

SENATE BILL No. 142

February 18, 2015, Introduced by Senators KNEZEK, SHIRKEY, HUNE, HERTEL, GREGORY, ANANICH and KOWALL and referred to the Committee on Judiciary.

A bill to license and regulate medical marihuana provisioning centers and safety compliance facilities; to provide for the powers and duties of certain state and local governmental officers and entities; to provide immunity for persons engaging in medical marihuana-related activities in compliance with this act; to prescribe penalties and sanctions and provide remedies; to create an advisory panel; and to require the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "medical marihuana provisioning center regulation act".

3 Sec. 2. As used in this act:

4 (a) "Debilitating medical condition" means that term as
5 defined in section 3 of the Michigan medical marihuana act, MCL
6 333.26423.

1 (b) "Department" means the department of licensing and
2 regulatory affairs.

3 (c) "Excluded felony offense" means a felony involving illegal
4 drugs. Excluded felony offense does not include a conviction for
5 activity allowed under the Michigan medical marihuana act or this
6 act, even if the activity occurred before the enactment of this act
7 or the Michigan medical marihuana act.

8 (d) "Marihuana" means that term as defined in section 3 of the
9 Michigan medical marihuana act, MCL 333.26423.

10 (e) "Marihuana-infused product" means a topical formulation,
11 tincture, beverage, edible substance, or similar product containing
12 any usable marihuana that is intended for human consumption in a
13 manner other than smoke inhalation. Marihuana-infused product is
14 not considered a food for purposes of the food law, 2000 PA 92, MCL
15 289.1101 to 289.8111.

16 (f) "Medical marihuana" means marihuana for medical use as
17 that term is defined in section 3 of the Michigan medical marihuana
18 act, MCL 333.26423.

19 (g) "Medical marihuana provisioning center" or "provisioning
20 center" means a commercial entity located in this state that
21 acquires, possesses, manufactures, delivers, transfers, or
22 transports medical marihuana and sells, supplies, or provides
23 medical marihuana to registered qualifying patients, directly or
24 through the patients' registered primary caregivers. Provisioning
25 center includes any commercial property where medical marihuana is
26 sold to registered qualifying patients or registered primary
27 caregivers. A noncommercial location used by a primary caregiver to

1 assist a qualifying patient connected to the caregiver through the
2 department's medical marihuana registration process in accordance
3 with the Michigan medical marihuana act is not a provisioning
4 center for purposes of this act.

5 (h) "Michigan medical marihuana act" means the Michigan
6 medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

7 (i) "Municipality" means a city, township, or village.

8 (j) "Paraphernalia" means drug paraphernalia as defined in
9 section 7451 of the public health code, 1978 PA 368, MCL 333.7451,
10 that is or may be used in association with medical marihuana.

11 (k) "Provisioning center agent" means a principal officer,
12 board member, employee, or operator of a provisioning center, or
13 any other individual acting as an agent of a provisioning center.

14 (l) "Registered primary caregiver" means a person who has a
15 valid, unexpired registry identification card as a primary
16 caregiver or who satisfies the criteria listed in section 9(b) or
17 (c) of the Michigan medical marihuana act, MCL 333.26429, and
18 possesses the documentation that constitutes a valid registry
19 identification card under that section.

20 (m) "Registered qualifying patient" means a person who meets
21 any of the following requirements:

22 (i) Has a valid, unexpired registry identification card as a
23 qualifying patient.

24 (ii) Satisfies the criteria listed in section 9(b) or (c) of
25 the Michigan medical marihuana act, MCL 333.26429, and possesses
26 the documentation that constitutes a valid registry identification
27 card under that section.

1 (n) "Registry identification card" means that term as defined
2 in section 3 of the Michigan medical marihuana act, MCL 333.26423.

3 (o) "Safety compliance facility" means an entity that tests
4 for contaminants in marihuana produced for medical use.

5 (p) "Safety compliance facility agent" means a principal
6 officer, board member, employee, operator of a safety compliance
7 facility, or any other individual acting as an agent of a safety
8 compliance facility.

9 (q) "State operating license" means a license to operate as a
10 provisioning center or safety compliance facility that is issued by
11 the department after approving an application that includes an
12 affirmative recommendation by the municipality in which the
13 provisioning center or safety compliance facility is located.

14 (r) "Usable marihuana" means the dried leaves, flowers, plant
15 resin, or extract of the marihuana plant and any mixture or
16 preparation thereof, but does not include the seeds, stalks, or
17 roots of the plant or any inactive substance used as a delivery
18 medium for usable marihuana.

19 (s) "Visiting qualifying patient" means a patient who is not a
20 resident of this state or who has been a resident of this state for
21 less than 30 days and who possesses a registry identification card,
22 or its equivalent, that was issued under the laws of another state,
23 district, territory, commonwealth, or insular possession of the
24 United States and that allows the use of medical marihuana by the
25 patient.

26 Sec. 3. (1) Except as otherwise provided in this act, if a
27 provisioning center has been granted a state operating license and

1 is operating in compliance with this act, rules implementing this
2 act, and any municipal ordinance described in section 5(1), the
3 provisioning center and the provisioning center agents are not
4 subject to any of the following for engaging in activities
5 described in subsection (2):

6 (a) Criminal penalties under state law or other local
7 ordinances.

8 (b) State or local civil prosecution.

9 (c) Search or inspection, except for an inspection authorized
10 by state police, the municipality, or the department.

11 (d) Seizure.

12 (e) Any sanction, including disciplinary action or denial of a
13 right or privilege, by a business or occupational or professional
14 licensing board or bureau.

15 (2) Activities that are exempt under subsection (1) include
16 all of the following:

17 (a) Purchasing, receiving, selling, or transferring marihuana
18 from or to registered qualifying patients, registered primary
19 caregivers, or provisioning centers.

20 (b) Purchasing or receiving medical marihuana from 1 or more
21 other provisioning centers.

22 (c) Purchasing or receiving medical marihuana from a
23 registered qualifying patient or a registered primary caregiver if
24 the amount purchased does not exceed the registered qualifying
25 patient's or registered primary caregiver's medical marihuana
26 possession limits under the Michigan medical marihuana act.

27 (d) Processing medical marihuana.

1 (e) Possessing or manufacturing paraphernalia.

2 (f) Possessing medical marihuana processed by the provisioning
3 center or obtained pursuant to subdivision (a) or (b) on the
4 provisioning center premises or while the medical marihuana is
5 being transported pursuant to this section.

6 (g) Manufacturing nonsmokable forms of medical marihuana.

7 (h) Transporting medical marihuana between the provisioning
8 center and another provisioning center or a safety compliance
9 facility.

10 (i) Transporting or delivering medical marihuana or
11 paraphernalia to the residence of a registered qualifying patient
12 or a registered primary caregiver.

13 (j) Supplying, selling, providing, transferring, or delivering
14 medical marihuana, paraphernalia, or related supplies and
15 educational materials in compliance with the procedures and
16 limitations detailed in section 7(11) to (13) and the testing and
17 labeling requirements in section 7(4).

18 Sec. 4. (1) Except as otherwise provided in this act, if a
19 safety compliance facility has been granted a state operating
20 license and is operating in compliance with this act, rules
21 promulgated under this act, and any municipal ordinance described
22 in section 5(1), the safety compliance facility and the safety
23 compliance facility agents are not subject to any of the following
24 for engaging in activities described in subsection (2):

25 (a) Criminal penalties under state law or other local
26 ordinances.

27 (b) State or local civil prosecution.

1 (c) Search or inspection, except for an inspection authorized
2 by state police, the municipality, or the department.

3 (d) Seizure.

4 (e) Any sanction, including disciplinary action or denial of a
5 right or privilege, by a business or occupational or professional
6 licensing board or bureau.

7 (2) Activities that are exempt from regulation and sanction
8 under subsection (1) include all of the following:

9 (a) Acquiring or possessing medical marihuana obtained from
10 registered qualifying patients, registered primary caregivers, or
11 provisioning centers.

12 (b) Transporting medical marihuana to or from a registered
13 qualifying patient, registered primary caregiver, or provisioning
14 center.

15 (c) Possessing medical marihuana on the safety compliance
16 facility's premises for testing, if the medical marihuana was
17 obtained pursuant to subdivision (a).

18 (d) Receiving compensation for actions permitted pursuant to
19 this section and municipal law.

20 Sec. 5. A municipality may enact and enforce an ordinance to
21 impose additional local requirements on provisioning centers or
22 safety compliance facilities, including, but not limited to, zoning
23 restrictions and caps on the number of provisioning centers in the
24 municipality. The municipality may adopt an ordinance under this
25 subsection, designate a violation of the ordinance as a municipal
26 civil infraction, and provide a civil fine for the violation. A
27 municipality may charge a fee for a provisioning center or safety

1 compliance facility.

2 Sec. 6. This act does not limit the medical purpose defense
3 provided in section 8 of the Michigan medical marihuana act, 2008
4 IL 1, MCL 333.26428, to any prosecution involving marihuana.

5 Sec. 7. (1) A provisioning center or a safety compliance
6 facility shall not be located within 1,000 feet, measured from
7 property line to property line, of the property line of a
8 preexisting primary or secondary school.

9 (2) A provisioning center shall not share office space with a
10 physician and shall not conduct any other business at or in
11 association with the provisioning center.

12 (3) The premises of a provisioning center shall have a
13 security alarm system that is enabled when a provisioning center
14 agent is not present.

15 (4) A provisioning center shall not sell, transfer, or
16 provide a marihuana-infused product unless it has been tested by
17 a safety compliance facility and is enclosed in a container that
18 bears a securely affixed label displaying all of the following
19 information:

20 (a) The name of the registered qualifying patient or
21 visiting qualifying patient for whom the marihuana-infused
22 product is intended.

23 (b) Certification that the product has been tested by a
24 licensed safety compliance facility as required in section 10
25 and does not contain unsafe levels of mold, mildew, fungi, or
26 pesticides.

27 (c) The total weight of the marihuana-infused product and the

1 weight of the usable marihuana in the container. The weight of
2 usable marihuana in the container shall be calculated as the same
3 fraction of the total weight of the usable marihuana that was used
4 in preparing the product as the fraction that the marihuana-infused
5 product in the container is of the total amount of marihuana-
6 infused product made from the usable marihuana. If the provisioning
7 center does not prepare the marihuana-infused product, it shall
8 obtain documentation from the preparer with the information
9 necessary to determine the usable marihuana content.

10 (d) The words "WARNING: This product contains marihuana. For a
11 registered qualifying patient's medical use only." or substantially
12 similar text.

13 (5) A provisioning center shall not operate unless each
14 licensee and provisioning center agent is a resident of this state
15 and has been a resident for the preceding 2 years.

16 (6) A provisioning center or safety compliance facility shall
17 not knowingly employ an individual who has been convicted of an
18 excluded felony offense during the immediately preceding 10-year
19 period or who is under 21 years of age or who is not either a
20 citizen of the United States or authorized to work under the United
21 States immigration and naturalization law. A provisioning center or
22 safety compliance facility shall perform a background check on an
23 individual before he or she is offered employment to verify that he
24 or she has not been convicted of an excluded felony offense during
25 the immediately preceding 10-year period.

26 (7) A provisioning center shall maintain records listing each
27 individual employed by the provisioning center, including the

1 beginning employment date and the date a background check was
2 performed.

3 (8) A provisioning center shall not allow on-site consumption
4 of medical marihuana, except that a provisioning center agent or
5 employee who is a registered qualifying patient may be permitted to
6 use a medical marihuana-infused topical product.

7 (9) A provisioning center shall not provide usable marihuana
8 or marihuana-infused products in solid form, gaseous form, or
9 liquid form to an individual if the total amount provided to the
10 individual in any 10-day period by provisioning centers would
11 exceed the amount for which the individual is granted immunity for
12 possession under the Michigan medical marihuana act.

13 (10) A provisioning center shall ensure compliance with the
14 limit under subsection (9) by maintaining internal, confidential
15 records that shall be entered into a statewide database when that
16 database becomes operational and shall specify the amount of
17 medical marihuana provided to each registered qualifying patient
18 and registered primary caregiver and whether it was provided to the
19 registered primary caregiver or directly to the registered
20 qualifying patient. Each record shall include the date and time the
21 medical marihuana was provided. A provisioning center shall
22 maintain each record for 6 months. For any registered qualifying
23 patient or registered qualifying caregiver in possession of a
24 registry identification card, a record shall be kept using the
25 patient's or caregiver's registry identification card number
26 instead of the patient's or caregiver's name. Confidential records
27 entered into the statewide database under this act are subject to

1 reasonable inspection by a department employee authorized to
2 inspect provisioning centers to ensure compliance with this act,
3 but may be stored off-site. Confidential records entered into the
4 statewide database under this act are exempt from disclosure under
5 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
6 Except as otherwise required by a court order, a provisioning
7 center and the department shall not disclose confidential records
8 to any person other than a department employee performing an
9 inspection in compliance with this subsection or to a provisioning
10 center agent. A provisioning center shall also maintain records of
11 the transfers of marihuana and marihuana-infused product that it
12 makes to or receives from another provisioning center, including
13 the dates and amounts, and identifying the provisioning centers.
14 The record of a provisioning center to provisioning center transfer
15 shall be maintained and entered into the statewide database in the
16 same manner as other records under this subsection. Except as
17 otherwise indicated in this subsection, all provisioning center
18 records shall be made available to the department upon request,
19 including both paper and electronically stored records.

20 (11) A provisioning center agent shall not provide, transfer,
21 or sell medical marihuana to an individual knowing that the
22 individual is not a registered qualifying patient, registered
23 primary caregiver, or provisioning center agent working on behalf
24 of a provisioning center that is not prohibited from operating or
25 obtaining medical marihuana from other provisioning centers under a
26 municipal ordinance.

27 (12) Before a provisioning center provides or sells an

1 individual medical marihuana, in addition to complying with
2 subsection (13), a provisioning center agent shall do 1 of the
3 following:

4 (a) Verify that the individual requesting medical marihuana
5 holds what the provisioning center agent reasonably believes to be
6 a valid, unexpired registry identification card.

7 (b) If the individual requesting medical marihuana indicates
8 that he or she is a provisioning center agent, make a diligent,
9 good-faith effort to verify that the individual is a provisioning
10 center agent for a provisioning center that holds a state operating
11 license.

12 (13) Before medical marihuana is provided or sold from a
13 provisioning center, a provisioning center agent shall make a
14 diligent, good-faith effort to determine that the individual named
15 in the registry identification card or other documentation
16 submitted under subsection (12) is the individual seeking to obtain
17 medical marihuana, by examining what the provisioning center agent
18 reasonably believes to be a valid government-issued photo
19 identification.

20 (14) An individual who is under 21 years of age or who has
21 been convicted of an excluded felony offense during the immediately
22 preceding 10-year period shall not serve as a provisioning center
23 agent or safety compliance facility agent.

24 (15) A provisioning center agent shall not, for compensation,
25 refer an individual to a physician.

26 (16) A provisioning center or safety compliance facility shall
27 not permit a physician to advertise in a provisioning center or

1 safety compliance facility or to hold any financial interest in or
2 receive any compensation from the provisioning center or safety
3 compliance facility.

4 (17) A provisioning center agent or safety compliance facility
5 agent shall not transport or possess medical marihuana on behalf of
6 the provisioning center or safety compliance facility in or upon a
7 motor vehicle or any self-propelled vehicle designed for land
8 travel unless all of the following conditions are met:

9 (a) The agent possesses a document signed and dated by a
10 manager or operator of the provisioning center or safety compliance
11 facility that employs the agent, stating the agent's name, the date
12 the medical marihuana is transported, the approximate amount of
13 medical marihuana transported, and the name of the provisioning
14 center or safety compliance facility from which the medical
15 marihuana is transported.

16 (b) The medical marihuana is located in 1 or more of the
17 following:

18 (i) An enclosed locked container, such as a safe or briefcase.

19 (ii) The trunk of the vehicle.

20 (iii) A space that is inaccessible from the passenger
21 compartment of the vehicle.

22 Sec. 8. (1) Except as otherwise provided in this act, a
23 registered qualifying patient, or registered primary caregiver who
24 supplies, sells, transfers, or delivers marihuana to a provisioning
25 center that has a state operating license and operates in
26 compliance with this act is not subject to any of the following for
27 engaging in that activity:

1 (a) Criminal penalties under state law or local ordinances.

2 (b) State or local civil prosecution.

3 (c) Search or inspection, except for an inspection authorized
4 by state police or the municipality.

5 (d) Seizure.

6 (e) Any sanction, including disciplinary action or denial of a
7 right or privilege, by a business or occupational or professional
8 licensing board or bureau.

9 (2) Except as otherwise provided in this act, a registered
10 qualifying patient is not subject to any of the inspections or
11 sanctions listed in subsection (1)(a) to (e) for any of the
12 following:

13 (a) Purchasing or acquiring usable marihuana or marihuana-
14 infused products in solid form, gaseous form, or liquid form from 1
15 or more provisioning centers if the amount purchased or acquired in
16 any 10-day period is not more than the amount for which the
17 individual is granted immunity for possession under the Michigan
18 medical marihuana act.

19 (b) Supplying, selling, transferring, or delivering medical
20 marihuana to a provisioning center that has a state operating
21 license if all of the following requirements are met:

22 (i) The medical marihuana was produced by the registered
23 qualifying patient or registered primary caregiver.

24 (ii) The amount of medical marihuana transferred does not
25 exceed the amount of medical marihuana the registered qualifying
26 patient is allowed to possess under the Michigan medical marihuana
27 act.

1 (3) Except as otherwise provided in this act, a registered
2 primary caregiver is not subject to any of the inspections or
3 sanctions listed in subsection (1)(a) to (e) for any of the
4 following:

5 (a) Purchasing or acquiring usable marihuana or marihuana-
6 infused products in solid form, gaseous form, or liquid form from 1
7 or more provisioning centers if the amount purchased or acquired in
8 any 10-day period is not more than the amount for which the
9 individual is granted immunity for possession under the Michigan
10 medical marihuana act.

11 (b) Supplying, selling, transferring, or delivering medical
12 marihuana to a provisioning center that is registered, licensed, or
13 otherwise allowed by the municipality in which it operates if all
14 of the following requirements are met:

15 (i) The medical marihuana was produced by the registered
16 primary caregiver and is excess medical marihuana above the amount
17 necessary to satisfy the needs of the registered qualifying
18 patients the primary caregiver is designated to serve.

19 (ii) The amount of medical marihuana transferred does not
20 exceed the amount of medical marihuana the registered primary
21 caregiver is allowed to possess under the Michigan medical
22 marihuana act.

23 Sec. 9. (1) The department shall not issue a state operating
24 license to an entity as a safety compliance facility and a safety
25 compliance facility shall not operate unless it is able to
26 accurately determine whether any of the following are present in
27 marihuana-infused products that are sold or may be sold at medical

1 marihuana provisioning centers in this state:

2 (a) Mold, mildew, or fungi.

3 (b) Pesticides.

4 (2) A safety compliance center is not exempt under section 4
5 for activities associated with handing, testing, or analyzing
6 marihuana unless it meets all of the following conditions:

7 (a) After October 1, 2015, the entity is licensed as a safety
8 compliance facility by this state.

9 (b) A person with a direct or indirect interest in the entity
10 does not have a direct or indirect financial interest in a
11 provisioning center, marihuana producer, certifying physician, or
12 any other entity that may financially benefit from the production,
13 manufacture, dispensing, sale, purchase, or use of marihuana.

14 (c) The entity employs at least 1 individual who has earned a
15 bachelor's degree or higher in the chemical or biological sciences
16 and has a minimum of 1 year of postgraduate laboratory experience
17 to oversee and be responsible for laboratory testing.

18 (d) The entity is accredited by a private laboratory
19 accreditation service.

20 Sec. 10. (1) Beginning October 1, 2015, a provisioning center
21 shall not distribute or sell any marihuana-infused product unless
22 the product has been tested for mold, mildew, fungi, and pesticides
23 by a licensed safety compliance facility and does not contain
24 unsafe levels of mold, mildew, fungi, or pesticides. A provisioning
25 center shall make the safety compliance facility test results
26 available upon request to a qualifying patient, a primary
27 caregiver, the municipality in which the provisioning center is

1 located, or a physician who has certified a qualifying patient.

2 (2) If a medical marihuana provisioning center elects to
3 manufacture and distribute a marihuana-infused product, the medical
4 marihuana provisioning center must comply with all of the
5 following:

6 (a) Keep the grounds of the provisioning center under the
7 control of the operator free from improperly stored equipment,
8 litter, waste, refuse, and uncut weeds or grass and ensure that
9 floors, walls, ceilings, and equipment are kept clean and in good
10 repair.

11 (b) Keep food preparation areas separated from poisons,
12 undesirable microorganisms, chemicals, filth, or other extraneous
13 material by partition, location, or other effective means.
14 Marihuana is not prohibited in food preparation areas under this
15 subdivision.

16 (c) Provide adequate lighting in all areas where food or food
17 ingredients are examined, processed, or stored, and in hand washing
18 areas, toilet rooms, and places where equipment or utensils are
19 cleaned.

20 (d) Provide adequate ventilation or control equipment to
21 minimize odors and noxious fumes, dust, or vapors, including steam,
22 in areas where they may contaminate food.

23 (e) Ensure that all provisioning center equipment and utensils
24 are suitable for their intended use and are designed and
25 constructed with material and workmanship that allows them to be
26 cleanable and properly maintained.

27 (f) Ensure that the provisioning center is properly equipped

1 with adequate sanitary facilities and accommodations.

2 (g) Ensure that the provisioning center has a water supply
3 that is sufficient for the operations intended and is derived from
4 an approved source.

5 (h) Ensure that all sewage and liquid waste is disposed of in
6 a public or municipal sewerage system, or, if an adequate public
7 disposal system is not available, in an approved septic tank system
8 or by another acceptable method that does not create a nuisance,
9 insanitary condition, or public health hazard.

10 (i) Provide employees with adequate, completely enclosed
11 toilet rooms and conveniently located associated hand washing
12 facilities that are maintained in a sanitary condition and kept in
13 good repair at all times.

14 (j) Provide adequate and convenient facilities for hand
15 washing that are furnished with hot and cold or tempered running
16 water, effective hand cleaning and sanitizing preparations,
17 disposable sanitary towel service or suitable drying devices, and
18 easily cleanable waste receptacles.

19 (k) Provide for conveying, storing, and disposal of rubbish
20 and offal in a manner that minimizes odor, prevents waste from
21 becoming an attractant or a harbor or breeding place for vermin,
22 and prevents contamination of food, food contact surfaces, ground
23 surfaces, and water supplies.

24 (l) Maintain the building, fixtures, and other physical
25 facilities of the provisioning center in good repair and in
26 sanitary condition.

27 (m) Prohibit live birds or other animals in the provisioning

1 center, except that a guide dog accompanying a blind person is
2 permitted in selling areas.

3 (n) Clean all utensils and product contact surfaces of
4 equipment as frequently as necessary to prevent contamination of
5 food and food products and all nonproduct contact surfaces of
6 equipment used in food preparation areas as frequently as necessary
7 to minimize accumulation of dust, dirt, food particles, and other
8 debris.

9 (o) Conduct all operations in receiving, inspecting,
10 transporting, packaging, segregating, preparing, processing, and
11 food storing areas in accordance with good sanitation principles
12 and take all reasonable precautions to ensure that production
13 procedures do not contribute contamination, such as filth, harmful
14 chemicals, undesirable microorganisms, or any other objectionable
15 material, to the processed product.

16 (p) Conduct all food processing, packaging, storage, and
17 transporting of food under conditions and controls that minimize
18 the potential for undesirable bacterial or other microbiological
19 growth, toxin formation, or deterioration or contamination of the
20 processed product, product ingredients, or product containers.

21 (q) Ensure that all food and drink is clean and wholesome, and
22 manufactured, handled, stored, prepared, transported, offered for
23 sale, and sold in a manner that keeps it safe for human
24 consumption.

25 (r) Not allow an individual who is affected by a disease in a
26 communicable form, a carrier of such a disease, or afflicted with
27 boils, sores, infected wounds, or other abnormal sources of

1 microbiological contamination to work in the provisioning center in
2 any capacity in which there is a reasonable possibility that food
3 or food ingredients will become contaminated or that the disease
4 will be transmitted to other individuals.

5 (s) Require all individuals working in direct contact with
6 food preparation, food ingredients, or surfaces coming into contact
7 with food ingredients to do all of the following:

8 (i) Wear clean outer garments, maintain a high degree of
9 personal cleanliness, and conform to hygienic practices while on
10 duty to the extent necessary to prevent contamination of food
11 products.

12 (ii) Before starting work, after each absence from the work
13 station, and at any other time when hands may have become soiled or
14 contaminated, wash their hands thoroughly in an adequate hand
15 washing facility and sanitize their hands if necessary to prevent
16 contamination.

17 (iii) Remove any jewelry that cannot be adequately sanitized and
18 all insecure jewelry from hands when food is manipulated by hand.

19 (iv) Maintain any gloves used in food handling in an intact,
20 clean, and sanitary condition and use only gloves made of an
21 impermeable material, except when that usage would be inappropriate
22 or incompatible with the work involved.

23 (v) Wear effective hairnets, headbands, or caps to constrain
24 the hair properly.

25 (vi) Refrain from storing clothing or other personal belongings
26 and from eating, drinking, or using tobacco in any form in areas
27 where food or food ingredients are exposed, or in areas used for

1 washing equipment or utensils.

2 (vii) Take any other necessary precautions to prevent
3 contamination of foods with microorganisms or other foreign
4 substances, including, but not limited to, perspiration, hair,
5 cosmetics, tobacco, chemicals, and medicants.

6 (3) Subsection (2) does not prohibit a municipality from
7 imposing additional regulations on medical marihuana provisioning
8 centers that manufacture and distribute a marihuana-infused
9 product.

10 (4) The local county health department shall inspect a
11 provisioning center at least annually for compliance with
12 subsections (2) and (3). The provisioning center shall pay for all
13 costs associated with the inspection under this subsection.

14 Sec. 11. (1) Beginning July 1, 2015, a person may submit an
15 application to the department for a license to operate as a
16 provisioning center or safety compliance facility. The department
17 may issue a state operating license as provided in this act upon
18 receipt and examination of an application that includes an
19 affirmative recommendation by the municipality in which the
20 provisioning center or safety compliance facility will be located.
21 The department may require that the application be on a form
22 designated by the department and accompanied by a registration fee
23 established by rule and that the applicant submit his or her own
24 criminal background check.

25 (2) The department may issue a state operating license if, in
26 the department's discretion, issuing the license is in the best
27 interests of the state. In making the determination, the department

1 shall consider all of the following:

2 (a) The applicant's character, including any history of
3 criminal or civil violations of law.

4 (b) Information concerning business skills and experience
5 related to the potential for success in operating the provisioning
6 center or safety compliance facility.

7 (c) The feasibility of the business plan and financial
8 stability of and resources available to the applicant to conduct
9 business authorized by the state operating license in compliance
10 with this act.

11 (3) The department shall not grant a state operating license
12 unless the applicant is over 21 years of age, has been a resident
13 of this state for the preceding 2 years, and is a United States
14 citizen or is authorized to work in the United States in conformity
15 with United States immigration law.

16 (4) Unless the department notifies the applicant within 30
17 days after receipt that the application is incomplete, describing
18 the deficiency and requesting the additional information, the
19 department shall approve or deny an application within 90 days
20 after receiving a completed application. The 90-day period is
21 tolled for the following periods under the following circumstances:

22 (a) If the commission sends notice of a deficiency in the
23 application, until the date all of the requested information is
24 received.

25 (b) For the time required to complete actions required by a
26 person other than the applicant or the commission, including, but
27 not limited to, completion of construction or renovation of the

1 licensed premises, criminal history check, financial or court
2 record checks, or other actions required by this act or rule.

3 (5) If the department denies an application, it shall give the
4 reasons for the denial. The applicant has no right to appeal the
5 denial and may not submit another application for 1 year after the
6 date of the denial.

7 (6) A state operating license expires on January 1 of the year
8 following the year it is issued. If the licensee submits an
9 application for renewal of a state operating license between 30 to
10 45 days before the license expires, the license is renewed, unless
11 the department denies the application for renewal because of a
12 change in circumstances that indicates that the licensee no longer
13 meets the requirements for licensure. The department may require
14 that the application for renewal be on a form designated by the
15 department.

16 (7) A transfer of a state operating license is not valid
17 unless the licensee requests and receives approval by the
18 department and the municipality in which the provisioning center or
19 safety compliance facility is located. The department shall treat
20 an application for a transfer as if it were a new application for
21 license by the transferee.

22 (8) The department may promulgate rules to implement the
23 licensing, renewal, and transfer approval process.

24 Sec. 12. (1) The department, upon due notice and proper
25 hearing, may suspend or revoke any state operating license for a
26 violation of this act or the rules promulgated under this act or
27 for violation of an applicable local ordinance. The department

1 may assess an administrative fine against a provisioning center
2 of not more than \$2,000.00 for each sale in violation of this act
3 or a rule promulgated under this act and not more than \$1,000.00
4 for any other violation of this act or a rule promulgated under
5 this act. The department may assess an administrative fine
6 against a safety compliance center of not more than \$10,000.00
7 for knowingly providing false or fraudulent test results for
8 mold, mildew, fungi, or pesticides. An administrative fine shall
9 be in lieu of or in addition to revocation of the license. A
10 provisioning center or safety compliance center shall pay an
11 administrative fine to the department, which shall deposit that
12 fine with the state treasurer in the state general fund.

13 (2) The department may promulgate rules to implement the
14 process of revocation or suspension of a state operating
15 license, assessing administrative fines, and conducting appeals
16 as necessary to provide for due process.

17 Sec. 13. (1) A provisioning center that violates section 7(1)
18 or (2) is responsible for a state civil infraction and may be
19 ordered to pay a civil fine of not more than \$5,000.00. A
20 municipality in which the provisioning center or safety compliance
21 facility operates in violation of section 7(1) or (2) may petition
22 the court for an injunction to close the provisioning center or
23 safety compliance facility.

24 (2) A person who violates section 7(3) to (10), (15), or (16)
25 is responsible for a state civil infraction and may be ordered to
26 pay a civil fine of not more than \$1,000.00.

27 (3) A person who transfers medical marihuana in violation of

1 section 7(11) to (13) or who works in violation of section 7(14) is
2 not exempt under section 3 or 4 from arrest, prosecution, or
3 criminal or other penalties.

4 (4) A person who violates section 7(17) is guilty of a
5 misdemeanor punishable by imprisonment for not more than 93 days or
6 a fine of not more than \$500.00, or both.

7 (5) The sanctions in this section apply beginning July 1,
8 2015.

9 Sec. 14. The department shall create and maintain a statewide
10 confidential database in compliance with section 7(10)
11 confidentiality requirements to ensure compliance with the time and
12 quantity limitations on transfers set forth in section 7(9). Each
13 provisioning center shall submit the records required under section
14 7(10) to the department for entry into the statewide database
15 established under this section. The department shall ensure that
16 each provisioning center has access to the database to allow
17 provisioning center agents to maintain proper statewide record
18 keeping to assure that transfers of marihuana and marihuana-infused
19 products are within the maximums permitted under this act.

20 Sec. 15. (1) The provisioning center regulation panel is
21 created within the department.

22 (2) The panel shall consist of 17 members, consisting of the
23 director of state police, or his or her designee, the president of
24 the Michigan sheriffs association, or his or her designee, the
25 president of the Michigan association of chiefs of police, or his
26 or her designee, and the following appointed by the governor:

27 (a) 2 registered qualifying patients.

1 (b) 1 physician.

2 (c) 2 registered primary caregivers.

3 (d) 2 representatives of provisioning centers.

4 (e) 2 representatives of safety compliance facilities.

5 (f) 2 representatives of municipalities, 1 nominated by the
6 Michigan municipal league and 1 nominated by the Michigan township
7 association.

8 (g) 1 representative of the department.

9 (h) 1 representative of the prosecuting attorneys association
10 of Michigan.

11 (i) 1 representative of the general public.

12 (3) The members first appointed to the panel shall be
13 appointed within 3 months after the effective date of this act and
14 shall serve at the pleasure of the governor. Appointed members of
15 the panel shall serve for terms of 2 years or until a successor is
16 appointed, whichever is later.

17 (4) If a vacancy occurs on the panel, the governor shall make
18 an appointment for the unexpired term in the same manner as the
19 original appointment.

20 (5) The first meeting of the panel shall be called by a
21 representative of the department within 1 month after the panel is
22 appointed. At the first meeting, the panel shall elect from among
23 its members a chairperson and any other officers it considers
24 necessary or appropriate. After the first meeting, the panel shall
25 meet at least 2 times each year, or more frequently at the call of
26 the chairperson.

27 (6) A majority of the members of the panel constitute a quorum

1 for the transaction of business. A majority of the members present
2 and serving are required for official action of the panel.

3 (7) The business that the panel performs shall be conducted at
4 a public meeting held in compliance with the open meetings act,
5 1976 PA 267, MCL 15.261 to 15.275.

6 (8) A writing prepared, owned, used, in the possession of, or
7 retained by the panel in the performance of an official function is
8 subject to the freedom of information act, 1976 PA 442, MCL 15.231
9 to 15.246.

10 (9) Members of the panel shall serve without compensation.
11 However, members of the panel may be reimbursed for their actual
12 and necessary expenses incurred in the performance of their
13 official duties as members of the panel.

14 (10) The panel shall make recommendations to the department
15 concerning promulgation of rules and, as requested by the
16 department, the administration of this act.

17 (11) State departments and agencies shall cooperate with the
18 panel and, upon request, provide it with meeting space and other
19 necessary resources to assist it in the performance of its duties.

20 Sec. 16. The department may require fees, as necessary, from
21 licensees and applicants for licenses to carry out its duties under
22 this act.

23 Sec. 17. Not later than October 1, 2015, the department shall
24 promulgate rules or emergency rules pursuant to the administrative
25 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The
26 department shall consult with the advisory panel after it is
27 established under section 15, but has the ultimate discretion as to

1 the rules implementing this act that will be submitted for
2 processing. The rules shall address the manner in which
3 municipalities, provisioning centers, and safety compliance
4 facilities engage in the following:

- 5 (a) Labeling marihuana and marihuana-infused products.
- 6 (b) Packaging marihuana and marihuana-infused products.
- 7 (c) Testing marihuana-infused products.
- 8 (d) Submitting and maintaining database records.
- 9 (e) Advertising marihuana sales.
- 10 (f) Transactions with visiting qualifying patients.

11 Sec. 18. (1) This act does not require the violation of
12 federal law and does not give immunity from prosecution under
13 federal law.

14 (2) This act does not prevent federal enforcement of federal
15 law.

16 (3) Sections 3, 4, and 10 do not exempt a provisioning
17 center or its agents, safety compliance facility or its agents,
18 registered qualifying patient, or registered primary caregiver
19 from criminal penalties or civil prosecution under a law of
20 general application that would apply even if medical marihuana
21 or paraphernalia were not involved.

22 (4) A provisioning center or safety compliance facility is
23 not exempt from criminal or civil prosecution or sanctions for
24 cultivating marihuana.

25 Enacting section 1. This act takes effect April 1, 2015.

26 Enacting section 2. The legislature finds that the
27 necessity for access to safe sources of marihuana for medical

1 use and the immediate need to establish provisioning centers and
2 safety compliance facilities that operate under defined rules
3 establish the need to preserve the public health, safety, or
4 welfare sufficient to support the promulgation of emergency
5 rules.