

Act No. 166
Public Acts of 2023
Approved by the Governor
October 19, 2023
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senators Hauck, Chang, Irwin, Bayer, Wojno, Santana, McMorrow and Moss

ENROLLED SENATE BILL No. 180

AN ACT to amend 2018 IL 1, entitled “An initiation of legislation to allow under state law the personal possession and use of marihuana by persons 21 years of age or older; to provide for the lawful cultivation and sale of marihuana and industrial hemp by persons 21 years of age or older; to permit the taxation of revenue derived from commercial marihuana facilities; to permit the promulgation of administrative rules; and to prescribe certain penalties for violations of this act. If not enacted by the Michigan State Legislature in accordance with the Michigan Constitution of 1963, the proposed legislation is to be voted on at the General Election, November 6, 2018,” by amending sections 3, 7, 8, 10, and 13 (MCL 333.27953, 333.27957, 333.27958, 333.27960, and 333.27963), sections 3 and 8 as amended by 2021 PA 56.

The People of the State of Michigan enact:

Sec. 3. As used in this act:

(a) “Cannabis regulatory agency” means the marijuana regulatory agency created under Executive Reorganization Order No. 2019-2, MCL 333.27001, renamed the cannabis regulatory agency under Executive Reorganization Order No. 2022-1, MCL 333.27002.

(b) “Cultivate” means to propagate, breed, grow, harvest, dry, cure, or separate parts of a marihuana plant by manual or mechanical means.

(c) “Department” means the cannabis regulatory agency.

(d) “Indian lands” means any of the following:

(i) All lands within the limits of an Indian reservation.

(ii) Any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(e) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians which is recognized as eligible by the United States Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as Indians, and is recognized as possessing powers of self-government.

(f) “Industrial hemp” means any of the following:

(i) A plant of the genus *Cannabis*, whether growing or not, with a THC concentration of 0.3% or less on a dry-weight basis.

(ii) A part of a plant of the genus *Cannabis*, whether growing or not, with a THC concentration of 0.3% or less on a dry-weight basis.

(iii) The seeds of a plant of the genus *Cannabis* with a THC concentration of 0.3% or less on a dry-weight basis.

(iv) If it has a THC concentration of 0.3% or less on a dry-weight basis, a compound, manufacture, derivative, mixture, preparation, extract, cannabinoid, acid, salt, isomer, or salt of an isomer of any of the following:

(A) A plant of the genus *Cannabis*.

(B) A part of a plant of the genus *Cannabis*.

(v) A product to which 1 of the following applies:

(A) If the product is intended for human or animal consumption, the product, in the form in which it is intended for sale to a consumer, meets both of the following requirements:

(I) Has a THC concentration of 0.3% or less on a dry-weight or per volume basis.

(II) Contains a total amount of THC that is less than or equal to the limit established by the cannabis regulatory agency under section 8(1)(n).

(B) If the product is not intended for human or animal consumption, the product meets both of the following requirements:

(I) Contains a substance listed in subparagraph (i), (ii), (iii), or (iv).

(II) Has a THC concentration of 0.3% or less on a dry-weight basis.

(g) “Licensee” means a person holding a state license.

(h) “Marihuana” means any of the following:

(i) A plant of the genus *Cannabis*, whether growing or not.

(ii) A part of a plant of the genus *Cannabis*, whether growing or not.

(iii) The seeds of a plant of the genus *Cannabis*.

(iv) Marihuana concentrate.

(v) A compound, manufacture, salt, derivative, mixture, extract, acid, isomer, salt of an isomer, or preparation of any of the following:

(A) A plant of the genus *Cannabis*.

(B) A part of a plant of the genus *Cannabis*.

(C) The seeds of a plant of the genus *Cannabis*.

(D) Marihuana concentrate.

(vi) A marihuana-infused product.

(vii) A product with a THC concentration of more than 0.3% on a dry-weight or per volume basis in the form in which it is intended for sale to a consumer.

(viii) A product that is intended for human or animal consumption and that contains, in the form in which it is intended for sale to a consumer, a total amount of THC that is greater than the limit established by the cannabis regulatory agency under section 8(1)(n).

(i) Except for marihuana concentrate extracted from any of the following, “marihuana” does not include any of the following:

(i) The mature stalks of a plant of the genus *Cannabis*.

- (ii) Fiber produced from the mature stalks of a plant of the genus *Cannabis*.
- (iii) Oil or cake made from the seeds of a plant of the genus *Cannabis*.
- (iv) A compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks of a plant of the genus *Cannabis*.
- (v) Industrial hemp.
- (vi) An ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.
- (vii) A drug for which an application filed in accordance with 21 USC 355 is approved by the Food and Drug Administration.
- (j) “Marihuana accessories” means any equipment, product, material, or combination of equipment, products, or materials, that is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.
- (k) “Marihuana concentrate” means the resin extracted from any part of a plant of the genus *Cannabis*.
- (l) “Marihuana establishment” means 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 by the cannabis regulatory agency.
- (m) “Marihuana grower” means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (n) “Marihuana-infused product” means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.
- (o) “Marihuana microbusiness” means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
- (p) “Marihuana processor” means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (q) “Marihuana retailer” means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- (r) “Marihuana safety compliance facility” means a person licensed to test marihuana, including certification for potency and the presence of contaminants.
- (s) “Marihuana secure transporter” means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- (t) “Marijuana regulatory agency”, unless the context dictates otherwise, means the cannabis regulatory agency.
- (u) “Municipal license” means a license issued by a municipality pursuant to section 16 that allows a person to operate a marihuana establishment in that municipality.
- (v) “Municipality” means a city, village, or township.
- (w) “Person” means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.
- (x) “Process” or “processing” means to separate or otherwise prepare parts of a marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.
- (y) “Qualifying Indian tribe” means an Indian tribe that meets all of the following conditions:
 - (i) The Indian tribe has entered into an agreement with the cannabis regulatory agency under section 7(2)(b) that is in effect.
 - (ii) The Indian tribe has entered into an agreement with the department of treasury that is in effect and that does all of the following:
 - (A) States that the revenue collected from the tax or fee described in subparagraph (iii) is not state money, and requires that this revenue be retained by and used as determined by only the Indian tribe, if the marihuana subject to the tax or fee was grown and processed on only the Indian tribe’s Indian lands.
 - (B) States whether the revenue collected from the tax or fee described in subparagraph (iii) from marihuana not described in sub-subparagraph (A) is subject to revenue sharing between the Indian tribe and this state and, if so, the details of the revenue sharing arrangement.

(iii) The Indian tribe imposes a tax or fee on each sale or transfer of marihuana from a tribal marihuana business located in the Indian tribe's Indian lands to a person other than a tribal marihuana business or marihuana establishment. This subparagraph does not prohibit a qualifying Indian tribe from imposing the tax or fee on sales or transfers of marihuana that are not described in this subparagraph. The tax or fee must be based on the sales price of the marihuana and the rate of the tax or fee must be equal to or greater than the rate established under section 13.

(z) "State license" means a license issued by the cannabis regulatory agency that allows a person to operate a marihuana establishment.

(aa) "THC" means any of the following:

(i) Tetrahydrocannabinolic acid.

(ii) Unless excluded by the cannabis regulatory agency under section 8(2)(c), a tetrahydrocannabinol, regardless of whether it is artificially or naturally derived.

(iii) A tetrahydrocannabinol that is a structural, optical, or geometric isomer of a tetrahydrocannabinol described in subparagraph (ii).

(bb) "Tribal marihuana business" means a business that meets all of the following conditions:

(i) The business engages in the type of activities licensed under this act.

(ii) The business is not a marihuana establishment.

(iii) The business is wholly owned by a qualifying Indian tribe, the enrolled members of a qualifying Indian tribe, or a combination of a qualifying Indian tribe and the members of that qualifying Indian tribe.

(iv) The business is located in this state and in the Indian lands of the qualifying Indian tribe described in subparagraph (iii).

(v) The business is subject to a tax or fee described in subdivision (y)(iii).

(cc) "Unreasonably impracticable" means that the measures necessary to comply with the rules or ordinances adopted pursuant to this act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

Sec. 7. (1) The cannabis regulatory agency is responsible for implementing this act and has the powers and duties necessary to control the commercial production and distribution of marihuana. The cannabis regulatory agency shall do all of the following:

(a) Promulgate rules pursuant to section 8 that are necessary to implement, administer, and enforce this act.

(b) Grant or deny each application for licensure and investigate each applicant to determine eligibility for licensure, including conducting a background investigation on each person holding an ownership interest in the applicant.

(c) Ensure that marihuana establishments comply with this act and the rules promulgated under this act by doing all of the following:

(i) Performing investigations of compliance and regular inspections of marihuana establishments.

(ii) Taking appropriate disciplinary action against a licensee, including prescribing civil fines for violations of this act or the rules promulgated under this act and suspending, restricting, or revoking a state license.

(d) Hold at least 4 public meetings each calendar year for the purpose of hearing complaints and receiving the views of the public with respect to administration of this act.

(e) Collect fees for licensure and fines for violations of this act or the rules promulgated under this act.

(f) Deposit all fees collected for licensure into the marihuana regulation fund established under section 14 and remit all fines collected for deposit into the general fund.

(g) Submit an annual report to the governor covering the immediately preceding year that includes all of the following:

(i) The number of state licenses of each class issued.

(ii) Demographic information of licensees.

(iii) A description of enforcement and disciplinary actions taken against licensees.

(iv) A statement of revenues and expenses of the cannabis regulatory agency related to the implementation, administration, and enforcement of this act.

(h) Employ personnel as necessary to adequately perform its duties.

(2) The cannabis regulatory agency may do either of the following:

(a) Enter into an agreement with an advisor or consultant as necessary to adequately perform its duties under this act.

(b) Enter into an agreement with an Indian tribe regarding marihuana-related regulatory issues that involve the interests of this state and the Indian tribe, including, but not limited to, issues related to the commercial growing, processing, sale, testing, transportation, and possession of marihuana.

(3) A person who has a pecuniary interest, directly or indirectly, in a marihuana establishment or tribal marihuana business may not be an employee, advisor, or consultant involved in the implementation, administration, or enforcement of this act. An employee, advisor, or consultant of the cannabis regulatory agency is not personally liable for any action at law for damages sustained by a person because of an action performed or done in the performance of the employee's, advisor's, or consultant's duties in the implementation, administration, or enforcement of this act.

(4) The department of state police shall cooperate and assist the cannabis regulatory agency in performing the cannabis regulatory agency's duties under this act, including, but not limited to, conducting background investigations of applicants.

Sec. 8. (1) The cannabis regulatory agency shall promulgate rules to implement and administer this act that include all of the following:

(a) Procedures for issuing a state license pursuant to section 9 and for renewing, suspending, and revoking a state license.

(b) A schedule of fees in amounts not more than necessary to pay for implementation, administration, and enforcement costs of this act and that relate to the size of each licensee or the volume of business conducted by the licensee.

(c) Qualifications for licensure that are directly and demonstrably related to the operation of a marihuana establishment. However, a prior conviction solely for a marihuana-related offense must not disqualify an individual or otherwise affect eligibility for licensure, unless the offense involved distribution of a controlled substance to a minor.

(d) Requirements and standards for safe cultivation, processing, and distribution of marihuana by marihuana establishments, including health standards to ensure the safe preparation of marihuana-infused products and prohibitions on pesticides that are not safe for use on marihuana.

(e) Testing, packaging, and labeling standards, procedures, and requirements for marihuana, including, but not limited to, all of the following:

(i) A maximum THC level for marihuana-infused products.

(ii) A requirement that a representative sample of marihuana be tested by a marihuana safety compliance facility.

(iii) A requirement that the amount of marihuana or marihuana concentrate contained within a marihuana-infused product be specified on the product label.

(iv) A requirement that all marihuana sold through marihuana retailers and marihuana microbusinesses include on the exterior of the marihuana packaging the following warning printed in clearly legible type and surrounded by a continuous heavy line:

**WARNING: USE BY PREGNANT OR BREASTFEEDING WOMEN, OR BY
WOMEN PLANNING TO BECOME PREGNANT, MAY RESULT IN FETAL
INJURY, PRETERM BIRTH, LOW BIRTH WEIGHT, OR DEVELOPMENTAL
PROBLEMS FOR THE CHILD.**

(f) Security requirements, including lighting, physical security, and alarm requirements, and requirements for securely transporting marihuana between marihuana establishments. The requirements described in this subdivision must not prohibit cultivation of marihuana outdoors or in greenhouses.

(g) Record keeping requirements for marihuana establishments and monitoring requirements to track the transfer of marihuana by licensees.

(h) Requirements for the operation of marihuana secure transporters to ensure that all marihuana establishments are properly serviced.

(i) Reasonable restrictions on advertising, marketing, and display of marihuana and marihuana establishments.

(j) A plan to promote and encourage participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact those communities.

(k) Penalties for failure to comply with a rule promulgated pursuant to this section or for a violation of this act by a licensee, including civil fines and suspension, revocation, or restriction of a state license.

(l) Informational pamphlet standards for marihuana retailers and marihuana microbusinesses, including, but not limited to, a requirement to make available to every customer at the time of sale a pamphlet measuring 3.5 inches by 5 inches that includes safety information related to marihuana use by minors and the poison control hotline number.

(m) Procedures and standards for approving an appointee to operate a marihuana establishment under section 9a.

(n) A limit on the total amount of THC that a product described in section 3(f)(v)(A) may contain.

(2) The cannabis regulatory agency may promulgate rules to do any of the following:

(a) Provide for the issuance of additional types or classes of state licenses to operate marihuana-related businesses, including licenses that authorize any of the following:

(i) Limited cultivation, processing, transportation, delivery, storage, sale, or purchase of marihuana.

(ii) Consumption of marihuana within designated areas.

(iii) Consumption of marihuana at special events in limited areas and for a limited time.

(iv) Cultivation for purposes of propagation.

(v) Facilitation of scientific research or education.

(b) Regulate the cultivation, processing, distribution, and sale of industrial hemp.

(c) Exclude from the definition of THC in section 3 a tetrahydrocannabinol if, after the cannabis regulatory agency makes findings with respect to each of the following factors, the cannabis regulatory agency determines that the tetrahydrocannabinol does not have a potential for abuse:

(i) The actual or relative potential for abuse of the tetrahydrocannabinol.

(ii) The scientific evidence of the tetrahydrocannabinol's pharmacological effect, if known.

(iii) The state of current scientific knowledge regarding the tetrahydrocannabinol.

(iv) The history and current pattern of abuse of the tetrahydrocannabinol.

(v) The scope, duration, and significance of abuse of the tetrahydrocannabinol.

(vi) The tetrahydrocannabinol's risk to the public health.

(vii) The potential of the tetrahydrocannabinol to produce psychic or physiological dependence liability.

(3) The cannabis regulatory agency shall not promulgate a rule that is unreasonably impracticable or that does any of the following:

(a) Establishes a limit on the number of any type of state license that may be granted.

(b) Requires a customer to provide a marihuana retailer with identifying information other than identification to determine the customer's age or requires the marihuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction.

(c) Prohibits a marihuana establishment from operating at a shared location of a marihuana facility operating pursuant to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, or prohibits a marihuana grower, marihuana processor, or marihuana retailer from operating within a single facility.

(4) A rule promulgated under this act must be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 10. (1) Notwithstanding any other law or provision of this act, and except as otherwise provided in section 4 or the rules promulgated under this act, the following acts are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for search or inspection except as authorized by this act, and are not grounds to deny any other right or privilege:

(a) For a marihuana grower or an agent acting on behalf of a marihuana grower who is 21 years of age or older, cultivating not more than the number of marihuana plants authorized by the state license class; possessing, packaging, storing, or testing marihuana; acquiring marihuana seeds or seedlings from a person who is 21 years of age or older; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting marihuana to or from a marihuana establishment or a tribal marihuana business; or receiving compensation for goods or services.

(b) For a marihuana processor or an agent acting on behalf of a marihuana processor who is 21 years of age or older, possessing, processing, packaging, storing, or testing marihuana; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting marihuana to or from a marihuana establishment or a tribal marihuana business; or receiving compensation for goods or services.

(c) For a marihuana secure transporter or an agent acting on behalf of a marihuana secure transporter who is 21 years of age or older, possessing or storing marihuana; transporting marihuana to or from a marihuana establishment or a tribal marihuana business; or receiving compensation for services.

(d) For a marihuana safety compliance facility or an agent acting on behalf of a marihuana safety compliance facility who is 21 years of age or older, testing, possessing, repackaging, or storing marihuana; transferring, obtaining, or transporting marihuana to or from a marihuana establishment or a tribal marihuana business; or receiving compensation for services.

(e) For a marihuana retailer or an agent acting on behalf of a marihuana retailer who is 21 years of age or older, possessing, storing, or testing marihuana; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting marihuana to or from a marihuana establishment or a tribal marihuana business; selling or otherwise transferring marihuana to a person who is 21 years of age or older; or receiving compensation for goods or services.

(f) For a marihuana microbusiness or an agent acting on behalf of a marihuana microbusiness who is 21 years of age or older, cultivating not more than 150 marihuana plants; possessing, processing, packaging, storing, or testing marihuana from marihuana plants cultivated on the premises; selling or otherwise transferring marihuana cultivated or processed on the premises to a person who is 21 years of age or older; or receiving compensation for goods or services.

(g) For a tribal marihuana business or an agent acting on behalf of a tribal marihuana business who is 21 years of age or older, engaging in an activity the tribal marihuana business is authorized to engage in under an applicable agreement entered into under section 7(2)(b) that is in effect.

(h) Leasing or otherwise allowing the use of property owned, occupied, or managed for activities allowed under this act.

(i) Enrolling or employing a person who engages in marihuana-related activities allowed under this act.

(j) Possessing, cultivating, processing, obtaining, transferring, or transporting industrial hemp.

(k) Providing professional services to prospective or licensed marihuana establishments related to activity under this act.

(2) A person acting as an agent of a marihuana retailer who sells or otherwise transfers marihuana or marihuana accessories to a person who is younger than 21 years of age is not subject to arrest, prosecution, forfeiture of property, disciplinary action by a professional licensing board, denial of any right or privilege, or penalty in any manner, if the person reasonably verified that the recipient appeared to be 21 years of age or older by means of government-issued photographic identification containing a date of birth, and the person complied with any rules promulgated pursuant to this act.

(3) It is the public policy of this state that contracts related to the operation of marihuana establishments or tribal marihuana businesses be enforceable.

Sec. 13. (1) Except as otherwise provided in subsection (4), in addition to all other taxes, an excise tax is imposed on each marihuana establishment and on each person who sells marihuana at the rate of 10% of the sales price for marihuana sold or otherwise transferred to a person other than a marihuana establishment or tribal marihuana business.

(2) Except as otherwise provided by a rule promulgated by the department of treasury, a product subject to the tax imposed under this section may not be bundled in a single transaction with a product or service that is not subject to the tax imposed by this section.

(3) The department of treasury shall administer the taxes imposed under this act pursuant to 1941 PA 122, MCL 205.1 to 205.31. The department of treasury may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to MCL 24.328, that prescribe a method and manner for payment and collection of the taxes imposed under this act.

(4) The tax imposed under subsection (1) does not apply to any of the following:

(a) Marihuana sold or otherwise transferred from a tribal marihuana business.

(b) Marihuana sold or otherwise transferred under the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(c) Marihuana sold or otherwise transferred under the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 179 of the 102nd Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor

Compiler's note: Senate Bill No. 179, referred to in enacting section 1, was filed with the Secretary of State October 19, 2023, and became 2023 PA 165, Imd. Eff. Oct. 19, 2023.