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To	MML Board of Trustees	from	State & Federal Affairs Department
Cc		date	June 19, 2018
Pages	3	subject	2018 Recreational Marijuana Ballot Proposal

PA 281 of 2016 - Medical Marihuana Facilities Licensing Act (MMFLA) comparison with the proposed Michigan Regulation and Taxation of Marihuana Act (MRTMA ballot proposal)

Votes required for future amendments:

- MMFLA requires a simple majority of vote of the Legislature (56 House votes and 20 Senate votes).
- Proposed MRTMA will require a 3/4 vote of the Legislature (83 House votes and 29 Senate votes).

Local Control:

- MMFLA requires municipality to OPT IN.
- Proposed MRTMA requires a municipality to OPT OUT. Municipal decision to limit the number of marihuana establishments or opt out is subject to override by the voters of that municipality through initiative petition.

- MMFLA, a state operating license may not be issued to an applicant unless the municipality in which the proposed facility will be located in has adopted an ordinance authorizing that type of license.
    - If municipality does nothing, no marihuana facilities can be licensed/operate in that municipality.
    - If municipality adopts ordinance (opts in), then it may:
        - Authorize any specific or all license types
        - Limit the number of each license type
- Proposed MRTMA, a state operating license shall be issued to operate in every municipality unless a municipality enacts an ordinance to opt out.
    - Municipality can either completely prohibit all license types, or it allows all and can limit the total number of each license type. It may not pick and choose what license types it authorizes.
    - If the municipal limit on licenses prevents the State from issuing a license to all qualifying applicants, the municipality, not the State, is required to select from the competing applicants using a competitve process intended to identify those who are best suited to operate in compliance with the Act.

- Nothing under the MMFLA nor the proposed MRTMA has direct affect on the Michigan Medical Marihuana Act (patient caregiver model).
- Proposed MRTMA broadens the prohibition on the separation of plant resin by butane extraction on residential premises under the MMMA to include methods using a substance with a flash point below 100 degrees Farenheit within the curtilage of a residence.
- Proposed MRMTA substantially increases the amount of marihuana that may be lawfully possessed from 2.5 ounces and 12 plants by a qualifying patient to 2.5 ounces on one's person, 10 ounces secured in one's residence, and no more than 12 plants at a time.

License Types:

- MMFLA has five license types:
    1. Grower
        - Class A – 500 plant limit
        - Class B – 1,000 plant limit
        - Class C – 1,500 plant limit
    2. Processor
    3. Secure transporter
    4. Provisioning center
    5. Safety compliance facility
- Proposed MRTMA has six license types:
    1. Grower (plant limits are different than MMFLA)
        - Class A –100 plant limit
        - Class B – 500 plant limit
        - Class C – 2,000 plant limit
    2. Processor
    3. Secure transporter
        - Provides for license, but nowhere in the language is there a requirement that marihuana must only be transported by a secure transporter.
    4. Retailer
        - MMFLA license is a provisioning center not retailer.
    5. Safety compliance facility
    6. Microbusiness
        - Person licensed to cultivate not more than 150 plants; process and package; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a safety compliance facility, but not to other marihuana establishments.
        - MMFLA does not have this license type.

- MMFLA prohibits caregiver from grower, processor or secure tranporter license types.
- Proposed MRTMA does not prohibit caregiver from holding any of the six license types.
- A person may be licensed under both the MMFLA as well as the proposed MRTMA.

Unreasonably Impracticable:

- MMFLA does not reference.
- Proposed MRTMA prohibits any administrative rule or municipal ordinance that subjects the licensee to unreasonable risk or requires such a high investment of money, time, or any other

resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

- Any rule or ordinance could be legally challenged if a person considers it to require too much time, money, etc.
- While a municipality may regulate the time, place and manner of operation of marihuana establishments, State must approve and issue a license to a proposed marihuana establishment that is not within an area excusively zoned for residential use and is not within 1000 feet of a preexisting K-12 public or private school. A municipality may reduce this distance by ordinance

Additional information:

- Definitions are not consistent between the MMFLA and the proposed MRTMA.
- Application process is not consistent between the MMFLA and the proposed MRTMA.
  - If the State does not begin accepting/processing MRTMA applications within one year of the effective date of the Act, applicants can submit an application to a municipality. Municipality shall issue a municpal license to applicant within 90 days. Municipal license has same force and effect as state license, but the municipal license holder is not subject to regulation or enforcement by the department during the municipal license term.
- If proposed MRTMA passes, the MMFLA requirement that a 3% tax is imposed on each provisioning center's gross retail receipts is no longer applicable. However a 10% tax will be imposed on marihuana retailers on sales price of marihuana sold or otherwise tranferred to anyone other than a marihuana establishment.
- The percent of the municipal portion of the excise tax collected is reduced from 25% under the MMFLA to 15% under the MRTMA and is paid only after the State is compensated for its implementation, adminsitartion and enforcement of the Act; and until 2022 or for at least two years, $20 million annually is provided to FDA-approved clinical trials researching the efficacy of marihuana in treating U.S. armed services veterans for medical conditions and suicide prevention.