

**SUBSTITUTE FOR
SENATE BILL NO. 433**

A bill to amend 2016 PA 281, entitled
"Medical marihuana facilities licensing act,"
by amending section 402 (MCL 333.27402).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 402. (1) The board shall issue a license to an applicant
2 who submits a complete application and pays both the nonrefundable
3 application fee required under section 401(5) and the regulatory
4 assessment established by the board for the first year of
5 operation, if the board determines that the applicant is qualified
6 to receive a license under this act.

7 (2) An applicant is ineligible to receive a license if any of
8 the following circumstances exist:

9 (a) The applicant has been convicted of or released from

1 incarceration for a felony under the laws of this state, any other
2 state, or the United States within the past 10 years or has been
3 convicted of a controlled substance-related felony within the past
4 10 years.

5 (b) Within the past 5 years the applicant has been convicted
6 of a misdemeanor involving a controlled substance, theft,
7 dishonesty, or fraud in any state or been found responsible for
8 violating a local ordinance in any state involving a controlled
9 substance, dishonesty, theft, or fraud that substantially
10 corresponds to a misdemeanor in that state.

11 (c) The applicant has knowingly submitted an application for a
12 license under this act that contains false information.

13 (d) The applicant is a member of the board.

14 (e) The applicant fails to demonstrate the applicant's ability
15 to maintain adequate premises liability and casualty insurance for
16 its proposed marihuana facility.

17 (f) The applicant holds an elective office of a governmental
18 unit of this state, another state, or the federal government; is a
19 member of or employed by a regulatory body of a governmental unit
20 in this state, another state, or the federal government; or is
21 employed by a governmental unit of this state. This subdivision
22 does not apply to an elected officer of or employee of a federally
23 recognized Indian tribe or to an elected precinct delegate.

24 (g) The applicant, if an individual, has been a resident of
25 this state for less than a continuous 2-year period immediately
26 preceding the date of filing the application. The requirements in
27 this subdivision do not apply after June 30, 2018.

1 (h) The board determines that the applicant is not in
2 compliance with section 205(1).

3 (i) The applicant fails to meet other criteria established by
4 rule.

5 (3) In determining whether to grant a license to an applicant,
6 the board may also consider all of the following:

7 (a) The integrity, moral character, and reputation; personal
8 and business probity; financial ability and experience; and
9 responsibility or means to operate or maintain a marihuana facility
10 of the applicant and of any other person that **MEETS** either **OF THE**
11 **FOLLOWING:**

12 (i) Controls, directly or indirectly, the applicant.

13 (ii) Is controlled, directly or indirectly, by the applicant
14 or by a person who controls, directly or indirectly, the applicant.

15 (b) The financial ability of the applicant to purchase and
16 maintain adequate liability and casualty insurance.

17 (c) The sources and total amount of the applicant's
18 capitalization to operate and maintain the proposed marihuana
19 facility.

20 (d) Whether the applicant has been indicted for, charged with,
21 arrested for, or convicted of, pled guilty or nolo contendere to,
22 forfeited bail concerning, or had expunged any relevant criminal
23 offense under the laws of any jurisdiction, either felony or
24 misdemeanor, not including traffic violations, regardless of
25 whether the offense has been expunged, pardoned, or reversed on
26 appeal or otherwise.

27 (e) Whether the applicant has filed, or had filed against it,

1 a proceeding for bankruptcy within the past 7 years.

2 (f) Whether the applicant has been served with a complaint or
3 other notice filed with any public body regarding payment of any
4 tax required under federal, state, or local law that has been
5 delinquent for 1 or more years.

6 (g) Whether the applicant has a history of noncompliance with
7 any regulatory requirements in this state or any other
8 jurisdiction.

9 (h) Whether at the time of application the applicant is a
10 defendant in litigation involving its business practices.

11 (i) Whether the applicant meets other standards in rules
12 applicable to the license category.

13 (4) Each applicant shall submit with its application, on forms
14 provided by the board, a passport quality photograph and **SHALL**
15 **ENSURE THAT 1 set of fingerprints IS SUBMITTED TO THE DEPARTMENT OF**
16 **STATE POLICE** for each person having any ownership interest in the
17 marihuana facility and each person who is an officer, director, or
18 managerial employee of the applicant, **IN ORDER FOR THE DEPARTMENT**
19 **OF STATE POLICE TO CONDUCT A CRIMINAL HISTORY CHECK ON EACH PERSON**
20 **AND TO FORWARD EACH PERSON'S FINGERPRINTS TO THE FEDERAL BUREAU OF**
21 **INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY CHECK.** ~~The department~~
22 ~~may designate an entity or agent to collect the fingerprints, and~~
23 ~~the applicant is responsible for the cost associated with the~~
24 ~~fingerprint collection.~~ **THE APPLICANT SHALL SUBMIT WITH ITS**
25 **APPLICATION EACH PERSON'S WRITTEN CONSENT TO THE CRIMINAL HISTORY**
26 **CHECK DESCRIBED IN THIS SECTION AND THE SUBMISSION OF EACH PERSON'S**
27 **FINGERPRINTS TO, AND THE INCLUSION OF EACH PERSON'S FINGERPRINTS**

1 IN, THE STATE AND FEDERAL DATABASE SYSTEMS DESCRIBED IN SUBSECTION
2 (7).

3 (5) THE FINGERPRINTS REQUIRED UNDER SUBSECTION (4) MAY BE
4 TAKEN BY A LAW ENFORCEMENT AGENCY OR ANY OTHER PERSON DETERMINED BY
5 THE DEPARTMENT OF STATE POLICE TO BE QUALIFIED TO TAKE
6 FINGERPRINTS. THE APPLICANT SHALL SUBMIT A FINGERPRINT PROCESSING
7 FEE TO THE DEPARTMENT IN AN AMOUNT REQUIRED UNDER SECTION 3 OF 1935
8 PA 120, MCL 28.273, AND ANY COSTS IMPOSED BY THE FEDERAL BUREAU OF
9 INVESTIGATION.

10 (6) THE DEPARTMENT OF STATE POLICE SHALL CONDUCT A CRIMINAL
11 HISTORY CHECK ON EACH PERSON DESCRIBED IN SUBSECTION (4) AND SHALL
12 REQUEST THE FEDERAL BUREAU OF INVESTIGATION TO MAKE A DETERMINATION
13 OF THE EXISTENCE OF ANY NATIONAL CRIMINAL HISTORY PERTAINING TO
14 EACH PERSON. THE DEPARTMENT OF STATE POLICE SHALL PROVIDE THE BOARD
15 WITH A WRITTEN REPORT CONTAINING THE CRIMINAL HISTORY RECORD
16 INFORMATION OF EACH PERSON WHO WAS THE SUBJECT OF THE CRIMINAL
17 HISTORY CHECK CONDUCTED UNDER THIS SECTION.

18 (7) ALL OF THE FOLLOWING APPLY CONCERNING FINGERPRINTS
19 SUBMITTED TO THE DEPARTMENT OF STATE POLICE UNDER THIS SECTION:

20 (A) THE DEPARTMENT OF STATE POLICE SHALL STORE AND RETAIN ALL
21 FINGERPRINTS SUBMITTED UNDER THIS SECTION IN AN AUTOMATED
22 FINGERPRINT IDENTIFICATION SYSTEM DATABASE THAT SEARCHES AGAINST
23 LATENT FINGERPRINTS, AND PROVIDES FOR AN AUTOMATIC NOTIFICATION IF
24 AND WHEN A SUBSEQUENT FINGERPRINT IS SUBMITTED INTO THE SYSTEM THAT
25 MATCHES A SET OF FINGERPRINTS PREVIOUSLY SUBMITTED UNDER THIS
26 SECTION OR IF AND WHEN THE CRIMINAL HISTORY OF AN INDIVIDUAL WHOSE
27 FINGERPRINTS ARE RETAINED IN THE SYSTEM IS UPDATED. UPON RECEIVING

1 A NOTIFICATION, THE DEPARTMENT OF STATE POLICE SHALL IMMEDIATELY
2 NOTIFY THE BOARD. INFORMATION IN THE DATABASE MAINTAINED UNDER THIS
3 SUBSECTION IS CONFIDENTIAL, IS NOT SUBJECT TO DISCLOSURE UNDER THE
4 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, AND
5 SHALL NOT BE DISCLOSED TO ANY PERSON EXCEPT FOR PURPOSES OF THIS
6 ACT OR FOR LAW ENFORCEMENT PURPOSES.

7 (B) THE DEPARTMENT OF STATE POLICE SHALL FORWARD ALL
8 FINGERPRINTS SUBMITTED TO IT UNDER THIS SECTION TO THE FEDERAL
9 BUREAU OF INVESTIGATION FOR SUBMISSION OF THOSE FINGERPRINTS INTO
10 THE FBI AUTOMATIC NOTIFICATION SYSTEM. THIS SUBDIVISION DOES NOT
11 APPLY UNTIL THE DEPARTMENT OF STATE POLICE IS A PARTICIPANT IN THE
12 FBI AUTOMATIC NOTIFICATION SYSTEM. AS USED IN THIS SUBDIVISION:

13 (i) "AUTOMATIC NOTIFICATION SYSTEM" MEANS A SYSTEM THAT STORES
14 AND RETAINS FINGERPRINTS, AND THAT PROVIDES FOR AN AUTOMATIC
15 NOTIFICATION TO A PARTICIPANT IF AND WHEN A FINGERPRINT IS
16 SUBMITTED INTO THE SYSTEM THAT MATCHES AN INDIVIDUAL WHOSE
17 FINGERPRINTS ARE RETAINED IN THE SYSTEM OR IF AND WHEN THE CRIMINAL
18 HISTORY OF AN INDIVIDUAL WHOSE FINGERPRINTS ARE RETAINED IN THE
19 SYSTEM IS UPDATED.

20 (ii) "FBI AUTOMATIC NOTIFICATION SYSTEM" MEANS THE AUTOMATIC
21 NOTIFICATION SYSTEM THAT IS MAINTAINED BY THE FEDERAL BUREAU OF
22 INVESTIGATION.

23 (8) ~~(5)~~—The board shall review all applications for licenses
24 and shall inform each applicant of the board's decision.

25 (9) ~~(6)~~—A license shall be issued for a 1-year period and is
26 renewable annually. Except as otherwise provided in this act, the
27 board shall renew a license if all of the following requirements

1 are met:

2 (a) The licensee applies to the board on a renewal form
3 provided by the board that requires information prescribed in
4 rules.

5 (b) The application is received by the board on or before the
6 expiration date of the current license.

7 (c) The licensee pays the regulatory assessment under section
8 603.

9 (d) The licensee meets the requirements of this act and any
10 other renewal requirements set forth in rules.

11 (10) ~~(7)~~—The department shall notify the licensee by mail or
12 electronic mail at the last known address on file with the board
13 advising of the time, procedure, and regulatory assessment under
14 section 603. The failure of the licensee to receive notice under
15 this subsection does not relieve the licensee of the responsibility
16 for renewing the license.

17 (11) ~~(8)~~—If a license renewal application is not submitted by
18 the license expiration date, the license may be renewed within 60
19 days after its expiration date upon application, payment of the
20 regulatory assessment under section 603, and satisfaction of any
21 renewal requirement and late fee set forth in rules. The licensee
22 may continue to operate during the 60 days after the license
23 expiration date if the license is renewed by the end of the 60-day
24 period.

25 (12) ~~(9)~~—License expiration does not terminate the board's
26 authority to impose sanctions on a licensee whose license has
27 expired.

1 (13) ~~(10)~~—In its decision on an application for renewal, the
2 board shall consider any specific written input it receives from an
3 individual or entity within the local unit of government in which
4 the applicant for renewal is located.

5 (14) ~~(11)~~—A licensee must consent in writing to inspections,
6 examinations, searches, and seizures that are permitted under this
7 act and must provide a handwriting exemplar, fingerprints,
8 photographs, and information as authorized in this act or by rules.

9 (15) ~~(12)~~—An applicant or licensee has a continuing duty to
10 provide information requested by the board and to cooperate in any
11 investigation, inquiry, or hearing conducted by the board.