

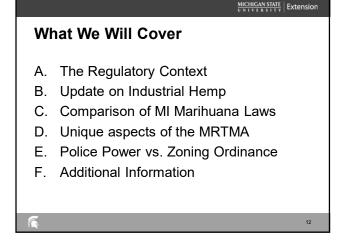
The Spelling of Marihuana in Michigan

"J" spelling is more common today (marijuana)

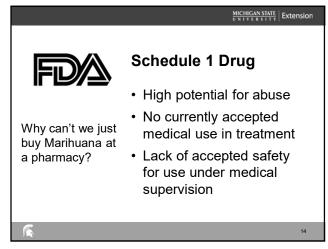
Michigan law uses "h" because of the historical use of the "h" dating back to the 1937 Marihuana Tax Act

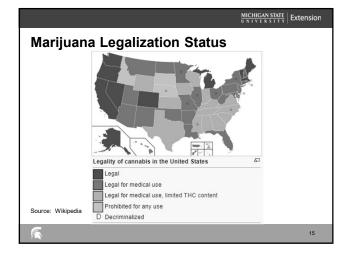
An act of the legislature would be required to change the spelling of all Michigan laws

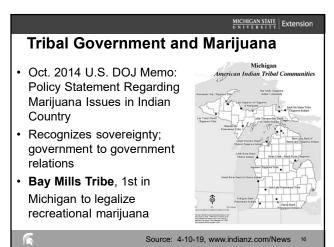
Source: LARA, (www.michigan.gov/lara)

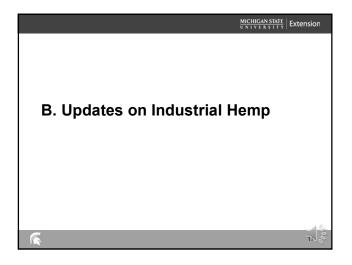


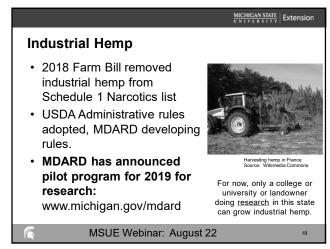


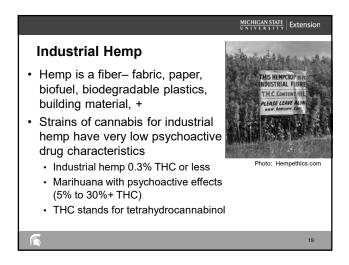


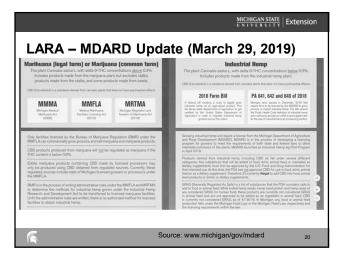


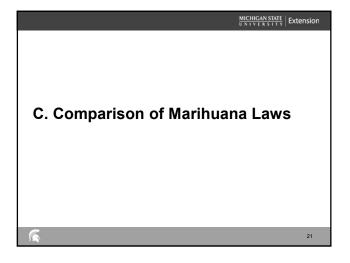


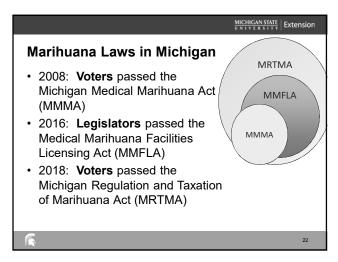


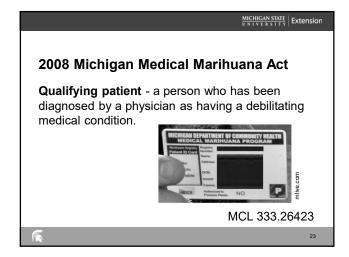


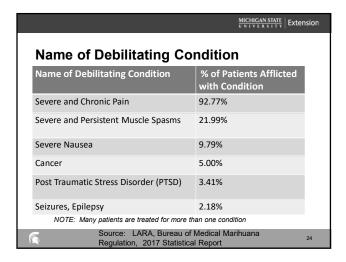












2008 Michigan Medical Marihuana Act

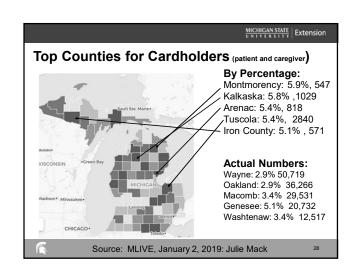
A qualifying patient can:

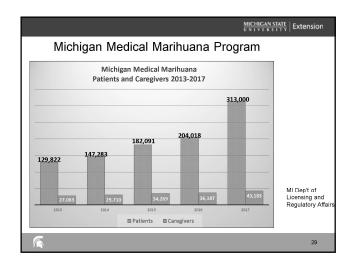
Possess up to 2.5 ounces of usable marihuana

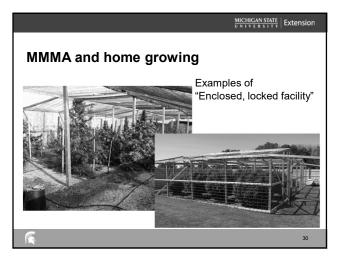
Cultivate 12 marihuana plants kept in an enclosed, locked facility

If the qualifying patient has not specified a primary caregiver

2008 Michigan Medical Marihuana Act
A registered primary caregiver can have up to 5 qualifying patients and:
Possess up to 2.5 ounces of usable marihuana per patient
Cultivate 12 marihuana plants kept in an enclosed, locked facility per patient







# **Key Court Cases-- MMMA**

- Ter Beek v. City of Wyoming (2014)
- Deruiter V Byron Twp.\* (2018, published case)
- Ypsilanti Twp v Pontius (2018, unpublished case)

## All: Cannot prohibit what the MMMA permits

- · Cannot ban as federally controlled substance
- Cannot restrict to certain zoning district
- Cannot narrowly define the use-- such as only as a home occupation.

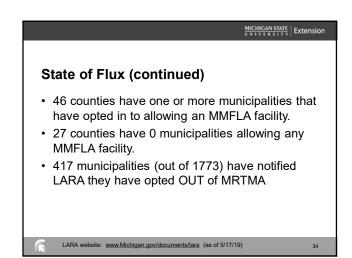
\*Heading to MI Supreme Court

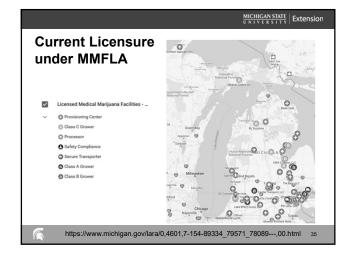
MICHIGAN STATE | Extension

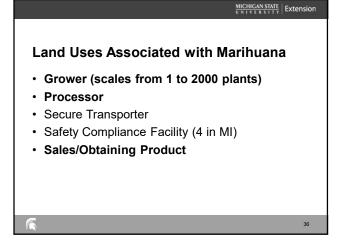
MMMA- MRTMA in the Residence

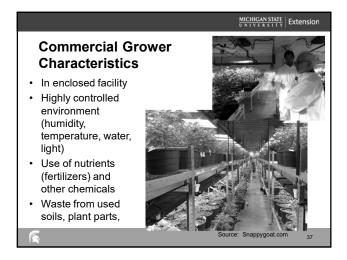
- MMMA= 12 plants, 2.5 ounces of useable marihuana in enclosed, locked facility
- MRTMA= 12 plants, 2.5 ounces, 15 grams of concentrate, marihuana from their own plants
- MRTMA= within residence up to 10 ounces in "container or area equipped with locks or other functioning security devices that restrict access"
- · May mean 12 plants per residence or may mean 12 plants per person 21 years and older.

 $\frac{\text{MICHIGAN STATE}}{\text{U N I V E R S I T Y}} \, \Big| \, \, \text{Extension}$ 

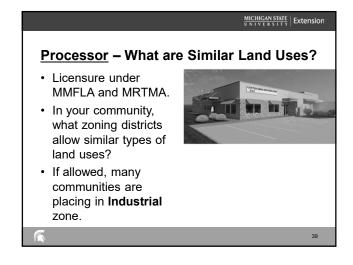






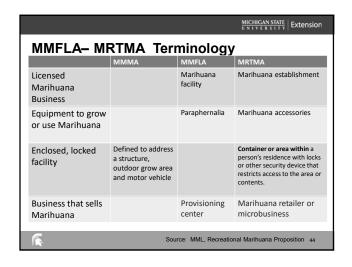


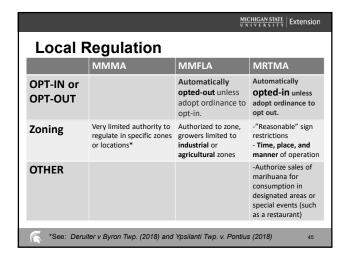


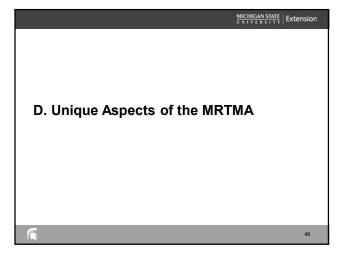




Grower Limits	MMMA	MMFLA	MRTMA
IN HOME	12 plants/patient 5 patient limit and self max (up to 72)	N/A	12* plants— unclear if per household or per person 21 and over
CLASS A	N/A	500 plant limit	<b>100</b> plants (limited to MI residents first two years)
CLASS B	N/A	1000 plant limit	<b>500</b> plant limit (limited to MMFLA licensees for atleast first year)
CLASS C	N/A	<b>1500</b> plant limit; stackable with other types of licenses	2000 plant limit; not clear if stackable (limited to MMFLA licensees for atleast first year)
Microbusiness	N/A	N/A	<b>150</b> plant limit; MI residents first two years
* Subject to other conditions Source: MML, Recreational Marihuana Proposition 43			







# MRTMA (MCL 333.27956)

- May completely prohibit or limit the number of marihuana establishments
- May adopt ordinances that are not unreasonably impracticable
- May establish reasonable restrictions on public signs related to marihuana establishments
- Regulate "time, place and manner" of operation of marijuana establishments and the production, manufacture, sale, or display of accessories



MICHIGAN STATE Extension

## MRTMA: Regulate Time, Place, and Manner

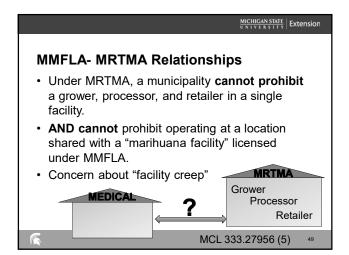
- · Sound familiar? (signs, 1st amendment)
- Language not well suited to zoning
   – suited to things like constitutional challenges.
- Unclear if this language is eluding to zoning to regulate place.
- A separate ordinance would regulate time and manner?

unclear

MICHIGAN STATE | Extension

Contact your Municipal Attorney!

48



MRTMA and License Types

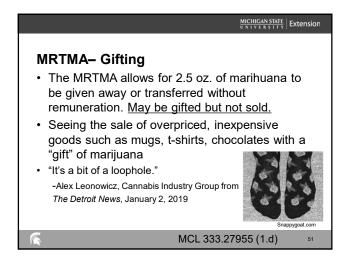
Statute is unclear if municipalities can select specific licensure types (grow, process, transport) as with the MMFLA.

Statute addresses only "the number of marihuana establishments" – [not type]

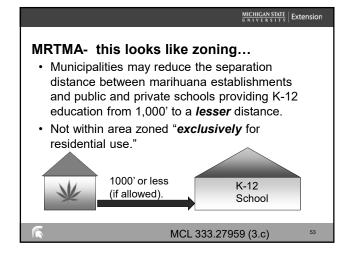
Limits on license numbers will require "a competitive process" to select applicants.

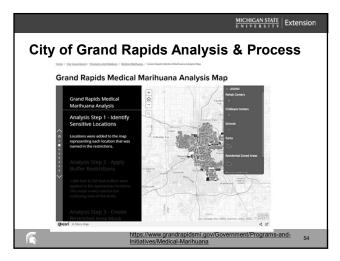
The competitive selection process is a potential "risk" – look to mitigate your risk!

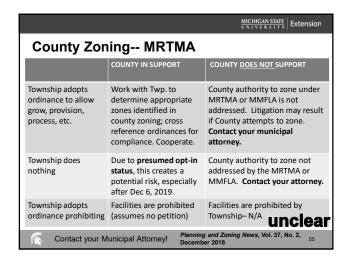
Contact your Municipal Attorney 50

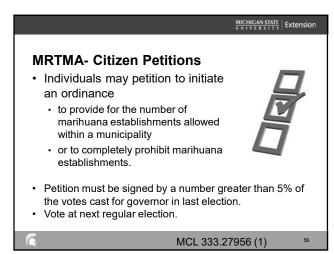


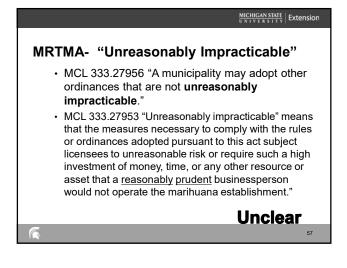


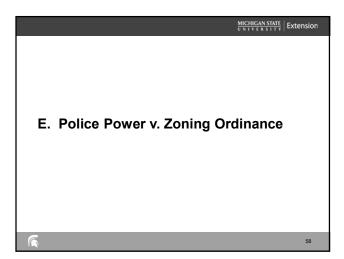












# **Zoning vs. Police Power Ordinances**

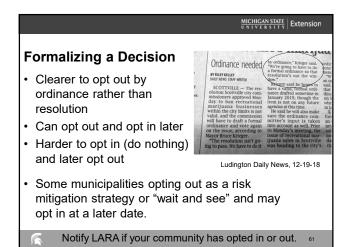
ZONING: POLICE POWER: Regulates use of land Regulates activities

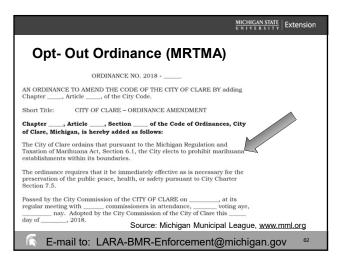
Attempting to regulate land use with a separate police power ordinance may not be upheld in court

- Square Lake Condo Assn v. Bloomfield Twp, 437 Mich 310 (1991)
- Forest Hill Energy-Fowler Farms, LLC. v. Township of Bengal, Mich App (unpublished, No. 319134, Dec. 4, 2014)

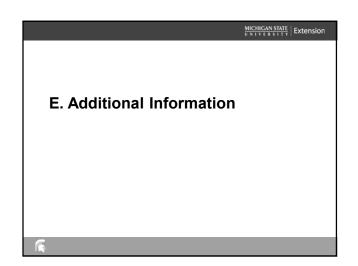
Stay Tuned: MSUE Webinar, July 25

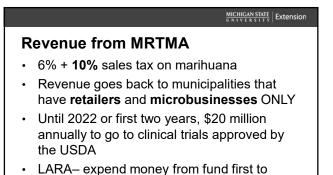
MICHIGAN STATE | Extension **Zoning & Police Power Ordinances-MRTMA POLICE POWER ORDINANCE:** Number and type of licenses ZONING ORDINANCE consistent with the Act (NOTE: it Zoning District(s) is unclear if allowing one type Permitted or SLU of license in MRTMA will then Definitions (consistent allow all types of facilities). with acts) Application procedure and Setbacks, distance to Krequirements 12 school, site plan, etc. Fees Signs, temporary signs Fines (civil fine, \$500 max) (content neutrality!!!!) · Renewal requirements Unclear \_ Consult with your municipal attorney!





# Considering allowing Recreational Marihuana? • Consider looking at existing Medical Marihuana Ordinances from these communities: • City of Jackson\* • City of Albion, Traverse City (opted out of MRTMA until rules are passed) • Acme Township • Grand Rapids • City of Evart





cover costs of administration and

Stay Tuned: MSUE's September 19 webinar

enforcement



Facility Licenses

Marijuana Regulatory Agency

New 5 member MMLB appointed by governor:

Exclusive authority to grant, deny, suspend, or revoke licenses

May not limit the number or type of licenses granted

MMLB eliminated by EO 2019-7 effective 4/30/2019

67

LARA/ Marijuana Regulatory Agency

• April 2019: LARA Marijuana Stakeholder Work Groups (met in Detroit and Marquette)

• 5-8-19 Michigan Attorney General work group announced to review marijuana laws— make recommendations to legislature, judiciary, law enforcement.

• 5-1-19 LARA Social equity survey online (now closed)

MICHIGAN STATE | Extension

### **MSU Extension Webinar Series**

- Series of 1-hour webinars with 30 minutes for Q and A; May to October 2019
  - MRTMA

     overview (May)
  - · Community engagement (June)
  - Sample ordinances (July)
  - · Industrial hemp (August)
  - Revenue/taxation (September)
  - · Conversation with LARA (October)

Stay tuned.

More info: https://events.anr.msu.edu/mrtma

Additional Resources

MICHIGAN STATE | Extension

- Proposal 1: Recreational Marihuana
   Whitepaper: Michigan Municipal League by Clyde Robinson. December, 2018.
  - http://www.mml.org/resources/information/mi-medmarihuana.html
- Recreational Marihuana Q and As by the Michigan Municipal League. April, 2019
  - http://www.mml.org/resources/information/mi-med-marihuana.html
  - · Sample opt-out ordinances

3

70

# Additional Resources • Marijuana Regulatory Agency website: www.Michigan.gov/lara/ (maps, forms, Q and A, bulletins) • Sample ordinance to prohibit (MRTMA) Michigan Township Association, 2018: https://www.michigantownships.org/downloads/marij uana\_ordinance.pdf • City of Grand Rapids- Medical Marihuana Resources https://www.grandrapidsmi.gov/Directory/Programsand-Initiatives/Medical-Marihuana/Resources

