

Act No. 208
Public Acts of 2020
Approved by the Governor
October 15, 2020
Filed with the Secretary of State
October 15, 2020
EFFECTIVE DATE: October 15, 2020

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Rep. Iden

ENROLLED HOUSE BILL No. 5491

AN ACT to amend 2018 IL 1, entitled “An initiation of legislation to allow under state law the personal possession and use of marihuana by persons 21 years of age or older; to provide for the lawful cultivation and sale of marihuana and industrial hemp by persons 21 years of age or older; to permit the taxation of revenue derived from commercial marihuana facilities; to permit the promulgation of administrative rules; and to prescribe certain penalties for violations of this act. If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution of 1963, the proposed legislation is to be voted on at the General Election, November 6, 2018,” 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:

Sec. 3. As used in this act:

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

(b) “Department” means the department of licensing and regulatory affairs.

(c) “Industrial hemp” means a plant of the genus *Cannabis* and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration 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, 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*, 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. Marihuana does not include any of the following:

(i) 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.

(ii) Industrial hemp.

(iii) 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, that is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

(g) “Marihuana concentrate” means the resin extracted from any part of the plant of the genus *Cannabis*.

(h) “Marihuana establishment” means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the marijuana regulatory agency.

(i) “Marihuana grower” means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

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

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

(l) “Marihuana processor” means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

(m) “Marihuana retailer” means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals 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) “Municipal license” means a license issued by a municipality pursuant to section 16 that allows a person to operate a marihuana establishment in that municipality.

(r) “Municipality” means a city, village, or township.

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

(t) “Process” or “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) “State license” means a license issued by the marijuana regulatory agency that allows a person to operate a marihuana establishment.

(v) “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.

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

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

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

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

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

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

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

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

(iii) A requirement that the amount of marijuana or marijuana concentrate contained within a marijuana-infused product be specified on the product label.

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

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

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

(g) Record keeping requirements for marijuana establishments and monitoring requirements to track the transfer of marijuana by licensees.

(h) Requirements for the operation of marijuana secure transporters to ensure that all marijuana establishments are properly serviced.

(i) Reasonable restrictions on advertising, marketing, and display of marijuana and marijuana establishments.

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

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

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

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

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

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

(i) Limited cultivation, processing, transportation, delivery, storage, sale, or purchase of marijuana.

(ii) Consumption of marijuana within designated areas.

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

(iv) Cultivation for purposes of propagation.

(v) Facilitation of scientific research or education.

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

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

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

(b) Requires a customer to provide a marijuana retailer with identifying information other than identification to determine the customer's age or requires the marijuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction.

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

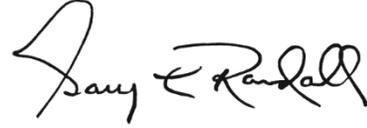
Sec. 9a. (1) The marijuana regulatory agency may approve the operation of a marijuana establishment by any of the following:

(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.

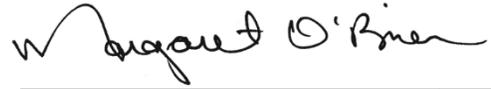
(b) A court-appointed receiver or trustee.

(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.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor