

A RESOLUTION

25-429

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 6, 2024

To declare the existence of an emergency with respect to the need to amend the Legalization of Marijuana for Medical Treatment Initiative of 1999 to clarify which Advisory Neighborhood Commissions have standing to file a protest and allow the Alcoholic Beverage and Cannabis Board to extend the public comment period for up to 30 calendar days, to establish the requirement that all retailers be located more than 400 feet from each other, to clarify that cultivation center, retailer, and internet retailer licenses issued to unlicensed establishments count toward the overall 50% set aside requirement for social equity applicants, and to clarify the process for unlicensed establishments being issued a medical cannabis cultivation center, retailer, or internet retailer license.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Medical Cannabis License Clarification Emergency Declaration Resolution of 2024”.

Sec. 2. (a) The Medical Cannabis Program Enforcement Emergency Amendment Act of 2024, effective January 25, 2024 (D.C. Act 25-371) (“Act 25-371”), clarified that Advisory Neighborhood Commissions within 600 feet of where the establishment is or will be located can file a protest of an application filed by an unlicensed establishment during the statutory 90 calendar day open application period. Act 25-371 also allowed the Alcoholic Beverage and Cannabis Board (“Board”) to extend the unlicensed establishment public comment period by an additional 30 calendar days. With the next open application period for retailer and internet retailer social equity applicants beginning on March 1, 2024, it is necessary to apply this same protest standard and provide to the Board the authority to extend the protest deadline to all cultivation center, manufacturer, retailer, and internet retailer applications.

(b) The Medical Cannabis Amendment Act of 2022, effective March 22, 2023 (D.C. Law 24-332; 70 DCR 4303) (“Act”) prohibits retailer applicants that apply during the unlicensed establishment 90 calendar day open-application period from being located within 400 feet of each other. However, District law does not currently apply this 400-foot prohibition to retailer applications that are filed with the Alcoholic Beverage and Cannabis Administration (“ABCA”) during open application periods other than the 90 calendar-day period for unlicensed

establishments. To avoid issues of overconcentration in specific blocks or areas of the District it is imperative that all medical cannabis retailers be required to locate more than 400 feet from each other.

(c) The Act requires that at least 50% of all new cultivation center, retailer, internet retailer, manufacturer, and courier licenses be set aside for social equity applicants. The emergency legislation clarifies that cultivation center, retailer, and internet retailer licenses issued to unlicensed establishments during the statutory 90 calendar day open-application period count toward the 50% set aside requirement for social equity applicants.

(d) As noted above, the Act established a 90 calendar day open-application period for unlicensed establishments (“establishments”) to apply for cultivation center, retailer, and internet retailer licenses.

(e) The open-application period for unlicensed establishments began on November 1, 2023, and ended on January 29, 2024. ABCA received 76 applications from unlicensed establishments, with 26 placarded thus far.

(f) The Act requires the Board to notify successful establishments of license approval at least 15 days prior to the issuance of the license and to cease unlicensed activity immediately.

(g) However, these cessations would impede the good faith and legitimate pathway to licensure that the Council intended with the unanimous passage of the Act if establishments are afforded no opportunity to transition into the regulated market.

(h) Emergency legislation is necessary to allow ABCA to issue licenses by the later date of either September 30, 2024, or within 180 days of Board approval and require unlicensed activity to cease once an establishment’s license is issued by ABCA. This procedure would stagger the demand for supply at cultivation centers and set these establishments up for success. These changes would solely assist the establishments approved for licensure, while all other unlicensed activity would remain on track for enforcement.

(i) Emergency legislation is also necessary to allow those establishments that choose to discontinue operations after Board approval and are not involved in unlicensed activity to request one additional 180-day period extension to allow the applicant to take steps to resume business operations at the applicant’s proposed location. This extension would only be granted if the applicant can demonstrate to the Alcoholic Beverage and Cannabis Board that it is making reasonable progress to resume business operations at the proposed location.

(j) The Committee on Business and Economic Development is currently considering legislation to enact these changes on a permanent basis.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Medical Cannabis License Clarification Emergency Amendment Act of 2024 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.