

  
Councilmember Kenyan R. McDuffie

  
Chairman Phil Mendelson

**AN AMENDMENT**

B24-113, "Medical Cannabis Amendment Act of 2022"  
(Engrossed Version)  
December 19, 2022

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**Amendment 1 - Section 3(e), on lines 335 through 339, is amended to read as follows:**

"(3) Create a self-certification form that may be used by qualifying patients ages 21 and older as part of the registration process, which shall contain the following statements:

~~"I, by attestation with my signature, under the penalty of perjury, affirm that I~~  
will **only** use cannabis purchased from a DC dispensary **as a qualifying patient only** for the treatment of a qualifying medical or dental condition or for the side effects of a qualifying or medical treatment. I understand my rights and obligations as set forth by the Medical Cannabis Program and agree to these requirements. **I certify under penalty of perjury that the foregoing is true and correct.**

[Signature Here]

**"Willfully making a false statement that is in fact material, in writing, directly or indirectly, on this application is a violation of District of Columbia law and subject to criminal penalties of a fine of not more than \$1,000 or imprisonment for not more than 180 days, or both. (D.C. Official Code § 22-2405)."**

***Rationale:*** *This amendment makes technical changes to language that will be included in the self-certification form, per the advice of the Office of Attorney General and the Council's Office of General Counsel.*

**Amendment 2 - Section 3(g) is amended as follows:**

**(1) The text on lines 597 to 600 is amended to read as follows:**

"(c)(1) A cultivation center licensed with ABCA as of the effective date of the Medical Cannabis Amendment Act of 2022, as approved by the Committee of the Whole on December 6, 2022 (Committee print of Bill 24-113), shall automatically receive a manufacturer's license, provided that the annual fee is paid.

**"(2) A cultivation center licensed with ABCA as of the effective date of the Medical Cannabis Amendment Act of 2022, as approved by the Committee of the Whole on December 6, 2022**

(Committee print of Bill 24-113), shall be eligible, upon approval of an application and payment of an annual fee, to receive a retailer or online retailer license.

“(3) A dispensary licensed with ABCA as of the effective date of the of the Medical Cannabis Amendment Act of 2022, as approved by the Committee of the Whole on December 6, 2022 (Committee print of Bill 24-113), shall be eligible, upon approval of an application and payment of an annual fee, to receive a cultivation center license and a manufacturer’s license.

“(4) ABCA shall make applications for additional licenses in paragraphs (2) and (3) of this subsection available no later than May 1, 2023.

**(2) The text on lines 644 and 645 is amended to read as follows:**

“(g) At least 50% of all new retailer, internet retailer, courier, cultivation center, and manufacturer licenses issued after the effective date of the Medical Cannabis Amendment Act of 2022,”.

**(3) The text on lines 649 through 657 is amended to read as follows:**

“(h)(1) The Board shall issue rules within 180 days following the effective date of the Medical Cannabis Amendment Act of 2022, as approved by the Committee of the Whole on December 6, 2022 (Committee print of Bill 24-113), to establish processes and procedures for requesting, reviewing, and implementing a cap or moratorium on the issuance of cultivation center, retailer or internet retailer licenses in a Ward, ANC, or Single Member District of an ANC.

“(2) After one year following the effective date of the Medical Cannabis Amendment Act of 2022, as approved by the Committee of the Whole on December 6, 2022 (Committee print of Bill 24-113), the ABC Board may, by rulemaking, limit the number of cultivation centers, retailers and internet retailers in a Ward, ANC, or Single Member District of an ANC.

**(4) The text on lines 676 through 678 is amended to read as follows:**

~~“(3) An applicant shall not be permitted to operate a medical cannabis business under a conditional license. The holder of a conditional license shall not engage in purchasing, possessing, cultivating, manufacturing, or selling of medical cannabis or cannabis products.~~

“(4) A conditional license that does not meet the terms of this subsection or is not operating after a period of one year shall be canceled by the ABC Board.”.

***Rationale:*** This amendment does four things. First, it allows existing cultivation centers and dispensaries to become vertically integrated and requires ABCA to make applications for this purpose available no later than May 1, 2023. This will benefit existing medical cannabis operators. Second, it requires at least half of all new cultivation center licenses to be issued to social equity applicants. This ensures that returning citizens have an opportunity to obtain a cultivation center license. Third, it allows the ABC Board to institute a cap or moratorium on cultivation center licenses through rulemaking. This will ensure that the Board can respond quickly if there is a glut of cannabis and cannabis products. Fourth, it clarifies the specific activities

that a holder of a conditional license is prohibited from engaging in until they secure a location and receive an annual license.

**Amendment 3 - New subsection 7a, in Section 3(h) on lines 813 through 874, is amended to read as follows:**

“(a)(1) No ~~later than 30~~ earlier than 180 calendar days after the effective date of the Medical Cannabis Amendment Act of 2022, as approved by the Committee of the Whole on December 6, 2022 (Committee print of Bill 24-113), ABCA shall make additional cultivation center, retailer and internet retailer licenses available to unlicensed establishments. Unlicensed establishments shall be able to submit applications for a 90 ~~60~~-calendar day open application period.

**“(2) To be eligible to apply for a cultivation center license during the 90-calendar day open application period, an unlicensed establishment shall demonstrate to the satisfaction of ABCA that the unlicensed establishment:**

**“(A) Is not located:**

**“(i) Within a residential district; or**

**“(ii) Within 300 feet of a preschool, primary or secondary school, or recreation center;**

**“(B) The facility at which cultivation will take place is suitable for the cultivation of cannabis, including being sufficient in size, power allocation, air exchange and air flow;**

**“(C) Has a valid, active business license issued on or before December 31, 2022;**

**“(D) Has a valid certificate of occupancy issued prior to the date on which the application is submitted;**

**“(E) Has been in operation since December 31, 2022 at the latest; and**

**“(F) Can demonstrate that business taxes were paid to the District of Columbia for each year following the issuance of a certificate of occupancy or business license, if applicable.**

“(3 ~~2~~) To be eligible to apply for a retailer license during the 90 ~~60~~-calendar day open application period, an unlicensed establishment shall demonstrate to the satisfaction of ABCA that the unlicensed establishment:

“(A) Is not located:

“(i) Within a residential district;

“(ii) Within 300 feet of a preschool, primary or secondary school, or recreation center; or

“(iii) Within 400 feet of an existing retailer;

“(B) Has a valid, active business license issued on or before December 31, 2022  
**April 5, 2022;**

“(C) Has a valid certificate of occupancy issued prior to the date on which the application is submitted on or before April 5, 2022;

“(D) Has been in operation since December 31, 2022 ~~April 5, 2022~~ at the latest;  
and

“(E) Can demonstrate that business taxes were paid to the District of Columbia for each year following the issuance of a certificate of occupancy or business license, if applicable.

“(4 3) To be eligible to apply for an internet retailer license during the 90 60-calendar day open application period, an unlicensed establishment shall demonstrate to the satisfaction of ABCA that the unlicensed establishment:

“(A) Is not open to the public and not located:

“(i) Within a residential district; or

“(ii) Within 300 feet of a preschool, primary or secondary school, or  
recreation center;

“(B) Has a valid, active business license issued on or before December 31, 2022  
**April 5, 2022;**

“(C) Has a valid certificate of occupancy issued prior to the date on which the application is submitted on or before April 5, 2022;

“(D) Has been in operation since December 31, 2022 ~~April 5, 2022~~, at the latest;  
and

“(E) Can demonstrate that business taxes were paid to the District of Columbia for each year following the issuance of a certificate of occupancy or business license, if applicable.

~~“(c 4) An unlicensed establishment may not relocate its business location to an address different from the address provided in the application for purposes of complying with the location requirements of this section. An unlicensed establishment may relocate its operations to a compliant location prior to the filing of an application under this section but shall not relocate its business to an address different from the address provided in the application for purposes of complying with the location requirements of this section.~~

“(d) For purposes of this section, the 300-foot restrictions shall not apply where the main entrance to the preschool, primary or secondary school, or recreation center, or the nearest property

**line of the school or recreation center, is actually on or occupies ground zoned commercial or industrial according the official atlases of the Zoning Commission of the District of Columbia.**

“(e 5) In determining whether a retailer application filed by an unlicensed establishment is eligible to be approved, the ABC Board shall ensure that the retailer application will not be located within 400 feet of a previously submitted retailer application filed by another applicant during the ~~90 60~~-calendar day open application period. Consistent with this paragraph, ABCA shall proceed forward with the application filed by the unlicensed establishment that is first in time. **If that application is subsequently denied, ABCA shall proceed with the application that is second in time, third in time, etc. until an application is approved.**

~~“(6) Straw ownership for purposes of meeting the ownership requirement in paragraph (2)(E) of this subsection is prohibited. A person or business who is found to have willfully asserted straw ownership shall have the person’s or business’s license revoked and be subject to a civil penalty of not more than \$30,000.~~

“(f 7) At least half of all licenses issued to unlicensed establishments shall be issued to social equity applicants. **Straw ownership for purposes of meeting the ownership requirement of this subsection is prohibited. A person or business who is found to have willfully asserted straw ownership shall have the person’s or business’s license revoked and be subject to a civil penalty of not more than \$30,000.**

“(g 8) Unregistered establishments shall not apply for a conditional license in order to meet the requirements of this subsection during the ~~90 60~~-calendar day open application periods.

“(h b) ABCA shall post a list of unlicensed establishments that applied for a retailer or internet retailer license during the ~~90 60~~-calendar day open application period to its website. ABCA shall also provide a copy of the list to the Director of the Department of Licensing and Consumer Protection.

“(i e) The ABC Board shall provide notice of complete and eligible **cultivation center**, retailer and internet retailer license applications received from unlicensed establishments to the Councilmember and all Advisory Neighborhood Commissions in the affected ward for a 45-calendar day public comment period. The Board shall hold a contested case protest hearing within 120 days of receiving a timely protest from an affected Advisory Neighborhood Commission.

“(j d) The grounds for a protest filed by an affected Advisory Neighborhood Commission shall relate to the impact of the unlicensed establishment on:

“(1) Peace, order, and quiet of the relevant area;

“(2) Residential parking needs and vehicular and pedestrian safety; and

“(3) Real property values.”.

***Rationale:*** *This amendment does several things. First, it gives the ABC Board time to issue regulations prior to the open-application period. This change was requested by the Board. Second, it extends the open application period from 60 to 90 days to give unlicensed establishments more time to apply. Third, it allows unlicensed establishments to apply for cultivation center licenses. Fourth, it adjusts dates on which an unlicensed business must have started operations in order to qualify for a license.*

**Amendment 4 - New subsection 7b, in Section 3(h) on lines 876 through 898, is amended to read as follows:**

“(a) Unlicensed establishments that submit a complete application with ABCA during 90 ~~60~~-calendar day open application period for a **cultivation center, or for** retailer or internet retailer shall not be subject to compliance with this act while their retailer or internet retailer application is pending review with the ABC Board; provided, that nothing in this subsection shall prohibit ABCA from issuing cease and desist orders to an applicant if he or she is found to be selling cannabis products that may be especially appealing to children or is using packaging or advertisements that might be especially appealing to children.

“(b)(1) A decision by the ABC Board to approve a **cultivation center**, retailer or internet retailer license for an unlicensed establishment shall be made in writing at least 15 days prior to the issuance of the license. The notice shall state that the unlicensed establishment shall cease any unlicensed activity immediately.

“(2)~~(A)~~ A decision by the ABC Board to deny an unlicensed establishment’s application for a retailer or internet retailer license shall be made in writing to the applicant and shall state the reasons for the denial.

**“(B) Within 15 days of receipt of the Board’s written denial decision, the applicant may submit, in writing, an appeal to the Board to reconsider the denial decision. With the written the appeal, the applicant may include any relevant documentation or evidence which contests findings of fact or conclusions of law in the Board’s written denial decision. If an applicant submits said appeal, the Board shall hold a hearing and render a decision within 30 days.**

**“(C) ~~As part of its written denial, If the applicant does not appeal the written denial decision, or after the Board renders a decision on an appeal,~~ the ABC Board shall notify the unlicensed establishment that it must close within 30 days after receipt of the denial or be subject to penalties pursuant to D.C. Official Code § 47-2844(a-2)(1B).**

“(c) The ABC Board may deny an unlicensed establishment’s application for a **cultivation center**, retailer or internet retailer license that does not provide the ABC Board with **documents necessary to**

**complete the application within 30 days of the ABC Board's request** ~~requested written documentation within 15 calendar days of the ABC Board's request.~~

“(d) An unlicensed establishment that is issued a **cultivation center**, retailer or internet retailer license shall be required to open within 120 days of being issued the retailer or internet retailer license. The Board shall cancel a retailer or internet retailer license issued to an unlicensed establishment that does not open within 120 days.”.

***Rationale:*** *This amendment makes conforming edits and establishes a process by which unlicensed establishment applicants can request that the ABC Board reconsider an initial denial decision. The addition of an appeal process ensures that unlicensed establishments have meaningful recourse if they believe their application was unfairly rejected.*

**Amendment 5 – Strike new subsection (C), Section 8(b)(4), on lines 1393 through 1399 from the bill.**

***Rationale:*** *This amendment removes the allowance that retailers can deduct lost gross income due to reduced fee patient sales, per the advice of the Office of Tax and Revenue (“OTR”). As written, the provision would have been difficult for OTR and other agencies to administer.*

**Amendment 6 – Section 8(d), on lines 1415 through 1422, is amended to read as follows:**

“(1B) ~~The Mayor may, after the Alcoholic Beverage and Cannabis Administration reviews, and approves or denies, licenses for unlicensed establishments pursuant to §§ 7–1671.06a and 7–1671.06b,~~ **The Mayor may, no earlier than 315 days after the effective date of the Medical Cannabis Amendment Act of 2022, as approved by the Committee of the Whole on December 6, 2022 (Committee print of Bill 24-113),** in addition to the provisions of subsection (a-1) of this section and paragraph (1) of this subsection, and notwithstanding § 2-1801.04(a)(1), take the following actions against, or impose the following requirements upon, any **business**, licensee, or agent of a licensee, **that applied for and was denied a medical cannabis business license, including any appeal, pursuant to §§ 7–1671.06a,** that knowingly engages or attempts to engage in the purchase, sale, exchange, or any other form of commercial transaction involving cannabis that is not purchased, sold, or exchanged in accordance with Chapter 16B of Title 7 or § 48-904.01:”.

***Rationale:*** *Amendment 3 shifts the start date for the open application period from 30 days after the effective date of the bill to 180 days. Additionally, amendment 3 extends the open-application window 30 days. With a 45-day review period for ANC's, this would provide unlicensed establishments who apply and are not awarded a license a minimum safe harbor period of 315 days. This amendment would make it so the start of enforcement against these establishments does not occur prior to 315 days, putting it in alignment with timeline for rulemaking, the open-application period, and the ANC review period.*