



Element MD, LLC ⊕ 11501 Progress Ln., Princess Anne, MD 21853

Chairwoman Griffith, Vice Chair Klausmeier, Members of the Committee, my name is Ted Bibart, and I am Director of Operations for Element MD, LLC. I am also an Ohio licensed attorney and formerly a member of Ohio's Medical Marijuana Advisory Committee as appointed by the Speaker of the House. You will hear from Element Majority owner and CEO, Nkechi Iwomi, regarding the specific experience of Element as a House Bill 2 awardee, stand-alone processor. I will be focusing my testimony on the underlying policy considerations Nkechi will touch upon and the simple amendments to the statutory language we would suggest.

First, the current definition of Social Equity Applicant virtually excludes the entirety of the HB 2 licensees. As a result, the HB 2 licensees have a high risk of failure, and the adult use program is unlikely to see a gram of cannabis grown by a Black-owned business for sale until at least of 36 months from the date the market opens on July 1, 2023 (the HB 2 grower awardees were first identified in September of 2019 and 41 months later none are operational). Without also being included in the new definition of Social Equity Applicant, the HB 2 licensees will not have access the resources wisely allotted in SB 516, which are so desperately needed for all minority businesses entering the extremely competitive Maryland marketplace that is utterly dominated by the white-owned businesses originally licensed under the State's initial award process.

Second, the vast majority of the existing growers are vertically integrated with their own processor facilities. Only one of those vertically integrated grower/processors is Black owned (the grower license was issued to this stand-alone processor as a result of HB 2 and the exact type of direct award we are suggesting here) and we believe those licenses have already been sold. The consolidation of these grower/processor licenses occurred largely out of necessity due to the operational realities of not being able to produce your own biomass in the case of a stand-alone processor or the desire to produce your own manufactured products in the case of a grower.

This consolidation also happened when capital markets for cannabis investment were far more robust, and the current crippling effects of inflation were nowhere in sight. With the SB 516 five-year moratorium on license transfer, there is not a level playing field for the HB 2 licenses, even if venture capital were available for M&A (which it's not). Further, the original grower licenses, which were issued exclusively to white-owned businesses through the State's initial award process, also included the ability to receive a dispensary license simply as a result of having received a grower license.

Resultingly, the HB 2 stand-alone processors in particular are left at the mercy of the existing, large vertically integrated cultivation facilities to provide whatever genetics and quality of biomass they are willing to share at the highest price the market will bear. The price of that biomass is ten to fifteen times higher than the price a processor could grow its own flower to process. At present, the HB 2 stand-alone processors are nothing more than waste remediation facilities for the large growers. Without access to high quality biomass, the HB 2 processors cannot produce a high-quality product, and resultingly, are incapable of competing. The stated intention of SB 516 to dramatically reduce the dominance of the illicit market isn't just about competitive pricing, it's about superior product quality.

This is not a matter of increasing profit; it is a matter of survival for the HB 2 stand-alone processors in particular. The economies of scale that give the original licensees such a dramatic market advantage is exacerbated by the increase in market size due to the addition of adult use. Adult use alone will not rescue the HB 2 licensees from their present circumstances, particularly in light of the potential 70 additional processor licenses contemplated under SB 516.

Therefore, we would suggest the following amendments:

1. Section 36-101 (FF) "Social Equity Applicant" be amended to include any "House Bill 2 Licensee".
2. Section 36-404 (D) be amended to include the issuance of a Standard Grower License to any House Bill 2 Licensee who is a stand-alone processor and vice versa with a stand-alone grower, as well as the ability to receive a dispensary license.

The suggested amendments ensure expeditious Social Equity Applicant market participation from the extremely vetted HB 2 awardees who have demonstrated a high propensity for success, the vast majority of which happen to be Black owned. Further, it ensures a level playing field for the HB 2 licensees who are being denied opportunity for M&A and whose enterprise-value of their licenses are being immediately diluted by the issuance of a vast quantity of new licenses, even before many were ever able to open their doors. This dilution of value further reduces the ability to capitalize these businesses either by debt or equity (compounding the plight of the HB 2 licensees of which 11 of the 14 are not operational). Without inclusion as a Social Equity Applicant and a direct pathway for vertical integration in SB 516, the likelihood of catastrophic failure for the HB 2 licensees is unacceptably high.

Thank you in advance for your consideration of this frank and sincere perspective. Element MD remains at your disposal and deeply grateful for the excellent work done on this complex piece of legislation.

Respectfully,

James "Ted" Bibart
Director of Operations
Element MD, LLC
(614) 832-8452