

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 862

(Senator Zirkin)

Judicial Proceedings

Landlord-Tenant - Tenant Protections - Medical Cannabis

This bill prohibits a landlord from denying a lease to (1) a qualifying patient or caregiver solely on the basis of possession of medical cannabis or a related product or (2) a qualifying patient solely on the basis of the consumption of nonsmoked medical cannabis. The bill also specifies that such a tenant is not in breach of a lease solely on the basis of the possession of medical cannabis or a related product, or the consumption of nonsmoked medical cannabis.

Fiscal Summary

State Effect: The bill is not anticipated to affect State operations or finances.

Local Effect: The bill is not anticipated to affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Nonsmoked medical cannabis” means medical cannabis that is consumed by a qualifying patient through a means other than burning. “Qualifying patient” and “caregiver” have the meaning stated in § 13-3301 of the Health General Article.

Current Law/Background: Statute does not prohibit a landlord from denying a lease to a qualifying patient or caregiver solely on the basis of possession or use of medical cannabis consistent with the individual’s status.

Maryland's Medical Cannabis Program

The Natalie M. LaPrade Medical Cannabis Commission is responsible for implementation of the State's medical cannabis program, which is intended to make medical cannabis available to qualifying patients in a safe and effective manner. The program allows for the licensure of growers, processors, and dispensaries and the registration of their agents, as well as registration of independent testing laboratories and their agents. There is a framework to certify health care providers, qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification. As of January 9, 2019, there were 79,427 registered patients, 54,236 certified patients, 4,890 caregivers, and 1,243 certifying providers.

A "qualifying patient" is an individual who has been provided a written certification by a certifying provider in accordance with a bona fide provider-patient relationship. Additionally, if younger than age 18, a qualifying patient must have a caregiver. A "caregiver" is a person who has agreed to assist with a qualifying patient's medical use of cannabis and, for a qualifying patient younger than age 18, a parent or legal guardian.

A qualifying patient with a written certification can obtain a 30-day supply of medical cannabis, which is generally defined as 120 grams of usable cannabis. The first medical cannabis was available for sale in the State in late calendar 2017.

Maryland's medical cannabis program statute cannot be construed to authorize any individual to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for, the following:

- undertaking any task under the influence of marijuana or cannabis, when doing so would constitute negligence or professional malpractice;
- operating, navigating, or being in control of any motor vehicle, aircraft, or boat while under the influence of marijuana or cannabis; or
- smoking marijuana or cannabis in any public place, in a motor vehicle, or on private property that is rented and subject to a policy that prohibits smoking marijuana or cannabis on the premises (however, the law establishes an exception for vaporizing medical cannabis on private property that is rented).

Further, there is no immunity from criminal prosecution for a person who violates medical cannabis laws that regulate or prohibit the use, possession, dispensing, distribution, or promotion of controlled dangerous substances, dangerous drugs, detrimental drugs, or harmful drugs, or any conspiracy or attempt to commit any of those offenses.

However, among other specified individuals, a qualifying patient or caregiver acting in accordance with State law may not be subject to arrest, prosecution, or any civil or

administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the medical use of or possession of medical cannabis.

Tenant Protections in Other States

Other states have attempted to address the treatment of tenants due to their status as a qualifying patient or caregiver in ways similar to the bill. For example, in Connecticut, no landlord may refuse to rent a dwelling unit to a person, or take action against a tenant, solely on the basis of such person's or tenant's status as a medical cannabis patient or caregiver.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Commission on Civil Rights; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Department of Health; General Statutes of Connecticut; Department of Legislative Services

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