

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 857

(Senator Zirkin)

Judicial Proceedings

Health and Government Operations

Natalie M. LaPrade Medical Cannabis Commission – Edible Cannabis Products

This bill requires the Natalie M. LaPrade Medical Cannabis Commission to allow a licensed medical cannabis dispensary (or a registered dispensary agent) to acquire, possess, transfer, transport, sell, distribute, or dispense “edible cannabis products” (as defined by the bill) for use by a qualifying patient or caregiver. The commission must also allow a licensed processor (or a registered processor agent) to (1) acquire, possess, process, package, label, transfer, transport, sell, and distribute to a dispensary edible cannabis products and (2) transport edible cannabis products to an independent testing laboratory. The commission, in consultation with the Maryland Department of Health (MDH), must adopt implementing regulations. The bill clarifies that a licensed dispensary cannot process medical cannabis products.

Fiscal Summary

State Effect: Special fund expenditures increase by \$229,800 in FY 2020 for staff and training; out-years reflect ongoing staff costs. Revenues are not assumed to be affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	229,800	267,800	276,800	286,200	296,000
Net Effect	(\$229,800)	(\$267,800)	(\$276,800)	(\$286,200)	(\$296,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Edible cannabis product” means a medical cannabis product intended for human consumption by oral ingestion, in whole or in part, and includes medical cannabis products that dissolve or disintegrate in the mouth. “Edible cannabis product” does not include any (1) medical cannabis concentrate or (2) medical cannabis-infused product, including an oil, wax, ointment, salve, tincture, capsule, suppository, dermal patch, cartridge, chewable or dissolvable gelatinous cube, or any other product containing medical cannabis concentrate or usable cannabis that has been processed so that dried leaves and flowers are integrated into other material.

The commission, in consultation with MDH, must adopt regulations (1) to require a dispensary and a processor to meet any additional requirements that the commission determines necessary, including requiring a permit, for the dispensing or processing of edible cannabis products, respectively and (2) regarding the packaging, labeling, marketing, and appearance of edible cannabis products to ensure the safety of minors.

Current Law/Background: The Natalie M. LaPrade Medical Cannabis Commission is responsible for implementation of the State’s medical cannabis program. The program allows for the licensure of growers, processors, and dispensaries and the registration of their agents, as well as registration of independent testing laboratories and their agents. There is a framework to certify health care providers (including physicians, dentists, podiatrists, nurse practitioners, and nurse midwives), qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification. Additionally, recent legislation extended legal protections to third-party vendors authorized by the commission to test, transport, or dispose of medical cannabis, medical cannabis products, and medical cannabis waste. In December 2018, the commission proposed regulations that require registration of secure transportation companies and address the shipment of products between licensees.

Statute defines a “dispensary” as an entity that acquires, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers cannabis, products containing cannabis, related supplies, related products containing cannabis including food, tinctures, aerosols, oils, or ointments, or educational materials for use by a qualifying patient or caregiver. The definition of a licensed “dispensary” in Maryland regulations is similar; however, it also includes an entity that repackages products containing medical cannabis, and it does not include “food” in the description of related products.

Maryland regulations define “medical cannabis-infused product” to mean oil, wax, ointment, salve, tincture, capsule, suppository, dermal patch, cartridge, or other product containing medical cannabis concentrate or usable cannabis that has been processed so that

the dried leaves and flowers are integrated into other material. “Medical cannabis-infused product” does not include food.

Although both the statutory and regulatory definitions of “dispensary” include processing products containing cannabis, the commission advises that, in practice, processing medical cannabis is outside the scope of licensed dispensaries, and dispensaries in the State are not authorized to process medical cannabis, which includes the manufacture of a medical-cannabis infused product.

Statute defines a “processor” as an entity that (1) transforms medical cannabis into another product or extract and (2) packages and labels medical cannabis.

Broadly speaking, statute establishes a cap of 28 on the number of processor licenses and a cap of 22 on the number of grower licenses the commission can issue. Regulations limit the number of dispensary licenses the commission can issue to 2 per senatorial district, or 94 statewide. However, in 2015, the commission authorized growers to apply for a dispensary license. At the time, 8 growers applied for and received pre-approval for a dispensary license. As of January 9, 2019, the commission had issued 15 final and 3 pre-approved grower licenses; 16 final and 2 pre-approved processor licenses; and 71 final and 31 pre-approved dispensary licenses. Additionally, the commission has registered 5 independent testing laboratories. The commission maintains a list of licensees on its [website](#). The commission anticipates that all 130 possible processor and dispensary licenses will be awarded and operational by the end of fiscal 2020.

State Fiscal Effect: Special fund expenditures for the commission increase by \$229,759 in fiscal 2020, which accounts for the bill’s October 1, 2019 effective date. This estimate reflects the cost of hiring two full-time permanent environmental health specialists and one permanent full-time director of food safety to oversee the expansion of edible cannabis products, establish standard operating procedures, conduct inspections, assist commissioners with enforcement, develop regulations, and provide guidance. It includes salaries, fringe benefits, one-time start-up costs (including travel and training), and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below.

- The commission does not currently have any staff trained in food safety or sanitation and needs to conduct stability studies on edible cannabis products.
- The commission is responsible for ensuring that edible cannabis products are properly labeled and dosages are clear to consumers and safe for use.

Positions	3.0
Salaries and Fringe Benefits	\$199,683
Training and Associated Travel	14,000
Other Operating Expenses	<u>16,076</u>
Total FY 2020 State Expenditures	\$229,759

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Since it is unknown whether the commission will determine if it is necessary to issue permits to processors or dispensaries relating to edible cannabis products, this analysis does not reflect any potential revenues or expenditures related to permits.

Small Business Effect: While there may be costs associated with retrofitting or building a facility to meet any applicable regulations regarding production of edible cannabis products, according to the commission, edible cannabis products are an extremely popular form of ingestion and represent a large market share in other jurisdictions that regulate medical cannabis. Thus, Maryland licensees can expect potentially significant increased sales from edible cannabis products.

Additional Information

Prior Introductions: None.

Cross File: HB 17 (Delegate Glenn) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2019
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