



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

June 22, 2020

NOTICE OF FILING
ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
Michigan Office of Administrative Hearings and Rules (Administrative Rule #19-068-LR)
Legislative Service Bureau (Secretary of State Filing #20-06-06)
Department of Licensing and Regulatory Affairs

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2019-068-LR (Secretary of State Filing #20-06-06) on this date at 08:04 A.M. for the Department of Licensing and Regulatory Affairs entitled, "Marihuana Licensees".

These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Sincerely,

Jocelyn Benson
Secretary of State

Melissa Malerman /CK

Melissa Malerman, Departmental Supervisor
Office of the Great Seal

Enclosure



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

Mar 27, 2020

Joint Committee on Administrative Rules
Boji Tower; 3rd Floor - 124 W. Allegan
P.O. 30036
Lansing, Michigan 48909-7536

Dear JCAR Staff:

On behalf of the Michigan Office of Administrative Hearings and Rules, I hereby submit the following rule set for consideration by the Joint Committee on Administrative Rules:

(2019-68 LR) Marihuana Licensees

Enclosed, you will find copies of the following:

- 1.1 copy of the Request for Rulemaking.
- 2.1 copy of the LSB formal certificate.
- 3.1 copy of the MOAHR legal certificate.
- 4.1 copy of the Regulatory Impact Statement.
- 5.1 copy of the draft rules.
- 6.1 copy of the JCAR Agency Report.

Please let MOAHR know if there are any questions.
Thanks.

Sincerely,

Michigan Office of Administrative Hearings and Rules

enclosures



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

CERTIFICATE OF ADOPTION

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marijuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marijuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.101, R 420.102, R 420.103, R 420.104, R 420.105, R 420.106, R 420.107, R 420.108, R 420.109, R 420.110, R 420.111, R 420.112, and R 420.113 are added to the Michigan Administrative Code as follows:

Date: March 27, 2020

A handwritten signature in black ink, appearing to read "Andrew Brisbo", written over a horizontal line.

Andrew Brisbo, Executive Director

THE LEGISLATURE

LANSING, MICHIGAN

JOINT COMMITTEE ON ADMINISTRATIVE RULES

P.O. BOX 30036 • LANSING, MICHIGAN 48909-
(517) 373-9425 • (517) 373-5624

Waiver of Remaining Session Days

TO: Katie Wienczewski, Administrative Rules Manager
Michigan Office of Administrative Hearings and Rules (MOAHR)
Secretary of the Senate
Clerk of the House

FROM: Senator Peter Lucido, Chair
Representative Matt Maddock, Alternate Chair

DATE: June 10, 2020

Pursuant to MCL 24.245a(1) the Joint Committee on Administrative Rules has by a concurrent majority vote, waived the remaining session days for the following rule sets:

JCAR No. 20-09
MOAHR No. 2019-067 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Marihuana Licenses

JCAR No. 20-10
MOAHR No. 2019-068 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Marihuana Licensees

JCAR No. 20-11
MOAHR No. 2019-069 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Marihuana Operations

JCAR No. 20-12
MOAHR No. 2019-070 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Marihuana Sampling and Testing

JCAR No. 20-13
MOAHR No. 2019-071 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Marihuana-Infused Products and Edible Marihuana Product

JCAR No. 20-14
MOAHR No. 2019-072 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Marihuana Sale or Transfer

JCAR No. 20-15
MOAHR No. 2019-073 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Marihuana Employees

JCAR No. 20-16
MOAHR No. 2019-074 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Marihuana Hearings

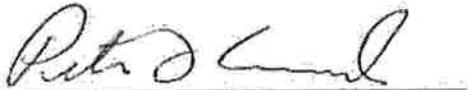
JCAR No. 20-17
MOAHR No. 2019-075 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Marihuana Disciplinary Proceedings

JCAR No. 20-18
MOAHR No. 2019-088 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Industrial Hemp Rules for Marihuana Businesses

JCAR No. 20-19
MOAHR No. 2019-123 LR
Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency
Medical Marihuana Facilities

According to MCL 24.245a(3), if the Committee waives the remaining session days, the Michigan Office of Administrative Hearings and Rules may immediately file the rule.

Sincerely,



Senator Peter Lucido
Chair



Representative Matt Maddock
Alternate Chair

THE LEGISLATURE

LANSING, MICHIGAN

JOINT COMMITTEE ON ADMINISTRATIVE RULES

P.O. BOX 30036 s LANSING, MICHIGAN 48909-
(517) 373-9425 - a 15171373-5624-

June 4, 2020

Andrew Brisbo
Executive Director, Marijuana Regulator) Agency
Department of Licensing and Regulatory Affairs
2407 North Grand River
P.O. Box 30205
Lansing, Michigan 48909

Dear Mr. Brisbo:

As Chair and Alternate Chair of the Joint Committee on Administrative Rules it has come to our attention that the Michigan Department of Licensing and Regulatory Affairs is asking for permission to withdraw the proposed rules identified as "Marihuana Licensees (MOAHR #2019-068 LR)" and "Marihuana Sampling and Testing (MOAHR #2019-070 LR)." MCL 24.245a(10) provides that a **rule** is withdrawn with permission if the withdrawal is approved by the Chair and Alternate Chair. This section further provides that if permission to withdraw is granted, the 15-session-day period for committee review is tolled until the rule is resubmitted, subject to the requirement that the committee must have at least 6 session days after resubmission to consider the resubmitted rule.

On behalf of the Joint Committee on Administrative Rules and pursuant to the authority of the Chair and Alternate Chair under MCL 24.245a(10) we grant permission to the Michigan Department of Licensing and Regulatory Affairs to withdraw the proposed rules.

Sincerely,



Senator Peter Lucido
Chairperson



Representative Matt Maddock
Alternate Chairperson

cc: Desmond Mitchell, Director, Licensing Division, Marijuana Regulatory Agency
Diedre O'Berry, Michigan Office of Administrative Hearings and Rules
Katie Wienczenwski, Administrative Rules Manager, Michigan Office of
Administrative Hearings and Rules
Tim Reeves, Legal Counsel, Michigan Joint Committee on Administrative Rules
Elizabeth Edberg, Legal Counsel, Michigan Joint Committee on Administrative Rules
Members of the Joint Committee on Administrative Rules



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

June 4, 2020

Sent Via Email

Andrew Brisbo, Executive Director
Marijuana Regulatory Agency
P.O. Box 30205
Lansing, MI 48909

Director Brisbo:

On June 3, 2020, the Marijuana Regulatory Agency requested permission to withdraw from the Joint Committee on Administrative Rules (JCAR), the rule sets entitled "Marihuana Sampling and Testing" (2019-70 LR) and "Marihuana Licensees" (2019-68 LR) to incorporate changes requested by JCAR. JCAR granted permission to withdraw the rules on June 4, 2020.

Pursuant to section 45c(3) of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245c, the Michigan Office of Administrative Hearings and Rules (MOAHR) has reviewed the rules as changed and has determined that the regulatory impact or the impact on small businesses of the rules as changed would not be more burdensome than the regulatory impact or the impact on small businesses of the rule as originally proposed.

The changes to the "Marihuana Sampling and Testing" rules provide for maximum batch sizes that gradually increase so that labs have sufficient time to adjust accordingly. MOAHR has determined that the regulatory impact and the impact on small businesses would not be more burdensome, as the current emergency rules address batch sizes.

In addition, the revision of the definition of "plant" in the "Marihuana Licensees" rules provides clarity to the different license types and therefore is not more burdensome.

Sincerely,

A handwritten signature in black ink that reads "Katie Wienczewski".

Katie Wienczewski
Administrative Rules Manager
Michigan Office of Administrative Hearings and Rules

cc: Adam Sandoval, Deputy Director, LARA
Suzanne Sonneborn, Executive Director, MOAHR



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

June 3, 2020

Sent Via Electronic Mail

Michigan Office of Administrative Hearings and Rules
2nd Floor
Ottawa Building
601 West Ottawa Street
Lansing, Michigan 48909-7536

Subject: Rule Set 2019-68; Rule Set 2019-70

Dear Sir or Madam:

This is to provide notice that the Marijuana Regulatory Agency has withdrawn and revised the rule sets entitled "Marihuana Sampling and Testing" (2019-70 LR) and "Marihuana Licensees" (2019-68 LR), with permission granted from the Joint Committee on Administrative Rules (JCAR) pursuant to section 45a(1) and section 45c(2) of the Administrative Procedures Act of 1969 (APA), 1969 PA 306, MCL 24.245a(10)(a) and 24.245c(2).

Please contact me at 517-599-5576 with any questions or concerns regarding this matter. Thank you for your consideration.

Sincerely,

Andrew Brisbo
Executive Director



Since 1941

Legal Division

Kevin H. Studebaker, Director

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency, dated March 13, 2020, adding R 420.101, R 420.102, R 420.103, R 420.104, R 420.105, R 420.106, R 420.107, R 420.108, R 420.109, R 420.110, R 420.111, R 420.112, and R 420.113 of the Department's rules entitled "Marihuana Licensees." I approve the rules as to form, classification, and arrangement.

Dated: March 26, 2020

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,
Legal Counsel

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA LICENSEES

Filed with the secretary of state on June 22, 2020

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilitates licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.101, R 420.102, R 420.103, R 420.104, R 420.105, R 420.106, R 420.107, R 420.108, R 420.109, R 420.110, R 420.111, R 420.112, and R 420.113 are added to the Michigan Administrative Code as follows:

R 420.101 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Agency" means the marijuana regulatory agency.

(c) "Applicant" means a person who applies for a marihuana license, subject to paragraphs (i) and (ii):

(i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(A) For an individual or sole proprietorship: the proprietor and spouse.

(B) For a partnership and limited liability partnership: all partners and their spouses.

(C) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the partnership, and their spouses.

(D) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the company, and their spouses.

(E) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(F) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(G) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(H) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(I) For a trust, any beneficiary who receives or has the right to receive more than 10% of the gross or net profit of the trust during any full or partial calendar or fiscal year and their spouses.

(ii) For purposes of this definition, an applicant does not include:

(A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate unless the person exercises control over or participates in the management of the marihuana business.

(B) A franchisor who grants a franchise to an applicant, if the franchisor does not have the right to receive royalties based upon the sale of marihuana or marihuana-infused products by the applicant who is a franchisee. Nothing in this subrule shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms "franchise," "franchisor," and "franchisee" have the meanings set forth in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502.

(C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation unless the person exercises control over or participates in the management of the marihuana business.

(D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.

(E) A person who receives a percentage of profits as an employee if the employee does not meet the definition of "managerial employee" and the employee does not receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(F) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based upon a written incentive/bonus program that is not out of the ordinary for the services rendered.

(d) "Clone" means a replication of a single parent plant through vegetative propagation.

(e) "Common ownership" means 2 or more state licenses or two or more equivalent licenses held by one person under the Michigan regulation and taxation of marihuana act.

(f) "Employee" means a person performing work or service for compensation. "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana business.

(g) "Immature plant" means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches, produced from a cutting, clipping, tissue culture, or seedling, and that is in a growing or cultivating medium or in a growing or cultivating container.

(h) "Industrial hemp" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(i) "Industrial hemp research and development act" means the industrial hemp research and development act, 2014 PA 547, MCL 286.841 to 286.859.

(j) "Managerial employee" means those employees who have the ability to control and direct the affairs of the marihuana business or have the ability to make policy concerning the marihuana business, or both.

(k) "Marihuana establishment" means a location at which a licensee is licensed to operate 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 to operate by the agency under the Michigan regulation and taxation of marihuana act.

(l) "Marihuana facility" means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(m) "Marihuana license" means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan regulation and taxation of marihuana act, or both.

(n) "Marihuana product" means marihuana or a marihuana-infused product, or both, as those terms are defined in the applicable act unless otherwise provided for in these rules.

(o) "Mature plant" means a flowering or nonflowering marihuana plant that has taken root and is taller than 8 inches from the growing or cultivating medium or wider than 8 inches, produced from a cutting, clipping, tissue culture, or seedling, and that is in a growing or cultivating medium or in a growing or cultivating container.

(p) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(q) "Michigan medical marihuana act" means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(r) "Michigan regulation and taxation of marihuana act" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(s) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(t) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan regulation and taxation of marihuana act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(u) "Same location" means separate marihuana licenses that are issued to multiple marihuana businesses that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

PART 1. LICENSEES UNDER THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT

R 420.102 Marihuana grower license.

Rule 2. (1) A marihuana grower license authorizes the marihuana grower to grow not more than the following number of marihuana plants under the indicated license class for each marihuana grower license the marihuana grower holds in that class:

- (a) Class A – 100 marihuana plants.
 - (b) Class B – 500 marihuana plants.
 - (c) Class C – 2,000 marihuana plants.
- (2) For the purposes of this rule, only mature marihuana plants are included in the plant count in subrule (1) of this rule.
- (3) Except as otherwise provided in the MRTMA and these rules, a marihuana grower license authorizes sale of marihuana plants to a marihuana grower only by means of a marihuana secure transporter. A marihuana grower license authorizes the sale or transfer of seeds, seedlings, tissue cultures, or immature plants to a marihuana grower from another marihuana grower without using a marihuana secure transporter.
- (4) A marihuana grower license authorizes a marihuana grower to transfer marihuana without using a marihuana secure transporter to a marihuana processor or marihuana retailer if both of the following are met:
- (a) The marihuana processor or marihuana retailer occupies the same location as the marihuana grower and the marihuana is transferred using only private real property without accessing public roadways.
 - (b) The marihuana grower enters each transfer into the statewide monitoring system.
- (5) A marihuana grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a marihuana processor or marihuana retailer.
- (6) Except as otherwise provided in the MRTMA, subrules (3) and (4) of this rule, and R 420.304, a marihuana grower license authorizes the marihuana grower to transfer marihuana only by means of a marihuana secure transporter.
- (7) A marihuana grower must enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.
- (8) A marihuana grower license does not authorize the marihuana grower to operate in an area unless the area is zoned for industrial or agricultural uses or otherwise meets the requirements established in section 9.3.(c) of the MRTMA, MCL 333.27959.
- (9) A marihuana grower may accept the transfer of marihuana seeds, tissue cultures, and clones that do not meet the definition of marihuana plant in these rules at any time from another grower licensed under the acts, these rules, or both.
- (10) A class A marihuana grower may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that class A marihuana grower license.
- (11) A marihuana grower licensee is required to comply with the requirements of the Michigan regulation and taxation of marihuana act and these rules.

R 420.103 Marihuana processor license.

- Rule 3. (1) A marihuana processor license authorizes purchase or transfer of marihuana or marihuana-infused products from only a licensed marihuana establishment and sale or transfer of marihuana-infused products or marihuana to only a licensed marihuana establishment.
- (2) Except as otherwise provided in these rules and the MRTMA, a marihuana processor license authorizes a marihuana processor to transfer marihuana only by means of a marihuana secure transporter. A marihuana processor license authorizes a marihuana processor to transfer marihuana without using a marihuana secure transporter to a marihuana grower, marihuana processor, or marihuana retailer if both of the following are met:

(a) The marihuana grower, marihuana processor, or marihuana retailer occupies the same location as the marihuana processor and the marihuana is transferred using only private real property without accessing public roadways.

(b) The marihuana processor enters each transfer into the statewide monitoring system.

(3) A licensee who holds 2 or more marihuana processor licenses with common ownership at different establishments may transfer marihuana product inventory between the licensed marihuana processor establishments. The transferred marihuana product must be entered and tracked in the statewide monitoring system as required in these rules.

(4) A marihuana processor must enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

R 420.104. Marihuana retailer license.

Rule 4. (1) A marihuana retailer license authorizes the purchase or transfer of marihuana or marihuana-infused products from only a licensed marihuana establishment and sale or transfer to only a licensed marihuana establishment or an individual 21 years of age or older. Except as otherwise provided in these rules, and the MRTMA, all transfers of marihuana to a marihuana retailer from a separate marihuana establishment must be by means of a marihuana secure transporter. A transfer of marihuana to a marihuana retailer from a marihuana establishment that occupies the same location as the marihuana retailer does not require a marihuana secure transporter if the marihuana is transferred to the marihuana retailer using only private real property without accessing public roadways.

(2) A marihuana retailer license authorizes the marihuana retailer to transfer marihuana to or from a marihuana safety compliance facility for testing by means of a marihuana secure transporter or as provided in these rules.

(3) A marihuana retailer shall comply with all of the following:

(a) Sell or transfer marihuana to an individual 21 years of age or older only after it has been tested in accordance with these rules and bears the label required for retail sale.

(b) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(c) Before selling or transferring marihuana to an individual 21 years of age or older, verify the individual appears to be 21 years of age or older by means of government-issued photographic identification containing a date of birth and that the sale or transfer will not exceed the single transaction limit in these rules.

(4) A licensee who holds 2 or more marihuana retailer licenses with common ownership at different establishments may transfer marihuana product inventory between the licensed marihuana retailer establishments. The transferred marihuana product must be entered and tracked in the statewide monitoring system as required in these rules and any requirements published by the agency.

R 420.105 Marihuana microbusiness license.

Rule 5. (1) A marihuana microbusiness license authorizes the following:

(a) The cultivation of not more than 150 plants. Only mature marihuana plants are included in the plant count in this subdivision.

(b) The processing and packaging of marihuana.

(c) The retail sale or transfer of marihuana to only an individual 21 years of age or older, but not to other marihuana establishments.

- (d) The transfer of marihuana to a marihuana safety compliance facility for testing.
- (2) Except as otherwise provided in R 420.304, this rule, and the MRTMA, a marihuana microbusiness license authorizes a marihuana microbusiness to transfer marihuana from the marihuana grower area to the marihuana processor and marihuana retailer areas of the marihuana microbusiness and from the marihuana processor area to marihuana grower and marihuana retailer areas of the marihuana microbusiness without using a marihuana secure transporter if all areas of the marihuana microbusiness enter each transfer between different areas of the marihuana microbusiness into the statewide monitoring system.
- (3) A marihuana microbusiness shall not operate at multiple locations.
- (4) A marihuana microbusiness must enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.
- (5) A marihuana microbusiness may accept the transfer of marihuana seeds, tissue cultures, and clones that do not meet the definition of marihuana plant in these rules at any time from another grower licensed under the acts, these rules, or both. A marihuana microbusiness shall not sell or transfer marihuana seeds, tissue cultures, or clones received under this subrule.
- (6) A marihuana microbusiness may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that marihuana microbusiness license.
- (7) A marihuana microbusiness license is subject to all applicable provisions in the Michigan regulation and taxation of marihuana act and these rules related to a marihuana grower, marihuana retailer, and marihuana processor license except for R 420.102(8).

R 420.106 Marihuana secure transporter license.

- Rule 6. (1) A marihuana secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana establishments for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver. If a marihuana secure transporter has its primary place of business in a municipality that has not adopted an ordinance under section 6 of the MRTMA, MCL 333.27956, prohibiting marihuana establishments, the marihuana secure transporter may travel through any municipality.
- (2) A marihuana secure transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.
- (3) A marihuana secure transporter shall comply with all of the following:
- (a) Each driver transporting marihuana must have a chauffeur's license issued by this state.
 - (b) Each vehicle must be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.
 - (c) A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.
 - (d) The marihuana must be transported in 1 or more sealed containers and not be accessible while in transit.
 - (e) A secure transporting vehicle must not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.
 - (f) A secure transport vehicle may be stored at a location that is not the primary place of business of the secure transporter if the vehicle does not contain marihuana products and the address of storage is reported to the agency in the licensee's staffing plan.

(4) A marihuana secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the MRTMA and these rules.

R 420.107 Marihuana safety compliance facility license.

Rule 7. (1) A marihuana safety compliance facility license authorizes the marihuana safety compliance facility to do all of the following without using a marihuana secure transporter:

- (a) Take marihuana from, test marihuana for, and return marihuana to only a licensed marihuana establishment.
- (b) Collect a random sample of marihuana at the marihuana establishment of a marihuana grower, marihuana processor, marihuana retailer, or marihuana microbusiness for testing.
- (2) A marihuana safety compliance facility must be accredited by an entity approved by the agency by 1 year after the date the marihuana safety compliance facility license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.
- (3) A marihuana safety compliance facility shall comply with all of the following:
 - (a) Perform safety tests to certify that marihuana is reasonably free of known contaminants in compliance with the standards established by the agency.
 - (b) Use validated test methods to perform all safety tests and to determine tetrahydrocannabinol (THC), tetrahydrocannabinol acid (THC-A), cannabidiol (CBD), and cannabidiol acid (CBD-A) concentrations.
 - (c) Perform other tests necessary to determine compliance with good manufacturing processes as prescribed in these rules.
 - (d) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.
 - (e) Have a secured laboratory space that cannot be accessed by the general public.
 - (f) Retain and employ at least 1 laboratory manager with a relevant advanced degree in a medical or laboratory science. A laboratory manager shall be responsible for the following duties including, but not limited to:
 - (i) Ensure tests are conducted in accordance with R 420.305.
 - (ii) Ensure test results are accurate and valid.
 - (iii) Oversee day-to-day operations.
 - (iv) Validate reporting requirements in the statewide monitoring system.

PART 2. LICENSEES UNDER THE MEDICAL MARIHUANA FACILITIES LICENSING ACT

R 420.108 Grower license.

Rule 8. (1) A grower license authorizes the grower to grow not more than the following number of marihuana plants under the indicated license class for each license the grower holds in that class:

- (a) Class A – 500 marihuana plants.
- (b) Class B – 1,000 marihuana plants.

(c) Class C – 1,500 marihuana plants.

(2) Except as otherwise provided in this subrule, a grower license authorizes sale of marihuana plants to a grower only by means of a secure transporter. A grower license authorizes the sale or transfer of seeds, seedlings, or tissue cultures to a grower from a registered primary caregiver or another grower without using a secure transporter.

(3) A grower license authorizes a grower to transfer marihuana without using a secure transporter to a processor or provisioning center if both of the following are met:

(a) The processor or provisioning center occupies the same location as the grower and the marihuana is transferred using only private real property without accessing public roadways.

(b) The grower enters each transfer into the statewide monitoring system.

(4) A grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, and cuttings, to a processor or a provisioning center.

(5) Except as otherwise provided in subrules (2) and (3) and section 505 of the medical marihuana facilities licensing act, MCL 333.27505, a grower license authorizes the grower to transfer marihuana only by means of a secure transporter.

(6) To be eligible for a grower license, the applicant and each investor in the grower must not have an interest in a secure transporter or safety compliance facility.

(7) A grower shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in the medical marihuana facilities licensing act, these rules, and the marihuana tracking act.

(8) A grower license does not authorize the grower to operate in an area unless the area is zoned for industrial or agricultural uses or is unzoned and otherwise meets the requirements established in section 205(1) of the medical marihuana facilities licensing act, MCL 333.27205(1).

R 420.109 Processor license.

Rule 9. (1) A processor license authorizes purchase of marihuana only from a grower and sale of marihuana-infused products or marihuana only to a provisioning center or another processor.

(2) Except as otherwise provided in section 505 of the medical marihuana facilities licensing act, MCL 333.27505, and this subrule, a processor license authorizes the processor to transfer marihuana only by means of a secure transporter. A processor license authorizes a processor to transfer marihuana without using a secure transporter to a grower or provisioning center if both of the following are met:

(a) The grower or provisioning center occupies the same location as the processor and the marihuana is transferred using only private real property without accessing public roadways.

(b) The processor enters each transfer into the statewide monitoring system.

(3) To be eligible for a processor license, the applicant and each investor in the processor must not have an interest in a secure transporter or safety compliance facility.

(4) A processor shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in the medical marihuana facilities licensing act, these rules, and the marihuana tracking act.

R 420.110 Secure transporter license.

Rule 10. (1) A secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport of marihuana products to a registered qualifying patient or registered primary

caregiver. If a secure transporter has its primary place of business in a municipality that has adopted an ordinance under section 205 of the medical marihuana facilities licensing act, MCL 333.27205, authorizing the marihuana facility, the secure transporter may travel through any municipality.

(2) To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter must not have an interest in a grower, processor, provisioning center, or safety compliance facility and must not be a registered qualifying patient or registered primary caregiver.

(3) A secure transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in the medical marihuana facilities licensing act, these rules, and the marihuana tracking act.

(4) A secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have 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 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(c) Each vehicle must be operated with a 2-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana.

(d) A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(e) The marihuana must be transported in one or more sealed containers and not be accessible while in transit.

(f) A secure transporting vehicle must not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(g) A secure transport vehicle may be stored at a location that is not the primary place of business of the secure transporter if the vehicle does not contain marihuana products and the address of storage is reported to the agency in the licensee's staffing plan.

(5) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the medical marihuana facilities licensing act.

R 420.111 Provisioning center license.

Rule 11. (1) A provisioning center license authorizes the purchase or transfer of marihuana only from a grower or processor and sale or transfer to only a registered qualifying patient or registered primary caregiver. Except as otherwise provided in section 505 of the medical marihuana facilities licensing act, 333.27505 and this subrule, all transfers of marihuana to a provisioning center from a separate marihuana facility must be by means of a secure transporter. A transfer of marihuana to a provisioning center from a marihuana facility that occupies the same location as the provisioning center does not require a secure transporter if the marihuana is transferred to the provisioning center using only private real property without accessing public roadways.

(2) A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter or as provided in section 505 of the medical marihuana facilities licensing act, MCL 333.27505.

(3) To be eligible for a provisioning center license, the applicant and each investor in the provisioning center must not have an interest in a secure transporter or safety compliance facility.

(4) A provisioning center shall comply with all of the following:

(a) Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.

(b) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in the medical marihuana facilities licensing act, these rules, and the marihuana tracking act.

(c) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily and monthly purchasing limit established by the agency under the medical marihuana facilities licensing act.

R 420.112 Safety compliance facility license; exception for industrial hemp.

Rule 12. (1) In addition to transfer and testing as authorized in section 203 of the medical marihuana facilities licensing act, MCL 333.27203, a safety compliance facility license authorizes the safety compliance facility to do all of the following without using a secure transporter:

(a) Take marihuana from, test marihuana for, and return marihuana to only a marihuana facility.

(b) Collect a random sample of marihuana at the marihuana facility of a grower, processor, or provisioning center for testing.

(2) A safety compliance facility must be accredited by an entity approved by the agency by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) To be eligible for a safety compliance facility license, the applicant and each investor with any interest in the safety compliance facility must not have an interest in a grower, secure transporter, processor, or provisioning center.

(4) A safety compliance facility shall comply with all of the following:

(a) Perform tests to certify that marihuana is reasonably free from chemical residues such as fungicides and insecticides.

(b) Use validated methods for all testing required by the agency.

(c) Perform tests that determine whether marihuana complies with the standards the agency establishes.

(d) Perform additional tests necessary to determine compliance with any other good manufacturing processes as prescribed in these rules.

(e) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in the medical marihuana facilities licensing act, these rules, and the marihuana tracking act.

(f) Have a secured laboratory space that cannot be accessed by the general public.

(g) Retain and employ at least 1 laboratory manager with a relevant advanced degree in a medical or laboratory science. A laboratory manager shall be responsible for the following duties including, but not limited to:

(i) Ensure tests are conducted in accordance with R 420.305.

(ii) Ensure test results are accurate and valid.

(iii) Oversee day-to-day operations.

(iv) Validate reporting requirements in the statewide monitoring system.

(5) A safety compliance facility is not prohibited from taking or receiving industrial hemp for testing purposes and testing the industrial hemp pursuant to the industrial hemp research and development act.

R 420.113 Severability.

Rule 13. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated March 13, 2020, in which the Department of Licensing and Regulatory Affairs proposes to modify a portion of the Michigan Administrative Code entitled “**Marihuana Licensees**” by:

- ◆ Adding R 420.101, R 420.102, R 420.103, R 420.104, R 420.105, R 420.106, R 420.107, R 420.108, R 420.109, R 420.110, R 420.111, R 420.112, and R 420.113.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: March 26, 2020

Michigan Office of Administrative Hearings and Rules

By: _____

Katie Wienczewski,
Attorney

FILED WITH SECRETARY OF STATE

ON 6/22/20 AT 8:04AM.