

HOUSE BILL 805

A3, L1

4lr2602
CF SB 537

By: **Delegate Wilson**

Introduced and read first time: January 31, 2024

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2024

CHAPTER _____

1 AN ACT concerning

2 **Cannabis – Licensee Locations – Restrictions**

3 FOR the purpose of altering the distance restrictions applicable to a licensed cannabis
4 dispensary; prohibiting a political subdivision from establishing certain zoning
5 requirements for licensed cannabis dispensaries and certain licensed cannabis
6 growers that are more restrictive than certain zoning restrictions applicable to
7 certain other entities; clarifying the authority of a political subdivision to alter
8 certain distance requirements; authorizing certain individuals to file a protest with
9 the Maryland Cannabis Administration against the renewal of a cannabis license;
10 establishing standards and requirements for the Administration's consideration of a
11 protest; and generally relating to cannabis licensees and zoning restrictions.

12 BY repealing and reenacting, without amendments,
13 Article – Alcoholic Beverages and Cannabis
14 Section 1–101(a) and (dd)
15 Annotated Code of Maryland
16 (2016 Volume and 2023 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Alcoholic Beverages and Cannabis
19 Section 36–405 and 36–410
20 Annotated Code of Maryland
21 (2016 Volume and 2023 Supplement)

22 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Alcoholic Beverages and Cannabis
Section 36–411
Annotated Code of Maryland
(2016 Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Alcoholic Beverages and Cannabis

1–101.

(a) In this article the following words have the meanings indicated.

(dd) (1) “Retail dealer” means a person that sells an alcoholic beverage to any person other than a license holder.

(2) “Retail dealer” includes a county dispensary.

36–405.

(a) **IN THIS SECTION, “UNDULY BURDEN” INCLUDES IMPOSING A ZONING REQUIREMENT OR RESTRICTION ON THE USE OF PROPERTY BY A CANNABIS LICENSEE THAT IS MORE RESTRICTIVE THAN THE REQUIREMENTS ESTABLISHED UNDER § 36–410 OF THIS SUBTITLE.**

(B) A political subdivision may:

(1) establish reasonable zoning requirements for cannabis businesses; and

(2) decide how to distribute its allocation of revenue under § 2–1302.2 of the Tax – General Article.

[(b)] (C) A political subdivision may not:

(1) establish zoning or other requirements that unduly burden a cannabis licensee;

(2) impose licensing, operating, or other fees or requirements on a cannabis licensee that are disproportionately greater or more burdensome than those imposed on other businesses with a similar impact on the area where the cannabis licensee is located;

(3) prohibit transportation through or deliveries within the political subdivision by cannabis businesses located in other political subdivisions;

(4) prevent an entity whose license may be converted under § 36–401(b)(1)(ii) of this subtitle and that is in compliance with all relevant medical cannabis regulations from being granted the license conversion; or

(5) negotiate or enter into an agreement with a cannabis licensee or an applicant for a cannabis license requiring that the cannabis licensee or applicant provide money, donations, in-kind contributions, services, or anything of value to the political subdivision.

[(c)] (D) The use of a facility by a cannabis licensee is not required to be submitted to, or approved by, a county or municipal zoning board, authority, or unit if ~~the facility~~:

(1) **THE FACILITY** was properly zoned and operating on or before January 1, 2023; or

(2) ~~is used by a grower, processor, or dispensary that~~ **THE CANNABIS LICENSEE:**

(i) held a Stage One Preapproval for a license before October 1, 2022; and

(ii) was not ~~operational~~ **ACTIVELY ENGAGED IN THE GROWING, PROCESSING, OR DISPENSING OF CANNABIS** before October 1, 2022.

[(d)] (E) A political subdivision or special taxing district may not impose a tax on cannabis.

36–410.

(a) Beginning July 1, 2023, a cannabis licensee that is operating a dispensary shall:

(1) ensure that it has adequate supply for qualifying patients and caregivers;

(2) set aside operating hours or dedicated service lines to serve only qualifying patients and caregivers; and

(3) ensure that at least 25% of cannabis and cannabis products in the dispensary are from social equity licensees and growers and processors that do not share common ownership with the dispensary.

(b) Except as provided in subsection (d) of this section, a licensed dispensary may not locate within:

(1) 500 feet of:

(i) a pre-existing primary or secondary school in the State, or a licensed child care center or registered family child care home under Title 9.5 of the Education Article; or

(ii) a **PRE-EXISTING** playground, recreation center, library, [or] public park, **OR PLACE OF WORSHIP**; or

(2) 1,000 feet of another dispensary under this title.

(c) **(1) A EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
A political subdivision may adopt an ordinance reducing, **BUT NOT INCREASING**, the distance requirements under subsection (b) of this section.

(2) A POLITICAL SUBDIVISION MAY BY ORDINANCE INCREASE THE
DISTANCE LIMITATION FOR DISPENSARIES UNDER SUBSECTION (B)(2) OF THIS
SECTION TO NOT MORE THAN 2,000 FEET.

(d) The distance requirements under subsection (b) of this section do not apply to a dispensary license that was:

(1) converted under § 36-401(b)(1)(ii) of this subtitle; and

(2) properly zoned and operating before July 1, 2023.

(E) A POLITICAL SUBDIVISION MAY NOT ADOPT AN ORDINANCE
ESTABLISHING ZONING REQUIREMENTS FOR LICENSED DISPENSARIES THAT ARE
MORE RESTRICTIVE THAN ZONING REQUIREMENTS FOR A RETAIL DEALER LICENSED
UNDER THIS ARTICLE.

(F) A POLITICAL SUBDIVISION MAY NOT ADOPT AN ORDINANCE
ESTABLISHING A ZONING REQUIREMENT FOR A LICENSED GROWER CULTIVATING
CANNABIS EXCLUSIVELY OUTDOORS IN AN AREA ZONED ONLY FOR AGRICULTURAL
USE THAT IS MORE RESTRICTIVE THAN ANY ZONING REQUIREMENTS THAT EXISTED
ON JUNE 30, 2023, GOVERNING A HEMP FARM REGISTERED UNDER TITLE 14 OF THE
AGRICULTURE ARTICLE IN THE POLITICAL SUBDIVISION.

36-411.

(A) (1) A PROTEST AGAINST A LICENSE RENEWAL MAY BE FILED WITH
THE ADMINISTRATION BY AT LEAST 10 INDIVIDUALS WHO ARE:

(I) RESIDENTS, COMMERCIAL TENANTS WHO ARE NOT
HOLDERS OF OR APPLICANTS FOR A LICENSE, OR REAL ESTATE OWNERS; AND

(II) LOCATED WITHIN 1,000 FEET OF THE LICENSED PREMISES.

(2) A PROTEST AGAINST A LICENSE RENEWAL SHALL:

(I) BE ON THE BASIS OF:

1. A VIOLATION OF THIS TITLE;

2. A VIOLATION OF CIVIL OR CRIMINAL LAW;

3. CONDUCT BY A LICENSEE THAT CREATES OR
MAINTAINS CONDITIONS THAT ALLOW OTHER INDIVIDUALS TO ACT IN A MANNER
THAT DISTURBS THE PUBLIC PEACE, INCLUDING:

A. OBSTRUCTION OF PUBLIC RIGHTS-OF-WAY BY
UNRULY CROWDS;

B. ASSAULT, BATTERY, OR OTHER DISORDERLY
CONDUCT THAT DISTURBS THE PUBLIC PEACE;

C. VANDALISM; OR

D. LITTERING; OR

4. ANY OTHER VIOLATION ESTABLISHED BY THE
ADMINISTRATION BY REGULATION; AND

(II) BE SIGNED UNDER OATH.

(B) (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS
SUBSECTION, IF A PROTEST AGAINST A LICENSE RENEWAL IS FILED AT LEAST 30
DAYS BEFORE THE LICENSE EXPIRES, THE ADMINISTRATION MAY NOT APPROVE THE
RENEWAL WITHOUT HOLDING A HEARING.

(2) THE ADMINISTRATION MAY APPROVE A LICENSE RENEWAL
WITHOUT A HEARING IF THE ADMINISTRATION FINDS THAT THE BASIS OF THE
PROTEST FILED AGAINST THE RENEWAL IS WITHOUT ANY REASONABLE GROUND.

(C) IN HEARING AND MAKING A DETERMINATION ON A PROTEST FILED
AGAINST A LICENSE RENEWAL, THE ADMINISTRATION:

(1) MAY CONSIDER ONLY:

1 (I) ISSUES ARISING OUT OF SPECIFIC COMPLAINTS ABOUT THE
2 OPERATION OF THE LICENSED PREMISES; AND

3 (II) THE PERFORMANCE OF THE LICENSE HOLDER FOR THE
4 4-YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF THE RENEWAL
5 APPLICATION; AND

6 (2) MAY NOT CONSIDER ZONING ISSUES.

7 (D) THE ADMINISTRATION MAY ADOPT REGULATIONS TO IMPLEMENT THIS
8 SECTION.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
10 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.