



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

SENATE BILL NO. 773

PRINTER'S NO. 1229

PRIME SPONSOR: Gebhard

### COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
Medical Marijuana Program Fund	See Fiscal Impact	See Fiscal Impact

### SUMMARY:

Senate Bill 773, Printer's Number 1229, makes various changes to the state medical marijuana program and authorizes additional licenses for independent dispensaries and independent growers/processors.

### ANALYSIS:

This legislation amends Act 16 of 2016 (Medical Marijuana Act) making several changes to the state medical marijuana program.

#### *Notification of Change of Control Transaction*

First, the legislation would require an applicant for a grower/processor or a dispensary permit to report to the Department of Health any change in control transaction of the medical marijuana organization. A "change of control transaction" is defined in the legislation as a consolidation, merger, or acquisition by a person or group of persons acting in concert of more than 20 percent of:

- A medical marijuana organization's securities or other ownership interests, with the exception of any ownership interest of the person that existed either at the time of the issuance of the initial medical marijuana organization's permit and payment of the initial permit or prior to the effective date of the legislation; or
- The securities or other ownership interests of a corporation or other form of business entity which owns directly or indirectly 20 percent of the securities or other ownership interests of the medical marijuana organization.

#### *Additional Dispensary and Grower/Processor Permits Authorized*

The legislation also adds Section 617 to the law to allow an independent grower/processor that applies for and meets the requirements of being an independent grower/processor to be issued one dispensary permit. Similarly, the legislation would allow an independent dispensary that applies and meets the requirements to be an independent dispensary to be issued one grower/processor permit. The Department of Health would be required to develop a standard application form and open applications for the additional permits authorized by the legislation within 30 days of the effective date of the legislation. The department would be required to review applications for the additional permits within 45 days of receipt of application, which would be required to include the following information:

- Supporting documentation and certification to the department that the applicant qualifies as an independent grower/processor or an independent dispensary;
- Certification to the department that the applicant will not enter into a change of control transaction with any other person for the duration of one year from the date the first dispensary or grower/processor location is deemed operational by the department, unless the change of control transaction occurs after the holder of the permit becomes operational and is between the applicant

and a diverse group; and

- Any information already required by Section 602 of the law that has significantly changed since the applicant received an initial permit.

*Application For and Issuance of the Additional Permits Authorized*

The Department of Health would be required to issue the additional permits authorized by the legislation within 60 days of the application submission deadline to all applicants that meet the minimum requirements established by the legislation. If an application is incomplete, the department would be required to notify the applicant of missing application materials within 15 days of reviewing the application. The applicant would then have 15 days from when the notice is received to provide the missing application materials. In addition, the department would be required to notify an applicant of the deficiencies of their application if it is complete but does not meet the minimum criteria for a permit. The applicant would then have 30 days from the date the notice was received to provide supplemental application materials, and the department would be permitted to have up to 30 days to issue dispensary permits to applicants that meet the minimum criteria for a permit after providing supplemental application materials.

If the department denies an application for a permit authorized by the legislation, the department would be required to notify the applicant of the denial, including each deficiency in the application that does not meet the minimum criteria to be issued a permit. An independent grower/processor or an independent dispensary that received a denial can reapply for a permit 30 days after receiving the denial. The department would also be required to respond to an appeal for the issuance or denial of a dispensary permit authorized by the legislation within 45 days of the appeal being submitted.

An independent grower/processor or independent dispensary that has been issued a permit would be required to notify the department when the independent grower/processor or independent dispensary location is operational. Upon notification, the department would be required to schedule an inspection of the location to determine if the medical marijuana organization facility is operational to the department’s satisfaction.

*Fees*

An independent grower/processor or an independent dispensary seeking a permit authorized by the legislation would be subject to the following application and permit fees, which are deposited into the Medical Marijuana Program Fund:

<i><b>Fee Description</b></i>	<i><b>An Independent Grower/Processor Applying for a Dispensary Permit</b></i>	<i><b>An Independent Dispensary Applying for a Grower/Processor Permit</b></i>
Initial Application Fee (nonrefundable)	\$5,000	\$10,000
Permit Fee (remains effective for one year and is paid at the time of application)	\$30,000 for each dispensary location	\$200,000
Annual Renewal Fee (covers renewal for all locations)	\$5,000	\$10,000
Application Amendment (to indicate relocation within the commonwealth or the addition or deletion of approved activities by the medical marijuana organization)	\$250	\$250

### *Other Provisions*

An independent grower/processor may apply for a dispensary permit authorized by the legislation in any of the six medical marijuana regions established by the Department of Health.

If an independent grower/processor or independent dispensary enters into a change of control transaction with another entity in violation of the provisions of the legislation, the contract or agreement executed with the other entity for the change of control transaction shall be void, unless the change of control transaction occurs at least one year after the permittee becomes operational or the merger is between a permit holder and a diverse group.

An entity that qualifies as an independent grower/processors or independent dispensary would not be limited from applying for and receiving additional permits or licenses under other provisions of Act 16 upon release of additional permits or licenses by the Department of Health.

Finally, an independent grower/processor or independent dispensary that applies for a permit to convert to a clinical registrant would be required to surrender a grower/processor or dispensary permit, or both, that was previously issued to the entity.

### **FISCAL IMPACT:**

The authorization of additional dispensary and grower/processor permits for applicants that qualify as an independent dispensary or independent grower/processor would increase the application and permit fees collected by the Department of Health, which are deposited into the Medical Marijuana Program Fund.

The Department of Health anticipates that potentially up to 10 independent growers/processors could qualify for the dispensary permits authorized by this legislation. Assuming that each of these independent growers/processors apply for and are granted a dispensary permit, and that each permittee establishes the maximum three locations allowed under Pennsylvania law, this would result in up to \$50,000 in initial application fees and \$900,000 in permit fees for all of the additional dispensary locations, for a total of \$950,000. In subsequent fiscal years the increase in annual renewal fees would total \$50,000.

The Department of Health further anticipates that there are up to four independent dispensaries that could qualify for a grower/processor permit under this legislation. Assuming each of these independent dispensaries apply for and meet the minimum criteria for a grower/processor permit, this would result in \$40,000 in initial application fees collected and \$800,000 in permit fees, for a total of \$840,000. In subsequent fiscal years the increase in annual renewal fees would total \$40,000.

In addition, any increase in gross sales between growers/processors to dispensaries would result in additional revenue to the Medical Marijuana Program Fund from the Gross Receipts Tax imposed on the sale of medical marijuana from a grower/processor to a dispensary. The amount of additional tax revenue generated would depend on the actual increase in gross sales due to the additional dispensary locations and is, therefore, indeterminate at this time.

Finally, this legislation would result in a cost to provide the Department of Health with additional resources to accommodate the functions required by the legislation, including reviewing permit applications and monitoring activities. The department estimates it will need an estimated \$525,000 to cover salaries and benefits for additional personnel, hardware, software, and shared services attributable to all full-time equivalent employees.

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**DATE:** November 15, 2023

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*