

SENATE BILL 1197

J1

7lr3802

By: **Senator Miller**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 20, 2017

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Maryland Medical Cannabis Commission – Membership,**
3 **Licensing, and Studies**

4 FOR the purpose of requiring the Natalie M. LaPrade Maryland Medical Cannabis
5 Commission to actively seek, to the extent permitted by State and federal law, to
6 achieve racial, ethnic, and geographic diversity when licensing medical cannabis
7 growers, processors, and dispensaries and to strongly encourage and conduct ongoing
8 outreach to certain small, minority, and women business owners and entrepreneurs
9 for certain purposes; altering the membership of the Commission; requiring the
10 Governor to appoint an executive director of the Commission with the advice and
11 consent of the Senate of Maryland; establishing the Natalie M. LaPrade Medical
12 Cannabis Access Fund; requiring the Department of Health and Mental Hygiene to
13 administer the Fund; providing that the Fund is a special, nonlapsing fund that is
14 not subject to a certain provision of law; providing for the purpose of the Fund;
15 requiring the State Treasurer to hold the Fund separately and the Comptroller to
16 account for the Fund; requiring the Fund to be invested and reinvested in a certain
17 manner; providing that investment earnings of the Fund shall be retained to the
18 credit of the Fund; providing that the Fund is subject to a certain audit; requiring
19 the Comptroller to pay out money from the Fund as directed by the Department;
20 providing that the Fund consists of certain money and fees; prohibiting any part of
21 the Fund from reverting or being credited to certain funds; providing that
22 expenditures from the Fund may be made only in accordance with the State budget;
23 requiring the Department, in consultation with the Commission, to establish a
24 certain program allowing certain individuals to obtain medical cannabis from certain
25 dispensaries at no cost or a reduced cost and to reimburse certain dispensaries from
26 a certain Fund; requiring the Department to adopt certain regulations; prohibiting
27 a member of the Senate of Maryland or the House of Delegates from being an owner
28 or an employee of a certain business entity that holds a certain license; altering the
29 number of medical cannabis grower licenses that may be awarded by the
30 Commission; requiring the Commission to award up to a certain number of medical

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



cannabis grower licenses to certain applicants; requiring, on or before a certain date, the Commission to conduct a certain study; providing that the total number of medical cannabis grower licenses awarded by the Commission shall decrease under certain circumstances; authorizing the Commission to issue additional licenses beginning on a certain date under certain circumstances; requiring the Commission grant Stage One preapproval for a medical cannabis grower license to certain applicants on or before a certain date; requiring certain applicants to meet certain requirements for final approval for a certain license; prohibiting the Commission from reviewing, evaluating, or ranking an application for a medical cannabis grower license or awarding any additional medical cannabis grower licenses until a certain disparity study is completed; providing for the termination of the terms of certain appointed members of the Commission; providing for the appointment and terms of certain appointed members of the Commission; requiring the Certification Agency, in consultation with the General Assembly and the Office of the Attorney General, to initiate a certain study of the medical cannabis industry to make a certain determination relating to certain business participation in the medical cannabis industry; authorizing the Board of Public Works to adopt certain regulations; requiring the final report of a certain study to be submitted to the Legislative Policy Committee before a certain date, defining a certain term; and generally relating to membership, licensing, and studies and the Natalie M. LaPrade Maryland Medical Cannabis Commission.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–3302, 13–3303(a) and (f), and 13–3306(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY adding to
Article – Health – General
Section 13–3303.1 and 13–3305.1
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

Article – Health – General

13–3302.

(a) There is a Natalie M. LaPrade Medical Cannabis Commission.

(b) The Commission is an independent commission that functions within the Department.

(c) The purpose of the Commission is to develop policies, procedures, guidelines, and regulations to implement programs to make medical cannabis available to qualifying patients in a safe and effective manner.

(d) (1) The Commission shall develop identification cards for qualifying patients and caregivers.

(2) (i) The Department shall adopt regulations that establish the requirements for identification cards provided by the Commission.

(ii) The regulations adopted under subparagraph (i) of this paragraph shall include:

1. The information to be included on an identification card;
2. The method through which the Commission will distribute identification cards; and
3. The method through which the Commission will track identification cards.

(e) The Commission shall develop and maintain a Web site that:

(1) Provides information on how an individual can obtain medical cannabis in the State; and

(2) Provides contact information for licensed dispensaries.

(F) THE COMMISSION SHALL:

(1) ACTIVELY SEEK, TO THE EXTENT PERMITTED BY STATE AND FEDERAL LAW, TO ACHIEVE RACIAL, ETHNIC, AND GEOGRAPHIC DIVERSITY WHEN LICENSING MEDICAL CANNABIS GROWERS, PROCESSORS, AND DISPENSARIES; AND

(2) STRONGLY ENCOURAGE AND CONDUCT ONGOING OUTREACH TO SMALL, MINORITY, AND WOMEN BUSINESS OWNERS AND ENTREPRENEURS, INCLUDING CERTIFIED MINORITY BUSINESS ENTERPRISES, AS DEFINED IN § 14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, TO APPLY FOR A LICENSE AS A MEDICAL CANNABIS GROWER BY:

(I) ESTABLISHING AND USING TRAINING PROGRAMS IN PARTNERSHIP WITH TRADITIONAL MINORITY-SERVING INSTITUTIONS, INCLUDING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND TRADE ASSOCIATIONS FOR MINORITY AND WOMEN BUSINESS OWNERS AND ENTREPRENEURS;

(II) DISSEMINATING INFORMATION ABOUT THE LICENSING PROCESS FOR MEDICAL CANNABIS GROWERS THROUGH MEDIA THAT HAVE BEEN DETERMINED TO REACH LARGE NUMBERS OF MINORITY AND WOMEN BUSINESS OWNERS AND ENTREPRENEURS; AND

(III) COLLABORATING WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, TRADE ASSOCIATIONS FOR SMALL, MINORITY-OWNED, AND WOMEN-OWNED BUSINESSES, AND OTHER ENTITIES TO ENSURE THAT OUTREACH IS APPROPRIATELY TARGETED.

13-3303.

(a) The Commission consists of the following ~~[16]~~ 14 members:

(1) The Secretary of Health and Mental Hygiene, or the Secretary's designee; ~~[and]~~

(2) ONE MEMBER REPRESENTING A MINORITY BUSINESS ENTERPRISE WHO HAS NO RELATIONSHIP TO THE MEDICAL CANNABIS INDUSTRY, APPOINTED BY THE PRESIDENT OF THE SENATE;

(3) ONE MEMBER REPRESENTING A MINORITY BUSINESS ENTERPRISE WHO HAS NO RELATIONSHIP TO THE MEDICAL CANNABIS INDUSTRY, APPOINTED BY THE SPEAKER OF THE HOUSE; AND

~~[(2)]~~ (4) The following ~~[15]~~ 11 members, appointed by the Governor:

(i) Two members of the public who support the use of cannabis for medical purposes and who are or were patients who found relief from the use of medical cannabis;

(ii) One member of the public designated by the Maryland Chapter of the National Council on Alcoholism and Drug Dependence;

(iii) Three physicians licensed in the State;

(iv) One nurse licensed in the State who has experience in hospice care, nominated by a State research institution or trade association;

(v) One pharmacist licensed in the State, nominated by a State research institution or trade association;

(vi) One scientist who has experience in the science of cannabis, nominated by a State research institution;

1 [(vii) One representative of the Maryland State's Attorneys'
2 Association;

3 (viii) One representative of law enforcement;

4 (ix) An attorney who is knowledgeable about medical cannabis laws
5 in the United States;]

6 [(x)] (VII) An individual with experience in horticulture,
7 recommended by the Department of Agriculture; AND

8 [(xi)] (VIII) One representative of the University of Maryland
9 Extension[; and

10 (xii) One representative of the Office of the Comptroller].

11 (f) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
12 Commission may employ a staff, including contractual staff, in accordance with the State
13 budget.

14 (2) THE GOVERNOR SHALL APPOINT AN EXECUTIVE DIRECTOR OF
15 THE COMMISSION, WITH THE ADVICE AND CONSENT OF THE SENATE.

16 13-3303.1.

17 (A) THERE IS A NATALIE M. LAPRADE MEDICAL CANNABIS ACCESS FUND.

18 (B) THE DEPARTMENT SHALL ADMINISTER THE FUND.

19 (C) THE PURPOSE OF THE FUND IS TO PROVIDE ACCESS TO MEDICAL
20 CANNABIS FOR INDIVIDUALS ENROLLED IN THE MARYLAND MEDICAL ASSISTANCE
21 PROGRAM OR IN THE VETERANS ADMINISTRATION MARYLAND HEALTH CARE
22 SYSTEM.

23 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
24 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

25 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
26 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

27 (3) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
28 MANNER AS OTHER STATE FUNDS, AND ANY INVESTMENT EARNINGS SHALL BE
29 RETAINED TO THE CREDIT OF THE FUND.

(4) THE FUND SHALL BE SUBJECT TO AN AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED FOR IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

(5) THE COMPTROLLER SHALL PAY OUT MONEY FROM THE FUND AS DIRECTED BY THE DEPARTMENT.

(E) THE FUND CONSISTS OF:

(1) 1% OF THE GROSS ANNUAL SALES OF EACH MEDICAL CANNABIS GROWER, PROCESSOR, AND DISPENSARY LICENSED BY THE COMMISSION UNDER THIS SUBTITLE;

(2) ANY MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND, IN ACCORDANCE WITH ANY CONDITIONS ADOPTED BY THE COMMISSION FOR THE ACCEPTANCE OF DONATIONS OR GIFTS TO THE FUND; AND

(4) ANY FEES COLLECTED BY THE COMMISSION UNDER THIS SUBTITLE.

(F) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO:

(1) THE GENERAL FUND OF THE STATE; OR

(2) ANY OTHER SPECIAL FUND OF THE STATE.

(G) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(H) (1) THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSION, SHALL ESTABLISH A PROGRAM TO ALLOW ELIGIBLE INDIVIDUALS ENROLLED IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR IN THE VETERANS ADMINISTRATION MARYLAND HEALTH CARE SYSTEM TO:

(I) OBTAIN MEDICAL CANNABIS FROM A LICENSED DISPENSARY AT NO COST OR A REDUCED COST; AND

(II) REIMBURSE A LICENSED DISPENSARY FOR THE COST OF THE MEDICAL CANNABIS DISPENSED TO AN ELIGIBLE INDIVIDUAL UNDER THE PROGRAM FROM THE FUND.

(2) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.

13-3305.1.

(A) IN THIS SECTION, "OWNER" INCLUDES ANY TYPE OF OWNER OR BENEFICIARY OF A BUSINESS ENTITY, INCLUDING AN OFFICER, A DIRECTOR, A PRINCIPAL EMPLOYEE, A PARTNER, AN INVESTOR, A STOCKHOLDER, OR A BENEFICIAL OWNER OF THE BUSINESS ENTITY AND, NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A PERSON HAVING ANY OWNERSHIP INTEREST REGARDLESS OF THE PERCENTAGE OF OWNERSHIP INTEREST.

(B) A MEMBER OF THE SENATE OF MARYLAND OR THE HOUSE OF DELEGATES MAY NOT BE AN OWNER OR AN EMPLOYEE OF ANY BUSINESS ENTITY THAT HOLDS A MEDICAL CANNABIS GROWER LICENSE, DISPENSARY LICENSE, OR PROCESSOR LICENSE.

13-3306.

(a) (1) The Commission shall license medical cannabis growers that meet all requirements established by the Commission to operate in the State to provide cannabis to:

(i) Processors licensed by the Commission under this subtitle;

(ii) Dispensaries licensed by the Commission under this subtitle;

(iii) Qualifying patients and caregivers; and

(iv) Independent testing laboratories registered with the Commission under this subtitle.

(2) (i) [Except] SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH AND EXCEPT as provided in subparagraph [(ii)] (IV) of this paragraph, the Commission may [license] AWARD no [more] LESS than 15 AND NO MORE THAN 20 LICENSES TO medical cannabis growers.

(II) IN ADDITION TO THE 15 APPLICANTS GRANTED STAGE ONE PREAPPROVAL FOR A MEDICAL CANNABIS GROWER LICENSE BY THE COMMISSION IN AUGUST 2016, THE COMMISSION SHALL AWARD UP TO THREE LICENSES TO APPLICANTS THAT:

1 **1. MEET THE STANDARDS FOR A MEDICAL CANNABIS**
2 **GROWER ESTABLISHED UNDER THIS SECTION; AND**

3 **2. IF A SCORING SYSTEM IS USED TO EVALUATE**
4 **APPLICANTS FOR MEDICAL CANNABIS GROWERS, QUALIFY AS MINORITY BUSINESS**
5 **ENTERPRISES PENDING THE OUTCOME OF A DISPARITY STUDY FOR AT LEAST 5% OF**
6 **THE SCORE.**

7 **(III) OF THE 20 TOTAL LICENSES THAT MAY BE AWARDED UNDER**
8 **SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH, THE TOTAL NUMBER OF**
9 **LICENSES AWARDED SHALL DECREASE BY THE NUMBER OF STAGE ONE**
10 **PREAPPROVAL LICENSEES THAT DO NOT MEET THE COMMISSION'S REQUIREMENTS**
11 **FOR FINAL APPROVAL ON OR BEFORE AUGUST 15, 2017.**

12 **[(ii)] (IV) 1. [Beginning] SUBJECT TO SUBSUBPARAGRAPH 2**
13 **OF THIS SUBPARAGRAPH, BEGINNING June 1, [2018] 2021,** the Commission may issue
14 the number of licenses necessary to meet the demand for medical cannabis by qualifying
15 patients and caregivers issued identification cards under this subtitle in an affordable,
16 accessible, secure, and efficient manner.

17 **2. ON OR BEFORE DECEMBER 1, 2020, THE**
18 **COMMISSION SHALL CONDUCT A STUDY TO DETERMINE THE DEMAND FOR MEDICAL**
19 **CANNABIS BY QUALIFYING PATIENTS IN THE STATE.**

20 **3. THE COMMISSION MAY ISSUE ADDITIONAL MEDICAL**
21 **CANNABIS GROWER LICENSES UNDER SUBSUBPARAGRAPH 1 OF THIS**
22 **SUBPARAGRAPH ONLY IF THE GENERAL ASSEMBLY ADOPTS LEGISLATION**
23 **INCREASING THE NUMBER OF LICENSES BASED ON THE RESULTS OF THE STUDY**
24 **CONDUCTED UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.**

25 **[(iii)] (V)** The Commission shall establish an application review
26 process for granting medical cannabis grower licenses in which applications are reviewed,
27 evaluated, and ranked based on criteria established by the Commission.

28 **(iv) (VI)** The Commission may not issue more than one medical
29 cannabis grower license to each applicant.

30 **(v) (VII)** A grower shall pay an application fee in an amount to be
31 determined by the Commission consistent with this subtitle.

32 **(3)** The Commission shall set standards for licensure as a medical cannabis
33 grower to ensure public safety and safe access to medical cannabis, which may include a
34 requirement for the posting of security.

35 **(4)** Each medical cannabis grower agent shall:

1 (i) Be registered with the Commission before the agent may
2 volunteer or work for a licensed grower; and

3 (ii) Obtain a State and national criminal history records check in
4 accordance with § 13–3312 of this subtitle.

5 (5) (i) A licensed grower shall apply to the Commission for a
6 registration card for each grower agent by submitting the name, address, and date of birth
7 of the agent.

8 (ii) 1. Within 1 business day after a grower agent ceases to be
9 associated with a grower, the grower shall:

10 A. Notify the Commission; and

11 B. Return the grower agent's registration card to the
12 Commission.

13 2. On receipt of a notice described in subsubparagraph 1A of
14 this subparagraph, the Commission shall:

15 A. Immediately revoke the registration card of the grower
16 agent; and

17 B. If the registration card was not returned to the
18 Commission, notify the Department of State Police.

19 (iii) The Commission may not register a person who has been
20 convicted of a felony drug offense as a grower agent.

21 (6) (i) A medical cannabis grower license is valid for 4 years on initial
22 licensure.

23 (ii) A medical cannabis grower license is valid for 2 years on renewal.

24 (7) An application to operate as a medical cannabis grower may be
25 submitted in paper or electronic form.

26 (8) (i) The Commission shall encourage licensing medical cannabis
27 growers that grow strains of cannabis, including strains with high cannabidiol content,
28 with demonstrated success in alleviating symptoms of specific diseases or conditions.

29 (ii) The Commission shall encourage licensing medical cannabis
30 growers that prepare medical cannabis in a range of routes of administration.

31 (9) (i) The Commission shall:

1 1. Actively seek to achieve racial, ethnic, and geographic
2 diversity when licensing medical cannabis growers; and

3 2. Encourage applicants who qualify as a minority business
4 enterprise, as defined in § 14–301 of the State Finance and Procurement Article.

5 (ii) Beginning June 1, 2016, a grower licensed under this subtitle to
6 operate as a medical cannabis grower shall report annually to the Commission on the
7 minority owners and employees of the grower.

8 (10) An entity seeking licensure as a medical cannabis grower shall meet
9 local zoning and planning requirements.

10 SECTION 2. AND BE IT FURTHER ENACTED, That:

11 (a) (1) On or before July 1, 2017, the Natalie M. LaPrade Maryland Medical
12 Cannabis Commission shall grant Stage One preapproval for a medical cannabis grower
13 license to the two applicants for a medical cannabis grower license whose applications were
14 initially ranked in the top 15 of all medical cannabis grower license applications by the
15 Regional Economic Studies Institute in July 2016 but did not receive Stage One
16 preapproval for a license.

17 (2) An applicant who is granted Stage One preapproval for a medical
18 cannabis grower license under paragraph (1) of this subsection shall meet the requirements
19 established by the Commission for final approval of a medical cannabis grower license.

20 (b) The Commission may not review, evaluate, or rank an application for a
21 medical cannabis grower license or award any additional medical cannabis grower licenses
22 under § 13–3306(a)(2)(ii) of the Health – General Article, as enacted by Section 1 of this
23 Act, until the disparity study required under Section 4 of this Act is completed.

24 SECTION 3. AND BE IT FURTHER ENACTED, That:

25 (a) The terms of the following members of the Natalie M. LaPrade Maryland
26 Medical Cannabis Commission shall expire on June 1, 2017:

27 (1) the representative of the Maryland State’s Attorneys’ Association;

28 (2) the representative of law enforcement;

29 (3) the attorney who is knowledgeable about medical cannabis laws in the
30 United States; and

31 (4) the representative of the Office of the Comptroller.

1 (b) The President of the Senate and the Speaker of the House of Delegates shall
2 each appoint one member representing minority business enterprises that have no
3 relationship to the medical cannabis industry in 2017, and the two appointed members
4 shall serve for a term of 4 years beginning July 1, 2017, until a successor is appointed and
5 qualifies.

6 SECTION 4. AND BE IT FURTHER ENACTED, That the Certification Agency, in
7 consultation with the General Assembly and the Office of the Attorney General, shall
8 initiate a study of the regulated medical cannabis industry to determine whether there is
9 evidence to support racial preferences in the awarding of licenses or whether to provide
10 other assistance to minority and women applicants and business owners seeking to
11 participate in the medical cannabis industry. In preparation for the study, the Board of
12 Public Works may adopt regulations authorizing a unit of State government to require
13 bidders and offerors to submit information necessary for the conduct of the study. The
14 Board of Public Works may designate that certain information received in accordance with
15 regulations adopted under this section shall be confidential. Notwithstanding that certain
16 information may be designated by the Board of Public Works as confidential, the
17 Certification Agency may provide the information to any person under contract with the
18 Certification Agency to assist in conducting the study. The study also shall evaluate
19 race-neutral programs and other methods that can be used to address the needs of minority
20 businesses. The final report on the study shall be submitted to the Legislative Policy
21 Committee of the General Assembly, in accordance with § 2-1246 of the State Government
22 Article, before December 1, 2017, so that the General Assembly may review the report
23 before the 2018 Session.

24 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June
25 1, 2017.