



## Maryland Cannabis Omnibus: Legal, Regulated Sales HB 556 and SB 516 Detailed Summary

Twin bills HB 556 (sponsored by Delegates CT Wilson and Vanessa Atterbeary) and SB 516 (sponsored by Sens. Brian Feldman and Antonio Hayes) will legalize and regulate the sales of cannabis in Maryland to adults 21 and older. Simple possession and home cultivation by adults 21 and older were already legalized, effective July 1, 2023.

Starting on July 1, 2023, sales will begin exclusively from existing medical cannabis licenses who pay a conversion fee. Other licenses will begin being issued to social equity applicants in early 2024.

The House passed an amended version of HB 556 on March 10, 2023, in a 103-32 vote. On March 31, the Senate approved an amended version of SB 516 in a 32-13 vote. The two chambers worked out differences and approved harmonized versions of the bills on April 8, 2023. The bills now head to Governor Wes Moore's desk, who plans to sign them into law.

Here is a summary of the bills:

### Cannabis Regulatory Authorities

- Creates a standalone Maryland Cannabis Administration to regulate cannabis, which will work with a renamed "Alcohol, Tobacco, and Cannabis Commission" via a MOU.
- The Cannabis Administration's director will serve at the governor's pleasure and must have knowledge of the state cannabis industry and regulatory system.
- Staff from the medical cannabis commission will move to the administration.
- Renames Alcohol and Tobacco Commission the "Alcohol, Tobacco, and Cannabis Commission," and houses an Office of Social Equity within it. New members must have expertise in alcohol and cannabis.
- Creates a 23-member advisory board chaired by the director to make recommendations. Members will be Maryland registered voters and include 15 cannabis business licensees, a health or social equity researcher, a medical cannabis advocate, a practitioner who certifies patients for medical cannabis, and three members with experience in public health or health care, agriculture, finance, addiction treatment, and/or cannabis law, science or policy.
- The Cannabis Administration will:
  - adopt emergency regulations by July 1, 2023, including for security (including lighting, physical security, video, and alarm), package and labeling (including child resistant packaging), and health and safety standards.
  - adopt non-emergency regulations by July 1, 2024.
  - ensure regulations "to the extent practicable, regulate medical and adult-use cannabis in the same manner."
  - "set production, processing, sales, and other limitations and requirements for all license types."
  - conduct financial and criminal background investigations into applicants.
  - evaluate and grant or deny licenses and registrations.
  - inspect licensees.

- implement an inventory management and tracking system.
- establish a state cannabis testing laboratory — or, if it would be more efficient, enter an MOU with the Department of Agriculture or Department of Health — including to establish SOPs for independent testing labs, conduct proficiency testing on independent labs, conduct compliance testing on cannabis samples, and maintain a reference library for testing methodologies. It would also test seized contraband’s cannabis, alcohol, and tobacco in samples.
- license at least one independent testing laboratory
- report each year on the amount of cannabis cultivated and on if supply is adequate.
- As soon as possible, the ATCC and a Cannabis Administration are required to enter into an MOU to collaborate on enforcement regarding unlicensed cannabis operations.

## **Converting Existing Medical Cannabis Businesses**

- The Cannabis Administration must approve existing medical cannabis businesses to also serve adult consumers if they pay a conversion fee. If they chose not to pay the fee, they would be required to either stop operating, or they could sell/transfer their license to operators that would pay the fee and convert.
  - Fiscal year 2024 licensing fees are credited against conversion fees.
  - Up to the entire value of the conversion fee may be granted back to the dual use business as a Social Equity Partnership grant.
  - Existing medical cannabis businesses will be required to “reserve a specified amount of cannabis for social equity licensees.”
  - Existing medical cannabis dispensaries (but not the growers or processors who supply them) are required to ensure they have an adequate supply for patients.
  - Medical cannabis dispensaries that convert must set aside operating hours or dedicated service lines to serve only medical patients.
- For growers, processors, and dispensaries that were operational before October 1, 2022, the one-time conversion fees vary based on gross revenue in 2022.
  - Conversion fees for growers and processors are 10% of gross revenue in 2022.
  - Conversion fees for dispensaries are 8% of gross revenue.
  - Conversion fees cannot be lower than \$100,000 or higher than \$2 million.
  - Conversion fees can be paid in installments through January 1, 2025.
- Creates a formula for the amount by which cannabis businesses licensed by October 2022 may expand, which is intended to preserve canopy for new licensees. In most cases, allows their canopy to expand by 20% of their self-reported canopy as of December 1, 2022.
  - In some cases, the bill appears to allow existing cannabis businesses to exceed 300,000 square feet.
- For medical licensees that were pre-approved, but not operational, sets conversion fees at \$50,000 for growers or processors and \$25,000 for dispensaries.
- Labs, security companies, and waste disposal companies that are registered to serve medical cannabis will convert to also apply to adult-use cannabis.

## **Cannabis Business Licensing**

- The Cannabis Administration will license dispensaries, growers, processors, transporters, and on-site consumption facilities. All licenses apply to both adult-use and medical cannabis.
  - The Cannabis Administration will issue standard licenses, micro-licenses, and incubator space licenses.

- Some of the standard licenses must be reserved to enable micro licenses to expand.
- Licenses and renewals are valid for five years.
- Limits the total number of licenses, including medical conversions, that are allowed to:
  - Growers: 75 standard (up to 300,000 square feet of canopy indoors or 1.2 million square feet outdoors, except that some existing medical growers may be larger) and 100 micro-licenses (under 10,000 square feet indoors or under 40,000 square feet outdoors)
  - Processors: 100 standard and 100 micro-licenses (<1,000 pounds/year)
  - Dispensaries: 300 standard licenses, with storefronts
  - Delivery (called dispensaries, but they have no storefront and have 10 or fewer workers): 10 micro-licenses
  - 10 incubator spaces
  - 50 onsite consumption facilities
- Requires the regulator to:
  - “adopt minimum standards for licensed growers to protect the rights of the growers and employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment; and
  - prohibit unions from “engaging in picketing, work stoppages, boycotts, or any other economic interference with the operation of the licensed grower.”
- Requires growers to negotiate in good faith with employees and any union recognized by the regulator.
- Although there is a limited market demand study each year, does not ever allow licenses to exceed the above numbers, even in the event of shortages and prices that keep the illicit market active.
- The Cannabis Administration is directed to ensure balanced distribution of dispensary licenses based on geography, population, and “cross-jurisdictional market demand.”
- Applicants may not be required to possess or own property before applying.
- The Cannabis Administration sets minimum criteria for applicants, all of which must be social equity applicants in the first round. All that pass the threshold will be entered into a lottery. These applications will include a detailed operational plan, a business plan, and a detailed diversity plan.
- Security companies, waste disposal companies, and any other plant- or product-touching cannabis business will also have to register with the Cannabis Administration.
- Limits a person to having an ownership interest in or controlling one grower, one processor, four dispensaries (or delivery services), two incubator licenses, and two on-site consumption facilities.
- Applicants may only file two total applications, and one per license type, per round.
- Licenses can only be transferred if they apply and are approved by the Cannabis Administration. Transfers can only occur after at least five years of licensure, except in the case of the owner’s death or disability or due to a bankruptcy, receivership, or court order.
- Legislators cannot own, work at, or have an official relationship with cannabis businesses during their terms in office and for one year afterwards.
- Cannabis business staff must undergo responsible vendor trainings annually.
- At least 25% of the cannabis and cannabis products in each dispensary must be from social equity applicants and licensees that don’t have common ownership with the dispensary.

## Licensing Timeline and Numbers Per Round

- Sales from existing medical businesses begin on July 1, 2023. Delivery from medical

- dispensaries must stop on July 1, 2024.
- The first licenses for new applicants would be issued by January 1, 2024.
    - In the first round, the Cannabis Administration would license no more than the following number of licenses for social equity licensees:
      - 20 standard grows and 30 micro-grows.
      - 40 standard processors and 30 microprocessors
      - 80 standard dispensaries
      - 10 micro-dispensaries (which are delivery only); and
      - 10 incubators.
    - There is no minimum number of licenses that must be issued, only a maximum.
  - The second round licenses for new applicants, would be issued by May 1, 2024, after a diversity review or disparity study. The second licensing round would employ a lottery employing remedial measures that are consistent with the constitution if “a disparity study ... demonstrates a strong basis in evidence of business discrimination against firms owned by minorities and women” in Maryland's cannabis industry.
    - In the second licensing round, the Cannabis Administration would license no more than the following number of licenses:
      - 25 standard grow licenses and 70 micro-grows.
      - 25 standard processors and 70 microprocessors
      - 120 standard dispensaries
      - zero new micro-dispensaries (which appears to be delivery only)
      - 10 incubators; and
      - 15 on-site consumption facilities.
    - In the second round, micro-licenses will be limited to social equity applicants.
    - There is no minimum number of licenses that must be issued, only a maximum.
  - In subsequent rounds, licensing will be based on a market demand studies, but the total number of licenses issued can never exceed the caps established in the bill.
  - For each application period, the Cannabis Administration will give notice at least 60 days prior to accepting applications and then it will accept applications for at least 30 days.
  - Incubator licenses must be run by non-profits.

## Social Equity and Diversity

- As soon as possible after the law passes, the Cannabis Administration is directed to license five growers who are recognized class members in the *Pigford v. Glickman* or *In Re Black Farmers* case (Black farmers who the USDA discriminated against in farm loans) and who “have not been fully compensated for the discrimination they have endured and that they have experienced ongoing discrimination or the continued effects of past discrimination.”
- The Cannabis Administration is required to “conduct extensive outreach to small, minority, and women business owners and entrepreneurs who may have an interest in applying for a cannabis license” before accepting applications, and to connect potential social equity applicants with the Office of Social Equity.
- Between the first and second round of applications, the state Attorney General will evaluate whether the licenses are diverse, and whether there is the legal basis for remedial measures to assist minorities and women in the cannabis industry.
- Social equity applicants must either:
  - 1) hold a grower or processor licensee that was at stage one pre-approval before October 1, 2022, that was not operational then, or
  - 2) have 65% ownership and control by individuals who:

- lived in disproportionately impacted area for at least five of the prior 10 years,
- attended a public school in a disproportionately impacted area for at least five years,
- meet other criteria based on a disparity study, or
- attended a college or university in Maryland for at least two years where at least 40% of students are eligible for a Pell grant.
- \*Out-of-state social equity applicants must submit evidence that they meet the criteria before their application can be considered.
  - Every cannabis business must report on the number of minority and women owners and employees, and the owners' ownership interest.
  - New applicants — but not medical businesses that convert — must have a diversity plan that passes muster.
  - Creates a Capital Access Program to stimulate opportunities for social equity applicants and to establish low-cost loans. The loans will be no more than 10-years and will not exceed \$500,000 for dispensaries and \$1 million for growers and processors' loans.
  - Requires cannabis licensees to establish a clear plan for setting reasonable and appropriate minority business enterprise participation goals for procurement.

### **“Social Equity Partnership” Grants**

- Starting in fiscal year 2025, the governor will appropriate \$5 million per year for a grant program for approved “meaningful partnerships” whereby cannabis businesses (typically medical businesses that converted) provide social equity licensees mentorship, training, and/or shared space or equipment.
- The Office of Social Equity will develop rules and administer the program. It may approve the cannabis licensee charging social equity licensees' costs or fees if the charges are “substantially reduced” from market rate.
- The Office of Social Equity will award grants to operational licenses that have partnerships with social equity licenses.
- Grants each licensee can receive each year are capped at \$250,000 per partnership and may not exceed the conversion fee they paid.

### **Office of Social Equity**

- Creates an Office of Social Equity within the ATCC
  - The governor will appoint a director who must have at least five years of experience in civil rights advocacy, litigation, or another area of social justice. The office will have staff and contractors.
- The Office of Social Equity's duties include:
  - promoting the full participation in the legal, regulated cannabis industry from those most harmed by the War on Drugs.
  - consulting and assisting with administering the Community Reinvestment and Repair Fund, soliciting input on how to use the funds. (However, the bills specify the formula for dispensing funds, which go directly to counties based on residents' past cannabis possession charges, so the office's role appears limited to a ministerial role of working with the AG to identify the proportion of possession charges by each county's residents.)
  - producing reports on how the funds were used, and on community input.
  - identifying and opposing regulations that unnecessarily burden or undermine the legislative intent, including those imposing undue restrictions or financial requirements.
  - making recommendations to the commission on regulations related to diversity and social

- equity applications.
- working with the Cannabis Administration to implement free technical assistance for social equity and minority cannabis business applicants.
- producing reports and recommendations on diversity and equity in ownership, management, and employment in the legal cannabis economy
- assisting businesses with obtaining financing through Maryland’s Capital Access Program.
- consulting and assisting the Department of Commerce with administering the Cannabis Business Assistance Fund.
- The Office of Social Equity has no authority in determining how many licenses will be issued in any of the licensing rounds.

## **On-Site Consumption**

- On-site consumption businesses are only allowed if expressly permitted and licensed by their locality. They must be restricted to adults 21 and older.
- Vaping and is allowed unless the municipality that authorizes the business does not allow it. Smoking is prohibited indoors but is allowed in outdoor areas like patios.
- On-site licensees cannot make cannabis-infused preparations or products themselves.
- On-site licensees cannot serve or allow the consumption of alcohol or tobacco products. They cannot receive licenses to prepare food onsite.
- Businesses that sell baked goods as at least half of their daily receipts can apply for on-site licenses.
- On-site licensees must require staff to complete a responsible vendor training program. They also must provide informational materials developed by the Cannabis Public Health Advisory Council on the safe consumption of cannabis.

## **Local Control**

- Localities may establish reasonable zoning requirements.
- They may not impose “fees or requirements on a cannabis licensee that are disproportionately greater or more burdensome than those imposed on other businesses with a similar impact.”
- Localities cannot prohibit transportation or deliveries through them.
- Political subdivisions and special taxing districts may not “impose a tax on cannabis.”
- On-site facilities could only operate if it is expressly allowed by the locality, and if the business has a local permit or license to do so.

## **Fees**

- The Cannabis Administration will charge application fees of \$1,000 for micro-licenses and \$5,000 for all other business types.
- The Cannabis Administration will set licensing and renewal fees, which last for five years, and cannot exceed 10% of the business’ annual revenue or \$50,000.
- The Cannabis Administration may also charge registration and other fees to defray administrative costs, which would go to the Cannabis Regulation and Enforcement Fund.
- Licensing and renewal fees must be reduced by at least 50% for social equity licenses, micro licenses, incubator spaces, and on-site consumption.

## **Tax Rate**



- Imposes a 9% retail tax, which is one of the lowest cannabis tax rate in the nation.

## Revenue

- In addition to covering costs of operations and administrative expenses, the revenue will be distributed as follows:
  - 35% to the Community Reinvestment and Repair Fund, until fiscal year 2033, at which point the allocation stops.
  - 5% to the Cannabis Business Assistance Fund until 2028, at which point the allocation stops.
  - 5% to counties, based on the percent of cannabis revenue generated from them; the counties in turn must allocate to municipalities within them half of the allocation attributable to sales generated within that municipality;
  - 5% to the Cannabis Public Health Fund; and
  - the remainder to the General Fund.

## Community Reinvestment and Repair Fund

- Revises language enacted in 2022 slightly.
- Provides that the Comptroller shall distribute the funds to each county proportionate to arrests in that county for a cannabis crime the 20.5 years prior to January 1, 2023, compared to total individuals arrested for cannabis in the state.
- Each county will enact a law on how to use the funds. Funds may only be used to fund administrative expenses and community-based initiatives that are either intended to benefit low-income communities or that serves an area identified by the office of social equity as a disproportionately impacted area. They may not be used to fund law enforcement. Defines a disproportionately impacted area as areas that “had above 150% of the state’s 10-year average for cannabis possession charges.”
- Allocates dual-use conversion fees to the fund.

## Specific Regulations

- Cannabis advertising cannot include false or misleading statements, include designs that are attractive to minors (including cartoon characters), display cannabis use, promote cannabis use as an intoxicant, or be obscene. Ads cannot directly or indirectly target individuals under 21. Cannabis-related webpages must include online age screening.
- Mandates warnings about impaired driving and the potential risks of cannabis, including around pregnancy and breastfeeding. Ingredients, allergens, cannabinoids, and terpenes must also be listed. Packaging cannot include images of fruit, candy, cereal or baked goods; resemble trademarked products, or have images designed or likely to appeal to minors.
- Electronic or print ads must be limited to where 85% or more of the viewers are 21 or older.
- Billboards and other outdoors signs are prohibited.
- Cannabis workers must register with the Cannabis Administration, be at least 21, and undergo a criminal records check. They cannot be rejected for a pre-July 2023 cannabis conviction.
- Anyone wishing to hold a 5% or greater ownership interest in a cannabis business must apply to the department and undergo a criminal records check.
- Workers and investors must not have a conviction for a crime involving moral turpitude.
- Unless a municipality reduces the buffer, dispensaries cannot be within 1,000 feet of one another or 500 feet of a pre-existing primary or secondary school in the state, a licensed

childcare center or registered family childcare home, or a playground, recreation center, library, or public park. The restriction does not apply to dispensaries that were properly zoned before July 1, 2023, or that had stage one preapproval before October 1, 2022, but were not operational by then.

- Requires the Cannabis Administration to establish potency standards on cannabis products.
- Adult-use direct-to-consumer internet sales are not allowed before July 1, 2025.
- Regulators would craft rules for internet sales.
- Dispensaries may repackaging cannabis if they abide by health and safety regulations.

## **Medical Cannabis**

- Allows patients who are 21 or older to grow four cannabis plants (compared to two allowed for other adults), with a four plant per household cap.

- Patients would be allowed to possess up to 120 grams (just over 4 ounces) of cannabis or 36 grams of THC in infused products.
- Caregivers must purchase cannabis for patients under 18. Patients 18 and older could purchase cannabis themselves.
- A Compassionate Use Fund would provide cannabis at a reduced cost to low-income patients, including veterans. The Cannabis Administration could impose fees on medical cannabis businesses for this fund starting in mid-2025.
- Medical businesses can continue deliveries until July 1, 2024.

## **Cannabis Research and Development**

- Allows universities, colleges, and affiliated medical and biomedical research facilities to register to purchase cannabis from dispensaries for research, including on the efficacy and safety of medical cannabis and genomic research.

## **Prohibits Synthetically Produced Cannabinoids**

- In most cases, no one could sell a product with more than 2.5 milligrams of THC per package, and 0.5 grams per serving, unless they are licensed as a cannabis business and comply with regulations on packaging, labeling, and testing.
  - Creates an exception for hemp-derived tinctures with a 15:1 or greater CBD:THC ratio and no more than 2.5 mg of THC (whether it's delta 8, 9, or 10) per serving and 100 mg per bottle. Those selling hemp-derived tinctures must provide samples for testing for potency and contaminants.
- Prohibits the sale and distribution of "a cannabinoid product that is not derived from naturally occurring biologically active chemical constituents."

## **Miscellaneous**

- Prohibits the Cannabis Administration from penalizing banks and similar institutions for serving cannabis businesses.
- Provides that the Cannabis Business Assistance fund shall prioritize grants to assist social equity licensees with start-up and capital funding needs. Existing law also prioritizes those with past



cannabis convictions and populations that were disproportionately impacted by cannabis enforcement.

- Prohibits the state from cooperating with federal law enforcement in attempts to prosecute financial institutions that serve cannabis businesses.

### **Additional Study**

- Requires reports to be created and released in 2024:
  - The Cannabis Administration must report on micro dispensaries' ability to safely and securely dispense cannabis.
  - The Maryland Economic Development Corporation must identify spaces for incubators in specific counties and areas in the state, including their square footage and costs for renovation.
  - As soon as practicable after the law passes, the Cannabis Administration will contract with a consultant for a study of wholesale cannabis, including regulatory costs, if there's a need for wholesale licenses to facilitate an equitable marketplace, and the appropriate number of licenses.
  - Requires a study of on-site consumption at retail premises of cannabis licenses, including a survey of other jurisdictions' regulations, authorizations and restrictions, training requirements for staff, recommendations for policies and legislative changes.