



## Comparing Maryland's Legalization Bills — HB 32 and SB 708

In the summer and fall of 2020, Del. Jazz Lewis worked with a group of Maryland legislators from the Black Legislative Caucus and stakeholders to craft a legalization bill rooted in inclusion and equity that reflected lessons learned from other states' laws and Maryland's own medical cannabis experience. Marijuana Policy Project staffers assisted in the process.

In October, Del. Lewis pre-filed HB 32 — the Cannabis Legalization and Regulation, Inclusion, Restoration, and Rehabilitation Act of 2021. This bill would legalize personal possession and home cultivation of cannabis for adults 21 and older, automatically expunge past cannabis offenses, establish a social equity program to ensure inclusion in the industry from disproportionately impacted communities, and reinvest much of the tax revenue to communities hardest hit by the war on drugs. MPP and the Maryland Cannabis Policy Coalition strongly support HB 32.

On February 8, Sen. Brian Feldman introduced SB 708, which mirrors many of the provisions of HB 32. However, SB 708 has fewer opportunities for new small and minority-owned businesses and less funding for social equity start-up and community reinvestment, among other differences.

On February 16, 2021, Del. Lewis submitted a reprint of HB 32 in committee, which reflected a number of changes negotiated with Sen. Feldman, with the shared goal of passing a “unity bill.” While negotiations are not yet complete, HB 32 as amended includes a middle ground for almost every area of departure.

This chart compares the differences between HB 32 — with amendments introduced in committee — and SB 708, as introduced. A summary of HB 32 (as amended) is available at [www.mpp.org/HB32Summary](http://www.mpp.org/HB32Summary).

	<b>HB 32, with amendments offered on Feb. 16</b>	<b>SB 708</b>	<b>Comments</b>
<b>Number of social equity growers licensed in early 2023</b>	HB 32 will include the following number of social equity grow licenses: *10 licenses to grow up to 50k sq. ft. *15 for up to 20k sq. ft. *10 for up to 10k sq. ft. *uncapped for micro-grows of up to 5k sq. ft.  Canopy limits are tripled for outdoor. Regulators can stop issuing micro-grow licenses in the event of an oversupply.	HB 708 allows a total of 40 new social equity growers: *10 licenses to grow up to 50k sq. ft. *15 licenses to grow up to 20k sq. ft. *15 licenses to grow up to 5k sq. ft.  Canopy amounts are tripled for outdoor grows.	Capping micro-grow licenses reduces opportunities for small and minority-owned businesses and will prevent social equity producers and retailers from knowing they will be able to secure a cultivation license to ensure supply. This would put these new small businesses at a significant competitive disadvantage compared to large, vertically integrated growers they would have to depend on for supply.

	<b>HB 32, with amendments offered on Feb. 16</b>	<b>SB 708</b>	<b>Comments</b>
<b>Number of new retailers licensed in early 2023</b>	With proposed amendments, HB 32 would license 100 new retailers in 2023 geographically distributed across the state by population. (As introduced, HB 32 allowed 200.)	SB 708 would license only 47 new retailers in 2023.	Only 47 new retailers in 2023 would mean far fewer opportunities for social equity applicants. It would also mean patients and other consumers would have to travel further and have fewer choice of cannabis. This would also likely lead to more illicit market activity.
<b>Next retail licensing round</b>	Regulators <b>shall</b> start accepting applications for more retail licenses starting February 1, 2024 after considering demand.	Regulators <b>may</b> start accepting applications for more retail licenses starting February 1, 2026 after considering demand.	Under SB 708, no additional retail licenses could be issued before 2026.
<b>Next cultivation licensing round</b>	Regulators <b>shall</b> start accepting applications for more cultivation licenses starting February 1, 2024 after considering demand.	Regulators <b>may</b> start accepting more cultivation applications starting Feb. 1, 2026 but “only if the study ... determines that additional supply is needed.”	SB 708’s lengthy delay on the demand review and more cultivation licensing can be expected to cause a longer perpetuation of the illicit market, higher prices for consumers, and less choices.  Independent medical dispensaries and patients already experience an inability to reliably source or find the products that work best for them.
<b>“Race to the Top” to incentivize community contributions</b>	Yes. Businesses expanding beyond two locations must show community benefits, such as related to diversity, labor practices, environmental stewardship, and equity contributions. Regulators may also apply this to growers moving to Tier 4 — the largest canopy.	No.	Both bills cap retailers at five locations. (HB 32 allows a non-controlling interest in up to five additional locations if they are social equity licensees.) HB 32 would require those with three or more locations to make contributions to the community.
<b>Fee amounts for early start for medical businesses</b>	HB 32 would cap dispensaries’ and growers’ early-start fee to the Social Equity Start-Up Fund at \$1 million.	SB 708 would cap dispensaries’ early-start fee to the Social Equity Start-Up Fund at \$250,000 and would cap growers’ fees at \$750,000, regardless of profit.	Both bills include fees based on past sales, but SB 708 includes a lower cap for the fees. Both bills dedicate fees for start-up loans to social equity applicants. The lower the fees, lower the pool of start-up capital.

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<b>Tax rates</b>	<p>HB 32 includes these adult-use taxes.</p> <p>State taxes:</p> <ul style="list-style-type: none"> <li>* Until spring 2024: 15%</li> <li>* From spring 2024 until spring 2026: 20%</li> <li>* Starting spring 2026: 25%</li> </ul> <p>+ 3% local option tax</p> <p>Regulators could recommend changes to tax rates.</p>	<p>SB 708 includes these adult-use taxes.</p> <p>State taxes:</p> <ul style="list-style-type: none"> <li>* Until spring 2025: 10%</li> <li>* From spring 2025 until spring 2027: 15%</li> <li>* Starting spring 2027: 20%</li> </ul> <p>+ 3% local option tax</p> <p>Regulators could recommend changes to tax rates.</p>	<p>Lower tax rates mean less revenue for automatic expungement, community reinvestment, and other state needs.</p> <p>In comparison, Virginia's bills include 30% in retail tax. New Jersey's tax rate rises as prices drop. Its rates could be over 46% when prices drop below \$150/ounce.</p>
<b>Can cultivators licensed under the adult-use law sell cannabis to medical dispensaries?</b>	<p>Not specified. Statutory and/or regulatory changes would likely be needed to the medical program to allow for such sales, but they are not specifically prohibited in HB 32.</p>	<p>No. Only medical growers could provide cannabis to medical dispensaries. However, both bills specify dual licensees (medical businesses approved to sell to adults) do not have to separate out adult-use and medical products.</p>	
<b>Labor Peace</b>	<p>HB 32, as it will be amended, includes a provision requiring adult-use cannabis businesses to sign a labor peace agreement with a bona fide union within 200 days of hiring a 10<sup>th</sup> employee.</p>	<p>SB 708 does not require a labor peace provision.</p>	