

Chapter 244

(House Bill 805)

AN ACT concerning

Cannabis – Licensee Locations – Restrictions

FOR the purpose of altering the distance restrictions applicable to a licensed cannabis dispensary; prohibiting a political subdivision from establishing certain zoning requirements for licensed cannabis dispensaries and certain licensed cannabis growers that are more restrictive than certain zoning restrictions applicable to certain other entities; clarifying the authority of a political subdivision to alter certain distance requirements; authorizing certain individuals to file a protest with the Maryland Cannabis Administration against the renewal of a cannabis license; establishing standards and requirements for the Administration's consideration of a protest; ~~authorizing certain individuals to file a protest with the Maryland Cannabis Administration against the renewal of a cannabis license; establishing standards and requirements for the Administration's consideration of a protest;~~ requiring a political subdivision to grant a waiver to certain zoning requirements to a licensed cannabis dispensary that was operating before a certain date; and generally relating to cannabis licensees and zoning restrictions.

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

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

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

~~BY adding to~~
~~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~~ ONE-HALF MILE.

(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:

(1) 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; OR

(2) PROHIBITING OUTDOOR CANNABIS CULTIVATION ON A PREMISES THAT WAS PROPERLY ZONED FOR OUTDOOR CANNABIS CULTIVATION ON OR BEFORE JUNE 30, 2023.

(G) A POLITICAL SUBDIVISION MAY:

(1) BY ORDINANCE, ESTABLISH A DISTANCE LIMITATION FOR DISPENSARIES OF UP TO 100 FEET FROM AN AREA ZONED FOR RESIDENTIAL USE; OR

(2) APPLY TO DISPENSARIES THE DISTANCE LIMITATION FOR LICENSED ALCOHOLIC BEVERAGE RETAILERS FROM AN AREA ZONED FOR RESIDENTIAL USE.

(H) A POLITICAL SUBDIVISION SHALL GRANT A WAIVER TO AN ORDINANCE THAT PROVIDES A DISTANCE REQUIREMENT FOR DISPENSARIES UNDER THIS SECTION FOR A LICENSED DISPENSARY THAT WAS IN OPERATION BEFORE APRIL 1, 2024.

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:

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

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

(2) MAY NOT CONSIDER ZONING ISSUES.

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

~~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~~

~~(H) 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:~~

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

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

~~(2) MAY NOT CONSIDER ZONING ISSUES.~~

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

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

Approved by the Governor, April 25, 2024.