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## **HOUSE BILL No. 4209**

February 17, 2015, Introduced by Reps. Callton, Kivela, Howrylak, Durhal, Lyons, Pettalia, Hovey-Wright, Dianda, Chang, Neeley, Irwin, Pscholka, Bumstead, Yonker, Canfield, Kelly, Lucido, Maturen, Schor, Brinks and Faris 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:

- Sec. 1. This act shall be known and may be cited as the "medical marihuana provisioning center regulation act".
  - Sec. 2. As used in this act:
- (a) "Debilitating medical condition" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 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.
- 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.
- (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.
- (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:
- (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.
- (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.
- 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.
- (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
- 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.
- (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 (1) 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
- 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.
- 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.
- 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
- 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.
- 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.
- (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.

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