

House Bill 5839 (Substitute H-2 as passed by the House)

Sponsor: Representative Pat Outman

House Committee: Regulatory Reform

Senate Committee: Regulatory Reform

Date Completed: 9-20-22

CONTENT

The bill would amend the Michigan Regulation and Taxation of Marihuana Act to do the following:

- **Allow an applicant for licensure under the Act who had a spouse to submit an attestation specifying that the applicant's spouse would not control, direct, or make decisions concerning the marijuana facility and that the applicant's spouse did not have a conflict of interest as prescribed by the bill.**
- **Prohibit the Marijuana Regulatory Agency (Agency) from conducting a background investigation of the applicant's spouse or requiring the applicant's spouse to apply for licensure in exercising its duties of investigation if the applicant submitted an attestation.**
- **Prohibit the Agency from denying an applicant's application solely because the applicant's spouse was a member of or employed by certain governmental units.**

The Department of Licensing and Regulatory Affairs (LARA) is responsible for the Act's implementation, administration, and enforcement. The Act specifies that LARA has the powers and duties necessary to control the commercial production and distribution of marihuana. The bill would transfer all the responsibility for implementation, administration, and enforcement of the Act, and the powers and duties provided by the Act, to the Agency. (On March 1, 2019, Governor Whitmer issued Executive Order 2019-7, which created the Agency within LARA and transferred the powers, duties, functions, and responsibilities of LARA under the Act to the Agency.)

Among other requirements, LARA must grant or deny each application for licensure and investigate each application to determine eligibility for licensure, including by conducting a background investigation of each person holding an ownership interest in the applicant. Under the bill, if an applicant submitted an attestation as described below, the Agency could not conduct a background investigation of the applicant's spouse or require the applicant's spouse to apply for licensure in exercising its duties of investigation. In addition, the Agency could not deny the applicant's application for licensure solely because the applicant's spouse was a member of or employed by a regulatory body of a governmental unit of the State, another state, or the Federal government, or was employed by a governmental unit of the State, unless one of the following applied:

- The spouse's position created a conflict of interest.
- The spouse's position was within the Agency.

- The spouse's position was within a regulatory body of a governmental unit in the State, another state, or the Federal government that made decisions regarding marihuana.

The bill specifies that if an applicant had a spouse and did not submit an attestation as described below, the applicant's spouse would be considered an applicant for investigatory purposes.

Under the bill, if an applicant had a spouse, the applicant could submit to the Agency an attestation, on a form and in a manner as prescribed by the Agency, that stated all the following were true:

- If the applicant was granted a State license, the applicant's spouse would not control or direct the affairs of the applicant's marihuana establishment or make policy decisions regarding the applicant's establishment.
- If the applicant's spouse had a position in a regulatory body of a governmental unit of the State, another state, or the Federal government, or was employed by a governmental unit of the State, that the position would not create a conflict of interest.

The bill would require the Department of State Police to cooperate with and assist the Agency in conducting background investigations of applicants.

MCL 333.27957

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco, Jr.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.