

The Michigan Senate approved a surrogate to **HB 4209 of 2015** by a vote of 25-12 which creates the Medical Marihuana Facilities Licensing Act. The bill is similar to the version that was overwhelmingly passed by House lawmakers in October, but does contain a number of changes. HB 4209 returns for a concurrence vote to the House and then to Governor Snyder.

MEDICAL MARIHUANA FACILITIES ACT AND MARIHUANA TRACKING ACT

- House Bill 4209 (passed by the House as H-5) Sponsor: Rep. Mike Callton, D.C.
- House Bill 4210 (passed by the House as H-2) Sponsor: Rep. Lisa Posthumus Lyons
- House Bill 4827 (passed by the House as H-1) Sponsor: Rep. Klint Kesto
- Committee: Judiciary Complete to 1-4-16

SUMMARY:

[House Bill 4209](#) creates the Medical Marihuana Facilities Licensing Act to establish a licensing and regulation framework for medical marihuana growers, processors, secure transporters, provisioning centers, and safety compliance facilities. The regulatory framework created by the bill for marihuana draws on elements of the regulatory structure in place for alcohol under the Michigan Liquor Control Code and gaming under the Michigan Gaming Control and Revenue Act.

[House Bill 4827](#) creates the Marihuana Tracking Act to require the establishment of a “seed-to-sale” system to track marihuana grown, processed, transferred, stored, or disposed of under the Medical Marihuana Facilities Licensing Act (House Bill 4209).

House Bills 4209 and 4827 are tie-barred to each other, meaning neither could take effect unless both are enacted.

[House Bill 4210](#) amends the Michigan Medical Marihuana Act to, among other things, allow for the manufacture and use of marihuana-infused products by qualifying patients and manufacture and transfer of such products by primary caregivers to their patients.

All three bills would take effect 90 days after enactment.

BRIEF SUMMARY OF HB 4209:

The bill is tie-barred to the Marihuana Tracking Act (House Bill 4827). A brief summary of significant provisions of House Bill 4209 follows:

- A state operating license, renewed annually, would be required to operate as a grower, processor, provisioning center, secure transporter, or safety compliance facility. The application process for licensure requires written approval of the applicant and of the marihuana facility location by the municipality (city, township, or village) in which the marihuana facility is to be located.
- A municipality could enact an ordinance to authorize one or more types of marihuana facilities, and limit the number of each type of facility, within its boundaries; charge an annual local licensing fee up to \$5,000; and enact other ordinances related to marihuana facilities such as zoning ordinances.
- The Medical Marihuana Licensing Board would be created within the Department of Licensing and Regulatory Affairs (LARA). The Board would have general responsibility for implementing the act and all powers necessary and proper to fully and effectively implement and administer the act.
- Licensees, registered qualifying patients, and registered primary caregivers (hereinafter “patient” and “caregiver”) would receive specified protection from criminal or civil prosecutions or sanctions *if* they were in compliance with the act. “A registered qualifying patient” would include a visiting qualifying patient.
- A tax rate of 3% would be imposed on the gross retail income of each provisioning center.
- Rather than annual renewal license fees, an annual regulatory assessment would be imposed on licensees to pay for medical-marihuana-related services or expenses of certain state agencies.

- Two new funds would be created to receive revenue from taxes, application fees, annual regulatory assessments, fines, and other charges.
- Rules would be required to be promulgated as specified in the bill, including the establishment of maximum THC levels for medical edibles sold at provisioning centers and daily purchasing limits by patients and caregivers to ensure compliance with the Michigan Medical Marihuana Act.
- Licensees would have to file annual financial statements, prepared by a certified public accountant, of their total operations.
- A Marihuana Advisory Panel would be created within LARA to make recommendations concerning rules and the administration of the act.

BRIEF SUMMARY OF HOUSE BILL 4827:

Briefly, the bill would:

- Require the system to track, among other things, lot and batch information throughout the chain of custody; all sales and refunds; plant, batch, and product destruction; inventory discrepancies; loss, theft, or diversion of products containing marihuana; and adverse patient responses.
- Require the system to track patient purchase limits and flag purchases in excess of authorized limits.
- Provide real-time access to the system to local law enforcement agencies, state agencies, and the Department of Licensing and Regulatory Affairs (LARA).

- Require operation of the system to comply with HIPAA and exempt information in the system from disclosure under FOIA.

- Require licensees under the proposed Medical Marihuana Facilities Licensing Act (House Bill 4209) to supply LARA with tracking or testing information regarding each plant, product, package, batch, test, sale, or recall in or from the licensee's possession or control. A provisioning center would have to include information identifying the patient to, or for whom, the sale was made and the primary caregiver, if applicable, to whom the sale was made.

- Create penalties for a licensee who willfully fails to comply with the reporting requirements: a civil infraction

BRIEF SUMMARY OF HOUSE BILL 4210:

The bill would, among other things:

- Revise the definitions of “medical use” and “usable marihuana” to include products using extracts and plant resins (known as “edibles”).

- Define “marihuana-infused product” and “usable marihuana equivalent.”

- Provide immunity to a qualifying patient or caregiver from arrest or prosecution or penalty for certain conduct.

- Prohibit transporting or possessing a marihuana-infused product in a vehicle except as specified. Create a civil fine for a violation.

- Prohibit using butane to separate resin from a marihuana plant in a residential structure.

- Specify the bill is curative and the provisions retroactive.

Here's the link to the Michigan Legislator website to see more details and future updates

[House Bill 4209](#)

[House Bill 4827](#)

[House Bill 4210](#)

Here's an opposing POV

DETROIT NEWS
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Sheriff: Medical marijuana bills may aid criminals

Lansing — Oakland County Sheriff Mike Bouchard is warning state lawmakers that a sweeping overhaul of Michigan's medical marijuana law awaiting their final approval could lead to convicted drug dealers and murderers running pot shops.

Bouchard, a longtime opponent of the state's medical cannabis law, has focused his criticism on language in a five-bill package that would prohibit felons with drug convictions from operating a licensed marijuana dispensary within a decade of their conviction of incarceration.

“If some guy who was a heroin dealer and killed his competitor and got released from prison, 10 years later he's eligible to run a cash drug business, legally,” Bouchard said. “Obviously that's fraught with peril.”

The legislation also would disqualify anyone with a misdemeanor conviction involving controlled substances, theft, dishonesty or fraud from obtaining a medical marijuana dispensary license until five years after the conviction.

“It doesn't make sense to have conviction felons, including convicted murders, involved in a cash drug business,” Bouchard said.

Bouchard, a Republican and former state senator, said the Michigan House of Representatives should add restrictions barring drug felons from getting dispensary licenses or Gov. Rick Snyder should veto the package of bills, which the Michigan Senate approved Thursday.

Birmingham criminal defense attorney Bruce Leach, who specializes in defending medical marijuana patients, said Bouchard is engaging in “reefer madness fearmongering.”

“Law enforcement has a bias and self-interest in keeping marijuana illegal because they profit from arresting people and seizing their property through civil forfeiture proceedings,” Leach said.

The medical marijuana bills would make long-sought changes to the 2008 voter-approved law by creating a regulatory system and taxation of medical marijuana sold in licensed dispensaries.

The current law has been mired in conflicting legal interpretations for the past eight years, leading to a plethora of stores in cities like Detroit and Lansing selling cannabis to patients with state-issued medical marijuana cards.

State Sen. Rick Jones, chairman of the judiciary committee, defended the bills and said Bouchard’s criticism is “too little, too late” after he spent months crafting compromise legislation that law enforcement and prosecutors could live with.

“For Sheriff Bouchard to come at this late date and now claim he has a problem, I think is poor judgment,” said Jones, R-Grand Ledge. “He had plenty of opportunity to have input.”

Jones, a former Eaton County sheriff, said someone convicted of a drug offense 10 or more years ago should not be barred from working in a budding new industry.

“If somebody 10 years ago got picked up for (drug) possession, I certainly don’t think that should, 10 years later, preclude them from having employment,” he said.

The legislation would create a new Medical Marijuana Licensing Board that would be empowered to reject applicants if there were objections to their criminal background, Jones said.

“I don’t think that very many violent people are going to apply for a license,” he said.

Bouchard, a former state Senate majority floor leader, said the Legislature should treat medical marijuana dispensary licenses the same as other regulated industries that prohibit certain felons from employment.

“You can’t be a stock broker if you’ve got a felony conviction,” the sheriff said. “You would expect they would uphold the same standards they have for banking, gambling, for alcohol and for cigarettes.”

The package of bills needs a concurrence vote by the state House to go to Snyder’s desk for the governor’s consideration. The Republican governor has not said whether he would sign the bills.

But Lt. Gov. Brian Calley indicated Friday the Snyder administration is interested in having a regulatory system that ensures medical marijuana cultivated and sold to terminally ill patients is subject to inspections like fresh produce in supermarkets.

“That’s really the main crux behind it, that’s the thing that I think this bill advances,” Calley said in an interview on the Lansing radio station 1320 AM WILS.

The bills also would create a legal framework for communities to regulate where medical marijuana dispensaries are located, he said.

Calley urged sheriffs and law enforcement officials to “reach out” to House members with any “additional concerns or changes that need to be made” to the bills.

“Until it passes through the Legislature, it can still be modified,” Calley said. “So keep working on it.”

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