

SENATE BILL NO. 1057

August 15, 2020, Introduced by Senator VANDERWALL and referred to the Committee on Regulatory Reform.

A bill to amend 2016 PA 281, entitled
"Medical marihuana facilities licensing act,"
by amending section 408 (MCL 333.27408).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 408. (1) Before the ~~board~~**marijuana regulatory agency**
2 grants or renews any license under this act, the licensee or
3 applicant shall file with the ~~department~~**marijuana regulatory**
4 **agency** proof of financial responsibility for liability for bodily
5 injury to lawful users resulting from the manufacture,
6 distribution, transportation, or sale of adulterated marihuana or

1 adulterated marihuana-infused product in an amount not less than
2 \$100,000.00. The licensee or applicant must include with its filing
3 an attestation of compliance on a form approved by the marijuana
4 regulatory agency. The proof of financial responsibility may be in
5 any of the ~~form of cash, unencumbered securities, a liability~~
6 ~~insurance policy, or a constant value bond executed by a surety~~
7 ~~company authorized to do business in this state.~~following forms:

8 (a) Cash, if the licensee or applicant submits the cash to the
9 marijuana regulatory agency.

10 (b) Unencumbered securities, if all of the following
11 conditions are met:

12 (i) The licensee or applicant pledges unencumbered securities
13 valued at \$100,000.00 or more to this state. The value of
14 unencumbered securities must be determined by the current market
15 price as reported at the time of filing.

16 (ii) The licensee or applicant submits a pledge agreement to
17 the marijuana regulatory agency that lists the unencumbered
18 securities to be used to demonstrate proof of financial
19 responsibility. The pledge agreement must contain original
20 signatures of the licensee or applicant and an officer of the
21 brokerage firm or financial institution where the actual stock
22 certificates are held.

23 (iii) The licensee or applicant agrees to immediately pledge
24 additional unencumbered securities to this state if the market
25 value of the unencumbered securities already pledged to this state
26 as proof of financial responsibility is, at any time, less than
27 \$100,000.00.

28 (c) A liability insurance policy, if all of the following
29 conditions are met:

1 (i) The policy is issued by a carrier licensed or authorized in
2 this state to transact insurance business of the type and nature
3 required to comply with this section.

4 (ii) An officer of the insurance company issuing the policy
5 signs the attestation of compliance that the licensee or applicant
6 is required to file under this subsection.

7 (d) A constant value bond executed by a surety company
8 licensed or authorized to do business in this state, if the bond or
9 a separate agreement provides that the bond will be used solely to
10 maintain compliance with this section.

11 (2) A licensee or applicant may furnish proof of financial
12 responsibility that exceeds the requirements of this section.

13 (3) A licensee's or applicant's proof of financial
14 responsibility must not include a condition, provision,
15 stipulation, or limitation contained in the policy, or any other
16 endorsement, that relieves the insurer from liability for the
17 payment of any claim for which the insured may be held liable under
18 this act.

19 (4) The proof of financial responsibility required under this
20 section must cover bodily injuries to a qualifying patient
21 including injuries that are caused by the intentional conduct of
22 the licensee or its employee or agent. However, the proof of
23 financial responsibility is not required to cover bodily injuries
24 to qualifying patients caused by the licensee or its employee or
25 agent if the licensee or its employee or agent acted with the
26 intent to harm.

27 (5) If at any time a licensee fails to maintain proof of
28 financial responsibility as required under this section, the
29 marijuana regulatory agency shall immediately suspend the

1 licensee's license until the licensee provides to the marijuana
2 regulatory agency proof of financial responsibility as required
3 under this section.

4 (6) As used in this section:

5 (a) "Adulterated marihuana" means a product sold as marihuana
6 that contains any unintended substance or chemical or biological
7 matter other than marihuana that causes adverse reaction after
8 ingestion or consumption.

9 (b) "Bodily injury" does not include expected or intended
10 effect or long-term adverse effect of smoking, ingestion, or
11 consumption of marihuana or marihuana-infused product.

12 (c) "Securities" means any of the following:

13 (i) Stocks or bonds registered by the United States Securities
14 and Exchange Commission or the department of insurance and
15 financial services that are offered for public sale in this state
16 and the values of which are regularly reported in a nationally
17 recognized financial publication.

18 (ii) Obligations of the United States, including bonds, notes,
19 and bills.

20 (iii) Obligations that are guaranteed fully as to principal and
21 interest by the United States, except those requiring partial
22 payment of principal.

23 (iv) General obligations of this state.

24 (v) Unlimited tax general obligation bonds of a political
25 subdivision of this state that are payable directly from the
26 levying of general ad valorem taxes without limitations as to rate
27 or amount.

28 (vi) An irrevocable trust that contains a guaranteed minimum
29 principal of \$100,000.00, has as trustee a financial institution

1 registered in this state, and provides for this state as first
 2 beneficiary and claimant of a distribution of up to \$100,000.00
 3 from the trust to satisfy judgments arising from liability
 4 described in this section.

5 (vii) An irrevocable letter of credit or a certificate of
 6 deposit issued by a bank, savings bank, savings and loan
 7 association, or credit union that is licensed to do business in
 8 this state and that is pledged to this state as first claimant for
 9 distribution of up to \$100,000.00 to satisfy judgments arising from
 10 liability under this act.

11 (d) "Unencumbered securities" means securities that are free
 12 and clear of all liens and obligations, including their use as
 13 collateral, and are, at the time they are filed with the marijuana
 14 regulatory agency, without claims or liabilities to third parties.

15 (7) ~~(2)~~—An insured licensee shall not cancel liability
 16 insurance required under this section unless the licensee complies
 17 with both of the following:

18 (a) Gives 30 days' prior written notice to the
 19 ~~department~~ **marijuana regulatory agency**.

20 (b) Procures new proof of financial responsibility required
 21 under this section and delivers that proof to the ~~department~~
 22 **marijuana regulatory agency** within 30 days after giving the
 23 ~~department~~ **marijuana regulatory agency** the notice under subdivision
 24 (a).

25 Enacting section 1. This amendatory act does not take effect
 26 unless Senate Bill No. 1058 of the 100th Legislature is enacted
 27 into law.