

## **Initiation of Legislation**

### **MICHIGAN COMMON SENSE COMPASSION ACT of 2012**

#### **INITIATIVE PETITION and AMENDMENT of the MMMA of 2008**

#### **Purpose and Intent**

It is the express purpose and intent of this Michigan Common Sense Compassion Act to: reform medical marihuana law in Michigan; clarify ambiguous language and existing issues with the MMMA of 2008 and amend it where necessary; to have the State of Michigan officially recognize the value and benefit of medical marihuana and request the FDA to reschedule it from Schedule 1 to Schedule 3; provide for the operation of dispensaries and safe transfer facilities under local regulatory and taxation guidelines; to protect the civil rights and privacy of medical patients by prohibiting the State of Michigan from divulging confidential medical information to any source; to prohibit any kind of discrimination against medical patients for their choice of medicine; to clarify and provide for new State law enforcement procedures for marihuana related issues; to change certain marihuana related offenses from criminal conduct to a civil infraction; and to provide for the benefit of the citizens of the State of Michigan a clear and concise understanding of the terms and procedures associated with marihuana related issues as described in this Act.

#### **Overview**

With an overwhelming majority, the people of the State of Michigan voted into law and therefore recognize the significant medical value and benefit of the use of marihuana to treat serious qualifying medical conditions as they are listed in the MMMA of 2008. The people of the State of Michigan also recognize and support the vast modern medical evidence in support of the use of marihuana as a valuable medicine to treat diseases and their symptoms.

However, since it's enactment in 2008 there has been much discussion and debate surrounding serious issues and ambiguous language used in the MMMA. The people voted it into law and since the Act took effect, Attorney General Bill Scheutte has done nearly everything in his power to limit, narrow, and counteract the MMMA wherever possible. The people of this state are fed up with the tremendous waste of our tax dollars and valuable resources in pursuing the nonsensical rhetoric of those who seek to continue the enforcement of prohibition on marihuana. Michigan's economy has been and continues to be victimized by those in positions of power who are unable or unwilling to make the necessary changes to State law to correct these issues. Therefore, it is the will of the people of the great State of Michigan, by and through this Common Sense Compassion Act, to make certain changes that we deem absolutely necessary to the future of our State.

We hold these truths to be self evident that the current system of State laws regarding marihuana and medical marihuana do not work. According to Harvard University's Economic Department 2010 study "The Budgetary Implications of Drug Prohibition," the State of Michigan spends nearly \$1 Billion dollars annually on the enforcement of marihuana prohibition. The value of ending such prohibition is now painfully clear to the people of the State of Michigan. To date, the revenues generated through the MMMA patient registration program has brought approximately \$10 Million dollars in added revenues to the Michigan Department of Community Health. These revenues are but a small portion of the potential benefit the State of Michigan will enjoy through the modifications created in this Act. Proper local regulation and taxation will not only put an end to the gross wasting of State resources on marihuana prohibition, but will provide a significant source of potential millions of dollars in annual revenues to State and local government through the sale of "Common Sense Stamps." An existing working example of how proper regulation and taxation can be achieved is seen in the regulation and taxation of wineries, and we propose the same type of regulation would effectively control, monitor, and preserve the integrity of the medical marihuana industry as well.

One of the primary goals of the MMMA of 2008 was to protect medical patients and their civil rights, including protection from any kind of prosecution for using or procuring medical marihuana. To that end, we desire to further clarify the qualifying registered patient/caregiver civil rights issues by stating that it shall be prohibited for any person or state agency to discriminate against a medical patient based on their choice of medicine. This protection shall include the protection of confidential medical records maintained by the Michigan Department of Community Health as clearly seen in HIPAA regulations. No one shall be allowed to divulge confidential medical information to any source without express written consent of the patient themselves.

Above all, the incredible burden that has been placed on our State financial and human resources for marihuana related offenses is not warranted or justified and must be repaired. The immense daily cost and burden on the district, circuit and state court systems has proven completely inefficient and totally inappropriate given the will of the people. In fact, the majority of judges and prosecutors openly agree that this ongoing abuse of the already sparse resources of our court systems for marihuana related offenses is seriously troubling and needs to be addressed immediately. Recent statistics have shown that safe transfer facilities along with proper regulation of this industry will in fact significantly reduce crime and related offenses in the community. In addition, changing existing criminal law to make marihuana related offenses a mere civil infraction rather than a punishable criminal offense is not only common sense, but it will also lead to significant revenues generated for the State through the payment of these civil fines, while at the same time reducing the massive overburdening of our court systems.

### **Sec. 1. Definitions.**

(a) "Dispensary" means a locally licensed entity in Michigan that acquires, possesses, cultivates, manufactures, delivers, transfers, and/or transports marihuana and sells, supplies, and/or dispenses marihuana to registered qualifying patients, directly or through their registered primary caregivers. "Dispensary" includes any compassion club or commercial property where marihuana is sold to qualifying patients and their registered primary caregivers.

(b) “Dispensary agent” means a principal officer, board member, employee, operator, or agent of a dispensary who is 18 years of age or older and has not been convicted of an excluded felony offense.

(c) “Department” means the department of licensing and regulatory affairs or its successor agency.

(d) “Excluded felony offense” means any felony conviction involving illegal drugs. It does not include a conviction for activity allowed under state law under the Michigan Medical Marihuana Act or this chapter.

(e) “Registered qualifying patient” means a person who:

(1) has been issued a valid qualifying patient registry identification card pursuant to MCL 333.26426 (a) or (b); or

(2) satisfies the criteria listed in MCL 333.26429 (b) or (c) and possesses the documentation that those sections deem a valid registry identification card.

(f) “Registered primary caregiver” means a person who:

(1) is at least 18 years old; and

(2) has agreed to assist with a patient's medical use of marihuana; and

(3) has never been convicted of a felony involving illegal drugs; and

(4) has been issued a valid, unexpired registry identification card pursuant to MCL 333.26426 (d); or

(5) satisfies the criteria listed in MCL 333.26429 (b) or (c) and possesses the documentation that those sections deem a valid registry identification card.

(g) “Safety compliance facility” means an entity that tests marihuana produced for medical use for contaminants and/or potency.

(h) “Safety compliance facility agent” means a principal officer, board member, employee, operator, or agent of a safety compliance facility who is 18 years of age or older and has not been convicted of an excluded felony offense.

(i) “Seedling” means a marihuana plant that has no flowers, is less than 12 inches in height, and is less than 12 inches in diameter.

(j) “Secure cultivation facility” means a building or location equipped with locks or other security devices to prevent unauthorized entry. A secure cultivation facility shall allow access only by:

(1) registered primary caregivers or dispensary agents of the dispensary that controls the secure cultivation facility;

(2) municipal employees performing inspections, if inspections are authorized by municipal law;

(3) emergency personnel while responding to an emergency;

(4) if accompanied by an agent of the dispensary, and by permission or request of the dispensary, members of the media or government officials;

(5) if accompanied by an agent of the dispensary, registered qualifying patients and registered primary caregivers; and

(6) if accompanied by an agent of the dispensary, contractors who are not engaged in the dispensary's cultivation, distribution, or possession of marihuana.

(k) "Usable marihuana" means the completely dried leaves and flowers of the marihuana plant but does not include the seeds, seedlings, stalks, leaves and roots of the plant. Any cooking mixture or preparation used to prepare marihuana infused ingestible or topical products shall not be included as "usable marihuana" so long as the ingestible or topical product has the amount of actual plant material used in its preparation clearly marked on its packaging.

(l) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days and who possesses a registry identification card, or its equivalent, that was issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by the patient.

(m) "Common sense stamp" means a \$0.50 per gram stamp purchased by licensed dispensary locations through the State web portal operated by LARA as provided in Section 3 of this Act.

### **Sec 1.5 – Official State Recognition of the medicinal properties and benefit from use of medical marihuana.**

We the people of the State of Michigan, by and through this Common Sense Compassion Act, hereby officially recognize and fully support the medicinal properties and benefit derived from medical use of marihuana. We hereby request the Governor of the State of Michigan to petition the FDA to reschedule its classification based on the State controlled substance classification from Schedule 1 to Schedule 3. We recognize no difference between the classification of manufactured prescription drugs that have significant harmful, even fatal, side-effects that are sold at a pharmacy and organic healthy medicinal marihuana as procured under the MMMA and this Act.

### **Sec. 2. Dispensaries and Safety Compliance Facilities Exempt From State Civil and Criminal Penalties. Amendments to the MMMA of 2008.**

(a) Except as provided in this act, a dispensary that has been granted a local municipal registration or license, or that is otherwise not prohibited by municipal law, and the dispensary's agents acting on its behalf shall not be subject to criminal penalties under any state law; state or local prosecution; search or inspection, except for inspections authorized by the municipality that registered or allowed the dispensary; seizure; or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau for:

(1) purchasing or receiving marihuana seeds or seedlings from visiting qualifying patients, registered qualifying patients, registered primary caregivers, or dispensaries;

- (2) purchasing or receiving marihuana, including seedlings, from one or more other dispensaries if purchasing or receiving marihuana from the dispensary is allowed by the municipality where the dispensary is located;
- (3) purchasing or receiving marihuana from registered qualifying patients and/or registered primary caregivers as long as the amount purchased does not exceed the registered qualifying patient or registered primary caregiver's possession limits;
- (4) cultivating or manufacturing marihuana in a secure cultivation facility, except that seedlings need not be in a secure cultivation facility when they are transported;
- (5) possessing and/or manufacturing marihuana paraphernalia;
- (6) possessing and/or processing marihuana produced by the dispensary or obtained pursuant to Sec. 2(a) (1) or (2) on the dispensary premises, or at a secure cultivation facility, or while the marihuana is being transported pursuant to this section;
- (7) transporting marihuana, including seedlings, between the dispensary and another dispensary, the dispensary and a secured cultivation facility, or the dispensary and a safety compliance facility, provided the individuals are in compliance with all proscribed amounts allowed under the Act;
- (8) transporting or delivering marihuana and/or paraphernalia to the residence of a registered qualifying patient or a registered primary caregiver; or
- (9) supplying, selling, dispensing, transferring, or delivering marihuana, paraphernalia, or related supplies and educational materials in accordance with the procedures and limitations detailed in Sec. 3 (l) and (m).

(b) Except as provided in this act, a safety compliance facility that has been granted a municipal registration or license, or that is otherwise allowed by municipal law, shall not be subject to criminal penalties under any state law; state or local prosecution; search or inspection, except for inspections authorized by the municipality that registered the safety compliance facility; seizure; or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau for:

- (1) acquiring or possessing marihuana obtained from registered qualifying patients, registered primary caregivers, or dispensaries;
- (2) returning the marihuana to the registered qualifying patients, registered primary caregivers, or dispensaries who delivered the marihuana to the safety compliance facility;
- (3) transporting marihuana to or from registered qualifying patients, registered primary caregivers, and/or dispensaries;
- (4) possessing marihuana on the safety compliance facility's premises for testing, provided that the marihuana was obtained pursuant to Sec. 2 (b) (1) or (2); and
- (5) receiving compensation for actions allowed under state law by this section and municipal law.

(c) A municipality may prohibit the operation of dispensaries and/or safety compliance facilities within the municipality. A dispensary is not exempt from state criminal and civil penalties if it operates in a municipality that prohibits dispensaries. A safety compliance facility is not exempt from state criminal and civil penalties if it operates in a municipality that prohibits safety compliance facilities.

(d) If the municipality requires a registration or license for a dispensary or safety compliance facility, the dispensary or safety compliance facility is only exempt from criminal penalties if it holds a valid license or registration.

(e) All dispensaries and safety compliance facilities shall maintain on the premises the proper security systems, rated safes, surveillance equipment, and security personnel as required under local ordinance.

(f) A municipality may enact an ordinance allowing dispensaries and/or safety compliance facilities under local law. A municipality may issue registrations or licenses to dispensaries and/or safety compliance facilities and may regulate their operations and impose civil penalties and fines for violations of the local ordinances. Municipalities may enact ordinance requiring dispensaries in their jurisdiction to submit samples of their medicines for random quality screening tests at a safety compliance facility to ensure safe, high quality medicine for all patients.

(g) Amendment to the MMMA of 2008 shall clarify the definitions associated with “medical use” to include express permission of patient-to-patient transfers of medicine that may occur ONLY at licensed dispensary locations. Further amendment shall clarify that one primary caregiver, who is also a patient himself, who also has the maximum allowed 5 patients that he or she is the registered primary caregiver for, shall be specifically allowed to produce the permitted 72 plants in any one locked, enclosed facility in contrast with Michigan AG opinion #7259. Co-operative grow facilities shall still not be permitted within the same locked, enclosed facility.

(h) All other acts and parts of acts inconsistent with this act, such as the Public Health Code and Vehicle Code, do not apply to activities related to medical marihuana as provided for by this act, and are severable.

**Sec. 3 Regulation and Taxation - “Common Sense Stamps” and their benefit to the community. (need to check flow of funds here and make sure it goes where it is supposed to, realistic operation and capabilities of county health depts., funds go where exactly?)**

(a) It is the intent of this section to provide a clear, common sense method for local municipalities to regulate and tax dispensary operations for the benefit of the local community and people. This section is not intended to provide an oppressive taxation tool for the abuse and/or manipulation of licensed dispensaries at the cost of their registered qualifying patients and caregivers.

(b) The revenues generated by this Section shall be used to cover the cost of services provided by local municipalities, including:

- (1) public education on medical marihuana,
- (2) inspections pursuant to local ordinance,
- (3) civil enforcement of the standards of this Act,
- (4) Re-building Michigan’s infrastructure,
- (5) Allocating funds to Michigan’s education system,
- (6) Creating new jobs in the community.

- (c) LARA provides existing framework and shall host a website specifically for regulation and taxation of dispensary operations as provided in this Act.
- (d) Each county health department shall have the option of enacting ordinance to regulate and tax dispensaries on a local basis, not to exceed the terms as provided in this Section.
- (e) In addition to compliance with local municipal ordinance requirements, every licensed dispensary shall be subject to the following county taxation, in addition to existing State and Federal tax requirements:
  - (1) Each local county health department shall make available to all licensed dispensaries in their jurisdiction an application form to purchase “common sense stamps.”
  - (2) Only licensed dispensaries shall be eligible to purchase these “common sense stamps” through their local county health department.
  - (3) The application to purchase these stamps shall contain the name, address, phone number, and appropriate business license information pertaining to the dispensary location along with the amounts applied for to be purchased.
  - (4) All licensed dispensary locations shall be required to purchase the appropriate number of “common sense stamps” and shall at all times be required to maintain an equal or greater number of stamps on-site for all medicine on the dispensary premises at any given time. Records of these purchases and detailed amounts of inventory shall be kept in accordance with Section 4 (j) of this Act.
  - (5) The dispensary is required to affix the appropriate number of stamps to the container for each amount of medicine purchased by any registered qualifying patient or primary caregiver. One stamp per one gram.
  - (6) The cost of these “common sense stamps” shall be *fixed permanently at \$0.50 per stamp, per gram*. No increase in the cost of the stamp will be permitted at any time unless the terms of this Act are amended as required under State Law.

#### **Sec. 4 Requirements, Prohibitions, Penalties, and Limitations.**

- (a) Except as explicitly allowed by a municipal ordinance predating the effective date of this act, the following may not be located within 500 feet of the property line of a licensed pre-existing primary or secondary school:
  - (1) a dispensary;
  - (2) a secure cultivation facility; and
  - (3) a safety compliance facility.
- (b) A dispensary may not share office space with a physician.
- (c) Each dispensary location and secure cultivation facility must have a security alarm system and locks enabled whenever dispensary agents are not present.
- (d) Any marihuana infused products sold, transferred, or dispensed by a dispensary must be labeled with the weight of marihuana contained and with the following text or text substantially similar to it: “WARNING: This product contains marihuana. For qualifying patients’ medical use only.”

(e) The sale of marihuana may not be advertised on billboards, television, or radio. The department may develop additional rules restricting advertising for marihuana sales. The rules shall not prevent appropriate signs on the property of the dispensary, websites for the dispensary or registered primary caregiver, listings in business directories including phone books, listings in trade or medical print or online publications, or the sponsorship of health or not-for-profit charity or advocacy events.

(f) A dispensary or safety compliance facility shall not knowingly employ an agent with an excluded felony offense or who is under 18 years of age. A dispensary or safety compliance facility must perform a background check on each agent before he or she is offered employment to verify that he or she does not have a conviction for an excluded felony offense.

(g) Each dispensary must maintain records listing all agents for the dispensary, along with the date on which they began working for the dispensary, and the date a background check was performed.

(h) A dispensary shall not allow on-site consumption of marihuana.

(i) A dispensary shall not dispense more than 2.5 ounces of useable marihuana per visit to a registered qualifying patient directly or through his or her primary caregiver, as per the terms of the MMMA of 2008.

(j) Dispensaries shall ensure compliance with the dispensing limits by maintaining internal, confidential records that include records specifying how much marihuana is being dispensed. Each entry must include the quantity of marihuana sold and the date and time the marihuana was dispensed. Entries must be maintained for at least 90 days. For any registered qualifying patients in possession of registry identification cards, records must be kept using identification numbers instead of names. Dispensing records shall be subject to reasonable inspection by municipal employees authorized to regulate dispensaries under local municipal law to ensure compliance with this chapter, but may be stored off-site.

(k) A dispensary agent shall not knowingly dispense, transfer, or sell marihuana to any person knowing that the person is not a registered qualifying patient, registered primary caregiver, or dispensary agent working on behalf of a dispensary that is allowed to operate and obtain marihuana from other dispensaries under municipal law.

(l) Before marihuana may be dispensed or sold from a dispensary, a dispensary agent must:

(1) verify that the person requesting marihuana holds what the dispensary agent reasonably believes to be an unexpired primary caregiver or a qualifying patient registry identification card;  
or

(2) verify that (i) the person requesting marihuana certifies that he or she is a qualifying patient who submitted a valid, complete application for a registered qualifying patient identification card at least 21 days earlier with proof of receipt of payment of the State fee, (ii) the person requesting marihuana certifies that to the best of his or her knowledge, the state has not denied the application or issued a registry identification card, (iii) the person requesting marihuana presents a copy of a completed registered qualifying patient application and proof of receipt of

the mailing by the state department that processes medical marihuana applications from at least 21 days prior; or

(3) make a diligent, good faith effort to verify that the person is a dispensary agent for a dispensary that is allowed to operate by a municipality; and

(4) make a diligent, good faith effort to determine that the person named in the registry identification card or other documentation is the person seeking to obtain marihuana, by examining what the dispensary agent reasonably believes to be valid government-issued photo identification.

(m) No person who is under 18 years of age or who has been convicted of an excluded felony offense may be a dispensary or safety compliance facility agent.

(n) A dispensary agent shall not refer patients to a physician to obtain a written certification in exchange for monetary compensation, although dispensaries may be associated with local physician referral services.

(o) A physician shall not advertise in a dispensary, or, if the physician issues written certifications, refer patients to a dispensary or registered primary caregiver, or hold any financial interest in or receive any compensation from a dispensary or secure cultivation facility.

(p) A dispensary or safety compliance facility agent may not transport or possess marihuana on behalf of the dispensary or safety compliance facility in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless:

(1) the agent possesses a document signed and dated by a manager or operator of the dispensary or safety compliance facility that employs the agent, stating the agent's name, the date the marihuana will be transported, the approximate amount of marihuana transported, and the name of the dispensary or safety compliance facility where the marihuana is being transported; and

(2) the medical marihuana is one or more of the following:

(i) enclosed in a locked container, such as a safe, briefcase, or other case;

(ii) carried in the trunk of the vehicle; or

(iii) inaccessible from the immediate reach of the agent from the interior of the vehicle.

(q) Any dispensary that violates subsections Sec. 3 (a) to (c) is responsible for a civil infraction punishable by a fine not to exceed \$5,000. Any city or county where the dispensary operates in violation of Sec. 3 (a), (b), or (c) may file for an injunction to close down the dispensary.

(r) The penalty for a violation of subsections Sec. 3 (d) to (k) is a civil infraction punishable by a fine of not more than \$1,000, payable by the dispensary.

(s) Any person who transfers marihuana in violation of Sec. 3 (k) or (l) or works at a dispensary in violation of Sec. 3 (m) is not exempt from arrest, prosecution, or criminal or other penalties under Sec. 2.

(u) Any person who violates Sec. 3 (n) or (o) is guilty of a civil infraction punishable by a fine of not more than \$1,000.

(u) Any person who violates Sec. 3 (p) is guilty of a civil infraction and a fine of not more than \$500.

(v) Municipalities are encouraged to establish procedures to suspend or revoke a registration, license, or other permission to operate if a dispensary knowingly or negligently allows marihuana to be dispensed to a person who is not a registered qualified patient or registered primary caregiver or if a dispensary or safety compliance facility commits multiple or serious violations of this act or municipal regulations.

(w) Nothing in this law requires the violation of federal law or purports to give immunity under federal law.

(x) Nothing in this law poses an obstacle to federal enforcement of federal law. Local units of government are prohibited from using federal law in forming or enforcing any restrictions on the medical use of marijuana.

(y) If any provision of this Act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of other parts of this Act, and those provisions are severable.

#### **Sec. 5. Qualifying Patient and Primary Caregiver Protections. Protection against discrimination.**

(a) Except as provided in this act, a visiting qualifying patient, registered qualifying patient, or registered primary caregiver shall not be subject to criminal penalties under any state law; state or local prosecution; search or inspection; seizure; or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau for supplying, selling, transferring, or delivering marihuana seeds to a dispensary that is registered, licensed, or otherwise allowed by the municipality in which it operates.

(b) It shall be illegal for any person, state agency or its agents to discriminate against any qualifying patient or primary caregiver in any way based on their medical condition or choice of medicine. Such discrimination is in violation of their 1983 Civil Rights and will be actionable under State law.

(c) As outlined in HIPAA laws protecting medical patient rights and confidentiality, no person or state agency or their agents shall be permitted to disclose any confidential medical information pertaining to the patient to any source whatsoever, without the express written consent of the patient themselves.

(d) Except as provided in this act, a registered qualifying patient shall not be subject to criminal penalties under any state law; state or local prosecution; search or inspection; seizure; or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau for:  
(1) purchasing or acquiring not more than 2.5 ounces of usable marihuana from a dispensary, unless that registered qualifying patient or primary caregiver is allowed to possess additional quantities as permitted under the MMMA; and/or

(2) supplying, selling, transferring, or delivering marihuana to a dispensary that is registered, licensed, or otherwise allowed by the municipality in which it operates if:

- (i) the marihuana was produced by the registered qualifying patient or registered primary caregiver;
- (ii) the municipality in which the dispensary operates allows the transfer of marihuana from a registered qualifying patient to a dispensary; and
- (iii) the amount of marihuana transferred does not exceed the amount of marihuana the registered qualifying patient is allowed to possess.

(e) Except as provided in this act, a registered primary caregiver shall not be subject to criminal penalties under any state law; state or local prosecution; search or inspection; seizure; or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau for:

(1) purchasing or acquiring from dispensaries not more than 2.5 ounces of usable marihuana per registered qualifying patient that has designated the registered primary caregiver on his or her application to the state department administering the medical marihuana program, unless that primary caregiver is allowed to possess additional quantities as provided under the MMMA; and/or

(2) supplying, selling, transferring, or delivering marihuana to a dispensary that is registered, licensed, or otherwise allowed by the municipality in which it operates if:

- (i) the marihuana was produced by the registered primary caregiver and was excess marihuana above the amount necessary to satisfy the registered qualifying patients the primary caregiver was designated to serve; and
- (ii) the municipality in which the dispensary operates allows the transfer of marihuana from a registered primary caregiver to a dispensary; and
- (iii) the amount of marihuana transferred does not exceed the amount of marihuana the registered primary caregiver is allowed to possess.

## **Sec. 6. State Law Enforcement Policy on Marihuana related matters**

The actions exempt from arrest and criminal penalties by this section are allowed under state law to the extent that they are carried out in accordance with the provisions of this Act. It should be the policy of State and Local Law enforcement, in every instance where marihuana is concerned, prior to any kind of seizure of property, to first inquire about the status of any particular individual as a registered qualifying patient or primary caregiver and give that individual an opportunity to produce his State ID card prior to any actual seizure of property based on assumptions of illegality. When the individual produces valid state qualifying patient or primary caregiver ID, no seizure shall be effected or allowed by any State or local law enforcement

## **Sec. 7. Possession of Marihuana by NON-patients or NON-primary caregivers.**

- (a) Except as provided in this act, ANY person who is NOT a registered qualifying patient or primary caregiver under the terms of the MMMA and who is found in actual possession of usable marihuana *for personal use only* shall not be subject to any criminal penalty under Michigan State Law for possession, but shall be subject to a civil infraction based on the following:

- (1) For possession of less than 1 Oz. of usable marihuana there shall be no criminal penalty, however the person will have committed a civil infraction and shall pay a fine of \$75.
- (2) For possession of over 1 Oz. of usable marihuana there shall be no criminal penalty, however the person will have committed a civil infraction and shall pay a fine of \$150.

(b) Individuals described under Section 5 of this Act who are not registered qualifying patients nor primary caregivers shall not be exempt from State Law criminal penalties and prosecution for violation of the terms of this Act, and are expressly prohibited from supplying, procuring, selling, transferring, or delivering marihuana seeds, seedlings, products, edibles, usable marihuana, or any other substance containing or consisting of marihuana.