



ATCC

Alcohol, Tobacco, and Cannabis Commission

Wes Moore
Governor

Aruna K. Miller
Lt. Governor

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Executive Director

February 18, 2025

BILL: HB12 – Alcohol, Tobacco, and Cannabis Commission - Cannabis – Sale and Distribution – Tetrahydrocannabinol Offenses

COMMITTEE: Economic Matters

POSITION: Favorable

Hon. C.T. Wilson, Chair and Members of the House Economic Matters Committee:

I write on behalf of the Alcohol, Tobacco, and Cannabis Commission (“ATCC”) to request a **Favorable Report on HB12 – Cannabis – Sale and Distribution – Tetrahydrocannabinol Offenses.**

HB12 would require that all intoxicating THC products intended for human consumption, whether for sale at licensed or unlicensed locations, adhere to the same packaging and labeling requirements as legal cannabis products as stipulated in the Alcoholic Beverages and Cannabis Article (“ABCA”). Intoxicating THC products that fail to meet the packaging and labeling requirements ascribed by the ABCA would be considered contraband per se, thus allowing the ATCC to seize such products and issue citations for violations of the law. Lastly, this bill authorizes the ATCC to issue citations to persons who sell intoxicating THC products, including Delta 8 and Delta 10, to underage individuals.

Intoxicating THC products (“products”) sold by a Maryland Cannabis Administration (“MCA”) licensed cannabis business are required by statute and regulations to be designed and packaged to minimize their appeal to children. For example, current law prohibits any of the products sold in a licensed business from resembling commercially available snacks or candy, including not using certain images such as cartoons, toys, or animals. Like medications, each package must have child and tamper proof features to protect from accidental access and consumption. Product labels are also required to give adult consumers clear information about the cannabinoid contents and other ingredients of the products, remind them about health and driver safety risks from consuming the product, and to identify both the manufacturer and retailer of the product so that any adverse reactions or product safety issues can be reported and traced back to their source.

Since the passage of the Cannabis Reform Act (“CRA”), ATCC agents have observed numerous intoxicating THC products being sold in non-licensed establishments. These products’ advertising not only target children, but their THC

dosage amounts far exceed the limits imposed by State law.¹ These illicit products are often marketed as being exempt from Federal and State oversight because they are derived from hemp or have a low percentage of Delta-9-Tetrahydrocannabinol. The ATCC has found that such labelling has proved to be inaccurate. After investigation and laboratory testing, the agency has discovered that many of these products contain sufficient THC per dose to require a cannabis license to be sold in Maryland.

Everyday new THC products and variations are marketed to stores to capitalize on consumer demand for cannabis products, but these intoxicating products reside outside of the licensed market and are not subject to any screening or approval by the State. This gives these unregulated products and businesses an unfair competitive advantage over duly licensed cannabis businesses, which must expend time and resources to safely and lawfully test, package, and submit their product concepts to the MCA.

While the ATCC is empowered to issue citations to the sellers when this is proven, agents can only build such cases by individually purchasing a product, sending it to a contracted laboratory, and waiting for the issuance of a lab report detailing the product's THC content. This analysis currently takes 45 days or more to be completed. Even once an unlawful product is confirmed, there is no direct mechanism in law to remove that product from the store inventory or order an owner to cease sales. This gap in enforcement ability allows potentially dangerous products to continue to be sold to consumers.

This bill is intended to give the ATCC a swift and practical tool to react to these risks in 4 primary ways:

1. It requires all products that contain any THC to meet advertising and labelling standards already codified in law and applicable to current MCA licensees. This allows agents to inspect these products to determine if they comport with the standards laid out in ABC § 36-203.1 and MCA regulations that currently apply to approved cannabis products.
2. It allows agents to rely on the statements made on packages as prima facie evidence and take enforcement action immediately upon observing a product in an unlicensed store which is advertised as having contents that are greater than allowed under Maryland law.

¹ See. Alc. Bev. Can. 36-1102(d).

3. It establishes that displaying products for sale in a commercial business is rebuttable evidence of sale of those products for the purposes of a licensing related offense. This follows the model already used for alcohol enforcement.
4. It authorizes the ATCC to issue citations to persons who sell intoxicating THC products, including Delta 8 and Delta 10, to underage individuals, by allowing them to enforce the provisions of Criminal Law Article 10-108.

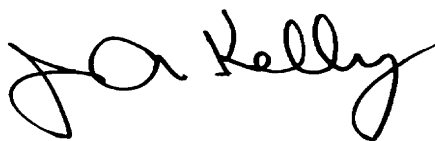
These practical enforcement tools created by HB12 will protect Maryland consumers and prevent them from being misled or confused when seeking safe and legal cannabis. The ATCC and MCA will be able to work collaboratively to ensure that intoxicating THC products will be clearly labeled and displayed for sale only in licensed dispensaries, while minimal THC or CBD-only products that can be sold in other businesses are clearly identifiable and contain details of their contents.

In addition, this bill will also protect children from being drawn toward potentially harmful cannabinoid products of any type. Efficient and effective enforcement of these standards will ensure that cannabis businesses licensed by the MCA can thrive in the marketplace and continue to generate tax revenue, further health needs of medical patients, and provide enjoyable and safe products for adults.

Accordingly, the ATCC requests the House Economic Matters Committee to issue Favorable Report on HB12 – Cannabis – Sale and Distribution – Tetrahydrocannabinol Offenses.

I look forward to answering any questions or concerns that you have regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "JA Kelly". The signature is written in a cursive, flowing style.

Jeffrey A. Kelly
Executive Director