

Legislative Analysis



PROOF OF FINANCIAL RESPONSIBILITY UNDER THE MEDICAL MARIHUANA FACILITIES LICENSING ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5126 (proposed substitute H-2)

Sponsor: Rep. Alex Garza

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

House Bill 5127 as introduced

Sponsor: Rep. Roger Hauck

Senate Bill 461 (proposed substitute H-2)

Sponsor: Sen. Curtis S. VanderWall

Senate Bill 462 as passed by the Senate

Sponsor: Sen. Paul Wojno

House Committee: Regulatory Reform

Senate Committee (SBs 461 and 462): Regulatory Reform

Complete to 11-1-21

SUMMARY:

House Bills 5126 and 5127 are identical to Senate Bills 461 and 462. Each set of bills would together amend the Medical Marihuana Facilities Licensing Act to require a liability insurance policy meeting certain requirements as proof of the financial responsibility of a licensee or applicant and to make meeting those requirements a condition for licensure.

House Bill 5126 / Senate Bill 461 would amend section 408 of the act, which requires as a condition of initial licensure or license renewal that the applicant or licensee file proof of financial responsibility, in an amount of at least \$100,000, for liability for bodily injury to lawful users arising from adulterated marijuana or marijuana-infused product. Currently, this proof of financial responsibility can be in any of the following forms:

- Cash.
- Unencumbered securities.
- A liability insurance policy.
- A constant value bond executed by a surety company authorized to do business in this state.

The bill would retain the requirement for, and amount of, the required proof of financial responsibility. However, it would remove the above options as to the form of that proof and instead require the proof of financial responsibility to be in the form of a liability insurance policy that meets both of the following conditions:

- The policy is issued by a licensed insurance company or licensed captive insurance company in Michigan.
- The policy does not include a provision relieving an insurer from liability for payment of any claim for which the insured may be held liable under the act.
- The policy covers bodily injuries to a qualifying patient, including those caused by the intentional conduct of the licensee or its employee or agent. However, the policy would not have to cover bodily injuries to qualifying patients caused by the licensee or its employee or agent when acting with the intent to harm.

Currently the proof of financial responsibility must be filed with the Department of Licensing and Regulatory Affairs (LARA). The bill instead would require the applicant or licensee to file it with the Marijuana Regulatory Agency (MRA), which is an agency within LARA, and also require that the applicant or licensee include with its filing an attestation of compliance on a form approved by the MRA. An officer of the insurance company issuing the policy would have to sign the attestation.

Finally, the bill would add the following provisions regarding proof of financial responsibility:

- An applicant or licensee could furnish proof of financial responsibility exceeding the requirements described above.
- If at any time a licensee failed to maintain the required proof of financial responsibility, the MRA would have to immediately suspend its license until the licensee provided the required proof of financial responsibility to the MRA.

MCL 333.27408

House Bill 5127 / Senate Bill 462 would amend section 402 of the act, which among other things describes circumstances under which an applicant is ineligible to receive a license under the act.

The bill would add that an applicant is ineligible if the MRA determines that the applicant is not in compliance with the proof of financial responsibility provisions described above.

The bill also would refer to the MRA throughout section 402, rather than to LARA and the Medical Marihuana Licensing Board. Executive Reorganization Order 2019-2,¹ which created the MRA as an agency within LARA, also abolished the Marihuana Advisory Panel and the Medical Marihuana Licensing Board and transferred their authorities, powers, duties, functions, and responsibilities to the MRA. That order took effect April 30, 2019.

MCL 333.27402

The two House bills are tie-barred to one another, and the two Senate bills are tie-barred to one another. A bill cannot take effect unless each bill to which it is tie-barred is also enacted.

FISCAL IMPACT:

The bills would not have an appreciable fiscal impact on LARA or any other unit of state or local government.

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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.

¹ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-333-27001.pdf>