

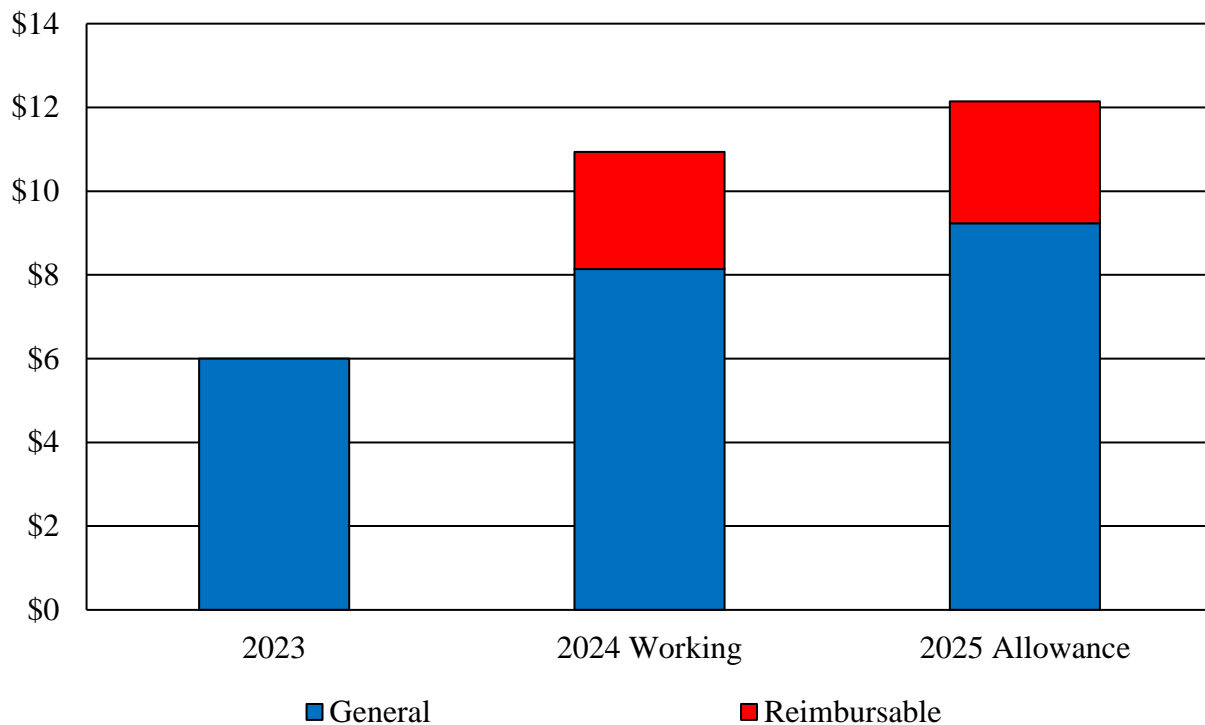
E17 Alcohol, Tobacco, and Cannabis Commission

Program Description

The Alcohol and Tobacco Commission (ATC) was established by Chapter 12 of 2019 to regulate the State’s alcohol and tobacco industries. Chapters 254 and 255 of 2023 (Cannabis Reform Act) modified the responsibilities of the commission to include the regulation of cannabis, increased the size of the commission, and changed the name of the commission to the Alcohol, Tobacco, and Cannabis Commission (ATCC). ATCC is led by an executive director and a seven-member commission appointed by the Governor.

Operating Budget Summary

Fiscal 2025 Budget Increases \$1.2 Million, or 11%, to \$12.1 Million (\$ in Millions)



Note: The fiscal 2024 working appropriation includes deficiencies. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency’s budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

For further information contact: Samantha Tapia

Samantha.Tapia@mlis.state.md.us

- Chapters 254 and 255 required that ATCC and the newly formed Maryland Cannabis Administration (MCA) enter into a memorandum of understanding (MOU) that provides that the two agencies collaborate on the enforcement of the Cannabis Reform Act. The signed MOU clarifies responsibilities of ATCC to investigate and regulate unlicensed cannabis operations in Maryland. A budget amendment for fiscal 2024 added \$2.8 million in reimbursable funds to support the MOU between ATCC and MCA. However, the Department of Legislative Services (DLS) noted that the fiscal 2025 budget as introduced includes a proposed deficiency appropriation for fiscal 2024 replacing special funds with reimbursable funds, and this addition of reimbursable funds appears to largely duplicate funding provided in the budget amendment approved in November 2023. The Department of Budget and Management (DBM) has indicated it will correct this duplicate funding. Funding for the purpose of this MOU is also included in the Governor’s fiscal 2025 allowance (\$2.9 million).

Fiscal 2023

Supplemental Budget No. 2 of the fiscal 2024 budget included a number of deficiency appropriations intended to prepare for agency restructuring to accommodate the legalization of cannabis and its regulatory structure. These items added to the fiscal 2023 budget two programs and funding for personnel and operations for cannabis regulation, including 3 regular positions and \$317,000 in general funds.

Fiscal 2024

The enactment of Chapters 254 and 255 also meant that several contingent appropriations related to cannabis-related activities for fiscal 2024 were included in Supplemental Budget No. 2 and Section 19 of the fiscal 2024 Budget bill. This included a total of 49 new regular positions and associated operational and contractual services costs as well as a legislative addition of \$2 million in general funds for the Social Equity Partnership Grant Program. However, Chapters 254 and 255 created MCA to conduct most cannabis-related activities instead of ATCC as had been anticipated in the supplemental budget and in Section 19. As a result, a budget amendment processed in August 2023 moved \$2 million in general funds and \$4.2 million in special funds, including the grant program funds, to the newly established MCA. A second budget amendment consolidated the remaining funding under one program in ATCC.

A budget amendment for fiscal 2024 was submitted to add \$2.8 million in reimbursable funds to support an MOU between ATCC and MCA.

Proposed Deficiency

The Governor’s fiscal 2025 budget includes a proposed deficiency appropriation swapping \$2.8 million in special funds for approximately \$2.4 million in reimbursable funds from MCA,

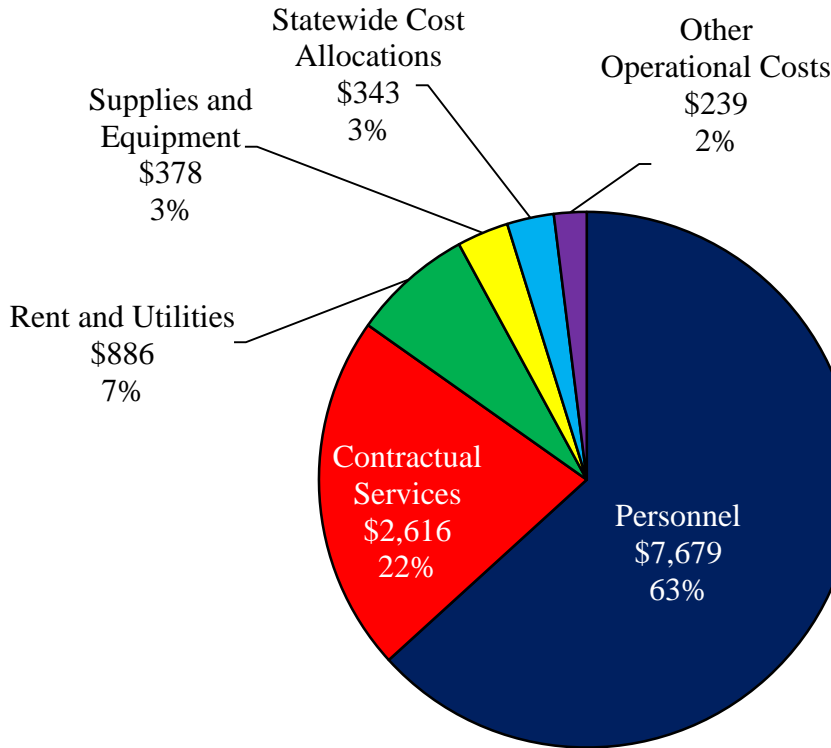
which reflects the MOU between the agencies that was approved by the Board of Public Works (BPW) on November 29, 2023, which facilitates the cooperation between the two agencies on cannabis licensing and investigations. The MOU states that ATCC responsibilities include educating the public on cannabis, conducting studies of cannabis policy in other states, and developing the cannabis regulatory program in Maryland, while MCA is primarily the administrator of licenses and medical cannabis care provider registration. In order to carry out inspections and determine violations related to unlicensed businesses, ATCC must have access to licensing and registration records held by MCA. MCA may also refer to ATCC to investigate matters related to on-site consumption and limits on “canopy” (surface area utilized for mature cannabis plant maintenance). DLS notes that the proposed deficiency appears to represent the same reimbursable funding included in the previously submitted budget amendment. DBM has indicated it plans to address the apparent duplicate reimbursable funding. The fiscal 2025 allowance includes \$2.9 million of reimbursable funds in ATCC also related to the MOU.

A second proposed deficiency appropriation provides a total of \$842,000 in funding for increased costs of rent and utilities at the new headquarters of ATCC. A sublease from the Maryland Automobile Insurance Fund at 1215 East Fort Avenue in Baltimore City was approved by BPW on May 17, 2023, and ATCC moved into the office in July 2023. The fiscal 2025 allowance increases by an additional \$22,958 for rent at the new location.

Fiscal 2025 Overview of Agency Spending

The fiscal 2025 allowance for ATCC totals \$12.1 million. **Exhibit 1** outlines the uses of the allowance across ATCC. Most of the funding, \$7.7 million (63%), is allocated for salaries and benefits for 60 regular personnel and 1 contractual full-time equivalent. Other operational costs include approximately \$2.6 million (22%) for contractual services for computer maintenance contracts and a contract to acquire and build out online alcohol and tobacco licensing capabilities. The remaining 15% is for rent and other operational costs.

Exhibit 1
Overview of Agency Spending
Fiscal 2025 Allowance
(\$ in Thousands)



Source: Department of Budget and Management

Proposed Budget Change

As shown in **Exhibit 2**, the fiscal 2025 allowance increases by approximately \$1.2 million, of which \$1.1 million is general funds, compared to the fiscal 2024 working appropriation after accounting for proposed deficiency appropriations. The largest increase in the fiscal 2025 allowance is \$900,000, reflecting plans to develop an online portal for alcohol and tobacco licensing. Personnel salary and benefits costs decrease by \$576,000 due to the transition in responsibilities. The budgeted turnover rate is reduced from 11.45% in fiscal 2024 to 5.00% in fiscal 2025, resulting in an increase of \$469,500 that partially offsets the lower personnel costs.

Exhibit 2
Proposed Budget
Alcohol, Tobacco, and Cannabis Commission
(\$ in Thousands)

How Much It Grows:	General <u>Fund</u>	Reimb. <u>Fund</u>	<u>Total</u>
Fiscal 2023 Actual	\$5,997	\$0	\$5,997
Fiscal 2024 Working Appropriation	8,140	2,794	10,935
Fiscal 2025 Allowance	<u>9,231</u>	<u>2,911</u>	<u>12,142</u>
Fiscal 2024-2025 Amount Change	\$1,091	\$117	\$1,208
Fiscal 2024-2025 Percent Change	13.4%	4.2%	11.0%
 Where It Goes:			<u>Change</u>
Personnel Expenses			
Turnover expectancy decreases from 11.45% to 5.00%.....			\$469
Reclassification of program manager positions to higher grade			51
Net decrease in salaries and associated fringe benefits due to transition in responsibilities			-576
Other Changes			
Further development of the new online licensing system in coordination with DoIT...			900
State cost allocations.....			338
Rent for the new headquarters			23
Motor vehicle insurance			5
Other			-2
Total			\$1,208

DoIT: Department of Information Technology

Note: Numbers may not sum to total due to rounding. The fiscal 2024 working appropriation includes deficiencies. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency’s budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

Personnel Data

	<u>FY 23</u> <u>Actual</u>	<u>FY 24</u> <u>Working</u>	<u>FY 25</u> <u>Allowance</u>	<u>FY 24-25</u> <u>Change</u>
Regular Positions	41.00	60.00	60.00	0.00
Contractual FTEs	0.50	1.00	1.00	0.00
Total Personnel	41.50	61.00	61.00	0.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	3.00	5.00%
Positions and Percentage Vacant as of 12/31/23	8.00	13.33%
Vacancies Above Turnover	5.00	

- ATCC received a net 22 new regular positions in fiscal 2024 due to Supplemental Budget No. 2 with the enactment of Chapters 254 and 255 after the shifting of personnel to the new MCA that was initially appropriated to ATCC. ATCC has no new positions in fiscal 2025. **Exhibit 3** provides a breakdown of these new positions by subprogram. This includes 14 new agents in compliance and enforcement and 8 new positions in administration for a variety of purposes.

**Exhibit 3
New Regular Positions in Fiscal 2024**

<u>Subprogram</u>	<u>Position Title</u>	<u>Positions</u>
Executive Direction and Operations	Administrator I – Trade Practice (Complaint) Investigator	2
	Administrator II – Policy Analyst	1
	Administrator III – Internal and External Communication Officer	1
	Budget Specialist II – Finance	1
	Procurement Officer	1
	Assistant Attorney General V	1
	Human Resources Officer	1
Field Operations Bureau	Enforcement Agent Administrator II – Deputy Director	1
	Administrator I – Agent in Charge	1
	Enforcement Agent Lead – Agent Supervisor	2
	Field Enforcement Agent	10
Total		22

Source: Department of Budget and Management; Alcohol, Tobacco, and Cannabis Commission; Department of Legislative Services

E17 – Alcohol, Tobacco, and Cannabis Commission

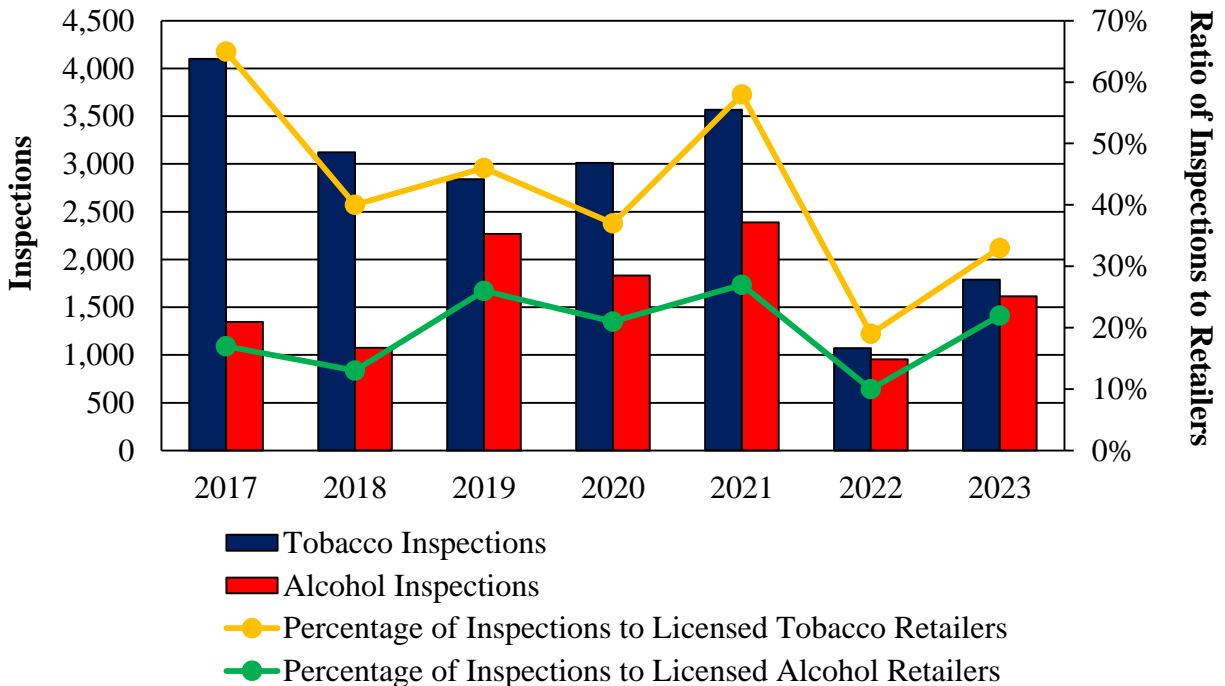
- In its most recent monthly commission meeting in February 2024, ATCC reported that it is in the process of onboarding 3 new agents and had made an offer to a policy analyst who would start in March. In addition, a job posting for 1 vacant position closes on February 19, 2024.

Key Observations

1. Retail Inspection Goals Met at a Higher Level

ATC (now ATCC) has enforced alcohol and tobacco laws since 2021, after the transfer of the Field Enforcement Division from the Comptroller to ATCC. It is the goal of ATCC to deter the possession, sales, and transportation of illegal tobacco and alcohol products through inspections. It also aims to conduct inspections equivalent to 15% and 9% of the total number of licensed tobacco and alcohol product retailers, respectively. As shown in **Exhibit 4**, in fiscal 2023, ATCC inspected 1,788, or 33%, of all tobacco retail establishments and 1,614, or 22%, of all alcohol retail establishments. These rates of inspection exceed the stated goals and the fiscal 2022 rates but remain below the rates of inspection in fiscal 2019 to 2021. ATCC indicated that inspection activity was impacted by the transition of staff from the Comptroller to ATCC, which reduced the number of staff performing inspections. In fiscal 2023, ATCC had a total increase of 11 positions. ATCC reported that the increase in inspections in fiscal 2023 is a direct consequence of the higher staffing level. ATCC expects a further increase in the number of inspections in fiscal 2024 as a result of further staffing increases.

Exhibit 4
Inspection Goals
Fiscal 2017-2023

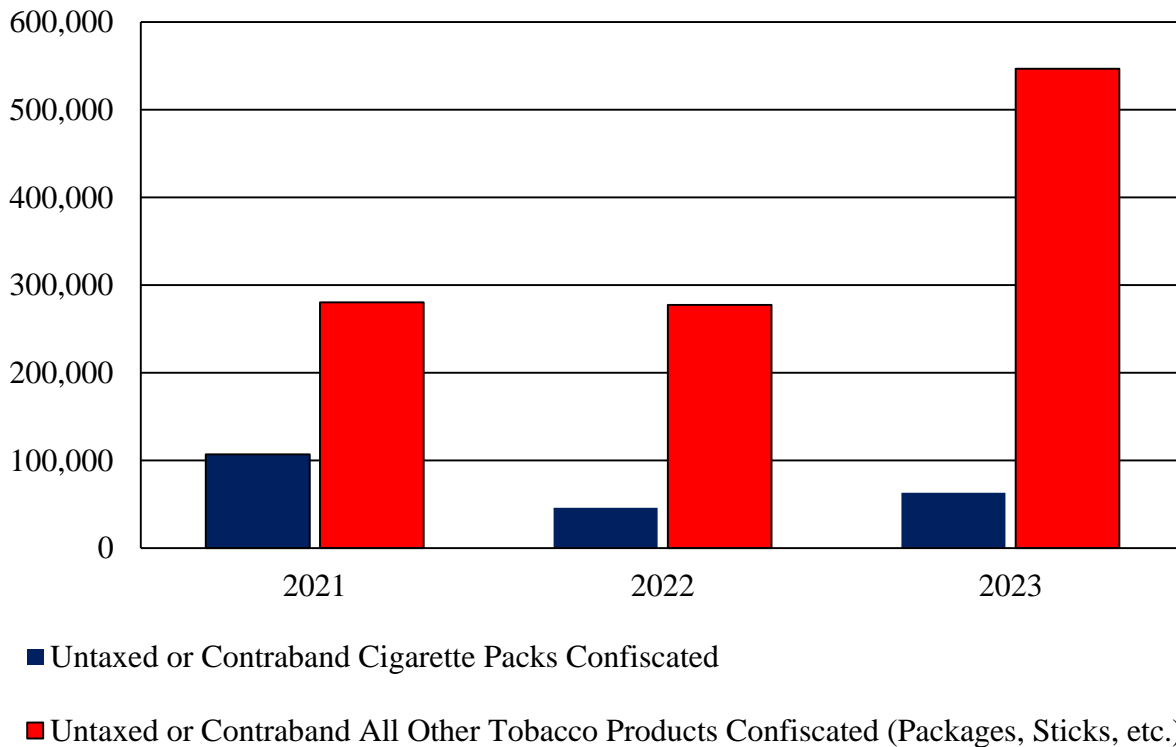


Source: Department of Budget and Management

2. Greater Number of Violations Found

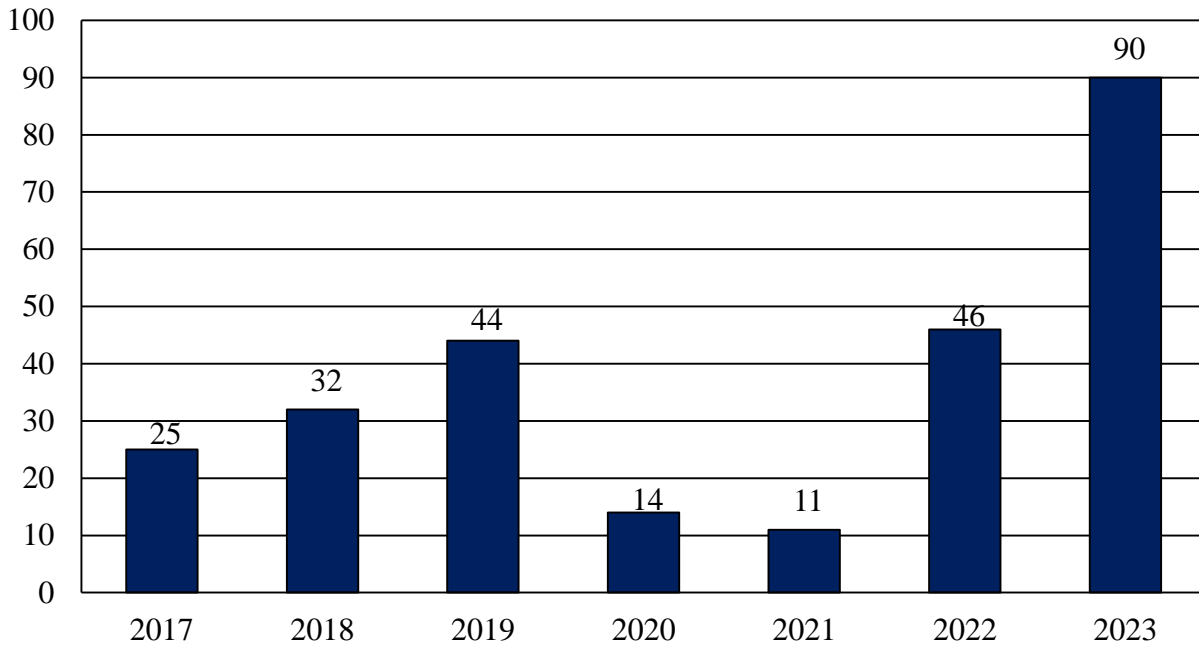
Along with a notable increase in the number of inspections carried out, ATCC reports significant increases in the number of violations found for both tobacco and alcohol products. As shown in **Exhibit 5**, although the number of contraband cigarette packs confiscated in fiscal 2023 (63,245) was lower than the level of fiscal 2021 (106,972), the level was 37% higher than fiscal 2022. After a 1% decrease in the number of other tobacco products confiscated from fiscal 2021 to 2022, these confiscations increased by 97% from fiscal 2022 to 2023. As shown in **Exhibit 6**, the number of alcohol violations found increased by 96% from the six-year high of 46 in fiscal 2022 to 90 in fiscal 2023. ATCC notes that the goal of inspections and identification of violations is for the purpose of reducing further violations. Therefore, ATCC anticipates that the number of violations found will decrease in future years as a result of successful deterrence and more voluntary compliance.

Exhibit 5
Untaxed or Contraband Cigarettes and Other Tobacco Products
Fiscal 2021-2023



Source: Department of Budget and Management

**Exhibit 6
Alcohol Violations
Fiscal 2017-2023**



Source: Department of Budget and Management

3. Cannabis-related Enforcement

As a result of Chapters 254 and 255 and the MOU with the new MCA, ATCC now carries out inspections of retail businesses selling cannabis products to identify violations of cannabis licensing and registration laws in Maryland. ATCC has added a Managing for Results (MFR) measure for the number of unlicensed cannabis inspections, with the first year of actual data to appear for fiscal 2024 in the fiscal 2026 MFR submission. The stated objective is to identify unlawful sales of intoxicating cannabis products occurring in the retail market, to seize all contraband products, and to charge offenders with violations of the law. Given that this necessitates the recordkeeping of cannabis violations, the reporting of cannabis violations in the MFR, similar to tobacco and alcohol violations, would be useful for the General Assembly and public as an indicator of the level of illegal cannabis sales taking place in the State.

DLS recommends adopting committee narrative requesting that ATCC include, beginning with the fiscal 2026 MFR submission, measures for the number of violations found in untaxed and unlicensed cannabis sales.

Operating Budget Recommended Actions

1. Adopt the following narrative:

Managing for Results (MFR) Measures for Cannabis Violations: As of fiscal 2024 and the Cannabis Reform Act (Chapters 254 and 255) of 2023, the Alcohol, Tobacco, and Cannabis Commission (ATCC) now carries out inspections of retail businesses selling cannabis products to identify violations of licensing and registration laws for cannabis business in Maryland. The existing MFR measures include indicators for the number of tobacco and alcohol retailer inspections and violations of law found by ATCC agents in the given fiscal year. While ATCC has added a MFR measure for the number of unlicensed cannabis inspections, no measures were added as indicators for violations found. The inclusion of such measures would be useful for the General Assembly and the public as one indicator of the level of illegal cannabis sale and use taking place in the State. The committees request that ATCC include additional measures related to enforcement, consistent with those reported for tobacco and alcohol, in the MFR submission with the fiscal 2026 budget.

Information Request	Author	Due Date
MFR measures for cannabis violations	ATCC	With submission of the fiscal 2026 budget

Appendix 1
Object/Fund Difference Report
Alcohol, Tobacco, and Cannabis Commission

<u>Object/Fund</u>	<u>FY 23</u> <u>Actual</u>	<u>FY 24</u> <u>Working</u> <u>Appropriation</u>	<u>FY 25</u> <u>Allowance</u>	<u>FY 24 - FY 25</u> <u>Amount Change</u>	<u>Percent</u> <u>Change</u>
Positions					
01 Regular	41.00	60.00	60.00	0.00	0%
02 Contractual	0.50	1.00	1.00	0.00	0%
Total Positions	41.50	61.00	61.00	0.00	0%
Objects					
01 Salaries and Wages	\$ 4,234,666	\$ 7,254,462	\$ 7,624,054	\$ 369,592	5.1%
02 Technical and Special Fees	17,356	57,566	55,259	-2,307	-4.0%
03 Communication	66,397	115,416	117,969	2,553	2.2%
04 Travel	2,661	15,700	15,700	0	0%
06 Fuel and Utilities	894	20,000	92,000	72,000	360.0%
07 Motor Vehicles	757,300	100,546	105,406	4,860	4.8%
08 Contractual Services	524,299	2,490,258	2,953,710	463,452	18.6%
09 Supplies and Materials	183,545	255,975	255,975	0	0%
10 Equipment – Replacement	1,399	28,000	28,000	0	0%
11 Equipment – Additional	119,566	94,246	94,246	0	0%
13 Fixed Charges	88,929	925	800,010	799,085	86387.6%
Total Objects	\$ 5,997,012	\$ 10,433,094	\$ 12,142,329	\$ 1,709,235	16.4%
Funds					
01 General Fund	\$ 5,997,012	\$ 7,298,474	\$ 9,231,184	\$ 1,932,710	26.5%
03 Special Fund	0	2,794,286	0	-2,794,286	-100.0%
09 Reimbursable Fund	0	340,334	2,911,145	2,570,811	755.4%
Total Funds	\$ 5,997,012	\$ 10,433,094	\$ 12,142,329	\$ 1,709,235	16.4%

Note: The fiscal 2024 appropriation does not include deficiencies. The fiscal 2025 allowance does not include statewide salary adjustments budgeted within the Department of Budget and Management.