

## MEDICAL MARIHUANA FACILITIES ACT REVISIONS

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<http://www.house.mi.gov/hfa>

**House Bill 5144 as introduced**  
**Sponsor: Rep. Klint Kesto**  
**Committee: Law and Justice**  
**Complete to 10-23-17**

Analysis available at  
<http://www.legislature.mi.gov>

### BRIEF SUMMARY:

The bill would make numerous revisions to the Medical Marihuana Facilities Licensing Act, many of which are technical in nature. Significant amendments include the following:

- Creates protection for certified public accountants (CPAs) and financial institutions from certain civil, criminal, and administrative sanctions when reviewing a financial statement or providing a financial service, respectively, to a licensee.
- Prohibits the Medical Marihuana Licensing Board from issuing a facility license unless the municipality in which an applicant intends to operate has adopted an ordinance allowing that type of facility.
- Revises the information a municipality must provide if it adopts ordinances allowing facilities to operate in its jurisdiction and requires the information be provided to LARA and not to the Board.
- Allows a grower to sell marihuana to another grower, and a processor to sell and transfer marihuana or marihuana-infused products to another processor.
- Allows information provided by a municipality to LARA to be subject to FOIA, with some exceptions.
- Allows certain transfers of marihuana between licensees to be done without a secure transporter if specified conditions were met.

### DETAILED SUMMARY:

#### *Protections for CPAs and financial institutions*

Except as otherwise provided in the act, a Michigan-licensed CPA who reviews a financial statement under Section 701 of the act, or a financial institution that provides a financial service to a person or entity licensed under the act, would not be subject to the following based on a marihuana-related offense:

- Criminal penalties under state law or local ordinances regulating marihuana.
- State or local civil or criminal prosecution.
- Seizure of any real or personal property or anything of value.
- Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupation or professional licensing board or bureau.

For the purposes of the bill, a “financial institution” would include a state or national bank; state or federally chartered savings and loan association, savings bank, or credit union;

insurance company; an entity offering certain products to a state resident such as a mutual fund or money market account or a securities brokerage account; an entity regulated by the federal Securities and Exchange Commission (SEC) that collects money from the public; or other entity that collects money from the public.

A “financial service” would mean a deposit; withdrawal; transfer between accounts; currency exchange; loan; extension of credit; purchase or sale of stock, bond, certificate of deposit, or other monetary instrument; or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

### ***Local ordinance requirements***

Currently, a marihuana facility cannot operate in a municipality unless the municipality has adopted an ordinance authorizing that type of facility. *Instead*, the bill would specify the Medical Marihuana Licensing Board could not issue a state operating license to an applicant unless the municipality in which the applicant’s proposed marihuana facility will operate has adopted an ordinance authorizing that type of facility.

Currently, the act prohibits a municipality from imposing regulations that conflict with statutory regulations for licensing marihuana facilities. *The bill* would prohibit regulations that conflict with the act or rules for licensing marihuana facilities.

*The bill* would also revise a provision pertaining to certain information a municipality is required to provide to the Board to instead require a municipality that adopts an ordinance authorizing a marihuana facility to provide the Department of Licensing and Regulatory Affairs (LARA) with all of the following on a form prescribed and provided by the department:

- An attestation that the municipality has adopted an ordinance authorizing the marihuana facility.
- A description of any zoning regulations that apply to the proposed facility within the municipality.
- The signature of the clerk of the municipality or his or her designee.
- Any other information required by LARA.

In addition, the bill would allow LARA to require a municipality to provide the following information on a form the department prescribes and provides regarding a licensee who submits an application for a *license renewal*:

- Information the Board declares necessary to determine whether the licensee’s license should be renewed.
- A description of a violation of an ordinance or a zoning regulation adopted by the municipality under the act’s provisions committed by the licensee, but only if the violation relates to activities licensed under the act and rules or the Michigan Medical Marihuana Act (MMMA).
- Whether a change had been made to an ordinance or a zoning regulation since the license had been issued to the licensee and a description of the change.

Currently, information a municipality obtains from an applicant is exempt from disclosure under the Freedom of Information Act (FOIA). *The bill*, however, would make information a municipality provides to LARA (other than the information from an applicant) subject to disclosure under FOIA.

### ***Grower license***

*The bill* would allow a grower to sell marihuana to another grower; currently, the act only allows a grower to sell to a processor or provisioning center.

Instead of allowing sales of marihuana seeds or plants only to a licensed grower by a secure transporter, *the bill* would revise the provision to authorize the sale of plants to a grower only by a secure transporter.

*The bill* would add that a grower license would authorize the sale or transfer of seeds, seedlings, or tissue cultures to a grower from a registered primary caregiver or another grower without using a secure transporter.

*The bill* would also allow a grower to transfer marihuana without using a secure transporter to a processor or provisioning center if both of the following were met:

- The processor or provisioning center is at the same location as the grower and the marihuana is transferred using only private real property without accessing the public roadways.
- The grower enters each transfer into the statewide monitoring system.

Currently, the act allows a grower to sell marihuana, excluding seeds, to a processor or provisioning center. *The bill* would also exclude the sale of seedlings, tissue cultures, and cuttings.

Further, *the bill* would allow, until December 31, 2018, a grower to transfer marihuana plants, seeds, and seedlings possessed by an individual formerly registered as a primary caregiver who is an active employee of the grower. However, such a transfer could only be made within the 30-day period after issuance of a grower license and in accordance with departmental rules.

“Cutting” would mean a section of a lead stem or root stock used for vegetative asexual propagation.

“Seed” would be defined to mean the fertilized, ungerminated, matured ovule, containing an embryo or rudimentary plant, of a marihuana plant that is flowering.

“Seedling” would mean a marihuana plant that has germinated but has not flowered nor is harvestable.

“Tissue culture” would mean 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.

### ***Processor licensee***

*The bill* would allow a licensed processor to sell marihuana or marihuana-infused products to another processor. Further, a processor would not have to use a secure transporter to transfer marihuana to a grower or provisioning center if both of the following conditions were met:

- The grower or provisioning center occupy the same location as the processor and the marihuana is transferred using only private real property without accessing public roadways.
- Each transfer is entered into the statewide monitoring system.

Until December 31, 2018, and only for a period of 30 days after the issuance of a processor license and according to departmental rules, a processor could transfer marihuana plants or usable marihuana that are lawfully possessed by an individual formerly registered as a primary caregiver who is actively employed by the processor.

### ***Secure transporter***

*The bill* would allow a licensed secure transporter to travel through any municipality in the state if the licensee has its primary place of business in a municipality that has adopted an ordinance authorizing that marihuana facility.

### ***Provisioning center***

*The bill* would allow the transfer of marihuana from a facility occupying the same location as the provisioning center without means of a secure transporter if the marihuana is transferred using only private real property without accessing public roadways.

### ***Safety compliance facility***

*The bill* would allow a safety compliance facility—without using a secure transporter—to take marihuana from, test marihuana for, and return the marihuana only to a marihuana facility, and also collect a random sample of marihuana at the facility of a grower, processor, or provisioning center for testing.

### ***Marihuana Advisory Panel***

*The bill* would clarify that members representing growers, processors, provisioning centers, safety compliance facilities, and secure transporters would be representatives of *the industry from that category*. Further, *the bill* would clarify that the governor would appoint the first members and that the first members would have to be appointed by March 1, 2018 (instead of within 30 days after the act took effect).

MCL 333.27102 et al.

**FISCAL IMPACT:**

House Bill 5144 does not appear to have any significant fiscal impact for the Department of Licensing and Regulatory Affairs or any other state agency or local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.