



2018 FEB 27 PM 4:53
OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

FEB 27 2018

The Honorable Phil Mendelson, Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for Council consideration is the "Medical Marijuana Facility Registration Dates and Fees Rulemaking Approval Resolution of 2018."

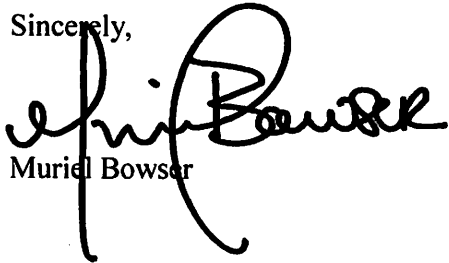
This resolution would approve rulemaking, adopted by the Department on an emergency basis on August 28, 2017, to amend Chapter 51 (Registration and Permit Categories) of Title 22-C of the District of Columbia Municipal Regulations (DCMR). This rulemaking will change the registration period for a cultivation center or dispensary registration from the current period October 1st to September 30th, to the new period of January 1st to December 31st of each year. It will further establish the registration period for testing laboratories, consolidate the renewal fee and application fees for cultivation centers and dispensaries into one single regulation to avoid confusion, increase the initial and renewal registration fees for dispensaries and cultivation centers to offset the Department's operating costs for the electronic tracking system that is required for implementing reciprocity, establish the initial application and registration fee and renewal application and registration fee for testing laboratories, establish the application fees for change of ownership or transfer of location applications, and discontinue the refunding of application fees.

This emergency action is necessary to immediately preserve and promote the health, safety and welfare of the public by enabling the Department to sustain the availability of the Medical Marijuana Program for the District's qualifying patients. At present, all medical marijuana cultivation center and dispensary registrations expire on September 30th of each calendar year. These registrants are required to renew their registrations by September 30th of each year. The application and registration fees that accompany these renewals support the operation of the Medical Marijuana Program. However, since the fees are presently received on the last day of the fiscal year, the Department is unable to apply the fees toward the Medical Marijuana Program's operating costs before the fiscal period ends on the same day. This emergency action will enable the Department to utilize these funds to support the operating costs of the Medical Marijuana


Program throughout the duration of the fiscal period, thus ensuring its continued availability for the District's qualifying patients.

I urge the Council to take prompt and favorable action on the enclosed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser". The signature is written in a cursive style with a large, looping initial "M".

Muriel Bowser


Chairman Phil Mendelson
at the request of the Mayor

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A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution, which was referred to the Committee on _____.

To approve proposed rules adopted by the Department of Health on an emergency basis to change the registration period for a cultivation center or dispensary registration from the current period October 1st to September 30th, to the new period of January 1st to December 31st of each year. It will further establish the registration period for testing laboratories, consolidate the renewal fee and application fees for cultivation centers and dispensaries into one single regulation to avoid confusion, increase the initial and renewal registration fees for dispensaries and cultivation centers to offset the Department’s operating costs for the electronic tracking system that is required for implementing reciprocity, establish the initial application and registration fee and renewal application and registration fee for testing laboratories, establish the application fees for change of ownership or transfer of location applications, and discontinue the refunding of application fees.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the “Medical Marijuana Facility Registration Dates and Fees Rulemaking Approval Resolution of 2018.”

Sec. 2. Pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13) the Council approves the proposed rulemaking adopted by the Department of Health on an emergency basis on August 28, 2017, amending chapter 51 of Title 22-C of the District of Columbia Municipal Regulations to change the registration period for a cultivation center or dispensary registration from the current period October 1st to

1 September 30th, to the new period of January 1st to December 31st of each year. It will
2 further establish the registration period for testing laboratories, consolidate the renewal
3 fee and application fees for cultivation centers and dispensaries into one single regulation
4 to avoid confusion, increase the initial and renewal registration fees for dispensaries and
5 cultivation centers to offset the Department's operating costs for the electronic tracking
6 system that is required for implementing reciprocity, establish the initial application and
7 registration fee and renewal application and registration fee for testing laboratories,
8 establish the application fees for change of ownership or transfer of location applications,
9 and discontinue the refunding of application fees.

10 Sec. 3. Fiscal impact.

11 The Council adopts the fiscal impact statement of the Budget Director as the
12 fiscal impact statement required by section 4a of the General Legislative Procedures Act
13 of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

14 Sec. 4. The Council shall transmit a copy of this resolution, upon its adoption, to
15 the Mayor, the Director of the Department of Health, and the Administrator of the Office
16 of Documents and Administrative Issuances.

17 Sec. 5. This resolution shall take effect immediately.

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13 (2012 Repl.)); Section 4902(d) of the Health Clarifications Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(d) (2016)), Section 6(9) of the Medical Marijuana Omnibus Amendment Act of 2016 (D.C. Law 21-209; D.C. Official Code §§ 7-1671.05(9)), and Mayor's Order 2011-71, dated April 13, 2011, hereby gives notice of the adoption of, on an emergency basis, the following amendments to Subtitle C (Medical Marijuana) of Title 22 (Public Health and Medicine) of the District of Columbia Municipal Regulations.

This emergency action is necessary to immediately preserve and promote the health, safety and welfare of the public by enabling the Department to sustain the availability of the Medical Marijuana Program for the District's qualifying patients. At present, all medical marijuana cultivation center and dispensary registrations expire on September 30th of each calendar year. These registrants are required to renew their registrations by September 30th of each year. The application and registration fees that accompany these renewals support the operation of the Medical Marijuana Program. However, since the fees are presently received on the last day of the fiscal year, the Department is unable to apply the fees toward the Medical Marijuana Program's operating costs before the fiscal period ends on the same day. This emergency action will enable the Department to utilize these funds to support the operating costs of the Medical Marijuana Program throughout the duration of the fiscal period, thus ensuring its continued availability for the District's qualifying patients.

This emergency rulemaking will change the registration period for a cultivation center or dispensary registration from the current period October 1st to September 30th, to the new period of January 1st to December 31st of each year. It will further establish the registration period for testing laboratories, consolidate the renewal fee and application fees for cultivation centers and dispensaries into one single regulation to avoid confusion, increase the initial and renewal application and registration fee for dispensaries and cultivation centers to offset the Department's operating costs for the electronic tracking system that is required for implementing reciprocity, establish the initial application and registration fee and renewal application and registration fee for testing laboratories, establish the application fees for change of ownership or transfer of location applications, and discontinue the refunding of application fees.

This emergency rulemaking was adopted on August 28, 2017, and became effective on that date. The emergency rule will expire one hundred twenty (120) days from the date of adoption (December 26, 2017), or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

The Director of the Department of Health also gives notice of her intent to adopt this rule, in final, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*,

and upon completion of the thirty (30) day Council period of review if the Council does not act earlier to adopt a resolution approving the rules.

Chapter 51, REGISTRATION AND PERMIT CATEGORIES, of Title 22-C, MEDICAL MARIJUANA, is amended as follows:

Section 5101, RENEWAL PERIODS, is amended as follows:

Subsection 5101.1 is amended to read as follows:

5101.1 Effective upon adoption of this rulemaking, the registration period and renewal period for each registration type listed below shall occur annually between the following dates:

Registration Type	Registration Period	Renewal Period
Cultivation Center	January 1 to December 31	November 1 to December 31
Dispensary	January 1 to December 31	November 1 to December 31
Testing Laboratory	January 1 to December 31	November 1 to December 31

The current subsections 5101.2 and 5101.3 are renumbered as 5101.3 and 5101.4 respectively.

A new subsection 5101.2 is added to read as follows:

5101.2 A registration set forth in § 5101.1 that is active and in good standing as of the date of adoption of this rulemaking shall remain in full force and effect until December 31, 2017, unless suspended or revoked by the Department for cause.

Section 5103, REGISTRATION AND PERMIT FEES, is amended to read as follows:

5103 APPLICATION, REGISTRATION, AND PERMIT FEES

5103.1 All application, registration, and permit fees shall be paid by cashier's check, certified check, or money order payable to the DC Treasurer. Applicants shall pay the fees specified by the Department at the time an application is filed. All fees are nonrefundable.

5103.2 The Department may impose a late fee upon an applicant that fails to timely renew their registration, or permit in the amount of fifty dollars (\$50) for each day after the due date of payment. The total amount of the late fee to be paid shall not exceed the annual cost of the registration. The Department may suspend a previously approved registration until the renewal fee is paid. A cultivation center or dispensary that has not timely renewed its registration shall not be permitted to sell medical marijuana with an expired registration.

- 5103.3 The Department may suspend a registration or permit where payment was made by the applicant with a check returned unpaid. The applicant, in addition to any late fees imposed by the Department pursuant to § 5103.2, shall also be charged with a one hundred dollar (\$100) returned check fee.
- 5103.4 The fee for the filing of an initial application for a medical marijuana dispensary shall be eight thousand dollars (\$8,000).
- 5103.5 The annual renewal fee and renewal application fee for a medical marijuana dispensary registration shall be sixteen thousand dollars (\$16,000). This fee shall also cover any audit and inspection costs incurred by the Department.
- 5103.6 The fee for the filing of an initial application for a medical marijuana cultivation center shall be eight thousand dollars (\$8,000).
- 5103.7 The annual renewal fee and renewal application fee for a cultivation center registration shall be eleven thousand dollars (\$11,000). This fee shall also cover any audit and inspection costs incurred by the Department.
- 5103.8 The fee for the filing of an initial application for a testing laboratory shall be three thousand five hundred dollars (\$3,500).
- 5103.9 The annual renewal fee and renewal application fee for a testing laboratory shall be seven thousand five hundred dollars (\$7,500). This fee shall also cover any audit and inspection costs incurred by the Department.
- 5103.6 The annual fee for each director, officer, member, incorporator, or agent registration shall be two hundred dollars (\$200).
- 5103.7 The annual fee for an employee registration shall be seventy-five dollars (\$75).
- 5103.8 The fee for the filing of an initial medical marijuana certification provider permit shall be one hundred dollars (\$100).
- 5103.9 The annual renewal fee and renewal application fee for a medical marijuana certification provider permit shall be three hundred dollars (\$300).
- 5103.10 The annual fee for a Manager's registration shall be one hundred fifty dollars (\$150).
- 5103.11 The annual fee for a transport permit shall be twenty-five dollars (\$25).
- 5103.12 The fee for a duplicate registration or replacement of a lost registration shall be twenty-five dollars (\$25).

- 5103.13 The fee for a duplicate permit or replacement of a lost permit shall be twenty-five dollars (\$25).
- 5103.14 The fee for a change of director, officer, member, incorporator, or agent shall be one hundred dollars (\$100).
- 5103.15 The fee for a corporate or trade name change shall be one hundred dollars (\$100).
- 5103.16 The fee for the transfer of a dispensary, cultivation center, or testing laboratory registration to a new owner shall be two thousand five hundred dollars (\$2,500).
- 5103.17 The fee for the transfer of a dispensary, cultivation center, or testing laboratory registration to a new location shall be five thousand dollars (\$5,000). This fee shall also cover any audit and inspection costs incurred by the Department.

Section 5104 is repealed.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Paralegal, at Angli.Black@dc.gov, (202) 442-5977.

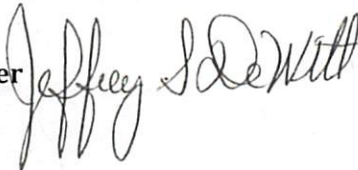
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: September 19, 2017

SUBJECT: Fiscal Impact Statement - Medical Marijuana Facility Registration
Dates and Fees Rulemaking Approval Resolution of 2017

REFERENCE: Draft resolution as shared with the Office of Revenue Analysis on
August 30, 2017

Conclusion

Funds are sufficient in the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the resolution.

Background

All medical marijuana cultivation centers and dispensaries in the District of Columbia must register with the Department of Health (DOH) each year in order to participate in the District's Medical Marijuana Program. These registrations expire on September 30th of each calendar year. Cultivation centers and dispensaries are required to renew registrations and pay registration fees by the September 30th expiration deadline. Since registration fees are collected on the last day of the fiscal year, DOH is unable to apply registration fee revenue towards the Medical Marijuana Program's operating budget. Instead, these funds revert the General Fund at the close of the fiscal year.

The resolution approves rules from DOH that change¹ the registration period for medical marijuana cultivation centers and dispensaries. Instead of the current October 1st to September 30th registration period, a new January 1st to December 31st period will be implemented.

The rules also increase the registration fees for dispensaries and cultivation centers. Specifically, the rule change:

- Makes all application, registration, and permit fees nonrefundable;
- Increases the initial filing application fee for dispensaries and cultivation centers from \$5,000 to \$8,000;

¹ By amending Chapter 51 of Title 22-C of the D.C. Municipal Regulations.

The Honorable Phil Mendelson

FIS: "Medical Marijuana Facility Registration Dates and Fees Rulemaking Approval Resolution of 2017," Draft introduction as shared with the Office of Revenue Analysis on August 30, 2017

- Combines the annual dispensary registration fee with the annual dispensary renewal application fee and increases this total amount from \$13,000 to \$16,000;
- Combines the annual registration fee with the renewal application fee and increases this total amount from \$13,000 to \$16,000;
- Combines the annual cultivation registration fee with the annual cultivation renewal application fee and increases this total amount from \$8,000 to \$11,000;
- Establishes a \$3,500 initial application fee for testing laboratories; and
- Establishes an annual \$7,500 renewal fee and renewal application fee for testing laboratories.

Financial Plan Impact

Funds are sufficient in the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the resolution. DOH will issue three-month temporary licenses to medical marijuana dispensaries and cultivation centers in order to align the registration period with the calendar year rather than the District's fiscal year. DOH will collect registration fees from cultivation centers and dispensaries between October 1, 2017 and December 31, 2017 for the registration period beginning on January 1, 2018. Licenses will be valid from January 1, 2018 through December 31, 2018.

The rules increase registration fees for dispensaries, cultivations centers, and medical marijuana testing laboratories. The increase in registration fees is expected to generate additional revenue of \$50,000 in fiscal year 2018 and \$189,500 over the four year financial plan. The table below breaks down how much additional revenue will be collected by facility type.

Additional Revenue from Medical Marijuana Facility Registration Fee Increases					
	FY 2018	FY 2019	FY 2020	FY 2021	Total
Cultivation Centers ⁽¹⁾	\$24,000	\$24,000	\$24,000	\$24,000	\$96,000
Dispensaries ⁽²⁾	\$15,000	\$15,000	\$15,000	\$15,000	\$60,000
Testing Laboratories ⁽³⁾	\$11,000	\$7,500	\$7,500	\$7,500	\$33,500
Total Additional Revenue	\$50,000	\$46,500	\$46,500	\$46,500	\$189,500

Table Notes:

(1) There are currently eight registered cultivation centers.

(2) There are currently five registered medical marijuana dispensaries.

(3) Assumes at least one laboratory applies for and is granted a license based on Nevada's ratio of one testing laboratory per eight cultivation centers.²

The rules also generate additional revenue since DOH will now be able to retain all application fees paid by businesses seeking dispensary and cultivation center licenses. Currently, DOH refunds application fees to businesses that are not granted licenses. DOH is unable to provide an estimate at this time as to how many applicants will apply for licenses in fiscal year 2018; therefore, the Office of Revenue Analysis is unable to estimate the revenue that will be generated from application fee retention.

² See <http://dphh.nv.gov/Reg/MME/MME - Home/>.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM


TO: Alana Intrieri
Executive Director
Office of Policy and Legislative Affairs

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: February 27, 2018

SUBJECT: Legal Sufficiency Review—"Medical Marijuana Facility Registration Dates and Fees Rulemaking Approval Resolution of 2018"
(AR-17-472 C)

This is to Certify that this Office has reviewed the above-referenced draft legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.


Janet M. Robins