INITIATION OF LEGISLATION

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 this act is not enacted into law 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.

The people of the State of Michigan enact.

Sec. 1. This act shall be known and may be cited as the Michigan Regulation and Taxation of Marihuana Act.

Sec. 2. The purpose of this act is to make marihuana legal under state law and local law for adults 21 years of age or older, to make industrial hemp legal under state and local law, and to control the commercial production and distribution of marihuana under a system that licenses, regulates, and taxes the business of growing, making, and transporting marihuana to prevent abuse, to protect public safety, to encourage the use of marihuana for medicinal and productive purposes, and to ensure the safety of marihuana establishments. To the fullest extent possible, this act shall be interpreted in accordance with the purpose and intent set forth in this section.

Sec. 3. As used in this act:
(a) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.
(b) "Department" means the department of licensing and regulatory affairs.
(c) "Industrial hemp" means a plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9-tetrahydrocannabinol (THC) concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.
(d) "Licensee" means a person holding a state license.
(e) "Marihuana" means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this act, marihuana does not include:
1. The by-products of the stems, leaves, flowers, or seeds of the plant, other than those retained in the plant under the Department of Agriculture, for generating and distributing marihuana.
2. The resin and extract from any part of the plant, other than the stems, leaves, flowers, or seeds of the plant.
3. The compounds, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination.
4. "Marihuana" also means any product of the resin, extract, or preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.
(f) "Marihuana concentrate" means the resin extracted from any part of the plant of the genus cannabis.
(g) "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 department.
(h) "Marihuana grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
(i) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients that is intended for human consumption.
(j) "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.
(k) "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.
(l) "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.
(m) "Marihuana secure transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
(n) "Marihuana safety compliance facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.
(o) "Municipal license" means a license issued by a municipality pursuant to section 16 of this act that allows a person to operate a marihuana establishment in that municipality.
(p) "Municipality" means a city, village, or township.
(q) "Person" means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.
(r) "Possession" means to possess, carry, keep, control, have on one's person, or have within one's reach.
(s) "Property of the person" means property that the person has in his or her possession or control, including property that is owned by the person or under his or her control.
(t) "State license" means a license issued by the department that allows a person to operate a marihuana establishment.

Sec. 4. 1. This act does not authorize:
(a) Operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana;
(b) Transfer of marihuana or marihuana accessories to a person under the age of 21;
(c) Any person under the age of 21 to possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana;
(d) Separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure;
(e) Consuming marihuana in a public place or smoking marihuana where prohibited by the person who owns, occupies, or manages the property, except that this subdivision does not apply to a public place or area included in designated areas that are designated for consumption by municipalities that have specified consumption in designated areas that are not accessible to persons under the age of 21;
(f) Cultivating marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security device that restrict access to the area;
(g) Consuming marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoking marihuana within the passenger area of a vehicle upon a public way;
(h) Possessing marihuana accessories or possessing or consuming marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility or organization;
(i) Possessing more than 2.5 ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area that is not accessible to any other tenant or occupant of the container or area.
2. This act does not limit any privileges, rights, immunities, or defenses of a person as provided in the Michigan medical marihuana act, 2008 1 L 2008 MCL 333.267121 to 333.26930, the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, or any other law of this state allowing the possession of marihuana for medicinal use.
3. This act does not require an employer to permit or accommodate conduct otherwise allowed by this act in any workplace or on the employer's property. This act does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of marihuana. This act does not prohibit an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working while under the influence of marihuana.
4. This act does not prohibit any provision of this act to be applied to conduct that is permitted by this act.
Sec. 5. 1. Notwithstanding any other law or provision of this act, except as otherwise provided in section 4 of this act, the following acts by a person 21 years of age or older are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or conviction for any municipal, county, or state officer, or for any municipal, county, or state officer, for search or seizure, and are not grounds to deny any other right or privilege:

(a) except as permitted by subdivision (b), possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marijuana, except that not more than 15 grams of marijuana may be in the form of marijuana concentrate;
(b) within 21 days of the person's arrest, possessing not more than 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and not more than 12 marijuana plants for personal use, provided that no more than 12 marijuana plants are cultivated, possessed, or processed on the premises at once;
(c) possessing in other persons 21 years of age or older, in any form or manner, and authorized by the act described in this section; and
(d) giving away or otherwise transferring without remuneration up to 2.5 ounces of marijuana, except that not more than 15 grams of marijuana may be in the form of marijuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.

2. Notwithstanding any other law or provision of this act, except as otherwise provided in section 4 of this act, the use, manufacture, possession, purchase, and consumption of marijuana by any person 21 years of age or older is not unlawful, is not an offense, is not grounds for seizing or forfeiting property, is not grounds for arrest, prosecution, or conviction for any other reason, and is not grounds to deny any other right or privilege.

3. A person shall not be denied of custody or visitation with a minor for conduct that is permitted by this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

Sec. 6. 1. Except as provided in section 4, a municipality may completely prohibit or limit the number of marijuana establishments within its boundaries. Individuals may petition to initiate an ordinance to provide for the number of marijuana establishments allowed within a municipality or to completely prohibit marijuana establishments within a municipality, and such petitions shall be submitted to the electors of the municipality at the next regular election when a petition is signed by qualified electors in the municipality in a number greater than 5% of the votes cast for governor by qualified electors in the municipality at the last gubernatorial election. A petition under this subsection is subject to section 48B of the Michigan election act, 1954 PA 116, MCL 168.483.

2. A municipality may adopt other ordinances that are not unreasonably impractical and do not conflict with this act or any rule promulgated pursuant to this act and that:
(a) establish reasonable restrictions on public signs related to marijuana establishments;
(b) regulate the time, place, and manner of operation of marijuana establishments and of the production, manufacture, sale, or display of marijuana accessories;
(c) authorize the sale of marijuana for consumption in designated areas that are not accessible to persons under 21 years of age, or at special events in limited areas and for a limited time; and
(d) designate a violation of the ordinance and provide for a penalty for that violation by a marijuana establishment, provided that such violation is a civil offense, and the civil fine is a civil fee and is not more than $500.

3. A municipality may adopt an ordinance requiring a marijuana establishment with a physical location within the municipality to obtain a municipal license, but may not impose qualifications for licensure that conflict with this act or rules promulgated by the department.

4. A municipality may charge an annual fee not to exceed $5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment in the municipality.

5. A municipality may adopt an ordinance that restricts the transportation of marijuana through the municipality or prohibits a marijuana grower, a marijuana processor, and a marijuana retailer from operating within a single facility or from operating at a location near a marijuana facility operating pursuant to the medical marijuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

Sec. 7. 1. The department is responsible for implementing this act and has the power and duties necessary to control the commercial production and distribution of marijuana. The department shall employ personnel and may contract with advisors and consultants as necessary to adequately perform its duties. No person who is pecuniarily interested, directly or indirectly, in any marijuana establishment may be an employee, advisor, or consultant involved in the regulation, administration, or enforcement of this act. An employee, advisor, or consultant of the department may not be personally liable for any action at law for damages sustained by a person because of an action performed or done in the performance of their duties in the implementation, administration, or enforcement of this act.

The department shall be responsible for conducting background investigations of all persons holding an ownership interest in an applicant.

2. The department shall promulgate rules to implement and administer this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to MCL 24.328, including:
(a) procedures for issuing a state license pursuant to section 9 of this act and for renewing, suspending, and revoking a state license;
(b) for the establishment 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 marijuana-related offense does 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 marijuana by marijuana establishments, including health standards to ensure the safe preservation of marijuana-infused products and prohibitions on pesticides that are not safe for use on marijuana;
(e) testing, packaging, and labeling standards, procedures, and requirements for marijuana, including a maximum tetrahydrocannabinol level for marijuana-infused products, a requirement that a representative sample of marijuana be tested by a marijuana safety compliance facility, and a requirement that the amount of marijuana or marijuana concentrate contained within a marijuana-infused product be specified on the product label;
(f) security requirements, including lighting, physical surveillance, and alarm requirements, and requirements for secure transporting marijuana between marijuana establishments, provided that such requirements do not prohibit cultivation of marijuana outdoors or in greenhouses;
(g) record keeping requirements, monitoring and reporting requirements to track the transfer of marijuana by licensees;
(h) requirements for the operation of marijuana secure transporters to ensure that all marijuana establishments are properly serviced;
(i) reasonable restrictions on advertising, marketing, and display of marijuana and marijuana establishments;
(j) a plan to promote and encourage participation in the marijuana industry by people from communities and neighborhoods that have been disproportionately impacted by marijuana prohibition, and enforcement of those actions and to positively impact those communities;
(k) penalties for refusing to comply with any rule promulgated pursuant to this section or for any violation of this act by a licensee, including civil fines and suspension, revocation, or restriction of a state license.

2. In furtherance of the intent of this act, the department may promulgate rules to:
(a) provide for issuance of additional types or classes of state licenses to operate marijuana-related businesses, including licenses that authorize only limited cultivation, processing, delivery, ultimate sale, or any combination of such activities that authorize the consumption of marijuana within designated areas, licenses that authorize the consumption of marijuana at special events in limited areas and for a limited time, licenses that authorize cultivation for purposes of propagation, and licenses intended to facilitate scientific research or education; or
(b) require the purchase of cultivation, processing, and sale of industrial hemp.

3. The department may not promulgate a rule that:
(a) requires the establishment of any additional type or class of state license that may be grantees;
(b) requires a customer to provide a master key or any other identifying information other than identification to determine the customer's age or requires the marijuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction;
(c) prohibits a manhuana establishment from operating at a shared location of a manhuana facility operating pursuant to the medical manhuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, or prohibits a manhuana grower, manhuana processor, or manhuana retailer from operating within a single facility; or

(d) is reasonably improbable.

Sec. 9. Each application for a state license must be submitted to the department. Upon receipt of a complete application and application fee, the department shall forward a copy of the application to the municipality in which the manhuana establishment is to be located, determine whether the applicant and the premises qualify for the state license and comply with this act, and issue the appropriate state license or send the applicant a notice of rejection setting forth specific reasons why the department did not approve the state license application within 90 days.

2. The department shall issue a license to the following: manhuana grower; manhuana retailer; manhuana processor; manhuana microbusiness; class A manhuana grower authorizing cultivation of not more than 100 manhuana plants; class B manhuana grower authorizing cultivation of not more than 500 manhuana plants; and class C manhuana grower authorizing cultivation of not more than 2,000 manhuana plants.

3. Except as otherwise provided in this section, the department shall approve a state license application and issue a state license if:

(a) the applicant has submitted an application with the rules promulgated by the department, is in compliance with this act and the rules, and paid the required fee;

(b) the municipality in which the proposed manhuana establishment will be located does not notify the department that the proposed manhuana establishment is not in compliance with an ordinance consistent with section 6 of this act and in effect at the time of application;

(c) the premises where the proposed manhuana establishment is to be located is not within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement;

(d) no person who holds an ownership interest in the manhuana establishment applicant:

(1) will hold an ownership interest in both a manhuana safety compliance facility or in a manhuana secure transporter and in a manhuana grower, a manhuana processor, a manhuana microbusiness; or a manhuana grower, a manhuana processor, a manhuana retailer, a manhuana microbusiness, or a manhuana grower, a manhuana processor, a manhuana retailer, a manhuana safety compliance facility, or a manhuana secure transporter; and

(2) will hold an ownership interest in both a manhuana microbusiness and in a manhuana grower, a manhuana processor, a manhuana retailer, a manhuana safety compliance facility, or a manhuana secure transporter; and

(3) will hold an ownership interest in more than 5 manhuana growers or in more than 1 manhuana microbusiness, except that the department may approve a manhuana establishment and license an applicant who holds an ownership interest in more than 5 manhuana growers or more than 1 manhuana microbusiness if, after January 1, 2023, the department promulgates a rule authorizing an individual to hold an ownership interest in more than 5 manhuana growers or in more than 1 manhuana microbusiness.

4. If a municipality limits the number of manhuana establishments that may be licensed in the municipality pursuant to section 8 of this act and that limit prevents the department from issuing a state license to all applicants who meet the requirements of subsection (b) of this section, the municipality shall decide among competing applications by a process intended to select applicants who are best suited to operate in compliance with this act within the municipality.

5. All state licenses are effective for 1 year, unless the department issues the state license for a longer term. A state license is renewed upon receipt of a complete renewal application and a renewal fee for each manhuana establishment in good standing.

6. The department shall begin accepting applications for manhuana establishments within 12 months after the effective date of this act. Except as otherwise provided in this section, the department may only accept applications for licenses: for a class A manhuana grower or for a manhuana microbusiness, from persons who are residents of Michigan; for a manhuana retailer, manhuana processor, class B manhuana grower, class C manhuana grower, or a manhuana secure transporter, from persons holding a state operating license pursuant to the medical manhuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801; and for a manhuana safety compliance facility, from any applicant. One year after the department begins to accept applications pursuant to this section, the department shall begin accepting applications from any applicant if the department determines that additional state licenses are necessary to minimize the illegal market for cultivated manhuana in this state, to efficiently meet the demand for manhuana, or to provide for reasonable access to manhuana in rural areas.

7. Information obtained from an applicant related to licensure under this act is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.266.

Sec. 10. Notwithstanding any other law or provision of this act, and except as otherwise provided in section 4 of this act or the rules promulgated hereunder, the following acts and conduct are not unlawful, are not offenses, are not grounds for seizure, 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) a manhuana grower or an agent acting on behalf of a manhuana grower who is 21 years of age or older, cultivating not more than the number of manhuana plants authorized by the state license class; possessing, packaging, storing, or testing manhuana; acquiring manhuana seeds or seedlings from a person who is 21 years of age or older; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting manhuana or a manhuana derivative from a person who is 21 years of age or older; or acquiring, manufacturing, or using, for any purpose, a manhuana derivative;

(b) a manhuana processor or an agent acting on behalf of a manhuana processor who is 21 years of age or older, possessing, processing, packaging, storing, or testing manhuana; or selling or otherwise transferring, purchasing or otherwise obtaining, or transporting manhuana to or from a manhuana facility;

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

(d) a manhuana facility or an agent acting on behalf of a manhuana facility who is 21 years of age or older, testing, possessing, repackaging, or storing manhuana; transporting, receiving, or transporting manhuana to or from a manhuana establishment; or receiving compensation for services;

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

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

(g) leasing or otherwise allowing the use of property owned, occupied, or managed for activities allowed under this act;

(h) enrolling or employing a person who engages in manhuana-related activities allowed under this act;

(i) possessing, packaging, repackaging, or repackaging, or transporting manhuana, manhuana derivatives, or manhuana microbusiness products; or

(j) providing professional services to prospective or licensed manhuana establishments related to activity under this act.

2. A person acting as an agent of a manhuana retailer who sells or otherwise transfers manhuana or manhuana accessories to a person under 21 years of age, with knowledge or reasonable cause to believe that the person under 21 years of age is not a family or household member, companion, friend, or other adult attendant of the person who possesses the manhuana or manhuana accessories.

(b) A manhuana establishment may not cultivate, process, test, or store manhuana at any location other than a physical address approved by the department and within an enclosed area that is secured in a manner that prevents access by persons not permitted by the department to access the establishment.

(c) A manhuana establishment shall secure every entrance to the establishment so that access to areas containing manhuana is restricted to employees and other persons permitted by the manhuana establishment to access the area and to agents of the department or state and local law enforcement officers and emergency medical personnel and shall secure its inventory and equipment during and after operating hours to deter and prevent theft of manhuana and manhuana accessories.

(d) No manhuana establishment may refuse representatives of the department the right during the hours of operation to inspect the licensed premises or to audit the books and records of the manhuana establishment.

(e) No manhuana establishment may allow a person under 21 years of age to volunteer or work for the manhuana establishment.

(f) No manhuana establishment may sell or otherwise transfer manhuana that was not produced, distributed, and taxed in compliance with this act.

2. A person acting as an agent of a manhuana retailer who sells or otherwise transfers manhuana, manhuana microbusiness, or manhuana testing facility or agents acting on their behalf may not transport more than 15 ounces of manhuana or more than 60 grams of manhuana concentrate at one time.

(h) A manhuana secure transporter may not hold title to manhuana.
(i) No marihuana processor may process and no marihuana retailer may sell edible marihuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marihuana.

(ii) No marihuana retailer may sell or otherwise transfer marihuana that is not contained in an opaque, resealable, child-resistant package designed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995), unless the marihuana is transferred for consumption on the premises where sold.

(A) No marihuana establishment may sell or otherwise transfer tobacco.

Sec. 12. In computing net income for marihuana establishments, deductions from state taxes are allowed for all the ordinary and necessary expenses paid or incurred in the taxable year in carrying out a trade or business.

Sec. 13. In addition to all other taxes, an excise tax is imposed on each marihuana retailer and on each marihuana microbusiness at the rate of 10% of the sales price for marihuana sold or otherwise transferred to anyone other than a marihuana establishment.

2. Except as otherwise provided by a rule promulgated by the department of treasury, a product subject to the tax imposed by 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 and may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to MCL 24.329, that prescribe a method and manner for payment of the tax to ensure proper tax collection under this act.

Sec. 14. The marihuana regulation fund is created in the state treasury. The department of treasury shall deposit all money collected under section 13 of this act and the department shall deposit all fees collected in the fund. The state treasurer shall direct the investment of the fund and shall credit the fund interest and earnings from fund investments. The department shall administer the fund for auditing purposes. Money in the fund shall not lapse to the general fund.

2. Funds for the initial activities of the department to implement this act shall be appropriated from the general fund. The department shall repay any amount appropriated under this subsection from proceeds in the fund.

3. The department shall expend money in the fund first for the implementation, administration, and enforcement of this act, and second, until 2022 or for at least two years, to provide $20 million annually to one or more clinical trials that are approved by the United States food and drug administration and sponsored by a nonprofit organization or researcher within an academic institution researching the efficacy of marihuana in treating the medical conditions of United States armed services veterans and preventing veteran suicide. Upon appropriation, unexpended balances must be allocated as follows:

(a) 15% to municipalities in which a marihuana retail store or a marihuana microbusiness is located, allocated in proportion to the number of the municipalities

(b) 15% to counties in which a marihuana retail store or a marihuana microbusiness is located, allocated in proportion to the number of marihuana retail stores and marihuana microbusinesses within the county;

(c) 15% to the school aid fund to be used for K-12 education; and

(d) 35% to the Michigan transportation fund to be used for the repair and maintenance of roads and bridges.

Sec. 15. A person who commits any of the following acts, and is not otherwise authorized by this act to conduct such activities, may be punished only as provided in this section and is not subject to any other form of punishment or disqualification, unless the person consents to another disposition authorized by law:

1. Except for a person who engaged in conduct described in sections 411(4a), 411(4b), 411(4c), 411(4d), 411(4g), or 411(4h), a person who possesses not more than the amount of marihuana allowable under this act, and not more than the amount of marihuana allowable by section 5, delivers without receiving any remuneration to a person who is at least 21 years of age but not more than the amount of marihuana allowed by section 5, or possesses with intent to deliver more than the amount of marihuana allowed by section 5, is responsible for a civil infraction and may be punished by a fine of not more than $100 and forfeiture of the marihuana.

2. Except for a person who engaged in conduct described in section 4, a person who possesses not more than twice the amount of marihuana allowed by section 5, cultivates not more than twice the amount of marihuana allowed by section 5, delivers without receiving any remuneration to a person who is at least 21 years of age but not more than twice the amount of marihuana allowed by section 5, or possesses with intent to deliver more than twice the amount of marihuana allowed by section 5:

(a) for a first violation, is responsible for a civil infraction and may be punished by a fine of not more than $500 and forfeiture of the marihuana;

(b) for a second violation, is responsible for a civil infraction and may be punished by a fine of not more than $1,000 and forfeiture of the marihuana;

(c) for a third or subsequent violation, is guilty of a misdemeanor and may be punished by a fine of not more than $2,000 and forfeiture of the marihuana.

3. Except for a person who engaged in conduct described in section 411(4a), 411(4d), or 411(4g), a person under 21 years of age who possesses not more than 2.5 ounces of marihuana or who cultivates not more than 12 marihuana plants:

(a) for a first violation, is responsible for a civil infraction and may be punished as follows:

(1) if the person is less than 18 years of age, by a fine of not more than $100 or community service, forfeiture of the marihuana, and completion of 4 hours of drug education or counseling;

(2) if the person is at least 18 years of age, by a fine of not more than $100 and forfeiture of the marihuana.

(b) for a second violation, is responsible for a civil infraction and may be punished as follows:

(1) if the person is less than 18 years of age, by a fine of not more than $100 or community service, forfeiture of the marihuana, and completion of 8 hours of drug education or counseling;

(2) if the person is at least 18 years of age, by a fine of not more than $500 and forfeiture of the marihuana.

4. Except for a person who engaged in conduct described in section 4, a person who possesses more than twice the amount of marihuana allowed by section 5, cultivates more than twice the amount of marihuana allowed by section 5, or delivers without receiving any remuneration to a person who is at least 21 years of age but more than twice the amount of marihuana allowed by section 5, shall be responsible for a misdemeanor, but shall not be subject to imprisonment unless the violation was habitual, willful, and for a commercial purpose or the violation involved violence.

Sec. 16. 1. If the department does not timely promulgate rules as required by section 8 of this act or accept or process applications in accordance with section 9 of this act, beginning one year after the effective date of this act, an applicant may submit an application for a marihuana establishment directly to the municipality where the marihuana establishment will be located.

2. If a marihuana establishment submits an application to a municipality under this section, the municipality shall issue a municipal license to the applicant within 90 days after receipt of the application unless the municipality finds and notifies the applicant that the applicant is not in compliance with an ordinance or rule adopted pursuant to this act.

3. If a municipality issues a municipal license pursuant to this section:

(a) the municipality shall notify the department that the municipal license has been issued;

(b) the municipal license has the same force and effect as a state license; and

(c) the holder of the municipal license is not subject to regulation or enforcement by the department during the municipal license term.

Sec. 17. This act shall be broadly construed to accomplish its intent as stated in section 2 of this act. Nothing in this act purports to supersede any applicable federal law, except where allowed by federal law. All provisions of this act are self-executing. Any section of this act that is found invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application.