

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA EMPLOYEES

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 facilities 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 420.601, R 420.602, and R 420.603 are added to the Michigan Administrative Code as follows:

R 420.601 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) “Designated consumption establishment” means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

(d) “Employee” means, except as otherwise provided in these rules, 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 establishment.

(e) “Limited access area” means a building, room, or other contiguous area of a marihuana business where marihuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale and that is under the control of the licensee.

(f) “Marihuana business” refers to a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan regulation and taxation of marihuana act, or both.

(g) “Marihuana customer” refers to a registered qualifying patient under the medical marihuana facilities licensing act, a registered primary caregiver under the medical marihuana facilities licensing act, or an individual 21 years of age or older under the Michigan regulation and taxation of marihuana act, or all 3.

(h) “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, marihuana designated consumption establishment, or any other type of marihuana related business licensed to operate by the agency under the Michigan regulation and taxation of marihuana act.

(i) “Marihuana event organizer” means a person licensed to apply for a temporary marihuana event license under these rules.

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

(k) “Marihuana product” means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(l) “Marihuana sales location” refers to a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer or marihuana microbusiness under the Michigan regulation and taxation of marihuana act, or both.

(m) “Medical marihuana facilities license act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(n) “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.

(o) “These rules” means the administrative rules promulgated by the Marijuana Regulatory 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.

(p) “Temporary marihuana event license” means a state license held by a marihuana event organizer under the Michigan regulation and taxation of marihuana act, for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license.

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

#### R 420.602 Employees; requirements.

Rule 2. (1) A licensee shall conduct a criminal history background check on any prospective employee before hiring that individual. A licensee shall keep records of the results of the criminal history background checks for the duration of the employee’s employment with the licensee. A licensee shall record confirmation of criminal history background checks and make the confirmation available for inspection upon request by the agency.

(2) A licensee shall comply with all of the following:

(a) Have a policy in place that requires employees to report any new or pending criminal charges or convictions. If an employee is charged with or convicted of a controlled substance-related felony or any other felony, the licensee shall immediately report the charge or conviction to the agency. If an employee of a licensee under the Michigan regulation and taxation of marihuana act is convicted of an offense involving distribution of a controlled substance to a minor, the licensee shall immediately report the conviction to the agency. The agency shall maintain a list of excluded employees.

(b) Enter in the statewide monitoring system an employee’s information and level of statewide monitoring system access within 7 business days of hiring for the system to assign an employee identification number. The licensee shall update in the statewide monitoring system employee information and changes in status or access within 7 business days.

(c) Remove an employee's access and permissions to the marihuana business and the statewide monitoring system within 7 business days after the employee's employment with the licensee is terminated.

(d) Train employees and have an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, marihuana product information, dosage and purchasing limits if applicable, and educational materials. Copies of these items must be maintained and made available to the agency upon request.

(e) A licensee under the Michigan regulation and taxation of marihuana act shall, if applicable, include in the employee training manual a responsible operations plan. A responsible operations plan must include a detailed explanation of how employees will monitor and prevent over-intoxication, underage access to the establishment, the illegal sale or distribution of marihuana or marihuana products within the establishment, and any other potential criminal activity on the premises, as applicable. Copies of these items must be maintained and made available to the agency upon request.

(f) Establish point of sale or transfer procedures for employees at marihuana sales locations performing any transfers or sales to marihuana customers. The point of sale or transfer procedures must include, but are not limited to, training in dosage, marihuana product information, health or educational materials, point of sale training, purchasing limits, cannabidiol (CBD) and tetrahydrocannabinol (THC) information, serving size, and consumption information, including any warnings. Copies of these items must be maintained and made available to the agency upon request.

(g) Screen prospective employees against a list of excluded employees based on a report or investigation maintained by the agency in accordance with subdivision (a) of this subrule.

(h) Ensure that employees handle marihuana product in compliance with current good manufacturing practice in manufacturing, packing, or holding human food, 21 CFR part 110, as specified in these rules.

(i) When a registered primary caregiver is hired as an employee of a grower, processor, or secure transporter licensed under the medical marihuana facilities licensing act, withdraw, or ensure the individual withdraws, the individual's registration as a registered primary caregiver in a manner established by the agency.

(j) If a licensee under the Michigan regulation and taxation of marihuana act, not allow a person under 21 years of age to volunteer or work for the marihuana establishment pursuant to section 11 of the MRTMA, MCL 333.27961.

(k) If a licensee under the Michigan regulation and taxation of marihuana act, not employ any individual who has been convicted of an offense involving distribution of a controlled substance to a minor.

(3) If an individual is present at a marihuana business or in a marihuana transporter vehicle who is not identified as a licensee or an employee of the licensee in the statewide monitoring system or is in violation of the acts or these rules, the agency may take any action permitted under the acts and these rules. This subrule does not apply to authorized escorted visitors at a marihuana business.

(4) Employee records are subject to inspection or examination by the agency to determine compliance with the acts and these rules.

(5) Consumption of food and beverages by employees or visitors is prohibited where marihuana product is stored, processed, or packaged or where hazardous materials are used, handled, or

stored. The marihuana business may have a designated area for the consumption of food and beverages that includes, but is not limited to, a room with floor to ceiling walls and a door that separates the room from any marihuana product storage, processing, or packaging.

(6) As used in this rule, “employee” includes, but is not limited to, hourly employees, contract employees, trainees, or any other person given any type of employee credentials or authorized access to the marihuana business. Trade or professional services provided by individuals not normally engaged in the operation of a marihuana business, except for those individuals required to have employee credentials under this rule, must be reasonably monitored, logged in as a visitor and escorted through any limited access areas.

(7) Nothing in this rule prohibits a licensee from allowing visitors into the marihuana business, if the visitors are reasonably monitored, logged in as a visitor, and escorted through any limited access areas. Visitors that are not employees or individuals providing trade or professional services are prohibited where hazardous materials are used, handled, or stored in the marihuana business.

#### R 420. 603 Severability.

Rule 3. 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.