

# Michigan Marijuana Microbusinesses



**SCOTT F. ROBERTS**  
LAW

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CENTERED APPROACH**  
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for the Real World

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- ✦ State MMFLA Applications
- ✦ Municipal Applications
- ✦ Contract Drafting & Negotiation
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## Proposal 1 (“MiLegalize Ballot Initiative”)

- Also Referred to as The Michigan Regulation and Taxation of Marihuana Act, or MRTMA
- Objectives
  - Recreational use
  - Smart adult use laws
  - Licensing Reform
  - Commercial Hemp Production
- Municipality Petition Process
- Created Microbusiness license type allowing for low-cost entry point for those looking to enter the industry



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# MRTMA Licensing

- 90 Day Application Turnaround
- Start Accepting Licenses no later than December 6<sup>th</sup>, 2019
- Emergency Rules are expected in June or July
- Limits on Licensing Fees
  - Fees shall be “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 license or the volume of business conducted by the licensee*”
- “Shall approve” language
- Cost restrictions
- Rules still needed—Much is still up in the air

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## Licensing After Legalization

- Proposal 1 would limit licensing in the first two years of legalization to those who have medical marijuana licensing
  - MMFLA licensing remains the gatekeeper
  - If you do not currently possess a license to sell, grow, test, process or transport marijuana...you are not eligible to get a recreational license!
- **UNLESS...**
  - Class A Grow
  - Microbusiness



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## Class A Grow License: Why Bother?

- Pros
  - Able to apply without previously holding a medical license
  - Cultivation of up to 100 plants
  - Potential for genetics or temporary stepping stone
- Cons:
  - Limited market presence
  - Competing with 10,000 plant grows
  - Pricing concerns
  - No ability to process
  - Only one business model
  - Distribution and operational efficiency issues

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## Microbusiness License Basics

- All inclusive license: Allows for lower cost, small scale vertical integration
- With a Microbusiness license you can:
  - Grow/Cultivate, process, package, and sell direct to consumer
  - Potentially include a Public / Private Consumption Area (if allowed by municipality)
- Limit on Licensing:
  - Cannot sell to any other establishment or distributor
  - Cannot hold an interest in any other license type, including another Microbusiness
  - For first 2 years of program, limited to Michigan residents
  - necessarily sell



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## Hurdles for Microbusinesses and Their Owners

- Unclear if they can operate separate fixed retail establishment
- Municipalities may only allow them in out-of-the way industrial areas
- Public use and microbusinesses will need to be authorized by the municipality, and not all will want these types of establishments
- In Nevada zoning issues have proved to be very difficult to overcome
- In Michigan, restrictive zoning is causing inflated real estate prices
- Bottlenecks can grind your entire operation to a halt
- Need to be an expert on everything—growing, processing, and retail

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## Comparisons with California and Nevada Law

### CALIFORNIA/NEVADA

- Cultivation of area less than 10,000sqft
- CA mandatory participation in at least 3 of 4 commercial cannabis activities
- Legal work around for on-site consumption
- Drafted with small business owners in mind
- Over 200 licenses issued



### MICHIGAN

- Cultivation of up to 150 plants
- No mandatory participation language, you don't necessarily need to process
- Legal work around for on-site consumption
- Drafted with small business owners in mind

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## Other State Laws Michigan Could Adopt through Regulations

- Must be owned by citizen of state for at least two years (NJ)
- Application costs for microbusiness must be 50% of other licenses (MA)
- Craft Cooperatives allow farmers to join together and apply for a single microbusiness license (MA)
  - Allows different aspects of microbusiness to operate in different locations
  - For example, you can sell in a retail outlet, and grow / process off-site in large facility shared with other microbusinesses

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## Public Use in Michigan

- Michigan's recreational law allows for "an area designated for consumption within a municipality that has authorized consumption in designated areas that are not accessible to persons under 21 years of age"
- The power to allow or prohibit public use will be decided by each individual municipality
- Will need to overcome marijuana stigma on a city-by-city level



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## Public Use v. Private Use

- Public use will be mostly regulated by municipalities, which cannot place “reasonably impractical” restrictions on facilities
- What is a private v. public club??? You may be able to sell “memberships” to adults at the door, circumventing “public use” rules
- “Private use” work arounds already exist in Michigan that have been used by Cigar bar and Hookah bar owners in the past, which could be used by microbusinesses as well
- You may be able to start your own private club even if the municipality does not allow public use but likely won’t be able to sell on-site
- Private use clubs already exist in Michigan—e.g. Vehicle City Social in Flint



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## Potential Business Models

- Compared to the Microbreweries and Microdistilleries in Michigan and around the country
- A lot of diversity amongst the business owners and types
- California has the most developed microbusiness system in the County. It has seen a great influx of microbusinesses and many different microbusiness models, with the most popular model by far being Cannabis Lounges
- We will discuss some of the more innovative and successful ones

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## The “Microbusiness Dispensary”

- A microbusiness relying solely on direct to consumer sales from a storefront as its business model
- Well designed facility will be able to take advantage of 280E strategies
- Will need to maximize yield to stay competitive—may be hard to survive on just 2 lbs / plant / year
- More competition means you will need to operate at a higher level
- Delivery is still an open question for microbusinesses
- Best real estate for storefront may not be best for cultivation and processing

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## Amsterdam Style Coffee Houses a/k/a Cannabis Lounges

- Probably the most iconic and popular
- Could be a very popular tourist attraction
- Could be very popular with all age groups
- On-site consumption may get a little tricky because of the sale of food and beverage
- Ability to diversify product with infused beverages and fresh baked goods
- Restricted to municipalities that permit onsite use and sale
- Dram shop insurance for marijuana already offered in California



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## Boutique Edible Shop

- Alternative methods of consumption of cannabis are on the rise
- Smoking dried flower or being around that smoke could be considered a nuisance to some
- Boutique edible shops and restaurants would be able to offer a vast variety of cannabis infused products to its clientele
- The key is to get creative with their specific products



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## Taste & Tour

- This model has been pitched heavily in California
- Drawing on the popularity of the wine vineyards and microbreweries
- Offer clientele the ability to see and taste the entire operation
- A very unique approach and distinct business model to other marijuana businesses

The logo for 'Taste & Tour' features the words 'Taste' and 'Tour' in a large, bold, black sans-serif font. A stylized location pin icon is integrated into the ampersand (&) between the two words. The entire logo is set against a white rectangular background.

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## Other Business Models and Strategies

- Marijuana Juice Bar
  - Offering variety of infused fresh juices and Smoothies
- Restaurants with Marijuana infusion
  - Offering marijuana infused cooking
  - High end or “grab-n-go”
- Delivery Service
- Marijuana Yoga Studio
- Marijuana arcade or other business pairing
- Spa and Relaxation Center
- Farmer’s Market / Co-op
- Business Strategies
  - High yield per plant
  - Unique Value Proposition
  - Bar v. Liquor Store
  - Low Quantity Sales
  - Ancillary Services
- Endless Possibilities—Audience Ideas? [www.scottrobertslaw.com](http://www.scottrobertslaw.com)



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## Keys to Success

- Work with your municipality—they have the power to make or break your business model through zoning and use restrictions
- Diversify your business model: Don't just rely on just Cannabis sales
- Craft your business model prior to licensing and RUN YOUR NUMBERS!!!
- Cooperation: Share costs with other microbusinesses
- Maximizing yield and limited disruptions will be key
- Work with business consultants and partners with a strong business background and track record of success
- Work with professionals who know the industry, especially accountants. Don't get trapped in a 280E nightmare!

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## Closing Thoughts

- Proposal 1 provides business opportunities for everyone, including those shut out of the MMFLA
- Caregivers and non-medical license owners can expand into Microbusiness licenses
- Microbusiness licenses allow for unique and creative business ideas that other license types will not be able to do. The key to success is offering a unique value proposition that they cannot.

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## What You Can Do Now: Next Steps

- Business Strategy
  - Business Plan
  - Business Model
- Financing
  - Investors
  - Debt
- Municipalities
  - Lobbying
  - Real Estate

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## Our Services: One Stop Shop for Microbusinesses

- Business Compliance and Licensing
- Tailored Business Plan Drafting and Advice, including financial analysis of proposed business model. We work with growers and processors to provide full-service consulting
- Contract Drafting—e.g. leases, employment agreements, operating agreements, co-op agreements, etc.
- Business and Real Estate Consulting
- Cultivation and Processing Consulting and Staffing (through affiliated partners)
- Affiliated Real Estate Brokerage Company ([www.MichiganCannabisProperties.com](http://www.MichiganCannabisProperties.com))

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### Our Team:

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