

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1479
Judiciary

(Delegate K. Young, *et al.*)

Natalie M. LaPrade Medical Cannabis Commission - Qualifying Patients and
Caregivers - Immunity

This bill establishes legal protections against arrest, prosecution, or any civil or administrative penalty for a qualifying patient or caregiver in possession of a 30-day supply of medical cannabis that was obtained from a source other than a licensed dispensary until medical cannabis is available through a licensed dispensary in the qualifying patient's senatorial district or an adjacent senatorial district.

The bill takes effect June 1, 2016.

Fiscal Summary

State Effect: No material impact. The commission can implement the bill's changes with existing budgeted staff and resources. No impact on revenues. The bill's shielding provisions are not expected to have a material impact on State finances or operations.

Local Effect: None. The bill's shielding provisions are not expected to have a material impact on local finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law/Background:

Medical Cannabis Commission

Chapter 403 of 2013 established, Chapters 240 and 256 of 2014 expanded, and Chapter 251 of 2015 further modified the State's medical cannabis program. The Natalie M. LaPrade Medical Cannabis Commission currently allows for the licensure of growers, processors, and dispensaries and the registration of their agents. The program also establishes a framework to certify physicians and qualifying patients (and their caregivers) to provide qualifying patients with medical cannabis legally under State law via written certification. Specifically, a qualifying patient who has been provided with a written certification from a certifying physician in accordance with a bona fide physician-patient relationship may obtain a 30-day supply of medical cannabis. Medical cannabis is defined in regulation as any product containing usable cannabis or medical cannabis finished product. A 30-day supply is defined as 120 grams of usable cannabis, unless a qualifying patient's certifying physician determines that this amount is inadequate to meet the medical needs of the patient.

The commission promulgated regulations in September 2015, and the certifying physician registration form required by regulation is available online. Certifying physicians must provide a license number and a controlled dangerous substances (CDS) registration number to complete the form. The commission advises that, as of January 2016, there are 85 registered certifying physicians. The commission opened applications for grower, processor, and dispensary licenses in September 2015 and received 146 grower license, 124 processor license, and 811 dispensary license applications by the deadline. The commission's [website](#) advises that it anticipates issuing stage-one approvals for grower and processor applicants by summer 2016.

Statute dictates that cannabis may only be obtained from a grower or dispensary licensed by the commission and that the commission may license no more than 15 growers initially. The commission is authorized to set fees to cover the costs of operating the commission. These fees were established by the September 2015 regulations. The regulations also establish a limit of two dispensary licenses per senatorial district or up to 94 statewide. No such restriction on the number of dispensaries exists in statute. There is no established limit on the number of processor licenses in either statute or regulation.

Counties retain the authority to limit the location of medical cannabis facilities through zoning restrictions. Approaches to addressing the location of such facilities have been mixed. Baltimore County was the first to approve zoning rules governing medical cannabis

facilities, in September 2015. Local newspapers report that there is fairly broad acceptance of future medical cannabis facilities in Western Maryland and on the Eastern Shore.

Criminal Law Provisions Related to Marijuana

CDS are listed on one of five schedules (Schedules I through V) set forth in statute depending on their potential for abuse and acceptance for medical use. Under the federal Controlled Dangerous Substances Act, for a drug or substance to be classified as Schedule I, the following findings must be made: (1) the substance has a high potential for abuse; (2) the drug or other substance has no currently accepted medical use in the United States; and (3) there is a lack of accepted safety for use of the drug or other substance under medical supervision.

No distinction is made in State law regarding the illegal possession of any CDS, regardless of which schedule it is on, with the exception of marijuana. The use or possession of a CDS other than marijuana is a misdemeanor with maximum criminal penalties of four years imprisonment and/or a \$25,000 fine.

In general, a defendant in possession of marijuana is guilty of a misdemeanor and subject to imprisonment for up to one year and/or a fine of up to \$1,000. However, pursuant to Chapter 158 of 2014, possession of less than 10 grams of marijuana is a civil offense punishable by a fine of up to \$100 for a first offense and \$250 for a second offense. The maximum fine for a third or subsequent offense is \$500. Additionally, pursuant to Chapter 351 of 2015, if a court finds that the use or possession of marijuana was due to medical necessity, the court must dismiss the charge.

Chapter 4 of 2016 repealed the criminal prohibition on the use or possession of marijuana paraphernalia and eliminated the associated penalties. However, the law also established that the use or possession of marijuana involving smoking marijuana in a public place is a civil offense, punishable by a fine of up to \$500.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Legislative Services

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