

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 726 (Senator Ellis)
 Finance

Cannabis Licensees - Bona Fide Labor Organizations and Labor Peace Agreements

This bill requires a cannabis licensee, prior to its first license renewal, to execute a “labor peace agreement” and, after its license is renewed, to maintain and abide by the labor peace agreement as a condition of licensure. The Maryland Cannabis Administration (MCA) must adopt regulations that implement those requirements. The bill also requires MCA to consider specified factors when determining if a labor organization is a “*bona fide* labor organization.” Finally, the bill authorizes a *bona fide* labor organization to file a protest against a license renewal with MCA.

Fiscal Summary

State Effect: No effect in FY 2026 or 2027. Special fund expenditures for MCA increase by \$36,700 in FY 2028; future years reflect annualization, inflation, and ongoing costs. As a result, special fund revenues for MCA increase correspondingly to cover those costs, and the amount of sales and use tax revenue remaining for distribution to the general fund and various other special funds (in accordance with current law) decreases, as discussed below. (The net effects by fund type are shown below.)

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF Revenue	\$0	\$0	(\$18,300)	(\$48,600)	(\$29,900)
SF Revenue	\$0	\$0	\$20,200	\$53,000	\$32,600
SF Expenditure	\$0	\$0	\$23,900	\$57,400	\$35,300
Net Effect	\$0	\$0	(\$22,000)	(\$53,000)	(\$32,600)

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

Local Effect: Local government revenues decrease beginning in FY 2028 due to the redistribution of sales and use tax revenues, including direct allocations. Local government expenditures decrease correspondingly.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “*Bona fide* labor organization” means a labor organization that complies with 29 U.S.C. § 431 and is actively spending resources to organize employees of a cannabis licensee for the purposes of advocating for improved working conditions. “Labor peace agreement” means an agreement between a *bona fide* labor organization and a cannabis licensee that prohibits the labor organization from engaging in picketing, work stoppages, or boycotts against the licensed entity.

MCA must, when determining if a labor organization is a *bona fide* labor organization, consider whether the labor organization (1) is the bargaining representative for a cannabis licensee’s employees; (2) is a party to a bargaining agreement with a cannabis licensee; (3) is spending significant resources, including assigning paid staff, to actively organize a cannabis licensee’s employees; (4) has, within the previous six months, filed labor grievances against a cannabis licensee; (5) has, within the previous two years, engaged in picketing, striking, publicly threatening to picket or strike, or publicly calling for consumer boycotts against a cannabis licensee; (6) is based in the State or maintains a permanent staff in the State; and (7) is affiliated with a national or regional labor council that covers a region of the State.

Current Law: For current law and background information relating to medical and adult-use cannabis, see the **Appendix – Medical and Adult-use Cannabis**.

State Policy Regarding Negotiation of the Terms and Conditions of Employment

It is the policy of the State that negotiation of terms and conditions of employment should result from a voluntary agreement between employees and the employer and, thus, each individual worker must be fully free to associate, organize, and designate a representative for negotiation of terms and conditions of employment. This process must be free from coercion, interference, or restraint by an employer in (1) designation of a representative; (2) self-organization; and (3) other concerted activity for the purpose of collective bargaining or other mutual aid or protection. While State law establishes a procedure for certifying a labor organization as the bargaining representative for a workplace, a majority of employees must vote in favor of joining a union in order for a workplace to unionize.

National Labor Relations Act

In 1935, the U.S. Congress passed the National Labor Relations Act (NLRA), commonly known as the “Wagner Act,” which set forth employees’ rights to join unions and required employers to bargain collectively with unions selected by a majority of workers in an appropriate bargaining unit. Under Section 7 of NLRA, employees have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively

through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and they also have the right to refrain from any or all such activities. NLRA generally applies to all employers involved in interstate commerce other than airlines, railroads, agriculture, and government.

NLRA also established the National Labor Relations Board (NLRB), an independent federal agency, to enforce its provisions. NLRB also acts to prevent and remedy unfair labor practices committed by private-sector employers and unions, as well as conducts secret-ballot elections regarding union representation.

Cannabis Licensure and Renewal

Under current regulations, a standard cannabis license is valid for five years on initial licensure and five years on renewal. At least 90 calendar days before the expiration of a license, MCA must notify the licensee of (1) the date on which the license expires; (2) the process and the fee required to renew the license; and (3) the consequences of a failure to renew the license.

At least 30 calendar days before a license expires, a licensee seeking renewal must submit:

- a renewal application, as specified;
- proof that fingerprints have been submitted to the Criminal Justice Information System and the Federal Bureau of Investigation for each agent and any owner with an ownership interest of at least 5%;
- to a full inspection of the licensed premises (unless a full inspection was satisfactorily completed within three months before the date of the license expiration); and
- payment of the required renewal fee.

MCA may renew a license that meets the requirements specified above.

If a licensee fails the inspection or submits a deficient application for renewal, the licensee may apply for reinstatement by (1) submitting a plan to correct the deficiencies noted during the inspection and (2) amending the renewal application.

MCA may deny a license renewal if:

- the plan to correct deficiencies identified in an inspection is deficient;
- the amended application for renewal is deficient;
- the licensee is repeatedly found in violation of health and safety regulations during the license period; or

- the licensee is repeatedly found in violation of Title 36 of the Alcoholic Beverages and Cannabis Article, which governs cannabis.

A licensee who fails to apply for license renewal by the date specified by MCA, or whose license is not renewed by MCA, must cease operations at all premises and may not provide cannabis to any entity or individual.

Protests of Renewal

A protest against a license renewal may be filed with MCA, but it has to be filed by at least 10 individuals – all of whom have to be located within 1,000 feet of the licensed premises and be residents, commercial tenants who are not holders of or applicants for a license, or real estate owners.

A protest against a license renewal must also be signed under oath and based on the following:

- a violation of Title 36 of the Alcoholic Beverages and Cannabis Article;
- a violation of civil or criminal law;
- any other violation established by MCA by regulation; or
- conduct by a licensee that creates or maintains conditions that allow other individuals to act in a manner that disturbs the public peace, including (1) obstruction of public rights-of-way by unruly crowds; (2) assault, battery, or other disorderly conduct that disturbs the public peace; (3) vandalism; or (4) littering.

If a protest against a license renewal is filed at least 30 days before the license expires, MCA may not approve the renewal without holding a hearing unless MCA finds that the basis of the protest filed against the renewal is without any reasonable ground. In hearing and making a determination on a protest against a license renewal, MCA may consider only (1) issues arising out of specific complaints about the operation of the licensed premises and (2) the performance of the license holder for the four-year period immediately preceding the date of the renewal application. MCA may not consider zoning issues.

State/Local Fiscal Effect:

Maryland Cannabis Administration Administrative Expenditures

Because current active licensees are required to renew their licenses by June 2028, the bulk of the administrative work to implement the bill begins in fiscal 2028. MCA advises that existing staff can adopt the required regulations. Therefore, special fund expenditures from the Cannabis Regulation and Enforcement Fund (CREF) for MCA increase by \$36,692 in SB 726/ Page 4

fiscal 2028, which accounts for the timing of the first round of license renewals affected by the bill. This estimate reflects the cost of hiring one administrator (on March 1, 2028) to (1) make determinations regarding whether a labor organization is a *bona fide* labor organization; (2) incorporate the bill’s requirements regarding labor peace agreements into license renewal conditions; and (3) oversee and ensure compliance with labor peace agreements as a term of licensure. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$29,788
Operating Expenses	<u>6,904</u>
FY 2028 MCA Administrative Expenditures	\$36,692

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. This estimate assumes that once the initial round of renewal licenses that incorporate labor peace agreement conditions are processed, and MCA has established policies and procedures to implement the bill, the administrator transitions from full-time status to part-time (50%) status beginning in fiscal 2030. MCA may need additional staff to process renewal licenses in fiscal 2031, which is likely when social equity licenses are renewed. However, that impact falls outside the five-year period covered by this analysis.

Special fund revenues to CREF for MCA increase correspondingly to cover the increase in costs, as current law requires that revenues from the sales and use tax on the sale of adult-use cannabis must first be distributed to CREF to defray the entire cost of the operations and administrative expenses of MCA.

Effect on Distribution of Sales and Use Tax Revenues

The bill is not anticipated to affect overall sales of adult-use cannabis – and, therefore, the total amount of sales and use tax revenue collected each year. However, the bill does affect the *distribution* of sales and use tax revenues, as discussed below.

As noted above, current law requires that revenues from the sales and use tax on the sale of adult-use cannabis must first be distributed to CREF to defray MCA’s operating and administrative costs. Remaining tax revenues are then distributed as follows: 50% to the State’s general fund (through fiscal 2028, after which the general fund distribution increases to 55%); 35% to the Cannabis Reinvestment and Repair Fund (CRRF), which is administered by the Comptroller’s Office; 5% to the Cannabis Public Health Fund, which is administered by the Maryland Department of Health; 5% to the Cannabis Business Assistance Fund, which is administered by the Department of Commerce (through

fiscal 2028, after which this distribution terminates); and 5% as a separate direct allocation to counties.

Thus, because the bill results in an increase in MCA’s administrative costs (beginning in fiscal 2028), the bill also results in a decrease in general fund revenues, special fund revenues for affected special funds, and county revenues beginning in fiscal 2028, as shown in **Exhibit 1**.

Exhibit 1
Effect on Distribution of Sales and Use Tax Revenue
Fiscal 2026-2030

	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	<u>FY 2030</u>
Funds Available for Distribution	\$0	\$0	(\$36,692)	(\$88,335)	(\$54,332)
State Revenues					
General Fund	\$0	\$0	(\$18,346)	(\$48,584)	(\$29,883)
CRRF	0	0	(12,842)	(30,917)	(19,016)
CPHF	0	0	(1,835)	(4,417)	(2,717)
CBAF	0	0	(1,835)	0	0
County Revenues	\$0	\$0	(\$1,835)	(\$4,417)	(\$2,717)

CBAF: Cannabis Business Assistance Fund
 CPHF: Cannabis Public Health Fund
 CRRF: Community Reinvestment and Repair Fund

Notes: The decrease in county revenues is in the aggregate. Numbers may not sum due to rounding.

Source: Department of Legislative Services

Municipal revenues are also affected, as each county must distribute to a municipality located in the county 50% of the county’s allocation that is attributable to the cannabis sales and use tax revenue generated by a dispensary located in that municipality.

CRRF expenditures (for the distribution of CRRF funds by the Comptroller to counties, as required by current law) decrease correspondingly to the decrease in CRRF revenues beginning in fiscal 2028. County revenues decrease further as a result of the decreased distributions from CRRF beginning in fiscal 2028.

Accordingly, county (and municipal) expenditures decrease correspondingly.

Operational Effect on the Office of Administrative Hearings

The Office of Administrative Hearings (OAH), which is delegated hearings from MCA, advises that while the bill likely requires OAH to provide training for its administrative law judges, the bill is not anticipated to materially affect its finances.

Small Business Effect: Many cannabis licensees are considered small businesses. Such licensees likely incur additional costs due to labor concessions made in order to enter into labor peace agreements as a condition of licensure under the bill. On the other hand, licensees may benefit from the avoidance of workforce disruptions.

Additional Comments: According to the U.S. Chamber of Commerce, a labor peace agreement is an arrangement between a union and an employer under which one or both sides agree to waive certain rights under federal law with regard to union organizing and related activity. While these agreements can be negotiated voluntarily, some state and local governments have required them of employers by passing labor peace ordinances. Under these policies, a private-sector employer must secure a labor peace agreement with a union as a condition of doing business at a facility or project in which a government entity asserts a “proprietary interest.”

Additional Information

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

Designated Cross File: None.

Information Source(s): Alcohol, Tobacco, and Cannabis Commission; Maryland Cannabis Administration; Maryland Department of Labor; Office of Administrative Hearings; National Labor Relations Board; U.S. Chamber of Commerce; Department of Legislative Services

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Appendix – Medical and Adult-use Cannabis

Chapters 254 and 255 of 2023 established the adult-use cannabis industry in the State by, among other things, (1) attributing cannabis-related duties to the Alcohol and Tobacco Commission and renaming it the Alcohol, Tobacco, and Cannabis Commission (ATCC); (2) establishing the Maryland Cannabis Administration (MCA) as an independent unit of State government that is responsible for the regulation of adult-use and medical cannabis; (3) creating a licensing framework for the regulated sale of cannabis; (4) requiring all medical cannabis licensees to either convert to adult-use cannabis businesses or cease operating by July 1, 2023; and (5) establishing a 9% sales and use tax on the sale of adult-use cannabis. As required under Chapters 254 and 255, in June 2023, ATCC and MCA entered into a memorandum of understanding providing that both parties agree to collaborate on enforcing provisions regarding unlicensed cannabis operations in the State.

Maryland Cannabis Administration

MCA's responsibilities generally include promulgating cannabis industry regulations, licensing and registering cannabis businesses in the State, and enforcing the statutes and regulations related to the cannabis industry. MCA adopted permanent regulations governing the cannabis industry in the State that went into effect July 22, 2024. (See DLS Control No. 24-019P).

Adult-use Cannabis

The sale of adult-use cannabis began on July 1, 2023. A person at least age 21 may use and possess the personal use amount of cannabis, while the possession of the personal use amount of cannabis by a person younger than age 21, as well as the possession of the civil use amount of cannabis, are subject to civil penalties. Possession of more than the civil use amount of cannabis by anyone is subject to a criminal penalty.

Medical Cannabis

MCA is responsible for the State's medical cannabis program, which is intended to make medical cannabis available to qualifying patients in a safe and effective manner. There is a framework to certify health care providers, qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification.

Social Equity in the Cannabis Industry

The Office of Social Equity (OSE) is an independent office functioning within MCA, established to promote and encourage full participation in the regulated cannabis industry by people from communities that have been disproportionately impacted by the war on drugs in order to positively impact those communities. OSE has several responsibilities in furtherance of its purpose, including consulting with other agencies, providing recommendations to and working with MCA, assisting businesses to obtain financing through the Capital Access Program, and managing the Social Equity Partnership Grant Program (established to promote qualifying partnerships between operational licensees and social equity licensees).

Cannabis Licensing

To operate a cannabis business in the State, a person must obtain a cannabis license from MCA. A license is valid for five years on initial licensure and five years upon renewal. MCA must issue licenses for growers, processors, dispensaries, incubator spaces, and on-site consumption. Additional licenses include micro licenses for growers, processors, and dispensaries. Licensing and renewal fees are established by MCA and range from \$5,000 for social equity applicants for certain licenses to \$50,000 for standard grower licenses. Pursuant to Chapters 254 and 255, medical licensees (growers, processors, and dispensaries) were required to pay a conversion fee based on the licensee's gross revenues for calendar 2022 to convert to medical and adult-use cannabis business licensees of the same type. Essentially all medical licensees (18 grower, 23 processor, and 96 dispensary licensees) converted to cannabis business licensees.

First- and Second-round Social Equity Licenses: Social equity applicants are those with at least 65% ownership and control held by one or more individuals who meet certain criteria, such as living in or attending a public school in a disproportionately impacted area (*i.e.*, determined to have had above 150% of the State's 10-year average for cannabis possession charges). MCA conducted its first-round lottery on March 14, 2024, and a second-round lottery on June 28, 2024, awarding a total of 205 (174 in round one and 31 in round two) social equity cannabis business licenses across the micro and standard grower, processor, and dispensary categories.

Subsequent Licenses: MCA may issue additional cannabis licenses up to the maximum limit authorized per statute based on the results of a market demand study. Future applications for licenses may be limited to social equity applicants and employ remedial measures based on the results of the disparity study.

Advisory Board on Medical and Adult-use Cannabis

Chapters 254 and 255 also established the Advisory Board on Medical and Adult-use Cannabis. The advisory board must (1) consider all matters submitted to it by OSE, the Governor, MCA, or the General Assembly and (2) study and make recommendations on a number of issues related to the medical and adult-use cannabis industry in the State. The advisory board began meeting in May 2024, and has established three subcommittees: Federal, Medical Cannabis, and Adult-use Cannabis.

Cannabis Sales and Tax Revenues

In the first year of adult-use cannabis sales (July 1, 2023, through June 30, 2024), total cannabis sales topped \$1.0 billion, with adult-use sales making up \$709 million of the total. Retail sales of adult-use cannabis are subject to a 9% sales and use tax rate and generated approximately \$63.8 million in sales and use tax revenues during the first year of sales. Adult-use cannabis sales and use tax collections for the first quarter of fiscal 2025 totaled \$18.3 million.

Local Authority to Regulate Cannabis

A “political subdivision,” defined as a county or municipality, is authorized to establish zoning requirements for cannabis businesses, allocate cannabis tax revenues, and adopt ordinances that reduce statutory requirements related to specified location restrictions for cannabis businesses. However, a political subdivision is prohibited from taking certain actions specific to cannabis businesses, including imposing a tax on cannabis and establishing restrictions related to transporting cannabis within the political subdivision or fees or requirements on cannabis businesses that are more burdensome than for other businesses.

Additionally, an on-site consumption establishment may not operate in a location unless the political subdivision affirmatively authorizes the operation by issuing a permit or license. The political subdivision may also place restrictions on or prohibit the operation of on-site consumption establishments.

Public Health Actions Related to Adult-use Cannabis

The Cannabis Public Health Advisory Council was established to study and report its findings and recommendations by December 1 each year on specified public health impacts of cannabis legalization. The Cannabis Public Health Fund was also established to generally support the council’s work. The fund receives 5% of the tax revenues from the sale of adult-use cannabis.

Cannabis-related Special Funds

The Cannabis Regulation and Enforcement Fund is administered by MCA to cover its operating costs and the costs to administer and enforce the Medical and Adult-use Cannabis Title of the Alcoholic Beverages and Cannabis Article. The fund generally consists of fees collected by MCA (including application and registration fees) and tax revenues from the sale of adult-use cannabis sufficient to defray the entire cost of operating the administration.

The Community Reinvestment and Repair Fund is administered by the Comptroller to provide funds to community-based organizations that serve communities determined by OSE (in consultation with the Office of the Attorney General) to have been the most impacted by disproportionate enforcement of the cannabis prohibition before July 1, 2022. The fund receives 35% of the tax revenues from the sale of adult-use cannabis, distributed on a quarterly basis.

The Cannabis Business Assistance Fund is administered by the Department of Commerce (in consultation with OSE) to assist small, minority-owned, and women-owned businesses entering the adult-use cannabis industry through the award of grants and loans. The fund receives 5% of the tax revenues from the sale of adult-use cannabis, distributed on a quarterly basis.