

# MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT



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February 4, 2019





Background

# CHANGING WORLD OF MARIHUANA



Butane Hash Oil  
(BHO)



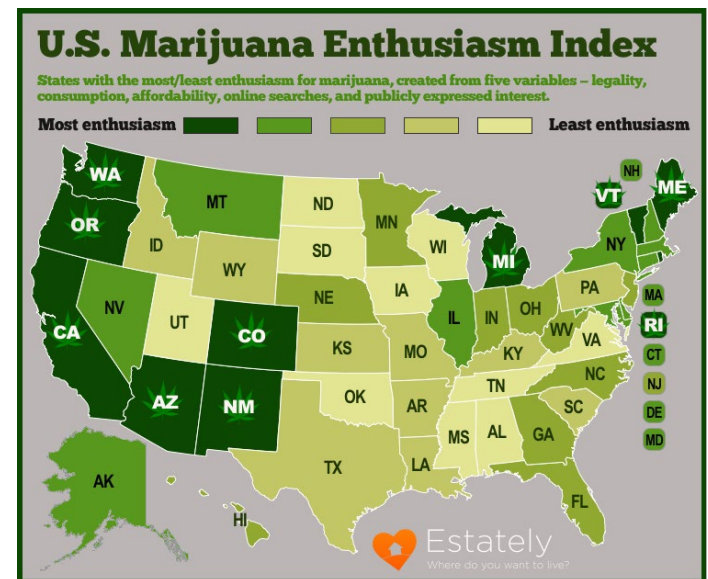
# FEDERAL LAW

- Federal Controlled Substances Act
  - Marihuana is a Schedule I substance
    - High potential for abuse
    - Has no currently accepted medical use in treatment in the United States
    - Lack of accepted safety for use of the drug or other substance under medical supervision
- *Gonzales v Raich*, 545 US 1 (2005)
- Cole Memorandum (Obama Administration)
- Rohrabacher-Farr Amendment
- *Wilson v United States* (ATF Open Letter)
- Who will be the next U.S. Attorney?



# MEDICAL MARIHUANA STATES

- 1996 - California
- 1998 – Alaska, Oregon, and Washington
- 1999 – Maine
- 2000 – Colorado, Hawaii, and Nevada
- 2004 – Montana and Vermont
- 2006 – Rhode Island
- 2007 – New Mexico
- 2008 – Michigan
- 2010 – Arizona, New Jersey, and D.C.
- 2011 – Delaware
- 2012 – Connecticut, Massachusetts
- 2013 – Illinois, New Hampshire
- 2014 – Maryland, Minnesota, New York
- 2016 – Pennsylvania, Ohio, North Dakota, Louisiana, Arkansas, and Florida
- 2017 – West Virginia
- 2018 – Oklahoma
- 2018 – Utah, Missouri





# KEY QUESTIONS


- Should marihuana be a medical option?
- Should marihuana be a recreational option?
- What would be the “unintended consequences” by allowing medical/recreational marihuana dispensaries to legally operate in Michigan?



# MICHIGAN MARIHUANA ACTS

- The Michigan Medical Marihuana Act (MMMA) (statewide ballot initiative in 2008) (medical marihuana qualified patient and registered caregiver system).
- The Medical Marihuana Facilities Licensing Act (MMFLA) (passed by Legislature in 2016) (State licensing system for licensed medical marihuana facilities, such as provisioning centers and grow operations to serve the patients and caregivers in the medical use of marihuana).
- The Michigan Regulation and Taxation of Marihuana Act (Adopted November 6, 2018 as a statewide ballot initiative): (Individuals anywhere in Michigan may now use marihuana for individual recreational purposes, as long as they comply with the Act; and recreational marihuana establishments, which will be implemented by the state after December 6, 2019).





**California. It's legal.**

BIG OUTDOOR



**MedMen**

Venice  
LAX  
West Hollywood  
Beverly Hills  
Orange County  
Downtown LA

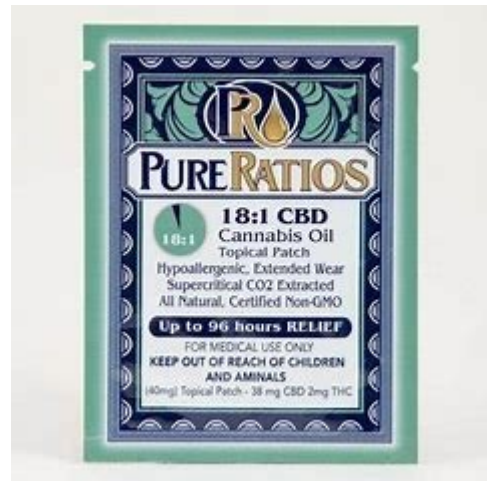


# PLANT SIZE





# THC PATCHES





# MARIHUANA TINCTURES

- Cannabis tinctures, also known as green or golden dragon, is an alcohol-based cannabis extract-essentially infused alcohol (180 proof or higher).
- The tinctures are put into juices, ice cream, soups, gelatin, mashed potatoes and gravy, or salad dressing.
- Grind your flower or extract, and then mix the flower or extract in a mason jar with high-proof alcohol (preferably Everclear).





# MARIHUANA TINCTURES







## MEDIBLE REVIEW:



**CANNA  
BANANA**  
THE HEALTHY  
CANINE CBD  
DOG TREATS





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# LOCATION OF LICENSEES

- [http://www.michigan.gov/documents/lara/Municipality\\_Opt-In\\_Spreadsheet\\_2-16-18\\_614253\\_7.pdf](http://www.michigan.gov/documents/lara/Municipality_Opt-In_Spreadsheet_2-16-18_614253_7.pdf)



# RECREATIONAL MARIHUANA STATES

- Alaska
- California
- Colorado
- District of Columbia
- Maine
- Massachusetts
- Nevada
- Oregon
- Vermont
- Washington
- Michigan



# PLANET 13

**RECREATIONAL MARIJUANA AVAILABLE NOW**  
**1/2 MILE AHEAD • LEFT ON SUNSET • 4850 W SUNSET RD**

KEEP OUT OF REACH OF CHILDREN | FOR USE ONLY BY ADULTS 21 YEARS OF AGE AND OLDER | MM DEVELOPMENT CO., LLC

KCI

RIGHT LANE  
MUST  
TURN RIGHT

HOOTERS  
NOW OPEN

EAST  
← McCarran Airport  
George Crockett Rd  
Rental Car Return  
↓ ↓



Lab Tested, Stoner Approved

# HIGH TIMES

All About  
**Sativas**

Cloning  
Made Easy

ROOR: Empire  
of Glass

Inside Occupy

**The STRONGEST STRAINS**  
on Earth!

OG GHOST TRAIN  
HAZE  
THC ANALYSIS:  
**25.49%**

40 YEARS 15 Strains Over 23% THC

# HIGH TIMES

**Dab School**  
Making Concentrates

Colorado's New  
**Pot Shops**

Growroom  
Problems  
Solved

**The STRONGEST STRAINS**  
on Earth!  
**2014**

BRUCE  
BANNER #3  
THC ANALYSIS:  
**28.3%**

John  
Stossel  
Picks Your High!

High Spies  
of the Midwest

Grow Secrets Of Light Dep

# HIGH TIMES

**24 Top Pot**  
Destinations

Colorado's  
End Biz Boom

SoCal Cup  
Winners

**The STRONGEST STRAINS**  
on Earth!  
**2016**

CHIM DOG  
THC ANALYSIS:  
**32.13%**

Tanner Hall's  
Extreme Highs

Machine  
Gun Kelly  
Smokes Em





**Secrets to Growing Healthy Pot**

# HIGH TIMES



**The Best CBD  
Cannabis Ranked**

**The Art of  
Joint Rolling**

**Roasting  
With SNL's  
Pete Davidson**

GOD FATHER OG  
THC ANALYSIS:  
**34.04%  
THC**

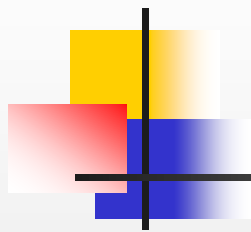
**The  
STRONGEST  
STRAINS  
on Earth!  
2017**





# “Wax/Oil/Capsules/Shatter”

(80-90% THC) Concentrates



“Green Crack” wax



“Ear Wax”



Butane Hash Oil (BHO)



Hash Oil Capsules



“Budder”

“Shatter”



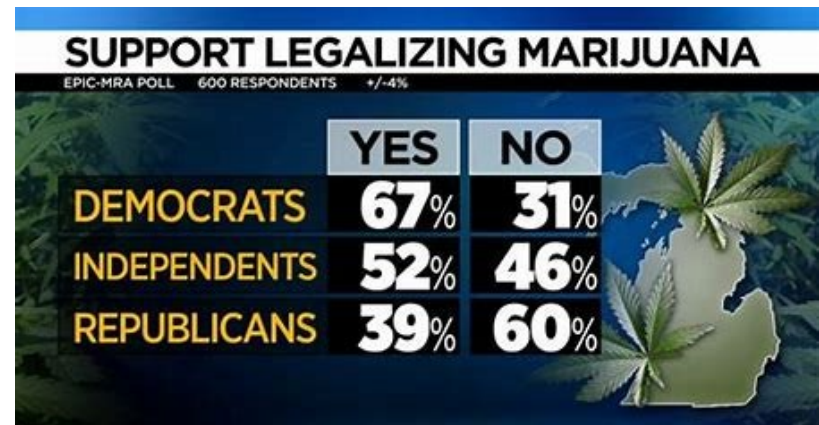
Slide Courtesy of  
Marijuana Impact on  
Public Health & Safety in  
Co.



MRTMA

# WHY MICHIGAN?

- Momentum
- Resources
- History
  - Medical Marijuana
  - Election Trends
- Polling





# MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT (MRTMA)

- MCL 333.27951 – MCL 333.27967:

- MCL 333.27951 – Short Title
- MCL 333.27952 – Purpose
- MCL 333.27953 – Definitions
- MCL 333.27954 – Restrictions on act
- MCL 333.27955 – Permitted acts
- MCL 333.27956 – Ordinances
- MCL 333.27957 – Implementation of act
- MCL 333.27958 – Promulgation of rules
- MCL 333.27959 – Application for state license
- MCL 333.27960 – Additional permitted acts
- MCL 333.27961 - Cultivation, processing, sale, or display of marihuana or marihuana accessories visible from public place prohibited
- MCL 333.27962 – State deductions for marihuana establishments
- MCL 333.27963 – Excise tax
- MCL 333.27964 – Marihuana regulation fund
- MCL 333.27965 – Punishment for prohibited conduct
- MCL 333.27966 – Submission of application to municipality
- MCL 333.27967 – Construction of act



REGULATE MARIJUANA  
• LIKE ALCOHOL •

# WHAT THE MTRMA LAW ALLOWS

- Individuals age 21 and older can:
  - Possess, use, purchase, transport, or process up to 2.5 ounces of marihuana or marihuana-infused products - MCL 333.27955.1(a)
  - Possess, use, purchase, transport, or process up to 15 grams of marihuana concentrate – MCL 333.27955.1(a)
  - Possess, store, or process up to 10 ounces of marihuana in their home – MCL 333.27955.1(b)
  - Grow a total of 12 plants or less in their home, and possess all marihuana produced by those marihuana plants – MCL 333.27955.1(b)
  - Assist another person with the possession, use, purchase, transport, or processing of marihuana - MCL 333.27955.1(c)
  - Give away up to 2.5 ounces of marihuana or infused products to individuals who are 21 years of age or older – MCL 333.27955.1(d)
  - Use, manufacture, possess, or purchase marihuana accessories – MCL 333.27955.2
  - Sell or distribute marihuana accessories to individuals who are age 21 years of age or older – MCL 333.27955.2



# WHAT THE MTRMA LAW DOES NOT ALLOW

- Operating or being in control of a motor vehicle, aircraft, snowmobile, ORV or motorboat while under the influence of marihuana – MCL 333.27954.1(a)
- Transferring marihuana, marihuana-infused products, or marihuana accessories to anyone under 21 – MCL 333.27954.1(b)
- Possessing, consuming, purchasing, cultivating, transporting or selling marihuana if under the age of 21 – MCL 333.27954.1(c)
- 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 – MCL 333.27954.1(d)
- Consuming marihuana in a public place or smoking marihuana where the owner, occupant, or manager of a property prohibits it – MCL 333.27954.1(e)
- Cultivating marihuana plants that are visible from a public place without use of binoculars, aircraft or other optical aids – MCL 333.27954.1(f)
- Consuming marihuana or marihuana-infused products while operating, navigating or being in control of a motor vehicle, aircraft, snowmobile, ORV or motorboat or smoking marihuana within the passenger area of a vehicle upon a public highway – MCL 333.27954.1(g)
- Possessing marihuana, marihuana-infused products, or marihuana accessories on school grounds, in a school bus, or in a correctional facility – MCL 333.27954.1(h)
- Possessing more than 2.5 ounces of marihuana within your residence unless the excess is in a locked container or locked area – MCL 333.27954.1(i)





# MCL 333.27954.5

All other laws inconsistent with this  
act do not apply to conduct that is  
permitted by this act –

MCL 333.27954.5



# MRTMA

- MCL 333.27954.1. - 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;
  - (g) consuming marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road vehicle, or motorboat, or smoking within the passenger area of a vehicle upon a public highway.
- MCL 333.27954.5 - All other laws inconsistent with this act do not apply to conduct that is permitted by this act.



# *People v Koon*, No. 145259 (Mich. Sup. Ct., May 21, 2013)

- The Michigan Supreme Court ruled that, “[t]he immunity from prosecution provided under the MMMA to a registered patient who drives with indications of marihuana in his or her system but is not otherwise under the influence of marihuana inescapably conflicts with MCL 257.625(8), which prohibits a person from driving with any amount of marihuana in her or system.”
- “Under the MMMA, all other acts and parts of acts inconsistent with the MMMA do not apply to the medical use of marihuana. Consequently, MCL 257.625(8) does not apply to the medical use of marihuana.”





# LICENSES

- Types of licenses:
  - Grower
    - Class A – up to 100 plants
    - Class B – up to 500 plants
    - Class C – up to 2,000 plants
  - Processor
  - Retailer
  - Safety compliance facility
  - Secure transporter
  - Microbusiness



# MUNICIPAL AUTHORITY

- Initiative creates an “opt-out” system
- May adopt other ordinances that do not conflict with initiative or rules promulgated thereunder
  - Reasonable restrictions on signage
  - Time, place, and manner restrictions
  - Authorize the sale of marihuana and infused products for consumption in designated areas
  - Authorize the sale of marihuana and infused products for consumption at special events
  - Designate a violation of the ordinance as a civil infraction with a penalty of up to \$500
- May charge annual fee of up to \$5,000
- May not prohibit transport of marihuana through municipality
- May not prohibit growers, processors, and provisioning centers from operating in single facility
- May not prohibit recreational facilities from co-locating with medical facilities
- Electors may petition to initiate an ordinance (5% of the votes cast for governor in the last election)
- If ordinance limits the number of facilities, municipality must create competitive process to determine which applicants are best suited to operate in compliance with the initiative



# AUTHORITY OF LARA

- Responsible for implementing the initiative and controlling commercial production and distribution of marihuana
- Must promulgate rules necessary to implement, administer and enforce initiative
- Grant or deny licenses
- Conduct background check on each person with ownership interest
- Perform inspections and compliance investigations
- Collect fees for licensure and fines
- Must hold at least 4 public meetings each year
- Must submit annual report to Governor





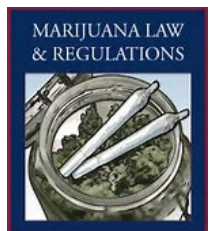
# RULE PROMULGATION

- LARA may not promulgate rules that:
  - Limit the number of facility licenses
  - Require a customer to provide retailers with identifying information other than ID
  - Prohibit a facility from operating in the same location as a medical marihuana facility
  - Are unreasonably impracticable



# RULE PROMULGATION

- If LARA does not timely promulgate rules, beginning one year after effective date, applicant may apply directly to municipality
- Municipality must issue a license within 90 days unless the municipality finds that the applicant is not in compliance with a local ordinance
- If municipality issues a license, it must notify LARA
- Municipal license has the same force and effect as a state license
- The licensee is not subject to state regulation during license term



# RIGHTS OF EMPLOYERS

- Does not require an employer to permit or accommodate conduct allowed by the act in the workplace or on the employer's property
- Does not prohibit an employer from disciplining an employee for violating a workplace drug policy or for working under the influence of marihuana
- Does not prevent an employer from refusing to hire, discharging, disciplining, or taking an adverse employment action against an individual because of that person's use or possession of marihuana in violation of a workplace drug policy or because the person was working under the influence of marihuana
- *Braska v LARA* (2014)





# RIGHTS OF LANDLORDS

- Does not prohibit a person from prohibiting or regulating the consumption, cultivation, distribution, processing, sale, or display of marihuana, infused products, or accessories on property they own, occupy, or manage
- Lease cannot prohibit a tenant from possessing and consuming marihuana by means other than smoking



# MMFLA - Taxes and Fees

- A tax will be imposed on the retail income of each provisioning center (retail seller/dispensary) (3%).
- Taxes will not apply to registered primary caregivers or qualified registered patients, as they are not required to be licensed under the new regulatory scheme.
- A regulatory assessment will be imposed on certain licensees.



# DISTRIBUTION OF TAXES AND FEES - MMFLA

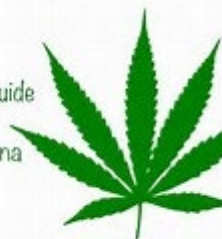
- Money in the Medical Marihuana Excise Fund is to be distributed as follows:
  - 25 percent to municipalities where the marihuana facilities are located, allocated in proportion to the number of marihuana facilities within the municipality.
  - 30 percent to the counties where marihuana facilities are located, allocated in proportion to the number of marihuana facilities within the county.
  - 5 percent to counties, exclusively to support county sheriffs. This would be in addition to, and not a replacement for, any other funding received by the county sheriffs.
  - 30 percent to the state for the following:
    - Until September 30, 2018, for deposit in the General Fund.
    - Beginning October 1, 2018, for deposit in the First Responder Presumed Coverage Fund created in Section 405 of the Worker's Disability Compensation Act.
  - 5 percent to the Michigan Commission on Law Enforcement Standards for training local law enforcement officers.
  - 5 percent to MSP. MCL 333.27602.





# RECREATIONAL MARIHUANA PASSED

- Michigan Compiled Law 333.27601 reads in pertinent part as follows: “If a law authorizing the recreational or nonmedical use of marihuana in this state is enacted, this section does not apply beginning 90 days after the effective date of the law.”
- Essentially, if recreational marihuana becomes a reality in Michigan, whether through initiative or by the Legislature, medical marihuana will not be taxed.



# REVENUE FROM RECREATIONAL MARIHUANA SALES

- Marihuana Regulation Fund created in Treasury
  - Until 2022, \$20 million annually goes to research efficacy in treating medical conditions of veterans
  - 15% to municipalities with retailers or microbusinesses, allocated proportionately to number of establishments
  - 15% to counties with retailers or microbusinesses, allocated proportionately to number of establishments
  - 35% to School Aid Fund for education
  - 35% to Michigan Transportation Fund for repair and maintenance of roads and bridges
- All initial costs of LARA appropriated from GF and reimbursed from Marihuana Regulation Fund



# TAXES

- Marijuana businesses can take ordinary business deductions
- Excise tax on each retailer and microbusiness at rate of 10% of all sales.
- Products may not be bundled with an untaxable product or service unless allowed by rule



# MCL 333.27965.1

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 **4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d), 4(1)(g), or 4(1)(h)**, a person who possesses not more than the amount of marihuana allowed by section 5, cultivates not more than the amount of marihuana allowed by section 5, delivers without receiving any remuneration to a person who is at least 21 years of age not more than the amount of marihuana allowed by section 5, or possesses with intent to deliver not 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.





# CIVIL INFRACTIONS IN BOLD FOR SECTION 1

- Operating or being in control of a motor vehicle, aircraft, snowmobile, ORV or motorboat while under the influence of marihuana – MCL 333.27954.1(a)
- Transferring marihuana, marihuana-infused products, or marihuana accessories to anyone under 21 – MCL 333.27954.1(b)
- Possessing, consuming, purchasing, cultivating, transporting or selling marihuana if under the age of 21 – MCL 333.27954.1(c)
- 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 – MCL 333.27954.1(d)
- **Consuming marihuana in a public place or smoking marihuana where the owner, occupant, or manager of a property prohibits it – MCL 333.27954.1(e)**
- **Cultivating marihuana plants that are visible from a public place without use of binoculars, aircraft or other optical aids – MCL 333.27954.1(f)**
- Consuming marihuana or marihuana-infused products while operating, navigating or being in control of a motor vehicle, aircraft, snowmobile, ORV or motorboat or smoking marihuana within the passenger area of a vehicle upon a public highway – MCL 333.27954.1(g)
- Possessing marihuana, marihuana-infused products, or marihuana accessories on school grounds, in a school bus, or in a correctional facility – MCL 333.27954.1(h)
- **Possessing more than 2.5 ounces of marihuana within your residence unless the excess is in a locked container or locked area – MCL 333.27954.1(i)**



# MCL 333.27965.2

**Sec. 15. 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 not more than twice the amount of marihuana allowed by section 5, or possesses with intent to deliver not 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.



# WHAT THE MTRMA LAW DOES NOT ALLOW

- Operating or being in control of a motor vehicle, aircraft, snowmobile, ORV or motorboat while under the influence of marihuana – MCL 333.27954.1(a)
- Transferring marihuana, marihuana-infused products, or marihuana accessories to anyone under 21 – MCL 333.27954.1(b)
- Possessing, consuming, purchasing, cultivating, transporting or selling marihuana if under the age of 21 – MCL 333.27954.1(c)
- 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 – MCL 333.27954.1(d)
- Consuming marihuana in a public place or smoking marihuana where the owner, occupant, or manager of a property prohibits it – MCL 333.27954.1(e)
- Cultivating marihuana plants that are visible from a public place without use of binoculars, aircraft or other optical aids – MCL 333.27954.1(f)
- Consuming marihuana or marihuana-infused products while operating, navigating or being in control of a motor vehicle, aircraft, snowmobile, ORV or motorboat or smoking marihuana within the passenger area of a vehicle upon a public highway – MCL 333.27954.1(g)
- Possessing marihuana, marihuana-infused products, or marihuana accessories on school grounds, in a school bus, or in a correctional facility – MCL 333.27954.1(h)
- Possessing more than 2.5 ounces of marihuana within your residence unless the excess is in a locked container or locked area – MCL 333.27954.1(i)



# MCL 333.27965.3

Sec. 15. 3. **Except for a person who engaged in conduct described by section 4(1)(a), 4(1)(d), or 4(1)(g),** 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; or (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 \$500 or community service, forfeiture of the marihuana, and completion of 8 hours of drug education or counseling; or (2) if the person is at least 18 years of age, by a fine of not more than \$500 and forfeiture of the marihuana





# CIVIL INFRACTIONS IN BOLD FOR SECTION 3

- Operating or being in control of a motor vehicle, aircraft, snowmobile, ORV or motorboat while under the influence of marihuana – MCL 333.27954.1(a)
- **Transferring marihuana, marihuana-infused products, or marihuana accessories to anyone under 21 – MCL 333.27954.1(b)**
- **Possessing, consuming, purchasing, cultivating, transporting or selling marihuana if under the age of 21 – MCL 333.27954.1(c)**
- 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 – MCL 333.27954.1(d)
- **Consuming marihuana in a public place or smoking marihuana where the owner, occupant, or manager of a property prohibits it – MCL 333.27954.1(e)**
- **Cultivating marihuana plants that are visible from a public place without use of binoculars, aircraft or other optical aids – MCL 333.27954.1(f)**
- Consuming marihuana or marihuana-infused products while operating, navigating or being in control of a motor vehicle, aircraft, snowmobile, ORV or motorboat or smoking marihuana within the passenger area of a vehicle upon a public highway – MCL 333.27954.1(g)
- **Possessing marihuana, marihuana-infused products, or marihuana accessories on school grounds, in a school bus, or in a correctional facility – MCL 333.27954.1(h)**
- **Possessing more than 2.5 ounces of marihuana within your residence unless the excess is in a locked container or locked area – MCL 333.27954.1(i)**



# MCL 333.27965.4

Sec. 15. 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 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.



# WHAT THE MTRMA LAW DOES NOT ALLOW

- Operating or being in control of a motor vehicle, aircraft, snowmobile, ORV or motorboat while under the influence of marihuana – MCL 333.27954.1(a)
- Transferring marihuana, marihuana-infused products, or marihuana accessories to anyone under 21 – MCL 333.27954.1(b)
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- Possessing more than 2.5 ounces of marihuana within your residence unless the excess is in a locked container or locked area – MCL 333.27954.1(i)



# REDFORD EXPLOSION – 8/31/17





ROOTS

UNLEADED

2.13<sup>9</sup>/<sub>10</sub>

DIESEL

2.19<sup>9</sup>/<sub>10</sub>

Brookside

gas  
+grass

NOW

ROOTS



**questions?**