

**SUBSTITUTE FOR
HOUSE BILL NO. 5706**

A bill to amend 2018 IL 1, entitled
"Michigan Regulation and Taxation of Marihuana Act,"
by amending sections 3, 7, 10, and 13 (MCL 333.27953, 333.27957,
333.27960, and 333.27963), section 3 as amended by 2021 PA 56.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

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

5 (b) "Department" means the ~~department of licensing and~~
6 ~~regulatory affairs.~~ **marijuana regulatory agency.**

7 (c) "Indian lands" means any of the following:

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

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

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

12 (e) ~~(e)~~—"Industrial hemp" means any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (f) ~~(d)~~—"Licensee" means a person holding a state license.

13 (g) ~~(e)~~—"Marihuana" means any of the following:

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

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

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

18 (iv) Marihuana concentrate.

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

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

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

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

25 (D) Marihuana concentrate.

26 (vi) A marihuana-infused product.

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

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

6 **(h)** ~~(f)~~—Except for marihuana concentrate extracted from any of
7 the following, "marihuana" does not include any of the following:

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

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

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

13 (iv) A compound, manufacture, salt, derivative, mixture, or
14 preparation of the mature stalks of a plant of the genus *Cannabis*.

15 (v) Industrial hemp.

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

18 (vii) A drug for which an application filed in accordance with
19 21 USC 355 is approved by the Food and Drug Administration.

20 **(i)** ~~(g)~~—"Marihuana accessories" means any equipment, product,
21 material, or combination of equipment, products, or materials, that
22 is specifically designed for use in planting, propagating,
23 cultivating, growing, harvesting, manufacturing, compounding,
24 converting, producing, processing, preparing, testing, analyzing,
25 packaging, repackaging, storing, containing, ingesting, inhaling,
26 or otherwise introducing marihuana into the human body.

27 **(j)** ~~(h)~~—"Marihuana concentrate" means the resin extracted from
28 any part of a plant of the genus *Cannabis*.

29 **(k)** ~~(i)~~—"Marihuana establishment" means a marihuana grower,

1 marihuana safety compliance facility, marihuana processor,
 2 marihuana microbusiness, marihuana retailer, marihuana secure
 3 transporter, or any other type of marihuana-related business
 4 licensed by the marijuana regulatory agency.

5 (l) ~~(j)~~—"Marihuana grower" means a person licensed to cultivate
 6 marihuana and sell or otherwise transfer marihuana to marihuana
 7 establishments.

8 (m) ~~(k)~~—"Marihuana-infused product" means a topical
 9 formulation, tincture, beverage, edible substance, or similar
 10 product containing marihuana and other ingredients and that is
 11 intended for human consumption.

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

17 (o) ~~(m)~~—"Marihuana processor" means a person licensed to
 18 obtain marihuana from marihuana establishments; process and package
 19 marihuana; and sell or otherwise transfer marihuana to marihuana
 20 establishments.

21 (p) ~~(n)~~—"Marihuana retailer" means a person licensed to obtain
 22 marihuana from marihuana establishments and to sell or otherwise
 23 transfer marihuana to marihuana establishments and to individuals
 24 who are 21 years of age or older.

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

28 (r) ~~(o)~~—"Marihuana secure transporter" means a person licensed
 29 to obtain marihuana from marihuana establishments in order to

1 transport marihuana to marihuana establishments.

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

5 (s) ~~(q)~~ "Marijuana regulatory agency" means the marijuana
6 regulatory agency created under Executive Reorganization Order No.
7 2019-2, MCL 333.27001.

8 (t) ~~(r)~~ "Municipal license" means a license issued by a
9 municipality pursuant to section 16 that allows a person to operate
10 a marihuana establishment in that municipality.

11 (u) ~~(s)~~ "Municipality" means a city, village, or township.

12 (v) ~~(t)~~ "Person" means an individual, corporation, limited
13 liability company, partnership of any type, trust, or other legal
14 entity.

15 (w) ~~(u)~~ "Process" or "processing" means to separate or
16 otherwise prepare parts of a marihuana plant and to compound,
17 blend, extract, infuse, or otherwise make or prepare marihuana
18 concentrate or marihuana-infused products.

19 (x) **"Qualifying Indian tribe" means an Indian tribe that meets**
20 **both of the following conditions:**

21 (i) **The Indian tribe has entered into an agreement with the**
22 **marijuana regulatory agency under section 7(2)(b), and the**
23 **agreement is in effect.**

24 (ii) **The Indian tribe has entered into an agreement with the**
25 **department of treasury under section 30c(12) of 1941 PA 122, MCL**
26 **205.30c, that specifies the applicability of the tax imposed under**
27 **section 13 to the Indian tribe, the Indian tribe's members, and a**
28 **person that conducts business with the Indian tribe or the Indian**
29 **tribe's members, and the agreement is in effect.**

1 **(y)** ~~(v)~~—"State license" means a license issued by the
2 marijuana regulatory agency that allows a person to operate a
3 marihuana establishment.

4 **(z)** ~~(w)~~—"THC" means any of the following:

5 (i) Tetrahydrocannabinolic acid.

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

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

12 **(aa)** "Tribal marihuana business" means a business that meets
13 all of the following conditions:

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

16 (ii) The business is not a marihuana establishment.

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

21 (iv) The business is located in this state and in the
22 qualifying Indian tribe's Indian lands.

23 (v) The business is subject to a tax or fee that the
24 qualifying Indian tribe imposes on the sale or transfer of
25 marihuana and the tax or fee meets all of the following
26 requirements:

27 (A) The tax or fee is based on the sales price of the
28 marihuana.

29 (B) The rate of the tax or fee is equal to or greater than the

1 rate established under section 13.

2 (C) The tax or fee is imposed on marihuana sold or otherwise
3 transferred to a person other than a marihuana establishment or
4 tribal marihuana business. This sub-subparagraph does not prohibit
5 a qualifying Indian tribe from imposing its tax or fee on sales or
6 transfers of marihuana that are not described in this sub-
7 subparagraph.

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

14 Sec. 7. (1) ~~1.~~ ~~The department~~ **marijuana regulatory agency** is
15 responsible for implementing this act and has the powers and duties
16 necessary to control the commercial production and distribution of
17 marihuana. ~~The department~~ **marijuana regulatory agency** shall employ
18 personnel and may contract with advisors and consultants as
19 necessary to adequately perform its duties. No person who is
20 pecuniarily interested, directly or indirectly, in any marihuana
21 establishment may be an employee, advisor, or consultant involved
22 in the implementation, administration, or enforcement of this act.
23 An employee, advisor, or consultant of the department may not be
24 personally liable for any action at law for damages sustained by a
25 person because of an action performed or done in the performance of
26 their duties in the implementation, administration, or enforcement
27 of this act. ~~The department of state police shall cooperate and~~
28 ~~assist the department in conducting background investigations of~~
29 ~~applicants. Responsibilities of the department include:~~ **do all of**

1 **the following:**

2 (a) ~~promulgating~~ **Promulgate** rules pursuant to section 8 of
3 ~~this act~~ that are necessary to implement, administer, and enforce
4 this act. †

5 (b) ~~granting~~ **Grant** or ~~denying~~ **deny** each application for
6 licensure and ~~investigating~~ **investigate** each applicant to determine
7 eligibility for licensure, including conducting a background
8 investigation on each person holding an ownership interest in the
9 applicant. †

10 (c) ~~ensuring compliance~~ **Ensure that marihuana establishments**
11 **comply** with this act and the rules promulgated thereunder by
12 ~~marihuana establishments under this act~~ by ~~performing~~ **doing all of**
13 **the following:**

14 (i) **Performing** investigations of compliance and regular
15 inspections of marihuana establishments. ~~and by taking~~

16 (ii) **Taking** appropriate disciplinary action against a licensee,
17 including prescribing civil fines for violations of this act or **the**
18 rules **promulgated under this act** and suspending, restricting, or
19 revoking a state license. †

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

23 (e) ~~collecting~~ **Collect** fees for licensure and fines for
24 violations of this act or **the** rules promulgated thereunder,
25 ~~depositing~~ **under this act.**

26 (f) **Deposit** all fees collected ~~in~~ **for licensure into** the
27 marihuana regulation fund established ~~by~~ **under** section 14 ~~of this~~
28 ~~act,~~ and ~~remitting~~ **remit** all fines collected ~~to be deposited in~~ **for**
29 **deposit into** the general fund. † ~~and~~

1 (g) ~~(f) submitting~~ **Submit** an annual report to the governor
 2 covering the ~~previous~~ **immediately preceding** year ~~, which report~~
 3 ~~shall include~~ **that includes all of the following:**

4 (i) **The** number of state licenses of each class issued.
 5 ~~demographic~~

6 (ii) **Demographic** information ~~on~~ **of** licensees.
 7 ~~a~~

8 (iii) **A** description of enforcement and disciplinary actions
 9 taken against licensees.
 10 ~~and a~~

11 (iv) **A** statement of revenues and expenses of the ~~department~~
 12 **marijuana regulatory agency** related to the implementation,
 13 administration, and enforcement of this act.

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

16 (2) The marijuana regulatory agency may do either of the
 17 following:

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

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

25 (3) A person who has a pecuniary interest, directly or
 26 indirectly, in a marihuana establishment or tribal marihuana
 27 business may not be an employee, advisor, or consultant involved in
 28 the implementation, administration, or enforcement of this act. An
 29 employee, advisor, or consultant of the marijuana 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

1 performance of employee's, advisor's, or consultant's duties in the
2 implementation, administration, or enforcement of this act.

3 (4) The department of state police shall cooperate and assist
4 the marijuana regulatory agency in performing the marijuana
5 regulatory agency's duties under this act, including, but not
6 limited to, conducting background investigations of applicants. The
7 department of state police may recover its costs of cooperation and
8 assistance under this subsection from the marijuana regulatory
9 agency.

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

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

27 (b) **For** a marihuana processor or **an** agent acting on behalf of
28 a marihuana processor who is 21 years of age or older, possessing,
29 processing, packaging, storing, or testing marihuana; selling or

1 otherwise transferring, purchasing or otherwise obtaining, or
2 transporting marihuana to or from a marihuana establishment **or a**
3 **tribal marihuana business**; or receiving compensation for goods or
4 services. †

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

10 (d) **For** a marihuana safety compliance facility or an agent
11 acting on behalf of a marihuana safety compliance facility who is
12 21 years of age or older, testing, possessing, repackaging, or
13 storing marihuana; transferring, obtaining, or transporting
14 marihuana to or from a marihuana establishment **or a tribal**
15 **marihuana business**; or receiving compensation for services. †

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

24 (f) **For** a marihuana microbusiness or an agent acting on behalf
25 of a marihuana microbusiness who is 21 years of age or older,
26 cultivating not more than 150 marihuana plants; possessing,
27 processing, packaging, storing, or testing marihuana from marihuana
28 plants cultivated on the premises; selling or otherwise
29 transferring marihuana cultivated or processed on the premises to a

1 person **who is** 21 years of age or older; or receiving compensation
2 for goods or services.

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

8 **(h) ~~(g) leasing~~ Leasing** or otherwise allowing the use of
9 property owned, occupied, or managed for activities allowed under
10 this act. †

11 **(i) ~~(h) enrolling~~ Enrolling** or employing a person who engages
12 in marihuana-related activities allowed under this act. †

13 **(j) ~~(i) possessing~~ Possessing**, cultivating, processing,
14 obtaining, transferring, or transporting industrial hemp. † ~~or~~

15 **(k) ~~(j) providing~~ Providing** professional services to
16 prospective or licensed marihuana establishments related to
17 activity under this act.

18 **(2) 2.**—A person acting as an agent of a marihuana retailer who
19 sells or otherwise transfers marihuana or marihuana accessories to
20 a person ~~under~~ **who is younger than** 21 years of age is not subject
21 to arrest, prosecution, forfeiture of property, disciplinary action
22 by a professional licensing board, denial of any right or
23 privilege, or penalty in any manner, if the person reasonably
24 verified that the recipient appeared to be 21 years of age or older
25 by means of government-issued photographic identification
26 containing a date of birth, and the person complied with any rules
27 promulgated pursuant to this act.

28 **(3) 3.**—It is the public policy of this state that contracts
29 related to the operation of marihuana establishments **or tribal**

1 **marihuana businesses** be enforceable.

2 Sec. 13. (1) ~~1. In~~ **Except as otherwise provided in subsection**
3 **(4), in** addition to all other taxes, an excise tax is imposed on
4 each marihuana ~~retailer and on each marihuana microbusiness~~
5 **establishment and on each person who sells marihuana** at the rate of
6 10% of the sales price for marihuana sold or otherwise transferred
7 to ~~anyone~~ **a person** other than a marihuana establishment **or tribal**
8 **marihuana business.**

9 (2) ~~2.~~ Except as otherwise provided by a rule promulgated by
10 the department of treasury, a product subject to the tax imposed ~~by~~
11 **under** this section may not be bundled in a single transaction with
12 a product or service that is not subject to the tax imposed by this
13 section.

14 (3) ~~3.~~ The department of treasury shall administer the taxes
15 imposed under this act ~~and pursuant to 1941 PA 122, MCL 205.1 to~~
16 **205.31. The department of treasury** may promulgate rules pursuant to
17 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
18 to MCL 24.328, that prescribe a method and manner for payment **and**
19 **collection** of the ~~tax to ensure proper tax collection~~ **taxes imposed**
20 under this act.

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

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

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

27 (c) **Marihuana sold or otherwise transferred under the medical**
28 **marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to**
29 **333.27801.**

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No. _____ or House Bill No. 6060 (request no.
3 06078'22) of the 101st Legislature is enacted into law.