



SB 692 — Cannabis Legalization and Reparations for the War on Drugs Act

Senator Carter's SB 692 would end prohibition in Maryland and replace it with a system to tax and regulate cannabis for adults 21 and older. In addition to legalizing possession and home cultivation of cannabis for adults, it would vacate past cannabis convictions and distribute the bulk of tax revenue from legal sales to fund community-based initiatives that serve communities disproportionately impacted by cannabis prohibition and enforcement.

Possession Limits

- Adults 21 and older could possess and cultivate personal-use amounts.
- Personal-use amounts are defined as four ounces of cannabis, 24 grams of concentrated cannabis, or six plants.
 - There is no limit specified for infused products, which could lead to citations for possessing modest amounts of edibles weighing over four ounces.
 - It would not legalize the cannabis harvested from the plants, in cases where the amount exceeds four ounces.
- Creates parameters for home cultivation.
 - Plants may not be cultivated in public view and must be secure from unauthorized access and access by individuals under 21.
 - The penalty for doing so is a civil fine of up to \$750 or a community service alternative.
 - No more than 12 plants could be cultivated at a residence with two or more adults 21 and older.
 - Cultivation of more than six plants but less than 12 is a civil offense punishable by a \$250 fine or community service.

Criminal Justice Reforms

- Possession with intent to distribute and the unlicensed sale or distribution of cannabis would be punishable by a civil fine of up to \$250. A person may request community service of up to 30 hours in lieu of the fine.
- Possession of an amount of cannabis exceeding a personal-use amount is a civil offense punishable by a civil fine of up to \$150. A person may request community service of up to 15 hours in lieu of the fine.
- First-offense underage possession of a personal-use amount is a civil offense punishable by a civil fine of up to \$50. The court will also order a drug education program with information relating to cannabis use disorder and the dangers of underage cannabis use.

- Probable cause or reasonable suspicion may not be based solely on the odor of cannabis, odor of burnt cannabis, the possession or suspicion of possession of cannabis, or money in proximity to cannabis.
 - The limitation does not apply in the case of an investigation into driving under the influence.
- Allows adults to share personal-use amounts without remuneration.
- Parole, probation, and pretrial release are not violated for state-legal conduct of testing positive for THC.
- Under state law, cannabis could be smoked wherever tobacco can be smoked. However, local jurisdictions could create their own ordinances penalizing public cannabis smoking.

Vacatur, Release, and Re-Sentencing

- Legalization is retroactive, and all charges pending on July 1, 2022 for possession, cultivation, and distribution must be dismissed.
- Convictions for possession of cannabis, possession of cannabis paraphernalia, possession with intent to distribute cannabis, and manufacturing or distribution of cannabis before July 1, 2022 will be automatically vacated by July 1, 2023.
- Individuals may request — and shall be granted — vacatur or a new trial for any crime if their conviction was based in whole or in part on evidence discovered after a search in which the odor of cannabis was a basis for probable cause.
- Provides for release for individuals incarcerated or under supervision on or after July 1, 2022 for cannabis possession, or cultivation of a personal-use amount, if the person is not serving a concurrent or consecutive sentence for another offense.

Regulation

- Adult-use cannabis businesses will be regulated by the Alcohol and Tobacco Commission (ATC).
- On or before October 1, 2023, the ATC must adopt regulations for implementation.
- Regulations must include rules, procedures, and policies to promote and encourage full participation in the regulated cannabis industry by people from communities that have previously been disproportionately harmed by cannabis prohibition and enforcement.
- Application fees may not exceed \$5,000.

Public Health Regulations

- Requires cannabis and cannabis products to be labeled to include the length of time it typically takes for the product to take effect, disclosure of ingredients and possible allergens, and a nutritional fact panel.
- Requires cannabis products to have opaque, child-resistant packaging.
- Edible products must be clearly identifiable with a standard symbol indicating that it contains cannabis.
- The commission shall develop a scientifically accurate safety information label, handout, or both. Information shall include:
 - Advice about the potential risks of cannabis, including risks of driving under the influence and that doing so is illegal; any adverse effects unique to younger adults including effects related to brain development; risks of using cannabis during pregnancy or breastfeeding; and a warning about the need to safeguard cannabis products from children and pets.

Licensing

- Creates a tiered licensing system for cultivation. (For example, Tier 1 “micro-businesses” are no more than 5,000 square feet; Tier 5 are no more than 50,000 square feet indoor or 150,000 square feet outdoor.)
 - Fees will be set by the regulator with substantially lower fees for Tier 1.
 - The commission will create a scored process for issuing cultivation licenses, which may consider security; business, diversity, and environmental plans; veteran status; Maryland residency; knowledge and experience; and labor and employee training.
 - An applicant that scores above a certain number of points set by the commission shall be entered into a lottery.
 - Does not specify the number of cultivation licenses that will be issued.
- The commission shall ensure that at least 30% of licenses are awarded to applicants that are 51% or more owned by members of a group that has been historically negatively impacted by the enforcement of cannabis prohibition.
- A person cannot have a legal, equitable, or beneficial interest of 5% or more in more than one cultivator or five retailers.
- By October 1, 2023, the ATC will begin processing applications for retail licenses. By April 1, 2024, it will issue 47 retail licenses — one per senatorial district.
- Creates a scored 250-point application system for retailers:
 - 50 points for security and record keeping

- 30 points for knowledge and experience with the cannabis industry
 - 30 points for business plan and financials
 - 30 points based on whether the applicant is 51% or more controlled by state resident
 - 30 points based on whether applicant is 51% or more owned by members of a group that has been historically impacted by the enforcement of cannabis prohibition
 - 30 points for a plan to engage with the community in which applicant will be located
 - 20 points for a diversity plan
 - 10 points for suitability of the employee training plan
 - 10 points for labor and employment practices
 - 10 points for an environmental plan
 - 5 points for whether the applicant is 26% or more controlled and owned by a veteran
- The ATC may provide that any applicant that scores above a specified number of points must be entered into a lottery.
 - By August 2024, the ATC will begin accepting and processing applications for processors. Unlike retailers and cultivators, they are not subject to a numerical cap.
 - The ATC may accept more retail and cultivation applications beginning on February 1, 2027.
 - Additional cultivation can only be licensed if a study shows additional supply is needed.

Local Control

- On-site consumption establishments are up to localities.
- Localities can prohibit any or all types of cannabis establishments. An initiated or referred measure to ban cannabis businesses must appear on a general election ballot.
- Localities cannot ban delivery.

Non-discrimination

- The state cannot deny a driver's license, professional license, housing assistance, social services, or other benefits based on cannabis use or testing positive for cannabis.
- People cannot be denied custody or visitation for conduct made legal by the law, unless the individual's behavior creates an unreasonable danger to the minor.
- The state cannot deny employment based on conduct made legal, including testing positive for cannabis or for a prior conviction for a nonviolent cannabis offense. The bill does not prevent a government employer from disciplining an employee or contractor for consuming cannabis in the workplace or for working while impaired by cannabis.

- For the purposes of medical care, including organ and tissue transplant, the use of cannabis does not constitute the use of an illicit substance.
- Landlords cannot prohibit the possession of cannabis or consumption of cannabis by means other than smoking. They may prohibit smoking of cannabis products on the property if the property has a smoke-free policy and there is a designated outdoor smoking area.
- Universities, colleges, and schools cannot penalize individuals solely for state-legal cannabis conduct unless doing so is required by federal law.

Taxation

- There would be an excise tax on cannabis, with rates starting lower and increasing. Taxes would be imposed on sales to consumers and would be:
 - Until April 2026, a 10% excise tax;
 - From April 1, 2026 to March 2028, a 15% excise tax; and
 - Starting April 1, 2028, a 20% excise tax.
- Localities can impose a 3% local sales tax.

Revenue Distribution

- All taxes and fees will go to a Cannabis Regulation Fund. The fund shall be distributed as follows:
 - Costs of administration, then:
 - 60% to the Community Reinvestment and Repair Fund.
 - The fund is to be used to provide funds to community-based organizations that have been determined by the AG to be the most impacted by the disparate enforcement of cannabis prohibition before July 1, 2022.
 - The fund may only be used for funding community-based initiatives to benefit low-income communities, funding community-based initiatives that serve communities disproportionately harmed by cannabis prohibition and enforcement, and any related administrative expenses.
 - The fund may not be expended for law enforcement activities.
 - 2% to the small-, minority-, and women-owned businesses account.
 - The remainder will go to the general fund.

Community Reinvestment and Repair Fund

After administrative expenses, 60% of the revenue will be allocated by the Comptroller to a Community Reinvestment and Repair Fund.

- The Comptroller will disburse funds to counties in an amount that is proportionate to their rate of cannabis arrests from July 1, 2002 to July 1, 2022.

- Recipients must be community-based organizations that either: 1) benefit low-income communities, or 2) serve communities disproportionately harmed by cannabis prohibition and enforcement.
- Funds cannot be used for law enforcement agencies or activities.
- Counties will report on how the funds were used every two years.

The effective date is July 1, 2022.