

SUBSTITUTE FOR
HOUSE BILL NO. 6380

A bill to amend 2016 PA 281, entitled
"Medical marihuana facilities licensing act,"
by amending the title and sections 102, 206, 502, and 505 (MCL
333.27102, 333.27206, 333.27502, and 333.27505), as amended by 2018
PA 10.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to license and regulate medical marihuana growers,
processors, provisioning centers, secure transporters, and safety
compliance facilities; **TO ALLOW CERTAIN LICENSEES TO PROCESS, TEST,
OR SELL INDUSTRIAL HEMP;** to provide for the powers and duties of
certain state and local governmental officers and entities; to
create a medical marihuana licensing board; to provide for
interaction with the statewide monitoring system for commercial

1 marihuana transactions; to create an advisory panel; to provide
2 immunity from prosecution for marihuana-related offenses for
3 persons engaging in certain activities in compliance with this act;
4 to prescribe civil fines and sanctions and provide remedies; to
5 provide for forfeiture of contraband; to provide for taxes, fees,
6 and assessments; and to require the promulgation of rules.

7 Sec. 102. As used in this act:

8 (a) "Advisory panel" or "panel" means the marihuana advisory
9 panel created in section 801.

10 (b) "Affiliate" means any person that controls, is controlled
11 by, or is under common control with; is in a partnership or joint
12 venture relationship with; or is a co-shareholder of a corporation,
13 a co-member of a limited liability company, or a co-partner in a
14 limited liability partnership with a licensee or applicant.

15 (c) "Applicant" means a person who applies for a state
16 operating license. With respect to disclosures in an application,
17 or for purposes of ineligibility for a license under section 402,
18 the term applicant includes an officer, director, and managerial
19 employee of the applicant and a person who holds any direct or
20 indirect ownership interest in the applicant.

21 (d) "Board" means the medical marihuana licensing board
22 created in section 301.

23 (e) "Cutting" means a section of a lead stem or root stock
24 that is used for vegetative asexual propagation.

25 (f) "Department" means the department of licensing and
26 regulatory affairs.

27 (g) "Grower" means a licensee that is a commercial entity

1 located in this state that cultivates, dries, trims, or cures and
2 packages marihuana for sale to a processor, provisioning center, or
3 another grower.

4 (H) "INDUSTRIAL HEMP" MEANS THAT TERM AS DEFINED IN SECTION
5 7106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7106.

6 (I) "INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT" MEANS THE
7 INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT, 2014 PA 547.

8 (J) ~~(h)~~ "Licensee" means a person holding a state operating
9 license.

10 (K) ~~(i)~~ "Marihuana" means that term as defined in section 7106
11 of the public health code, 1978 PA 368, MCL 333.7106.

12 (L) ~~(j)~~ "Marihuana facility" means a location at which a
13 licensee is licensed to operate under this act.

14 (M) ~~(k)~~ "Marihuana plant" means any plant of the species
15 *Cannabis sativa* L. **MARIHUANA PLANT DOES NOT INCLUDE INDUSTRIAL**
16 **HEMP.**

17 (N) ~~(l)~~ "Marihuana-infused product" means a topical
18 formulation, tincture, beverage, edible substance, or similar
19 product containing any usable marihuana that is intended for human
20 consumption in a manner other than smoke inhalation. Marihuana-
21 infused product is not considered a food for purposes of the food
22 law, 2000 PA 92, MCL 289.1101 to 289.8111.

23 (O) ~~(m)~~ "Marihuana tracking act" means the marihuana tracking
24 act, 2016 PA 282, MCL 333.27901 to 333.27904.

25 (P) ~~(n)~~ "Michigan medical marihuana act" means the Michigan
26 medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

27 (Q) ~~(o)~~ "Municipality" means a city, township, or village.

1 (R) ~~(P)~~ "Paraphernalia" means any equipment, product, or
2 material of any kind that is designed for or used in growing,
3 cultivating, producing, manufacturing, compounding, converting,
4 storing, processing, preparing, transporting, injecting, smoking,
5 ingesting, inhaling, or otherwise introducing into the human body,
6 marihuana.

7 (S) ~~(P)~~ "Person" means an individual, corporation, limited
8 liability company, partnership, limited partnership, limited
9 liability partnership, limited liability limited partnership,
10 trust, or other legal entity.

11 (T) ~~(P)~~ "Plant" means any living organism that produces its
12 own food through photosynthesis and has observable root formation
13 or is in growth material.

14 (U) ~~(S)~~ "Processor" means a licensee that is a commercial
15 entity located in this state that purchases marihuana from a grower
16 and that extracts resin from the marihuana or creates a marihuana-
17 infused product for sale and transfer in packaged form to a
18 provisioning center or another processor.

19 (V) ~~(T)~~ "Provisioning center" means a licensee that is a
20 commercial entity located in this state that purchases marihuana
21 from a grower or processor and sells, supplies, or provides
22 marihuana to registered qualifying patients, directly or through
23 the patients' registered primary caregivers. Provisioning center
24 includes any commercial property where marihuana is sold at retail
25 to registered qualifying patients or registered primary caregivers.
26 A noncommercial location used by a primary caregiver to assist a
27 qualifying patient connected to the caregiver through the

1 department's marihuana registration process in accordance with the
2 Michigan medical marihuana act is not a provisioning center for
3 purposes of this act.

4 (W) ~~(u)~~—"Registered primary caregiver" means a primary
5 caregiver who has been issued a current registry identification
6 card under the Michigan medical marihuana act.

7 (X) ~~(v)~~—"Registered qualifying patient" means a qualifying
8 patient who has been issued a current registry identification card
9 under the Michigan medical marihuana act or a visiting qualifying
10 patient as that term is defined in section 3 of the Michigan
11 medical marihuana act, MCL 333.26423.

12 (Y) ~~(w)~~—"Registry identification card" means that term as
13 defined in section 3 of the Michigan medical marihuana act, MCL
14 333.26423.

15 (Z) ~~(x)~~—"Rules" means rules promulgated under the
16 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
17 24.328, by the department in consultation with the board to
18 implement this act.

19 (AA) ~~(y)~~—"Safety compliance facility" means a licensee that is
20 a commercial entity that takes marihuana from a marihuana facility
21 or receives marihuana from a registered primary caregiver, tests
22 the marihuana for contaminants and for tetrahydrocannabinol and
23 other cannabinoids, returns the test results, and may return the
24 marihuana to the marihuana facility.

25 (BB) ~~(z)~~—"Secure transporter" means a licensee that is a
26 commercial entity located in this state that stores marihuana and
27 transports marihuana between marihuana facilities for a fee.

1 **(CC)** ~~(aa)~~—"Seed" means the fertilized, ungerminated, matured
2 ovule, containing an embryo or rudimentary plant, of a marihuana
3 plant that is flowering.

4 **(DD)** ~~(bb)~~ "Seedling" means a marihuana plant that has
5 germinated and has not flowered and is not harvestable.

6 **(EE)** ~~(cc)~~—"State operating license" or, unless the context
7 requires a different meaning, "license" means a license that is
8 issued under this act that allows the licensee to operate as 1 of
9 the following, specified in the license:

- 10 (i) A grower.
- 11 (ii) A processor.
- 12 (iii) A secure transporter.
- 13 (iv) A provisioning center.
- 14 (v) A safety compliance facility.

15 **(FF)** ~~(dd)~~—"Statewide monitoring system" or, unless the context
16 requires a different meaning, "system" means an internet-based,
17 statewide database established, implemented, and maintained by the
18 department under the marihuana tracking act, that is available to
19 licensees, law enforcement agencies, and authorized state
20 departments and agencies on a 24-hour basis for all of the
21 following:

- 22 (i) Verifying registry identification cards.
- 23 (ii) Tracking marihuana transfer and transportation by
24 licensees, including transferee, date, quantity, and price.
- 25 (iii) Verifying in commercially reasonable time that a
26 transfer will not exceed the limit that the patient or caregiver is
27 authorized to receive under section 4 of the Michigan medical

1 marihuana act, MCL 333.26424.

2 **(GG)** ~~(ee)~~—"Tissue culture" means a marihuana plant cell,
3 cutting, tissue, or organ, that is kept under a sterile condition
4 on a nutrient culture medium of known composition and that does not
5 have visible root formation. A tissue culture is not a marihuana
6 plant for purposes of a grower.

7 **(HH)** ~~(ff)~~—"Usable marihuana" means the dried leaves, flowers,
8 plant resin, or extract of the marihuana plant, but does not
9 include the seeds, stalks, and roots of the plant.

10 Sec. 206. The department, in consultation with the board,
11 shall promulgate rules and emergency rules as necessary to
12 implement, administer, and enforce this act. The rules must ensure
13 the safety, security, and integrity of the operation of marihuana
14 facilities, and must include rules to do the following:

15 (a) Set appropriate standards for marihuana facilities and
16 associated equipment.

17 (b) Subject to section 408, establish minimum levels of
18 insurance that licensees must maintain.

19 (c) Establish operating regulations for each category of
20 license to ensure the health, safety, and security of the public
21 and the integrity of marihuana facility operations.

22 (d) Establish qualifications and restrictions for persons
23 participating in or involved with operating marihuana facilities.

24 (e) Establish testing standards, procedures, and requirements
25 for marihuana sold through provisioning centers.

26 (f) Provide for the levy and collection of fines for a
27 violation of this act or rules.

1 (g) Prescribe use of the statewide monitoring system to track
2 all marihuana transfers, as provided in the marihuana tracking act
3 and this act, and provide for a funding mechanism to support the
4 system.

5 (h) Establish quality control standards, procedures, and
6 requirements for marihuana facilities.

7 (i) Establish chain of custody standards, procedures, and
8 requirements for marihuana facilities.

9 (j) Establish standards, procedures, and requirements for
10 waste product disposal and storage by marihuana facilities.

11 (k) Establish chemical storage standards, procedures, and
12 requirements for marihuana facilities.

13 (l) Establish standards, procedures, and requirements for
14 securely and safely transporting marihuana between marihuana
15 facilities.

16 (m) Establish standards, procedures, and requirements for the
17 storage of marihuana by marihuana facilities.

18 (n) Establish labeling and packaging standards, procedures,
19 and requirements for marihuana sold or transferred through
20 provisioning centers, including a prohibition on labeling or
21 packaging that is intended to appeal to or has the effect of
22 appealing to minors.

23 (o) Establish daily and monthly purchasing limits at
24 provisioning centers for registered qualifying patients and
25 registered primary caregivers to ensure compliance with the
26 Michigan medical marihuana act.

27 (p) Establish marketing and advertising restrictions for

1 marihuana products and marihuana facilities.

2 (q) Establish maximum tetrahydrocannabinol levels for
3 marihuana-infused products sold or transferred through provisioning
4 centers.

5 (r) Establish health standards to ensure the safe preparation
6 of products containing marihuana that are intended for human
7 consumption in a manner other than smoke inhalation.

8 (s) Establish restrictions on edible marihuana-infused
9 products to prohibit shapes that would appeal to minors.

10 **(T) ESTABLISH STANDARDS, PROCEDURES, AND REQUIREMENTS FOR THE**
11 **SALE OF INDUSTRIAL HEMP FROM A PROVISIONING CENTER TO A REGISTERED**
12 **QUALIFIED PATIENT. THE RULES PROMULGATED UNDER THIS SUBDIVISION**
13 **MUST BE PROMULGATED BEFORE MARCH 1, 2019.**

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

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

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

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

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

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

9 (a) Marihuana plants.

10 (b) Usable marihuana.

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

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

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

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

21 **(6) THIS ACT DOES NOT PROHIBIT A PROCESSOR FROM HANDLING,**
22 **PROCESSING, MARKETING, OR BROKERING, AS THOSE TERMS ARE DEFINED IN**
23 **SECTION 2 OF THE INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT, MCL**
24 **286.842, INDUSTRIAL HEMP.**

25 Sec. 505. (1) In addition to transfer and testing authorized
26 in section 203, a safety compliance facility license authorizes the
27 safety compliance facility to do all of the following without using

1 a secure transporter:

2 (a) Take marihuana from, test marihuana for, and return
3 marihuana to only a marihuana facility.

4 (b) Collect a random sample of marihuana at the marihuana
5 facility of a grower, processor, or provisioning center for
6 testing.

7 (2) A safety compliance facility must be accredited by an
8 entity approved by the board by 1 year after the date the license
9 is issued or have previously provided drug testing services to this
10 state or this state's court system and be a vendor in good standing
11 in regard to those services. The board may grant a variance from
12 this requirement upon a finding that the variance is necessary to
13 protect and preserve the public health, safety, or welfare.

14 (3) To be eligible for a safety compliance facility license,
15 the applicant and each investor with any interest in the safety
16 compliance facility must not have an interest in a grower, secure
17 transporter, processor, or provisioning center.

18 (4) A safety compliance facility shall comply with all of the
19 following:

20 (a) Perform tests to certify that marihuana is reasonably free
21 of chemical residues such as fungicides and insecticides.

22 (b) Use validated test methods to determine
23 tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and
24 cannabidiol acid levels.

25 (c) Perform tests that determine whether marihuana complies
26 with the standards the board establishes for microbial and
27 mycotoxin contents.

1 (d) Perform other tests necessary to determine compliance with
2 any other good manufacturing practices as prescribed in rules.

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

6 (f) Have a secured laboratory space that cannot be accessed by
7 the general public.

8 (g) Retain and employ at least 1 staff member with a relevant
9 advanced degree in a medical or laboratory science.

10 **(5) THIS ACT DOES NOT PROHIBIT A SAFETY COMPLIANCE FACILITY**
11 **FROM TAKING OR RECEIVING INDUSTRIAL HEMP FOR TESTING PURPOSES AND**
12 **TESTING THE INDUSTRIAL HEMP PURSUANT TO THE INDUSTRIAL HEMP**
13 **RESEARCH AND DEVELOPMENT ACT.**

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

16 Enacting section 2. This amendatory act does not take effect
17 unless House Bill No. 6330 of the 99th Legislature is enacted into
18 law.