

# HOUSE BILL No. 4837

July 12, 2017, Introduced by Reps. VanderWall, Victory, Hughes, Kahle, Lucido and Howell  
and referred to the Committee on Law and Justice.

A bill to amend 2016 PA 281, entitled  
"Medical marihuana facilities licensing act,"  
by amending sections 205 and 402 (MCL 333.27205 and 333.27402).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 205. (1) A marihuana facility shall not operate in a  
2       municipality unless the municipality has adopted an ordinance that  
3       authorizes that type of facility. A municipality may adopt an  
4       ordinance to authorize 1 or more types of marihuana facilities  
5       within its boundaries, ~~and~~ to limit the number of each type of  
6       marihuana facility, **OR TO REQUIRE THAT THE DISTANCE BETWEEN A**  
7       **PROPOSED MARIHUANA FACILITY AND AN AUTHORIZED STRUCTURE AS THAT**  
8       **TERM IS DEFINED IN SECTION 402 BE GREATER THAN THE DISTANCE**  
9       **REQUIRED UNDER SECTION 402.** A municipality may adopt other  
10      ordinances relating to marihuana facilities within its

jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities. A municipality shall provide the following information to the board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:

(a) A copy of the local ordinance that authorizes the marihuana facility.

(b) A copy of any zoning regulations that apply to the proposed marihuana facility within the municipality.

(c) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan medical marihuana act.

(2) The board may consider the information provided under subsection (1) in the application process. However, the **BOARD SHALL NOT USE THE** municipality's failure to provide information to the board ~~shall not be used~~ against the applicant.

(3) A municipal ordinance may establish an annual, nonrefundable fee of not more than \$5,000.00 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.

(4) Information a municipality obtains from an applicant related to licensure under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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  
10 incarceration for a felony under the laws of this state, any other  
11 state, or the United States within the past 10 years or has been  
12 convicted of a controlled substance-related felony within the past  
13 10 years.

14       (b) Within the past 5 years the applicant has been convicted  
15 of a misdemeanor involving a controlled substance, theft,  
16 dishonesty, or fraud in any state or been found responsible for  
17 violating a local ordinance in any state involving a controlled  
18 substance, dishonesty, theft, or fraud that substantially  
19 corresponds to a misdemeanor in that state.

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

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

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

26       (f) The applicant holds an elective office of a governmental  
27 unit of this state, another state, or the federal government; is a

1 member of or employed by a regulatory body of a governmental unit  
2 in this state, another state, or the federal government; or is  
3 employed by a governmental unit of this state. This subdivision  
4 does not apply to an elected officer of or employee of a federally  
5 recognized Indian tribe or to an elected precinct delegate.

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

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

12 **(I) THE BOARD DETERMINES THAT AT THE TIME OF APPLICATION THE**  
13 **APPLICANT'S PROPOSED MARIHUANA FACILITY IS LOCATED WITHIN 500 FEET**  
14 **OF AN AUTHORIZED STRUCTURE OR, IF A MUNICIPALITY HAS ADOPTED AN**  
15 **ORDINANCE UNDER SECTION 205(1) THAT REQUIRES A GREATER DISTANCE**  
16 **BETWEEN A PROPOSED MARIHUANA FACILITY AND AN AUTHORIZED STRUCTURE,**  
17 **THE APPLICANT'S PROPOSED FACILITY WOULD VIOLATE THE ORDINANCE. THE**  
18 **BOARD SHALL MEASURE THE DISTANCE BETWEEN THE PROPOSED MARIHUANA**  
19 **FACILITY AND THE AUTHORIZED STRUCTURE BY MEASURING ALONG THE**  
20 **CENTERLINE OF THE STREET OR STREETS OF ADDRESS BETWEEN 2 FIXED**  
21 **POINTS ON THE CENTERLINE DETERMINED BY PROJECTING STRAIGHT LINES,**  
22 **AT RIGHT ANGLES TO THE CENTERLINE, FROM THE PART OF THE AUTHORIZED**  
23 **STRUCTURE NEAREST TO THE PROPOSED MARIHUANA FACILITY AND FROM THE**  
24 **PART OF THE PROPOSED MARIHUANA FACILITY NEAREST TO THE AUTHORIZED**  
25 **STRUCTURE. AS USED IN THIS SUBDIVISION:**

26 (i) "AUTHORIZED STRUCTURE" MEANS A CHURCH, SCHOOL, CHILD CARE  
27 CENTER, OR BUILDING THAT IS FREQUENTED BY MINORS AND THAT IS OWNED

1 OR OPERATED BY THE BOY SCOUTS OF AMERICA, THE GIRL SCOUTS OF  
2 AMERICA, THE YOUNG MEN'S CHRISTIAN ASSOCIATION, CAMP FIRE, THE BOYS  
3 AND GIRLS CLUBS OF AMERICA, OR ANOTHER YOUTH ORGANIZATION.

4 (ii) "CHILD CARE CENTER" MEANS THAT TERM AS DEFINED IN SECTION  
5 1 OF 1973 PA 116, MCL 722.111.

6 (J) ~~(i)~~—The applicant fails to meet other criteria established  
7 by rule.

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

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

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

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

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

20 (c) The sources and total amount of the applicant's  
21 capitalization to operate and maintain the proposed marihuana  
22 facility.

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

1 whether the offense has been expunged, pardoned, or reversed on  
2 appeal or otherwise.

3 (e) Whether the applicant has filed, or had filed against it,  
4 a proceeding for bankruptcy within the past 7 years.

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

9 (g) Whether the applicant has a history of noncompliance with  
10 any regulatory requirements in this state or any other  
11 jurisdiction.

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

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

16 (4) Each applicant shall submit with its application, on forms  
17 provided by the board, a passport quality photograph and 1 set of  
18 fingerprints for each person having any ownership interest in the  
19 marihuana facility and each person who is an officer, director, or  
20 managerial employee of the applicant. The department may designate  
21 an entity or agent to collect the fingerprints, and the applicant  
22 is responsible for the cost associated with the fingerprint  
23 collection.

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

26 (6) A license shall be issued for a 1-year period and is  
27 renewable annually. Except as otherwise provided in this act, the

1 board shall renew a license if all of the following requirements  
2 are met:

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

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

8 (c) The licensee pays the regulatory assessment under section  
9 603.

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

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

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

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

1 expired.

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

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

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

13 Enacting section 1. This amendatory act takes effect 90 days  
14 after the date it is enacted into law.