

PROHIBIT MARIJUANA LICENSE DENIAL BASED ON CERTAIN EMPLOYMENT OF SPOUSE OF APPLICANT

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House Bill 5839 (H-2) as reported from committee

Sponsor: Rep. Pat Outman

Committee: Regulatory Reform

Revised 8-24-22

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

SUMMARY:

House Bill 5839 would amend the Michigan Regulation and Taxation of Marijuana Act to prohibit the Cannabis Regulatory Agency (CRA)¹ from denying an application for licensure, or conducting other specified activities, solely because the spouse of an individual who holds an ownership interest in the applicant is a member of, or employed by, a state or federal regulatory body or governmental body, provided that the applicant submits an attestation with certain details.

Under the bill, the spouse of an applicant for licensure would also be considered an applicant unless the applicant submits an attestation stating that, if the license is granted, the spouse will not control or direct the affairs of the marijuana establishment or have the ability to make policy decisions regarding the establishment and that, if the spouse is employed by a state or federal regulatory agency or a governmental unit of Michigan, the spouse's position does not create a conflict of interest, is not within the CRA, and is not within a governmental entity that makes decisions regarding marijuana.

If such an attestation were submitted, the bill would prohibit the CRA from doing any of the following:

- Conducting a background investigation on an applicant's spouse.
- Requiring an applicant's spouse to submit an application for licensure.
- Denying an application *solely* because an applicant's spouse is employed by a governmental entity, unless one of the following applies:
 - The spouse's position creates a conflict of interest.
 - The spouse's position is within the CRA.
 - The spouse's position is within a regulatory body of a unit of state or federal government that makes decisions regarding marijuana.

HB 5839 also would make several editorial and technical changes that do not substantively affect the current meaning of the act, including relocating several provisions that address powers and duties of the CRA and the Department of State Police.

MCL 333.27957

¹ The bill refers to the Marijuana Regulatory Agency, which is a defined term in the act. Effective April 1, 2022, the Marijuana Regulatory Agency was renamed the Cannabis Regulatory Agency by Executive Order 2022-1 to reflect a regulatory authority that includes hemp as well as marijuana. (Regulation of processors-handlers of hemp is the purview of the CRA, while regulation of industrial hemp cultivation remains the responsibility of the Michigan Department of Agriculture and Rural Development (MDARD).) As used in the act and the bill, the term "Marijuana Regulatory Agency" continues to refer to the renamed agency.

BRIEF DISCUSSION:

Supporters of the bill say that it will clarify an existing ambiguity in the Michigan Regulation and Taxation of Marijuana Act that has led to applicants being denied based on their spouse's employment by a governmental entity. The intent is to provide a safeguard against corruption by providing that an application may still be denied if the applicant's spouse is employed by a governmental entity with regulatory power over marijuana, while also allowing applicants to move forward in the approval process for licensure if their spouse's employment is in a branch of government unrelated to marijuana oversight.

FISCAL IMPACT:

House Bill 5839 would not have an appreciable fiscal impact on the Department of Licensing and Regulatory Affairs or any other unit of state or local government.

POSITIONS:

The following entities indicated support for the bill (6-14-22):

- Michigan Cannabis Industry Association
- Cannabis Attorneys of Michigan

The Cannabis Regulatory Agency indicated a neutral position on the bill. (6-14-22)

Legislative Analyst: Josh Roesner
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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.