

## **MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT**

### **Initiated Law 1 of 2018**

An initiation of legislation to allow under state law the personal possession and use of marihuana by persons 21 years of age or older; to provide for the lawful cultivation and sale of marihuana and industrial hemp by persons 21 years of age or older; to permit the taxation of revenue derived from commercial marihuana facilities; to permit the promulgation of administrative rules; and to prescribe certain penalties for violations of this act. If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution of 1963, the proposed legislation is to be voted on at the General Election, November 6, 2018.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

For the transfer of powers and duties of the department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the bureau of marijuana regulation, see E.R.O. 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.

*The People of the State of Michigan enact:*

### **333.27951 Short title.**

Sec. 1. This act shall be known and may be cited as the Michigan Regulation and Taxation of Marihuana Act.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

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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.

### **333.27952 Purpose and intent.**

Sec. 2. The purpose of this act is to make marihuana legal under state and local law for adults 21 years of age or older, to make industrial hemp legal under state and local law, and to control the commercial production and distribution of marihuana under a system that licenses, regulates, and taxes the businesses involved. The intent is to prevent arrest and penalty for personal possession and cultivation of marihuana by adults 21 years of age or older; remove the commercial production and distribution of marihuana from the illicit market; prevent revenue generated from commerce in marihuana from going to criminal enterprises or gangs; prevent the distribution of marihuana to persons under 21 years of age; prevent the diversion of marihuana to illicit markets; ensure the safety of marihuana and marihuana-infused products; and ensure security of marihuana establishments. To the fullest extent possible, this act shall be interpreted in accordance with the purpose and intent set forth in this section.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

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### **333.27953 Definitions.**

Sec. 3. As used in this act:

(a) "Cannabis regulatory agency" means the marijuana regulatory agency created under Executive Reorganization Order No. 2019-2, MCL 333.27001, renamed the cannabis regulatory agency under Executive Reorganization Order No. 2022-1, MCL 333.27002.

(b) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of a marihuana plant by manual or mechanical means.

(c) "Department" means the cannabis regulatory agency.

(d) "Indian lands" means any of the following:

(i) All lands within the limits of an Indian reservation.

(ii) Any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(e) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which is recognized as eligible by the United States Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as Indians, and is recognized as possessing powers of self-government.

(f) "Industrial hemp" means any of the following:

(i) A plant of the genus *Cannabis*, whether growing or not, with a THC concentration of 0.3% or less on a dry-weight basis.

(ii) A part of a plant of the genus *Cannabis*, whether growing or not, with a THC concentration of 0.3% or less on a dry-weight basis.

(iii) The seeds of a plant of the genus *Cannabis* with a THC concentration of 0.3% or less on a dry-weight basis.

(iv) If it has a THC concentration of 0.3% or less on a dry-weight basis, a compound, manufacture, derivative, mixture, preparation, extract, cannabinoid, acid, salt, isomer, or salt of an isomer of any of the following:

(A) A plant of the genus *Cannabis*.

(B) A part of a plant of the genus *Cannabis*.

(v) A product to which 1 of the following applies:

(A) If the product is intended for human or animal consumption, the product, in the form in which it is intended for sale to a consumer, meets both of the following requirements:

(I) Has a THC concentration of 0.3% or less on a dry-weight or per volume basis.

(II) Contains a total amount of THC that is less than or equal to the limit established by the cannabis regulatory agency under section 8(1)(n).

(B) If the product is not intended for human or animal consumption, the product meets both of the following requirements:

(I) Contains a substance listed in subparagraph (i), (ii), (iii), or (iv).

(II) Has a THC concentration of 0.3% or less on a dry-weight basis.

(g) "Licensee" means a person holding a state license.

(h) "Marihuana" means any of the following:

(i) A plant of the genus *Cannabis*, whether growing or not.

(ii) A part of a plant of the genus *Cannabis*, whether growing or not.

(iii) The seeds of a plant of the genus *Cannabis*.

(iv) Marihuana concentrate.

(v) A compound, manufacture, salt, derivative, mixture, extract, acid, isomer, salt of an isomer, or preparation of any of the following:

(A) A plant of the genus *Cannabis*.

(B) A part of a plant of the genus *Cannabis*.

(C) The seeds of a plant of the genus *Cannabis*.

(D) Marihuana concentrate.

(vi) A marihuana-infused product.

(vii) A product with a THC concentration of more than 0.3% on a dry-weight or per volume basis in the form in which it is intended for sale to a consumer.

(viii) A product that is intended for human or animal consumption and that contains, in the form in which it is intended for sale to a consumer, a total amount of THC that is greater than the limit established by the cannabis regulatory agency under section 8(1)(n).

(i) Except for marihuana concentrate extracted from any of the following, "marihuana" does not include any of the following:

(i) The mature stalks of a plant of the genus *Cannabis*.

(ii) Fiber produced from the mature stalks of a plant of the genus *Cannabis*.

(iii) Oil or cake made from the seeds of a plant of the genus *Cannabis*.

(iv) A compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks of a plant of

the genus *Cannabis*.

(v) Industrial hemp.

(vi) An ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

(vii) A drug for which an application filed in accordance with 21 USC 355 is approved by the Food and Drug Administration.

(j) "Marihuana accessories" means any equipment, product, material, or combination of equipment, products, or materials, that is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

(k) "Marihuana concentrate" means the resin extracted from any part of a plant of the genus *Cannabis*.

(l) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the cannabis regulatory agency.

(m) "Marihuana grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

(n) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

(o) "Marihuana microbusiness" means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

(p) "Marihuana processor" means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

(q) "Marihuana retailer" means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

(r) "Marihuana safety compliance facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

(s) "Marihuana secure transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

(t) "Marijuana regulatory agency", unless the context dictates otherwise, means the cannabis regulatory agency.

(u) "Municipal license" means a license issued by a municipality pursuant to section 16 that allows a person to operate a marihuana establishment in that municipality.

(v) "Municipality" means a city, village, or township.

(w) "Person" means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.

(x) "Process" or "processing" means to separate or otherwise prepare parts of a marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

(y) "Qualifying Indian tribe" means an Indian tribe that meets all of the following conditions:

(i) The Indian tribe has entered into an agreement with the cannabis regulatory agency under section 7(2)(b) that is in effect.

(ii) The Indian tribe has entered into an agreement with the department of treasury that is in effect and that does all of the following:

(A) States that the revenue collected from the tax or fee described in subparagraph (iii) is not state money, and requires that this revenue be retained by and used as determined by only the Indian tribe, if the marihuana subject to the tax or fee was grown and processed on only the Indian tribe's Indian lands.

(B) States whether the revenue collected from the tax or fee described in subparagraph (iii) from marihuana not described in sub-subparagraph (A) is subject to revenue sharing between the Indian tribe and this state and, if so, the details of the revenue sharing arrangement.

(iii) The Indian tribe imposes a tax or fee on each sale or transfer of marihuana from a tribal marihuana business located in the Indian tribe's Indian lands to a person other than a tribal marihuana business or marihuana establishment. This subparagraph does not prohibit a qualifying Indian tribe from imposing the tax or fee on sales or transfers of marihuana that are not described in this subparagraph. The tax or fee must be based on the sales price of the marihuana and the rate of the tax or fee must be equal to or greater than the rate established under section 13.

(z) "State license" means a license issued by the cannabis regulatory agency that allows a person to operate a marihuana establishment.

(aa) "THC" means any of the following:

(i) Tetrahydrocannabinolic acid.

(ii) Unless excluded by the cannabis regulatory agency under section 8(2)(c), a tetrahydrocannabinol, regardless of whether it is artificially or naturally derived.

(iii) A tetrahydrocannabinol that is a structural, optical, or geometric isomer of a tetrahydrocannabinol described in subparagraph (ii).

(bb) "Tribal marihuana business" means a business that meets all of the following conditions:

(i) The business engages in the type of activities licensed under this act.

(ii) The business is not a marihuana establishment.

(iii) The business is wholly owned by a qualifying Indian tribe, the enrolled members of a qualifying Indian tribe, or a combination of a qualifying Indian tribe and the members of that qualifying Indian tribe.

(iv) The business is located in this state and in the Indian lands of the qualifying Indian tribe described in subparagraph (iii).

(v) The business is subject to a tax or fee described in subdivision (y)(iii).

(cc) "Unreasonably impracticable" means that the measures necessary to comply with the rules or ordinances adopted pursuant to this act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018;—Am. 2020, Act 208, Imd. Eff. Oct. 15, 2020;—Am. 2021, Act 56, Eff. Oct. 11, 2021;—Am. 2023, Act 166, Imd. Eff. Oct. 19, 2023.

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### **333.27954 Scope of act; unauthorized activities with marihuana and marihuana accessories; limitations; application of privileges, rights, immunities, and defenses under other marihuana laws; employer rights; property owner rights.**

Sec. 4. 1. This act does not authorize:

(a) operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana;

(b) transfer of marihuana or marihuana accessories to a person under the age of 21;

(c) any person under the age of 21 to possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana;

(d) separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure;

(e) consuming marihuana in a public place or smoking marihuana where prohibited by the person who owns, occupies, or manages the property, except for purposes of this subdivision a public place does not include an area designated for consumption within a municipality that has authorized consumption in designated areas that are not accessible to persons under 21 years of age;

(f) cultivating marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area;

(g) consuming marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoking marihuana within the passenger area of a vehicle upon a public way;

(h) possessing marihuana accessories or possessing or consuming marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility; or

(i) Possessing more than 2.5 ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that

restrict access to the contents of the container or area.

2. This act does not limit any privileges, rights, immunities, or defenses of a person as provided in the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, or any other law of this state allowing for or regulating marihuana for medical use.

3. This act does not require an employer to permit or accommodate conduct otherwise allowed by this act in any workplace or on the employer's property. This act does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marihuana. This act does not prevent an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working while under the influence of marihuana.

4. This act allows a person to prohibit or otherwise regulate the consumption, cultivation, distribution, processing, sale, or display of marihuana and marihuana accessories on property the person owns, occupies, or manages, except that a lease agreement may not prohibit a tenant from lawfully possessing and consuming marihuana by means other than smoking.

5. All other laws inconsistent with this act do not apply to conduct that is permitted by this act.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

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### **333.27955 Lawful activities by person 21 years of age or older; terms, conditions, limitations, and restrictions; denial of custody or visitation prohibited.**

Sec. 5. 1. Notwithstanding any other law or provision of this act, and except as otherwise provided in section 4 of this act, the following acts by a person 21 years of age or older are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for search or inspection, and are not grounds to deny any other right or privilege:

(a) except as permitted by subdivision (b), possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate;

(b) within the person's residence, possessing, storing, and processing not more than 10 ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 marihuana plants for personal use, provided that no more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once;

(c) assisting another person who is 21 years of age or older in any of the acts described in this section; and

(d) giving away or otherwise transferring without remuneration up to 2.5 ounces of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.

2. Notwithstanding any other law or provision of this act, except as otherwise provided in section 4 of this act, the use, manufacture, possession, and purchase of marihuana accessories by a person 21 years of age or older and the distribution or sale of marihuana accessories to a person 21 years of age or older is authorized, is not unlawful, is not an offense, is not grounds for seizing or forfeiting property, is not grounds for arrest, prosecution, or penalty in any manner, and is not grounds to deny any other right or privilege.

3. A person shall not be denied custody of or visitation with a minor for conduct that is permitted by this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

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### **333.27956 Adoption or enforcement of ordinances by municipality; marihuana establishment local license; annual fee; restrictions on transportation or other facilities prohibited.**

Sec. 6. 1. Except as provided in section 4, a municipality may completely prohibit or limit the number of marihuana establishments within its boundaries. Individuals may petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality, and such ordinance shall be submitted to the electors of the municipality at the next regular election when a petition is signed by qualified electors in the municipality in a number greater than 5% of the votes cast for governor by qualified electors in the municipality at the last gubernatorial election. A petition under this subsection is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488.

2. A municipality may adopt other ordinances that are not unreasonably impracticable and do not conflict with this act or with any rule promulgated pursuant to this act and that:

- (a) establish reasonable restrictions on public signs related to marihuana establishments;
- (b) regulate the time, place, and manner of operation of marihuana establishments and of the production, manufacture, sale, or display of marihuana accessories;
- (c) authorize the sale of marihuana for consumption in designated areas that are not accessible to persons under 21 years of age, or at special events in limited areas and for a limited time; and
- (d) designate a violation of the ordinance and provide for a penalty for that violation by a marihuana establishment, provided that such violation is a civil infraction and such penalty is a civil fine of not more than \$500.

3. A municipality may adopt an ordinance requiring a marihuana establishment with a physical location within the municipality to obtain a municipal license, but may not impose qualifications for licensure that conflict with this act or rules promulgated by the department.

4. A municipality may charge an annual fee of not more than \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marihuana establishment in the municipality.

5. A municipality may not adopt an ordinance that restricts the transportation of marihuana through the municipality or prohibits a marihuana grower, a marihuana processor, and a marihuana retailer from operating within a single facility or from operating at a location shared with a marihuana facility operating pursuant to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

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### **333.27957 Implementation, administration, and enforcement by cannabis regulatory agency; powers and duties; agreement with Indian tribe; conflict of interest; liability; cooperation of department of state police.**

Sec. 7. (1) The cannabis regulatory agency is responsible for implementing this act and has the powers and duties necessary to control the commercial production and distribution of marihuana. The cannabis regulatory agency shall do all of the following:

- (a) Promulgate rules pursuant to section 8 that are necessary to implement, administer, and enforce this act.
- (b) Grant or deny each application for licensure and investigate each applicant to determine eligibility for licensure, including conducting a background investigation on each person holding an ownership interest in the applicant.
- (c) Ensure that marihuana establishments comply with this act and the rules promulgated under this act by doing all of the following:
  - (i) Performing investigations of compliance and regular inspections of marihuana establishments.
  - (ii) Taking appropriate disciplinary action against a licensee, including prescribing civil fines for violations of this act or the rules promulgated under this act and suspending, restricting, or revoking a state license.

(d) Hold at least 4 public meetings each calendar year for the purpose of hearing complaints and receiving the views of the public with respect to administration of this act.

(e) Collect fees for licensure and fines for violations of this act or the rules promulgated under this act.

(f) Deposit all fees collected for licensure into the marihuana regulation fund established under section 14 and remit all fines collected for deposit into the general fund.

(g) Submit an annual report to the governor covering the immediately preceding year that includes all of the following:

(i) The number of state licenses of each class issued.

(ii) Demographic information of licensees.

(iii) A description of enforcement and disciplinary actions taken against licensees.

(iv) A statement of revenues and expenses of the cannabis regulatory agency related to the implementation, administration, and enforcement of this act.

(h) Employ personnel as necessary to adequately perform its duties.

(2) The cannabis regulatory agency may do either of the following:

(a) Enter into an agreement with an advisor or consultant as necessary to adequately perform its duties under this act.

(b) Enter into an agreement with an Indian tribe regarding marihuana-related regulatory issues that involve the interests of this state and the Indian tribe, including, but not limited to, issues related to the commercial growing, processing, sale, testing, transportation, and possession of marihuana.

(3) A person who has a pecuniary interest, directly or indirectly, in a marihuana establishment or tribal marihuana business may not be an employee, advisor, or consultant involved in the implementation, administration, or enforcement of this act. An employee, advisor, or consultant of the cannabis regulatory agency is not personally liable for any action at law for damages sustained by a person because of an action performed or done in the performance of the employee's, advisor's, or consultant's duties in the implementation, administration, or enforcement of this act.

(4) The department of state police shall cooperate and assist the cannabis regulatory agency in performing the cannabis regulatory agency's duties under this act, including, but not limited to, conducting background investigations of applicants.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018;—Am. 2023, Act 166, Imd. Eff. Oct. 19, 2023.

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### **333.27958 Rules; limitations.**

Sec. 8. (1) The cannabis regulatory agency shall promulgate rules to implement and administer this act that include all of the following:

(a) Procedures for issuing a state license pursuant to section 9 and for renewing, suspending, and revoking a state license.

(b) A schedule of fees in amounts not more than necessary to pay for implementation, administration, and enforcement costs of this act and that relate to the size of each licensee or the volume of business conducted by the licensee.

(c) Qualifications for licensure that are directly and demonstrably related to the operation of a marihuana establishment. However, a prior conviction solely for a marihuana-related offense must not disqualify an individual or otherwise affect eligibility for licensure, unless the offense involved distribution of a controlled substance to a minor.

(d) Requirements and standards for safe cultivation, processing, and distribution of marihuana by marihuana establishments, including health standards to ensure the safe preparation of marihuana-infused products and prohibitions on pesticides that are not safe for use on marihuana.

(e) Testing, packaging, and labeling standards, procedures, and requirements for marihuana, including, but not limited to, all of the following:

(i) A maximum THC level for marihuana-infused products.

(ii) A requirement that a representative sample of marihuana be tested by a marihuana safety compliance facility.

(iii) A requirement that the amount of marihuana or marihuana concentrate contained within a marihuana-infused product be specified on the product label.

(iv) A requirement that all marihuana sold through marihuana retailers and marihuana microbusinesses 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.**

(f) Security requirements, including lighting, physical security, and alarm requirements, and requirements for securely transporting marihuana between marihuana establishments. The requirements described in this subdivision must not prohibit cultivation of marihuana outdoors or in greenhouses.

(g) Record keeping requirements for marihuana establishments and monitoring requirements to track the transfer of marihuana by licensees.

(h) Requirements for the operation of marihuana secure transporters to ensure that all marihuana establishments are properly serviced.

(i) Reasonable restrictions on advertising, marketing, and display of marihuana and marihuana establishments.

(j) A plan to promote and encourage participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact those communities.

(k) Penalties for failure to comply with a rule promulgated pursuant to this section or for a violation of this act by a licensee, including civil fines and suspension, revocation, or restriction of a state license.

(l) Informational pamphlet standards for marihuana retailers and marihuana microbusinesses, including, but not limited to, a requirement to make available to every customer 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.

(m) Procedures and standards for approving an appointee to operate a marihuana establishment under section 9a.

(n) A limit on the total amount of THC that a product described in section 3(f)(v)(A) may contain.

(2) The cannabis regulatory agency may promulgate rules to do any of the following:

(a) Provide for the issuance of additional types or classes of state licenses to operate marihuana-related businesses, including licenses that authorize any of the following:

(i) Limited cultivation, processing, transportation, delivery, storage, sale, or purchase of marihuana.

(ii) Consumption of marihuana within designated areas.

(iii) Consumption of marihuana at special events in limited areas and for a limited time.

(iv) Cultivation for purposes of propagation.

(v) Facilitation of scientific research or education.

(b) Regulate the cultivation, processing, distribution, and sale of industrial hemp.

(c) Exclude from the definition of THC in section 3 a tetrahydrocannabinol if, after the cannabis regulatory agency makes findings with respect to each of the following factors, the cannabis regulatory agency determines that the tetrahydrocannabinol does not have a potential for abuse:

(i) The actual or relative potential for abuse of the tetrahydrocannabinol.

(ii) The scientific evidence of the tetrahydrocannabinol's pharmacological effect, if known.

(iii) The state of current scientific knowledge regarding the tetrahydrocannabinol.

(iv) The history and current pattern of abuse of the tetrahydrocannabinol.

(v) The scope, duration, and significance of abuse of the tetrahydrocannabinol.

(vi) The tetrahydrocannabinol's risk to the public health.

(vii) The potential of the tetrahydrocannabinol to produce psychic or physiological dependence liability.

(3) The cannabis regulatory agency shall not promulgate a rule that is unreasonably impracticable or that does any of the following:

(a) Establishes a limit on the number of any type of state license that may be granted.

(b) Requires a customer to provide a marihuana retailer with identifying information other than identification to determine the customer's age or requires the marihuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction.

(c) Prohibits a marihuana establishment from operating at a shared location of a marihuana facility operating pursuant to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, or prohibits a marihuana grower, marihuana processor, or marihuana retailer from operating



within a single facility.

(4) A rule promulgated under this act must be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018;—Am. 2020, Act 31, Imd. Eff. Feb. 20, 2020;—Am. 2020, Act 208, Imd. Eff. Oct. 15, 2020;—Am. 2021, Act 56, Eff. Oct. 11, 2021;—Am. 2023, Act 166, Imd. Eff. Oct. 19, 2023.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

For the transfer of powers and duties of the department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the bureau of marijuana regulation, see E.R.O. No. 2019-2, compiled at MCL 333.27001.

For the transfer of powers and duties of the department of licensing and regulatory affairs to promulgate rules to regulate industrial hemp to the department of agriculture and rural development by type II transfer, see E.R.O. 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.

For the renaming of the marijuana regulatory agency to cannabis regulatory agency; establishment of the authority of the cannabis regulatory agency to promulgate rules to regulate the cultivation, processing, distribution, and sale of industrial hemp, and transfer of the authority of the cannabis regulatory agency to promulgate rules to regulate the cultivation of industrial hemp to the department of agriculture and rural development, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

### **333.27959 License to operate a marihuana establishment; application; qualifications; issuance; disclosure.**

Sec. 9. 1. Each application for a state license must be submitted to the department. Upon receipt of a complete application and application fee, the department shall forward a copy of the application to the municipality in which the marihuana establishment is to be located, determine whether the applicant and the premises qualify for the state license and comply with this act, and issue the appropriate state license or send the applicant a notice of rejection setting forth specific reasons why the department did not approve the state license application within 90 days.

2. The department shall issue the following state license types: marihuana retailer; marihuana safety compliance facility; marihuana secure transporter; marihuana processor; marihuana microbusiness; class A marihuana grower authorizing cultivation of not more than 100 marihuana plants; class B marihuana grower authorizing cultivation of not more than 500 marihuana plants; and class C marihuana grower authorizing cultivation of not more than 2,000 marihuana plants.

3. Except as otherwise provided in this section, the department shall approve a state license application and issue a state license if:

(a) the applicant has submitted an application in compliance with the rules promulgated by the department, is in compliance with this act and the rules, and has paid the required fee;

(b) the municipality in which the proposed marihuana establishment will be located does not notify the department that the proposed marihuana establishment is not in compliance with an ordinance consistent with section 6 of this act and in effect at the time of application;

(c) the property where the proposed marihuana establishment is to be located is not within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement;

(d) no person who holds an ownership interest in the marihuana establishment applicant:

(1) will hold an ownership interest in both a marihuana safety compliance facility or in a marihuana secure transporter and in a marihuana grower, a marihuana processor, a marihuana retailer, or a marihuana microbusiness;

(2) will hold an ownership interest in both a marihuana microbusiness and in a marihuana grower, a marihuana processor, a marihuana retailer, a marihuana safety compliance facility, or a marihuana secure transporter; and

(3) will hold an ownership interest in more than 5 marihuana growers or in more than 1 marihuana microbusiness, except that the department may approve a license application from a person who holds an ownership interest in more than 5 marihuana growers or more than 1 marihuana microbusiness if, after January 1, 2023, the department promulgates a rule authorizing an individual to hold an ownership interest in more than 5 marihuana growers or in more than 1 marihuana microbusiness.

4. If a municipality limits the number of marihuana establishments that may be licensed in the municipality pursuant to section 6 of this act and that limit prevents the department from issuing a state license to all applicants who meet the requirements of subsection 3 of this section, the municipality shall decide among

competing applications by a competitive process intended to select applicants who are best suited to operate in compliance with this act within the municipality.

5. All state licenses are effective for 1 year, unless the department issues the state license for a longer term. A state license is renewed upon receipt of a complete renewal application and a renewal fee from any marihuana establishment in good standing.

6. The department shall begin accepting applications for marihuana establishments within 12 months after the effective date of this act. Except as otherwise provided in this section, for 24 months after the department begins to receive applications for marihuana establishments, the department may only accept applications for licensure: for a class A marihuana grower or for a marihuana microbusiness, from persons who are residents of Michigan; for a marihuana retailer, marihuana processor, class B marihuana grower, class C marihuana grower, or a marihuana secure transporter, from persons holding a state operating license pursuant to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801; and for a marihuana safety compliance facility, from any applicant. One year after the department begins to accept applications pursuant to this section, the department shall begin accepting applications from any applicant if the department determines that additional state licenses are necessary to minimize the illegal market for marihuana in this state, to efficiently meet the demand for marihuana, or to provide for reasonable access to marihuana in rural areas.

7. Information obtained from an applicant related to licensure under this act is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018..

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

For the transfer of powers and duties of the department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the bureau of marijuana regulation, see E.R.O. 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.

### **333.27959a Operation of a marihuana establishment; approval; marijuana regulatory agency; notice of violation.**

Sec. 9a. (1) The marijuana regulatory agency may approve the operation of a marihuana establishment 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 establishment under subsection (1) receives notice from the marijuana regulatory agency that the marihuana establishment the individual is operating is in violation of this act or the rules promulgated under this act, 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 208, Imd. Eff. Oct. 15, 2020.

**Compiler's note:** 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.

### **333.27960 Lawful activities by marihuana grower, processor, transporter, or retailer; limitations; contracts related to operation of marihuana establishments.**

Sec. 10. (1) Notwithstanding any other law or provision of this act, and except as otherwise provided in section 4 or the rules promulgated under this act, the following acts are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for search or inspection except as authorized by this act, and are not grounds to deny any other right or privilege:

(a) For a marihuana grower or an agent acting on behalf of a marihuana grower who is 21 years of age or older, cultivating not more than the number of marihuana plants authorized by the state license class; possessing, packaging, storing, or testing marihuana; acquiring marihuana seeds or seedlings from a person who is 21 years of age or older; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting marihuana to or from a marihuana establishment or a tribal marihuana business; or receiving compensation for goods or services.

(b) For a marihuana processor or an agent acting on behalf of a marihuana processor who is 21 years of age

or older, possessing, processing, packaging, storing, or testing marihuana; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting marihuana to or from a marihuana establishment or a tribal marihuana business; or receiving compensation for goods or services.

(c) For a marihuana secure transporter or an agent acting on behalf of a marihuana secure transporter who is 21 years of age or older, possessing or storing marihuana; transporting marihuana to or from a marihuana establishment or a tribal marihuana business; or receiving compensation for services.

(d) For a marihuana safety compliance facility or an agent acting on behalf of a marihuana safety compliance facility who is 21 years of age or older, testing, possessing, repackaging, or storing marihuana; transferring, obtaining, or transporting marihuana to or from a marihuana establishment or a tribal marihuana business; or receiving compensation for services.

(e) For a marihuana retailer or an agent acting on behalf of a marihuana retailer who is 21 years of age or older, possessing, storing, or testing marihuana; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting marihuana to or from a marihuana establishment or a tribal marihuana business; selling or otherwise transferring marihuana to a person who is 21 years of age or older; or receiving compensation for goods or services.

(f) For a marihuana microbusiness or an agent acting on behalf of a marihuana microbusiness who is 21 years of age or older, cultivating not more than 150 marihuana plants; possessing, processing, packaging, storing, or testing marihuana from marihuana plants cultivated on the premises; selling or otherwise transferring marihuana cultivated or processed on the premises to a person who is 21 years of age or older; or receiving compensation for goods or services.

(g) For a tribal marihuana business or an agent acting on behalf of a tribal marihuana business who is 21 years of age or older, engaging in an activity the tribal marihuana business is authorized to engage in under an applicable agreement entered into under section 7(2)(b) that is in effect.

(h) Leasing or otherwise allowing the use of property owned, occupied, or managed for activities allowed under this act.

(i) Enrolling or employing a person who engages in marihuana-related activities allowed under this act.

(j) Possessing, cultivating, processing, obtaining, transferring, or transporting industrial hemp.

(k) Providing professional services to prospective or licensed marihuana establishments related to activity under this act.

(2) A person acting as an agent of a marihuana retailer who sells or otherwise transfers marihuana or marihuana accessories to a person who is younger than 21 years of age is not subject to arrest, prosecution, forfeiture of property, disciplinary action by a professional licensing board, denial of any right or privilege, or penalty in any manner, if the person reasonably verified that the recipient appeared to be 21 years of age or older by means of government-issued photographic identification containing a date of birth, and the person complied with any rules promulgated pursuant to this act.

(3) It is the public policy of this state that contracts related to the operation of marihuana establishments or tribal marihuana businesses be enforceable.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018;—Am. 2023, Act 166, Imd. Eff. Oct. 19, 2023.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

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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.

### **333.27961 Marihuana establishments; requirements; limitations.**

Sec. 11. (a) A marihuana establishment may not allow cultivation, processing, sale, or display of marihuana or marihuana accessories to be visible from a public place outside of the marihuana establishment without the use of binoculars, aircraft, or other optical aids.

(b) A marihuana establishment may not cultivate, process, test, or store marihuana at any location other than a physical address approved by the department and within an enclosed area that is secured in a manner that prevents access by persons not permitted by the marihuana establishment to access the area.

(c) A marihuana establishment shall secure every entrance to the establishment so that access to areas containing marihuana is restricted to employees and other persons permitted by the marihuana establishment to access the area and to agents of the department or state and local law enforcement officers and emergency personnel and shall secure its inventory and equipment during and after operating hours to deter and prevent

theft of marihuana and marihuana accessories.

(d) No marihuana establishment may refuse representatives of the department the right during the hours of operation to inspect the licensed premises or to audit the books and records of the marihuana establishment.

(e) No marihuana establishment may allow a person under 21 years of age to volunteer or work for the marihuana establishment.

(f) No marihuana establishment may sell or otherwise transfer marihuana that was not produced, distributed, and taxed in compliance with this act.

(g) A marihuana grower, marihuana retailer, marihuana processor, marihuana microbusiness, or marihuana testing facility or agents acting on their behalf may not transport more than 15 ounces of marihuana or more than 60 grams of marihuana concentrate at one time.

(h) A marihuana secure transporter may not hold title to marihuana.

(i) No marihuana processor may process and no marihuana retailer may sell edible marihuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marihuana.

(j) No marihuana retailer may sell or otherwise transfer marihuana that is not contained in an opaque, resealable, child-resistant package designed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995), unless the marihuana is transferred for consumption on the premises where sold.

(k) No marihuana establishment may sell or otherwise transfer tobacco.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

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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.

### **333.27961a Direct sale or transfer of marihuana to minor or intoxicated individual; prohibition; right of action; indemnification; defenses; rebuttable presumption; damages; insurance coverage required; civil action; definitions.**

Sec. 11a. (1) A licensee authorized to sell or otherwise transfer marihuana under this act or a rule promulgated under this act shall not directly, or by a clerk, agent, or servant, sell or otherwise transfer marihuana to a minor or to an individual who, at the time of the sale or transfer, is visibly intoxicated.

(2) Except as otherwise provided in this section, an individual who suffers damage or is personally injured by a minor or visibly intoxicated person as a result of a violation of subsection (1), if the violation is a proximate cause of the damage or personal injury or death, shall have a right of action in his or her name against the licensee that sold or transferred the marihuana.

(3) An action under this section must be instituted within 2 years after the injury or death. A person shall give written notice to all defendants within 120 days after entering an attorney-client relationship for the purposes of pursuing a claim for damages under this section. Failure to give written notice to the licensee within that time period is grounds for dismissal of the claim unless the licensee could not be identified within that time period with reasonable diligence. If the licensee is identified after that time period, failure to give written notice within 120 days thereafter is grounds for dismissal. In the event of the death of either party, the right of action under this section survives to or against his or her personal representative.

(4) An action under this section shall not be commenced unless the minor or alleged visibly intoxicated individual is a named defendant and is retained in the action until the litigation is concluded by final action or the licensee is dismissed with prejudice.

(5) A licensee described in subsection (2) has the right to full indemnification from the minor or alleged visibly intoxicated individual for all damages awarded against the licensee.

(6) All defenses of the minor or alleged visibly intoxicated individual are available to the licensee. In an action alleging a violation of subsection (1) involving a minor, proof that the licensee demanded and was shown a government-issued photographic identification appearing to be genuine and showing the minor to be 21 years of age or older, is a complete defense to the action.

(7) It is presumed that a licensee, other than the licensee that last sold or transferred marihuana to a minor or visibly intoxicated person, is not a proximate cause of an injury that gave rise to a cause of action under subsection (2). This presumption may be overcome by clear and convincing evidence.

(8) A minor or alleged visibly intoxicated individual does not have a cause of action under this section. A person does not have a cause of action against a licensee for any loss or damage sustained resulting from the injury or death of the minor or visibly intoxicated person.

(9) An individual who suffers damage or who is personally injured by a minor or visibly intoxicated person as a result of a violation of subsection (1) has the right to recover actual damages in a sum of not less than \$50.00 in each case in which the court or jury determines that intoxication was a proximate cause of the damage, injury, or death.

(10) A licensee authorized to sell or otherwise transfer marihuana under this act or a rule promulgated under this act must maintain insurance coverage provided by a licensed and admitted insurance company in Michigan in a minimum amount of \$50,000.00 for actions brought under subsection (2).

(11) This section provides the exclusive remedy for money damages against a licensee and the licensee's clerks, agents, and employees arising out of a violation of subsection (1). This subsection does not apply to a remedy available under law to lawful users of marihuana for liability resulting from the manufacture, distribution, transportation, or sale of adulterated marihuana.

(12) Except as otherwise provided in this section, a civil action against a licensee is subject to the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

(13) As used in this section:

(a) "Adulterated marihuana" means a product sold as marihuana that contains any unintended substance or chemical or biological matter other than marihuana that causes adverse reaction after ingestion or consumption.

(b) "Minor" means an individual who is younger than 21 years of age.

(c) "Visibly intoxicated" means displaying obvious, objective, and visible evidence of intoxication that would be apparent to an ordinary observer.

(d) "Written notice" means a communication in writing that does all of the following:

(i) Identifies the minor or alleged visibly intoxicated person by name and address.

(ii) States all of the following:

(A) The date of the alleged violation of subsection (1).

(B) The name and address of the injured or killed individual.

(C) The location and circumstances of the accident or event that caused injury or death.

(D) The date of retention of the person or law firm giving the notice.

**History:** Add. 2021, Act 55, Eff. Oct. 11, 2021.

**Compiler's note:** 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.

### **333.27962 Deduction of certain expenses from income.**

Sec. 12. In computing net income for marihuana establishments, deductions from state taxes are allowed for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying out a trade or business.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

For the transfer of powers and duties of the department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the bureau of marijuana regulation, see E.R.O. 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.

### **333.27963 Imposition of excise tax; administration by department of treasury; exemptions.**

Sec. 13. (1) Except as otherwise provided in subsection (4), in addition to all other taxes, an excise tax is imposed on each marihuana establishment and on each person who sells marihuana at the rate of 10% of the sales price for marihuana sold or otherwise transferred to a person other than a marihuana establishment or tribal marihuana business.

(2) Except as otherwise provided by a rule promulgated by the department of treasury, a product subject to the tax imposed under this section may not be bundled in a single transaction with a product or service that is not subject to the tax imposed by this section.

(3) The department of treasury shall administer the taxes imposed under this act pursuant to 1941 PA 122, MCL 205.1 to 205.31. The department of treasury may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to MCL 24.328, that prescribe a method and manner for

payment and collection of the taxes imposed under this act.

(4) The tax imposed under subsection (1) does not apply to any of the following:

(a) Marihuana sold or otherwise transferred from a tribal marihuana business.

(b) Marihuana sold or otherwise transferred under the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(c) Marihuana sold or otherwise transferred under the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018;—Am. 2023, Act 166, Imd. Eff. Oct. 19, 2023.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

For the transfer of powers and duties of the department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the bureau of marijuana regulation, see E.R.O. 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.

### **333.27964 Marihuana regulation fund; creation; administration; allocation of expenditures.**

Sec. 14. (1) The marihuana regulation fund is created in the state treasury. The department of treasury shall deposit into the fund all money collected under section 13 and all money collected by the department of treasury in accordance with an agreement described in section 3(y)(ii), and the cannabis regulatory agency shall deposit into the fund all fees collected under this act. The state treasurer shall direct the investment of the fund and shall credit to the fund interest and earnings from fund investments. The cannabis regulatory agency shall administer the fund for auditing purposes. Money in the fund at the close of the fiscal year must remain in the fund and must not lapse to the general fund.

(2) Funds for the initial activities of the cannabis regulatory agency to implement this act shall be appropriated from the general fund. The cannabis regulatory agency shall repay any amount appropriated under this subsection from proceeds in the fund.

(3) The cannabis regulatory agency shall expend money in the fund as follows:

(a) For the implementation, administration, and enforcement of this act.

(b) Until 2022 or for at least 2 years, whichever is later, for 1 or more development and research projects, including clinical trials, that are approved by the United States Food and Drug Administration and sponsored by a nonprofit organization or researcher within an academic institution researching the efficacy of marihuana in treating the medical conditions and preventing the suicide of United States Armed Services veterans. The cannabis regulatory agency shall expend \$20,000,000.00 per year under this subdivision.

(4) Upon appropriation, the unexpended balances in the fund must be allocated as follows:

(a) Subject to subsection (5), 15% to municipalities in which a marihuana retailer or marihuana microbusiness is located, allocated in proportion to the number of marihuana retailers and marihuana microbusinesses within each municipality.

(b) Subject to subsection (5), 15% to counties in which a marihuana retailer or marihuana microbusiness is located, allocated in proportion to the number of marihuana retailers and marihuana microbusinesses within each county.

(c) 35% to the school aid fund to be used for K-12 education.

(d) 35% to the Michigan transportation fund to be used for the repair and maintenance of roads and bridges.

(5) If a marihuana retailer or marihuana microbusiness is located in Indian lands, the portions of the unexpended balances attributable to the marihuana retailer or marihuana microbusiness that would have otherwise been allocated to a municipality under subsection (4)(a) and a county under subsection (4)(b) must instead be allocated to the Indian tribe in whose Indian lands the marihuana retailer or marihuana microbusiness is located.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018;—Am. 2023, Act 165, Imd. Eff. Oct. 19, 2023.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

For the transfer of powers and duties of the department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the bureau of marijuana regulation, see E.R.O. 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

**333.27965 Violations; penalties.**

Sec. 15. A person who commits any of the following acts, and is not otherwise authorized by this act to conduct such activities, may be punished only as provided in this section and is not subject to any other form of punishment or disqualification, unless the person consents to another disposition authorized by law:

1. Except for a person who engaged in conduct described in sections 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d), 4(1)(g), or 4(1)(h), a person who possesses not more than the amount of marihuana allowed by section 5, cultivates not more than the amount of marihuana allowed by section 5, delivers without receiving any remuneration to a person who is at least 21 years of age not more than the amount of marihuana allowed by section 5, or possesses with intent to deliver not more than the amount of marihuana allowed by section 5, is responsible for a civil infraction and may be punished by a fine of not more than \$100 and forfeiture of the marihuana.

2. Except for a person who engaged in conduct described in section 4, a person who possesses not more than twice the amount of marihuana allowed by section 5, cultivates not more than twice the amount of marihuana allowed by section 5, delivers without receiving any remuneration to a person who is at least 21 years of age not more than twice the amount of marihuana allowed by section 5, or possesses with intent to deliver not more than twice the amount of marihuana allowed by section 5:

(a) for a first violation, is responsible for a civil infraction and may be punished by a fine of not more than \$500 and forfeiture of the marihuana;

(b) for a second violation, is responsible for a civil infraction and may be punished by a fine of not more than \$1,000 and forfeiture of the marihuana;

(c) for a third or subsequent violation, is guilty of a misdemeanor and may be punished by a fine of not more than \$2,000 and forfeiture of the marihuana.

3. Except for a person who engaged in conduct described by section 4(1)(a), 4(1)(d), or 4(1)(g), a person under 21 years of age who possesses not more than 2.5 ounces of marihuana or who cultivates not more than 12 marihuana plants:

(a) for a first violation, is responsible for a civil infraction and may be punished as follows:

(1) if the person is less than 18 years of age, by a fine of not more than \$100 or community service, forfeiture of the marihuana, and completion of 4 hours of drug education or counseling; or

(2) if the person is at least 18 years of age, by a fine of not more than \$100 and forfeiture of the marihuana.

(b) for a second violation, is responsible for a civil infraction and may be punished as follows:

(1) if the person is less than 18 years of age, by a fine of not more than \$500 or community service, forfeiture of the marihuana, and completion of 8 hours of drug education or counseling; or

(2) if the person is at least 18 years of age, by a fine of not more than \$500 and forfeiture of the marihuana.

4. Except for a person who engaged in conduct described in section 4, a person who possesses more than twice the amount of marihuana allowed by section 5, cultivates more than twice the amount of marihuana allowed by section 5, or delivers without receiving any remuneration to a person who is at least 21 years of age more than twice the amount of marihuana allowed by section 5, shall be responsible for a misdemeanor, but shall not be subject to imprisonment unless the violation was habitual, willful, and for a commercial purpose or the violation involved violence.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

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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.

**333.27966 Failure to act by department; application to municipality.**

Sec. 16. 1. If the department does not timely promulgate rules as required by section 8 of this act or accept or process applications in accordance with section 9 of this act, beginning one year after the effective date of this act, an applicant may submit an application for a marihuana establishment directly to the municipality where the marihuana establishment will be located.

2. If a marihuana establishment submits an application to a municipality under this section, the municipality shall issue a municipal license to the applicant within 90 days after receipt of the application unless the municipality finds and notifies the applicant that the applicant is not in compliance with an

ordinance or rule adopted pursuant to this act.

3. If a municipality issues a municipal license pursuant to this section:

(a) the municipality shall notify the department that the municipal license has been issued;

(b) the municipal license has the same force and effect as a state license; and

(c) the holder of the municipal license is not subject to regulation or enforcement by the department during the municipal license term.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

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### **333.27967 Construction of act; effect of federal law; severability.**

Sec. 17. This act shall be broadly construed to accomplish its intent as stated in section 2 of this act. Nothing in this act purports to supersede any applicable federal law, except where allowed by federal law. All provisions of this act are self-executing. Any section of this act that is found invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application.

**History:** 2018, Initiated Law 1, Eff. Dec. 6, 2018.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. The proposed language was certified to the legislature on April 26, 2018 with the 40-day consideration period lapsing on June 5, 2018. The initiative petition was submitted to the voters as proposal 18-1 at the November 6, 2018 general election where it was approved 2,356,422 for and 1,859,675 against.

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