

SENATE BILL 383

J1

9lr1032

By: **Senator Kagan**

Introduced and read first time: January 31, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Natalie M. LaPrade Medical Cannabis Commission – Law Enforcement and**
3 **Dispensaries**

4 FOR the purpose of establishing the Law Enforcement Purchases Account within the
5 Compassionate Use Fund; providing that the Account consists of any money received
6 from certain sources; altering the manner in which certain fees are required to be
7 set; providing for the purpose of the Account; authorizing a law enforcement
8 representative to obtain during a certain period of time a certain amount of medical
9 cannabis and medical cannabis concentrate from a licensed dispensary at no cost for
10 a certain purpose; prohibiting a law enforcement representative from being
11 penalized or arrested for certain actions under certain circumstances; requiring the
12 Natalie M. LaPrade Medical Cannabis Commission to reimburse a licensed
13 dispensary for the cost of the medical cannabis or medical cannabis concentrate
14 dispensed to a law enforcement representative from a certain account; authorizing
15 the Maryland Department of Health to adopt certain regulations; requiring a certain
16 dispensary or dispensary agent to ensure that all medical cannabis and products
17 containing medical cannabis have at the time of sale a label affixed to the product
18 that contains certain information; making conforming changes; defining a certain
19 term; and generally relating to dispensing and law enforcement obtainment of
20 medical cannabis.

21 BY repealing and reenacting, with amendments,
22 Article – Health – General
23 Section 13–3301, 13–3303.1, 13–3306(b) and (c), 13–3307, 13–3309(e), and 13–3313
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2018 Supplement)

26 BY adding to
27 Article – Health – General
28 Section 13–3304.1
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2015 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

13–3301.

(a) In this subtitle the following words have the meanings indicated.

(b) “Caregiver” means:

(1) A person who has agreed to assist with a qualifying patient’s medical use of cannabis; and

(2) For a qualifying patient under the age of 18 years, a parent or legal guardian.

(c) “Certifying provider” means an individual who:

(i) 1. Has an active, unrestricted license to practice medicine that was issued by the State Board of Physicians under Title 14 of the Health Occupations Article; and

2. Is in good standing with the State Board of Physicians;

(ii) 1. Has an active, unrestricted license to practice dentistry that was issued by the State Board of Dental Examiners under Title 4 of the Health Occupations Article; and

2. Is in good standing with the State Board of Dental Examiners;

(iii) 1. Has an active, unrestricted license to practice podiatry that was issued by the State Board of Podiatric Medical Examiners under Title 16 of the Health Occupations Article; and

2. Is in good standing with the State Board of Podiatric Medical Examiners; or

(iv) 1. Has an active, unrestricted license to practice registered nursing and has an active, unrestricted certification to practice as a nurse practitioner or a nurse midwife that were issued by the State Board of Nursing under Title 8 of the Health Occupations Article; and

2. Is in good standing with the State Board of Nursing;

1 (2) Has a State controlled dangerous substances registration; and

2 (3) Is registered with the Commission to make cannabis available to
3 patients for medical use in accordance with regulations adopted by the Commission.

4 (d) “Commission” means the Natalie M. LaPrade Medical Cannabis Commission
5 established under this subtitle.

6 (e) “Dispensary” means an entity licensed under this subtitle that acquires,
7 possesses, processes, transfers, transports, sells, distributes, dispenses, or administers
8 cannabis, products containing cannabis, related supplies, related products containing
9 cannabis including food, tinctures, aerosols, oils, or ointments, or educational materials for
10 use by a qualifying patient or caregiver.

11 (f) “Dispensary agent” means an owner, a member, an employee, a volunteer, an
12 officer, or a director of a dispensary.

13 (g) “Fund” means the Natalie M. LaPrade Medical Cannabis Commission Fund
14 established under § 13–3303 of this subtitle.

15 (h) “Grower” means an entity licensed under this subtitle that:

16 (1) Cultivates or packages medical cannabis; and

17 (2) Is authorized by the Commission to provide cannabis to a processor,
18 dispensary, or independent testing laboratory.

19 (i) “Independent testing laboratory” means a facility, an entity, or a site that
20 offers or performs tests related to the inspection and testing of cannabis and products
21 containing cannabis.

22 **(J) “LAW ENFORCEMENT REPRESENTATIVE” MEANS AN INDIVIDUAL WHO**
23 **IS:**

24 **(1) EMPLOYED IN A MANAGEMENT POSITION BY A LAW**
25 **ENFORCEMENT AGENCY IN THE STATE;**

26 **(2) SWORN INTO THE POSITION; AND**

27 **(3) DESIGNATED TO BE A REPRESENTATIVE OF THE LAW**
28 **ENFORCEMENT AGENCY FOR THE PURPOSES OF § 13–3304.1 OF THIS SUBTITLE.**

29 **[(j)] (K)** “Medical cannabis grower agent” means an owner, an employee, a
30 volunteer, an officer, or a director of a grower.

1 **[(k)] (L)** “Processor” means an entity that:

2 (1) Transforms medical cannabis into another product or extract; and

3 (2) Packages and labels medical cannabis.

4 **[(l)] (M)** “Processor agent” means an owner, a member, an employee, a
5 volunteer, an officer, or a director of a processor.

6 **[(m)] (N)** “Qualifying patient” means an individual who:

7 (1) Has been provided with a written certification by a certifying provider
8 in accordance with a bona fide provider–patient relationship; and

9 (2) If under the age of 18 years, has a caregiver.

10 **[(n)] (O)** “Written certification” means a certification that:

11 (1) Is issued by a certifying provider to a qualifying patient with whom the
12 provider has a bona fide provider–patient relationship; and

13 (2) Includes a written statement certifying that, in the provider’s
14 professional opinion, after having completed an assessment of the patient’s medical history
15 and current medical condition, the patient has a condition:

16 (i) That meets the inclusion criteria and does not meet the exclusion
17 criteria of the certifying provider’s application; and

18 (ii) For which the potential benefits of the medical use of cannabis
19 would likely outweigh the health risks for the patient; and

20 (3) May include a written statement certifying that, in the provider’s
21 professional opinion, a 30–day supply of medical cannabis would be inadequate to meet the
22 medical needs of the qualifying patient.

23 13–3303.1.

24 (a) In this section, “Compassionate Use Fund” means the Natalie M. LaPrade
25 Medical Cannabis Compassionate Use Fund.

26 (b) **(1)** There is a Natalie M. LaPrade Medical Cannabis Compassionate Use
27 Fund.

28 **(2) (I) WITHIN THE FUND THERE IS A LAW ENFORCEMENT**
29 **PURCHASES ACCOUNT.**

1 **(II) THE ACCOUNT CONSISTS OF ANY MONEY RECEIVED FROM:**

2 **1. FEES COLLECTED UNDER SUBSECTION (C) OF THIS**
3 **SECTION, AS ALLOCATED BY THE DEPARTMENT;**

4 **2. STATE APPROPRIATIONS; AND**

5 **3. ANY OTHER GRANTS OR CONTRIBUTIONS FROM**
6 **PUBLIC OR PRIVATE ENTITIES RECEIVED BY THE DEPARTMENT FOR USE IN THE**
7 **ACCOUNT.**

8 (c) (1) The Department shall:

9 (i) Administer the Compassionate Use Fund; and

10 (ii) Subject to paragraph (2) of this subsection, set fees in an amount
11 necessary to provide revenues for the purposes of the Compassionate Use Fund **AND THE**
12 **LAW ENFORCEMENT PURCHASES ACCOUNT.**

13 (2) The Commission may not impose the fees established under paragraph
14 (1)(ii) of this subsection on a licensed medical cannabis grower, processor, or dispensary
15 during the 2 years immediately following the preapproval of the licensee for a license under
16 this subtitle.

17 (d) **(1)** The purpose of the Compassionate Use Fund is to provide access to
18 medical cannabis for individuals enrolled in the Maryland Medical Assistance Program or
19 in the Veterans Administration Maryland Health Care System.

20 **(2) THE PURPOSE OF THE LAW ENFORCEMENT PURCHASES**
21 **ACCOUNT WITHIN THE COMPASSIONATE USE FUND IS TO FUND PURCHASES BY A**
22 **LAW ENFORCEMENT REPRESENTATIVE OF MEDICAL CANNABIS UNDER § 13-3304.1**
23 **OF THIS SUBTITLE.**

24 (e) (1) The Compassionate Use Fund is a special, nonlapsing fund that is not
25 subject to § 7-302 of the State Finance and Procurement Article.

26 (2) The State Treasurer shall hold the Compassionate Use Fund
27 separately, and the Comptroller shall account for the Compassionate Use Fund.

28 (3) The Compassionate Use Fund shall be invested and reinvested in the
29 same manner as other State funds, and any investment earnings shall be retained to the
30 credit of the Compassionate Use Fund.

31 (4) The Compassionate Use Fund shall be subject to an audit by the Office
32 of Legislative Audits as provided for in § 2-1220 of the State Government Article.

1 (5) The Comptroller shall pay out money from the Compassionate Use
2 Fund as directed by the Department.

3 (f) (1) On or before December 1, 2018, the Commission, in consultation with
4 the Department, shall report to the General Assembly, in accordance with § 2–1246 of the
5 State Government Article, on:

6 (i) The revenues the Commission anticipates are necessary to
7 implement the program described in subsection (i) of this section;

8 (ii) The amount of fees and the licensees on which those fees shall be
9 assessed in order to generate the necessary revenues;

10 (iii) The use of any other funding mechanism to implement the
11 program; and

12 (iv) Any anticipated savings in prescription drug costs for the
13 Maryland Medical Assistance Program that would result from the provision of medical
14 cannabis under this subtitle.

15 (2) The Commission may hire an independent actuary to assist the
16 Commission in the preparation of the report required under paragraph (1) of this
17 subsection.

18 (g) No part of the Compassionate Use Fund may revert or be credited to:

19 (1) The General Fund of the State; or

20 (2) Any other special fund of the State.

21 (h) Expenditures from the Compassionate Use Fund may be made only in
22 accordance with the State budget.

23 (i) (1) The Department, in consultation with the Commission, shall establish
24 a program to allow eligible individuals enrolled in the Maryland Medical Assistance
25 Program or in the Veterans Administration Maryland Health Care System to:

26 (i) Obtain medical cannabis from a licensed dispensary at no cost or
27 a reduced cost; and

28 (ii) Reimburse a licensed dispensary for the cost of the medical
29 cannabis dispensed to an eligible individual under the program from the Compassionate
30 Use Fund.

31 (2) The Department shall adopt regulations to implement this subsection.

1 **13-3304.1.**

2 (A) A LAW ENFORCEMENT REPRESENTATIVE MAY OBTAIN EACH MONTH UP
3 TO 120 GRAMS OF MEDICAL CANNABIS OR UP TO 36 GRAMS OF MEDICAL CANNABIS
4 CONCENTRATE FROM A LICENSED DISPENSARY AT NO COST FOR USE DURING A LAW
5 ENFORCEMENT OFFICER TRAINING PROGRAM ON DETECTION OF CANNABIS
6 INTOXICATION AS IT RELATES TO IMPAIRED DRIVING.

7 (B) A LAW ENFORCEMENT REPRESENTATIVE MAY NOT BE PENALIZED OR
8 ARRESTED UNDER STATE LAW FOR ACQUIRING, POSSESSING, OR DISPENSING
9 CANNABIS, PRODUCTS CONTAINING CANNABIS, RELATED SUPPLIES, OR
10 EDUCATIONAL MATERIALS FOR USE BY A QUALIFYING PATIENT AS PART OF A LAW
11 ENFORCEMENT OFFICER TRAINING PROGRAM ON DETECTION OF CANNABIS
12 INTOXICATION AS IT RELATES TO IMPAIRED DRIVING.

13 (C) THE COMMISSION SHALL REIMBURSE A LICENSED DISPENSARY FOR
14 THE COST OF THE MEDICAL CANNABIS OR MEDICAL CANNABIS CONCENTRATE
15 DISPENSED TO A LAW ENFORCEMENT REPRESENTATIVE UNDER SUBSECTION (A) OF
16 THIS SECTION FROM THE LAW ENFORCEMENT ACCOUNT WITHIN THE
17 COMPASSIONATE USE FUND.

18 (D) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS
19 SECTION.

20 **13-3306.**

21 (b) An entity licensed to grow medical cannabis under this section may provide
22 cannabis only to:

23 (1) Processors licensed by the Commission under this subtitle;

24 (2) Dispensaries licensed by the Commission under this subtitle;

25 (3) Qualified patients;

26 (4) Caregivers; [and]

27 (5) Independent testing laboratories registered with the Commission
28 under this subtitle; AND

29 (6) LAW ENFORCEMENT REPRESENTATIVES OBTAINING MEDICAL
30 CANNABIS UNDER § 13-3304.1 OF THIS SUBTITLE.

31 (c) (1) An entity licensed to grow cannabis under this section may dispense
32 cannabis from a facility of a grower licensed as a dispensary.

1 (2) A qualifying patient [or], caregiver, **OR LAW ENFORCEMENT**
2 **REPRESENTATIVE OBTAINING MEDICAL CANNABIS UNDER § 13-3304.1 OF THIS**
3 **SUBTITLE** may obtain medical cannabis from a facility of a grower licensed as a dispensary.

4 (3) An entity licensed to grow medical cannabis under this section may
5 grow and process medical cannabis on the same premises.

6 13-3307.

7 (a) (1) A dispensary shall be licensed by the Commission.

8 (2) (i) Subject to subparagraph (ii) of this paragraph, beginning
9 December 1, 2024, the Commission may report to the General Assembly, in accordance with
10 § 2-1246 of the State Government Article, on the number of licenses necessary to meet the
11 demand for medical cannabis by qualifying patients and caregivers issued identification
12 cards under this subtitle in an affordable, accessible, secure, and efficient manner.

13 (ii) Before the Commission determines to submit the report
14 described under subparagraph (i) of this paragraph, the Commission shall provide the
15 Legislative Policy Committee at least 30 days to submit comments to the Commission.

16 (b) To be licensed as a dispensary, an applicant shall submit to the Commission:

17 (1) An application fee in an amount to be determined by the Commission
18 consistent with this subtitle; and

19 (2) An application that includes:

20 (i) The legal name and physical address of the proposed dispensary;

21 (ii) The name, address, and date of birth of each principal officer and
22 each director, none of whom may have served as a principal officer or director for a
23 dispensary that has had its license revoked; and

24 (iii) Operating procedures that the dispensary will use, consistent
25 with Commission regulations for oversight, including storage of cannabis and products
26 containing cannabis only in enclosed and locked facilities.

27 (c) (1) The Commission shall:

28 (i) Establish an application review process for granting dispensary
29 licenses in which applications are reviewed, evaluated, and ranked based on criteria
30 established by the Commission;

31 (ii) To the extent permitted by federal and State law, actively seek
32 to achieve racial, ethnic, gender, and geographic diversity when licensing dispensaries; and

1 (iii) Encourage applicants who qualify as a minority business
2 enterprise, as defined in § 14–301 of the State Finance and Procurement Article, or who
3 are small, minority, or women–owned business entities to apply for licensure as
4 dispensaries.

5 (2) Beginning June 1, 2018, a dispensary licensed under this subtitle shall
6 report annually to the Commission on:

7 (i) The number of minority and women owners of the dispensary;

8 (ii) The ownership interest of any minority and women owners of the
9 dispensary; and

10 (iii) The number of minority and women employees of the dispensary.

11 (d) (1) A dispensary license is valid for 6 years on initial licensure.

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

13 (e) A dispensary licensed under this section or a dispensary agent registered
14 under § 13–3308 of this subtitle may not be penalized or arrested under State law for
15 acquiring, possessing, processing, transferring, transporting, selling, distributing, or
16 dispensing cannabis, products containing cannabis, related supplies, or educational
17 materials for use by a qualifying patient [or], a caregiver, **OR A LAW ENFORCEMENT**
18 **REPRESENTATIVE OBTAINING MEDICAL CANNABIS UNDER § 13–3304.1 OF THIS**
19 **SUBTITLE.**

20 (f) The Commission shall establish requirements for security and product
21 handling procedures that a dispensary must meet to obtain a license under this section,
22 including a requirement for a product–tracking system.

23 **(G) A DISPENSARY LICENSED UNDER THIS SECTION OR A DISPENSARY**
24 **AGENT REGISTERED UNDER § 13–3308 OF THIS SUBTITLE SHALL ENSURE THAT ALL**
25 **MEDICAL CANNABIS AND PRODUCTS CONTAINING MEDICAL CANNABIS HAVE AT THE**
26 **TIME OF SALE A LABEL AFFIXED TO THE PRODUCT THAT WARNS AGAINST**
27 **OPERATING AN AUTOMOBILE OR HEAVY MACHINERY WHILE USING THE PRODUCT.**

28 **[(g)] (H)** The Commission may inspect a dispensary licensed under this section
29 to ensure compliance with this subtitle.

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

32 **[(i)] (J)** (1) Each dispensary licensed under this section shall submit to the
33 Commission a quarterly report.

1 (2) The quarterly report shall include:

2 (i) The number of patients served;

3 (ii) The county of residence of each patient served;

4 (iii) The medical condition for which medical cannabis was
5 recommended;

6 (iv) The type and amount of medical cannabis dispensed; and

7 (v) If available, a summary of clinical outcomes, including adverse
8 events and any cases of suspected diversion.

9 (3) The quarterly report may not include any personal information that
10 identifies a patient.

11 13-3309.

12 (e) A processor licensed under this section or a processor agent registered under
13 § 13-3310 of this subtitle may not be penalized or arrested under State law for:

14 (1) Acquiring, possessing, processing, packaging, labeling, transferring,
15 transporting, selling, or distributing medical cannabis or products containing medical
16 cannabis to a dispensary for use by a qualifying patient [or], a caregiver, **OR A LAW**
17 **ENFORCEMENT REPRESENTATIVE OBTAINING MEDICAL CANNABIS UNDER §**
18 **13-3304.1 OF THIS SUBTITLE;** or

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

21 13-3313.

22 (a) Any of the following persons acting in accordance with the provisions of this
23 subtitle may not be subject to arrest, prosecution, or any civil or administrative penalty,
24 including a civil penalty or disciplinary action by a professional licensing board, or be
25 denied any right or privilege, for the medical use of or possession of medical cannabis:

26 (1) A qualifying patient:

27 (i) In possession of an amount of medical cannabis determined by
28 the Commission to constitute a 30-day supply; or

29 (ii) In possession of an amount of medical cannabis that is greater
30 than a 30-day supply if the qualifying patient's certifying provider stated in the written
31 certification that a 30-day supply would be inadequate to meet the medical needs of the

1 qualifying patient;

2 (2) A grower licensed under § 13–3306 of this subtitle or a grower agent
3 registered under § 13–3306 of this subtitle;

4 (3) A certifying provider;

5 (4) A caregiver;

6 **(5) A LAW ENFORCEMENT REPRESENTATIVE OBTAINING MEDICAL**
7 **CANNABIS UNDER § 13–3304.1 OF THIS SUBTITLE;**

8 ~~[(5)]~~ **(6)** A dispensary licensed under § 13–3307 of this subtitle or a
9 dispensary agent registered under § 13–3308 of this subtitle;

10 ~~[(6)]~~ **(7)** A processor licensed under § 13–3309 of this subtitle or a
11 processor agent registered under § 13–3310 of this subtitle;

12 ~~[(7)]~~ **(8)** A hospital, medical facility, or hospice program where a
13 qualifying patient is receiving treatment; or

14 ~~[(8)]~~ **(9)** A third–party vendor authorized by the Commission to test,
15 transport, or dispose of medical cannabis, medical cannabis products, or medical cannabis
16 waste under the provisions of this subtitle.

17 (b) (1) A person may not distribute, possess, manufacture, or use cannabis
18 that has been diverted from a qualifying patient, a caregiver, **A LAW ENFORCEMENT**
19 **REPRESENTATIVE**, a licensed grower, or a licensed dispensary.

20 (2) A person who violates this subsection is guilty of a felony and on
21 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000
22 or both.

23 (3) The penalty under this subsection is in addition to any penalties that a
24 person may be subject to for manufacture, possession, or distribution of marijuana under
25 the Criminal Law Article.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2019.