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March 26, 2024

TO: The Honorable Pam Beidle  
Chair, Finance Committee

FROM: Tiffany Clark  
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: House Bill 272 – Cannabis Licensing and registration – Use of Straw  
Ownership – Prohibition – **Support with Amendments**

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The Office of Attorney General respectfully urges the Senate Finance Committee to report favorably on House Bill 272 – Cannabis Licensing and registration – Use of Straw Ownership – Prohibition. House Bill 272 prohibits nominal ownership of cannabis licenses if that ownership interest is held for the purposes of meeting certain requirements of the Cannabis Reform Act of 2023.

The Cannabis Reform Act of 2023 created a “social equity license” to promote and encourage full participation in the cannabis industry by people from communities that have been disproportionately impacted by the war on drugs in order to positively impact these communities. The social equity license exists in many other states that have adult-use cannabis industries, including, New York, Connecticut, and New Jersey. As we have looked to these states for guidance setting up our social equity licenses, we’ve observed patterns in which large corporations use their financial resources to recruit those who qualify as social equity applicants to join them as partners in a social equity cannabis business license, and then exploit the very individuals intended to benefit through these programs. Unfortunately, we have also observed evidence of these same

schemes being attempted in Maryland. This conduct, if unchecked, would completely subvert the legislative intent behind our State's social equity OAG has been working to support the Maryland Cannabis Administration's (MCA) and the Office of Social Equity's (OSE) strategic efforts to protect the integrity of the first cannabis license application round in the nation reserved exclusively for social equity applicants across all license categories. House Bill 272 would give OAG attorneys and our client units an additional tool to use to combat efforts to corrupt this application round. Three amendments to House Bill 272 would make the resulting legislation even more effective in guarding against malfeasance and accomplishing the legislative intent behind the Cannabis Reform Act.

**1. Consider expanding the bill language to expressly require examination of both ownership and control.** This body has recognized through prior legislative action that this industry uses a variety of transactional documents to aggregate financial and managerial power over a licensed business, and you have given the MCA the authority and responsibility to investigate and regulate not just ownership but also control of a license.<sup>1</sup> HB 272 speaks to ownership without the benefits and risks of genuine ownership, but may be further strengthened by incorporating language reflecting the significance of control of a license into the current language.

**2. Authorize enforcement of House Bill 272 by the MCA without requiring a criminal conviction.** While there may be value in establishing criminal liability for those who seek to exploit social equity applicants to secure additional market power in Maryland's cannabis industry, the MCA should be authorized to take action against the license without waiting for a criminal conviction. The burden of proof required to secure a criminal conviction is far higher than that required to establish a regulatory violation and the MCA's ability to effectively execute the social equity licensing program will be hampered if it is forced to wait for a criminal conviction to be secured before taking action on the license. Further, bill language should be adjusted to clarify that any social equity applicant who may have been misled into holding a position as a straw man owner is not at risk of criminal prosecution under this provision.

**3. Change the effective date of the bill to enable prompt application.** House Bill 272 was introduced with an effective date of October 1, 2024, however the Cannabis Reform Act required that the social equity licensing round move swiftly. MCA has collected and reviewed applications and is presently finalizing determinations of which applications are eligible for the license lottery. The lottery will not be conducted until March at the earliest, and any applicants selected in the lottery will be subject to further investigation on elements of ownership and control by the MCA with the assistance of third-party accounting, legal, and investigatory professionals before any may be awarded a conditional license. House Bill 272 would be most beneficial in that stage immediately following investigations of ownership and control of selected applicants. Amending the effective date of House Bill 272 to June 1, 2024 would make this legislation more helpful in safeguarding the initial social equity licensing process.

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<sup>1</sup> Md. Code Ann., Alc. Bev. Can. §§ 36-101(o) (defining "control"); 36-502 (requiring one who wishes to hold control of a cannabis license to apply for and receive approval from the MCA); 36-503(b)(c) (imposing restrictions on transfers of ownership or control of a license).

OAG supports MCA and OSE in their efforts to execute the cannabis business license application process for social equity applicants mandated under the Cannabis Reform Act of 2023. MCA and OSE are currently executing the General Assembly's intended strategy to create a more equitable cannabis industry in this State and need additional authority to strengthen their ability to protect the integrity of the process.

For the foregoing reasons, the Office of the Attorney General urges a favorable report on House Bill 272 with amendments.

cc: The Honorable Robin Grammer  
Finance Committee Members