



HOUSE BILL 556 – FAVORABLE WITH AMENDMENTS
Cannabis Reform
February 17th, 2023

Dear Sirs and Mesdames:

As independent participants in the Maryland cannabis industry, my business partner, Matthew Volz, and I applaud the Maryland General Assembly's steadfast commitment to passing meaningful Cannabis reform legislation with the intention of providing a safe and balanced market for consumers and patients that empathizes fairness, accessibility, and social equity. We also specifically acknowledge the commitment and attention provided by the bill sponsors on this legislation. We remain persistent in doing our part to establish and maintain safe and affordable products to consumers and patients in Maryland.

We are independent, Maryland-based owners/operators of two cannabis dispensaries – one in Edgewater and one in Middle River. We are a private company, have never taken public money nor institutional investment capital. In fact, we have bootstrapped our operations and have succeeded in spite of the many challenges faced by dispensaries in this industry. Our story should be one which should make Marylanders proud. We are generally in support of the framework of House Bill 556, specifically its desire to emphasize social equity within the marketplace. We believe that a diverse marketplace is helpful to the industry overall. However, we do have suggestions we would like to offer for consideration to the Economic Matters Committee:

CONVERSION FEES

The Conversion Fees are set forth in Section 36-403 of the bill. These fees are not reflective of the current nationwide macroeconomic situation for the cannabis industry across the country, nor the current financial reality for most cannabis companies in Maryland. In fact, for those of us that own only dispensaries, we are faced with enormous federal tax challenges due to 26 U.S.C. 280E which does not allow us to take any standard deductions when reporting our taxes to the IRS (and Maryland). In the proposed bill, the conversion fees are based on the revenue produced by the dispensaries in 2022. **As a result of the abnormally high tax burden that dispensaries face, those resulting conversion fees end up being far more than we made in 2022 on an after tax basis!**

The Conversion Fees for dispensaries should be lowered significantly and participants should be allowed to pay them over time. We would like to propose that these dispensary conversion fees are cut in half and that we are allowed to pay them over 24 months. Otherwise, independent dispensary owners will not be able to pay the conversion fees as they have likely never made that much in annual profit. The proposed conversion ultimately massively penalize successful, independent, dispensary operators – the “little guys” like us.

DISPENSARY LICENSE OWNERSHIP CAPS

Under Section 36-401(E) of the bill, the maximum number of dispensaries an owner can hold is reduced from 4 to 2. Due to aforementioned federal tax code (26 U.S.C. 280E) and the high costs of running a highly-regulated business that is considered illegal on a federal level, dispensaries face more significant challenges than any other industry participant to operate profitably. When we started operations in Maryland August 2018, we decided that we needed to acquire and operate another dispensary to help create better economies of scale. Even



sharing costs across two dispensaries, it is our experience it is still very difficult to operate profitably and we need to acquire more licenses. It is simply not enough.

Reducing the number that an owner can own can control significantly limits the ability of all licensees (incumbents and new market entrants) to be commercially successful. It will likely limit the interest of financial investment from institutional capital from inside and outside the state to invest in dispensaries. Most of the investment will only go to those that are vertically-integrated as they are better able to put non-deductible costs “above the line” into the costs of good sold (which is allowed by 280E). It is well-documented that the cannabis industry already feels the pain of a lack of investment capital available to it. This cap reduction will likely wipe out all potential investment into dispensary-only companies and significantly any potential exit opportunities to those that might want to grow their businesses and then sell it after the transfer period is over. This reduction will likely doom social equity entrants to fail and increase the likelihood of a thriving criminal market.

At the very least, this should be amended to restore the current cap of four licenses. We would even propose that this be **INCREASE to eight** given the number of standard dispensary and micro-dispensary licenses in consideration of being added in this bill. With all the new dispensary licenses considered by the bill, owning eight dispensaries will, in no way, create oligopolic behavior or an anti-competitive environment. Moreover, there has been some unfounded fear from some that are concerned about non-Maryland, publically-traded companies coming in and taking over the state market. Those are coupled with legitimate concerns that companies that are vertically-integrated being able to either preclude independent dispensaries from certain products or sell it for far cheaper than an independent dispensary can sell products. Rather than reduce the ownership cap, a smarter approach would be to follow the successful example of Illinois. **In Illinois, growers and processors are required to sell to their own dispensaries at the Average Wholesale Price that they sell their product to independent dispensaries** – thus preventing anti-competitive behaviors. We would request that Maryland consider adopting similar legislation.

TRANSFER RESTRICTIONS

Section 36-503(C)(1) states that “A cannabis licensee, including a cannabis licensee whose LICENSE WAS CONVERTED IN ACCORDANCE WITH § 36-401 OF THIS TITLE, MAY NOT TRANSFER OWNERSHIP OR CONTROL OF THE LICENSE FOR A PERIOD OF AT LEAST 5 YEARS FOLLOWING LICENSURE.” The five year restriction in this provision should be set back to three years, as measured from the initial license date, not the date of the converted license issue date. Asking incumbent licensees to wait an initial term of three years under HB2, plus another five years under the current bill is an undue restraint of trade. In addition, this increases the pool of interested investors to a wider set of market participants. **When the current medical licenses are converted to adult use, the five year clock should not reset.** New market entrants will face a harder time raising capital with a five year hold. **New market entrants should also only face the original three year hold period as passed by HB2 to increase their ability to raise capital and succeed.**

NEW MICRO DISPENSARY LICENSES – “ICE CREAM TRUCK” STYLE DELIVERY

This section of the bill allows new entrants to the market to create dispensaries that are not required to be brick and mortar operations. We believe the intent of the bill was to allow new entrants to the market to participate



without the hundreds of thousands of dollars worth of capital expenditures needed to build a storefront by allowing these licensees to deliver products directly to the consumer. However, the only limit put on these micro licenses are capping the total number of employees that they can employ at 10. Unlike the other “micro” licenses, there is no capacity cap, no geographical limits, and it restricts current and new standard dispensary operators from delivering cannabis from dispensaries to patients from continuing their delivery operations. In fact, given the large number of these licenses, they are direct threat to the most vulnerable of all the licenses – the standard dispensary licenses. In fact, it becomes punitive to those that have spent large amounts of money to create safe and highly-regulated businesses and considerably increase public safety risks. Michigan and California who have implemented similar provisions experienced significant increases in related crime, including robbery of cannabis delivery vehicles. In Michigan the issue is so pervasive the state’s cannabis regulatory agency issued official warnings of increased crime perpetrated against cannabis delivery companies. This is not only a threat to personal and public safety, but also a threat to the viability of the broader adult use program. **This form of license should be removed from the bill and standard dispensary operators should be permitted to continue the COMAR regulated delivery operations. At the very least, the sheer number of these licenses that are made available should be significantly reduced and operational abilities more thoroughly detailed.**

CANOPY CAPS

Section 36-401(C)(1) would cap the maximum annual production for any licensed grower to 300,000 square feet of indoor canopy or its equivalent. If a substantial number of growers produced anywhere near that volume of product, it would saturate the market, and cause excess product to find its way to the illicit market, as is now the case in California, Michigan and other states. In fact, states with massive oversupply like California, Oregon, and Oklahoma have become some of the largest COUNTRIES in the world for exporting illegal cannabis.

We propose to amend this provision to include a cap of no more than 100K square feet for each cultivation license (with exceptions created for operators would have already made investments to build more prior to this legislation). Massachusetts currently has a 100,000 square foot cap for a combined medical/adult use market and it is already in an oversupply situation. Massachusetts is currently struggling with an oversupply issue, driving down prices, and putting cultivators out of business; companies are operating at razor-thin margins, and many can not compete and are forced to shutter business or sell their licenses.

Thank you for your consideration. More importantly, thank you for the significant time and effort you have already put into this bill. We would be happy to have individual discussions with you are any time about the proposed bill, any of the particulars of this letter and our operations. In fact, we are minutes from the Maryland Statehouse in Edgewater and would welcome a visit from any of you!

With gratitude,

Christopher C. Jensen
Co-Founder and Chief Executive Officer