

PUBLICATION

D.C. Council Passes Emergency Legislation to Close "Gifting Shops" in the District

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The D.C. Council passed emergency legislation on January 9, 2024, in furtherance of its effort to close the D.C. cannabis industry's "gray market." The "gray market" is the cannabis industry that was created when D.C. legalized the cultivation and possession of cannabis, but Congress prohibited D.C. from legalizing the sale of cannabis. This inconsistency created the world of "gifting shops" in the District. For example, at a gifting shop, a customer will purchase a \$45 sticker and will be gifted cannabis.

Unfortunately, D.C.'s legal medical cannabis market subsequently struggled to compete with the gray market. The D.C. Council [estimated](#) that gifting shops conduct \$600 million in sales per year. In comparison, the legal medical cannabis dispensaries (of which six are presently [operational](#)) conducted approximately \$37.5 million in sales in 2023.

To combat the gray market, the D.C. Council passed the Medical Cannabis Amendment Act of 2022 which allows unlicensed gifting shops to apply for a medical cannabis retailer license during a 90-day application period that closes on January 29, 2024. As of the D.C. Council hearing on January 9, 2024, 37 gifting shops had applied to become licensed retailers. This leaves a large gap between the current gifting industry and the legal medical market.

To deal with that gap, Councilman Allen introduced the [Medical Cannabis Program Enforcement Emergency Amendment Act of 2024](#). The bill does several things targeted at eradicating the gray market in D.C.:

1. Gifting shops that choose not to obtain a medical retail license will be subject to fines, penalties, and cease-and-desist letters;
2. The Alcoholic Beverage and Cannabis Board is authorized to investigate and penalize unlicensed operators; and
3. Landlords of unlicensed gifting shops can be penalized for allowing a gifting shop to operate on the property after a notice of the unlicensed operation.

Of the three measures above, the landlord penalty presents one of the strongest enforcement mechanisms to eradicate the gray market. Real estate is already extremely difficult to obtain for cannabis operators due to perceived risk and properties that have federally backed financing. If landlords are now subject to penalties and fines, the appetite to work with unlicensed operators may be even less.

The emergency bill is awaiting Mayoral approval and is only effective for 90 days. However, Councilman Allen has already introduced an "interim" bill that would extend the effective date for another 225 days while the legislative process continues.

The Cannabis Law & Regulation industry team at Baker Donelson assists cannabis operators in D.C. as regulatory advisors, preparing license applications, and with all cannabis operators' business needs. Additional

questions regarding this emergency legislation or the process to operate in D.C. can be directed to any member of Baker Donelson's [Cannabis Law and Regulation Team](#).