

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5871

A bill to amend 2016 PA 281, entitled
"Medical marihuana facilities licensing act,"
by amending sections 402, 501, 502, and 504 (MCL 333.27402,
333.27501, 333.27502, and 333.27504), section 402 as amended by
2021 PA 161, sections 501 and 504 as amended by 2018 PA 10, and
section 502 as amended by 2018 PA 648.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 402. (1) The ~~marijuana~~**cannabis** regulatory agency shall
2 issue a license to an applicant if all of the following conditions
3 are met:

4 (a) The applicant submits a complete application.

5 (b) The applicant pays both the nonrefundable application fee
6 required under section 401(5) and the regulatory assessment

1 established by the ~~marijuana~~**cannabis** regulatory agency for the
2 first year of operation.

3 (c) The ~~marijuana~~**cannabis** regulatory agency determines that
4 the applicant is qualified to receive a license under this act.

5 (2) ~~An~~**Subject to subsection (17), an** applicant is ineligible
6 to receive a license if any of the following circumstances exist:

7 (a) The applicant has been convicted of or released from
8 incarceration for a felony under the laws of this state, any other
9 state, or the United States within the past 10 years or has been
10 convicted of a controlled substance-related felony within the past
11 10 years. This subdivision does not apply to a felony for the
12 manufacture, processing, or distribution of marihuana, or
13 possession with the intent to manufacture, process, or distribute
14 marihuana, unless the felony involved the distribution of marihuana
15 to a minor.

16 (b) Within the past 5 years the applicant has been convicted
17 of a misdemeanor involving a controlled substance, theft,
18 dishonesty, or fraud in any state or been found responsible for
19 violating a local ordinance in any state involving a controlled
20 substance, dishonesty, theft, or fraud that substantially
21 corresponds to a misdemeanor in that state. This subdivision does
22 not apply to a misdemeanor or ordinance violation for the
23 possession or use of marihuana.

24 (c) The applicant has knowingly submitted an application for a
25 license under this act that contains false information.

26 (d) The applicant is an employee of the ~~marijuana~~**cannabis**
27 regulatory agency.

28 (e) The applicant fails to demonstrate the applicant's ability
29 to maintain adequate premises liability and casualty insurance for

1 its proposed marihuana facility.

2 (f) The applicant holds an elective office of a governmental
3 unit of this state, another state, or the federal government. This
4 subdivision does not apply to an elected officer of or employee of
5 a federally recognized Indian tribe or to an elected precinct
6 delegate.

7 (g) The applicant is a member of or employed by a regulatory
8 body of a governmental unit in this state, another state, or the
9 federal government, or is employed by a governmental unit of this
10 state. This subdivision does not apply to ~~any~~ **either** of the
11 following:

12 (i) An elected officer of or employee of a federally recognized
13 Indian tribe.

14 (ii) An elected precinct delegate.

15 ~~(iii) The spouse of a person who applies for a state operating
16 license unless the spouse's position creates a conflict of interest
17 or is within any of the following:~~

18 ~~(A) The marijuana regulatory agency.~~

19 ~~(B) A regulatory body of a governmental unit in this state,
20 another state, or the federal government that makes decisions
21 regarding medical marihuana.~~

22 (h) The ~~marijuana~~ **cannabis** regulatory agency determines that
23 the applicant is not in compliance with section 205(1).

24 (i) The ~~marijuana~~ **cannabis** regulatory agency determines that
25 the applicant is not in compliance with section 408.

26 (j) The applicant fails to meet other criteria established by
27 rule.

28 (3) ~~In~~ **Subject to subsection (17), in** determining whether to
29 grant a license to an applicant, the ~~marijuana~~ **cannabis** regulatory

1 agency may also consider all of the following:

2 (a) The business probity; financial ability and experience;
3 and responsibility or means to operate or maintain a marihuana
4 facility of the applicant and of any other person that meets either
5 of the following:

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

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

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

11 (c) The sources and total amount of the applicant's
12 capitalization to operate and maintain the proposed marihuana
13 facility.

14 (d) Whether the applicant has been indicted for, charged with,
15 arrested for, or convicted of, pled guilty or nolo contendere to,
16 forfeited bail concerning, or had expunged any relevant criminal
17 offense under the laws of any jurisdiction, either felony or
18 misdemeanor, not including traffic violations, regardless of
19 whether the offense has been expunged, pardoned, or reversed on
20 appeal or otherwise. This subdivision does not apply to a criminal
21 offense for the possession, use, manufacture, processing, or
22 distribution of marihuana, or possession with the intent to
23 manufacture, process, or distribute marihuana, unless the felony
24 involved the distribution of marihuana to a minor.

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

27 (f) Whether the applicant has been served with a complaint or
28 other notice filed with any public body regarding payment of any
29 tax required under federal, state, or local law that has been

1 delinquent for 1 or more years.

2 (g) Whether the applicant has a history of noncompliance with
3 any regulatory requirements in this state or any other
4 jurisdiction.

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

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

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

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

23 (6) The department of state police shall do all of the
24 following:

25 (a) Conduct a criminal history check on each applicant and
26 request the Federal Bureau of Investigation to make a determination
27 of the existence of any national criminal history pertaining to
28 each applicant.

29 (b) Provide the ~~marijuana~~**cannabis** regulatory agency with a

1 written report containing the criminal history record information
2 of each applicant.

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

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

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

25 (i) "Automatic notification system" means a system that stores
26 and retains fingerprints, and that provides for an automatic
27 notification to a participant if and when a fingerprint is
28 submitted into the system that matches an individual whose
29 fingerprints are retained in the system or if and when the criminal

1 history of an individual whose fingerprints are retained in the
2 system is updated.

3 (ii) "FBI automatic notification system" means the automatic
4 notification system that is maintained by the Federal Bureau of
5 Investigation.

6 (8) The ~~marijuana~~-**cannabis** regulatory agency shall review all
7 applications for licenses and shall inform each applicant of the
8 ~~marijuana~~-**cannabis** regulatory agency's decision.

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

13 (a) The licensee applies to the ~~marijuana~~-**cannabis** regulatory
14 agency on a renewal form provided by the ~~marijuana~~-**cannabis**
15 regulatory agency that requires information prescribed in rules.

16 (b) The application is received by the ~~marijuana~~-**cannabis**
17 regulatory agency on or before the expiration date of the current
18 license.

19 (c) The licensee pays the regulatory assessment under section
20 603.

21 (d) The licensee meets the requirements of this act and any
22 other renewal requirements set forth in rules.

23 (10) The ~~department~~-**cannabis regulatory agency** shall notify
24 the licensee by mail or electronic mail at the last known address
25 on file with the ~~marijuana~~-**cannabis** regulatory agency advising of
26 the time and procedure for paying and the amount of the regulatory
27 assessment under section 603. The failure of the licensee to
28 receive notice under this subsection does not relieve the licensee
29 of the responsibility for renewing the license.

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

9 (12) License expiration does not terminate the ~~marijuana~~
10 **cannabis** regulatory agency's authority to impose sanctions on a
11 licensee whose license has expired.

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

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

21 (15) An applicant or licensee has a continuing duty to provide
22 information requested by the ~~marijuana~~**cannabis** regulatory agency
23 and to cooperate in any investigation, inquiry, or hearing
24 conducted by the ~~marijuana~~**cannabis** regulatory agency.

25 (16) **If an applicant has a spouse, the applicant may submit to**
26 **the cannabis regulatory agency an attestation, on a form and in a**
27 **manner as prescribed by the cannabis regulatory agency, that states**
28 **that all of the following are true:**

29 (a) **The applicant's spouse does not control or direct the**

1 affairs of a marihuana facility.

2 (b) The applicant's spouse does not have the ability to make
3 policy decisions regarding a marihuana facility.

4 (c) The applicant's spouse is not an applicant for a state
5 operating license.

6 (d) If the applicant is granted a state operating license, the
7 applicant's spouse will not control or direct the affairs of the
8 applicant's marihuana facility or have the ability to make policy
9 decisions regarding the applicant's marihuana facility.

10 (e) If the applicant's spouse has a position described in
11 subsection (17) (c), none of the conditions listed in subsection
12 (17) (c) (i) to (iii) apply.

13 (17) If an applicant has a spouse and does not submit an
14 attestation under subsection (16), the applicant's spouse is
15 considered an applicant for purposes of subsections (2) to (7). If
16 an applicant submits an attestation under subsection (16), the
17 cannabis regulatory agency shall not, in exercising its duties
18 under this section, do any of the following:

19 (a) Conduct a background investigation of the applicant's
20 spouse.

21 (b) Require the applicant's spouse to submit an application
22 for licensure.

23 (c) Deny the applicant's application for licensure solely
24 because the applicant's spouse is a member of or employed by a
25 regulatory body of a governmental unit in this state, another
26 state, or the federal government, or is employed by a governmental
27 unit of this state, unless 1 of the following conditions applies:

28 (i) The spouse's position creates a conflict of interest.

29 (ii) The spouse's position is within the cannabis regulatory

1 agency.

2 (iii) The spouse's position is within a regulatory body of a
3 governmental unit in this state, another state, or the federal
4 government that makes decisions regarding marihuana.

5 Sec. 501. (1) A grower license authorizes the grower to ~~grow~~
6 cultivate not more than the following number of marihuana plants
7 under the indicated license class for each license the grower holds
8 in that class:

9 (a) Class A - 500 marihuana plants.

10 (b) Class B - 1,000 marihuana plants.

11 (c) Class C - 1,500 marihuana plants.

12 (2) Except as otherwise provided in this subsection, a grower
13 license authorizes sale of marihuana plants to a grower only by
14 means of a secure transporter. A grower license authorizes the sale
15 or transfer of seeds, seedlings, or tissue cultures to a grower
16 from a registered primary caregiver or another grower without using
17 a secure transporter.

18 (3) A grower license authorizes a grower to transfer marihuana
19 without using a secure transporter to a processor or provisioning
20 center if both of the following are met:

21 (a) The processor or provisioning center occupies the same
22 location as the grower and the marihuana is transferred using only
23 private real property without accessing public roadways.

24 (b) The grower enters each transfer into the statewide
25 monitoring system.

26 (4) A grower license authorizes the cultivation, drying,
27 trimming, or curing and packaging of marihuana for sale.

28 (5) ~~(4)~~A grower license authorizes sale of marihuana, other
29 than seeds, seedlings, tissue cultures, and cuttings, to a

1 processor or provisioning center.

2 (6) ~~(5)~~—Except as otherwise provided in subsections (2) and
3 (3) and section 505, a grower license authorizes the grower to
4 transfer marihuana only by means of a secure transporter.

5 (7) ~~(6)~~—To be eligible for a grower license, the applicant and
6 each investor in the grower must not have an interest in a secure
7 transporter or safety compliance facility.

8 (8) ~~(7)~~—Until December 31, 2018, for a period of 30 days after
9 the issuance of a grower license and in accord with rules, a grower
10 may transfer any of the following that are lawfully possessed by an
11 individual formerly registered as a primary caregiver who is an
12 active employee of the grower:

13 (a) Marihuana plants.

14 (b) Seeds.

15 (c) Seedlings.

16 (9) ~~(8)~~—A grower shall comply with all of the following:

17 (a) Until December 31, 2021, have, or have as an active
18 employee an individual who has, a minimum of 2 years' experience as
19 a registered primary caregiver.

20 (b) While holding a license as a grower, not be a registered
21 primary caregiver and not employ an individual who is
22 simultaneously a registered primary caregiver.

23 (c) Enter all transactions, current inventory, and other
24 information into the statewide monitoring system as required in
25 this act, rules, and the marihuana tracking act.

26 (10) ~~(9)~~—A grower license does not authorize the grower to
27 operate in an area unless the area is zoned for industrial or
28 agricultural uses or is unzoned and otherwise meets the
29 requirements established in section 205(1).

1 Sec. 502. (1) A processor license authorizes purchase **or**
2 **transfer** of marihuana only from a grower, **provisioning center, or**
3 **another processor** and sale **or transfer** of marihuana-infused
4 products or marihuana only to a **grower, provisioning center, or**
5 another processor.

6 (2) Except as otherwise provided in section 505 and this
7 subsection, a processor license authorizes the processor to
8 transfer marihuana only by means of a secure transporter. A
9 processor license authorizes a processor to transfer marihuana
10 without using a secure transporter to a grower or provisioning
11 center if both of the following are met:

12 (a) The grower or provisioning center occupies the same
13 location as the processor and the marihuana is transferred using
14 only private real property without accessing public roadways.

15 (b) The processor enters each transfer into the statewide
16 monitoring system.

17 **(3) A processor license authorizes the extraction of resin**
18 **from marihuana or creation of a marihuana-infused product for sale**
19 **and transfer in packaged form.**

20 **(4) ~~(3)~~**—To be eligible for a processor license, the applicant
21 and each investor in the processor must not have an interest in a
22 secure transporter or safety compliance facility.

23 **(5) ~~(4)~~**—Until December 31, 2018, for a period of 30 days after
24 the issuance of a processor license and in accord with rules, a
25 processor may transfer any of the following that are lawfully
26 possessed by an individual formerly registered as a primary
27 caregiver who is an active employee of the processor:

28 (a) Marihuana plants.

29 (b) Usable marihuana.

1 (6) ~~(5)~~—A processor shall comply with all of the following:

2 (a) Until December 31, 2021, have, or have as an active
3 employee an individual who has, a minimum of 2 years' experience as
4 a registered primary caregiver.

5 (b) While holding a license as a processor, not be a
6 registered primary caregiver and not employ an individual who is
7 simultaneously a registered primary caregiver.

8 (c) Enter all transactions, current inventory, and other
9 information into the statewide monitoring system as required in
10 this act, rules, and the marihuana tracking act.

11 (7) ~~(6)~~—This act does not prohibit a processor from handling,
12 processing, marketing, or brokering, as those terms are defined in
13 section 2 of the industrial hemp research and development act, MCL
14 286.842, industrial hemp.

15 Sec. 504. (1) A provisioning center license authorizes the
16 purchase or transfer of marihuana only from a grower, ~~or processor,~~
17 **or another provisioning center** and sale or transfer to only a
18 registered qualifying patient, ~~or registered primary caregiver,~~
19 **grower, processor, or another provisioning center**. Except as
20 otherwise provided in section 505 and this subsection, all
21 transfers of marihuana to a provisioning center from a separate
22 marihuana facility, **or from a provisioning center to a separate**
23 **marihuana facility**, must be by means of a secure transporter. A
24 transfer of marihuana to a provisioning center from a marihuana
25 facility that occupies the same location as the provisioning
26 center, **or from a provisioning center to a marihuana facility that**
27 **occupies the same location as the provisioning center**, does not
28 require a secure transporter if the marihuana is transferred ~~to the~~
29 ~~provisioning center~~ using only private real property without

1 accessing public roadways.

2 (2) A provisioning center license authorizes the provisioning
3 center to transfer marihuana to or from a safety compliance
4 facility for testing by means of a secure transporter or as
5 provided in section 505.

6 (3) To be eligible for a provisioning center license, the
7 applicant and each investor in the provisioning center must not
8 have an interest in a secure transporter or safety compliance
9 facility.

10 (4) A provisioning center shall comply with all of the
11 following:

12 (a) Sell or transfer marihuana to a registered qualifying
13 patient or registered primary caregiver only after it has been
14 tested and bears the label required for retail sale.

15 (b) Enter all transactions, current inventory, and other
16 information into the statewide monitoring system as required in
17 this act, rules, and the marihuana tracking act.

18 (c) Before selling or transferring marihuana to a registered
19 qualifying patient or to a registered primary caregiver on behalf
20 of a registered qualifying patient, inquire of the statewide
21 monitoring system to determine whether the patient and, if
22 applicable, the caregiver hold a valid, current, unexpired, and
23 unrevoked registry identification card and that the sale or
24 transfer will not exceed the daily and monthly purchasing limit
25 established by the medical marihuana licensing board under this
26 act.

27 (d) Not allow the sale, consumption, or use of alcohol or
28 tobacco products on the premises.

29 (e) Not allow a physician to conduct a medical examination or

1 issue a medical certification document on the premises for the
2 purpose of obtaining a registry identification card.

3 Enacting section 1. This amendatory act takes effect 90 days
4 after the date it is enacted into law.

5 Enacting section 2. This amendatory act does not take effect
6 unless House Bill No. 5965 of the 101st Legislature is enacted into
7 law.