana plant by manual or mechanical means.
- (c) "Department" means the cannabis regulatory agency.
- (d) "Indian lands" means any of the following:
 - (i) All lands within the limits of an Indian reservation.
 - (ii) Any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.
- (e) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which is recognized as eligible by the United States Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as Indians, and is recognized as possessing powers of self-government.
- (f) "Industrial hemp" means any of the following:
 - (i) A plant of the genus Cannabis, whether growing or not, with a THC concentration of 0.3% or less on a dry-weight basis.
 - (ii) A part of a plant of the genus Cannabis, whether growing or not, with a THC concentration of 0.3% or less on a dry-weight basis.
 - (iii) The seeds of a plant of the genus Cannabis with a THC concentration of 0.3% or less on a dry-weight basis.
 - (iv) If it has a THC concentration of 0.3% or less on a dry-weight basis, a compound, manufacture, derivative, mixture, preparation, extract, cannabinoid, acid, salt, isomer, or salt of an isomer of any of the following:
 - (A) A plant of the genus Cannabis.
 - (B) A part of a plant of the genus Cannabis.
 - (v) A product to which 1 of the following applies:
 - (A) If the product is intended for human or animal consumption, the product, in the form in which it is intended for sale to a consumer, meets both of the following requirements:
 - (I) Has a THC concentration of 0.3% or less on a dry-weight or per volume basis.
 - (II) Contains a total amount of THC that is less than or equal to the limit established by the cannabis regulatory agency under section 8(1)(n).
 - (B) If the product is not intended for human or animal consumption, the product meets both of the following requirements:
 - (I) Contains a substance listed in subparagraph (i), (ii), (iii), or (iv).
 - (II) Has a THC concentration of 0.3% or less on a dry-weight basis.
 - (g) "Licensee" means a person holding a state license.
 - (h) "Marihuana" means any of the following:
 - (i) A plant of the genus Cannabis, whether growing or not.
 - (ii) A part of a plant of the genus Cannabis, whether growing or not.
 - (iii) The seeds of a plant of the genus Cannabis.
 - (iv) Marihuana concentrate.
 - (v) A compound, manufacture, salt, derivative, mixture, extract, acid, isomer, salt of an isomer, or preparation of any of the following:
 - (A) A plant of the genus Cannabis.
 - (B) A part of a plant of the genus Cannabis.
 - (C) The seeds of a plant of the genus Cannabis.
 - (D) Marihuana concentrate.
 - (vi) A marihuana-infused product.
 - (vii) A product with a THC concentration of more than 0.3% on a dry-weight or per volume basis in the form in which it is intended for sale to a consumer.
 - (viii) A product that is intended for human or animal consumption and that contains, in the form in which it is intended for sale to a consumer, a total amount of THC that is greater than the limit established by the cannabis

regulatory agency under section 8(1)(n).

(i) Except for marihuana concentrate extracted from any of the following, "marihuana" does not include any of the following:

- (i) The mature stalks of a plant of the genus *Cannabis*.
- (ii) Fiber produced from the mature stalks of a plant of the genus *Cannabis*.
- (iii) Oil or cake made from the seeds of a plant of the genus *Cannabis*.
- (iv) A compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks of a plant of the genus *Cannabis*.
- (v) Industrial hemp.
- (vi) An ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

(vii) A drug for which an application filed in accordance with 21 USC 355 is approved by the Food and Drug Administration.

(j) "Marihuana accessories" means any equipment, product, material, or combination of equipment, products, or materials, that is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

(k) "Marihuana concentrate" means the resin extracted from any part of a plant of the genus *Cannabis*.

(l) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the cannabis regulatory agency.

(m) "Marihuana grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

(n) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

(o) "Marihuana microbusiness" means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

(p) "Marihuana processor" means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

(q) "Marihuana retailer" means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

(r) "Marihuana safety compliance facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

(s) "Marihuana secure transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

(t) "Marijuana regulatory agency", unless the context dictates otherwise, means the cannabis regulatory agency.

(u) "Municipal license" means a license issued by a municipality pursuant to section 16 that allows a person to operate a marihuana establishment in that municipality.

(v) "Municipality" means a city, village, or township.

(w) "Person" means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.

(x) "Process" or "processing" means to separate or otherwise prepare parts of a marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

(y) "Qualifying Indian tribe" means an Indian tribe that meets all of the following conditions:

(i) The Indian tribe has entered into an agreement with the cannabis regulatory agency under section 7(2)(b) that is in effect.

(ii) The Indian tribe has entered into an agreement with the department of treasury that is in effect and that does all of the following:

(A) States that the revenue collected from the tax or fee described in subparagraph (iii) is not state money, and requires that this revenue be retained by and used as determined by only the Indian tribe, if the marihuana subject to the tax or fee was grown and processed on only the Indian tribe's Indian lands.

(B) States whether the revenue collected from the tax or fee described in subparagraph (iii) from marihuana not described in sub-subparagraph (A) is subject to revenue sharing between the Indian tribe and this state and, if so, the details of the revenue sharing arrangement.

(iii) The Indian tribe imposes a tax or fee on each sale or transfer of marihuana from a tribal marihuana business located in the Indian tribe's Indian lands to a person other than a tribal marihuana business or marihuana establishment. This subparagraph does not prohibit a qualifying Indian tribe from imposing the tax or fee on sales or transfers of marihuana that are not described in this subparagraph. The tax or fee must be based on the sales price of the marihuana and the rate of the tax or fee must be equal to or greater than the rate established under section

13.

(z) "State license" means a license issued by the cannabis regulatory agency that allows a person to operate a marihuana establishment.

(aa) "THC" means any of the following:

(i) Tetrahydrocannabinolic acid.

(ii) Unless excluded by the cannabis regulatory agency under section 8(2)(c), a tetrahydrocannabinol, regardless of whether it is artificially or naturally derived.

(iii) A tetrahydrocannabinol that is a structural, optical, or geometric isomer of a tetrahydrocannabinol described in subparagraph (ii).

(bb) "Tribal marihuana business" means a business that meets all of the following conditions:

(i) The business engages in the type of activities licensed under this act.

(ii) The business is not a marihuana establishment.

(iii) The business is wholly owned by a qualifying Indian tribe, the enrolled members of a qualifying Indian tribe, or a combination of a qualifying Indian tribe and the members of that qualifying Indian tribe.

(iv) The business is located in this state and in the Indian lands of the qualifying Indian tribe described in subparagraph (iii).

(v) The business is subject to a tax or fee described in subdivision (y)(iii).

(cc) "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.

History: 2018, Initiated Law 1, Eff. Dec. 6, 2018 ;-- Am. 2020, Act 208, Imd. Eff. Oct. 15, 2020 ;-- Am. 2021, Act 56, Eff. Oct. 11, 2021 ;-- Am. 2023, Act 166, Imd. Eff. Oct. 19, 2023

Compiler's Notes: This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against. For the transfer of powers and duties of the department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the bureau of marijuana regulation, see E.R.O. No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.