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H.612 (Act 166) – An act relating to miscellaneous cannabis amendments

As Enacted by the General Assembly

Bill Summary

This bill would make various changes to cannabis regulations including:

> ***H.612 would create a new medical endorsement that would allow retail establishments to perform various services currently limited to medical dispensaries***

- Clarifying the types of hemp products that are subject to Cannabis Control Board regulatory jurisdiction.
- Adding location, siting, and medical-use endorsement considerations to the list of criteria the control board considers when making licensing decisions.
- Adding medical-use endorsements as an additional certification that retail establishments could attain for an additional $250 fee. A medical-use endorsement would allow a retail establishment to:
  - Sell cannabis tax-free to patients or registered caregivers, including both excise and sales taxes
  - Sell products approved for medical use to patients and caregivers
  - Allow dispensaries to deliver cannabis products directly to a patient or caregiver's vehicle
- Adding ulcerative colitis as a qualifying condition for the medical program.
- Increasing the renewal period for patient cards held by chronic pain patients from once a year to once every three years.
- Reducing fees for medical dispensaries as follows:
  - Application fees would decrease from $2,500 to $1,000
  - Eliminating the $20,000 fee for the first year of dispensary operations
  - Annual renewal fees would decrease from $25,000 to $5,000
- Clarifying that certain farm buildings used for the outdoor production of the cannabis are not "public buildings" subject to code and occupancy standards maintained by the Division of Fire Safety.
- Transferring $500,000 from the Cannabis Regulation Fund to the Cannabis Business Development Fund, which in turn would be appropriated to the Agency of Commerce and Community Development to fund technical assistance and provide loans and grants to cannabis businesses.

Fiscal Impact

JFO estimates the bill would have various fiscal impacts. The various changes to medical program fees would result in approximately $202,500 in revenue loss to the Cannabis Regulation Fund in fiscal year 2025. In fiscal year 2026, Special Fund revenue losses would be offset slightly by medical use endorsements paid by retail establishments. Allowing medical patients to purchase cannabis products tax-free at retail establishments would also result in an estimated $160,000 General Fund revenue loss in fiscal year 2026 and up to $550,000 in successive years, and a $70,000 sales tax revenue loss in fiscal year 2025 and up to $235,000 in successive years. This increase is driven by potential additional take-up of the medical-use endorsement by retailers in successive years. In fiscal year 2027, medical patient cards for chronic pain patients would renew, reducing Special Fund revenue loss to $97,500.

Estimated Special Fund Fiscal Impacts in FY 2025

Item	Section	Estimated Number of Units	Current Fee	Proposed Fee	Proposed Renewal Period	Total Revenue
Adding Ulcerative Colitis as a Qualifying Condition	7	50	$50	$50	Three Years	Negligible Positive
Extending Patient Registration Card Renewal Period - Chronic Pain	8	2,050	$50	$50	Three Years	$(102,500)
Reducing Fees on Medical Dispensaries	9	5	$2,500 application, $20,000 first year, $25,000 afterwards	$1,000 application, $5,000 annual	Annual	$(100,000)
Total						$(202,500)

Combined Fiscal Impacts of H.612

Fund	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027
Special Fund	$(202,500)	($200,000)	($97,500)
General Fund	Negligible Revenue Loss	$(160,000)	Up to ($550,000)
Education Fund	Negligible Revenue Loss	$(70,000)	Up to ($235,000)

Background and Details

The following sections have a potential fiscal impact:

Section 4

Section 4 would add additional criteria that the Cannabis Control Board (CCB) would consider when issuing licenses for cultivators and retailers. The fiscal impact of this section depends on a variety of factors that are difficult to predict, especially the provisions that would allow the CCB to consider population and market size when making retail licensing decisions. On the one hand, if the CCB used this authority to limit the number of retailers in the state, the Cannabis Regulation Fund would forgo revenue from additional licensing fees from cultivators and retail establishments and potential revenues from additional excise and sales taxable sales. However, other states have struggled to match supply and demand for adult-use markets, leading to sharp drops in the price of cannabis. In Massachusetts, data from the Massachusetts Cannabis Control Commission show that the retail price of an ounce of cannabis fell from $393 in July 2021 to $282 a year later and $168 by 2023.[1] If a similar trend were to occur in Vermont, excise and sales tax revenues from cannabis could decrease. Forecasting the extent of how provisions in Section 4 would soften the potential impact to prices ultimately depends on how often the Cannabis Control Board exercises this authority.

[1] https://masscannabiscontrol.com/open-data/data-catalog/

Sections 5-6

Section 5 outlines the provisions of the medical-use endorsement. The medical-use endorsement allows retail establishments to provide cannabis products to medical patients tax-free, which would impact both General Fund revenues through the 14% Cannabis Excise Tax and the Education Fund through the 6% Sales Tax. Estimating the revenue loss from this provision relies on the take-up of both the medical endorsement by retail establishments and by current adult-use patients who may switch to the medical program due to increased accessibility.

To gain the medical-use endorsement, retail establishments must make structural business changes to perform delivery services and maintain sensitive patient records, which may not be accessible to many current retailers. The Cannabis Control Board notes that 10 of the 76 current retailers in Vermont have indicated to the Board that they are interested and would be immediately ready to implement the necessary changes. JFO assumes that this percentage of the market will take up the license in the first year. In future years, JFO assumes that retailer take-up will reflect the 45% take-up of a similar medical endorsement in Washington state.[2]

The scope of the revenue loss from tax-free sales also depends on the change in the number of medical patients. Between March 2022 and January 2024, the number of medical patients has decreased from approximately 4,500 to 2,894. The decrease is largely caused by medical patients switching to the adult-use market once it opened in October 2022. It is possible that making the medical market more accessible and the incentive of tax-free sales may restore the number of medical patients to figures similar to those from before the start of the adult-use market.

Section 6 sets an annual licensing fee of $10,250 for the medical-use endorsement effective July 1, 2025, an additional $250 above the current cost of the annual licensing fee for retailers.

Section 7

Section 7 would add ulcerative colitis to the list of qualifying conditions for the medical program. Like other sections of the bill, the potential impacts of this change depend on the number of people who switch between the adult-use and medical programs. In March 2023, 59 patients listed Crohn's disease as their qualifying condition.[3] Accordingly, this change could add around 50 people to the medical program, which would generate additional revenue from patient card registrations every three years. However, this change could result in a decrease in excise and sales taxes if newly qualified patients were previously buying cannabis in the adult-use market. Given the limited scope of the change, section 7 would likely result in negligible impacts to revenues generated by those taxes and in special fund revenues.

Section 8

Section 8 would allow patients who are enrolled in the medical program due to chronic pain to only renew their patient registration cards once every 3 years as opposed to the current yearly registration. This change would bring chronic pain patients in line with other qualifying conditions, which only renew once every three years. As of February 2024, the number of chronic pain patients was 2,068, which represented approximately 71% of the medical program membership. Those patients currently generate $103,400 in annual fee revenue, which would be lost in fiscal year 2025. Those patients would renew in fiscal year 2027, which would restore the revenue loss from this section of the bill starting once every three years.

Section 9

Section 9 would reduce initial application and annual renewal fees on medical dispensaries. There are currently 5 medical dispensaries in Vermont. For each medical dispensary, there is a $20,000 reduction in Special Fund revenue, leading to a total revenue loss of $100,000 per year. It is unlikely that additional

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[2] https://lcb.wa.gov/records/frequently-requested-lists

[3] https://ccb.vermont.gov/sites/ccb/files/2023-03/March.27.23_Board.Meeting.pdf

medical dispensaries will apply for licenses – the Cannabis Control Board notes on their website that they would license an additional medical dispensary if the medical patient count climbs above 7,000. The medical program current has fewer than 3,000 patients enrolled.

Section 12

Section 12 would exempt farm buildings used for outdoor cannabis cultivation from the definition of "public buildings" regulated by the Division of Fire Safety. The Division collects fee revenue for building permits and work notices associated with these buildings and it is possible that some of these revenues are collected from outdoor cannabis cultivators. However, DFS indicates that these types of businesses represent a very small portion of permitting activity.

Section 15

Section 15 would transfer $500,000 from the Cannabis Regulation Fund to the Cannabis Development Fund in fiscal year 2025, which would then be appropriated to the Agency of Commerce and Community Development (ACCD) to help cannabis businesses through technical assistance, loans, and grants. Of the $500,000 previously appropriated to the Cannabis Development Fund in fiscal year 2022, $150,000 was used to contract with a firm that provided technical assistance to businesses and the remaining $350,000 was used to make $5,000 payments to social equity applicants.[4]

[4] https://legislature.vermont.gov/assets/Legislative-Reports/2023-Social-Equity-Report.pdf