

SB0426/573620/1

BY: Senator West

AMENDMENTS TO SENATE BILL 426, AS AMENDED
(First Reading File Bill)

AMENDMENT NO. 1

On page 1 of the bill, strike line 2 in its entirety and substitute “Medical Cannabis – Regulation of Dispensaries, Growers, and Processors and Subtraction Modification”; in line 3, after “of” insert “providing that growers, processors, and dispensaries licensed under certain provisions of law are subject to certain provisions of law; repealing the provision prohibiting the Natalie M. LaPrade Medical Cannabis Commission from issuing more than one medical cannabis grower license to each applicant; prohibiting a person from having an ownership interest in or control of, including the power to manage and operate, more than one grower;”; in line 5, after “law;” insert “prohibiting a person from having an ownership interest in or control of, including the power to manage and operate, more than one processor; allowing a subtraction modification under the Maryland income tax for certain expenses paid or incurred during the taxable year in carrying on a trade or business as a certain medical cannabis grower, processor, dispensary, or independent testing laboratory; providing for the application of certain provisions of this Act;”; in the same line, strike “dispensaries”; in line 8, after “Section” insert “13–3306(a)(1),”; in the same line, after “13–3307(a)(1)” insert “, and 13–3309(a)”; strike in their entirety lines 11 through 15, inclusive; in line 18, after “Section” insert “13–3306(a)(2),”; in the same line, after “(i)” insert “, and 13–3309(d) through (h)”; and after line 20, insert:

“BY adding to

Article – Health – General

Section 13–3306(i), 13–3307(d) and (k), and 13–3309(d) and (j)

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,

(Over)

Article – Tax – General
Section 10–208(a) and 10–308(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY adding to

Article – Tax – General
Section 10–208(y)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General
Section 10–308(b)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)”.

AMENDMENT NO. 2

On page 1 of the bill, after line 23, insert:

“13-3306.

(a) (1) The Commission shall license medical cannabis growers that meet all requirements established by the Commission to operate in the State to provide cannabis to:

(i) Processors licensed by the Commission under this subtitle;

(ii) Dispensaries licensed by the Commission under this subtitle;

and

(iii) Independent testing laboratories registered with the Commission under this subtitle.

(2) (i) Subject to subparagraph (ii) of this paragraph, the Commission may license no more than 22 medical cannabis growers.

(ii) 1. If an applicant for licensure that received Stage One preapproval in calendar year 2016 for a medical cannabis grower license fails to satisfy the requirements for licensure established by the Commission, the Commission shall rescind the applicant's Stage One preapproval.

2. If the Commission rescinds the Stage One preapproval for a license of an applicant under subparagraph 1 of this subparagraph, the maximum number of medical cannabis grower licenses authorized under subparagraph (i) of this paragraph shall be reduced by one medical cannabis grower license.

(iii) 1. Subject to subparagraph 2 of this subparagraph, beginning December 1, 2024, the Commission may report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the number of licenses necessary to meet the demand for medical cannabis by qualifying patients and caregivers issued identification cards under this subtitle in an affordable, accessible, secure, and efficient manner.

2. Before the Commission determines to submit the report described under subparagraph 1 of this subparagraph, the Commission shall provide the Legislative Policy Committee at least 30 days to submit comments to the Commission.

(iv) The Commission shall establish an application review process for granting medical cannabis grower licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the Commission.

[(v) The Commission may not issue more than one medical cannabis grower license to each applicant.]

(V) A PERSON MAY NOT HAVE AN OWNERSHIP INTEREST IN OR CONTROL OF, INCLUDING THE POWER TO MANAGE AND OPERATE, MORE THAN ONE GROWER.

(vi) A grower shall pay an application fee in an amount to be determined by the Commission consistent with this subtitle.

(I) A GROWER LICENSED UNDER THIS SUBTITLE IS SUBJECT TO THE MARYLAND ANTITRUST ACT AND THE MARYLAND SALES BELOW COST ACT.”.

In the Judicial Proceedings Committee Amendments (SB0426/468570/1), in line 3 of Amendment No. 2, strike “FIVE” and substitute “FOUR”.

On page 2 of the bill, after line 29, insert:

“(K) A DISPENSARY LICENSED UNDER THIS SUBTITLE IS SUBJECT TO THE MARYLAND ANTITRUST ACT AND THE MARYLAND SALES BELOW COST ACT.

13-3309.

(a) A processor shall be licensed by the Commission.

(D) A PERSON MAY NOT HAVE AN OWNERSHIP INTEREST IN OR CONTROL OF, INCLUDING THE POWER TO MANAGE AND OPERATE, MORE THAN ONE PROCESSOR.

[(d)] (E) (1) A processor license is valid for 6 years on initial licensure.

(2) A processor license is valid for 4 years on renewal.

~~[(e)]~~ (F) A processor licensed under this section or a processor agent registered under § 13–3310 of this subtitle may not be penalized or arrested under State law for:

(1) Acquiring, possessing, processing, packaging, labeling, transferring, transporting, selling, or distributing medical cannabis or products containing medical cannabis to a dispensary for use by a qualifying patient or a caregiver; or

(2) Transporting medical cannabis or products containing medical cannabis to an independent testing laboratory.

~~[(f)]~~ (G) The Commission shall establish requirements for security and product handling procedures that a processor must meet to obtain a license under this section, including a requirement for a product–tracking system.

~~[(g)]~~ (H) The Commission may inspect a processor licensed under this section to ensure compliance with this subtitle.

~~[(h)]~~ (I) The Commission may impose penalties or rescind the license of a processor that does not meet the standards for licensure set by the Commission.

(J) A PROCESSOR LICENSED UNDER THIS SUBTITLE IS SUBJECT TO THE MARYLAND ANTITRUST ACT AND THE MARYLAND SALES BELOW COST ACT.

Article – Tax – General

10–208.

(a) In addition to the modification under § 10–207 of this subtitle, the amounts

(Over)

under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(Y) (1) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF ORDINARY AND NECESSARY EXPENSES PAID OR INCURRED DURING THE TAXABLE YEAR IN CARRYING ON A TRADE OR A BUSINESS AS A MEDICAL CANNABIS GROWER, PROCESSOR, OR DISPENSARY LICENSED UNDER TITLE 13, SUBTITLE 33 OF THE HEALTH – GENERAL ARTICLE OR AN INDEPENDENT TESTING LABORATORY REGISTERED IN ACCORDANCE WITH § 13–3311 OF THE HEALTH – GENERAL ARTICLE IF:

(I) THE DEDUCTION FOR ORDINARY AND NECESSARY EXPENSES IS DISALLOWED UNDER § 280E OF THE INTERNAL REVENUE CODE; AND

(II) THE MEDICAL CANNABIS GROWER, PROCESSOR, OR DISPENSARY IS NOT AN AFFILIATE, A CORPORATE PARENT, OR A SUBSIDIARY OF ANOTHER BUSINESS LICENSED UNDER TITLE 13, SUBTITLE 33 OF THE HEALTH – GENERAL ARTICLE.

(2) THE SUBTRACTION ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDES A REASONABLE ALLOWANCE FOR SALARIES OR OTHER COMPENSATION FOR PERSONAL SERVICES ACTUALLY RENDERED DURING THE TAXABLE YEAR.

10–308.

(a) In addition to the modification under § 10–307 of this subtitle, the amounts under this section are subtracted from the federal taxable income of a corporation to determine Maryland modified income.

(b) The subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for an individual under:

(1) § 10–208(d) of this title (Enhanced agricultural management equipment expenses);

(2) § 10–208(i) of this title (Reforestation or timber stand expenses);

(3) § 10–208(k) of this title (Wage expenses for targeted jobs); [and]

(4) § 10–208(p) of this title (Elevator handrails in health care facilities);

AND

(5) § 10–208(Y) OF THIS TITLE (TRADE OR BUSINESS EXPENSES OF MEDICAL CANNABIS GROWER, PROCESSOR, DISPENSARY, OR INDEPENDENT TESTING LABORATORY).

SECTION 2. AND BE IT FURTHER ENACTED, That §§ 10–208(y) and 10–308(b)(5) of the Tax – General Article, as enacted by Section 1 of this Act, shall be applicable to all taxable years beginning after December 31, 2018.”;

and in line 30, strike “2.” and substitute “3.”.