

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 453 (Delegate D. Barnes)
Health and Government Operations

Health - Medical Cannabis Reauthorization Act

This bill (1) repeals the statutory caps on the number of grower and processor licenses that the Natalie M. LaPrade Medical Cannabis Commission is authorized to issue; (2) establishes new requirements for the commission’s application review and evaluation process for medical cannabis grower and processor licenses, including establishing new timeframes for review and required inspections; and (3) requires the commission, in 2030, to conduct a study on the number of grower and processor licenses necessary to meet the demand for medical cannabis and report its findings to the General Assembly.

Fiscal Summary

State Effect: Significant increase in commission special fund revenues in any year in which the commission *chooses* to issue additional grower or processor licenses from application fees, beginning as early as FY 2022, and annually thereafter from annual license fees. Corresponding significant increase in commission special fund expenditures to review and evaluate additional applications and conduct inspections within the required timeframes.

Local Effect: The bill does not materially affect local finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The commission must establish an application review process for granting medical cannabis grower and processor licenses in which applications are reviewed and evaluated on a first-come, first-served basis, based on criteria established by the commission. The commission must grant or deny an application for Stage One preapproval

within 60 days of receiving the application. An applicant that has received Stage One preapproval must request the commission to conduct any necessary inspections within one year of receiving preapproval, and the commission must conduct any necessary inspections within 30 days of a request for an inspection. On a case-by-case basis, the commission may grant an extension of the one-year timeframe for an applicant who has received Stage One preapproval to request any necessary inspections.

Current Law:

Natalie M. LaPrade Medical Cannabis Commission

The Natalie M. LaPrade Medical Cannabis Commission is responsible for implementation of the State's medical cannabis program, which is intended to make medical cannabis available to qualifying patients in a safe and effective manner. 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, nurse midwives, and physician assistants), qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification. Additionally, there are legal protections for third-party vendors authorized by the commission to test, transport, or dispose of medical cannabis, medical cannabis products, and medical cannabis waste.

Statute limits the number of grower and processor licenses the commission can issue, and regulations establish a limit on the number of dispensary licenses. Specifically, the commission can issue 22 grower, 28 processor, and 102 dispensary licenses. Beginning December 1, 2024, the commission is authorized to report to the General Assembly on the number of licensed growers, processors, and dispensaries that are necessary to meet demand. Prior to submitting the report, the commission must provide the Legislative Policy Committee at least 30 days to submit comments to the commission.

The commission is required to establish an application review process for granting grower and processor licenses in which applications are reviewed, evaluated, *and ranked*, based on criteria established by the commission.

Fee Schedule

The commission is authorized to set fees to cover its operating costs; these fees were established by regulations promulgated in September 2015. **Exhibit 1** shows the current application and licensing fees by license type.

Exhibit 1
Application and License Fees by License Type

	<u>Application Fee</u>	<u>Stage One License Fee</u>	<u>Stage Two License Fee</u>	<u>Annual License Fee</u>
Grower	\$6,000	\$2,000	\$4,000	\$125,000
Grower – Dispensary	11,000	3,000	8,000	165,000
Processor	6,000	2,000	4,000	40,000
Dispensary	5,000	1,000	4,000	40,000

Note: The application fee is paid in two phases, shown above as the Stage One license fee and Stage Two license fee.

Source: Code of Maryland Regulations; Department of Legislative Services

State Revenues: Special fund revenues increase significantly in any year in which the commission *chooses* to issue additional licenses, beginning as early as fiscal 2022 from application fees, and in out-years from application and annual licensing fees, from the issuance of additional grower and processor licenses under the bill. The commission advises that it plans to maintain its current fee schedule under the bill.

For illustrative purposes only, if 200 applicants were to apply for a grower license and the commission were to issue 20 more grower licenses, special fund revenues attributable to growers would increase by \$400,000 in the first year (200 applicants paying the \$2,000 Stage One application fee); \$2.6 million in the second year (20 applicants paying the \$4,000 Stage Two application fee, and 20 growers paying the \$125,000 annual licensing fee); and \$2.5 million annually thereafter (20 growers paying the annual license fee).

Similarly, if 200 applicants were to apply for a processor license and the commission were to issue 20 more processor licenses, special fund revenues attributable to processors would increase by \$400,000 in the first year (200 applicants paying the \$2,000 Stage One application fee); \$880,000 in the second year (20 applicants paying the \$4,000 Stage Two application fee, and 20 processors paying the \$40,000 annual licensing fee); and \$800,000 annually thereafter (20 processors paying the annual license fee).

Cumulatively, this illustrative example would result in an increase of \$800,000 in the first year the commission issues additional licenses under the bill and increases of \$3.5 million in the second year and \$3.3 million annually thereafter. This example assumes it takes approximately one year for applicants to finalize their licenses.

This illustrative example does not reflect any special fund revenues attributable to grower or processor agents as the Department of Legislative Services (DLS) does not have a reliable estimate for the number of agents hired by each licensee. Growers and processors pay a \$200 registration fee for each agent.

DLS notes that interested parties could begin immediately applying for a processor or grower license under the bill, and the commission would be required to review and evaluate the application and then either grant or deny the application within 60 days. Thus, special fund revenues may increase from application fees even in years in which the commission is not actually planning to issue additional licenses. DLS also notes that this analysis assumes that the current law cap on grower and processor licenses would not have otherwise been increased. Under current law, the commission is not authorized to report to the General Assembly on the number of grower and processor licenses required to meet demand until December 1, 2024.

State Expenditures: The bill removes the cap on the number of grower and processor licenses that the commission may issue, and it requires the commission to review and evaluate processor and grower applications on a first-come, first-served basis. The commission must grant or deny an application for Stage One preapproval within 60 days of receiving the application. However, the bill does not require the commission to *issue* additional licenses. Thus, special fund expenditures for the commission increase in any year in which the commission chooses to issue licenses, beginning as early as fiscal 2022. Since the commission is no longer authorized to collect and rank applications under the bill, it is likely that administrative costs to issue licenses are lower than in previous licensing cycles. Ultimately, the costs to issue licenses depends on the criteria the commission uses to evaluate applications and how many licenses the commission chooses to issue. This analysis assumes that the commission may simply deny applications (at no or minimal cost) received during any period in which it is not planning to issue additional licenses.

Small Business Effect: Small businesses may become licensed as growers and/or processors, which gives increased access to the medical cannabis market since individual grower and processor licenses are capped under current law. However, any small business growers and processors already licensed may be negatively affected due to the additional competition for market share. It is unknown whether any applicants under the bill, or currently licensed growers and processors, would be or are small businesses.

Additional Information

Prior Introductions: HB 1449 of 2020 received a hearing in the House Health and Government Operations Committee, but no further action was taken. Its cross file, SB 1012, was referred to the Senate Rules Committee, but no further action was taken.

Designated Cross File: None.

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

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