

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Rep. Hauck

ENROLLED HOUSE BILL No. 5871

AN ACT to amend 2016 PA 281, entitled “An act to license and regulate medical marihuana growers, processors, provisioning centers, secure transporters, and safety compliance facilities; to allow certain licensees to process, test, or sell industrial hemp; to provide for the powers and duties of certain state and local governmental officers and entities; to create a medical marihuana licensing board; to provide for interaction with the statewide monitoring system for commercial marihuana transactions; to create an advisory panel; to provide immunity from prosecution for marihuana-related offenses for persons engaging in certain activities in compliance with this act; to prescribe civil fines and sanctions and provide remedies; to provide for forfeiture of contraband; to provide for taxes, fees, and assessments; and to require the promulgation of rules,” 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:

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

- (a) The applicant submits a complete application.
- (b) The applicant pays both the nonrefundable application fee required under section 401(5) and the regulatory assessment established by the cannabis regulatory agency for the first year of operation.
- (c) The cannabis regulatory agency determines that the applicant is qualified to receive a license under this act.

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

- (a) The applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years. This subdivision does not apply to a felony for the manufacture, processing, or distribution of marihuana, or possession with the intent to manufacture, process, or distribute marihuana, unless the felony involved the distribution of marihuana to a minor.
- (b) Within the past 5 years the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state. This subdivision does not apply to a misdemeanor or ordinance violation for the possession or use of marihuana.

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

(d) The applicant is an employee of the cannabis regulatory agency.

(e) The applicant fails to demonstrate the applicant's ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility.

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

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

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

(ii) An elected precinct delegate.

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

(i) The cannabis regulatory agency determines that the applicant is not in compliance with section 408.

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

(3) Subject to subsection (17), in determining whether to grant a license to an applicant, the cannabis regulatory agency may also consider all of the following:

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

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

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

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

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

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

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

(f) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.

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

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

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

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

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

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

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

(b) Provide the cannabis regulatory agency with a written report containing the criminal history record information of each applicant.

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

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

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

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

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

(8) The cannabis regulatory agency shall review all applications for licenses and shall inform each applicant of the cannabis regulatory agency's decision.

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

(a) The licensee applies to the cannabis regulatory agency on a renewal form provided by the cannabis regulatory agency that requires information prescribed in rules.

(b) The application is received by the cannabis regulatory agency on or before the expiration date of the current license.

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

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

(10) The cannabis regulatory agency shall notify the licensee by mail or electronic mail at the last known address on file with the cannabis regulatory agency advising of the time and procedure for paying and the amount of the regulatory assessment under section 603. The failure of the licensee to receive notice under this subsection does not relieve the licensee of the responsibility for renewing the license.

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

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

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

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

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

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

(a) The applicant's spouse does not control or direct the affairs of a marijuana facility.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Class A – 500 marihuana plants.

(b) Class B – 1,000 marihuana plants.

(c) Class C – 1,500 marihuana plants.

(2) Except as otherwise provided in this subsection, a grower license authorizes sale of marihuana plants to a grower only by means of a secure transporter. A grower license authorizes 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.

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

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

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

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

(5) A grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, and cuttings, to a processor or provisioning center.

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

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

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

(a) Marihuana plants.

(b) Seeds.

(c) Seedlings.

(9) A grower shall comply with all of the following:

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

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

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

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

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

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

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

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

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

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

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

(a) Marihuana plants.

(b) Usable marihuana.

(6) A processor shall comply with all of the following:

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

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

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

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

Sec. 504. (1) A provisioning center license authorizes the purchase or transfer of marihuana only from a grower, processor, or another provisioning center and sale or transfer to only a registered qualifying patient, registered primary caregiver, grower, processor, or another provisioning center. Except as otherwise provided in section 505 and this subsection, all transfers of marihuana to a provisioning center from a separate marihuana facility, or from a provisioning center to a separate marihuana facility, must be by means of a secure transporter. A transfer of marihuana to a provisioning center from a marihuana facility that occupies the same location as the provisioning center, or from a provisioning center to a marihuana facility that occupies the same location as the provisioning center, does not require a secure transporter if the marihuana is transferred using only private real property without accessing public roadways.

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

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

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

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

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

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

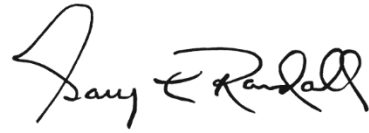
(d) Not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

(e) Not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

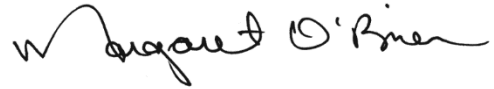
Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor