

# SENATE BILL NO. 619

September 01, 2021, Introduced by Senators IRWIN, MCCANN, CHANG and SANTANA and referred to the Committee on Regulatory Reform.

A bill to amend 2016 PA 281, entitled  
"Medical marihuana facilities licensing act,"  
by amending section 402 (MCL 333.27402), as amended by 2018 PA 582.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 402. (1) The ~~board~~ **marijuana regulatory agency** shall
- 2       issue a license to an applicant ~~who~~ **if all of the following**
- 3       **conditions are met:**
- 4       (a) **The applicant** submits a complete application. ~~and~~
- 5       (b) **The applicant** pays both **of the following:**

(i) The nonrefundable application fee required under section 401(5). ~~and the~~

(ii) The regulatory assessment established by the ~~board~~ **marijuana regulatory agency** for the first year of operation. ~~if the board~~

(c) The **marijuana regulatory agency** determines that the applicant is qualified to receive a license under this act.

(2) An applicant is ineligible to receive a license if any of the following circumstances exist:

(a) The applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years. **This subdivision does not apply to a marihuana-related felony.**

(b) Within the past 5 years the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state. **This subdivision does not apply to a marihuana-related misdemeanor or ordinance violation.**

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

(d) The applicant is ~~a member~~ **an employee** of the ~~board~~ **marijuana regulatory agency**.

(e) The applicant fails to demonstrate the applicant's ability to maintain adequate premises liability and casualty insurance for

1 its proposed marihuana facility.

2 (f) The applicant holds an elective office of a governmental  
3 unit of this state, another state, or the federal government; is a  
4 member of or employed by a regulatory body of a governmental unit  
5 in this state, another state, or the federal government; or is  
6 employed by a governmental unit of this state. This subdivision  
7 does not apply to an elected officer of or employee of a federally  
8 recognized Indian tribe or to an elected precinct delegate.

9 (g) The ~~board~~ **marijuana regulatory agency** determines that the  
10 applicant is not in compliance with section 205(1).

11 (h) The applicant fails to meet other criteria established by  
12 rule.

13 (3) In determining whether to grant a license to an applicant,  
14 the ~~board~~ **marijuana regulatory agency** may also consider all of the  
15 following:

16 (a) The ~~integrity, moral character, and reputation;~~ personal  
17 and business probity; financial ability and experience; and  
18 responsibility or means to operate or maintain a marihuana facility  
19 of the applicant and of any other person that meets either of the  
20 following:

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

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

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

26 (c) The sources and total amount of the applicant's  
27 capitalization to operate and maintain the proposed marihuana  
28 facility.

29 (d) Whether the applicant has been indicted for, charged with,

1 arrested for, or convicted of, pled guilty or nolo contendere to,  
2 forfeited bail concerning, or had expunged any relevant criminal  
3 offense under the laws of any jurisdiction, either felony or  
4 misdemeanor, not including traffic violations **or marihuana-related**  
5 **offenses**, regardless of whether the offense has been expunged,  
6 pardoned, or reversed on appeal or otherwise.

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

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

13 (g) Whether the applicant has a history of noncompliance with  
14 any regulatory requirements in this state or any other  
15 jurisdiction.

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

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

20 (4) Each applicant shall ensure that 1 set of fingerprints is  
21 submitted to the department of state police. The applicant shall  
22 submit with its application the applicant's written consent to the  
23 criminal history check described in this section and the submission  
24 of the applicant's fingerprints to, and the inclusion of the  
25 applicant's fingerprints in, the state and federal database systems  
26 described in subsection (7).

27 (5) The fingerprints required under subsection (4) may be  
28 taken by a law enforcement agency or any other person determined by  
29 the department of state police to be qualified to take

1 fingerprints. The applicant shall submit a fingerprint processing  
2 fee to the department in an amount required under section 3 of 1935  
3 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of  
4 Investigation.

5 (6) The department of state police shall do all of the  
6 following:

7 (a) Conduct a criminal history check on each applicant and  
8 request the Federal Bureau of Investigation to make a determination  
9 of the existence of any national criminal history pertaining to  
10 each applicant.

11 (b) Provide the ~~board~~ **marijuana regulatory agency** with a  
12 written report containing the criminal history record information  
13 of each applicant.

14 (7) All of the following apply concerning fingerprints  
15 submitted to the department of state police under this section:

16 (a) The department of state police shall store and retain all  
17 fingerprints submitted under this section in an automated  
18 fingerprint identification system database that searches against  
19 latent fingerprints, and provides for an automatic notification if  
20 and when a subsequent fingerprint is submitted into the system that  
21 matches a ~~set of fingerprints~~ **fingerprint** previously submitted  
22 under this section or ~~if and when~~ the criminal history of an  
23 individual whose fingerprints are retained in the system is  
24 updated. Upon receiving a notification, the department of state  
25 police shall immediately notify the ~~board~~ **marijuana regulatory**  
26 **agency**. Information in the database maintained under this  
27 subsection is confidential, is not subject to disclosure under the  
28 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and  
29 shall not be disclosed to any person except for purposes of this

1 act or for law enforcement purposes.

2 (b) The department of state police shall forward all  
3 fingerprints submitted to it under this section to the Federal  
4 Bureau of Investigation for submission of those fingerprints into  
5 the FBI automatic notification system. This subdivision does not  
6 apply until the department of state police is a participant in the  
7 FBI automatic notification system. As used in this subdivision:

8 (i) "Automatic notification system" means a system that stores  
9 and retains fingerprints, and that provides for an automatic  
10 notification to a participant if and when a fingerprint is  
11 submitted into the system that matches an individual whose  
12 fingerprints are retained in the system or if and when the criminal  
13 history of an individual whose fingerprints are retained in the  
14 system is updated.

15 (ii) "FBI automatic notification system" means the automatic  
16 notification system that is maintained by the Federal Bureau of  
17 Investigation.

18 (8) The ~~board~~ **marijuana regulatory agency** shall review all  
19 applications for licenses and shall inform each applicant of the  
20 ~~board's~~ **marijuana regulatory agency's** decision.

21 (9) A license shall be issued for a 1-year period and is  
22 renewable annually. Except as otherwise provided in this act, the  
23 ~~board~~ **marijuana regulatory agency** shall renew a license if all of  
24 the following requirements are met:

25 (a) The licensee applies to the ~~board~~ **marijuana regulatory**  
26 **agency** on a renewal form provided by the ~~board~~ **marijuana regulatory**  
27 **agency** that requires information prescribed in rules.

28 (b) The application is received by the ~~board~~ **marijuana**  
29 **regulatory agency** on or before the expiration date of the current

1 license.

2 (c) The licensee pays the regulatory assessment under section  
3 603.

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

6 (10) The department shall notify the licensee by mail or  
7 ~~electronic mail~~ **email** at the last known address on file with the  
8 ~~board~~ **marijuana regulatory agency** advising of the ~~time~~, procedure ~~r~~  
9 **for paying** and **the time and amount of the** regulatory assessment  
10 under section 603. The failure of the licensee to receive notice  
11 under this subsection does not relieve the licensee of the  
12 responsibility for renewing the license.

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

21 (12) License expiration does not terminate the ~~board's~~  
22 **marijuana regulatory agency's** authority to impose sanctions on a  
23 licensee whose license has expired.

24 (13) In its decision on an application for renewal, the ~~board~~  
25 **marijuana regulatory agency** shall consider any specific written  
26 input it receives from an individual or entity within the local  
27 unit of government in which the applicant for renewal is located.

28 (14) A licensee must consent in writing to inspections,  
29 examinations, searches, and seizures that are permitted under this

1 act and must provide a handwriting exemplar, fingerprints,  
2 photographs, and information as authorized in this act or by rules.

3 (15) An applicant or licensee has a continuing duty to provide  
4 information requested by the ~~board~~**marijuana regulatory agency** and  
5 to cooperate in any investigation, inquiry, or hearing conducted by  
6 the ~~board~~**marijuana regulatory agency**.