

MEDICAL MARIHUANA FACILITIES LICENSING ACT (EXCERPT)
Act 281 of 2016
PART 2. APPLICATION OF OTHER LAWS

333.27201 Protected activities; person owning or leasing property upon which marihuana facility located subject to penalties or sanctions prohibited; conditions; activities of certified public accountant or financial institution not subject to certain penalties or sanctions; other provisions of law inconsistent with act; definitions.

Sec. 201.

(1) Except as otherwise provided in this act, if a person has been granted a state operating license and is operating within the scope of the license, the licensee and its agents are not subject to any of the following for engaging in activities described in subsection (2):

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local criminal prosecution for a marihuana-related offense.
- (c) State or local civil prosecution for a marihuana-related offense.
- (d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.
- (e) Seizure of marihuana, real property, personal property, or anything of value based on a marihuana-related offense.

(f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(2) The following activities are protected under subsection (1) if performed under a state operating license within the scope of that license and in accord with this act, rules, and any ordinance adopted under section 205:

- (a) Growing marihuana.
- (b) Purchasing, receiving, selling, transporting, or transferring marihuana from or to a licensee, a licensee's agent, a registered qualifying patient, or a registered primary caregiver.
- (c) Possessing marihuana.
- (d) Possessing or manufacturing marihuana paraphernalia for medical use.
- (e) Processing marihuana.
- (f) Transporting marihuana.
- (g) Testing, transferring, infusing, extracting, altering, or studying marihuana.
- (h) Receiving or providing compensation for products or services.

(3) Except as otherwise provided in this act, a person who owns or leases real property upon which a marihuana facility is located and who has no knowledge that the licensee violated this act is not subject to any of the following for owning, leasing, or permitting the operation of a marihuana facility on the real property:

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local civil prosecution based on a marihuana-related offense.
- (c) State or local criminal prosecution based on a marihuana-related offense.
- (d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.

(e) Seizure of any real or personal property or anything of value based on a marihuana-related offense.

(f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(4) Except as otherwise provided in this act, a certified public accountant who is licensed under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736, is not subject to any of the following for engaging in the practice of public accounting as that term is defined in section 720 of the occupational code, 1980 PA 299, MCL 339.720, for an applicant or licensee who is in compliance with this act, rules, and the Michigan medical marihuana act:

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local civil prosecution based on a marihuana-related offense.
- (c) State or local criminal prosecution based on a marihuana-related offense.
- (d) Seizure of any real or personal property or anything of value based on a marihuana-related offense.
- (e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(5) Except as otherwise provided in this act, a financial institution is not subject to any of the following for providing a financial service to a licensee under this act:

- (a) Criminal penalties under state law or local ordinances regulating marihuana.
- (b) State or local civil prosecution based on a marihuana-related offense.

- (c) State or local criminal prosecution based on a marihuana-related offense.
- (d) Seizure of any real or personal property or anything of value based on a marihuana-related offense.
- (e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(6) For the purposes of regulating the commercial entities established under this act, any provisions of the following acts that are inconsistent with this act do not apply to a grower, processor, secure transporter, provisioning center, or safety compliance facility operating in compliance with this act:

- (a) The business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.
- (b) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.
- (c) 1931 PA 327, MCL 450.98 to 450.192.
- (d) The Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.
- (e) The Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200.
- (f) 1907 PA 101, MCL 445.1 to 445.5.
- (g) 1913 PA 164, MCL 449.101 to 449.106.
- (h) The uniform partnership act, 1917 PA 72, MCL 449.1 to 449.48.

(7) As used in this section:

(a) "Financial institution" means any of the following:

- (i) A state or national bank.
- (ii) A state or federally chartered savings and loan association.
- (iii) A state or federally chartered savings bank.
- (iv) A state or federally chartered credit union.
- (v) An insurance company.

(vi) An entity that offers any of the following to a resident of this state:

- (A) A mutual fund account.
- (B) A securities brokerage account.
- (C) A money market account.
- (D) A retail investment account.

(vii) An entity regulated by the Securities and Exchange Commission that collects funds from the public.

(viii) An entity that is a member of the National Association of Securities Dealers and that collects funds from the public.

(ix) Another entity that collects funds from the public.

(b) "Financial service" means a deposit; withdrawal; transfer between accounts; exchange of currency; loan; extension of credit; purchase or sale of any 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.

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27203 Registered qualifying patient or registered primary caregiver; criminal prosecution or sanctions prohibited; conditions.

Sec. 203.

A registered qualifying patient or registered primary caregiver is not subject to criminal prosecution or sanctions for purchasing marihuana from a provisioning center if the quantity purchased is within the limits established under the Michigan medical marihuana act. A registered primary caregiver is not subject to criminal prosecution or sanctions for any transfer of 2.5 ounces or less of marihuana to a safety compliance facility for testing.

History: 2016, Act 281, Eff. Dec. 20, 2016

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public

health, safety, or welfare."For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001.For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27204 Medical purpose defense.

Sec. 204.

This act does not limit the medical purpose defense provided in section 8 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26428, to any prosecution involving marihuana.

History: 2016, Act 281, Eff. Dec. 20, 2016

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides:"Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare."For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001.For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27205 Marihuana facility; ordinance; requirements.

Sec. 205.

(1) The board shall 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 that authorizes that type of facility. A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with this act or rules for licensing marihuana facilities. A municipality that adopts an ordinance under this subsection that authorizes a marihuana facility shall provide the department with all of the following on a form prescribed and provided by the department:

(a) An attestation that the municipality has adopted an ordinance under this subsection that authorizes the marihuana facility.

(b) A description of any zoning regulations that apply to the proposed marihuana facility within the municipality.

(c) The signature of the clerk of the municipality or his or her designee.

(d) Any other information required by the department.

(2) A municipal ordinance may establish an annual, nonrefundable fee of not more than \$5,000.00 to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.

(3) The department may require a municipality to provide the following information to the department on a form prescribed and provided by the department regarding a licensee who submits an application for license renewal:

(a) Information that the board declares necessary to determine whether the licensee's license should be renewed.

(b) A description of a violation of an ordinance or a zoning regulation adopted under subsection (1) committed by the licensee, but only if the violation relates to activities licensed under this act and rules or the Michigan medical marihuana act.

(c) Whether there has been a change to an ordinance or a zoning regulation adopted under subsection (1) since the license was issued to the licensee and a description of the change.

(4) Information a municipality obtains from an applicant under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Except as otherwise provided in this subsection, information a municipality provides to the department under this section is subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27206 Rules.

Sec. 206.

The marijuana regulatory agency shall promulgate rules and emergency rules as necessary to implement, administer, and enforce this act. The rules must ensure the safety, security, and integrity of the operation of marihuana facilities, and must include rules to do the following:

- (a) Set appropriate standards for marihuana facilities and associated equipment.
- (b) Subject to section 408, establish minimum levels of insurance that licensees must maintain.
- (c) Establish operating regulations for each category of license to ensure the health, safety, and security of the public and the integrity of marihuana facility operations.
- (d) Establish qualifications and restrictions for persons participating in or involved with operating marihuana facilities.
- (e) Establish testing standards, procedures, and requirements for marihuana sold through provisioning centers.
- (f) Provide for the levy and collection of fines for a violation of this act or rules.
- (g) Prescribe use of the statewide monitoring system to track all marihuana transfers, as provided in the marihuana tracking act and this act, and provide for a funding mechanism to support the system.
- (h) Establish quality control standards, procedures, and requirements for marihuana facilities.
- (i) Establish chain of custody standards, procedures, and requirements for marihuana facilities.
- (j) Establish standards, procedures, and requirements for waste product disposal and storage by marihuana facilities.
- (k) Establish chemical storage standards, procedures, and requirements for marihuana facilities.
- (l) Establish standards, procedures, and requirements for securely and safely transporting marihuana between marihuana facilities.
- (m) Establish standards, procedures, and requirements for the storage of marihuana by marihuana facilities.
- (n) Establish labeling and packaging standards, procedures, and requirements for marihuana sold or transferred through provisioning centers, including, but not limited to:
 - (i) A prohibition on labeling or packaging that is intended to appeal to or has the effect of appealing to minors.
 - (ii) A requirement that all marihuana sold through provisioning centers include on the exterior of the marihuana packaging the following warning printed in clearly legible type and surrounded by a continuous heavy line:
WARNING: USE BY PREGNANT OR BREASTFEEDING WOMEN, OR BY
WOMEN PLANNING TO BECOME PREGNANT, MAY RESULT IN FETAL
INJURY, PRETERM BIRTH, LOW BIRTH WEIGHT, OR DEVELOPMENTAL
PROBLEMS FOR THE CHILD.
- (o) Establish daily and monthly purchasing limits at provisioning centers for registered qualifying patients and registered primary caregivers to ensure compliance with the Michigan Medical Marihuana Act.
- (p) Establish marketing and advertising restrictions for marihuana products and marihuana facilities.
- (q) Establish maximum tetrahydrocannabinol levels for marihuana-infused products sold or transferred through provisioning centers.
- (r) Establish health standards to ensure the safe preparation of products containing marihuana that are intended for human consumption in a manner other than smoke inhalation.
- (s) Establish restrictions on edible marihuana-infused products to prohibit shapes that would appeal to minors.
- (t) Establish standards, procedures, and requirements for the sale of industrial hemp from a provisioning center to a registered qualified patient. The rules promulgated under this subdivision must be promulgated before March 1, 2019.
- (u) Establish informational pamphlet standards for provisioning centers including, but not limited to, a requirement to make available to every patron at the time of sale a pamphlet measuring 3.5 inches by 5 inches that includes safety information related to marihuana use by minors and the poison control hotline number.

(v) Establish procedures and standards for approving an appointee to operate a marihuana facility under section 206a.

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2018, Act 10, Imd. Eff. Jan. 26, 2018 ;-- Am. 2018, Act 648, Eff. Mar. 28, 2019 ;-- Am. 2020, Act 32, Imd. Eff. Feb. 20, 2020 ;-- Am. 2020, Act 207, Imd. Eff. Oct. 15, 2020

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27206a Operation of a marihuana facility; appointment and approval; notice of violation.

Sec. 206a.

- (1) The marijuana regulatory agency may approve the operation of a marihuana facility by any of the following:
 - (a) A court-appointed personal representative, guardian, or conservator of an individual who holds a state license or has an interest in a person that holds a state license.
 - (b) A court-appointed receiver or trustee.
- (2) If an individual approved to operate a marihuana facility under subsection (1) receives notice from the marijuana regulatory agency that the marihuana facility the individual is operating is in violation of this act or rules, the individual shall notify the court that appointed the individual of the notice of violation within 2 days after receiving the notice of violation.

History: Add. 2020, Act 207, Imd. Eff. Oct. 15, 2020

Compiler's Notes: For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27207 Third-party inventory control and tracking system; exception for statewide monitoring system.

Sec. 207.

(1) Except as otherwise provided in subsection (2), a licensee shall adopt and use a third-party inventory control and tracking system that is capable of interfacing with the statewide monitoring system to allow the licensee to enter or access information in the statewide monitoring system as required under this act and rules. The third-party inventory control and tracking system must have all of the following capabilities necessary for the licensee to comply with the requirements applicable to the licensee's license type:

- (a) Tracking all marihuana plants, products, packages, patient and primary caregiver purchase totals, waste, transfers, conversions, sales, and returns that are linked to unique identification numbers.
- (b) Tracking lot and batch information throughout the entire chain of custody.
- (c) Tracking all products, conversions, and derivatives throughout the entire chain of custody.
- (d) Tracking marihuana plant, batch, and product destruction.
- (e) Tracking transportation of product.
- (f) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:
 - (i) Sold product.
 - (ii) Product inventory that is finished and available for sale.
 - (iii) Product that is in the process of transfer.

- (iv) Product being processed into another form.
- (v) Postharvest raw product, such as product that is in the drying, trimming, or curing process.
- (g) Reporting and tracking loss, theft, or diversion of product containing marihuana.
- (h) Reporting and tracking all inventory discrepancies.
- (i) Reporting and tracking adverse patient responses or dose-related efficacy issues.
- (j) Reporting and tracking all sales and refunds.
- (k) Electronically receiving and transmitting information as required under this act, the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, and the marihuana tracking act.
- (l) Receiving testing results electronically from a safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.
- (m) Identifying test results that may have been altered.
- (n) Providing the licensee with access to information in the tracking system that is necessary to verify that the licensee is carrying out the marihuana transactions authorized under the licensee's license in accordance with this act.
- (o) Providing information to cross-check that product sales are made to a registered qualifying patient or a registered primary caregiver on behalf of a registered qualifying patient and that the product received the required testing.
- (p) Providing the department and state agencies with access to information in the database that they are authorized to access.
- (q) Providing law enforcement agencies with access to only the information in the database that is necessary to verify that an individual possesses a valid and current registry identification card.
- (r) Providing licensees with access only to the information in the system that they are required to receive before a sale, transfer, transport, or other activity authorized under a license issued under this act.
- (s) Securing the confidentiality of information in the database by preventing access by a person who is not authorized to access the statewide monitoring system or is not authorized to access the particular information.
- (t) Providing analytics to the department regarding key performance indicators such as the following:
 - (i) Total daily sales.
 - (ii) Total marihuana plants in production.
 - (iii) Total marihuana plants destroyed.
 - (iv) Total inventory adjustments.
- (2) If the statewide monitoring system is capable of allowing a licensee to access or enter information into the statewide monitoring system without use of a third-party inventory control and tracking system, a licensee may access or enter information into the statewide monitoring system directly and the licensee is not required to adopt and use a third-party inventory control and tracking system.

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2018, Act 582, Eff. Jan. 1, 2019

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27208 Marihuana facility and property; examination by local and state police.

Sec. 208.

A marihuana facility and all articles of property in that facility are subject to examination at any time by a local police agency or the department of state police.

History: 2016, Act 281, Eff. Dec. 20, 2016

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2,

compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.