



Legislative Briefing

“Marijuana Legalization”

Friday, November 30, 2018

12:00 noon-12:45 pm

Michael Cerra, Assistant Executive Director & Director Government Affairs

AGENDA

- Current Status
- Need to Engage
- Overview of Legislation
- Questions

CURRENT STATUS

- [S-2703](#) & [A-4497](#) “New Jersey Cannabis Regulatory and Expungement Aid Modernization Act.”
- Approved on Monday by both the Senate Budget and Appropriations and Assembly Appropriations Committees.
- Both bills could be voted on at the next Voting Session, December 17, and sent to the Governor that day. But....
- Differences between Legislative sponsors and the Governor’s office may delay a final vote.
- The bill could be further amended with discussions continuing into 2019.

NEED TO ENGAGE

- As soon as the ink is dry, this becomes a local issue.
- Implemented on a municipality-by-municipality basis - next 12 to 18 months.
- Municipalities must consider:
 - Opt in or Opt out
 - Local Option Tax
 - Will you be able to offset your costs?
 - Municipal Land Use Law (MLUL) impacts?
 - Expungement
- **Significant concerns remain for local governments: it is critical to engage your Legislators ASAP.**

OVERVIEW OF LEGISLATION

KEY DEFINITIONS

- Definitions (Section 3, page 4, lines 27--30)
- “Cannabis establishment”
 - a cannabis grower (cultivation facility),
 - a cannabis processor (production manufacturing facility),
 - a cannabis wholesaler, or
 - a cannabis retailer.

➤ Four type of licenses:

- 1) Grower (Class 1) - grows, cultivates or produces...may sell to other growers, processors, wholesaler or retailers but not consumers...can also be referred to as “cannabis cultivation facility.”
- 2) Processor (Class 2) - processes cannabis items by purchasing cannabis, manufacturing, preparing, and packaging cannabis items and selling to other processors, wholesalers, or retailers but not consumers...can also be referred to as “cannabis product manufacturing facility.”

- 3) Wholesale (Class 3) - sells cannabis items or paraphernalia for the purpose of resale to either wholesaler or retailer.

- 4) Retail (Class 4) - purchases cannabis from grower and cannabis items from processor or wholesaler and sells them to consumers from a retail store

OVERVIEW OF LEGISLATION

MAJOR PROVISIONS

- All references to marijuana are replaced with “cannabis.”
- Legalizes possession or use for ≥ 21 years of age for one ounce for less.
- Possession/use by those under 21 is illegal.
- Very general comment: Use in public is treated like smoking and alcohol.

OVERVIEW OF LEGISLATION

CANNABIS REGULATORY COMMISSION

SECTION 7, PAGE 18

5 Full-Time Member Commission
Chair, 2 members appointed by the Governor.

1 Member Appointed by Governor, upon
recommendation of Senate President

1 Members Appointed by Governor, upon
recommendation of Assembly Speaker.

In, but not of, Department of Treasury.

OVERVIEW OF LEGISLATION

CANNABIS REGULATORY COMMISSION

- Regulate
 - Purchase, sale, production, processing, packaging, transportation, and delivery
 - Use for scientific, pharma, manufacturing, mechanical, industrial
 - Prohibit advertising that
 - Appeal to minors
 - Promote excessive use
 - Promote illegal behavior
- Grant, deny, suspend, cancel licenses
- Investigate and assist prosecution of violations.

OVERVIEW OF LEGISLATION CANNABIS REGULATORY COMMISSION

Commission to include an Office of Minority, Disabled Veterans, and Women Cannabis Business Development:

- Promote participation in industry for persons from socially and economically disadvantaged communities, including by prospective and existing minority-owned and women-owned businesses.

OVERVIEW OF LEGISLATION CANNABIS REGULATORY COMMISSION

35% to be conditional licenses, includes any conditional license that was subsequently replaced with a full, annual license.

Issued only to applications which present ownership structure with “significantly involved person,” i.e., owned at least a 5% investment interest or is a member of a group who holds at least a 20% interest and would have controlling authority; must be a New Jersey Resident for at least 2 years.

At least 10% of each license type and at least 25% of overall number of licenses must be issued to “microbusinesses.”

OVERVIEW OF LEGISLATION

MICRO BUSINESSES

Section 3, Definitions page 10

- Licensed cannabis grower, processor, wholesale, or retailer
- That may only
 - employ no more than 10 employees
 - occupy no more than 2,500 square feet...for grower measured horizontal plane with no plant above 24 feet
 - possess no more than 1,000 plants per month
 - processor - processes no more than 1,000 pounds in dried form each month
 - wholesaler – acquire for resale 1,000 pounds in dried form, or any combination, each month
 - retail sale - acquire for retail sale no more than 1,000 pounds in dried form, or any combination thereof, each month

OVERVIEW OF LEGISLATION

TAXATION

Section 18, pages 54—57

- 12% State tax on products sold - includes prevailing sales tax (5.375% plus existing sales tax.)

Section 18, page 56.

- “Cannabis Regulatory and Expungement Aid Modernization Fund” to...” *defray costs, in an amount determined by the Legislature in the annual appropriations act or any other act, associated with the filing and review of applications for persons seeking expedited expungement relief...*”

OVERVIEW OF LEGISLATION

SECTION 18 TAXATION

Establishes Cannabis Regulatory and Expungement Aid Modernization Fund:

- Subject to annual Appropriations Act
- Used “...to defray costs....associated with the filing and review of applications for person seeking expedited expungement relief pursuant to Section 37...”

OVERVIEW OF LEGISLATION

SECTION 18 TAXATION

- Cannabis Grower cannot be on assessed Farmland.
- Prohibits any licenses from receiving:
 - State Economic Incentives
 - Local Economic Incentives
- Retail location can not be a certified seller within a Urban Enterprise Zone (UEZ).

OVERVIEW OF LEGISLATION

Section 19, page 57—61

- Permits municipalities to assess and collect 2% excise tax
 - On sales by a **cannabis establishment**.
 - On cannabis or cannabis products sold.
 - ***Collected by the cannabis establishment and remitted to the CFO in a manner prescribed by the municipality.***
- Local option tax can be assessed on any or all licensed establishments.
- One question that remains: if licenses are co-located under the same entity, does the transfer constitute a sale?

OVERVIEW OF LEGISLATION

Take Aways

Section 19, pages—57—58

- All 4 licenses may be taxed by host municipality.
- Municipality may...”*adopt an ordinance that authorized a local tax. This tax could be imposed on sales that occur within the local government entity; between cannabis retailers and customers; between a cannabis establishment that holds any class of cannabis license and another cannabis establishment that holds any class of cannabis license; or any combination thereof.*“

OVERVIEW OF LEGISLATION

LOCAL GOVERNMENT ENTITY REGULATIONS OR ORDINANCES

Section 20, pages 58—61.

- Permits municipal ordinance to govern:
 - Time
 - Location
 - Manner
 - Number of establishments
 - Civil penalties for municipal ordinance violations
- Previously adopted ordinances are null and void, must act again.
- Can prohibit operation of any one or more classes of establishments
 - Applies throughout the municipality (even if municipality is part of larger State planning areas)

OVERVIEW OF LEGISLATION

LOCAL GOVERNMENT ENTITY REGULATIONS OR ORDINANCES

Section 20, pages 58—61.

- Only within 180 days from adoption of State commission's initial rules
- Miss 180 day deadline:
 - the growing, cultivating, processing, and selling are permitted uses in all industrial zones
 - retail sale a conditional use in commercial or retail zones, subject to the conditions of the local zoning ordinance or a variance
- 5 year timeframe
 - May opt-out of any or all
 - Existing facilities grandfathered
 - Five-year intervals thereafter

OVERVIEW OF LEGISLATION

CONSUMPTION AREAS

Cannabis Consumption Area, Section 3, page 4.

- Operated by cannabis retailer or alternative treatment center
- Requires both State and local endorsement
- Is either a
 - indoor...structurally enclosed...separate from retail or treatment center
 - Exterior structure...on same premise...separate or connected
- Purchase/obtained on site or brought in by consumer

OVERVIEW OF LEGISLATION

IMPACT ZONES

- “Impact zone” define as:
 - Local governmental entity, in parts or entire,
 - Based on past criminal marijuana enterprises contributing to:
 - Higher concentrations of law enforcement activity
 - Unemployment
 - Poverty

Overview of Legislation

Impact Zones

- Only for municipalities with
 - Population 120,000 or more
- OR**
- Top 33% of marijuana or hashish related arrest (N.J.S.A. 2C:35-10)
- Crime index of 1,000 based on Uniformed Crime Report
- Top 15% of Average annual unemployment

OVERVIEW OF LEGISLATION

IMPACT ZONES

- Based on the most recent Census data, the following municipalities qualify as impact zones:
 - Elizabeth
 - Jersey City
 - Newark
 - Paterson

OVERVIEW OF LEGISLATION

IMPACT ZONES

- License applications will be scored based on point scale
- Criteria for applicant:
 - Existing collective bargaining agreement with a labor organization in NJ or elsewhere
 - Resides in an “impact zone”
 - Plans to employ employees who reside in an impact zone

OVERVIEW OF LEGISLATION EXPUNGEMENT AND THE COURTS

Eligibility for Expedited Expungements

1. Unlawful distribution of, or possessing with intent to distribute, small amounts of marijuana or hashish.
2. Possession of small amount of marijuana or hashish.
3. Using or possessing with intent to use drug paraphernalia for marijuana or hashish.

OVERVIEW OF LEGISLATION EXPUNGEMENT AND THE COURTS

Specifically, S2703/A4497 provides that a conviction or delinquency adjudication for 1 ounces (28.38 grams) or less of marijuana may be subject of an expungement at any time.

There is a concern that this only addresses a small subset of previous convictions.

S2703/A4497 is generally broad on expungement and separate legislation is being advanced.

Stay tuned.

OVERVIEW OF LEGISLATION

OTHER AREAS OF IMPORTANCE TO LOCAL GOVERNMENT

Section 70. Page 154, lines 7-28.

Police Training Commission shall, for a period of two years following effective date of Act, reimburse expenses by counties or municipalities for Drug Recognition Experts (DRE.)

Local governments shall seek reimbursement and once approved, funding from the Law Enforcement Officers Training and Equipment Fund

Questions and Answers

MONITOR DEVELOPMENTS

Please monitor League alerts for any such developments.

- www.njslom.org
- Friday Recap letters
- Town Crier Blog at njlmblog.wordpress.com
- Like us on Facebook at facebook.com/njleague
- Follow us on Twitter [@nj_league](https://twitter.com/nj_league)
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THANK YOU!

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