

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend, on an emergency basis, the Legalization of Marijuana for Medical Treatment Initiative of 1999 to clarify which persons have standing to protest the issuance of a cultivation center, retailer, or internet retailer license to an unlicensed establishment, to align the enforcement procedures with those provided in Title 25 of the District of Columbia Official Code, to clarify that the Alcoholic Beverage and Cannabis Board has the authority to issue cease-and-desist orders mandating compliance with the provisions of the Medical Cannabis Program, and to create a Medical Cannabis Program Implementation and Enforcement Working Group to advise the Mayor and the Council on the need for any legislative or operational adjustments required to implement the Medical Cannabis Program; and to amend the Medical Cannabis Amendment Act of 2022 to clarify that the Alcoholic Beverage and Cannabis Administration has authority to enforce against commercial property owners in whose properties are used to operate illegal cannabis businesses.

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

Sec. 2. (a) On December 3, 2014, District voters passed the Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014, effective February 26, 2015 (D.C. Law 20-153; D.C. Official Code *passim*) (“I-71”), which, among other provisions, made it lawful to transfer one ounce or less of cannabis to another person, so long as no remuneration is exchanged, and the recipient of the cannabis is 21 years of age or older. The selling of any amount of cannabis to another person remains illegal.

39 (b) The passage of I-71 has resulted in the creation of an illegal cannabis market in the
40 District that describes itself as “I-71 compliant”, whereby consumers merely need to buy a small
41 item and, in return, receive an accompanying cannabis product as a “gift”. This illegal cannabis
42 market is estimated to take in more than \$600 million in sales annually, and has been in direct
43 competition with, and accordingly, has profoundly harmed, the District’s Medical Cannabis
44 Program. Furthermore, these illegal businesses do not pay the taxes and fees that licensed facilities
45 under the Medical Cannabis Program must pay, and most are owned by non-District residents and
46 sell products that are untraced, untested, and mostly cultivated outside the District.

47 (c) The presence of these illegal businesses also raises serious public health and safety
48 concerns. Some of these establishments are located in areas in which legal facilities are not allowed
49 to operate, such as within 300 feet of schools and recreation facilities. These businesses have also
50 been the target of criminal activity, such as robbery and theft, and some have been implicated in
51 criminal activity themselves, including illegal possession of firearms and illegal possession and
52 distribution of narcotics.

53 (d) On December 20, 2022, the Council passed the Medical Cannabis Amendment Act of
54 2022, effective March 22, 2023 (D.C. Law 24-332; 70 DCR 1582), which established an “on-
55 ramp” for these currently unlicensed businesses to receive a license from the Alcoholic Beverage
56 and Cannabis Administration (“ABCA”). This “on-ramp” is intended to provide greater public
57 health and safety oversight of the businesses, like how existing medical cannabis and alcohol
58 licensees are regulated. The open application period for these businesses to apply for a license to
59 be a cultivation center, retailer, or internet retailer in the District’s Medical Cannabis Program
60 opened on November 1, 2023, and will close on January 29, 2024.

61 (e) With the open application period now underway and Advisory Neighborhood
62 Commissions (“ANCs”) receiving notices of applications and providing comments, several
63 implementation issues have come to the forefront.

64 (f) First, it is unclear which entities or persons have standing to protest the issuance of a
65 license to a currently unlicensed establishment. For example, under current law, different ANCs
66 that are miles apart from each other and within the same Ward could protest the same prospective
67 licensee and reach different settlement agreements.

68 (g) Second, the enforcement scheme has some glaring deficiencies. The statutory
69 framework for the Medical Cannabis Program does not clearly state the enforcement powers that
70 ABCA or the ABC Board has under Title 25 of the District of Columbia Official Code.
71 Furthermore, and most troubling, the statutory framework for the Medical Cannabis Program does
72 not clearly provide ABCA with the authority to enforce the provisions of the Medical Cannabis
73 Program against those unlicensed establishments that choose not to become licensed
74 establishments. Without this authority, the purpose and intent of creating the on-ramp for
75 unlicensed establishments would be meaningless, as they could continue to operate outside of
76 ABCA’s regulatory structure.

77 (h) Third, concerns have been raised about the ability of the Department of Licensing and
78 Consumer Protection to issue fines against those commercial property owners in whose properties
79 illegal cannabis establishments are currently operating. ABCA would be the most appropriate
80 agency to issue fines because it would be empowered to investigate those establishments that are
81 operating outside the confines of the Medical Cannabis Program.

82 (i) Lastly, because there will undoubtedly be further legislative and implementation issues
83 that arise through the application process, the creation of a working group to study and advise the

84 Mayor and the Council on necessary changes to the Medical Cannabis Program would be
85 beneficial.

86 Sec. 3. The Council of the District of Columbia determines that the circumstances
87 enumerated in section 2 constitute emergency circumstances making it necessary that the Medical
88 Cannabis Program Enforcement Emergency Amendment Act of 2024 be adopted after a single
89 reading.

90 Sec. 4. This resolution shall take effect immediately.

DRAFT