

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 922

(Delegates Buckel and Hornberger)

Economic Matters

Finance

Economic Development - Program Participation - Cannabis Business
Establishments

This bill prohibits the Department of Commerce from denying specified cannabis business entities licensed by the State certain economic development and financial assistance program benefits solely because the business entities are cannabis establishments. The business entities must otherwise satisfy the requirements of the economic development or financial assistance program. The prohibition applies to programs under Title 5 of the Economic Development Article and the More Jobs for Marylanders Program. An affected business that was denied benefits prior to July 1, 2023, may reapply to the relevant program. The bill also adds the growth, processing, or dispensing of cannabis, in accordance with the laws of the State, as eligible business activities under the Job Creation and One Maryland tax credit programs. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: The prohibition against denying cannabis businesses certain economic development and financial assistance program benefits solely because they are cannabis businesses generally conforms to Commerce’s existing practice and, therefore, has no direct effect on State finances or operations. This includes the related change to the More Jobs for Marylanders Program. General fund revenues decrease, potentially significantly, beginning in FY 2025 to the extent that newly eligible cannabis dispensaries qualify for and claim the Job Creation and One Maryland tax credits, but most of the revenue loss can be expected from the One Maryland credit, which is up to \$5.0 million per credit and not subject to an annual cap. Special fund revenues may also decrease, as discussed below.

Local Effect: Local highway user revenues decrease to the extent Job Creation and One Maryland tax credits are claimed against the corporate income tax. Local expenditures are not directly affected.

Small Business Effect: Meaningful.

Analysis

Current Law: Title 5 of the Economic Development Article contains most of Commerce's economic development and financial assistance programs. For example, the Title includes the Maryland Economic Development Assistance Authority and Fund, the Small, Minority, and Women-Owned Businesses Account, and the Cannabis Business Assistance Fund.

Job Creation Tax Credit

In addition to meeting other specified requirements, to qualify for the Job Creation Tax Credit, a business must be primarily engaged in specified industries, including manufacturing or mining; agriculture, forestry, or fishing; research, development, or testing; warehousing; business services, if the business facility established or expanded is located in a State priority funding area; or entertainment, recreation, cultural, or tourism-related activities in a multi-use facility located within a revitalization area if the facility meets other requirements.

Credits are for \$3,000 to \$6,000 per qualified position, depending on various factors, and Commerce may only issue up to \$4.0 million in credit certificates per year.

One Maryland Tax Credit

In addition to meeting other specified requirements, to qualify for the One Maryland Tax Credit, a business must be primarily engaged in specified industries, including manufacturing or mining; filmmaking, resort business, or recreational business; agriculture, forestry, or fishing; research, development, or testing; warehousing; or other business services.

Credits may be for up to \$5.0 million, depending on the number of qualified positions created, and there is no annual limit to the number of credits the department can offer.

More Jobs for Marylanders

Chapter 149 of 2017 established the More Jobs for Marylanders program, which, after several modifications, provides a refundable State income tax credit to certain businesses that create and maintain a minimum number of qualified jobs. For businesses certified beginning June 1, 2022, the credit is equal to 4.75% of the wages paid to each qualified position. Credits are available for manufacturing businesses, or other businesses if they are located in opportunity zones. Retailers are not eligible, except for grocery stores in opportunity zones. Credits may be claimed for 5 or 10 years, depending on the location of

the business. Commerce may issue up to \$5.0 million in credit certificates in each of fiscal 2023 and 2024 and may not issue new tax credit certificates after May 31, 2024.

Medical Cannabis and Legalization for Personal Use

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 (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 the commission to test, transport, or dispose of medical cannabis, medical cannabis products, and medical cannabis waste.

Pursuant to Chapter 26 of 2022 and the passage of the associated constitutional referendum, from January 1, 2023, through June 30, 2023, possession of the personal use amount of cannabis and possession of the civil use amount of cannabis (as those terms are defined) are subject to civil penalties. Possession of more than the civil use amount is subject to a criminal penalty. As of July 1, 2023, (1) a person at least age 21 may use and possess the personal use amount of cannabis; (2) possession of the personal use amount of cannabis by a person younger than age 21 and possession of the civil use amount of cannabis are subject to civil penalties; and (3) possession of more than the civil use amount of cannabis is subject to a criminal penalty.

State Revenues: Commerce advises that the prohibition against denying cannabis businesses certain economic development and financial assistance program benefits solely because they are cannabis businesses generally conforms to the department's existing practice and, therefore, has no direct effect on State finances or operations. This also applies to the More Jobs for Marylander's Program. There is likewise no direct effect from allowing certain businesses to reapply for program benefits.

Changes to the Job Creation and One Maryland tax credit programs generally allow cannabis dispensaries to be eligible, as growing and processing are likely covered under existing eligible business activities. The Job Creation Tax Credit is capped at \$4.0 million annually, and in fiscal 2022, Commerce issued approximately \$3.0 million in credit certificates, so there is not much additional revenue loss possible under that credit. One Maryland is not capped, however, and is a large credit at up to \$5.0 million each. Therefore, general fund revenues decrease, potentially significantly, beginning in

fiscal 2025 to the extent that newly eligible cannabis dispensaries qualify for and claim the two credits. Most of the revenue loss can be expected from the One Maryland credit.

To the extent tax credits are claimed against the corporate income tax, a portion of tax credits claimed decreases Transportation Trust Fund revenues (and expenditures to local governments) and Higher Education Investment Fund revenues.

Small Business Effect: Small cannabis businesses – generally, dispensaries – benefit from eligibility under the Job Creation and One Maryland tax credits.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 525 (Senator McKay) - Finance.

Information Source(s): Department of Commerce; Maryland Department of Health; Comptroller's Office; Department of Legislative Services

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