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MEDICAL MARIJUANA FACILITIES LICENSING ACT

SUMMARY



SUMMARY OF MEDICAL MARIJUANA FACILITIES LICENSING ACT

Introduction

You are reading this material because Michigan recently passed laws creating a regulated system for medical marijuana cultivation and distribution (HB4209 & 4827). These laws create a highly regulated system where the state tracks marijuana from the moment it is planted through the cultivation process, transportation and sale to authorized qualified patients.

Licenses under the new law will be offered late next year. The Medical Marijuana Facilities Licensing Act (HB4209) **requires** municipalities to have passed an ordinance enabling such businesses to operate in the community before the state will license such a business there.

The medical marijuana facilities under the new law will be licensed by the State of Michigan; all marijuana is tracked; all licensees are required to maintain security systems and inventory control measures allowing the state real time access; all marijuana is tested for safety; all retail locations will be connected to a real time state inventory tracking system that prohibits the purchasing of marijuana in excess of state limits; all marijuana license owners will undergo rigorous background checks; and all marijuana will be transported by a Secure Transporter licensee under the strictest of state rules for security, traceability and accountability.

Companies hoping to obtain one of the regulated licenses are presently looking for property in which to locate their business, including property in your community. Municipalities play a substantial role in the location of businesses hoping to operate under the new licensing system.

The good news is that municipalities will not be forced to accept a marijuana business in their community if they do not want one. Municipalities may also decide that some of the marijuana licenses are acceptable, such as a grower and processor, but not a dispensary.

The State of Michigan is creating an entirely new administrative agency under LARA, whose job it is to create administrative rules to ensure public safety as the new marijuana licenses are implemented.



There are over 180,000 medical marijuana patients in Michigan. Marijuana is a real medicine and Michigan is about to have a real medical marijuana program. Attached are documents to assist in the process of learning about the medicinal properties of marijuana, if that subject is of interest to you, including how municipalities can benefit from the tax revenue generated by the new laws.

The Medical Marijuana Facilities Licenses Act (MMFLA) creates a formalized system for the licensing, regulation and tracking of medical marijuana in Michigan. The MMFLA, which was approved on September 21, 2016 and effective December 20, 2016, creates five (5) licensed medical marijuana businesses. Commencing in December, 2017, the State will accept applications for these licenses.

All Marijuana to be Tracked

Under the MMFLA, every single plant and every single gram of medical marijuana will be tracked from “seed to sale.”

The MMFLA requires an internet, data based Statewide Monitoring System to track the movement of all marijuana on a 24 hour / 365-day basis to ensure that only registered patients purchase medical marijuana and not in amounts in excess of limits established under the Michigan Medical Marijuana Act.

New Licensing Board

The MMFLA creates a Medical Marijuana Licensing Board within the Michigan Department of Licensing and Regulatory Affairs to implement and administer the MMFLA for the purpose of licensing and regulating the growth, processing, testing and transporting marijuana. The Board will consist of 5 members appointed by the Governor, not more than 3 of whom can be members of the same political party, and who serve for a term of 4 years.

The Board is responsible for licensing, regulating and enforcing the regulatory system established for the growth, processing, testing and transportation of medical marijuana under the MMFLA. While the Board will have significant authority over the administration of the rules created to implement the MMFLA, the MMFLA specifically denies the Board the authority to establish any limit on the number or type of licenses that may be granted. This authority, however, is left to municipalities.



Types of Licenses

Five types of businesses will be licensed under the MMFLA:

1. Grower
 - Class A: 1 to 500 Plants
 - Class B: 500 to 1000 Plants
 - Class C: 1,000 to 1,500 Plants
2. Processor (Extraction/Manufacturing)
3. Provisioning Center (Dispensary)
4. Secure Transportation
5. Safety Compliance Facility (Independent Testing Laboratory).

Municipalities may limit the number and/or type of Marijuana Facilities located within their boundaries.

Expected Regulations

The State will soon commence the process of creating administrative rules to establish the following:

- Standards for facilities and equipment;
- Minimum levels of insurance for licensees;
- Operating regulations for each classification of license that ensures the health, safety and security of the product and facility operations;
- Testing standards;
- Minimum qualification and restrictions for persons involved in the operation of marijuana facilities;
- Standards for the cultivation, manufacturing, secure transportation, storage and sale of marijuana;
- Packaging and labeling standards;
- Daily purchasing limits;
- Marketing and advertising restrictions;
- Maximum THC standards for infused products;
- Waste management, quality control, and chain of custody standards; and
- The statewide tracking of all marijuana transfers.

Note: The forthcoming regulations **will not** provide municipalities additional guidance on



enabling and zoning ordinances.

MUNICIPALITIES HAVE AN INTEGRAL ROLE IN IMPLEMENTING THE MMFLA

Under the Medical Marijuana Facilities Licenses Act (MMFLA) **NO** marijuana facility will be licensed by the State of Michigan unless and until the “municipality has adopted an ordinance that authorized that type of facility.” *Section 205(1)*.

Medical Marijuana Licenses Will Not Issue for Locations Where the Municipality Failed to Pass an Ordinance Specifically Permitting the Intended Use

Municipalities May Approve One or All Types of Marijuana Facilities

The MMFLA creates five types of licensed and regulated medical marijuana facilities:

- Grower
- Processor (Extraction/Manufacturing)
- Provisioning Center (Dispensary)
- Secure Transporter
- Safety Compliance Facility (Laboratory Testing)

Municipalities may “authorize 1 or more types of marijuana facilities within its boundaries” and may also “limit the number of each type of facility.” As such, a municipality may authorize growers and processors, but not dispensaries.

Zoning Ordinances

Municipalities may also adopt zoning regulations but may not regulate the purity or pricing of medical marijuana. *Section 205(1)(b)*.

The MMFLA specifically states that a grower license application will not be approved by the state unless it is located in an area zoned for:

- Industrial Use;
- Agricultural Use; or
- In an unzoned area.



The MMFLA is silent as to the zoning for Processors, Provisioning Centers, Secure Transporters and Safety Compliance Facilities.

The State's Forthcoming Rules Administering the MMFLA Are Not Expected to Provide Municipalities Any Guidance on Drafting Enabling and Zoning Ordinances

Upon the State's Receipt of a License Application

Section 205(1) of the MMFLA provides that when the State receives any application for the licensure of a medical marijuana facility it requests the following from the local municipality:

1. Copy of the local ordinance that authorizes the marijuana facility;
2. Copy of any zoning regulations applicable to the proposed marijuana facility; and
3. A description of any violation of the authorizing or zoning ordinance by the applicant.

Medical Marijuana License Applicants Must Notify Municipalities

Applicant's for a license to operate a marijuana facility pursuant to the MMFLA must, within 10 days of submitting an application to the State, notify the local municipality of such application by registered mail.

Municipalities May Impose Annual Fee Up to \$5,000

The MMFLA provides that municipalities may impose an annual fee not to exceed \$5,000 per licensee to defray associated administrative and enforcement costs.

Opportunity for Revenue – Excise Tax Fund

The MMFLA creates a Medical Marijuana Excise Fund into which 60% of the funds are distributed locally. (See Section 6 of the MMFLA.) The funds in the Medical Marijuana Excise Fund are generated through a 3% tax on the gross retail receipts of all Provisioning Centers (Dispensaries) and is dispersed, at the close of each fiscal year, in the following manner:

- **Municipalities Get 25% of Fund:** Municipalities in which Medical Marijuana Facilities are located are allocated a 25% share of the Medical Marijuana Excise Fund in proportion to the number of facilities within the municipality; and
- **Counties Get 30% of Fund:** The Counties in which Medical Marijuana Facilities are located are allocated 30% of the Medical Marijuana Excise Fund in proportion to the number of facilities within the municipality, **plus** another 5% is directly allocated to the County Sherriff.



MICHIGAN **MEDICAL MARIJUANA ACT**

Only Qualifying Patients with debilitating medical conditions or Qualifying Patients with the symptoms associated with debilitating medical conditions qualify for a written certification permitting the medical use of marijuana pursuant to Michigan's Medical Marijuana Act.

A Qualifying Patient may elect to grow their own plants (up to 12) or elect to have a Primary Caregiver assist them in growing medical marijuana.

The Following Qualify As A Debilitating Medical Condition Under the Michigan Medical Marijuana Act:

- Cancer
- Glaucoma
- HIV/AIDS
- Hepatitis C
- Lou Gehrig's disease (Amyotrophic lateral sclerosis, or ALS)
- Crohn's Disease
- Alzheimer's
- Nail-Patella Syndrome
- Cachexia (wasting disease)
- Severe and Chronic Pain
- Severe Nausea
- Seizures
- Epilepsy
- Severe and Persistent Muscle Spasms
- Multiple sclerosis