

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1342
Judiciary

(Delegate Acevero)

Cannabis - Legalization and Regulation (Cannabis Legalization and Equity Act)

This bill generally legalizes marijuana (which is renamed cannabis) for individuals at least age 21. Among other things, the bill (1) establishes a regulatory and taxation framework for cannabis establishments within the Maryland Department of Labor (MDL); (2) authorizes a local regulatory framework subject to specified limitations; and (3) establishes a process for dismissal of or postconviction relief for marijuana-related offenses and expungement of the dispositions of marijuana-related charges.

Fiscal Summary

State Effect: Special fund revenues increase significantly beginning in FY 2023 from taxes and civil penalties for noncompliance. Special fund revenues increase further beginning in FY 2024 from application and registration fees. General fund revenues increase significantly beginning in FY 2024 from a required distribution from the Cannabis Regulation Fund; however, general fund revenues decrease from fewer fines for cannabis-related offenses in the District Court. Special fund revenues for the Maryland Department of Health (MDH) increase beginning in FY 2023 from drug awareness program fees. Special fund revenues for MDH also decrease beginning in FY 2023 due to the reduced application of marijuana civil citation fines and medical cannabis patients shifting to the adult-use market and, in FY 2024, from medical licensees shifting to the adult-use market. General/special fund expenditures increase significantly in FY 2023 for multiple agencies to implement the bill; future year expenditures are assumed to be covered with special funds. General fund expenditures decrease minimally from fewer incarcerations and supervisions for cannabis-related offenses. Other effects are described below.

Local Effect: Potential significant increase in local revenues and expenditures, as discussed below.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Among other things, the bill (1) renames marijuana as “cannabis”; (2) generally legalizes a “personal use amount” of cannabis for individuals at least age 21; (3) requires expungement in specified circumstances and authorizes dismissal or commutation of sentences in other specified circumstances for marijuana-related offenses; (4) requires the Attorney General to zealously and in good faith advocate to quash any federal subpoena for records involving cannabis establishments; (5) requires MDL, in consultation with the Maryland Department of Agriculture (MDA), to adopt regulations to implement the bill; (6) establishes a licensing framework; (7) authorizes a “locality” to establish its own ordinances, issue registrations, and set fees, with specified limitations; (8) establishes the Cannabis Regulation Fund, a special fund consisting of specified fees and taxes, administered by MDL and distributed as specified; and (9) establishes an excise tax applicable to the legal cannabis industry.

Cannabis – Definition

The bill repeals the definition of “marijuana” and replaces the term marijuana with “cannabis,” and makes conforming changes to reflect this change in terminology. “Cannabis” means all parts of the plant of the genus cannabis, the seeds of the plant of the genus cannabis, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including cannabis concentrate and hashish. “Cannabis” does not include industrial hemp, fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

Lawful Acts – Generally

Generally, actions related to cannabis are lawful in the State, as long as they are in accordance with the bill. Specifically, individuals who are at least age 21 may:

- possess outside the individual’s own premises up to 224 grams of cannabis;
- possess, grow, process, or transport on the individual’s own premises up to 24 mature cannabis plants and possession of the cannabis produced by the plants on the premises where the plants were grown;
- possess, consume, use, display, purchase, or transport cannabis accessories;
- assist an individual who is at least age 21 with specified lawful actions related to cannabis; or
- manufacture, possess, purchase, distribute, or sell cannabis accessories to an individual who is at least age 21.

“Personal use amount” means (1) an amount of cannabis that does not exceed 224 grams or (2) 24 or fewer mature cannabis plants and the cannabis produced by those plants on the premises where the plants are grown.

Civil and Criminal Penalties

The bill repeals and alters several existing penalty provisions applicable to the illegal use of marijuana. **Exhibit 1** contains information on the maximum penalties established by the bill for the possession of more than the personal use amount of cannabis by individuals at least age 21 and possession of cannabis by individuals who are underage (at least age 18, but younger than age 21).

Exhibit 1
Civil and Criminal Penalties for Possession of Cannabis under the Bill

<u>Offense</u>	<u>Offense Type</u>	<u>Penalty</u>
Possession of more than the personal use amount by an individual at least age 21	Civil	Fine of at least \$100, but not more than \$200
Possession of up to the personal use amount by an underage individual	Civil	Completion of up to four hours of a drug awareness program*
Possession of more than the personal use amount by an underage individual	Civil	Fine of at least \$100, but not more than \$200

* The Maryland Department of Health must establish the drug awareness program and must set fees for the program sufficient to cover the costs to administer the program, but not more than \$300.

Source: Department of Legislative Services

An underage offender who is found guilty of possession of cannabis up to the personal use amount and fails to complete the drug awareness program within one year is guilty of a civil offense punishable by a maximum penalty of a \$300 fine and/or 40 hours of community service. A person under age 21 may not prepay the fine and must be summoned for trial.

The parents or legal guardian of a minor who is found to have committed a violation of possessing up to the personal use amount of cannabis must be notified of the violation and the requirement that the minor complete a drug awareness program.

Cannabis Cultivation: A person who cultivates cannabis must only cultivate cannabis on property the cultivator lawfully possesses or with the consent of the property's lawful possessor. An underage person may not cultivate cannabis. A person may not cultivate more than 24 cannabis plants. A person who violates these provisions is guilty of a civil offense and subject to a maximum penalty of a \$750 fine. A person at least age 21 may prepay the fine, while an underage person must be summoned for trial.

Cannabis – Obtaining for or Furnishing Underage Consumption: As under current law for alcoholic beverages, an individual may not (1) knowingly and willfully make a misrepresentation or false statement of age to obtain cannabis; (2) obtain or attempt to obtain cannabis for consumption by an underage individual; or (3) furnish cannabis or allow consumption of cannabis by an underage individual, with the existing limited exceptions for immediate family members and religious ceremonies. Penalties are as specified under current law for such offenses related to alcoholic beverages.

Marijuana Paraphernalia Repeal: The definition of “drug paraphernalia” is altered to specifically exclude cannabis from the specified items that, when used with other controlled dangerous substances (CDS), constitute paraphernalia. “Cannabis accessories,” as defined under the bill, are also excluded from the definition of “drug paraphernalia.” As such, the bill repeals the penalty provisions for possession of drug paraphernalia related to the use or possession of marijuana (a maximum penalty of imprisonment for one year and/or a \$1,000 fine under current law). The bill also repeals the list of drug paraphernalia examples that can be used to ingest or inhale a CDS into the human body.

Applications for Dismissal of Pending Charges and Postconviction Proceedings

Automatic Expungement: “Automatic expungement” means an expungement without the filing of a petition or payment of a fee by the person who is the subject of the records to be expunged. All court and police records related to any disposition of a charge for possession of cannabis that did not exceed the personal use amount entered before October 1, 2022, must be automatically expunged. Cases where possession of cannabis is the only charge must be expunged by October 1, 2023, while cases where the charge for possession of cannabis involves one or more other crimes must be by October 1, 2024. Automatic expungements do not apply to cases involving a crime of violence. Automatic expungements also apply to dispositions entered on or after the bill's effective date for (1) criminal charges of possession involving an amount of cannabis that does not exceed the personal use amount; (2) civil charges for possession of cannabis; and (3) civil charges for cultivation of cannabis plants. Such ongoing automatic expungements must be initiated

within one year of the disposition and completed within one year and 90 days of the disposition.

Application for Dismissal of Pending Charges: A person with one or more charges (relating to use, possession, distribution, or cultivation of cannabis) pending on October 1, 2022, may apply to the relevant State's Attorney for dismissal of the charges. After review of the person's criminal record, the State's Attorney may dismiss the charge(s).

Expedited Petitions for Commutation of Sentence: With the exception of a case involving a conviction for a crime of violence, a person who is incarcerated or under parole, probation, or mandatory supervision on or after October 1, 2022, for an offense involving the use, possession, distribution, or cultivation of cannabis or a person who is incarcerated after having violated the terms of the person's parole, probation, or mandatory supervision due to testing positive for cannabis, may file an expedited petition (as specified) for commutation of the person's sentence with the Maryland Parole Commission (MPC). Upon receipt, MPC must give notice to the relevant State's Attorney and decide on the petition within 30 days. If MPC finds that public safety will not be jeopardized by the release of a petitioner, MPC must recommend release of the petitioner to the Governor. If the Governor either denies the MPC recommendation or fails to issue a decision within 60 days, a petitioner may appeal the matter to the appropriate circuit court. The court must order the release of the petitioner from incarceration upon a determination that it is in the interest of justice to do so.

Maryland Department of Labor

By April 1, 2023, MDL, in consultation with MDA, must adopt regulations to implement the bill's provisions, including, but not limited to:

- procedures for the issuance, renewal, suspension, and revocation of a registration to operate a cannabis establishment;
- a schedule of reasonable application, registration, and renewal fees, including a \$5,000 cap on application fees adjusted annually for inflation (unless a greater fee is necessary to carry out the bill's responsibilities);
- qualifications for registration;
- security requirements;
- requirements to prevent cannabis sales or diversion to underage individuals;
- health and safety rules and standards for the manufacture of cannabis products and the cultivation of cannabis;
- restrictions on the advertising and display of cannabis and cannabis products;

- prohibitions against requiring (1) a consumer to provide personal information other than government-issued identification to determine the consumer’s age and (2) a retail cannabis store to acquire and record personal information about consumers; and
- civil violations for failure to comply with adopted regulations.

The regulations may not prohibit the operation of cannabis establishments, either expressly or by being drafted in such a way that compliance requires a high investment of risk, money, time, or any other resource or asset that would result in the operation of a cannabis establishment being considered not worthy of being carried out by a reasonably prudent businessperson.

Local Regulations

A “locality” – defined in the bill as a county, a municipal corporation, or another political subdivision of the State – may (1) prohibit the operation of any or all types of cannabis establishments within its jurisdiction through the enactment of an ordinance or an initiated or referred measure on a general election ballot; (2) enact ordinances or regulations that do not conflict with the bill or adopted regulations to govern the time, place, manner, and number of cannabis establishments (violations may be punished as a civil offenses); (3) establish a schedule of annual operating, registration, and application fees for cannabis establishments; and (4) create a license for or prohibit on-site consumption of cannabis. A locality may not regulate the possession, sale, transfer, or cultivation of cannabis in a manner that is less restrictive than under State law.

Licensing

Each application or renewal application for a registration to operate a “cannabis establishment” must be submitted to MDL. “Cannabis establishment” means a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a retail cannabis store.

Applications and Renewal Applications: On October 1, 2023, MDL must begin accepting and processing applications to operate a cannabis establishment. Upon receipt of an application or renewal application, MDL must forward a copy of the application and half of the application fee to the appropriate local regulatory authority. Within 90 days of receiving an application or renewal application, MDL must issue an annual registration unless (1) MDL finds the applicant is not in compliance with specified regulations or (2) the relevant locality notifies MDL that the applicant is not in compliance with local ordinances and rules. On the denial of an application, MDL must notify the applicant in writing of the specific reason for its denial.

Each cannabis establishment, including its books and records, is subject to inspection by MDL. Each cannabis cultivation facility, retail cannabis store, and on-site consumption facility must reinvest at least 10% of its net income in its “local community” (defined as the area located within a 5-mile radius or, if certain population standards are met, within a 1-mile radius of the cannabis establishment’s location).

If a locality establishes a limit on the number of cannabis establishments and a greater number of applicants seek registration, MDL must solicit and consider input from the local regulatory authority as to the locality’s preference(s) for registration.

Medical Cannabis Licensees in the Adult-Use Market: Until MDL adopts regulations for the issuance of licenses to cannabis cultivation facilities and retail cannabis stores, a medical cannabis grower or medical cannabis dispensary licensed by the Natalie M. LaPrade Medical Cannabis Commission (MMCC) is considered to also be a licensed cannabis cultivation facility or retail cannabis store. However, once MDL adopts the specified regulations, the MMCC licensee must obtain a license from MDL pursuant to adopted regulations and the bill.

Community Disproportionately Harmed by The War on Drugs: At least 51% of the licenses that MDL issues for cannabis cultivation facilities and retail cannabis stores must be in a “community disproportionately harmed by the war on drugs” (which means a census tract or tracts in which a majority of the population is (1) Black or African American; (2) American Indian or Alaska Native; or (3) Hispanic or Latino). MDL may not deny a license to operate a cannabis cultivation facility or retail cannabis store located as specified because the applicant has previously been convicted of a misdemeanor or felony relating to CDS.

Local Regulatory Authority: A locality may designate a local regulatory authority responsible for processing applications for a registration to operate as a cannabis establishment within the boundaries of the locality. A local regulatory authority (if authorized by the locality) may issue annual registrations upon receipt of an application directly submitted to the local regulatory authority by the applicant if MDL:

- does not issue a registration within 90 days after receipt of the application and does not notify the applicant of the specific reason for denial within the applicable time period;
- adopts regulations and accepts applications under the bill, but does not issue any registrations by January 1, 2024; or
- does not adopt regulations under the bill.

If MDL has received an application and fee from the applicant, and the applicant is resubmitting its application to the local regulatory authority as authorized above, MDL must forward the application fee to the local regulatory authority.

A local regulatory authority must issue a registration to an applicant within 90 days of receipt of the application, unless the local regulatory authority finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations adopted by the locality. The locality must notify MDL that it has issued an annual registration, but the holder of a registration issued by a locality is not subject to regulation or enforcement by MDL during the term of registration. Subsequent or renewed registrations may be issued by a local regulatory authority only if specified circumstances continue to be present.

Tax Provisions

The bill specifies that the sale or transfer of cannabis from a cannabis cultivation facility to a retail cannabis store or a cannabis product manufacturing facility is subject to a 10% excise tax.

The Comptroller must adopt regulations for collecting taxes levied on cannabis cultivation facilities by April 1, 2023. The Comptroller must adjust the excise tax rate annually to account for inflation or deflation and publish a specified notice regarding the adjusted excise tax rate.

By the fifteenth day of each month, each cannabis cultivation facility must pay the Comptroller its excise tax due for the preceding calendar month and submit a specified return accompanied by specified data.

Notwithstanding any federal tax law to the contrary, a cannabis establishment licensed under the bill or an entity licensed under MMCC may deduct from State taxes all ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business as a cannabis establishment. These ordinary and necessary expenses include a reasonable allowance for salaries or other compensation for personal services rendered.

Cannabis Regulation Fund

The bill establishes the Cannabis Regulation Fund, a special fund administered by MDL to provide funds for the bill's implementation, as specified. The fund consists of (1) all application and licensing fees paid by cannabis establishments; (2) all tax revenue collected under the bill; and (3) money from any other source, as specified. By March 15 of each year, MDL must publish a detailed report on the revenues and expenditures from the fund. The Comptroller must pay out money from the fund as directed by MDL, and the fund is subject to audit by the Office of Legislative Audits (OLA).

Cannabis Regulation Fund Distribution: MDL must retain sufficient money to defray the entire cost of administering specified provisions of the bill. Revenues generated in excess of the amount needed to do so must be distributed as follows:

- 30% to the Maryland State Department of Education (MSDE) to be used at the discretion of the State Board of Education;
- 5% to MDH for use in voluntary programs for the treatment of alcohol, tobacco, and cannabis abuse;
- 5% to MDH for a scientifically and medically accurate public education campaign educating youth and adults about the health and safety risks of alcohol, tobacco, and cannabis;
- 7.5% to the Maryland State Retirement and Pension System (SRPS);
- 2.5% to the Department of State Police (DSP) for employing and training Drug Recognition Experts (DREs); and
- 50% to the State's general fund.

Miscellaneous Provisions

The bill does not require that an employer allow or accommodate cannabis in the workplace or affect the ability of an employer to have policies restricting the use of cannabis or to discipline employees for cannabis use in the workplace. The bill does not prohibit a person, an employer, a school, a hospital, a correctional facility, a corporation, or any other entity that occupies, owns, or controls property from prohibiting or otherwise limiting cannabis on or in that property.

Specified scientific and medical researchers may purchase, possess, and securely store cannabis for research and administer and distribute cannabis to participants who are at least age 21 after receiving informed consent.

Laws Unaltered by the Bill: The bill's provisions do not modify the laws and regulations concerning the use of medical cannabis under MMCC authorization. The bill does not prevent the imposition of any civil, criminal, or other penalties for (1) undertaking a task while under the influence of cannabis, when doing so would constitute negligence or professional malpractice; (2) operating a motor vehicle, aircraft, or boat while under the influence of cannabis; (3) smoking cannabis in a public place; or (4) possessing cannabis in a correctional facility, including a juvenile detention facility.

Current Law:

Criminal Law Provisions Related to Marijuana

CDS are listed on one of five schedules (Schedules I through V) set forth in statute depending on their potential for abuse and acceptance for medical use. Marijuana is listed on Schedule I. Under the federal Controlled Substances Act, for a drug or substance to be classified as Schedule I, the following findings must be made: (1) the substance has a high potential for abuse; (2) the drug or other substance has no currently accepted medical use in the United States; and (3) there is a lack of accepted safety for use of the drug or other substance under medical supervision.

No distinction is made in State law regarding the illegal possession of any CDS, regardless of which schedule it is on, with the exception of marijuana.

Possession of *10 grams or more* of marijuana is a misdemeanor, punishable by imprisonment for up to six months imprisonment and/or a fine of up to \$1,000.

Possession of *less than 10 grams* of marijuana is a civil offense, punishable by a fine of up to \$100 for a first offense and \$250 for a second offense. The maximum fine for a third or subsequent offense is \$500. For a third or subsequent offense, or if the individual is younger than age 21, the court must (1) summon the individual for trial upon issuance of a citation; (2) order the individual to attend a drug education program approved by MDH; and (3) refer the individual to an assessment for a substance abuse disorder. After the assessment, the court must refer the individual to substance abuse treatment, if necessary.

Chapter 4 of 2016 repealed the criminal prohibition on the use or possession of marijuana paraphernalia and eliminated the associated penalties. The law also established that the use or possession of marijuana involving smoking marijuana in a public place is a civil offense, punishable by a fine of up to \$500.

In a prosecution for the use or possession of marijuana, it is an affirmative defense that the defendant used or possessed the marijuana because (1) the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a *bona fide* physician-patient relationship; (2) the debilitating medical condition is severe and resistant to conventional medicine; and (3) marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition. Likewise, in a prosecution for the possession of marijuana, it is an affirmative defense that the defendant possessed marijuana because the marijuana was intended for medical use by an individual with a debilitating medical condition for whom the defendant is a caregiver; however, such a defendant must notify the State's Attorney of the intention to assert the affirmative defense and provide specified documentation. In either case, the affirmative defense may

not be used if the defendant was using marijuana in a public place or was assisting the person for whom the defendant is a caregiver in using marijuana in a public place or was in possession of more than one ounce of marijuana.

Finally, medical necessity may be used as a mitigating factor in a prosecution for the possession or use of marijuana. A defendant may introduce, and the court must consider as a mitigating factor (with regard to penalties on conviction), any evidence of medical necessity. If a court finds that the use or possession of marijuana was due to medical necessity, the court *must dismiss* the charge.

Natalie M. LaPrade Medical Cannabis Commission

MMCC 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.

Status of Medical Cannabis Implementation

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. At the close of calendar 2021, the commission had issued 19 final grower licenses, 20 final processor licenses, and 95 final dispensary licenses. In addition, there are three licensed independent testing laboratories. The commission maintains a list of licensees on its [website](#). Also, at the close of calendar 2021, there were 148,129 certified patients, 12,939 caregivers, and 1,511 certifying providers. The commission additionally reports a preliminary total of \$564.8 million in retail sales at cannabis dispensaries in the State for calendar 2021.

Petition-based Expungement of a Court or Police Record

Other than specified dispositions eligible for automatic expungement under Chapter 680 of 2021, to begin the process of expungement, a petitioner must file a petition for expungement with the court under § 10-105 or § 10-110 of the Criminal Procedure Article, which establishes eligibility for the expungement of records pertaining to a criminal charge or conviction.

Expungement of a court or police record means removal from public inspection:

- by obliteration;
- by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or
- if access to a court record or police record can be obtained only by reference to another such record, by the expungement of that record, or the part of it that provides access.

Pursuant to § 10-107 of the Criminal Procedure Article, if two or more charges, other than one for a minor traffic violation, arise from the same incident, transaction, or set of facts, they are considered to be a unit. If a person is not entitled to expungement of one charge or conviction in a unit, the person is not entitled to expungement of any other charge in the unit. This “unit rule” applies to expungements under §§ 10-105 and 10-110.

Section 10-105 of the Criminal Procedure Article

Under § 10-105 of the Criminal Procedure Article, a person who has been charged with the commission of a crime for which a term of imprisonment may be imposed or who has been charged with a civil offense or infraction, except a juvenile offense, may file a petition for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State, under various circumstances listed in the statute. These grounds include acquittal, dismissal of charges, entry of probation before judgment, entry of *nolle prosequi*, stet of charge, and gubernatorial pardon. Individuals convicted of a crime that is no longer a crime, convicted of possession of marijuana under § 5-601 of the Criminal Law Article, convicted of or found not criminally responsible for specified public nuisance crimes or specified misdemeanors, or who had a conviction vacated due to being a victim of human trafficking (as defined in statute) are also eligible for expungement of the associated criminal records under certain circumstances.

Under § 10-105, a conviction for possession of marijuana under § 5-601 of the Criminal Law Article is eligible for expungement four years after the conviction or satisfactory completion of the sentence, including probation that was imposed for the conviction, whichever is later.

A person is not entitled to expungement if (1) subject to a specified exception, the petition is based on the entry of probation before judgment and the person, within three years of the entry of the probation before judgment, has been convicted of a crime other than a minor traffic violation or a crime where the act on which the conviction is based is no longer a crime or (2) the person is a defendant in a pending criminal proceeding.

Section 10-110 of the Criminal Procedure Article

Section 10-110 of the Criminal Procedure Article authorizes an individual convicted of any of a list of approximately 100 specified offenses or an attempt, a conspiracy, or a solicitation of any of these offenses, to file a petition for expungement of the conviction, subject to specified procedures and requirements.

Timeline for Expungement

Maryland's expungement process for removing an eligible record takes a minimum of 90 days. If a State's Attorney or victim, as applicable, objects, the court must hold a hearing on the petition. If an objection is not filed within 30 days, as specified, the court must pass an order requiring the expungement of all police and court records concerning the charges. After the court orders are sent to each required agency, each agency has 60 days from receipt to comply with the order.

State Sales and Use Tax

No State or local tax is currently imposed on the sale of cannabis. The State sales and use tax rate is 6%, except for the sale of alcoholic beverages, which are taxed at a rate of 9%.

State Fiscal Effect: The continued vulnerability of participants to federal prosecution may affect participation levels in ways that cannot be reliably predicted. Given this vulnerability to federal prosecution, the unavailability of business-related deductions on federal taxes, and limited information on the demand for cannabis in Maryland, it is difficult to determine the level of participation in the State-regulated cannabis market created by the bill. In November 2020, a *Comprehensive Market Analysis of Medical and Adult-Use Cannabis in Maryland* was completed for MMCC. The report assesses the State's existing medical cannabis market along with the economic and fiscal implications of a potential future adult-use cannabis market. While the market analysis is not specific to the bill's provisions, it does provide useful context regarding the potential size of an adult-use market and can be located [here](#).

State Revenues: *Assuming robust participation in the cannabis market*, special fund revenues increase, likely significantly, in fiscal 2023 from (1) tax revenues (received on the transfer of cannabis by specified MMCC licensees – who are automatically registered under the bill until specified regulations are adopted) as early as October 1, 2022, to the extent that MMCC licensed growers choose to transfer cannabis to MMCC licensed dispensaries for adult-use sales and (2) newly established civil penalties for noncompliance by registrants. Special fund revenues increase further beginning in fiscal 2024 from application and registration fees. Special fund revenues also increase for specified agencies due to the required distribution of funds from the Cannabis Regulation Fund; general fund

revenues also increase for this reason. Other effects on both general fund and special fund revenues are discussed below.

Maryland Department of Labor

Cannabis Taxation: The bill specifies that the transfer of cannabis from a cultivation facility to cannabis product manufacturing facility or a retail cannabis store is subject to a 10% excise tax to be paid monthly. Under the bill, these tax revenues are directed to the Cannabis Regulation Fund in MDL. Thus, special fund revenues increase, likely significantly, due to the imposition of such taxes; this impact cannot be reliably quantified but is assumed to begin in fiscal 2023.

Fees and Penalties: Special fund revenues for the Cannabis Regulation Fund increase minimally in fiscal 2023 from the imposition of civil penalties against specified MMCC licensees (who are automatically registrants under the bill on the effective date, until specified regulations are adopted). Special fund revenues increase further, and likely significantly, beginning in fiscal 2024 from application and registration fees. However, the magnitude of this increase cannot be reliably determined without information on (1) the number of applicants for each registration type; (2) the number of registrations issued; and (3) the fees (application, registration, and renewal) for each type of cannabis establishment set by MDL.

Excess Revenues from the Cannabis Regulation Fund

The bill specifies a number of different entities and funds (as well as the general fund) entitled to a percentage of funds from the Cannabis Regulation Fund if revenues are generated in excess of the amount required to defray the bill's implementation costs, as specified. Without actual experience under the bill, it is impossible to know the extent to which revenues will be generated in excess of the amount required to defray those costs. Nevertheless, it is assumed that there will be excess funds. Accordingly, special fund revenues increase beginning in fiscal 2024 for MSDE, MDH, SRPS, and DSP. In addition, general fund revenues also increase beginning in fiscal 2024 due to the bill's requirement that 50% of the excess funds be distributed to the general fund.

Maryland Department of Health

Distribution from Cannabis Regulation Fund: As discussed above, MDH receives special fund revenues from the required distribution from the Cannabis Regulation Fund.

Medical Cannabis Commission: Special fund revenues for MMCC decrease, potentially significantly, to the extent that medical cannabis qualifying patients (as early as

fiscal 2023) and medical cannabis licensees shift to the adult-use market (as early as fiscal 2024).

Qualifying patients must obtain and renew patient identification cards, at a cost of \$50, every three years. In fiscal 2019, 2020, and 2021, MMCC revenues from patient identification cards were approximately \$3.8 million, \$4.0 million, and \$3.4 million, respectively. According to MMCC, other states that had medical cannabis markets and later opened adult-use markets saw participation in the medical market drop by between 19% and 66%. *For illustrative purposes only*, if 40% of patients switch to the adult-use market, MMCC special fund revenues decrease by \$1.5 million, \$1.6 million, and \$1.4 million using the fiscal 2019, 2020, and 2021 figures, respectively. Special fund revenues continue to decrease on a cyclical basis as patient identification cards come due for renewal every three years. Special fund revenues are reduced further to the extent that fewer patients seek initial certification and pay for identification cards.

In addition, to the extent that medical cannabis licensees (dispensaries, processors, and growers) do not renew licenses to operate in the medical market in favor of holding only a registration under the bill, special fund revenues for MMCC decrease further. Any reduction in the number of medical cannabis licensees under the bill could occur as early as fiscal 2024, when adult-use registrations begin to be issued under the bill. Annual MMCC license fees are \$125,000 for growers and \$40,000 for processors and dispensaries. As of December 2021, the commission had issued 19 final grower licenses, 20 final processor licenses, and 95 final dispensary licenses. *For illustrative purposes only*, if 50% of the current licensees were to drop their MMCC licenses, special fund revenues for MMCC decrease by approximately \$3.6 million annually.

Marijuana Citation Fund: Civil penalties imposed for cannabis-related offenses under § 5-601 of the Criminal Law Article are currently remitted to the Marijuana Citation Fund for drug education and treatment programs. Currently, civil penalties apply to an amount of marijuana up to 10 grams (equal to approximately 0.35 ounces). Due to the bill's alteration of the application of civil offense penalties for cannabis possession (see Exhibit 1), special fund revenues for MDH decrease beginning in fiscal 2023 due to fewer individuals being subject to civil penalties. For context, special fund revenues for the Marijuana Citation Fund totaled \$317,288 in fiscal 2020 and \$546,559 in fiscal 2019. MDH advises that the reduced revenues in fiscal 2020 were a result of the ongoing COVID-19 pandemic.

Drug Awareness Program: MDH is required to establish a drug awareness program and must set fees for the drug awareness program sufficient to cover the costs of administering the program. However, the fee may not exceed \$300. While the bill does not specify a special fund to which revenues from the specified fee should be credited, this analysis assumes that these fees are deposited into a special fund designated for administration of

the program. Thus, this analysis assumes special fund revenues for MDH increase beginning in fiscal 2023 to the extent that MDH sets a fee and specified individuals are required to (and do) pay the fee to attend the established drug awareness program.

Judiciary

Civil and Criminal Fines: General fund revenues from fines imposed in the District Court decrease minimally beginning in fiscal 2023 due to (1) the legalization of possession of amounts of marijuana subject to criminal fines under existing statute; (2) distribution of civil fines to the Marijuana Citation Fund for possession offenses that would be subject to criminal fines (which are credited to the general fund) under current law; and (3) the alternative fine amounts imposed under the bill.

Expungement Fees: The Judiciary collects a \$30 filing fee for an expungement petition of a guilty disposition. A conviction for possession of marijuana under § 5-601 of the Criminal Law Article is currently eligible for expungement. Thus, general fund revenues may decrease minimally if the bill's expungement and legalization/decriminalization provisions reduce the pool of dispositions subject to an expungement filing fee.

State Expenditures: General/special fund expenditures increase significantly in fiscal 2023, primarily to establish the regulatory and taxation framework and to begin implementing the bill's expungement provisions, as discussed below. Although certain provisions of the bill are ambiguous regarding the authorized uses of the Cannabis Regulation Fund, for purposes of this fiscal and policy note, it is assumed that the Cannabis Regulation Fund can be used to cover ongoing costs incurred by agencies pursuant to the bill. This analysis assumes that funds from the Cannabis Regulation Fund are available in fiscal 2023 following the implementation of the bill's tax provisions for specified MMCC licensees (who are automatically registered in the adult-use market) as of the bill's October 1, 2022 effective date. This analysis further assumes that (1) general funds are likely still necessary to supplement special funds for implementation costs incurred during fiscal 2023 only and (2) future year implementation costs are covered entirely by special funds from the Cannabis Regulation Fund. To the extent the Cannabis Regulation Fund may not be used to cover the costs to implement all of the bill's provisions, the increase in general fund expenditures continues beyond fiscal 2023. General fund expenditures decrease beginning in fiscal 2023 for the Department of Public Safety and Correctional Services (DPSCS) due to fewer people incarcerated or supervised on parole or probation. Other effects of the bill on State expenditures are also described below.

Maryland Department of Labor

General Implementation: MDL advises that it is unable to reasonably estimate the fiscal impact of the bill, which is likely to be extensive and significant. MDL further

advises that it lacks the expertise, staff, and resources necessary to successfully implement the bill without creating an entirely new registration process unlike any of the current professional or occupational licenses it oversees. The Department of Legislative Services (DLS) agrees that implementation of the bill is likely *significant*.

DLS advises that, based on an analysis for similar legislation (with a different implementing entity), general and special fund expenditures for MDL increase by *at least* \$1.2 million in fiscal 2023 for general implementation of the bill. This estimate reflects the cost of hiring 11 employees to perform the various functions required under the bill starting July 1, 2022. This analysis further assumes (1) MDL needs significant resources and expertise to comply with the bill's provisions, especially given the deadlines for compliance; (2) MDL is able to implement the bill's requirements within the established timeframe under the bill, even though that is unlikely; and (3) that MDL employees have a starting date of July 1, 2022, despite the bill's October 1, 2022 effective date.

DLS advises that certain costs must be incurred regardless of how many entities apply for registration. Costs increase further to the extent additional staff are necessary. The need for additional staffing depends on how many applications are received and the timing of those applications.

Future year expenditures reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Based on the aforementioned need for resources, future year expenditures are estimated to total *at least* \$1.1 million in fiscal 2024, increasing to \$1.2 million by fiscal 2027. This estimate assumes that all ongoing costs are covered by special funds from the Cannabis Regulation Fund beginning in fiscal 2024.

Comptroller

Based on information received from the Comptroller, implementation of the bill requires several positions across multiple divisions, likely well in excess of \$2.0 million in fiscal 2023 based on a July 1, 2022 start date. However, it is unclear what the responsibilities of each new employee would be based on the Comptroller's response, which did not adequately explain the justification for this level of additional personnel. The Comptroller further advises the need to modify its current information technology (IT) contract, at an additional cost of \$4.0 million in fiscal 2023 only.

DLS advises that staff likely need to begin July 1, 2022, despite the bill's October 1, 2022 effective date, as the new tax applies to transactions by MMCC licensees (who are automatically registered for the adult-use market under the bill) on the bill's effective date. DLS advises that while the extent of implementation costs for the Comptroller cannot be reliably estimated at this time, staff and programming costs to implement a new tax type

are likely *significant*. Thus, general and special fund expenditures increase significantly to cover the Comptroller's costs in fiscal 2023. In fiscal 2024, it is assumed all ongoing costs are covered by special funds from the Cannabis Regulation Fund.

The Comptroller must also adopt regulations to implement the bill's tax provisions by April 1, 2023, which is a routine responsibility associated with implementing a new tax type. DLS advises that (1) the Comptroller likely needs to develop regulations much sooner, since specified MMCC licensees are subject to the bill's tax provisions on the bill's effective date of October 1, 2022, and (2) the Comptroller can likely adopt the regulations with the new personnel (set to begin July 1, 2022) discussed above.

Office of Administrative Hearings

The Office of Administrative Hearings (OAH) advises that it conducts contested case hearings as delegated by MDL. In addition, the bill specifies that (1) procedures established by a locality for issuing, suspending, or revoking a registration that was issued by the locality are subject to the Administrative Procedure Act (APA) and (2) a locality's regulation of cannabis establishments within its border does not limit any relief available to an aggrieved party under the APA. As such, OAH needs to create a new class of contested case hearings for aggrieved parties in the adult-use cannabis market. While OAH advises that it cannot estimate the additional workload generated by the bill at this time, given current staffing levels and caseloads, an increase of 140 cases per year requires that OAH hire one additional Administrative Law Judge; a docket specialist may also be required if OAH's workload increases sufficiently.

Office of the Attorney General

The Office of Attorney General (OAG) advises that it needs two assistant attorneys general and one paralegal to meet its requirements under the bill, at a cost of \$330,099 in fiscal 2023. DLS concurs that the bill may create additional workloads or litigation for OAG; however, the extent of any increase cannot be reliably estimated without actual experience under the bill. Thus, expenditures for OAG (general/special funds in fiscal 2023 and special funds beginning in fiscal 2024) increase should additional personnel be required.

Maryland Department of Agriculture

MDA advises that it can consult with MDL to adopt specified regulations for the adult-use cannabis market within existing budgeted resources.

Judiciary

General and special fund expenditures for the Judiciary increase *significantly* in fiscal 2023 to comply with the bill's expungement provisions, as discussed below. Beginning in fiscal 2024, it is assumed that any costs incurred by the Judiciary are covered by the Cannabis Regulation Fund.

In addition to costs to hire additional personnel in fiscal 2023 and 2024 (and to a lesser extent in fiscal 2025), as discussed below, the Judiciary also incurs an estimated \$160,558 in computer programming costs in fiscal 2023 related to the bill's expungement provisions.

The bill requires automatic expungements of specified dispositions and authorizes the expungement of a charge within a unit of charges (partial expungement). Partial expungements typically involve the removal of part, but not all, of a record, which significantly increases the level of effort needed to process expungements. The Judiciary advises that full functionality to partially expunge records will not be available until the final rollout of Case Search 2.0, which cannot occur until the Maryland Electronic Courts System is implemented in all State courts.

According to the Judiciary, hundreds of thousands of cases will be eligible for automatic expungement under the bill. The Judiciary estimates that it takes 3 hours to process a partial expungement in the District Court, 5 hours to process a partial expungement in the circuit courts, and 1.5 hours to process a traditional expungement in either court. *For illustrative purposes only*, using these time requirements and the assumptions below, the Judiciary may need to hire 417 contractual staff for two years (302 District Court and 115 circuit court) at a cost of \$18.1 million in fiscal 2023, \$19.1 million in fiscal 2024, and \$4.9 million in fiscal 2025. This illustrative example assumes that (1) there are 200,000 marijuana only cases (175,000 District Court and 25,000 circuit court) and 350,000 marijuana with other charges cases (275,000 District Court and 75,000 circuit court); (2) each employee works 1,800 hours per year on expungements only; and (3) staff will initially work on marijuana only cases and then shift to partial expungements to comply with the deadlines under the bill.

The above estimate does not include ongoing automatic expungement requirements under the bill, which are assumed to be less burdensome and absorbable within existing budgeted resources.

The Judiciary also advises that citations need to be recalled and revised and the expungement brochure needs to be revised and restocked at a cost of approximately \$31,000. However, DLS advises that the District Court can implement the changes during routine reprinting of the citations and brochures using existing budgeted resources.

Department of Public Safety and Correctional Services

Criminal Justice Information System: The Criminal Justice Information System (CJIS) within DPSCS is the Central Repository for criminal record history information in Maryland. General and special fund expenditures for DPSCS increase significantly in fiscal 2023 for CJIS to comply with the bill's expungement provisions. In addition to potentially significant costs for contractual services in fiscal 2023, as discussed below, DPSCS also incurs an estimated \$56,000 in programming costs in fiscal 2023 to remove all references in CJIS to a case in which possession of cannabis under § 5-601 is the only charge. Beginning in fiscal 2024, ongoing costs related to expungement are assumed to be covered by the Cannabis Regulation Fund.

As the bill authorizes partial expungements, DPSCS advises in order to separate an expungable charge from the unit, it would have to reprogram its systems, requiring DPSCS to authorize additional contractual hours under an existing contract for two mainframe programmers and one business analyst, beginning October 1, 2022, at a cost of \$364,000 each (\$175 per hour for 2,080 hours) in the first full year (fiscal 2023 and 2024), and one mainframe programmer thereafter, at a total cost of \$819,000 in fiscal 2023 and \$546,000 in fiscal 2024, declining to \$364,000 annually thereafter.

The above estimate also does not include ongoing automatic expungement requirements under the bill, which are assumed to be less burdensome and absorbable within existing budgeted resources.

In 2019 and 2020, respectively, CJIS received 72,925 and 50,747 orders for expungement. DPSCS advises that expungement orders processed in 2020 were likely affected by the ongoing COVID-19 pandemic and, as such, are not an accurate representation of what to expect in future years. Based on the Judiciary's estimate of the number of cases affected by the bill, including those involving multiple charges, the bill has the potential to significantly increase CJIS's workload. CJIS advises that it requires one additional administrative employee for every 2,500 additional orders for expungement it receives annually. DLS also notes that while the workload for CJIS has generally increased in recent years, the unit has not experienced a corresponding increase in staffing, and CJIS has been accommodating workloads beyond the 2,500-caseload standard; the current caseload is 6,426 (for traditional expungements). As noted above, partial expungements appear to require more effort to process than traditional expungements. *For illustrative purposes only*, if there are 100,000 additional expungement orders received annually during both fiscal 2023 and 2024 as a result of the bill, DPSCS needs to hire 40 additional contractual staff for two years at a cost of \$1.9 million in fiscal 2023, \$2.1 million in fiscal 2024, and approximately \$535,000 in fiscal 2025.

Maryland Parole Commission: MPC advises there may be a slight increase in petitions for commutation from individuals who, as of October 1, 2022, are incarcerated or under mandatory supervision for specified cannabis offenses or are incarcerated for violating the terms of mandatory supervision due to testing positive for cannabis, as authorized under the bill. DPSCS reports that there are currently 57 inmates serving sentences for possession of cannabis in the Division of Correction; all of these inmates are also serving sentences for other offenses. Additional personnel may be necessary to assist with additional commutation requests. The cost associated with hiring one office processing clerk is \$47,790 in fiscal 2023 and increases to \$59,390 by fiscal 2027. This analysis assumes that any costs in fiscal 2023 are covered by a combination of general and special funds; ongoing costs beginning in fiscal 2024 are assumed to be covered by the Cannabis Regulation Fund.

Other Impacts on DPSCS: General fund expenditures for DPSCS decrease minimally beginning in fiscal 2023 due to reduced incarcerations and fewer individuals supervised by the Division of Parole and Probation for possession of cannabis-related offenses.

Law Enforcement

Department of State Police: Based on an analysis of a bill with similar provisions, general and special fund expenditures for DSP increase significantly in fiscal 2023 due to the bill's expungement provisions. DSP previously advised that tens of thousands of records under DSP control in both electronic and paper formats in several locations across the State, including criminal investigation reports, incident reports, civil citations, criminal citations, and laboratory testing records are likely affected by the expungement requirements. DSP also advised the need for a *significant* increase in staff resources, including the creation of a new unit with 15 full-time permanent employees, 8 contractual staff, two cargo vans, and five cars (one for each region). DSP further advised that, even with the additional staff resources, it will take *at least* three years to complete the initial backlog of expungements, despite the established deadline (October 1, 2024). DLS agrees that the bill's expungement provisions are significant, and that additional contractual staff are necessary, but disagrees with the need for two cargo vans, five cars, and the creation of a permanent ongoing expungement unit. To the extent that additional contractual staff are needed, DSP may request additions through the annual budget process.

Accordingly, general and special fund administrative expenditures for DSP increase by *as much as* \$699,058 in fiscal 2023, which accounts for the bill's October 1, 2022 effective date. This estimate reflects the costs of hiring 1 program manager, 1 IT programmer, 14 administrative aides, and 1 assistant attorney general, all on a contractual basis. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

This estimate does not include any health insurance costs that could be incurred for contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Future year administrative expenditures (\$727,134 in fiscal 2024, \$751,331 in fiscal 2025, and \$295,012 in fiscal 2026) reflect (1) full salaries with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) termination of the contractual positions three years later (September 30, 2025) in fiscal 2026. This analysis assumes that these ongoing costs are covered by the Cannabis Regulation Fund.

General fund expenditures for DSP are also affected as follows beginning in fiscal 2023. First, general fund expenditures decrease due to issuing fewer criminal and civil citations (and a corresponding decrease in the need for the State laboratory to test CDS suspected as cannabis for evidence in a criminal case). However, general fund expenditures also increase for the State laboratory to test blood evidence for use in driving-related criminal prosecutions. Generally, driving under the influence or driving while impaired by cannabis involve blood evidence; all blood draw kits from across the State are sent to DSP for analysis.

Special fund expenditures for DSP also increase beginning in fiscal 2024 as the agency uses the special funds it receives from the Cannabis Regulation Fund to provide training for DREs.

Maryland Department of Transportation and Maryland Transportation Authority: The Maryland Department of Transportation advises that although the Maryland Transportation Authority (MDTA) Police and the Maryland Transit Administration (MTA) Police need to undergo additional training due to the implementation of policy changes, this training can be accomplished within existing budgeted resources. However, MDTA and MTA require contractual personnel to assist with implementing the bill's expungement provisions and to assist in the creation of training manuals. Expenditures associated with this level of effort are expected to be minimal and last for one year.

Department of Natural Resources: The Department of Natural Resources advises that Natural Resources Police officers need to undergo additional training to become certified DREs as a result of the bill. However, this training is offered by DSP at no charge.

Maryland State Archives

The Maryland State Archives (MSA) is the repository for older court records. MSA has historically advised that it processes between 300 and 400 expungement orders every month and that a significant increase in this number requires additional staff. Based on the Judiciary's estimate of the number of cases affected by the bill, including those

involving multiple charges, the bill likely significantly increases MSA's workload in fiscal 2023 and 2024 and, to a lesser extent, in fiscal 2025. Thus, general and special fund expenditures increase significantly in fiscal 2023 to hire contractual assistance to handle the increased workload. To the extent they are incurred, ongoing costs in fiscal 2024 and 2025 are assumed to be covered by the Cannabis Regulation Fund. Any such costs cannot be reliably estimated without actual experience under the bill.

Governor's Office

The Governor's Office indicates that the bill, including the petition for commutation provisions, can be implemented within the existing budgeted resources of the office.

Maryland Department of Health

Based on an analysis of a bill with similar provisions, special fund expenditures for MMCC decrease beginning in fiscal 2023, to the extent that medical cannabis patients shift to the adult-use market. MMCC advises that the cost of printing each identification card is \$15 and that qualifying patients must renew identification cards every three years. In fiscal 2019, 2020, and 2021, respectively, MMCC issued 75,933, 80,909, and 68,164 identification cards. *For illustrative purposes only*, if 40% of patients shift to the adult-use market under the bill, MMCC special fund expenditures decrease by approximately \$455,598, \$485,454, and \$408,987 using the fiscal 2019, 2020, and 2021 figures. Special fund expenditures continue to decrease on a cyclical basis as patient identification cards come due for renewal every three years. Special fund expenditures decrease further, beginning in fiscal 2023, to the extent that fewer patients enter the medical cannabis market requiring identification cards to be printed.

In addition, special fund expenditures within MDH increase for MDH to establish and operate a drug awareness program as required under the bill.

MDH special fund expenditures also increase beginning in fiscal 2024 as the agency uses proceeds it receives from the Cannabis Regulation Fund for specified programs, education, and research.

Maryland State Department of Education

Special fund expenditures for MSDE increase beginning in fiscal 2024 as the agency uses proceeds it receives from the Cannabis Regulation Fund.

Office of Legislative Audits

The Cannabis Regulation Fund is subject to audit by OLA. OLA advises that MDL is also subject to audit at least once every four years under current law. OLA further advises that it can absorb any additional audit requirements within existing resources during regularly scheduled audits of the commission. Thus, OLA expenditures are not materially affected.

Office of the Public Defender

The bill's decriminalization of specified cannabis offenses reduces the Office of the Public Defender (OPD) caseloads. Given the caseloads and resources of OPD, it is assumed that the reduction in caseloads from the bill's decriminalization provisions is redirected to other cases.

Local Fiscal Effect: Local revenues increase, potentially significantly, from application fees, as 50% of every application fee received by MDL to operate a cannabis establishment must be sent to the appropriate local regulatory authority, as specified.

Local revenues increase further to the extent that cannabis establishments reinvest at least 10% of their net income within the local community where the establishment operates, as required by the bill.

Local revenues also increase to the extent that local jurisdictions establish, as authorized under the bill, various fees for cannabis establishments and civil penalties for noncompliance with local regulations. Local expenditures may increase if local regulatory authorities conduct reviews of proposed cannabis establishments.

Local expenditures increase for affected local entities to expunge records or address expungement petitions within the specified timeframes. However, some of these costs may be covered by the Cannabis Regulation Fund. The magnitude of the impact will vary by jurisdiction, based on volume and existing staffing.

Local expenditures decrease minimally due to reduced incarcerations and prosecutions resulting from the bill's decriminalization/legalization of specified offenses.

Under specified circumstances related to MDL's failure to implement the bill and issue registrations, local revenues and expenditures increase to the extent that a locality authorizes a local regulatory authority to issue licenses for cannabis establishments with its jurisdiction.

Small Business Effect: The bill creates an opportunity for small businesses to enter the State's legal cannabis market.

It should be noted that, while the bill presents a State-authorized business opportunity, cannabis establishments operating under the bill are still in violation of federal law. Thus, the bill's impact on small businesses depends upon the extent to which (1) the risk of federal prosecution deters individuals from entering the State's cannabis market and (2) the unavailability of federal business tax deductions restricts the potential profitability of small business cannabis establishments.

Additional Comments: This analysis does not reflect any impact from changes in driving patterns due to the legalization of cannabis and increased cannabis use. However, any increase in driving under the influence of CDS or driving while impaired by CDS that results from the bill is likely to have an effect on numerous State and local entities/agencies that handle these offenses.

While unlikely, this analysis assumes that the Comptroller will be able to begin accepting taxes from MMCC licensed growers who transfer cannabis to MMCC licensed dispensaries for sale in the adult-use cannabis market on the bill's effective date (October 1, 2022) when the specified licensees are assumed to be registered under the bill. The analysis further assumes that MMCC licensed growers will be able to distinguish between product that they transfer as medical cannabis versus product that they transfer as adult-use cannabis to which the tax applies.

Under the bill, an MMCC licensed grower or dispensary is also considered to be a registered cannabis cultivation facility or retail cannabis store until MDL adopts specified regulations, at which point the MMCC licensee must apply and become registered for the adult-use market. However, MDL is required to adopt regulations by April 1, 2023, is not required to accept applications until October 1, 2023, and is not required to issue registrations until January 1, 2024 (or within 90 days of receiving the application). Thus, based on the bill's language, specified MMCC licensees may operate as adult-use registrants between October 1, 2022, and April 1, 2023, but then must cease operations until receiving a registration (which may be as late as January 1, 2024). Nevertheless, this analysis assumes that the specified MMCC licensees continue to operate in the adult-use market until adult-use registrations become available, at which point MMCC licensees must become registered.

The Comptroller advises that the bill's provision requiring the 10% tax to be adjusted annually for inflation or deflation cannot be implemented. Only tax rates that are set as a specified dollar amount, rather than as a percentage, can be adjusted for inflation or deflation.

The bill requires that the parents or legal guardian of a minor found to have been in possession of up to the personal use amount of cannabis be notified of the violation of § 5-601 and the requirement that the minor complete a drug awareness program. However,

it should be noted that individuals younger than age 18 who receive a citation for specified violations are generally subject to the jurisdiction of the juvenile court under Title 3, Subtitle 8A of the Courts and Judicial Proceedings Article.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Charles, Frederick, and Montgomery counties; City of Havre de Grace; Office of the Attorney General; Comptroller's Office; Maryland Department of Labor; Governor's Office; Maryland State Treasurer's Office; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State Department of Education; Maryland Department of Agriculture; Department of Budget and Management; Department of General Services; Department of Juvenile Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Office of Administrative Hearings; Maryland State Archives; State Retirement Agency; Department of Legislative Services

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