



BILL NO: HB 556

COMMITTEE: Economic Matters

POSITION: FWA

TITLE: Cannabis Reform

BILL ANALYSIS: House Bill 556 establishes a comprehensive framework for the legalization, regulation, and taxation of cannabis. The bill provisions that directly impact the Maryland Medical Cannabis Commission (the “Commission”) would (1) eliminate the Commission and repeal the medical cannabis statutes codified at Health-General Article, §§13-3301-13-3316, (2) re-codify medical cannabis provisions as part of a broader medical- and adult-use cannabis program and market under “Division III. Cannabis” of the Alcoholic Beverages Article; (3) transfer all Commission staff to the newly established Cannabis Regulation and Enforcement Division (the “Division”) of the Alcohol, Tobacco, and Cannabis Commission to oversee the regulation of medical- and adult-use cannabis; (4) require the Division to establish and maintain a State cannabis testing laboratory; (5) require the Division to convert medical cannabis licenses to licenses to operate medical- and adult-use cannabis businesses; and (6) require the Division to solicit applications and license cannabis businesses, promulgate emergency and permanent regulations governing cannabis, and enforce statutory and regulatory provisions related to cannabis.

POSITION AND RATIONALE: The Maryland Medical Cannabis Commission supports House Bill 556, with the proposed amendments outlined below.

The Commission commends Chair Wilson for establishing a comprehensive and equitable framework for the legalization, regulation, and taxation of cannabis for individuals 21 years of age or older that also preserves and strengthens Maryland’s best-in-the-nation medical cannabis program.

House Bill 556 (HB 556) prioritizes equity in licensing and seeks to ensure that individuals and communities harmed by cannabis prohibition and enforcement are able to access the economic opportunities associated with cannabis legalization. Twenty states and the District of Columbia have legalized adult-use cannabis and HB 556 incorporates many important lessons learned from these jurisdictions, including:

- Establishing exclusive social equity applicant licensing rounds for individuals and businesses from communities disproportionately harmed by cannabis prohibition and enforcement;
- Providing access to capital – in the form of grants and no-interest loans – and technical application and operational assistance to businesses that qualify as social equity applicants;
- Establishing new license categories (e.g., on-site consumption, incubator) and classes of licenses (e.g., micro businesses) that require less capital to operationalize;
- Eliminating non-violent cannabis convictions as a barrier to employment in the cannabis industry;
- Establishing a low tax rate that can better position the legal market to compete with unlicensed operators;

- Ensuring individuals 21 years or older have access to legal, tested cannabis beginning on July 1, by converting existing medical licensees to medical- and adult-use licensees, if the businesses pay a one-time conversion fee;
- Limiting the production of converted licensees to ensure market share is preserved for additional businesses;
- Creating an Office of Social Equity that will assist social equity applicants and small-, minority- and women-owned businesses apply for licenses and obtain financing for their businesses; and
- Eliminating barriers to entry for small businesses, such as property requirements, high application fees, and competitive scoring applications.

The Commission would like to highlight two aspects of the bill in particular:

1. Preserving and strengthening of the medical cannabis program. While HB 556 eliminates the Medical Cannabis Commission, it retains the laws and regulations that have made Maryland the highest rated medical cannabis program in the nation, including a top score for Consumer Protection and Patient Safety (*see the 2022 State of the States Report* published by Americans for Safe Access – the nation’s largest medical cannabis nonprofit). In fact, the bill strengthens the medical program by:
 - Requiring dispensaries to ensure adequate product supply for patients, and establishing operating hours exclusively for patients;
 - Establishing a state cannabis laboratory to develop a cannabis laboratory reference library, establish SOPs for product testing, conduct proficiency testing on testing laboratories, and remediate any issues with testing laboratories;
 - Expanding the Compassionate Use Fund to reimburse eligible participants for the costs associated with a medical assessment of the patient’s medical history and current medical condition;
 - Establishing a research license to conduct clinical investigations of cannabis-derived medicinal products and other research on the efficacy and safety of medical cannabis; and
 - Maintaining the best practices established through the State’s medical cannabis program, with clear direction to apply the same high standards for health, safety, security, and testing to adult-use cannabis products.
2. Access to capital and technical legal, business, and operational support for social equity businesses. In 2018, the General Assembly authorized the Commission to undertake an additional licensing round for growers and processors to address the needs of small-, minority- and women-owned businesses. This licensing round resulted in 14 out of 14 licenses being awarded to minority-owned firms, and 10 out of 14 being awarded to black-owned firms. However, these businesses have faced challenges accessing capital and securing the legal, business, and operational support necessary to build-out a cannabis facility and compete with existing operators. More than two years after award a majority of these businesses are not operational. HB 556 addresses this gap by creating multiple pathways for social equity businesses (including HB 2 awardees) to secure capital (e.g., grants, no interest loans, loan loss reserve program), reserves standard licenses to allow micro licensees (exclusively held by social equity businesses) to grow their businesses, and requiring the Division and the Office of Social Equity to procure business development and other technical assistance services to support social equity businesses.

HB 556 presents a bold vision for cannabis reform in Maryland that combines the stringent testing, consumer safety, and product quality standards of the State’s medical program with innovative and expansive approaches to equity and licensing. The Commission proposes to further strengthen the bill with the following amendments.

1. Merge the Cannabis Public Health Advisory Council and the Advisory Board on Medical and Adult-use Cannabis. The Cannabis Public Health Advisory Council (the ‘Council’) was established under HB 837 (2022) to study and make recommendations on public health issues related to medical and adult-use cannabis, including advertising, labeling, testing, and public health campaigns. Membership of the Council consists of representatives of state agencies (e.g., cannabis, health, agriculture, schools, and behavioral health) and cannabis and public health experts. Similarly, HB 556 proposes to establish the Advisory Board on Medical and Adult-use Cannabis (the “Board”), which provides recommendations on the regulation of cannabis in the State and consists of cannabis and public health experts, and industry representatives. Given the overlapping subject matter, membership, and purpose of these two advisory bodies, the Commission recommends merging the Advisory Council and Advisory Board. Merging the advisory bodies will eliminate the potential for redundant or conflicting findings and recommendations being presented to the Division and General Assembly by two separate advisory bodies.
2. Clarify the Office of Social Equity oversees the “Qualifying Partnership” grant program. Section 1-323 of the bill creates a “qualifying partnership” grant program where an operational licensee can receive grant funds to train, mentor or share space or equipment with a social equity licensee. As introduced the grant program is administered by the “Commission” without specific reference to the Office of the Executive Director, Cannabis Regulation and Enforcement Division, Office of Social Equity, or another unit. The Commission recommends clarifying that the grant program will be administered by the Office of Social Equity (OSE), because OSE advises in the management of other grant and loan programs under the bill, works closely with social equity licensees, and is the subject matter expert on social equity.
3. Clarify that a medical cannabis licensee must meet the ownership restrictions proposed in §36-401 in order to convert to a medical and adult-use cannabis business. Section 36-401 requires the Division to convert medical cannabis licensees on or before July 1, 2023, if the business pays the required conversion fee in accordance with §36-403. No additional criteria are established for conversion. However, §36-401(e) prohibits a person or entity from having an ownership interest in, or control of, more than one grower license, more than one processor license, or more than two dispensary licenses. Currently, at least 10 businesses hold an ownership interest in, or control of, a prohibited number of cannabis licenses in the State. Arguably, §36-401(b)(ii) would allow these businesses to convert if they pay the required fee, in contravention to §36-401(e). The Commission recommends amending §36-401(b)(ii) to expressly require a licensee to comply with the ownership restrictions in §36-401(e) in order to convert its license.
4. Allow for the conversion fee to be paid by medical cannabis licensees over time. Section 36-401 requires medical cannabis licensees to pay a one-time fee to convert their licenses to medical- and adult-use cannabis businesses. The conversion fees range from \$100,000 to \$2.5 million based on annual gross revenue. Due to significant decreases in the wholesale price of cannabis in the State (down nearly 25% in 2022 compared to 2021) and continuing high federal tax burdens, the Commission estimates that many licensees, particularly small,

independent businesses, will not be able to the conversion fee prior to July 1. The Commission therefore recommends that the bill clarify that the conversion fee can be paid over a series of payments (e.g., 4 equal payments over 24 months). Failure to make any payment should result in a suspension of the businesses' operations and/or other sanctions on the license.

The Commission would appreciate a favorable report on HB 556, with the proposed amendments. For more information, please contact Andrew Garrison, Deputy Director of Policy and Government Affairs at andrew.garrison@maryland.gov or (443) 844-6114.

This position does not necessarily reflect the position of the Maryland Department of Health or the Office of the Governor.
