

HOUSE BILL 253

A3

EMERGENCY BILL
(PRE-FILED)

4r4578
CF 4r4579

By: **Chair, Economic Matters Committee (By Request – Maryland Cannabis Administration)**

Requested: October 19, 2023

Introduced and read first time: January 10, 2024

Assigned to: Economic Matters

A BILL ENTITLED

AN ACT concerning

Cannabis Reform – Alterations

FOR the purpose of altering the best practices that the Alcohol, Tobacco, and Cannabis Commission is required to develop; making alterations and clarifications related to the duties of the Commission, the Office of Social Equity, the Advisory Board on Medical and Adult-Use Cannabis, and the Maryland Cannabis Administration; altering the composition of the Advisory Board; requiring the Governor to appoint the chair of the Advisory Board and removing the Director of the Administration as chair; authorizing processors to provide cannabis to cannabis licensees; requiring the Administration to register and regulate cannabis nurseries; authorizing the Administration to impose certain penalties on a cannabis license or registration for the violation of certain laws and regulations; requiring the Administration rather than the Comptroller to administer the Cannabis Regulation and Enforcement Fund; altering the amount of cannabis that a qualifying patient may possess; altering the amount of cannabis that processors may process; altering certain provisions of law related to the registration of cannabis agents; providing for the temporary registration of cannabis agents; altering certain provisions of law related to advertising and cannabis; authorizing the use of the Cannabis Business Assistance Fund for the administrative costs of the Fund; extending the period of time that the Administration is exempt from procurement requirements under certain circumstances; and generally relating to medical and adult-use cannabis.

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages and Cannabis
Section 1-101(a), 36-101(a) and (h), and 36-206(b)
Annotated Code of Maryland
(2016 Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Alcoholic Beverages and Cannabis

Section 1–101(d), 1–308(8) and (9), 1–309.1(d)(5) and (f)(2), 1–309.2, 36–101(j) and (dd), 36–202, 36–206(d) and (j)(1), 36–302(g), 36–401(c)(1) and (2), 36–402(d)(1)(vi), 36–404(i)(3), 36–409(a), 36–501(a) and (d), 36–505, and 36–903(a)

Annotated Code of Maryland
(2016 Volume and 2023 Supplement)

BY repealing

Article – Alcoholic Beverages and Cannabis

Section 1–308(10) and (11)

Annotated Code of Maryland
(2016 Volume and 2023 Supplement)

BY adding to

Article – Alcoholic Beverages and Cannabis

Section 36–101(h–1)

Annotated Code of Maryland
(2016 Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article – Economic Development

Section 5–1901(b)

Annotated Code of Maryland
(2018 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 5–1901(g)(1)

Annotated Code of Maryland
(2018 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Chapter 254 of the Acts of the General Assembly of 2023

Section 10

BY repealing and reenacting, with amendments,

Chapter 255 of the Acts of the General Assembly of 2023

Section 10

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Alcoholic Beverages and Cannabis

1–101.

(a) In this article the following words have the meanings indicated.

(d) (1) “Cannabis” means the plant *Cannabis sativa* L. and any part of the plant, including all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration greater than 0.3% on a dry weight basis.

(2) “Cannabis” includes cannabis products, **SEEDS, SEEDLINGS, IMMATURE PLANTS, AND CLONES.**

(3) “Cannabis” does not include hemp or hemp products, as defined in § 14-101 of the Agriculture Article.

1-308.

The Commission shall develop best practices for:

(8) the development of a public health impact statement for all changes to the State alcoholic beverages laws; **AND**

(9) ensuring that:

(i) all license holders, managers, and servers receive certification from an approved alcohol awareness program; and

(ii) at least one employee who is certified in an alcohol awareness program be on the licensed premises at all times when alcoholic beverages are served[;

(10) regulating the cannabis industry and implementing public health measures relating to cannabis; and

(11) regulating, to the extent possible, medical and adult-use cannabis in a similar manner].

1-309.1.

(d) The Office of Social Equity shall:

(5) provide recommendations to the [Commission] **MARYLAND CANNABIS ADMINISTRATION** on regulations related to:

(i) diversity; and

(ii) social equity applications;

(f) (2) On or before December 15 each year, the Office of Social Equity shall publish a review of the input received under paragraph (1) of this subsection on a publicly accessible part of the [Commission's] **OFFICE'S** website.

1-309.2.

(a) In this section, "Advisory Board" means the Advisory Board on Medical and Adult-Use Cannabis.

(b) There is an Advisory Board on Medical and Adult-Use Cannabis.

(c) The Advisory Board shall:

(1) consider all matters submitted to it by the [Commission] **OFFICE OF SOCIAL EQUITY**, the Governor, the Maryland Cannabis Administration, or the General Assembly; and

(2) on its own initiative, provide recommendations to the [Commission] **OFFICE OF SOCIAL EQUITY** or the Maryland Cannabis Administration established under § 36-201 of this article regarding guidelines, rules, and regulations that the Advisory Board considers important or necessary for review and consideration by the [Commission] **OFFICE OF SOCIAL EQUITY** or the Maryland Cannabis Administration.

(d) **(1)** The Advisory Board consists of[

(1) the Director of the Maryland Cannabis Administration, who shall serve as Chair of the Advisory Board; and

(2)] the following members, appointed by the Governor with the advice and consent of the Senate:

(i) three members that have substantial experience in one or more of the following:

1. cannabis law, science, or policy;
2. public health or health care;
3. agriculture;
4. finance; or
5. addiction treatment;

(ii) one academic researcher with at least 5 years of experience in social or health equity;

(iii) one representative of an independent testing laboratory registered under § 36–408 of this article;

(iv) two representatives who hold a standard grower license under § 36–401 of this article;

(v) two representatives who hold a standard processor license under § 36–401 of this article;

(vi) two representatives who hold a standard dispensary license under § 36–401 of this article;

(vii) two representatives who hold a micro grower license under § 36–401 of this article;

(viii) two representatives who hold a micro processor license under § 36–401 of this article;

(ix) two representatives who hold a micro dispensary license under § 36–401 of this article;

(x) one representative who holds an incubator space license under § 36–401 of this article;

(xi) one representative who holds an on–site consumption license under § 36–401 of this article;

(xii) one representative of an organization that advocates on behalf of patients who engage in the medical use of cannabis;

(xiii) one representative of an organization that advocates on behalf of consumers who engage in the adult use of cannabis; and

(xiv) one health care provider who is registered to certify patients to obtain medical cannabis under § 36–301 of this article.

(2) FROM AMONG THE MEMBERS OF THE ADVISORY BOARD, THE GOVERNOR SHALL APPOINT A CHAIR.

(e) The President of the Senate and the Speaker of the House may recommend to the Governor a list of individuals for appointment to the Advisory Board.

(f) (1) The term of a member of the Advisory Board is 4 years.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) An appointed member may not serve more than two full terms.

(4) The positions for members appointed under subsection [(d)(2)(vii) through (xi)] **(D)(1)(VII) THROUGH (XI)** of this section become effective when the first licenses are issued under those respective license types.

(g) An appointed member of the Advisory Board must be:

(1) at least 25 years old;

(2) a resident of the State who has resided in the State for at least the immediately preceding 5 years before the appointment; and

(3) a registered voter of the State.

(h) The Advisory Board shall establish at least two subcommittees to focus on medical and adult-use cannabis.

(i) To the extent practicable and consistent with federal and State law, the membership of the Advisory Board shall reflect the racial, ethnic, and gender diversity of the State.

36-101.

(a) In this title the following words have the meanings indicated.

(h) “Cannabis licensee” means a business licensed by the Administration to operate in the cannabis industry.

(H-1) “CANNABIS NURSERY” MEANS A BUSINESS THAT PROVIDES CANNABIS SEEDS, SEEDLINGS, IMMATURE PLANTS, OR CLONES TO A CANNABIS BUSINESS.

(j) “Cannabis registrant” means an independent testing laboratory, a transporter, a security guard company, a waste disposal company, **A CANNABIS NURSERY**, and any other type of cannabis business registered under this title and authorized by the Administration.

(dd) “Processor” means an entity licensed under this title that:

(1) transforms cannabis into another product or an extract and packages and labels the cannabis product; and

(2) is authorized by the Administration to provide cannabis to [licensed dispensaries] **CANNABIS LICENSEES** and registered independent testing laboratories.

36–202.

(a) The Administration shall:

(1) develop and maintain a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a patient, caregiver, or consumer;

(2) conduct financial and criminal background investigations of any person who submits an application for a cannabis license or a cannabis licensee, as required under this title;

(3) develop a process for consumers and qualifying patients to purchase clones and seeds, seedlings, stalks, roots, and stems of the cannabis plant for cultivation in accordance with § 5–601.2 of the Criminal Law Article;

(4) solicit, evaluate, and issue or deny applications for cannabis licenses and cannabis registrations, including:

(i) licenses to operate a cannabis business in accordance with this title; and

(ii) registration for independent testing laboratories, transporters, security guard companies, [and] waste disposal companies, **CANNABIS NURSERIES**;

(5) award or deny:

(i) a license to operate a cannabis business in accordance with this title; and

(ii) registration to independent testing laboratories, transporters, security guard companies, waste disposal companies, **CANNABIS NURSERIES**, and any other type of cannabis business authorized by the Administration;

(6) conduct announced and unannounced inspections of any business licensed or registered under this title to ensure compliance with this title;

(7) after a determination that a violation of this title or a regulation adopted under this title has occurred, suspend, fine, restrict, or revoke cannabis licenses and cannabis registrations, whether active, expired, or surrendered, or impose any other penalty authorized by this title or any regulation adopted under this title;

(8) (i) give notice and hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article, for any:

1. contested cannabis license or registration denial; or

2. violation of this title or any regulation adopted under this title;

(ii) administer oaths in a proceeding under this section; and

(iii) subject to subsection (b)(3) of this section, allow the person against whom the action is contemplated to be represented at the hearing by counsel;

(9) adopt regulations necessary to carry out its duties under this title; and

(10) perform any other power authorized or duty required under this title or any other provision of State law.

(b) The Administration may:

(1) issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with:

(i) any disciplinary action under this title; or

(ii) any investigation or proceeding initiated for an alleged violation of this title;

(2) delegate the hearing authority authorized under subsection (a)(8) of this section to an employee within the Administration; [and]

(3) if, after due notice, the person against whom a disciplinary action is contemplated does not appear at a hearing, hear and determine the matter; **AND**

(4) AFTER A HEARING UNDER THIS SUBSECTION, FINE A CANNABIS LICENSEE OR SUSPEND, RESTRICT, OR REVOKE A CANNABIS LICENSE OR A CANNABIS REGISTRATION FOR A VIOLATION OF:

(I) THIS TITLE OR A REGULATION ADOPTED UNDER THIS TITLE;
OR

(II) ANY OTHER STATE LAW OR REGULATION RELATED TO CANNABIS OR THE OPERATIONS OF A CANNABIS BUSINESS OR REGISTRANT.

36–206.

(b) There is a Cannabis Regulation and Enforcement Fund.

(d) The [Comptroller] **ADMINISTRATION** shall administer the Fund [at the direction of the Administration].

(j) (1) On or before March 15 each year, the [Comptroller] **ADMINISTRATION** shall publish on its website a detailed report on revenue distributed to and expenditures from the Fund.

36–302.

(g) A qualifying patient may **NOT** possess [up to:

(1) 120 grams of usable cannabis; or

(2) 36 grams of delta–9–tetrahydrocannabinol (THC) in the case of a cannabis–infused product] **MORE THAN THE AMOUNT OF CANNABIS OR CANNABIS–INFUSED PRODUCT THAT IS AUTHORIZED IN THE WRITTEN CERTIFICATION OF THE PATIENT.**

36–401.

(c) (1) A standard license authorizes the holder of the license:

(i) for growers, to operate more than 10,000 square feet, but not more than 300,000 square feet, of indoor canopy or its equivalent, as calculated by the Administration;

(ii) for processors, to process more than [1,000] **2,000** pounds of cannabis per year, as calculated by the Administration; and

(iii) for dispensaries, to operate a store at a physical location that sells cannabis or cannabis products.

(2) A micro license authorizes the holder of the license:

(i) for growers, to operate not more than 10,000 square feet of indoor canopy or its equivalent, as calculated by the Administration;

(ii) for processors, to process not more than [1,000] **2,000** pounds of cannabis per year, as calculated by the Administration; and

(iii) for dispensaries, to operate a delivery service that sells cannabis or cannabis products without a physical storefront, provided that the licensee employs not more than 10 employees.

36–402.

(d) (1) (vi) If the amount of square feet of production for a licensed grower exceeds the canopy authorized under this section and § 36–401 of this subtitle, the [Commission] **ADMINISTRATION** may:

1. reduce the canopy of the licensed grower by the same percentage as it exceeds the authorized canopy; and

2. seize, destroy, confiscate, or place an administrative hold on any flowering cannabis plants produced in excess of the canopy.

36-404.

(i) (3) On or before 6 months after the issuance of a cannabis license under § 36-401 of this subtitle, the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Office of the Attorney General and the Office of Social Equity within the [Alcohol, Tobacco, and Cannabis Commission] **ADMINISTRATION** and the cannabis licensee, shall establish a clear plan for setting reasonable and appropriate minority business enterprise participation goals and procedures for the procurement of goods and services related to cannabis, including the cultivation, manufacturing, and dispensing of cannabis.

36-409.

(a) The following businesses shall register with the Administration in order to provide services to a cannabis licensee:

- (1) a transporter;
- (2) a security guard agency;
- (3) a waste disposal company; [and]
- (4) **A CANNABIS NURSERY; AND**

(5) any other type of cannabis business that is authorized by the Administration to provide plant or product-touching services to cannabis licensees.

36-501.

(a) A cannabis agent [shall] **MUST** be registered with the Administration before the agent may volunteer or work for a cannabis licensee or cannabis registrant.

(d) **(1)** The Administration may not register as a cannabis agent an individual who[:

(1)] does not meet the criteria established under subsection (c) of this section[; or].

(2) **THE ADMINISTRATION MAY DISQUALIFY AN INDIVIDUAL FROM REGISTERING AS A CANNABIS AGENT IF THE INDIVIDUAL** has been convicted of or pleaded nolo contendere to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

36–505.

(a) In this section, “Central Repository” means the Criminal Justice Information System Central Repository in the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) the processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Administration and to the applicant the applicant’s criminal history record information.

(d) If an applicant has made two or more unsuccessful attempts at securing legible fingerprints, the Administration may accept an alternate method of a criminal history records check as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(e) Information obtained from the Central Repository under this section shall be:

(1) confidential and may not be disseminated; and

(2) used only for the purpose of registration under this title.

(f) **(1) THE ADMINISTRATION MAY ISSUE A TEMPORARY CANNABIS AGENT REGISTRATION IF:**

(I) AN ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK, AS AUTHORIZED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION, IS USED; AND

(II) THE APPLICANT HAS SUBMITTED AN APPLICATION TO THE CENTRAL REPOSITORY, AS REQUIRED IN SUBSECTION (B) OF THIS SECTION.

(2) THE PERIOD OF A TEMPORARY CANNABIS AGENT REGISTRATION ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED 60 CALENDAR DAYS.

(G) The subject of a criminal history records check under this section may contest the criminal history record information disseminated by the Central Repository, as provided in § 10–223 of the Criminal Procedure Article.

36–903.

(a) (1) [This subsection does not apply to an advertisement placed on property owned or leased by a dispensary, grower, or processor.

(2)] An advertisement for a cannabis licensee, cannabis product, or cannabis–related service may not:

- (i) violate Title 13, Subtitle 3 of the Commercial Law Article;
- (ii) directly or indirectly target individuals under the age of 21 years;
- (iii) contain a design, an illustration, a picture, or a representation

that:

1. targets or is attractive to minors, including a cartoon character, a mascot, or any other depiction that is commonly used to market products to minors;

2. displays the use of cannabis, including the consumption, smoking, or vaping of cannabis;

3. encourages or promotes cannabis for use as an intoxicant;

or

4. is obscene;

(iv) engage in advertising by means of television, radio, Internet, mobile application, social media, or other electronic communication, **EVENT SPONSORSHIP**, or print publication, unless at least 85% of the audience is reasonably expected to be at least 21 years old as determined by reliable and current audience composition data; or

(v) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION**, engage in advertising by means of placing an advertisement on the side of a building or another publicly visible location of any form, including a sign, a poster, a placard, a device, a graphic display, an outdoor billboard, or a freestanding signboard.

(2) A CANNABIS BUSINESS MAY PLACE EXTERIOR SIGNAGE ON THE PREMISES OF THE BUSINESS FOR THE LIMITED PURPOSE OF IDENTIFYING THE BUSINESS TO THE PUBLIC.

Article – Economic Development

5–1901.

(b) There is a Cannabis Business Assistance Fund.

(g) (1) Subject to paragraph (2) of this subsection, the Fund may be used only for:

(i) grants or loans to small, minority–owned, or women–owned businesses for:

1. license application assistance for participation in the adult–use cannabis industry;

2. assistance with the operating or capital expenses of a business participating in the adult–use cannabis industry; or

3. targeted training to support participation in the adult–use cannabis industry; [and]

(ii) grants to historically black colleges and universities for cannabis–related programs and business development organizations, including incubators, to train and assist small, minority, and women business owners and entrepreneurs seeking to become licensed to participate in the adult–use cannabis industry; **AND**

(III) THE ADMINISTRATIVE COSTS OF THE FUND.

Chapter 254 of the Acts of 2023

SECTION 10. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, from the date this Act takes effect to December 31, [2023] **2024**, both inclusive, the Maryland Cannabis Administration is exempt from procurement requirements under the State Finance and Procurement Article if the procurement is for:

(1) banking services for the Administration to collect fees and tax revenue;

(2) banking services to help support cannabis businesses to transition from an all cash system;

- (3) a consultant to support the Administration in the process for cannabis licensure, including services related to investigations and the financial or criminal history review of applicants;
- (4) a consultant to provide technical assistance to social equity applicants;
- (5) communication services for public and consumer education campaigns on cannabis laws and regulations and potential health and safety risks associated with cannabis use; and
- (6) establishing a State cannabis testing laboratory at a preexisting site.

Chapter 255 of the Acts of 2023

SECTION 10. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, from the date this Act takes effect to December 31, [2023] **2024**, both inclusive, the Maryland Cannabis Administration is exempt from procurement requirements under the State Finance and Procurement Article if the procurement is for:

- (1) banking services for the Administration to collect fees and tax revenue;
- (2) banking services to help support cannabis businesses to transition from an all cash system;
- (3) a consultant to support the Administration in the process for cannabis licensure, including services related to investigations and the financial or criminal history review of applicants;
- (4) a consultant to provide technical assistance to social equity applicants;
- (5) communication services for public and consumer education campaigns on cannabis laws and regulations and potential health and safety risks associated with cannabis use; and
- (6) establishing a State cannabis testing laboratory at a preexisting site.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.