IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

MARYLAND HEMP COALITION, INC., et al.	*	
Plaintiffs	*	
vs.		CASE NO. C-21-CV-23-348
	*	
WES MOORE, et al.		
Defendants	*	

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This matter for Temporary Restraining Order, Preliminary and Permanent Injunction and other relief is brought by proponents of the hemp industry including a trade association, growers, producers, retailers, and a user seeking to exclude certain hemp products from the licensing scheme created for the sale of cannabis/marihuana[1] in Maryland. The Court having denied the Temporary Restraining Order, a two-day preliminary injunction hearing was held and completed. For the reasons stated below, the Court grants injunctive relief for the hemp industry that is tailored narrowly to avoid unnecessarily affecting the 2023 Cannabis Reform Act and its licensing scheme as it applies to the cannabis industry.

Plaintiffs bring their action seeking relief under the Maryland Declaration of Rights Art. 24 Due Process and Art. 41 Monopolies, and, seeking damages for a Taking under Art. 24 and Maryland Constitution, Art. III, Section 40. Defendants filed a Motion to Dismiss, which was technically mooted by the filing of an Amended Complaint. Since the hearing, Defendants have filed a new Motion to Dismiss the Amended Complaint, however, the time for Plaintiffs to respond has not yet run. The Court will comment further on the Motion to Dismiss later in this opinion. Both sides have thoroughly briefed and argued the issues and offered testimony and other evidence in support of their respective positions.

The last decade has seen a significant amount of change in the State of Maryland's laws concerning the use, possession and now production of marijuana, to include officially renaming it cannabis for all statutory purposes. In 2014, the Maryland General Assembly (hereafter "MGA") passed legislation to "legalize" the use of medical marijuana upon a person obtaining a medical marijuana card from certain providers and purchasing the medical marijuana from a licensed dispensary. In 2022, the MGA passed legislation to put to referendum the question of "legalizing" the personal use and possession of marijuana for recreational purposes within certain quantitative limits. It further directed the MGA to create a regulatory scheme for the production and sale of cannabis. The referendum passed

[1] Both Maryland and Federal law define cannabis, marijuana and marihuana as any variety of the Cannabis sativa L. plant having a concentration of at least .03% delta 9 THC by dry weight. Similarly, they agree that hemp refers to any variety of the Cannabis sativa L. plant having less than .03% delta 9 THC by dry weight.

by a substantial margin. In 2023, the MGA passed the Cannabis Reform Act, which initially gave the medical marijuana industry the right to also produce and sell recreational cannabis and ultimately led to the licensing scheme for the growth, production, and sale of recreational cannabis here at issue.

By the letter of federal law, the production and distribution schemes created under the medical marijuana program and the new Cannabis Reform Act are illegal. Cannabis/marihuana, or those varieties of the Cannabis sativa L. plant having at least .03% of delta 9 Tetrahydrocannabinol (THC)[2] remains an illegal Schedule 1 Controlled Dangerous Substance and anyone involved in its sale could be federally charged and prosecuted. According to Defendants, the Department of Justice (hereafter "DOJ"), acting as a super-legislature, has issued guiding memoranda indicating the DOJ's decision to NOT enforce the federal prohibition of the manufacture, possession, and use of marihuana, against any state, as long as, that state creates a strict regulatory scheme for its production and sale. Under that guidance, Maryland has created the Maryland Cannabis Administration to oversee an in-state cannabis market.

No such prosecutorial discretion and guidance is required for the hemp industry. Under what is commonly referred to as the 2018 Farm Bill, Congress legalized the production and sale of hemp, or, those varieties of the Cannabis sativa L. plant having less than .03% of delta-9 THC on a dry weight basis. Under that law and the regulations propounded pursuant to it, any State may choose to regulate the hemp industry within its borders by submitting such a plan for United States Department of Agriculture (USDA) approval.[3] The USDA created its own licensing and regulatory scheme that is effective in any State that fails to submit a plan. In 2019, the MGA passed legislation consistent with the 2018 Farm Bill confirming that the federal regulatory and licensing scheme would apply in Maryland if the state did not obtain federal approval of its own plan.[4] To date, Maryland has not sought USDA approval of a plan.

The hemp industry evolved rapidly after 2018. In addition to industrial products like rope and other fibrous uses, hemp producers began finding ways to process the plant material to concentrate the cannabinoids naturally occurring. Cannabinoids are believed by many to have significant health benefits, which was one of the justifications for creation of the medical marijuana program. In hemp, concentrating certain cannabinoids also concentrated the naturally occurring delta-8 THC, reaching levels where the product would have some intoxicating effect. As hemp production is legal under state and federal law, and Congress further excluded the delta-8 THC found in hemp from the Controlled Substances Act, these hemp-derived products were saleable at specialty shops and general retail facilities. The Plaintiff producers and retailers testified that they have repeatedly

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[2] Tetrahydrocannabinol is the primary psychoactive agent in the Cannabis sativa L. plant. Delta 9 is the most powerful of the THC molecule variations. The molecular difference between delta 9 THC and either delta 8 or delta 10 is the placement of a single atom in the molecular structure.

[3] 84 FR 58522

[4] See Md. Code Ann., Alc. Bev. Art. Sect. 14-101, *et seq.*

asked the Maryland Department of Agriculture (MDA) to create a regulatory scheme under which they could operate. As that did not occur, they obtained licensing through USDA.

Under the Cannabis Reform Act (CRA), the hemp products at issue and cannabis are lumped together and treated the same within the new regulatory and licensing scheme. Instead of distinguishing cannabis from hemp, Md. Code Ann., Alc. Bev. Art. Sect. 36-1102 applies to all products containing a certain gross amount of THC per product regardless of the molecular structure and origin. Thus, the MGA used THC content generally to capture all intoxicating products from the Cannabis sativa L. plant. It should be noted that testimony adduced at the hearing established that the intoxicating effect of delta 8 THC is only between 50-75 percent that of delta 9 THC. It should further be noted that Plaintiffs aver that it has been and continues to be their position that hemp consumable products should be laboratory tested as required in the new law. Moreover, the producer and retailer Plaintiffs indicated that they do not challenge the product packaging and labeling regulations imposed under the CRA. In other words, Plaintiffs do not challenge that portion of the CRA that increases testing, labeling, and packaging requirements for THC products generally.

This case then is centered on the narrower issue of whether the strict and exclusive licensing scheme under the CRA and as applied to the hemp industry is a valid exercise of legislative prerogative. Before addressing that issue, the Court will address Defendants' newly filed Motion to Dismiss. Defendants argue, among other things, that the case should stop before it gets started because Plaintiffs lack standing to challenge the CRA. While the court will discuss the challenge to Plaintiffs' standing, it will also treat the remainder of Defendants' motion as a Motion for Summary Judgment and wait for a responsive pleading.

This case is procedurally different from those cases cited by Defendants in their Motion. Due to the Amended Complaint being filed only days before the scheduled preliminary injunction hearing, the Court has two days of testimony and numerous exhibits in the record to consider in addition to the four corners of the Amended Complaint. At the start of the hearing, the parties agreed with the Court that it would be best to proceed with the hearing.

At the heart of this issue is the Defendants' misapprehension of the relative positions of the parties. Defendants continually consider these Plaintiffs as being in the same position as those entities selling, or seeking to sell, illicit delta-9 THC products. It is imperative to correctly identify Plaintiff growers, producers and retailers as having traded in lawful businesses under both state and federal law prior to July 1, 2023, when the licensing and regulatory prohibitions in the CRA took effect. On July 1, 2023, only those producers and retailers of illicit delta-9 THC products who previously received licenses under the medical marijuana program were allowed to grow, produce, and sell THC products. In other words, although their products were still legal under state and federal law, Plaintiffs lost the right and opportunity to sell them solely due to the CRA licensing scheme. It should further be noted that there was NO reason for any of Plaintiffs to have

sought a medical marijuana license, because, again, their products were lawful. They did not need any special protections from federal law.

It is also important to repeat that Plaintiffs are not seeking relief from the reasonable health and safety regulations requiring testing, labeling, and packaging of intoxicating products. They seek relief from the onerous and questionable licensing scheme that halted their businesses. The testimony was clear that the Plaintiffs' respective businesses were no longer viable as such and that they sustained significant losses. Quite to the contrary of Defendants' assertion, the interests of Plaintiffs are not "merely academic, hypothetical, or colorable," but rather, they are interests of survival, prosperity and, indeed, of life, liberty, and property.

Defendants further argue that Plaintiffs could still sell their products to medical marijuana license holders. In theory, Defendants are correct that the Plaintiff growers and producers could sell their products to medical marijuana license holders. In reality, this opportunity did not exist as those license holders already had established production and supply lines and that they were in the industry for high potency delta-9 THC products, not the less intoxicating delta-8 THC products. Moreover, Plaintiff retailers were immediately shut out of the market.

Plaintiffs, having suffered injury in fact directly relatable to Defendants' actions, have standing to challenge the CRA as it applies to them and to have their respective rights thereunder declared.

Plaintiffs seek a preliminary injunction to "return [the parties] to *status quo ante* pending the outcome of this litigation, insofar as it concerns the licensing restrictions and the monopoly preventing the Plaintiff retailers from either continuing to sell their product or obtaining a license to do so...." Amended Complaint at 37, 41. "To decide a motion for a preliminary injunction, a trial court must consider four factors: (1) the likelihood that the plaintiff will succeed on the merits; (2) the "balance of convenience" – *i.e.*, consideration of the harm to the defendant if the court issues an injunction weighed against the harm to the plaintiff if the court does not; (3) whether the plaintiff will suffer irreparable injury; and (4) whether an injunction serves the public interest. Unless a court concludes that all four factors weigh in the plaintiff's favor, the court may not grant the preliminary injunction." *Lamone v. Lewin*, 460 Md. 450, 468 (2018), citing *Ehrlich v. Perez*, 394 Md. 691, 708, 908 A.2d 1220 (2006). The granting of a preliminary injunction is not a punitive measure, rather, it is a protective measure that maintains the relative positions of the parties while the litigation is resolved. *Eastside Vending Distributors, Inc., v. Pepsi Bottling Grp., Inc.*, 396 Md. 219, 224 (2006). The grant or denial of a preliminary injunction lies within the sound discretion of the trial court. *Lamone, infra.*

1. Likelihood of Success.

Although Plaintiffs chose to not raise the issue of federal preemption, the Court finds that the CRA licensing scheme, as it applies to hemp producers, is preempted by the 2018 Farm Bill and attendant federal regulations. Plaintiff producers testified that they had

obtained the appropriate federal licenses. They did so because the State of Maryland has chosen not to submit a plan of its own for approval by USDA. As indicated above, Md. Code. Ann., Ag. Art. Sect. 14-305 acknowledges that in the event the State does not submit a plan for approval, hemp producers must obtain a federal license in order to legally operate in Maryland. Defendants wrongly quote the federal provision that Congress does not intend to preempt the States because that statement is premised upon a state having first submitted a plan for approval. Maryland has not submitted such a plan prior to passing the CRA and there has been no evidence produced to show that the CRA was submitted to USDA for such approval. The state having failed to avail itself of the opportunity to establish its own hemp licensing scheme, licensing remains with USDA.

Plaintiffs assert that the licensing scheme created under the CRA is violative of both Art. 41 Monopolies and Art. 24 Due Process of the Maryland Declaration of Rights as applied to hemp growers, producers, and retailers. Both parties thoroughly briefed the issues and the caselaw. From the testimony and exhibits received, it is clear that the Plaintiffs were operating lawfully prior to July 1, 2023, under state and federal law. As of July 1, and except for growing hemp, all production and sale of THC laden products was prohibited unless done through a licensed entity or dispensary, respectively. Initially, only the entities licensed under medical marijuana regime were permitted to engage in those activities. All sales of the raw materials and wholesale products must be registered on the online tracking system known as METRC, which can only be accessed by those holding a state license, i.e., initially only the medical marijuana license holders can participate. Plaintiffs were instantly frozen out of the market, because, as discussed above, they did not need licenses to sell their products.

Moving forward to the first round of new licenses provides no relief to the aggrieved Plaintiffs. The geographic restrictions imposed under the new social equity requirements bar most Marylanders from applying for a license. The new scheme bars from applying persons who did not live in certain zip codes for a certain amount of time prior to the application period, or who did not attend a certain school district for a certain number of years while growing up, or who did not attend a college with a certain percentage of Pell Grant recipients. The CRA creates a new Office of Social Equity to enforce these strictures and only those persons certified as social equity applicants are permitted to file the full application. The law further severely limits the number of licenses to be issued overall as there is a maximum number to be issued per the statute. In the likely event that there are more applicants than licenses in the first round of licensing, the approved applicants will then be entered into an arbitrary lottery to determine who may be granted the right to the benefits of possessing a license available in that round. A second batch of licenses will subsequently be offered in an as yet undetermined process.

Article 41 That monopolies are odious, contrary to the spirit of a free government and the principles of commerce and ought not to be suffered.

"A monopoly within the prohibition of our Declaration of Rights, is a privilege or power to command and control traffic in some commodity, or the operation of a trade or

business to the exclusion of others, who otherwise would be at liberty to engage therein, necessarily implying the suppression of competition, and ordinarily causing a restraint of that freedom to engage in trade or commerce which the citizen enjoys by common right. A monopoly is more than a mere privilege to carry on a trade or business or to deal in a specified commodity. It is an exclusive privilege which prevents others from engaging therein. A grant of privileges, even though monopolistic in character, does not constitute a monopoly in the constitutional sense when reasonably required for protection of some public interest, or when given in return for some public service, or when given in reference to some matter not of common right." *Raney v. Montgomery County Commissioners*, 170 Md. 183, 183 A. 548; *Goldsmith v. Mead Johnson & Co.*, 176 Md. 682, 7 A.2d 176, 125 A.L.R. 1339.

Levin v. Sinai Hospital of Baltimore, 186 Md. 174, 183, 46 A.2d 298 (1946).

An instructive case is *Wright v. State*, 88 Md. 436, 41 A. 795 (1898). There, the defendant was convicted of violating a statute that banned the manufacture or sale of any "oleaginous" substance made from an adulterated milk or dairy product. On appeal, he challenged the constitutionality of the statute claiming that it created a monopoly in violation of Article 41 and in favor of those making products from unadulterated milk and dairy. The Court of Appeals rejected the claim, stating

"[i]t is further argued in behalf of the appellant that the act is invalid because it, in effect, grants a monopoly, and article 41 of the declaration of rights of Maryland declares that "monopolies are odious, contrary to the spirit of free government, and the principles of commerce, and ought not to be suffered." We think, however, it will be sufficient to say, in reply to this contention, that**, as the law prohibits all sales, no element of monopoly can by any possibility be found** in such an enactment. In U. S. v. E. C. Knight Co., 156 U. S. 1, 15 Sup. Ct. 249, Mr. Chief Justice Fuller adopts Lord Coke's definition of a monopoly, archaic though it be, as follows: "A monopoly is an institution or allowance by the king [the state], by his grant, commission, or otherwise, to any person or persons, bodies politique or corporate, of or for the sole buying, selling, making, working, or using of anything, whereby any person or persons, bodies politique or corporate, are sought to be restrained of any freedom or liberty that they had before, or hindered in their lawful trade." To constitute a monopoly within the meaning of this definition, **there must be an allowance or grant by the state to one or several of a sole right; that is, a right to the exclusion of all others than the grantee or grantees.** Here is a grant to none, but a prohibition to all; and, if this statute is to be struck down, it cannot be done in the name of monopoly." *Wright v. State*, 88 Md. 436, 41 A. 795, 798 (1898). (emphasis added).

So, under *Wright*, banning a certain good from production or sale does not create a monopoly in the production of the competing good that is not banned. Banning the product did not exclude any persons from engaging in production or sale of the remaining permitted product, nor did that act grant any exclusive rights to the pre-existing producers of that product. Commerce in the permitted good was not limited in any way from production to sale, which is the exact protection intended in Article 41. If government does not ban a product, then Article 41 guarantees to the people of Maryland the right to

fairly trade in that product on an equal footing in an open and objectively regulated market. The government does not have the right to pick the winners and losers in a market.

Turning to the instant case, it is clear that the CRA creates an Article 41 monopoly that unfairly excludes many from their right to continue, or enter, a profession of their choosing, all to the detriment of the public. The licensing scheme in this case is "an allowance or grant by the state to one or several of a sole right; that is, a right to the exclusion of all others than the grantee or grantees." It is uncontested that initially, only those persons or entities who possessed a license to deal in medical marijuana were permitted to deal in THC products, whether derived from cannabis or hemp, even though hemp production remained legal. Secondarily, only those certified as social equity applicants and who survive a completely arbitrary lottery, will be allowed to enter the market at some point over the next several months. Finally, at some point in the future, those who may qualify under some nebulous, undefined "round two" process, will obtain the right to produce or sell THC products in Maryland. As a further restriction, the overall total number of licenses that may be obtained is capped for the purpose of manipulating, supply, price, and license value. In doing so, the CRA licensing scheme confers a significant benefit on those few who obtain a license while barring many, such as Plaintiffs, from engaging in their chosen field of occupation. The public does not benefit when government intentionally constrains power and wealth in the hands of a few.

Defendants argue that such tight constraint on the number of licenses, thus restricting supply, is necessary to prevent a glut of product from being produced. According to the testimony and evidence, the licensing controls would keep supply low and the value of the licenses and the prices of the products artificially high. While Defendants argued that these controls are necessary to protect license holders from significant price drops, their witnesses also acknowledged that their plan would fix the prices of THC products at levels that would sustain and could even encourage an on-going illicit market in cannabis, even though the stated goal is to move people to the regulated market. Being unregulated, the illicit cannabis may contain dangerous contaminants, have a high or unpredictable strength, or otherwise be enhanced with other controlled substances such as fentanyl or cocaine. Defendants justify this threat to public safety by arguing that too much product could cause price fluctuations that may lower the price to the point that some producers may go out of business. Such a desire to so control the market runs directly afoul of the "principles of commerce" protected by Article 41 and presents a danger to the public.

Defendants also argue that the number of dispensaries must be capped for public safety. Evidently expecting a large number of applicants, they assert that state resources are too limited to employ enough inspectors to regularly visit retailers to ensure compliance unless a cap on licenses is established. Of course, this in no way justifies barring many would be retailers from even applying due to the social equity requirement in place.

As discussed above, Defendants finally assert that the state must enact severe regulations in order to operate a "legal" market for delta-9 THC products under the DOJ requirements. Perhaps, this requirement could justify a monopoly for the sale of federally banned delta-9 THC products. It cannot be used to justify imposing a monopolistic scheme on those already engaged in commerce of legal delta-8 THC products. This argument too fails.

Article 24. Due Process. That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

It is established in Maryland law that Article 24 of the Maryland Declaration of Rights embodies similar protections as those found in the "Equal Protection Clause" of the Fourteenth Amendment of the United States Constitution. *Verzi v. Baltimore County*, 333 Md. 411, 635 A.2d 967 (1994). Maryland courts may rely on United States Supreme Court decisions as "practically direct authorities" when construing claims brought under Article 24. *Attorney General of Maryland v. Waldron*, 289 Md. 683, 705, 426 A.2d 929 (1981). Claims that do not involve an identified fundamental right or affect a suspect class (race, gender, religion, or national origin) are reviewed using the rational basis test to determine constitutionality.[5] "Under this standard, we presume that the challenged statute is constitutional, and will uphold it unless the varying treatment of different groups or persons is so unrelated to the achievement of any combination of legitimate purposes that [we] can only conclude that the [State's] actions were irrational." *Pizza di Joey, LLC v. Mayor of Baltimore*, 470 Md. 308, 347, 235 A.3d 873 (2020) (internal quotation marks and citations omitted).

While concluding that the CRA's licensing scheme should be reviewed under the rational basis standard, this court is mindful that matters involving occupations have often received higher scrutiny. Indeed, the protections afforded under a person's right to liberty and property includes that of a chosen trade or occupation. Moreover, "[t]he right to engage in a chosen calling, once all reasonable requirements established by the legislature for the protection of the health, safety and welfare of the citizens have been complied with, has long been recognized to enjoy a preferred status." *Waldron, infra.*, at 718. It is with this as a backdrop that the court reviews the CRA, which barred many of the plaintiffs from continuing in a legitimate business which continues to be legitimate, albeit with additional regulations for health and safety.

Under the "rational basis" test, "a statutory classification is struck down, in the oft-expressed words of the Supreme Court, only if the means chosen by the legislative body are "wholly irrelevant to the achievement of the State's objective." *McGowan v. Maryland*,

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[5] There is a middle level of scrutiny called enhanced rational basis which limits the governments justifications to those specifically stated as a basis for the legislation, however, under the current circumstances, application of the middle level of scrutiny would not differ from basic rational basis.

366 U.S. 420, 425, 81 S.Ct. 1101, 1104, 6 L.Ed.2d 393 (1961); *McDonald v. Board of Election*, 394 U.S. 802, 809, 89 S.Ct. 1404, 1408, 22 L.Ed.2d 739 (1969). The Supreme Court, in applying this test, has been willing to uphold the constitutionality of an enactment when "any state of facts reasonably may be conceived to justify it." *McGowan v. Maryland, supra* at 426, 81 S.Ct. at 1105. See *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 99 S.Ct. 383, 58 L.Ed.2d 292 (1978); *Kotch v. Pilot Comm'rs*, 330 U.S. 552, 67 S.Ct. 910, 91 L.Ed. 1093 (1947). This deferential review of state legislative classifications operates, at least in the sphere of economic regulation, "quite apart from whether the conceivable 'state of facts' (1) actually exists, (2) would convincingly justify the classification if it did exist, or (3) has ever been urged in the classification's defense by those who either promulgated it or have argued in its support." L. Tribe, American Constitutional Law s 16-3, p. 996 (1978) (hereinafter cited as Tribe). See, e. g., *Minnesota v. Clover Leaf Creamery Company*, 449 U.S. 456, 101 S.Ct. 715, 66 L.Ed.2d 659 (1981); *U. S. Railroad Retirement Bd. v. Fritz*, 449 U.S. 166, 101 S.Ct. 453, 66 L.Ed.2d 368 (1980); *McDonald v. Board of Election, supra*; *Allied Stores of Ohio v. Bowers*, 358 U.S. 522, 528-29, 79 S.Ct. 437, 441-42, 3 L.Ed.2d 480 (1959); *Kotch v. Pilot Comm'rs, supra*; *Lindsley v. Natural Carbonic Gas Co.*, 220 U.S. 61, 31 S.Ct. 337, 55 L.Ed. 369 (1911)."

Waldron, infra., at 707.

Based on the evidence and argument offered thus far, the court cannot find a rational basis to support the exclusive, and exclusionary, licensing scheme that has put Plaintiffs out of their legitimate businesses. There were two main goals of the CRA. One was to create a statewide legal market for cannabis (a/k/a marihuana under federal law) pursuant to the constitutional amendment passed by referendum and as permitted under DOJ guidance. Two was to provide redress to those communities disproportionately affected by the war on drugs as it applied to marijuana. The second goal will be accomplished by the government expenditure of a portion of the new tax revenues to improve educational, employment and other opportunities in the negatively affected communities. Additionally, expanded opportunities for expungements of certain related criminal convictions will benefit persons directly impacted by this portion of the "war on drugs." Defendants further assert that to fully effectuate redress it is necessary to allow only some persons with some nebulous connection to these affected communities, to financially benefit from the new industry. On this last point, Defendants reach for a bridge too far.

The CRA licensing scheme is based on an assumption that everyone residing in a community that had a history of a disproportionately high rate of marijuana charges was disproportionately affected and, therefore, entitled to be eligible to apply for a license to the exclusion of all persons not from such a community. The communities have been designated by zip codes. Any zip code in which the charge rate has been 150 percent of the state average qualifies as a social equity community. Anyone who lived in a designated community for five of the last ten years or spent five (5) years in a public school system in such an area, or who went to a college with a certain percentage of Pell grant recipients may be a qualified applicant. Under this scheme, it is irrelevant whether the applicant was actually impacted, and it is irrelevant in which part of the zip code the

applicant lived. Additionally, the Defendants did not offer any evidence that this severe scheme would actually benefit the communities found to have been impacted.

Ensuring that only a few may even apply for the grant of a lucrative license is wholly irrelevant to achieving the goals of this statute. Certainly, so constricting the pool of possible license holders does not improve the likelihood of a successful industry. The DOJ requires a well-regulated state market for any state to proceed with legalizing cannabis/marijuana, but Defendants could not proffer that the DOJ also required them to discriminate against persons who didn't live in a certain area or attend certain schools. Additionally, DOJ's requirements were meant only for those products that are patently illegal under federal law, not hemp.

The CRA does not survive an equal protection review under Article 24 of the Maryland Declaration of Rights. All Marylanders have the right to "life, liberty and property."

2. Balance of Convenience.

The balance of convenience weighs strongly in Plaintiffs' favor. They were selling their products until suddenly prohibited from doing so on July 1, when the licensing scheme became effective. They do not contest the increased health and safety requirements and have agreed to implement them with their products. While resolving all surrounding issues of the CRA as it applies to hemp and hemp products, Defendants will not be affected. Their roll out of the new market for delta-9 products will continue.

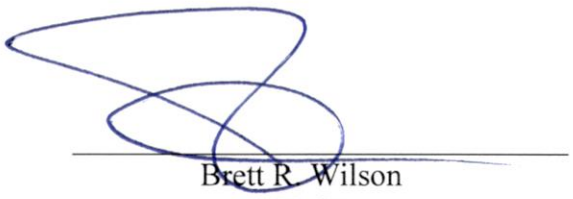
3. Irreparable Injury.

For the reasons stated above, this also weighs strongly in Plaintiffs' favor. Without an injunction, Plaintiffs are either out of business or unable to purchase the products on which they have come to rely. Even with an injunction, Defendants will not be prevented from proceeding with their legalization scheme. Rather, Defendants will not be able to treat hemp and hemp products like those products that remain illegal under federal law.

4. Public Interest.

The public benefits from any industry that is well regulated for health and safety but open to variety and competition. Variety in products is best assured by issuing the injunction to allow Plaintiff businesses to continue without being encumbered under the new draconian licensing scheme. With competition, pricing will fall and the market will better adjust to the purchasers' demands. Again, competition is best assured by issuing an injunction. As this case is not about standardizing health and safety regulations but is about the ability of persons to engage in a lawful business, the public interest weighs heavily in favor of the Plaintiffs.

For the reasons stated hereinabove, this Court grants to Plaintiffs a Preliminary Injunction.



Brett R. Wilson
JUDGE