



Local Regulation of Medical Marihuana

Saginaw Valley State University
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Public Act 281 Medical Marihuana Facilities Licensing Act or MMFLA

Creates 5 types of Medical Marihuana Facilities:

Grower

Class A – 500 plants

Class B – 1000 plants

Class C – 1500 plants (may be “stacked”)

Processor: extracts resin from plant /creates marihuana-infused products

Secure Transporter: transports marihuana & cash between facilities; may also store marihuana

Safety Compliance Facility: tests samples of marihuana for contaminants and its active ingredients

Provisioning Center: sells marihuana/marihuana infused products only to registered patients and caregivers

Overview of Public Act 281

State Licensing Process

Applicants for State License must:

1. Not have a controlled-substance felony within past 10 years
2. Not have a controlled-substance misdemeanor within past 5 years
3. Not be an elected official or governmental employee
4. Be a Michigan resident for 2 years, until 6/30/2018

Nature of License:

1. Revocable privilege, not property right
2. Subject to examination at any time by law enforcement
3. Must do background checks on prospective employees

Revenue

1. Nonrefundable State application fee
2. State regulatory assessment (not imposed on safety compliance centers)
3. **3% tax on retail sales at provisioning centers**

Overview of Public Act 281

Speculative State/City Revenue Projections

	Scenario 1	Scenario 2
Gross Retail Sales	\$650,000,000	\$1,000,000,000
3% Excise Tax	\$19,500,000	\$30,000,000
25% Michigan Cities	\$4,875,000	\$7,500,000
1% Share	\$48,750	\$75,000

Overview of Public Act 281

Local Options under the MMFLA:

1. Do Nothing / Wait & See

No action precludes any type of marihuana facility from getting a State-issued license to operate in the local municipality since a local ordinance authorizing marihuana facilities is required

2. Adopt an ordinance or resolution affirmatively prohibiting marihuana facilities from operating in the municipality

3. Adopt an ordinance authorizing 1 or more types of marihuana facilities and limit the number of each type:

- a. may not regulate purity or pricing
- b. may not interfere or conflict with “statutory” regulations
- c. may establish an annual nonrefundable fee of up to \$5000 to help defray administrative and enforcement costs
- d. eligible to receive proportional share of 25% of State Medical Marihuana Excise Fund reserved for municipalities

Local Options/Response

Municipal Response: Preparation of ordinances

- 1. Adopt or Amend any applicable ordinance provisions to bring language up to date due to changes in MMMA to address butane refining/infused products by registered caregivers/patients**
- 2. Amend Zoning Code to define where various types of marihuana facilities may lawfully locate if permitting medical marihuana facilities**
- 3. Amend General/Police Powers Code**
 - a. To permit and perhaps limit number of marihuana facilities in the City
 - b. To create a licensing process complementary to that of the State
 - c. Set forth the responsibilities and obligations of medical marihuana facility operators

Local Options/Response

Municipal Response: Problematic Issues

Should all types of facilities be permitted?

Where should the various types of permitted facilities be located?

(Growers limited to industrial, agricultural or unzoned areas)

Should they be clustered or dispersed? (Distances from other protected uses?)

LARA issued Temporary Rules on December 4, 2017 indicating an intent to permit grower/processor/provisioning centers at the same location. Requires separate licenses and separate entrances/exits. *Local municipalities may prohibit co-location, however.*

How proactive should the municipality be in vetting licensees?

If permitted, location by right or by special use? (Don't invite legal challenges!)

You are not alone: How have communities in Michigan and other states addressed these and other issues associated with medical marijuana commercialization?

Local Options/Response

Municipal Response: Problematic Issues

Medical Marihuana businesses traffic in a Schedule 1 substance and can be heavily cash-oriented, thereby making facilities an attractive crime target

Large amounts of growing/stored marihuana can have an unpleasant odor

Processing can involve use of flammable materials to extract resin from plant

Issues associated with waste disposable; safety, accessibility

Firearms and security pose questions under federal ATF rules

Should the City determine who gets a license? And if so, how?

Other public health, safety, & welfare issues? What needs to be in your ordinance?

Exposure to Federal criminal/civil liability for City officials and employees?

Local Options/Response

Municipal Response: Next Steps

- ❖ 2018 Ballot Question to Legalize Recreational Marihuana
 - ❖ Initiative Question requires 252,523 valid signatures
- ❖ As reported by MLive on August 6, 2017, proposal would:
 - ❖ Permit possession of 2.5 ounces on one's person (Most states permit 1 oz. on person)
 - ❖ Permit additional 10 ounces in one's home
 - ❖ By some estimates, this would be enough to roll over 1000 joints
- ❖ Legal landscape may drastically change in next 12 months; Stay tuned!
 - ❖ Attorney General Sessions revokes Obama-era memos
 - ❖ Impact of Rohrabacher-Blumenauer Amendment??

Local Options/Response

Municipal Response: Next Steps

- ❖ Consult your municipal attorney
- ❖ Provide information to the Planning Commission & City Council in advance
- ❖ Hold public outreach meetings regarding the proposed ordinances to receive citizen feedback
- ❖ Incorporate feedback into ordinances and finalize language
- ❖ Get out in front of the issue
- ❖ Be aware of the possibility of ordinance/charter initiatives
- ❖ Opponents may compare local regulation of marihuana akin to that of alcohol or adult businesses (MMFLA does not change MMMA re: registered caregiver-patient relationship, nor does it “legalize” marihuana, or eliminate the black market)
- ❖ Industry will frame the issue as one of altruism; it is providing much needed medicine to underserved patients

Local Options/Response

“There's always cash when we sell drugs. That's why we sell drugs.”

--Nancy Botwin (Character from the Showtime series “Weeds”)

According to a August 31, 2017 Wall Street Journal article, the wholesale value of marijuana is \$1614/lb., the retail value is \$4536/lb.

Questions?