

**SUBSTITUTE FOR
HOUSE BILL NO. 4250**

A bill to amend 2018 IL 1, entitled
"Michigan Regulation and Taxation of Marihuana Act,"
by amending sections 3, 11, and 15 (MCL 333.27953, 333.27961, and
333.27965), section 3 as amended by 2020 PA 208.

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 the marihuana plant by manual or
4 mechanical means.

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

7 (c) "Industrial hemp" means ~~a plant of the genus Cannabis and~~
8 ~~any part of that plant, whether growing or not, with a delta-9~~

1 ~~tetrahydrocannabinol concentration of 0.3% or less on a dry weight~~
2 ~~basis or per volume or weight of marihuana-infused product, or for~~
3 ~~which the combined percent of delta-9-tetrahydrocannabinol and~~
4 ~~tetrahydrocannabinolic acid in any part of the plant, regardless of~~
5 ~~moisture content, is 0.3% or less.~~ **that term as defined in section**
6 **7106 of the public health code, 1978 PA 368, MCL 333.7106.**

7 (d) "Licensee" means a person holding a state license.

8 (e) "Marihuana" means ~~all parts of the plant of the genus~~
9 ~~*Cannabis*, growing or not; the seeds of the plant; the resin~~
10 ~~extracted from any part of the plant; and every compound,~~
11 ~~manufacture, salt, derivative, mixture, or preparation of the plant~~
12 ~~or its seeds or resin, including marihuana concentrate and~~
13 ~~marihuana-infused products. Marihuana does not include any of the~~
14 ~~following:~~

15 (i) ~~The mature stalks of the plant, fiber produced from the~~
16 ~~mature stalks, oil or cake made from the seeds of the plant, or any~~
17 ~~other compound, manufacture, salt, derivative, mixture, or~~
18 ~~preparation of the mature stalks.~~

19 (ii) ~~Industrial hemp.~~

20 (iii) ~~Any other ingredient combined with marihuana to prepare~~
21 ~~topical or oral administrations, food, drink, or other~~
22 ~~products.~~ **that term as defined in section 7106 of the public health**
23 **code, 1978 PA 368, MCL 333.7106.**

24 (f) "Marihuana accessories" means any equipment, product,
25 material, or combination of equipment, products, or materials, that
26 is specifically designed for use in planting, propagating,
27 cultivating, growing, harvesting, manufacturing, compounding,
28 converting, producing, processing, preparing, testing, analyzing,
29 packaging, repackaging, storing, containing, ingesting, inhaling,

1 or otherwise introducing marihuana into the human body.

2 (g) "Marihuana concentrate" means the resin extracted from any
3 part of the plant of the genus *Cannabis*.

4 (h) "Marihuana establishment" means a marihuana grower,
5 marihuana safety compliance facility, marihuana processor,
6 marihuana microbusiness, marihuana retailer, marihuana secure
7 transporter, or any other type of marihuana-related business
8 licensed by the marijuana regulatory agency.

9 (i) "Marihuana grower" means a person licensed to cultivate
10 marihuana and sell or otherwise transfer marihuana to marihuana
11 establishments.

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

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

21 (l) "Marihuana processor" means a person licensed to obtain
22 marihuana from marihuana establishments; process and package
23 marihuana; and sell or otherwise transfer marihuana to marihuana
24 establishments.

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

29 (n) "Marihuana secure transporter" means a person licensed to

1 obtain marihuana from marihuana establishments in order to
2 transport marihuana to marihuana establishments.

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

6 (p) "Marijuana regulatory agency" means the marijuana
7 regulatory agency created under Executive Reorganization Order No.
8 2019-2, MCL 333.27001.

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

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

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

16 (t) "Process" or "processing" means to separate or otherwise
17 prepare parts of the marihuana plant and to compound, blend,
18 extract, infuse, or otherwise make or prepare marihuana concentrate
19 or marihuana-infused products.

20 (u) "State license" means a license issued by the marijuana
21 regulatory agency that allows a person to operate a marihuana
22 establishment.

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

29 Sec. 11. **(1)** ~~(a)~~—A marihuana establishment ~~may~~**shall** not allow

1 ~~cultivation, processing, sale,~~ **do any of the following:**

2 **(a) Cultivate, process, sell,** or display ~~of marihuana~~ or **sell**
3 **or display** marihuana accessories ~~to be~~ **if the cultivating,**
4 **processing, selling, or displaying is** visible from a public place
5 outside of the marihuana establishment without the use of
6 binoculars, aircraft, or other optical aids.

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

12 **(c) Allow an individual who is younger than 18 years of age to**
13 **volunteer or work for the marihuana establishment.**

14 **(d) Sell or otherwise transfer marihuana that was not**
15 **produced, distributed, and taxed in compliance with this act.**

16 **(e) Sell or otherwise transfer tobacco.**

17 **(2) A marihuana establishment shall ~~secure~~ comply with all or**
18 **the following:**

19 **(a) Cultivate, process, test, and store marihuana within an**
20 **enclosed area that is secured in a manner that prevents access by**
21 **persons not allowed by the marihuana establishment to access the**
22 **area.**

23 **(b) Secure** every entrance to the **marihuana** establishment so
24 that access to areas containing marihuana is restricted to
25 ~~employees~~ **only the following:**

26 **(i) Employees** and other persons ~~permitted~~ **allowed** by the
27 marihuana establishment to access the area. ~~and to agents~~

28 **(ii) Agents** of the ~~department~~ **marijuana regulatory agency.** ~~or~~
29 ~~state~~

1 **(iii) State** and local law enforcement officers and emergency
2 personnel. ~~and shall secure~~

3 **(c) Secure** its inventory and equipment during and after
4 operating hours to deter and prevent theft of marihuana and
5 marihuana accessories.

6 ~~(d) No marihuana establishment may refuse representatives~~
7 **Allow agents** of the department ~~the right~~ **marijuana regulatory**
8 **agency** during the **marihuana establishment's** hours of operation to
9 inspect the licensed premises or to audit the books and records of
10 the marihuana establishment.

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

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

16 **(3) (g)** ~~A marihuana grower, marihuana retailer, marihuana~~
17 ~~processor, marihuana microbusiness, or marihuana testing facility~~
18 ~~or agents acting on their behalf may~~ **its agent shall** not transport
19 more than 15 ounces of marihuana or more than 60 grams of marihuana
20 concentrate at one time.

21 **(4) (h)** ~~A marihuana secure transporter may~~ **shall** not hold
22 title to marihuana.

23 **(5) (i)** ~~No~~ **A marihuana processor may** **shall not** process and ~~no~~
24 **a marihuana retailer may** **shall not** sell ~~edible~~ **any of the**
25 **following:**

26 **(a) Edible** marihuana-infused candy in shapes or packages that
27 are attractive to children or that are easily confused with
28 commercially sold candy that does not contain marihuana.

29 **(b) Marihuana intended for inhalation or a marihuana-infused**

1 product intended for inhalation if the marihuana or marihuana-
 2 infused product contains or has been combined with any of the
 3 following:

4 (i) Vitamin E acetate.

5 (ii) Any other ingredient unless 1 of the following applies:

6 (A) The ingredient is a botanically derived terpene that is
 7 chemically identical to a terpene derived from the plant *Cannabis*
 8 *sativa* L.

9 (B) Both of the following conditions are met:

10 (I) The ingredient is approved by the Food and Drug
 11 Administration for inhalation.

12 (II) The concentration of the ingredient in the marihuana or
 13 marihuana-infused product is equal to or less than the maximum
 14 concentration approved by the Food and Drug Administration.

15 (6) ~~(j) No~~ **A** marihuana retailer ~~may~~ **shall not** sell or
 16 otherwise transfer marihuana ~~that~~ **unless it** is not contained in an
 17 opaque, resealable, child-resistant package designed to be
 18 significantly difficult for children ~~under~~ **younger than** 5 years of
 19 age to open and not difficult for normal adults to use properly as
 20 defined by ~~16 C.F.R. 1700.20 (1995),~~ **provided for under 16 CFR**
 21 **1700.20**, unless the marihuana is transferred for consumption on the
 22 premises where sold.

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

25 Sec. 15. **(1)** A person who commits any of the following acts,
 26 and is not otherwise authorized by this act to ~~conduct such~~
 27 ~~activities,~~ **commit the acts**, may be punished only as provided in
 28 this section and is not subject to any other form of punishment or
 29 disqualification, unless the person consents to another disposition

1 authorized by law:

2 (a) ~~1.~~ Except for a person who engaged in conduct described in
 3 sections ~~section~~ 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d), 4(1)(g), or
 4 4(1)(h), ~~(b), (c), (d), (g), or (h)~~, a person who possesses not
 5 more than the amount of marihuana allowed ~~by~~ **under** section 5,
 6 cultivates not more than the amount of marihuana allowed ~~by~~ **under**
 7 section 5, delivers without receiving any remuneration to a person
 8 who is ~~at least~~ 21 years of age **or older** not more than the amount
 9 of marihuana allowed ~~by~~ **under** section 5, or possesses with intent
 10 to deliver not more than the amount of marihuana allowed ~~by~~ **under**
 11 section 5, is responsible for a civil infraction and may be
 12 punished by a fine of not more than ~~\$100~~ **\$100.00** and forfeiture of
 13 the marihuana.

14 (b) ~~2.~~ Except for a person who engaged in conduct described in
 15 section 4, a person who possesses not more than twice the amount of
 16 marihuana allowed ~~by~~ **under** section 5, cultivates not more than
 17 twice the amount of marihuana allowed ~~by~~ **under** section 5, delivers
 18 without receiving any remuneration to a person who is ~~at least~~ 21
 19 years of age **or older** not more than twice the amount of marihuana
 20 allowed ~~by~~ **under** section 5, or possesses with intent to deliver not
 21 more than twice the amount of marihuana allowed ~~by~~ **under** section 5,
 22 **may be punished as follows:**

23 (i) ~~(a) for~~ **For** a first violation, **the person** is responsible
 24 for a civil infraction and may be punished by a fine of not more
 25 than ~~\$500~~ **\$500.00** and forfeiture of the marihuana. †

26 (ii) ~~(b) for~~ **For** a second violation, **the person** is responsible
 27 for a civil infraction and may be punished by a fine of not more
 28 than ~~\$1,000~~ **\$1,000.00** and forfeiture of the marihuana. †

29 (iii) ~~(c) for~~ **For** a third ~~or~~ **and any** subsequent violation, **the**

1 **person** is guilty of a misdemeanor and may be punished by a fine of
 2 not more than ~~\$2,000~~ **\$2,000.00** and forfeiture of the marihuana.

3 ~~(c) 3.—~~Except for a person who engaged in conduct described ~~by~~
 4 **in** section 4(1)(a), ~~4(1)(d), or 4(1)(g),~~ **(d), or (g)**, a person
 5 ~~under~~ **younger than** 21 years of age who possesses not more than 2.5
 6 ounces of marihuana or who cultivates not more than 12 marihuana
 7 plants **may be punished as follows:**

8 ~~(i) (a) for~~ **For** a first violation, **the person** is responsible
 9 for a civil infraction and may be punished as follows:

10 ~~(A) (1) if~~ **If** the person is ~~less~~ **younger** than 18 years of age,
 11 by a fine of not more than ~~\$100~~ **\$100.00** or community service,
 12 forfeiture of the marihuana, and completion of 4 hours of drug
 13 education or counseling. ~~;~~ ~~or~~

14 ~~(B) (2) if~~ **If** the person is ~~at least~~ 18 years of age **or older**,
 15 by a fine of not more than ~~\$100~~ **\$100.00** and forfeiture of the
 16 marihuana.

17 ~~(ii) (b) for~~ **For** a second violation, **the person** is responsible
 18 for a civil infraction and may be punished as follows:

19 ~~(A) (1) if~~ **If** the person is ~~less~~ **younger** than 18 years of age,
 20 by a fine of not more than ~~\$500~~ **\$500.00** or community service,
 21 forfeiture of the marihuana, and completion of 8 hours of drug
 22 education or counseling. ~~;~~ ~~or~~

23 ~~(B) (2) if~~ **If** the person is ~~at least~~ 18 years of age **or older**,
 24 by a fine of not more than ~~\$500~~ **\$500.00** and forfeiture of the
 25 marihuana.

26 ~~(d) 4.—~~Except for a person who engaged in conduct described in
 27 section 4, a person who possesses more than twice the amount of
 28 marihuana allowed ~~by~~ **under** section 5, cultivates more than twice
 29 the amount of marihuana allowed ~~by~~ **under** section 5, or delivers

1 without receiving any remuneration to a person who is ~~at least~~ 21
2 years of age **or older** more than twice the amount of marihuana
3 allowed ~~by~~ **under** section 5, ~~shall be~~ **is** responsible for a
4 misdemeanor, but ~~shall~~ **is** not ~~be~~ subject to imprisonment unless the
5 violation was habitual, willful, and for a commercial purpose or
6 the violation involved violence.

7 **(2) A marihuana processor or marihuana retailer that violates**
8 **section 11(5) (b) is guilty of a misdemeanor punishable by a fine of**
9 **not more than \$10,000.00.**