

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 408 (Delegate Grammer)  
Economic Matters and Ways and Means

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Alcohol and Tobacco Commission - Industry to Consumer Cannabis Legalization  
Awareness Program and Tax Credit

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This bill requires the Alcohol and Tobacco Commission (ATC) to establish an Industry to Consumer Cannabis Legalization Awareness Program. Cannabis businesses, including growers, processors, dispensaries, and delivery businesses, are eligible to participate in the program on certification with ATC. A cannabis entity may claim a credit against the State income tax for a taxable year in which the entity becomes a certified participant in the program. The credit is equal to 0.25% of the entity’s annual gross revenue in the taxable year that is attributable to the entity’s trade or business in the State. Any unused amount of credit may not be carried over to any other taxable year. **The bill takes effect July 1, 2023. The income tax credit provision applies to tax year 2023 and beyond.**

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Fiscal Summary

**State Effect:** General fund revenues decrease by an indeterminate amount beginning as early as FY 2024. To the extent credits are claimed against the corporate income tax, Higher Education Investment Fund (HEIF) revenues and Transportation Trust Fund (TTF) revenues and expenditures are also affected. General fund expenditures for the Comptroller’s Office increase by an estimated \$63,000 in FY 2024 only.

**Local Effect:** Local highway user revenues decrease by an indeterminate amount beginning as early as FY 2024 due to credits claimed against the corporate income tax. Local expenditures are not affected.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Bill Summary:** The purpose of the program is to spread awareness about (1) legalization and availability of adult-use and medical cannabis; (2) the ways black market cannabis sales contribute to crime; and (3) the role consumers can play in crime reduction by transitioning to legal cannabis markets. ATC must:

- provide the data and resources necessary for the operation of the program;
- institute a certification process for participation in the program;
- create a specified one-page document to disseminate among certified participants, who must make the document readily available for consumers; and
- institute a process for auditing and overseeing participation in the program.

ATC must adopt regulations to carry out the bill's provisions relating to the program, as specified.

**Current Law:** Chapters 26 and 45 of 2022 initiated the process of legalization of adult-use cannabis in the State. Chapter 45, a constitutional amendment that was approved by the voters at the November 2022 general election, authorizes an individual who is at least age 21 to use and possess cannabis in the State beginning July 1, 2023. The authorization is subject to a requirement that the General Assembly pass legislation regarding the use, distribution, possession, regulation, and taxation of cannabis.

Pursuant to Chapter 26 and the passage of the associated constitutional amendment, as of January 1, 2023, "personal use amount" means (1) up to 1.5 ounces of usable cannabis; (2) up to 12 grams of concentrated cannabis; (3) cannabis products containing up to 750 milligrams of delta-9-tetrahydrocannabinol (THC); or (4) beginning July 1, 2023, up to 2 cannabis plants. "Civil use amount" means (1) more than 1.5 ounces but not more than 2.5 ounces of usable cannabis; (2) more than 12 grams but not more than 20 grams of concentrated cannabis; or (3) cannabis products containing more than 750 milligrams but not more than 1,250 milligrams of delta-9-THC.

From January 1, 2023, through June 30, 2023, possession of the personal use amount of cannabis and possession of the civil use amount of cannabis are subject to civil penalties. Possession of more than the civil use amount is subject to a criminal penalty. As of July 1, 2023, (1) a person at least age 21 may use and possess the personal use amount of cannabis; (2) possession of the personal use amount of cannabis by a person younger than age 21 and possession of the civil use amount of cannabis are subject to civil penalties; and (3) possession of more than the civil use amount of cannabis is subject to a criminal penalty.

**State Revenues:** General fund revenues decrease beginning as early as fiscal 2024 to the extent credits are claimed against the State income tax. To the extent credits are claimed against the corporate income tax, a portion of foregone tax revenues will reduce HEIF and TTF revenues.

While a precise estimate of the bill's effect on State revenues cannot be reliably determined, a preliminary estimate based on an analysis of similar legislation establishing a regulated adult-use cannabis market in the State suggests that State revenue losses from the bill's proposed tax credit may exceed \$1.1 million in fiscal 2025, \$2.6 million in fiscal 2026, and \$1.5 million in fiscal 2027, based on participation of retail dispensaries alone. This preliminary estimate assumes that an eligible business may claim the tax credit only once, in the tax year in which the business becomes a certified program participant.

**State Expenditures:** Based on analyses of similar legislation, it is estimated that general fund expenditures for the Comptroller's Office may increase by \$63,000 in fiscal 2024 for one-time changes to the Comptroller's tax systems necessary to implement the State income tax credit established under the bill.

A portion of TTF revenues from the corporate income tax is used to provide capital transportation grants to local governments (local highway user revenues). Thus, TTF expenditures for highway user revenue grants to local governments decrease beginning as early as fiscal 2024 to the extent credits are claimed against the corporate income tax.

ATC advises that it can likely develop and administer the Industry to Consumer Cannabis Legalization Awareness Program with existing budgeted resources.

**Local Revenues:** Local highway user revenues decrease beginning as early as fiscal 2024 to the extent credits are claimed against the corporate income tax.

**Small Business Effect:** Small businesses may be meaningfully affected to the extent that they are eligible to claim the State income tax credit for participation in the proposed Industry to Consumer Cannabis Legalization Awareness Program.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Alcohol and Tobacco Commission; Comptroller's Office;  
Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2023  
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