

HOUSE BILL 632

E1, C2, Q4

CONSTITUTIONAL AMENDMENT

9lr0369
CF 9lr2647

By: **Delegates Moon, Luedtke, Anderson, Boyce, Charkoudian, Cullison, Ebersole, Feldmark, Fraser-Hidalgo, Gilchrist, Hettleman, Kelly, Korman, R. Lewis, Lierman, Lisanti, Lopez, Love, McIntosh, Mosby, Palakovich Carr, Reznik, Shetty, Smith, Solomon, Stewart, Washington, Wells, K. Young, and P. Young**

Introduced and read first time: February 6, 2019

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Constitutional Amendment – Cannabis – Use, Possession, Cultivation, and Sale**

3 FOR the purpose of proposing an amendment to the Maryland Constitution to establish
4 that, subject to certain exceptions, an individual in the State who is at least a certain
5 age may under State law use, possess in a certain amount, cultivate to a certain
6 extent, and share under certain circumstances cannabis; providing that this
7 amendment does not require or prohibit certain employment policies, authorize
8 certain driving conduct, or change certain existing laws, with a certain exception;
9 providing that this amendment does not prohibit a person who owns, occupies, or
10 controls a property from enforcing certain prohibitions or regulations, with a certain
11 exception; providing that this amendment does not require a person to violate certain
12 laws or restrictions under certain circumstances; requiring the General Assembly
13 and the Comptroller to provide for the regulation of the commercial production and
14 distribution of cannabis within the State under a certain system; providing for the
15 purpose of certain laws and regulations; requiring certain laws and regulations to
16 include certain requirements; requiring certain laws and regulations to establish
17 certain licensing and application fees for a certain purpose; authorizing the
18 Comptroller to control the commercial production and distribution of cannabis;
19 requiring the Comptroller to issue certain licenses; authorizing a certain cannabis
20 business to take certain actions under certain circumstances; authorizing a local
21 jurisdiction to take certain steps relating to the control and consumption of cannabis
22 within its boundaries; authorizing the General Assembly to require a certain vote
23 within a local jurisdiction; requiring that the transfer of cannabis by purchase or sale
24 be regulated as necessary to ensure health and safety and taxed to the extent that
25 the revenues are used for certain purposes; providing that this amendment does not
26 limit certain privileges, rights, immunities, or defenses; providing that if any portion
27 of this amendment is invalidated by a court, the remainder shall remain in full force

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 and effect; authorizing a certain direct right of action by a citizen of the State under
2 certain circumstances; and submitting this amendment to the qualified voters of the
3 State for their adoption or rejection.

4 BY proposing an addition to the Maryland Constitution
5 New Article XX – Cannabis
6 Section 1 and 2

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 (Three-fifths of all the members elected to each of the two Houses concurring), That it be
9 proposed that the Maryland Constitution read as follows:

10 **ARTICLE XX – CANNABIS**

11 **1.**

12 **(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AND**
13 **SUBJECT TO SECTION 2 OF THIS ARTICLE, AN INDIVIDUAL IN THE STATE WHO IS AT**
14 **LEAST 21 YEARS OLD, WITHOUT BEING SUBJECT TO PENALTY OR SANCTION UNDER**
15 **STATE LAW, MAY:**

16 **(I) USE CANNABIS;**

17 **(II) POSSESS UP TO 1 OUNCE OF CANNABIS, BUT NOT MORE**
18 **THAN 5 GRAMS OF CANNABIS IN A CONCENTRATED FORM, AT ANY ONE TIME;**

19 **(III) CULTIVATE IN THE INDIVIDUAL’S RESIDENTIAL DWELLING,**
20 **IN AN AREA NOT VISIBLE FROM A PUBLIC PLACE OR ANOTHER PRIVATE PROPERTY**
21 **WITHOUT OPTICAL AIDS, UP TO SIX CANNABIS PLANTS, BUT NOT MORE THAN THREE**
22 **MATURE AND FLOWERING PLANTS, AT ANY ONE TIME;**

23 **(IV) POSSESS IN THE INDIVIDUAL’S RESIDENTIAL DWELLING,**
24 **FOR PERSONAL USE, ALL THE CANNABIS CULTIVATED BY THE INDIVIDUAL FROM**
25 **CANNABIS PLANTS DESCRIBED IN ITEM (III) OF THIS PARAGRAPH; AND**

26 **(V) SHARE, WITHOUT RECEIVING ANYTHING OF VALUE, UP TO 5**
27 **GRAMS OF CANNABIS WITH ANOTHER INDIVIDUAL WHO IS AT LEAST 21 YEARS OLD.**

28 **(B) (1) THIS ARTICLE DOES NOT:**

29 **(I) REQUIRE AN EMPLOYER TO ALLOW OR ACCOMMODATE THE**
30 **USE OR POSSESSION OF CANNABIS BY AN EMPLOYEE OR IN THE WORKPLACE; OR**

31 **(II) PROHIBIT AN EMPLOYER FROM TAKING AN ADVERSE**

1 EMPLOYMENT ACTION AGAINST AN EMPLOYEE FOR VIOLATION OF A WORKPLACE
2 DRUG POLICY OR FOR WORKING UNDER THE INFLUENCE OF CANNABIS.

3 (2) THIS ARTICLE DOES NOT AUTHORIZE DRIVING WHILE IMPAIRED
4 BY OR UNDER THE INFLUENCE OF CANNABIS OR DRIVING WHILE CONSUMING
5 CANNABIS.

6 (3) THIS ARTICLE DOES NOT CHANGE EXISTING LAW WITH RESPECT
7 TO THE PUBLIC SMOKING OR CONSUMPTION OF CANNABIS EXCEPT, FOR THE
8 PURPOSES OF THIS ARTICLE, A PUBLIC PLACE DOES NOT INCLUDE A LICENSED
9 BUSINESS THAT PERMITS CANNABIS CONSUMPTION IN DESIGNATED AREAS NOT
10 ACCESSIBLE TO INDIVIDUALS UNDER THE AGE OF 21 YEARS, IF THE BUSINESS IS
11 LOCATED IN A JURISDICTION THAT ALLOWS THE BUSINESS.

12 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
13 PARAGRAPH, THIS ARTICLE DOES NOT PROHIBIT A PERSON WHO OWNS, OCCUPIES,
14 OR CONTROLS A PROPERTY FROM PROHIBITING OR REGULATING THE USE, DISPLAY,
15 OR CULTIVATION OF CANNABIS ON OR IN THAT PROPERTY.

16 (II) A LEASE FOR RESIDENTIAL PROPERTY FOR AN ENTIRE
17 DWELLING UNIT MAY NOT PROHIBIT A TENANT FROM CONSUMING CANNABIS IN THE
18 PREMISES BY MEANS OTHER THAN SMOKING.

19 (5) THIS ARTICLE DOES NOT REQUIRE AN INDIVIDUAL OR ENTITY TO
20 VIOLATE FEDERAL LAW OR TO IMPLEMENT OR FAIL TO IMPLEMENT A RESTRICTION
21 ON THE USE, POSSESSION, OR CULTIVATION OF CANNABIS IF BY SO DOING THE
22 INDIVIDUAL OR ENTITY WILL PAY A FINE OR BE SUBJECT TO A PENALTY OR THE LOSS
23 OF A LICENSING-RELATED BENEFIT UNDER FEDERAL LAW.

24 2.

25 (A) (1) THE GENERAL ASSEMBLY AND THE COMPTROLLER SHALL
26 PROVIDE FOR THE REGULATION OF THE COMMERCIAL PRODUCTION AND
27 DISTRIBUTION OF CANNABIS WITHIN THE STATE UNDER A SYSTEM THAT LICENSES,
28 REGULATES, AND TAXES THE BUSINESSES INVOLVED.

29 (2) THE PURPOSE OF THE LAWS AND REGULATIONS DESCRIBED IN
30 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE TO:

31 (I) REMOVE COMMERCIAL PRODUCTION AND DISTRIBUTION
32 OF CANNABIS FROM THE ILLICIT MARKET;

33 (II) PREVENT REVENUES GENERATED FROM COMMERCE IN

1 CANNABIS FROM GOING TO CRIMINAL ENTERPRISES;

2 (III) PREVENT THE DISTRIBUTION OF CANNABIS TO
3 INDIVIDUALS UNDER 21 YEARS OF AGE;

4 (IV) PREVENT THE DIVERSION OF CANNABIS TO ILLICIT
5 MARKETS;

6 (V) ENSURE THE SAFETY OF CANNABIS CONSUMPTION;

7 (VI) ENSURE THE SECURITY OF CANNABIS BUSINESSES AND THE
8 COMMUNITY;

9 (VII) ENSURE DIVERSITY AMONG THE OWNERS OF CANNABIS
10 BUSINESSES, INCLUDING BY TAKING MEASURES TO REMEDY THE EFFECTS OF PAST
11 DISCRIMINATION SHOWN BY DISPARITY STUDIES; AND

12 (VIII) ENCOURAGE PARTICIPATION IN CANNABIS COMMERCE BY
13 SMALL BUSINESSES.

14 (3) THE LAWS AND REGULATIONS DESCRIBED IN PARAGRAPH (1) OF
15 THIS SUBSECTION SHALL INCLUDE REQUIREMENTS FOR:

16 (I) THE TESTING, LABELING, AND PACKAGING OF CANNABIS;

17 (II) TRACKING CANNABIS;

18 (III) LIMITATIONS ON ADVERTISING AND MARKETING OF
19 CANNABIS AND CANNABIS BUSINESSES;

20 (IV) SAFE PRODUCTION AND HANDLING OF CANNABIS,
21 INCLUDING RESTRICTIONS ON THE USE OF PESTICIDES; AND

22 (V) PENALTIES FOR THE VIOLATION OF THE LAWS AND
23 REGULATIONS RELATING TO CANNABIS.

24 (4) THE LAWS AND REGULATIONS DESCRIBED IN PARAGRAPH (1) OF
25 THIS SUBSECTION SHALL ESTABLISH LICENSING AND APPLICATION FEES FOR
26 CANNABIS BUSINESSES THAT ARE ADEQUATE TO COVER THE COST OF THE
27 ADMINISTRATION AND ENFORCEMENT OF THIS SECTION.

28 (B) (1) THE COMPTROLLER MAY CONTROL THE COMMERCIAL
29 PRODUCTION AND DISTRIBUTION OF CANNABIS, INCLUDING THE ISSUANCE OF

1 LICENSES, ENACTMENT OF REGULATIONS, AND PERFORMANCE OF INVESTIGATIONS
2 AND INSPECTIONS TO ENSURE COMPLIANCE WITH LAWS AND REGULATIONS.

3 (2) (I) THE COMPTROLLER SHALL, AS SOON AS PRACTICABLE,
4 ISSUE TEMPORARY LICENSES TO ALLOW MEDICAL CANNABIS BUSINESSES LICENSED
5 IN THE STATE THAT ARE IN GOOD STANDING WITH THE NATALIE M. LAPRADE
6 MARYLAND MEDICAL CANNABIS COMMISSION ON THE DATE OF THE ENACTMENT
7 OF THIS ARTICLE TO CULTIVATE, PROCESS, AND SELL CANNABIS TO INDIVIDUALS
8 WHO ARE AT LEAST 21 YEARS OLD WITHOUT BEING SUBJECT TO PENALTY OR
9 SANCTION UNDER STATE LAW, BUT SUBJECT TO REASONABLE REGULATIONS AND
10 FEES AS THE COMPTROLLER MAY REQUIRE.

11 (II) A TEMPORARY LICENSE ISSUED BY THE COMPTROLLER
12 SHALL EXPIRE ON THE ISSUANCE OF A NEW LICENSE UNDER THE LAWS AND
13 REGULATIONS ADOPTED IN ACCORDANCE WITH THIS SECTION.

14 (III) IF THE COMPTROLLER FAILS TO ISSUE LICENSES UNDER
15 THIS PARAGRAPH BY JUNE 1, 2021, A CANNABIS BUSINESS DESCRIBED IN
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY, ON THAT DATE, BEGIN CULTIVATING,
17 PROCESSING, OR SELLING CANNABIS TO INDIVIDUALS WHO ARE AT LEAST 21 YEARS
18 OLD WITHOUT BEING SUBJECT TO PENALTY OR SANCTION UNDER STATE LAW.

19 (IV) THE LAWS AND REGULATIONS ADOPTED IN ACCORDANCE
20 WITH THIS SECTION MAY NOT LIMIT THE ISSUANCE OF LICENSES ONLY TO
21 BUSINESSES THAT CULTIVATE, PROCESS, OR SELL MEDICAL CANNABIS.

22 (C) (1) A LOCAL JURISDICTION MAY:

23 (I) CONTROL THE ZONING OF CANNABIS BUSINESSES WITHIN
24 THE LOCAL JURISDICTION'S BOUNDARIES;

25 (II) LIMIT THE NUMBER OF CANNABIS BUSINESSES WITHIN THE
26 LOCAL JURISDICTION'S BOUNDARIES;

27 (III) PROHIBIT CANNABIS BUSINESSES WITHIN THE LOCAL
28 JURISDICTION'S BOUNDARIES WITH VOTER APPROVAL; AND

29 (IV) REGULATE THE TIME, PLACE, AND MANNER OF A CANNABIS
30 BUSINESS'S OPERATIONS.

31 (2) A LOCAL JURISDICTION MAY PERMIT THE ESTABLISHMENT OF
32 BUSINESSES THAT ALLOW THE CONSUMPTION OF CANNABIS IN DESIGNATED AREAS
33 NOT ACCESSIBLE TO INDIVIDUALS UNDER 21 YEARS OF AGE.

1 **(3) THE GENERAL ASSEMBLY MAY REQUIRE A VOTE OF THE**
2 **ELECTORS WITHIN A LOCAL JURISDICTION TO IMPOSE A BAN ON RETAIL CANNABIS**
3 **STORES.**

4 **(D) THE TRANSFER OF CANNABIS BY PURCHASE OR SALE SHALL BE**
5 **REGULATED AS NECESSARY TO ENSURE HEALTH AND SAFETY AND TAXED TO THE**
6 **EXTENT THAT REVENUES FROM TAXATION OF CANNABIS ARE USED FOR THE**
7 **FOLLOWING PURPOSES:**

8 **(1) PUBLIC SCHOOL CONSTRUCTION AND CAPITAL IMPROVEMENT;**

9 **(2) PUBLIC SCHOOL EDUCATION;**

10 **(3) SUBSTANCE ABUSE TREATMENT AND PREVENTION;**

11 **(4) RECIDIVISM REDUCTION AND REENTRY SERVICES; AND**

12 **(5) MENTAL HEALTH SERVICES.**

13 **(E) THIS ARTICLE DOES NOT LIMIT ANY PRIVILEGE, RIGHT, IMMUNITY, OR**
14 **DEFENSE PROVIDED UNDER TITLE 13, SUBTITLE 33 OF THE HEALTH – GENERAL**
15 **ARTICLE.**

16 **(F) IF ANY PORTION OF THIS ARTICLE IS INVALIDATED BY A COURT, THE**
17 **REMAINDER SHALL REMAIN IN FULL FORCE AND EFFECT.**

18 **(G) IF THE GENERAL ASSEMBLY OR THE COMPTROLLER HAS FAILED TO**
19 **ENACT LAWS AND REGULATIONS CONSISTENT WITH THIS ARTICLE ON OR BEFORE**
20 **DECEMBER 31, 2021, A CITIZEN OF THE STATE HAS A DIRECT RIGHT OF ACTION TO**
21 **COMPEL THE GENERAL ASSEMBLY OR THE COMPTROLLER TO DO SO.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
23 determines that the amendment to the Maryland Constitution proposed by Section 1 of this
24 Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland
25 Constitution concerning local approval of constitutional amendments do not apply.

26 SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the
27 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
28 voters of the State at the next general election to be held in November 2020 for adoption or
29 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
30 the vote on the proposed amendment to the Constitution shall be by ballot, and on each
31 ballot there shall be printed the words “For the Constitutional Amendment” and “Against
32 the Constitutional Amendment”, as now provided by law. Immediately after the election,

1 all returns shall be made to the Governor of the vote for and against the proposed
2 amendment, as directed by Article XIV of the Maryland Constitution, and further
3 proceedings had in accordance with Article XIV.