



Feedback on SB 833

SB 833 has several excellent provisions, including home cultivation, broad expungement, ensuring parole and probation are not revoked over cannabis, protections from various forms of discrimination for cannabis use (such as in child custody), funding to promote a diverse industry and community reinvestment, and equity-centered licensing.

However, we recommend some amendments to make the bill stronger:

- **Removing the unscientific per se DUID limit** (from p. 81, line 6 to p. 82, line 2)
 - The five ng/ml limit would criminalize sober drivers. Cannabis consumers can test positive for five ng/ml many hours after impairment has worn off.
 - Requiring a person over five ng/ml to prove they were *not* impaired to avoid a conviction flips the burden of proof and will cause people (including patients who may have neurological and mobility issues) to be wrongly convicted of DUI.
- **Significantly increase the number of new stores licensed in 2024** (p. 63, lines 15-18)
 - Forty-seven new stores would be less than a 50% increase, even as the number of legal consumers increases by more than five-fold. (Maryland has 147,070 medical patients, while 758,000 Maryland adults admit past-year cannabis use according to SAMSHA.)
 - This would result in far fewer stores than other states. For example, Washington has as statewide cap of 556, which would be 442 in Maryland — if adjusted per capita.
 - This too-low limit would leave many cannabis consumers without access to safe, lab-tested cannabis and is detrimental to a healthy, competitive market with reasonable pricing. Too few stores would perpetuate the illicit market and related arrests and violence. (Note: 31% of Baltimore residents don't have a car.)
- **Increasing the number of growers, including with uncapped micro-grows** (p. 61, lines 24-29)
 - Capping licenses results in the government picking winners and losers. SB 833 would require applicants to spend large sums on applications to throw their hat in the ring. Avoiding a cap, and instead having discrete application periods, avoids that injustice and related litigation and delays.
 - Uncapped micro-grow licenses give everyone a fair shot to compete in the free market without causing oversupply (see Virginia JLARC report). Many states, including New Jersey, do not cap micro-grows.
 - Allowing uncapped micro-grows avoids creating a massive unfair advantage for existing grows and businesses they have relationships with. Failing to allow uncapped grows will allow existing vertically integrated operators to squeeze out

competitors, including new social equity applicant-run dispensaries and infused product manufacturers.

- **Changing “or” to “and” in the possession limit** (p. 7, lines 5-16)
 - Cannabis consumers often possess and purchase flower, edibles, *and* concentrates, not just one or the other. However, the limit says a person can possess two ounces, 15 grams of concentrates, *or* products with 1,500 mg of THC. It is not clear if a person can even possess a gram and an edible. “Or” needs to change to “and.”
- **Increasing possession and cultivation limits** (p. 7, lines 5-16)
 - We suggest six plants, rather than four, which is more in line with other states.
 - We recommend allowing four ounces to mirror the medical law.
- **Providing that the odor of cannabis is not grounds for a search**
 - We recommend using language like Connecticut’s P.A. 21-1, § 18 to ensure cannabis is not grounds for a search. (We do not recommend the language in SB 692, which creates an exception that swallows the rule, by seemingly allowing searches of areas “(1) readily accessible to the driver or operator; or (2) reasonably likely to contain evidence relevant to the condition of the driver or operator” when an officer claims they are investigating a suspected DUI. The DUI exception in Connecticut allows officers to use the odor if it’s relevant to probable cause for a sobriety test for driver *impairment* rather than to allow them to tear apart a car looking for legal cannabis.)
- **Providing for a deadline and a local referendum on any local ban** (p. 68, line 32 to p. 69, line 3)
 - States are increasingly putting deadlines on local bans, so there will be certainty on where establishments can locate. If localities will be allowed to opt out of cannabis sales, thus causing the illicit market to persist, voters should be given the final say, and there should be a clear deadline.
 - For example, counties and cities could be required to decide by July 1, 2023, and any ban could be automatically referred to voters no later than September 26, 2023.
- **Consider delaying medical licensing until social equity licensing begins**
 - In Illinois, we have seen a years-long delay in social equity licensing, while medical businesses have expanded their market share. Many equity advocates are now skeptical of allowing medical businesses to have a head start.
- **SB 833 should include caps on how many social equity licenses a dual licensee can incubate to avoid market domination**
 - The bill should ensure there are ample truly independent social equity licenses, by both capping the total number of incubated businesses (for categories of businesses with caps) and by allowing only a single incubated business per dual licensee.

- **Including additional banking-related language**
— The cannabis industry remains underbanked. Maryland should do what it can to facilitate banking, such as including language contained in South Carolina’s medical cannabis bill.

Other thoughts/questions:

- Why does the local tax go to counties only and not to cities — such as Baltimore?
- The bill doesn’t seem to include any of the amendments to harmonize medical and adult-use regulatory authorities, which Will Tilburg crafted in 2021. Shouldn’t those amendments be included?
- Shouldn’t all references to delta-9 THC be changed to include all THC, given the proliferation of potentially hazardous unregulated delta-8 products?