

SUBSTITUTE FOR
HOUSE BILL NO. 5491

A bill to amend 2018 IL 1, entitled
"Michigan Regulation and Taxation of Marihuana Act,"
by amending sections 3 and 8 (MCL 333.27953 and 333.27958), section
8 as amended by 2020 PA 31, and by adding section 9a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Cultivate" means to propagate, breed, grow, harvest, dry,
3 cure, or separate parts of the marihuana plant by manual or
4 mechanical means.

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

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



delta-9 tetrahydrocannabinol concentration ~~that does not exceed of~~
 0.3% **or less** on a dry-weight basis ~~—~~ or per volume or weight of
 marihuana-infused product, or **for which** the combined percent of
 delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any
 part of the plant, ~~of the genus cannabis~~ regardless of moisture
 content, **is 0.3% or less.**

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

(e) "Marihuana" means all parts of the plant of the genus
~~cannabis,~~ **Cannabis**, growing or not; the seeds of the plant; the
 resin extracted from any part of the plant; and every compound,
 manufacture, salt, derivative, mixture, or preparation of the plant
 or its seeds or resin, including marihuana concentrate and
 marihuana-infused products. ~~For purposes of this act, marihuana~~
Marihuana does not include **any of the following:**

(i) ~~(1) the~~ **The** mature stalks of the plant, fiber produced from
 the **mature** stalks, oil or cake made from the seeds of the plant, **or**
 any other compound, manufacture, salt, derivative, mixture, or
 preparation of the mature stalks. ~~—, except the resin extracted from~~
~~those stalks, fiber, oil, or cake, or any sterilized seed of the~~
~~plant that is incapable of germination;~~

(ii) ~~(2) industrial~~ **Industrial** hemp. ~~— or~~

(iii) ~~(3) any~~ **Any** other ingredient combined with marihuana to
 prepare topical or oral administrations, food, drink, or other
 products.

(f) "Marihuana accessories" means any equipment, product,
 material, or combination of equipment, products, or materials,
~~which—that~~ is specifically designed for use in planting,
 propagating, cultivating, growing, harvesting, manufacturing,
 compounding, converting, producing, processing, preparing, testing,



1 analyzing, packaging, repackaging, storing, containing, ingesting,
2 inhaling, or otherwise introducing marihuana into the human body.

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

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

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

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

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

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

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



(n) "Marihuana secure transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

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

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

(q) ~~(p)~~ "Municipal license" means a license issued by a municipality pursuant to section 16 ~~of this act~~ that allows a person to operate a marihuana establishment in that municipality.

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

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

(t) ~~(s)~~ "Process" or ~~"Processing"~~ **"processing"** means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

(u) ~~(t)~~ "State license" means a license issued by the ~~department~~ **marijuana regulatory agency** that allows a person to operate a marihuana establishment.

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



1 Sec. 8. (1) The marijuana regulatory agency shall promulgate
2 rules to implement and administer this act that include all of the
3 following:

4 (a) Procedures for issuing a state license pursuant to section
5 9 and for renewing, suspending, and revoking a state license.

6 (b) A schedule of fees in amounts not more than necessary to
7 pay for implementation, administration, and enforcement costs of
8 this act and that relate to the size of each licensee or the volume
9 of business conducted by the licensee.

10 (c) Qualifications for licensure that are directly and
11 demonstrably related to the operation of a marihuana establishment.
12 However, a prior conviction solely for a marihuana-related offense
13 does not disqualify an individual or otherwise affect eligibility
14 for licensure, unless the offense involved distribution of a
15 controlled substance to a minor.

16 (d) Requirements and standards for safe cultivation,
17 processing, and distribution of marihuana by marihuana
18 establishments, including health standards to ensure the safe
19 preparation of marihuana-infused products and prohibitions on
20 pesticides that are not safe for use on marihuana.

21 (e) Testing, packaging, and labeling standards, procedures,
22 and requirements for marihuana, including, but not limited to, all
23 of the following:

24 (i) A maximum tetrahydrocannabinol level for marihuana-infused
25 products.

26 (ii) A requirement that a representative sample of marihuana be
27 tested by a marihuana safety compliance facility.

28 (iii) A requirement that the amount of marihuana or marihuana
29 concentrate contained within a marihuana-infused product be



1 specified on the product label.

2 (iv) A requirement that all marihuana sold through marihuana
3 retailers and marihuana microbusinesses include on the exterior of
4 the marihuana packaging the following warning printed in clearly
5 legible type and surrounded by a continuous heavy line:

6 **WARNING: USE BY PREGNANT OR BREASTFEEDING WOMEN, OR BY**
7 **WOMEN PLANNING TO BECOME PREGNANT, MAY RESULT IN FETAL**
8 **INJURY, PRETERM BIRTH, LOW BIRTH WEIGHT, OR DEVELOPMENTAL**
9 **PROBLEMS FOR THE CHILD.**

10 (f) Security requirements, including lighting, physical
11 security, and alarm requirements, and requirements for securely
12 transporting marihuana between marihuana establishments. The
13 requirements described in this subdivision must not prohibit
14 cultivation of marihuana outdoors or in greenhouses.

15 (g) Record keeping requirements for marihuana establishments
16 and monitoring requirements to track the transfer of marihuana by
17 licensees.

18 (h) Requirements for the operation of marihuana secure
19 transporters to ensure that all marihuana establishments are
20 properly serviced.

21 (i) Reasonable restrictions on advertising, marketing, and
22 display of marihuana and marihuana establishments.

23 (j) A plan to promote and encourage participation in the
24 marihuana industry by people from communities that have been
25 disproportionately impacted by marihuana prohibition and
26 enforcement and to positively impact those communities.

27 (k) Penalties for failure to comply with any rule promulgated
28 pursuant to this section or for any violation of this act by a
29 licensee, including civil fines and suspension, revocation, or



1 restriction of a state license.

2 (l) Informational pamphlet standards for marihuana retailers
3 and marihuana microbusinesses, including, but not limited to, a
4 requirement to make available to every customer at the time of sale
5 a pamphlet measuring 3.5 inches by 5 inches that includes safety
6 information related to marihuana use by minors and the poison
7 control hotline number.

8 (m) **Procedures and standards for approving an appointee to**
9 **operate a marihuana establishment under section 9a.**

10 (2) The marijuana regulatory agency may promulgate rules to do
11 any of the following:

12 (a) Provide for the issuance of additional types or classes of
13 state licenses to operate marihuana-related businesses, including
14 licenses that authorize any of the following:

15 (i) Limited cultivation, processing, transportation, delivery,
16 storage, sale, or purchase of marihuana.

17 (ii) Consumption of marihuana within designated areas.

18 (iii) Consumption of marihuana at special events in limited
19 areas and for a limited time.

20 (iv) Cultivation for purposes of propagation.

21 (v) Facilitation of scientific research or education.

22 (b) Regulate the cultivation, processing, distribution, and
23 sale of industrial hemp.

24 (3) The marijuana regulatory agency shall not promulgate a
25 rule that does any of the following:

26 (a) Establishes a limit on the number of any type of state
27 licenses that may be granted.

28 (b) Requires a customer to provide a marihuana retailer with
29 identifying information other than identification to determine the



customer's age or requires the marihuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction.

(c) Prohibits a marihuana establishment from operating at a shared location of a marihuana facility operating pursuant to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, or prohibits a marihuana grower, marihuana processor, or marihuana retailer from operating within a single facility.

(d) Is unreasonably impracticable.

(4) A rule promulgated under this act must be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

~~(5) As used in this section, "marijuana regulatory agency" means the marijuana regulatory agency created under Executive Reorganization Order No. 2019-2, MCL 333.27001.~~

Sec. 9a. (1) The marijuana regulatory agency may approve the operation of a marihuana establishment by any of the following:

(a) A court-appointed personal representative, guardian, or conservator of an individual who holds a state license or has an interest in a person that holds a state license.

(b) A court-appointed receiver or trustee.

(2) If an individual approved to operate a marihuana establishment under subsection (1) receives notice from the marijuana regulatory agency that the marihuana establishment the individual is operating is in violation of this act or the rules promulgated under this act, the individual shall notify the court that appointed the individual of the notice of violation within 2 days after receiving the notice of violation.

