

Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection

October 1, 2019

Implementation and Budgetary Impact of HB 136 HCS1 (2019 RS) - AN ACT relating to medicinal marijuana and making an appropriation therefor.

Presenters

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Disclaimer: The information contained in this presentation was prepared at the request of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection. The scope of this presentation is based solely on the implementation and budgetary impact of legislation proposed by the General Assembly. Nothing contained in this presentation should be construed to reflect the policy views of Governor Bevin or his administration.

Summary - HB 136 HCS1 (2019 RS)

- Requires the Department of Alcoholic Beverage Control (renamed the Department of Alcoholic Beverage and Cannabis Control) to implement, operate, oversee, and regulate Kentucky's medicinal marijuana program.
- Allows certain practitioners to provide written certifications for the use of medical marijuana after receiving approval to do so from their respective licensure board. (Must be bona fide practitioner-patient relationship)
- All qualified patients, visiting qualified patients, and designated care givers must register with the Department and all cannabis businesses (cultivators, processors, safety compliance facilities, dispensaries) must obtain a license from the Department.
- Local governments have the authority to enact ordinances to:
 - Regulate the time, place, and manner of cannabis business operations;
 - Prohibit all cannabis business operations within its territory; or
 - Enact resolutions directing that the question of prohibiting cannabis businesses from operating within its territory be submitted to its voters.

Revenue - HB 136 HCS1 (2019 RS)

Excise Tax: 12% excise tax on the gross receipts of a cultivator or processor received from the sale of medicinal marijuana by a cultivator or processor to a dispensary.

Medicinal Marijuana Trust Fund (All fees the Department collects and 80% of excise tax)

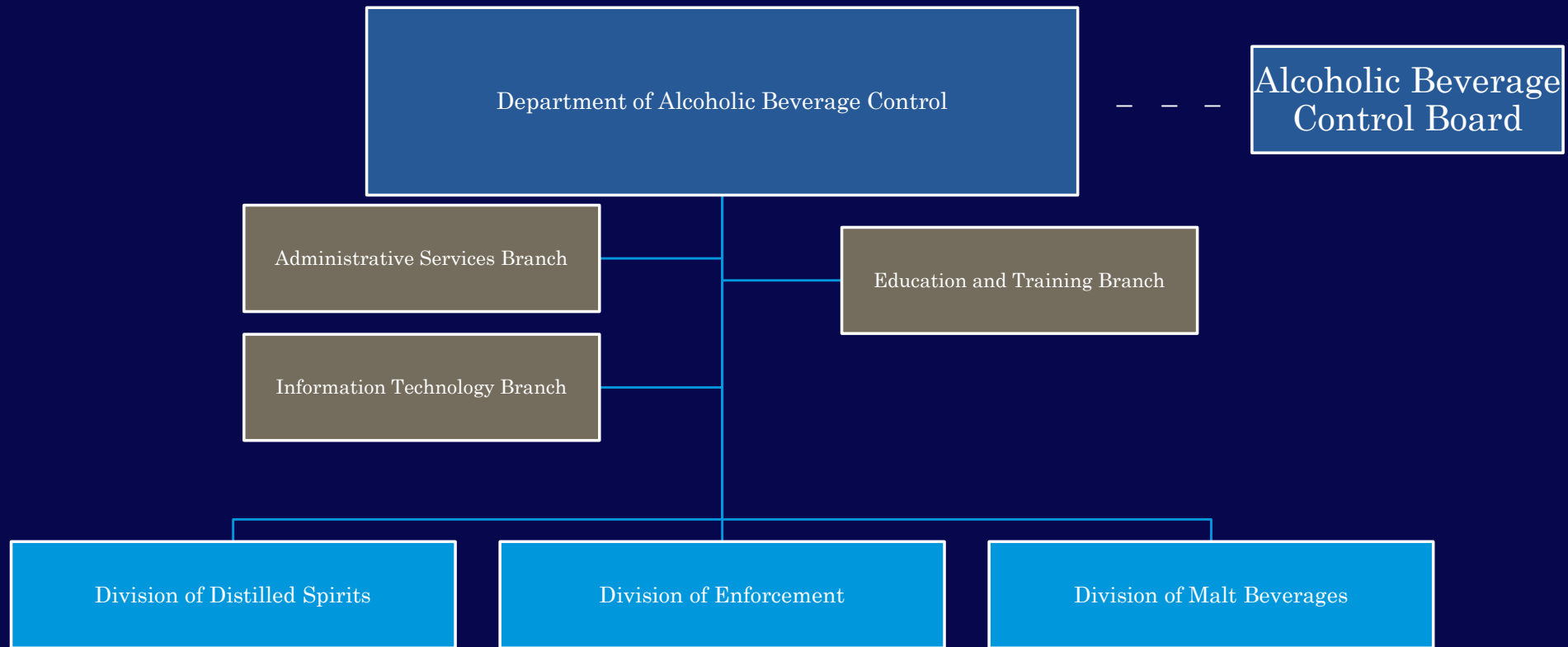
- Administered by the Finance and Administration Cabinet.
- 15% to the Kentucky State Police for enforcement of medicinal marijuana laws
- 15% to dispensaries for the use of indigent persons who are registered qualified patients enrolled in Medicaid, receiving Supplemental Security Income or Social Security disability insurance, or veterans of the United States Armed Forces.
- No more than 70% shall be used to offset the Department's actual cost and expenses of operating the medicinal marijuana program and enforcement activities.

Local Medicinal Marijuana Trust Fund (20% of excise tax)

- Administered by the Finance and Administration Cabinet.
- Funds shall be distributed quarterly among those cities, counties, urban county governments, consolidated local governments, charter county governments, and unified local governments with at least one (1) cannabis business.

Department of Alcoholic Beverage Control

- The Department of Alcoholic Beverage Control, pursuant to KRS Chapters 241-244, enforces laws relating to the manufacture, sale, transportation, storage, and advertising of alcoholic beverages. (Roughly 10,000 licensees)

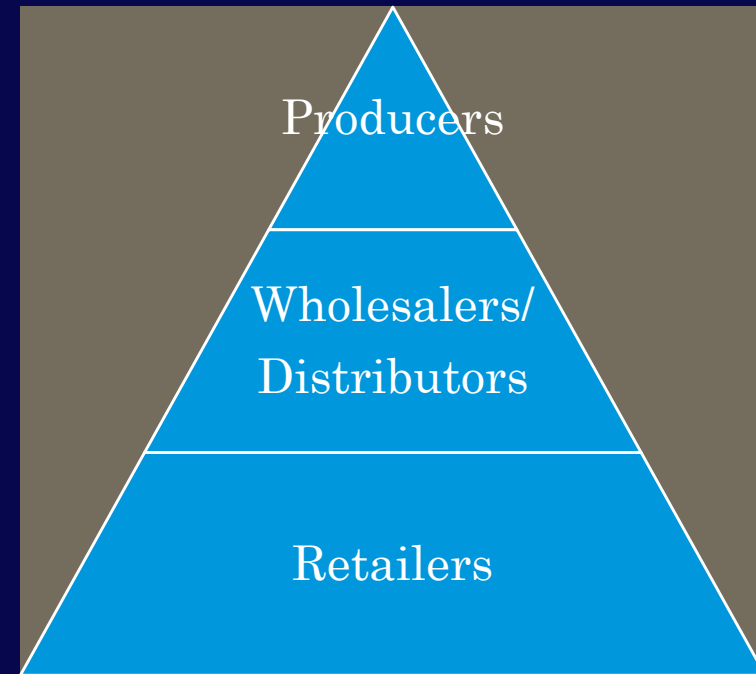


Department of Alcoholic Beverage Control – Current Duties

Regulates the manufacture, sale, transportation, storage, and advertising of malt beverages and distilled spirits through the three-tier system.

The Department:

- Promulgates administrative regulations;
- Issues and renews licenses;
- Monitors compliance with statutes and regulations;
- Investigates complaints;
- Issues violations and penalties; and
- Conducts administrative hearings



Department of Alcoholic Beverage Control – Expenditures

	FY 16	FY 17	FY 18 Revised	FY 19 Enacted	FY 20 Enacted
Personnel Costs	\$ 4,947,748	\$ 5,219,922	\$ 6,075,100	\$ 6,587,700	\$ 6,646,700
Operating Expenses	\$ 999,779	\$ 981,528	\$ 1,123,400	\$ 1,145,800	\$ 1,145,800
Capital Outlay	\$ 151,317	\$ 0	\$ 480,000	\$ 465,000	\$ 465,000
Total	\$ 6,098,844	\$ 6,201,450	\$ 7,678,500	\$ 8,198,500	\$ 8,257,500

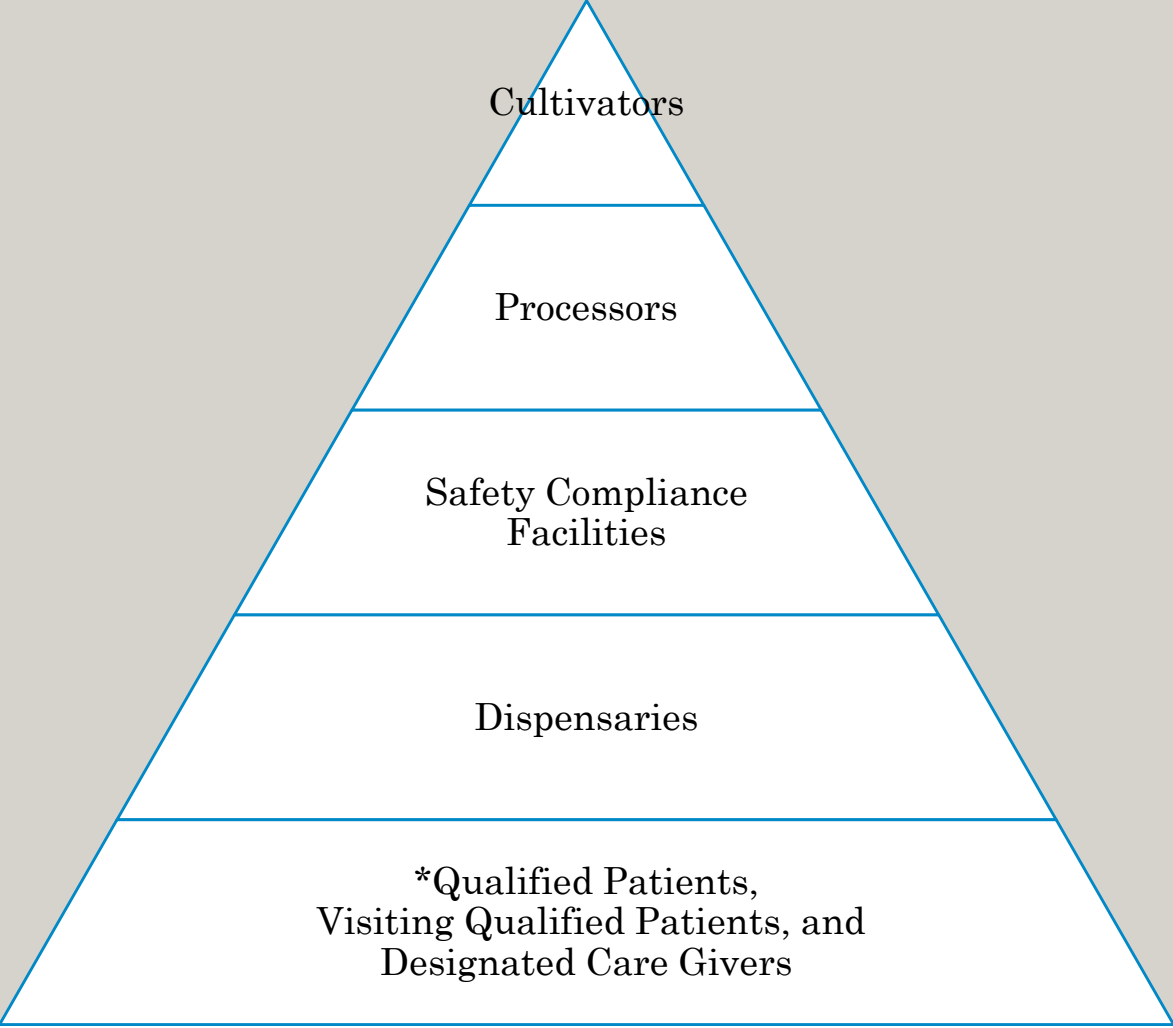
HB 136 HCS1 - Implementation

- Promulgate Administrative Regulations and develop forms and other necessary tools to administer the medical marijuana program including:
 - Registry identification card system and the procedures for issuance and revocation of registry identification cards;
 - Application and renewal forms for cannabis businesses and the procedures for issuance, renewal, suspension, and revocation of cannabis business licenses;
 - The competitive bidding processes for cannabis businesses;
 - Record keeping, inventory, security, transportation, standards of safety and operations, packaging and labeling, testing, and many other cannabis businesses requirements;
 - Other regulations necessary to carry out the Department's duties.
- Overhaul the Department's current licensing system/database to include the new license types and subsequent requirements relating to the medical marijuana program.
- Establish a computer database that shall share data with all dispensaries to monitor amounts of medicinal marijuana purchased by cardholders in real time.
- Establish a verification system to allow law enforcement personnel and cannabis business to determine validity registry identification cards.
- Establish an inventory tracking program that is capable of tracking medicinal marijuana from the point of cultivation to the point of sale.

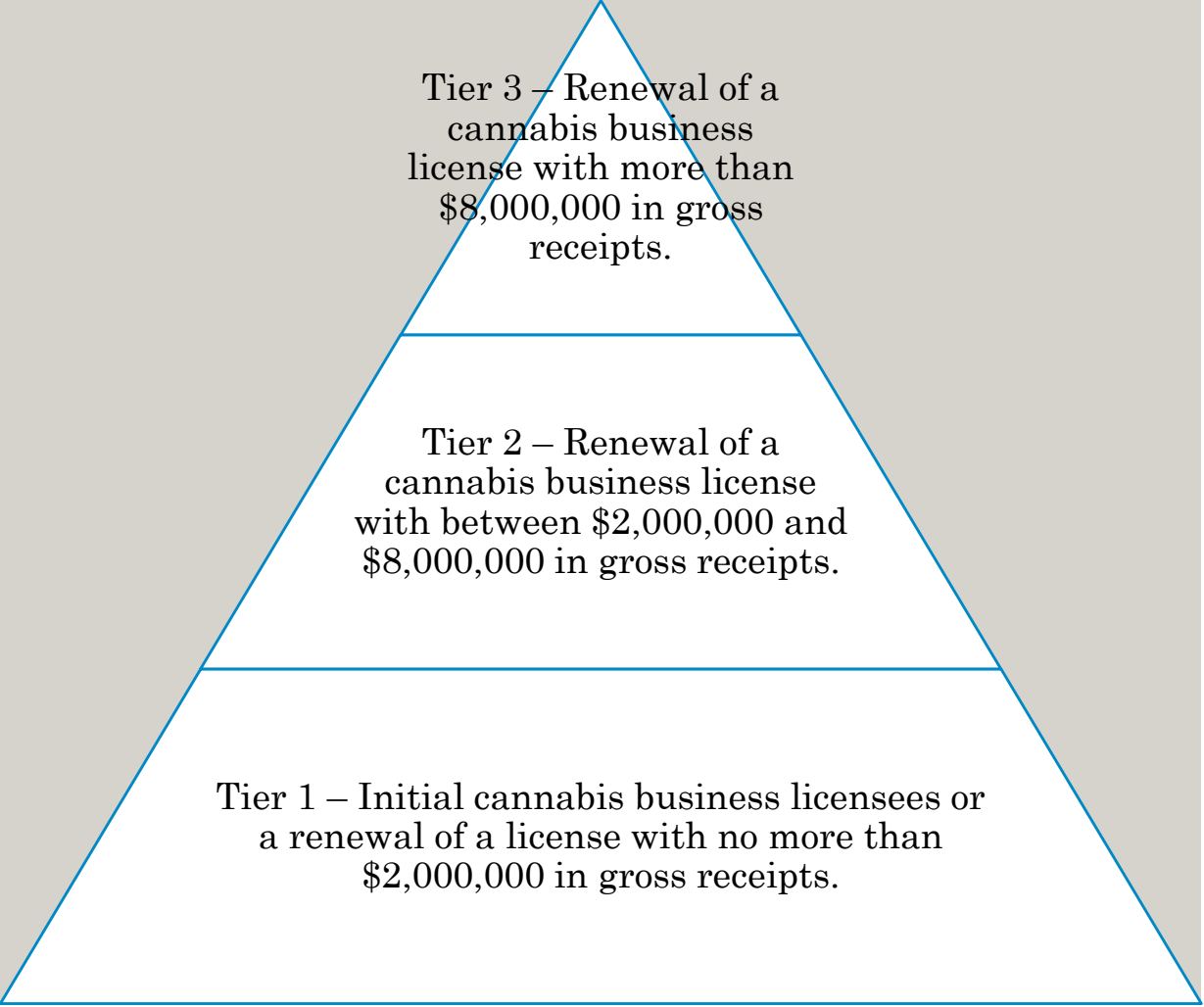
HB 136 HCS1 - Additional Regulatory Duties

- Regulate the manufacture, sale, transportation, storage, and advertising of the medical marijuana program. Generally, this includes all functions the Department currently performs in the relation of alcoholic beverages. However, the medical marijuana statutory and regulatory schemes offer additional complexities. The medical marijuana program:
 - Is a 4-tier system of cannabis businesses with a 3-tier system for each business type.
 - Requires the Department to register individuals permitted to possess and use medical marijuana and further, issue temporary, then permanent identification cards to all registrants.
 - Requires additional compliance inspections for things such as businesses inventory, security, standards of safety and operations, packaging and labeling, quality testing, and much more.
 - Requires the Department to determine the number of licenses necessary to serve market demand in each license category. If the Department receives a greater number of cannabis business license applications than it deems necessary to meet market demand, the Department must develop and use an impartial and numerically scored competitive bid process to evaluate applications.
- Continually update and provide maintenance for the additional IT systems.
- Comply with significant research, recordkeeping, and reporting requirements.

Four-Tier “Plus” System



Tiering of Cannabis Business Licenses



*The bill contemplates a four-tier system of licensure for cannabis businesses. However, requiring the Department to implement a registration program for these individuals essentially creates a fifth tier for which the Department is responsible.

Other State Medical Marijuana Programs

- Representatives from the Department reached out to several states that have recently passed or implemented medical marijuana legislation.
- Of those responding, the Oklahoma Medical Marijuana Authority was found to be the best resource based on the information provided as well as the similar population size (OK 4 million vs. KY 4.5 million).

Projected Number of Medical Marijuana Business Licensees and Registered Patients

Oklahoma		Kentucky (*Projected)	
Cultivators	4,300	Cultivators	4,837.5
Processors	1,100	Processors	1,237.5
Safety Compliance Facilities	N/A	Safety Compliance Facilities	100
Dispensaries	1,800	Dispensaries	2,025
Total Business Licensees	7,200	Total Business Licensees	8,200
Registered Patients	178,000	Registered Patients	?

*12.5% population adjustment

Projected ABC Personnel Needed for Administration and Enforcement of HB 136 HCS1

	Annual Salary	FICA	ARC	Health	Life	Total	# of Additional Personnel	Total
Enforcement Personnel								
Investigator III	\$46,700.00	\$3,572.55	\$17,484.48	\$ 8,500.00	\$14.00	\$ 76,271.03	27	\$ 2,059,317.81
Section Supervisor	\$51,500.00	\$3,939.75	\$19,281.60	\$8,500.00	\$14.00	\$83,235.35	3	\$249,706.05
Branch Manager	\$62,300.00	\$4,765.95	\$23,325.12	\$8,500.00	\$14.00	\$98,905.07	1	\$98,905.07
Division Director	\$73,000.00	\$5,584.50	\$27,331.20	\$8,500.00	\$14.00	\$114,429.70	1	\$114,429.70
Assistant Director of Enforcement	\$71,000.00	\$5,431.50	\$26,582.40	\$8,500.00	\$14.00	\$111,527.90	1	\$111,527.90
Total							33	\$ 2,633,886.53
Licensing Personnel								
Licensing Specialist	\$40,425.00	\$3,092.51	\$36,127.82	\$8,500.00	\$14.00	\$88,159.34	10	\$881,593.35
Licensing Supervisor	\$72,000.00	\$5,508.00	\$64,346.40	\$8,500.00	\$14.00	\$150,368.40	2	\$300,736.80
Total							12	\$1,182,330.15
Legal Personnel								
Staff Attorney III	\$56,000.00	\$4,284.00	\$50,047.20	\$8,500.00	\$14.00	\$118,845.20	2	\$237,690.40
Total							2	\$237,690.40
Total Personnel Cost							47	\$4,053,907.08

Projections are based on current ABC personnel/licenese ratios; Licensing projections also contemplate registration requirements

Budgetary Impact of HB 136 HCS1

- The first full year of implementation, administration, and enforcement is estimated to cost the Department roughly \$8.1 Million. The Department estimates annual expenses of \$5.5 Million each year following for administration and enforcement.

Implementation Expenses		
New Vehicles	\$924,000.00	(\$28,000 X 33)
Enforcement Equipment	\$429,000.00	(\$13,000 X 33)
Licensing Equipment (phones/computers)	\$200,000.00	
IT System	\$1,000,000.00	(Based on Oklahoma's IT system - outsourced)
Total	\$2,553,000.00	

Annual Expenses		
Personnel	\$4,053,907.08	(Previous slide - 47 additional employees)
Operating Expenses	\$957,390.00	(Proportional to current ABC operating expenses - \$20,370 per employee)
IT System	\$500,000.00	(Annual cost of outsourcing comparable systems)
Total	\$5,511,297.08	

The Department is unable to calculate a comprehensive cost analysis of this legislative proposal because of its vast interdepartmental impact. This estimate does not account for the budgetary impact to various other agencies including the Kentucky State Police, the Department of Corrections, the Judiciary, and other medical and societal costs.

Questions?

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