

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 628
 Finance

(Senator Patterson)

Medical Cannabis - Grower License - Number and Licensed Processors

This bill (1) authorizes the Natalie M. LaPrade Medical Cannabis Commission (MMCC) to issue up to 42 (rather than 22) medical cannabis grower licenses; (2) authorizes a grower to operate in a facility that does not exceed 10,000 square feet; (3) specifies how a licensed processor may apply for licensure as a medical cannabis grower; and (4) requires MMCC, to the extent authorized under federal or State law, to actively seek to achieve racial, ethnic, gender, and geographic diversity when licensing processors as growers and encourage processors who qualify as a minority business enterprise (MBE) or as a small, minority, or women-owned business entity to apply for licensure as growers. Beginning October 1, 2022, and annually thereafter, a processor licensed as a grower must report specified information to MMCC. A processor licensed as a grower may operate in a facility that does not exceed 25,000 square feet and is subject to the licensed grower requirements. MMCC must adopt regulations to implement the bill.

Fiscal Summary

State Effect: Special fund expenditures increase by \$730,500 in FY 2023 for additional staff, as discussed below. Future years reflect annualization, elimination of one-time costs, and termination of contractual staff in FY 2026. Special fund revenues increase from application and licensing fees as early as FY 2024, as discussed below.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	\$0	\$380,000	\$2,500,000	\$2,500,000	\$2,500,000
SF Expenditure	\$730,500	\$270,400	\$278,300	\$209,200	\$214,700
Net Effect	(\$730,500)	\$109,600	\$2,221,700	\$2,290,800	\$2,285,300

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The workloads of local zoning boards may increase to ensure that an applicant for a grower license complies with all zoning and planning requirements for a

jurisdiction. Revenues may also increase to the extent that fees are assessed by the zoning administration for a jurisdiction.

Small Business Effect: Meaningful.

Analysis

Bill Summary: To be licensed as a grower, a licensed processor applicant must submit (1) proof of adequate capital; (2) proof that the applicant qualifies as an MBE or is a small, minority, or women-owned business entity, if applicable; (3) proof of control of the premises where the applicant will operate; (4) a security plan; (5) a standard operating procedure plan; (6) a business plan; and (7) a \$10,000 application fee.

Current Law: MMCC 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 (including physicians, dentists, podiatrists, nurse practitioners, nurse midwives, and physician assistants), qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification. Additionally, there are legal protections for third-party vendors authorized by MMCC to test, transport, or dispose of medical cannabis, medical cannabis products, and medical cannabis waste.

A person may not have an ownership interest in or control of, including the power to manage and operate, (1) more than one grower; (2) more than one processor; or (3) more than four dispensaries. Vertical integration is authorized such that a person may have an ownership interest collectively in one grower, one processor, and four dispensaries.

Status of Medical Cannabis Implementation

Statute limits the number of grower and processor licenses MMCC can issue, and regulations establish a limit on the number of dispensary licenses. Specifically, MMCC can issue 22 grower, 28 processor, and 102 dispensary licenses. At the close of calendar 2021, MMCC had issued 19 final grower licenses, 20 final processor licenses, and 95 final dispensary licenses. In addition, there are three licensed independent testing laboratories. MMCC maintains a list of licensees on its [website](#). Also, at the close of calendar 2021, there were 148,129 certified patients, 12,939 caregivers, and 1,511 certifying providers. MMCC additionally reports a preliminary total of \$564.8 million in retail sales at cannabis dispensaries in the State for calendar 2021.

State Revenues: The bill increases the total number of grower licenses MMCC may award by 20. In addition, the bill specifies new procedures and application fees for a licensed processor to apply for licensure as a grower. The timeline under the bill is unclear, but assuming that MMCC begins accepting applications within one year on awards (October 1, 2023), Stage One preapprovals six months later (April 1, 2024), and converts Stage One preapprovals to full licenses (with licensees having fully operational staffs as required before a full license is awarded) within one year of the preapproval (April 1, 2025), total revenue increases by fiscal year are *at least* \$380,000 in fiscal 2024 from application fees from licensed processors seeking to be licensed as growers, application fees from any applicant to become a licensed grower, and Stage One preapproval fees; and *at least* \$2.5 million in fiscal 2025 and annually thereafter from licensure fees.

Licensed Processor Application Fees to Become a Licensed Grower

MMCC advises only 10 processors are not already licensed as growers and, thus, potentially eligible to apply for a grower license under the bill. This analysis assumes that all 10 processors that are not already licensed growers will apply for licensure and pay the \$10,000 application fee under the bill. Thus, special fund expenditures increase by as much as \$100,000 from application fees for licensed processors seeking to become a licensed grower in fiscal 2024.

Application Fees from Any Applicant to Become a Licensed Grower

MMCC advises that, in June 2019, MMCC launched an application process to award four grower licenses, which produced approximately 100 applications. Without actual experience under the bill, it is unknown how many applications at a \$2,000 fee MMCC might receive for the award of 20 additional grower licenses. However, assuming MMCC receives at least 100 applications, revenues increase by \$200,000 in fiscal 2024.

Licensed Growers Stage One Preapproval Fees

MMCC also advises that, when an applicant is awarded Stage One preapproval, an additional \$4,000 fee is required. Assuming MMCC issues Stage One preapprovals for all of the 20 additional grower licenses, revenues increase by an additional \$80,000 in fiscal 2024.

Annual License Fee for Growers

Pursuant to Code of Maryland Regulations (COMAR) 10.62.34.01, the annual license fee for growers is \$125,000. Thus, revenues increase by \$2.5 million in fiscal 2025 from fees

for the initial issuance of 20 additional grower licenses (following the Stage One preapproval), and annually thereafter.

Grower Agent Identification Cards

Each new licensed grower must obtain an identification card at a \$200 fee (COMAR 10.62.35.01) for each “medical cannabis grower agent” which means an owner, an employee, a volunteer, an officer, or a director of a grower. Without actual experience under the bill, the number of grower agents each of the 20 new growers will hire cannot be reliably estimated. *For illustrative purposes only*, if each additional grower hires an average of 15 medical cannabis grower agents, MMCC revenues increase by \$60,000 in fiscal 2024 for grower agent identification cards. Revenues continue to increase to the extent that there is employee turnover and replacement. This revenue is not reflected in this estimate.

State Expenditures: Special fund expenditures increase by \$730,471 in fiscal 2023, which accounts for the bill’s October 1, 2022 effective date. This estimate reflects the cost to hire two investigators within the Bureau of Enforcement and Compliance and one contractual policy analyst to establish and coordinate an application review process for granting the additional grower licenses. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and a one-time contractual service for evaluating the grower applications.

Permanent Positions	2.0
Contractual Position	1.0
Contractual Services	\$500,000
Salaries and Fringe Benefits	208,442
Operating Expenses	<u>22,029</u>
Total FY 2023 State Expenditures	\$730,471

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, elimination of one-time costs, and the termination of the contractual position at the end of fiscal 2025.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

MMCC advises it will absorb the following activities within existing budgeted resources: (1) conducting outreach to encourage MBE or small, minority, and women-owned business entities to apply for licensure; (2) actively seeking to achieve diversity in issuing licenses

to the extent authorized by law; and (3) collecting and analyzing additional reports from processors that become licensed as growers under the bill.

Small Business Effect: The bill creates a business opportunity for a small business licensed processor (that is not already a licensed grower) to become a licensed grower and for small businesses entering the market to become a licensed grower. The bill also creates new competition for small business licensed growers from the addition of up to 20 new competitors in the medical cannabis grower market.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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