

# SENATE BILL 821

J1, M4

0lr2735  
CF 0lr3180

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By: **Senator Klausmeier**

Introduced and read first time: February 3, 2020

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Cannabis – Medical Cannabis Boutique Grower License and Pesticides**

3 FOR the purpose of authorizing a person to submit a certain application to the Department  
4 of Agriculture to approve the use of a pesticide in the production of cannabis;  
5 requiring that an application include a certain certified risk assessment; requiring  
6 the Secretary of Agriculture to consult with the Secretary of Health when making a  
7 certain determination; requiring the Secretary of Agriculture to notify an applicant  
8 whether a certain request is granted or denied; requiring the Natalie M. LaPrade  
9 Medical Cannabis Commission to license a medical cannabis boutique grower that  
10 meets certain requirements to provide medical cannabis to certain licensed and  
11 registered entities; limiting the number of boutique licenses the Commission may  
12 issue; requiring the Commission to establish a certain application review process;  
13 prohibiting a person from having an ownership interest in more than one boutique  
14 grower; requiring a boutique grower to pay a certain application fee; requiring an  
15 applicant for a boutique license to demonstrate certain capitalization in a certain  
16 manner; requiring the Commission to set certain safety standards for boutique  
17 growers; requiring each boutique agent to be registered with the Commission before  
18 taking certain actions and to obtain a certain background check; requiring a  
19 boutique grower to apply to the Commission for a certain registration card for each  
20 boutique agent; requiring a boutique grower to take certain actions when a boutique  
21 agent ceases to be associated with the boutique grower; authorizing the Commission  
22 to register certain persons as boutique agents except under certain circumstances;  
23 specifying the duration and fee for a boutique license; providing for the distribution  
24 of boutique license fees; authorizing an application to operate as a boutique grower  
25 to be submitted in a certain form; requiring the Commission to encourage boutique  
26 growers to produce certain types of cannabis; requiring the Commission to seek  
27 certain demographic diversity, encourage certain applicants, and establish certain  
28 goals; requiring, beginning on a certain date, a boutique grower to annually report  
29 certain information to the Commission; requiring a boutique grower to meet local  
30 zoning and planning requirements; prohibiting a boutique grower facility from  
31 exceeding a certain number of square feet; authorizing a boutique grower to provide

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



cannabis only to certain entities; authorizing a boutique grower to grow and process cannabis on the same premises; requiring the Commission to establish, and a boutique grower to follow, certain safety standards; prohibiting a boutique grower from using certain pesticides; authorizing a boutique grower to use a certain pesticide under certain circumstances; authorizing the Commission to inspect a boutique grower and impose certain penalties; specifying that a boutique grower or boutique agent may not be penalized or arrested for certain actions; specifying that a boutique grower is subject to certain provisions of law; providing that a boutique grower or boutique agent is not subject to criminal or civil actions; defining certain terms; and generally relating to the boutique medical cannabis grower licenses and pesticides.

BY adding to

Article – Agriculture

Section 5–105(i)

Annotated Code of Maryland

(2016 Replacement Volume and 2019 Supplement)

BY adding to

Article – Health – General

Section 13–3306.1

Annotated Code of Maryland

(2019 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 13–3313(a)

Annotated Code of Maryland

(2019 Replacement Volume)

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

### Article – Agriculture

5–105.

**(1) (1) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, A PERSON MAY SUBMIT A WRITTEN APPLICATION TO THE SECRETARY TO APPROVE THE USE OF A PESTICIDE IN THE PRODUCTION OF CANNABIS.**

**(2) THE APPLICATION AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A CERTIFIED RISK ASSESSMENT FOR THE PESTICIDE, PERFORMED BY AN INDEPENDENT ACCREDITED LABORATORY APPROVED BY THE SECRETARY, THAT CONCLUDES THAT THE USE OF THE PESTICIDE IN THE CULTIVATION OF CANNABIS WILL NOT LEAD TO UNREASONABLE ADVERSE EFFECTS**

ON HUMAN HEALTH OR THE ENVIRONMENT, AFTER CONSIDERING THE USE OF THE  
PESTICIDE:

(I) ON FOOD;

(II) ON TOBACCO;

(III) BY THE TYPE OF APPLICATION METHOD; OR

(IV) ON CROPS WITH AGRONOMIC CHARACTERISTICS SIMILAR  
TO CANNABIS.

(3) IN DETERMINING WHETHER THE PESTICIDE POSES AN  
UNREASONABLE RISK TO HUMAN HEALTH, THE SECRETARY SHALL CONSULT WITH  
THE SECRETARY OF HEALTH.

(4) THE SECRETARY SHALL NOTIFY THE APPLICANT WHETHER THE  
REQUEST SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS GRANTED OR  
DENIED.

#### Article – Health – General

##### 13-3306.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
INDICATED.

(2) “BOUTIQUE AGENT” MEANS AN OWNER, AN EMPLOYEE, A  
VOLUNTEER, AN OFFICER, OR A DIRECTOR OF A BOUTIQUE GROWER.

(3) “BOUTIQUE GROWER” MEANS AN ENTITY GRANTED A MEDICAL  
CANNABIS BOUTIQUE GROWER AND PROCESSOR LICENSE UNDER THIS SECTION.

(4) “BOUTIQUE LICENSE” MEANS A MEDICAL CANNABIS BOUTIQUE  
GROWER AND PROCESSOR LICENSE.

(B) (1) THE COMMISSION SHALL LICENSE A MEDICAL CANNABIS  
BOUTIQUE GROWER THAT MEETS 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

1 THIS SUBTITLE; AND

2 (III) INDEPENDENT TESTING LABORATORIES REGISTERED WITH  
3 THE COMMISSION UNDER THIS SUBTITLE.

4 (2) (I) NOTWITHSTANDING LIMITATIONS ON NEW GROWER  
5 LICENSES UNDER § 13-3306(A)(2) OF THIS SUBTITLE AND LIMITATIONS ON  
6 PROCESSOR LICENSES UNDER § 13-3309(C)(1) AND (2) OF THIS SUBTITLE, THE  
7 COMMISSION MAY ISSUE NOT MORE THAN 10 BOUTIQUE LICENSES.

8 (II) THE COMMISSION SHALL ESTABLISH AN APPLICATION  
9 REVIEW PROCESS FOR GRANTING A BOUTIQUE LICENSE IN WHICH APPLICATIONS  
10 ARE REVIEWED, EVALUATED, AND RANKED BASED ON CRITERIA ESTABLISHED BY  
11 THE COMMISSION.

12 (III) A PERSON MAY NOT HAVE AN OWNERSHIP INTEREST IN OR  
13 CONTROL OF, INCLUDING THE POWER TO MANAGE AND OPERATE, MORE THAN ONE  
14 BOUTIQUE GROWER.

15 (IV) A BOUTIQUE GROWER SHALL PAY AN APPLICATION FEE OF  
16 \$4,000.

17 (V) AN APPLICANT FOR A BOUTIQUE LICENSE SHALL  
18 DEMONSTRATE ADEQUATE CAPITALIZATION BY:

19 1. SUBMITTING THE LICENSE FEE REQUIRED UNDER  
20 PARAGRAPH (6) OF THIS SUBSECTION; AND

21 2. DEMONSTRATING CONTROL OF \$2,500,000  
22 AVAILABLE FOR USE ON THE ISSUANCE OF A PRELIMINARY LICENSE.

23 (3) THE COMMISSION SHALL SET STANDARDS FOR A BOUTIQUE  
24 GROWER TO ENSURE PUBLIC SAFETY AND SAFE ACCESS TO MEDICAL CANNABIS MAY  
25 INCLUDE A REQUIREMENT FOR THE POSTING OF SECURITY.

26 (4) EACH BOUTIQUE AGENT SHALL:

27 (I) BE REGISTERED WITH THE COMMISSION BEFORE THE  
28 BOUTIQUE AGENT MAY VOLUNTEER OR WORK FOR A BOUTIQUE GROWER; AND

29 (II) OBTAIN A STATE AND NATIONAL CRIMINAL HISTORY  
30 RECORDS CHECK IN ACCORDANCE WITH § 13-3312 OF THIS SUBTITLE.

1           **(5) (I) A BOUTIQUE GROWER SHALL APPLY TO THE COMMISSION**  
2 **FOR A REGISTRATION CARD FOR EACH BOUTIQUE AGENT BY SUBMITTING THE NAME,**  
3 **ADDRESS, AND DATE OF BIRTH OF THE BOUTIQUE AGENT.**

4           **(II) 1. WITHIN 1 BUSINESS DAY AFTER A BOUTIQUE AGENT**  
5 **CEASES TO BE ASSOCIATED WITH A BOUTIQUE GROWER, THE BOUTIQUE GROWER**  
6 **SHALL:**

7                   **A. NOTIFY THE COMMISSION; AND**

8                   **B. RETURN THE BOUTIQUE AGENT'S REGISTRATION**  
9 **CARD TO THE COMMISSION.**

10           **2. ON RECEIPT OF A NOTICE DESCRIBED IN**  
11 **SUBSUBPARAGRAPH 1A OF THIS SUBPARAGRAPH, THE COMMISSION SHALL:**

12                   **A. IMMEDIATELY REVOKE THE REGISTRATION CARD OF**  
13 **THE BOUTIQUE AGENT; AND**

14                   **B. IF THE REGISTRATION CARD WAS NOT RETURNED TO**  
15 **THE COMMISSION, NOTIFY THE DEPARTMENT OF STATE POLICE.**

16           **(III) THE COMMISSION MAY REGISTER A PERSON WHO HAS BEEN**  
17 **CONVICTED OF A FELONY DRUG OFFENSE AS A BOUTIQUE AGENT UNLESS:**

18                   **1. EXCEPT AS PROVIDED IN ITEM 2 OF THIS**  
19 **SUBPARAGRAPH, THE INDIVIDUAL SUBMITTED AN APPLICATION UNDER**  
20 **SUBPARAGRAPH (I) OF THIS PARAGRAPH EARLIER THAN 7 YEARS AFTER THE**  
21 **INDIVIDUAL SATISFIED THE SENTENCE IMPOSED FOR THE CONVICTION, INCLUDING**  
22 **PAROLE, PROBATION, OR MANDATORY SUPERVISION;**

23                   **2. THE INDIVIDUAL HAS BEEN CONVICTED OF A**  
24 **VIOLATION OF § 5-612 OR § 5-613 OF THE CRIMINAL LAW ARTICLE, REGARDLESS**  
25 **OF WHETHER THE INDIVIDUAL HAS SATISFACTORILY COMPLETED THE SENTENCE**  
26 **FOR THE OFFENSE; OR**

27                   **3. THE COMMISSION FINDS A SUBSTANTIAL REASON TO**  
28 **DENY THE REGISTRATION.**

29           **(6) (I) A BOUTIQUE LICENSE IS VALID FOR 1 YEAR ON INITIAL**  
30 **LICENSURE.**

31           **(II) A BOUTIQUE LICENSE IS VALID FOR 1 YEAR ON RENEWAL.**

(III) 1. THE ANNUAL FEE FOR A BOUTIQUE LICENSE IS  
\$125,000.

2. FROM EACH FEE COLLECTED IN SUBSUBPARAGRAPH  
1 OF THIS SUBPARAGRAPH:

A. \$50,000 SHALL BE DISTRIBUTED TO THE  
COMMISSION; AND

B. \$75,000 SHALL BE DISTRIBUTED TO THE  
DEPARTMENT OF AGRICULTURE FOR THE ADMINISTRATION OF TITLE 5, SUBTITLE  
1 OF THE AGRICULTURE ARTICLE.

(7) AN APPLICATION TO OPERATE AS A BOUTIQUE GROWER MAY BE  
SUBMITTED IN PAPER OR ELECTRONIC FORM.

(8) THE COMMISSION SHALL ENCOURAGE LICENSING BOUTIQUE  
GROWERS THAT GROW STRAINS OF CANNABIS, INCLUDING STRAINS WITH HIGH  
CANNABIDIOL (CBD) CONTENT AND A BROAD VARIETY OF  
TETRAHYDROCANNABINOL (THC) AND CANNABIDIOL CONTENT, WITH  
DEMONSTRATED SUCCESS IN ALLEVIATING SYMPTOMS OF SPECIFIC DISEASES OR  
CONDITIONS.

(9) (I) THE COMMISSION SHALL:

1. TO THE EXTENT AUTHORIZED BY FEDERAL AND  
STATE LAW, ACTIVELY SEEK TO ACHIEVE RACIAL, ETHNIC, GENDER, AND  
GEOGRAPHIC DIVERSITY WHEN LICENSING BOUTIQUE GROWERS;

2. ENCOURAGE APPLICANTS WHO QUALIFY AS A  
MINORITY BUSINESS ENTERPRISE, AS DEFINED IN § 14-301 OF THE STATE FINANCE  
AND PROCUREMENT ARTICLE, OR THAT ARE SMALL, MINORITY, OR WOMEN-OWNED  
BUSINESS ENTITIES TO APPLY FOR LICENSURE AS BOUTIQUE GROWERS;

3. ESTABLISH A GOAL OF LICENSING BOUTIQUE  
GROWERS WITH NOT LESS THAN 30% OWNERSHIP OF THE BOUTIQUE GROWER  
CONSISTING OF ENTITIES CERTIFIED AS MINORITY-OWNED BUSINESS ENTERPRISES  
OR WOMEN-OWNED BUSINESS ENTERPRISES IN FIELDS ASSOCIATED WITH:

A. CROP PRODUCTION AND MEDICINAL AND BOTANICAL  
MANUFACTURING OR RELATED INDUSTRIES; OR

1                               **B.     PHARMACEUTICAL MANUFACTURING OR RELATED**  
2 **INDUSTRIES;**

3                               **4.     ESTABLISH A GOAL OF LICENSING BOUTIQUE**  
4 **GROWERS WHOSE USE OF SUBCONTRACTORS AND VENDORS CONSISTS OF AT LEAST**  
5 **30% OF SUBCONTRACTORS AND VENDORS CERTIFIED AS MINORITY-OWNED**  
6 **BUSINESS ENTERPRISES OR WOMEN-OWNED BUSINESS ENTERPRISES; AND**

7                               **5.     ESTABLISH A GOAL OF LICENSING BOUTIQUE**  
8 **GROWERS WHO EMPLOY A WORKFORCE MADE UP OF AT LEAST 30% OF EMPLOYEES**  
9 **FROM ECONOMICALLY DISADVANTAGED COMMUNITIES.**

10                           **(II)   BEGINNING JUNE 1, 2021, EACH BOUTIQUE GROWER SHALL**  
11 **REPORT ANNUALLY TO THE COMMISSION ON:**

12                           **1.     THE NUMBER OF MINORITY AND WOMEN OWNERS OF**  
13 **THE BOUTIQUE GROWER;**

14                           **2.     THE OWNERSHIP INTEREST OF ANY MINORITY AND**  
15 **WOMEN OWNERS OF THE BOUTIQUE GROWER; AND**

16                           **3.     THE NUMBER OF MINORITY AND WOMEN EMPLOYEES**  
17 **OF THE BOUTIQUE GROWER.**

18                           **(10)  AN ENTITY SEEKING LICENSURE AS A BOUTIQUE GROWER SHALL**  
19 **MEET LOCAL ZONING AND PLANNING REQUIREMENTS.**

20                           **(11)  A BOUTIQUE GROWER FACILITY MAY NOT EXCEED 30,000 SQUARE**  
21 **FEET.**

22                   **(C)   A BOUTIQUE GROWER MAY PROVIDE CANNABIS ONLY TO:**

23                   **(1)   PROCESSORS LICENSED BY THE COMMISSION UNDER THIS**  
24 **SUBTITLE;**

25                   **(2)   DISPENSARIES LICENSED BY THE COMMISSION UNDER THIS**  
26 **SUBTITLE;**

27                   **(3)   QUALIFIED PATIENTS;**

28                   **(4)   CAREGIVERS;**

29                   **(5)   INDEPENDENT TESTING LABORATORIES REGISTERED WITH THE**

COMMISSION UNDER THIS SUBTITLE; AND

(6) ACADEMIC RESEARCH REPRESENTATIVES PURCHASING MEDICAL CANNABIS UNDER § 13-3304.1 OF THIS SUBTITLE.

(D) A BOUTIQUE GROWER MAY GROW AND PROCESS MEDICAL CANNABIS ON THE SAME PREMISES.

(E) A BOUTIQUE GROWER SHALL ENSURE THAT SAFETY PRECAUTIONS ESTABLISHED BY THE COMMISSION ARE FOLLOWED BY ANY FACILITY OPERATED BY THE BOUTIQUE GROWER.

(F) THE COMMISSION SHALL ESTABLISH REQUIREMENTS FOR SECURITY AND THE MANUFACTURING PROCESS THAT A BOUTIQUE GROWER MUST MEET TO OBTAIN A LICENSE UNDER THIS SECTION, INCLUDING A REQUIREMENT FOR A PRODUCT-TRACKING SYSTEM.

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A BOUTIQUE GROWER MAY NOT USE ANY PESTICIDE IN THE PRODUCTION OF MEDICAL CANNABIS.

(2) A BOUTIQUE GROWER MAY USE A PESTICIDE IF IT IS REGISTERED WITH THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AND LABELED FOR:

(I) THE PURPOSE OF DISINFECTION OR SANITATION TO CONTROL MICROORGANISMS ON SURFACES SUCH AS BENCHES, FLOORS, PALLETS, POTS, SKIDS, PLANT POTS, TOOLS AND EQUIPMENT; OR

(II) USE AS A SOIL FUMIGANT TO STERILIZE PLANTING MEDIA TO CONTROL SOIL-BORNE ORGANISMS.

(3) A BOUTIQUE GROWER MAY USE ONLY PESTICIDES REGISTERED IN ACCORDANCE WITH § 5-105(I) OF THE AGRICULTURE ARTICLE.

(H) THE COMMISSION MAY INSPECT A BOUTIQUE GROWER LICENSED UNDER THIS SECTION TO ENSURE COMPLIANCE WITH THIS SUBTITLE.

(I) THE COMMISSION MAY IMPOSE PENALTIES OR RESCIND THE LICENSE OF A BOUTIQUE GROWER THAT DOES NOT MEET THE STANDARDS FOR LICENSURE SET BY THE COMMISSION.

(J) A BOUTIQUE GROWER OR A BOUTIQUE AGENT REGISTERED UNDER THIS SECTION MAY NOT BE PENALIZED OR ARRESTED UNDER STATE LAW FOR:



1           **(1) CULTIVATING, POSSESSING, PACKAGING, TRANSFERRING,**  
2 **TRANSPORTING, SELLING, OR DISTRIBUTING MEDICAL CANNABIS TO A PROCESSOR**  
3 **OR DISPENSARY; OR**

4           **(2) TRANSPORTING THE MEDICAL CANNABIS TO AN INDEPENDENT**  
5 **TESTING LABORATORY.**

6           **(K) A BOUTIQUE GROWER LICENSED UNDER THIS SUBTITLE IS SUBJECT TO**  
7 **THE MARYLAND ANTITRUST ACT AND THE MARYLAND SALES BELOW COST ACT.**

8 13–3313.

9           (a) Any of the following persons acting in accordance with the provisions of this  
10 subtitle may not be subject to arrest, prosecution, revocation of mandatory supervision,  
11 parole, or probation, or any civil or administrative penalty, including a civil penalty or  
12 disciplinary action by a professional licensing board, or be denied any right or privilege, for  
13 the medical use of or possession of medical cannabis:

14           (1) A qualifying patient:

15                   (i) In possession of an amount of medical cannabis determined by  
16 the Commission to constitute a 30–day supply; or

17                   (ii) In possession of an amount of medical cannabis that is greater  
18 than a 30–day supply if the qualifying patient’s certifying provider stated in the written  
19 certification that a 30–day supply would be inadequate to meet the medical needs of the  
20 qualifying patient;

21           (2) A grower licensed under § 13–3306 of this subtitle or a grower agent  
22 registered under § 13–3306 of this subtitle;

23           (3) A certifying provider;

24           (4) A caregiver;

25           (5) An academic research representative purchasing medical cannabis  
26 under § 13–3304.1 of this subtitle;

27           (6) A dispensary licensed under § 13–3307 of this subtitle or a dispensary  
28 agent registered under § 13–3308 of this subtitle;

29           (7) A processor licensed under § 13–3309 of this subtitle or a processor  
30 agent registered under § 13–3310 of this subtitle;

31           (8) A hospital, medical facility, or hospice program where a qualifying

1 patient is receiving treatment; [or]

2 (9) A third-party vendor authorized by the Commission to test, transport,  
3 or dispose of medical cannabis, medical cannabis products, or medical cannabis waste  
4 under the provisions of this subtitle; **OR**

5 **(10) A BOUTIQUE GROWER LICENSED UNDER § 13-3306.1 OF THIS**  
6 **SUBTITLE OR A BOUTIQUE AGENT REGISTERED UNDER § 13-3306.1 OF THIS**  
7 **SUBTITLE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2020.