

SENATE BILL NO. 461

May 20, 2021, Introduced by Senators VANDERWALL and WOJNO 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 **for each license**. The proof of financial responsibility
3 ~~may **must** be in the form of cash, unencumbered securities, a~~
4 ~~liability insurance policy , or a constant value bond executed by a~~
5 ~~surety company authorized to do business in this state.~~**that meets**
6 **all of the following requirements:**

7 (a) Is issued by an authorized insurer or captive insurance
8 company authorized under the insurance code of 1956, 1956 PA 218,
9 MCL 500.100 to 500.8302, to transact insurance business of the type
10 and nature required to comply with this section.

11 (b) Does not include a condition, provision, stipulation, or
12 limitation contained in the policy, or any other endorsement, that
13 relieves the insurer from liability for the payment of any claim
14 for which the insured may be held liable under this act.

15 (c) Covers bodily injuries to a qualifying patient including
16 injuries that are caused by the intentional conduct of the licensee
17 or its employee or agent. However, the proof of financial
18 responsibility is not required to cover bodily injuries to
19 qualifying patients caused by the licensee or its employee or agent
20 if the licensee or its employee or agent acted with the intent to
21 harm.

22 (2) A licensee or applicant must include with its filing under
23 subsection (1) an attestation of compliance with this section on a
24 form approved by the marijuana regulatory agency. An officer of the
25 authorized insurer or captive insurance company that issues the
26 policy described in subsection (1) must sign the attestation of
27 compliance that the licensee or applicant is required to file under
28 this subsection.

29 (3) A licensee or applicant may furnish proof of financial

1 responsibility that exceeds the requirements of this section.

2 (4) If at any time a licensee fails to maintain proof of
3 financial responsibility as required under this section, the
4 marijuana regulatory agency shall immediately suspend the
5 licensee's license until the licensee provides to the marijuana
6 regulatory agency proof of financial responsibility as required
7 under this section.

8 (5) As used in this section:

9 (a) "Adulterated marihuana" means a product sold as marihuana
10 that contains any unintended substance or chemical or biological
11 matter other than marihuana that causes adverse reaction after
12 ingestion or consumption.

13 (b) "Authorized" insurer means that term as defined in section
14 108 of the insurance code of 1956, 1956 PA 218, MCL 500.108.

15 (c) ~~(b)~~ "Bodily injury" does not include expected or intended
16 effect or long-term adverse effect of smoking, ingestion, or
17 consumption of marihuana or marihuana-infused product.

18 (d) "Captive insurance company" means that term as defined in
19 section 4601 of the insurance code of 1956, 1956 PA 218, MCL
20 500.4601.

21 (6) ~~(2)~~ An insured licensee shall not cancel liability
22 insurance required under this section unless the licensee ~~complies~~
23 ~~with~~ **does** both of the following:

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

26 (b) Procures new proof of financial responsibility required
27 under this section and delivers that proof to the ~~department~~
28 **marijuana regulatory agency** within 30 days after giving the
29 ~~department~~ **marijuana regulatory agency** the notice under subdivision

1 (a) .

2 Enacting section 1. This amendatory act does not take effect
3 unless Senate Bill No. 462 of the 101st Legislature is enacted into
4 law.