

# Legislative Analysis



## DISCLOSURE OF MEDICAL MARIHUANA LICENSEE INFORMATION TO FINANCIAL INSTITUTION

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<http://www.house.mi.gov/hfa>

House Bill 6422 as reported from committee

Sponsor: Rep. Klint Kesto

Committee: Law and Justice

Complete to 12-5-18

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 439 of 2018)*

### SUMMARY:

House Bill 6422 would amend the Marihuana Tracking Act to allow a person licensed under the Medical Marihuana Facilities Licensing Act to authorize, in writing, the Department of Licensing and Regulatory Affairs (LARA) to disclose the licensee's information in the statewide monitoring system to a *financial institution* identified in the authorization. Currently, information in the system may be disclosed only for purposes of enforcing the Marihuana Tracking Act, the Michigan Medical Marihuana Act, and the Medical Marihuana Facilities Licensing Act. The bill would define *financial institution* as that term is defined in Section 201 of the Medical Marihuana Facilities Licensing Act.

[The "statewide monitoring system" is an internet-based, statewide database established, implemented, and maintained directly or indirectly by LARA that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis. Under Section 3(2)(a), (b), and (c), the system must be capable of the following:

- Verification that a registry identification card is current and valid and has not been suspended, revoked, or denied.
- Retention of a record of the date, time, quantity, and price of each sale or transfer of marihuana to a registered qualifying patient or registered primary caregiver.
- Determination whether a particular sale or transfer transaction would exceed the permissible level established under the Michigan Medical Marihuana Act.]

The bill would take effect 90 days after enactment.

MCL 333.27902 and 333.27904

### BRIEF DISCUSSION:

It is important to ensure that businesses licensed under the Medical Marihuana Facilities Licensing Act have access to banks and other financial institutions. However, due primarily to federal law, which still makes all conduct involving marihuana illegal, most financial institutions are reluctant to do business with medical marihuana licensees. The bill would provide a mechanism by which a marihuana licensee could authorize the Department of Licensing and Regulatory Affairs to release information contained in the statewide monitoring system to a financial institution. In this way, a financial institution could document that it is accepting legitimate funds.

Although information regarding a licensee held in the statewide monitoring system would enable a financial institution to see that funds may be related to a state-licensed medical

marihuana business, however, the monitoring system also contains information on the licensee's customers, such as the date, time, quantity, and price that a caregiver or patient bought or transferred marihuana. Currently, this information is released only to state regulators and law enforcement to ensure compliance with the law—state employees who generally are prohibited from unlawful disclosures. The bill does not specify that such private information would be redacted or if the licensee could restrict the type of information the licensee wishes to disclose, nor does the bill provide any penalty for an employee of a financial institution who used or disclosed such information for a purpose other than what seems intended by the bill.

#### **FISCAL IMPACT:**

House Bill 6422 would not have an impact on expenditures or revenues for any unit of state or local government. Any costs incurred by LARA due to the bill would, in all likelihood, be sufficiently covered by existing departmental appropriations.

#### **POSITIONS:**

The Department of Licensing and Regulatory Affairs (LARA) indicated support for the bill. (11-28-18)

The Michigan Bankers Association indicated support for the bill. (11-28-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.