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## **March 20, 2019**

- I. Final Vote on Marijuana Legalization Set for Monday, March 25
- II. Register Now for these Upcoming Seminars and Webinars
- III. 27<sup>th</sup> Annual Mayors Legislative Day

### **I. Final Vote on Marijuana Legalization Set for Monday, March 25**

On Monday, the Assembly Appropriations Committee and the Senate Judiciary each amended and approved legislation that will legalize the adult use of recreational marijuana. The committees also approved legislation to expand the State's medical marijuana program and to streamline the expungement process. All of these bills are scheduled for final votes this Monday, March 25, though it appears there may not be sufficient support for final passage at this point in time.

The League is reviewing these bills and has begun to post of a series of blog posts on particular sections of the bills of interest to municipal governments. For your convenience, we provide the first two posts in this correspondence. Please follow and monitor the League's [Town Crier blog](#) for additional information. The League will continue to provide you updates and more information on this legislation in the upcoming days.

In addition to authorizing local option taxes and the local regulation provisions provided below, S2703 will, if passed, do the following:

- Create a State Cannabis Regulatory Commission to oversee the industry, including issuing licenses for the 4 license classes;
- Establish the process for licensing a cannabis consumption area, which may be hosted by a cannabis retailer or alternative treatment center that is permitted to dispense medical cannabis, including the Commission's license and endorsement from the municipality;
- Deschedules marijuana as a Schedule I Controlled Dangerous Substance;

- Provides for an expungement process for past offenses;

**Section 21. Local Cannabis Taxation; Local Cannabis Transfer Tax and User Tax, Pages 54-56.**

**Link:** [https://www.njleg.state.nj.us/2018/Bills/S3000/2703\\_U1.PDF](https://www.njleg.state.nj.us/2018/Bills/S3000/2703_U1.PDF)

This section authorizes municipalities to adopt ordinances imposing a “transfer tax” on cannabis sales on licensed cannabis establishments (see definition in Section 3, page 4, lines 13-16). Municipalities may enact a local tax up to:

- 2% of the receipts from each sale by a cannabis grower, cultivators (Class 1 license);
- 2% of the receipts from each sale by a cannabis processor (Class 2 license);
- 1% of the receipts from each sale by a cannabis wholesaler (Class 3 license); and/or,
- 3% of the receipts from each sale by a cannabis retailer (Class 4).

Thus, the municipality may enact the appropriate transfer tax on any of the licensed cannabis establishments located in the municipality.

These taxes are in addition to the State cannabis excise tax of \$42 per ounce. Please note that no local transfer/user tax can be imposed on medical marijuana.

Per Section 22 (starting on page 56), the municipality may prohibit any or all of the 4 licenses within 180 days of the effective date of the Act.

For those who do not opt out, the local tax ordinance shall also include provisions for imposing a user tax, at the equivalent rate(s) set by the municipality, on any “concurrent license holder...operating more than one cannabis establishment.” This language clarifies earlier concerns about the tax on businesses that holds more than one license within the municipality, commonly referred to as a vertically integrated operation.

Receipts from the transfer and user taxes shall be remitted by the cannabis establishment directly to the Chief Financial Officer of the municipality, in a manner proscribed by the municipality.

If there is nonpayment of the transfer/user tax, then the unpaid balance and accrued interest shall be a lien in the same manner as other unpaid municipal taxes, fees and charges.

**Section 22, Local Government Entity Regulations or Ordinances, Pages 56-58.**

**Link:** [https://www.njleg.state.nj.us/2018/Bills/S3000/2703\\_U1.PDF](https://www.njleg.state.nj.us/2018/Bills/S3000/2703_U1.PDF)

This section authorizes municipalities to enact regulations governing the time of operation, location, manner and the number of cannabis establishments, as well as establish civil penalties for the violation of such ordinances and regulations.

A municipality may prohibit any one or more classes of cannabis licenses throughout the municipality, even if the municipality is within regions such as the Highlands, the Meadowlands or the Pinelands. In other words, a municipality could adopt an ordinance

prohibiting retail establishments but permit cultivation operations.

On page 57, lines 11-14 it reads, **“Only an ordinance to prohibit one or more classes of cannabis establishment enacted pursuant to the specific authority to do so by this section shall be valid and enforceable.”**

Thus, any existing ordinances banning commercial marijuana sales or transactions will be null and void and the municipality will need to adopt a new ordinance to do so, which should reflect and reference this section of the law.

Municipalities will have 180 days from the effective date of the Act to opt out, by ordinance, of any one or all licenses. The League will prepare and make sample ordinance language that can be altered for your specific purposes.

**To illustrate:**

### **OPT OUT**

#### **Deadlines/Timeframe**

- 180 days to pass ordinance to opt out of any one or all class or classes of the business.
- After 5 years, need to act again, either to pass again the same ordinance or to amend accordingly.

#### **Consideration/Reconsideration**

- Can “opt in” at any time.

### **OPT IN**

#### **Deadlines/Timeframe**

- Take no action within 180 days of the Act
- Nothing in bill prevents municipality opt in by ordinance; affirmative action may be preferred to assess local conditions and opinions.

#### **Consideration/Reconsideration**

- **Permitted Use in all industrial zones:** growing, cultivating, processing and selling and reselling of cannabis and cannabis items by a grower, processor or wholesaler;
- **Conditional Use in commercial or retail zones,** subject to meeting conditions set forth in local zoning ordinance or upon granting of a variance: retails sales.
- Cannot reconsider until 5 years, when municipality may choose to opt out of one or more licenses; existing license holders grandfathered.

**It is our understanding and that if you opt out within 180 days of the effective date of the Act, you may opt in later by ordinance.**

When the State regulatory commission receives an application for initial licensing or a renewal for any cannabis establishment or an endorsement for a cannabis consumption area, it shall notify the municipality within 7 days of the application, unless the municipality

has already prohibited the class of license. In turn the municipality must determine and inform the Commission if the application complies with the local regulations regarding time, location, and manner of operations and number of establishments.

The bill language also clarifies that the municipality may impose a local license requirement or endorsement requirement.

If and when this legislation becomes law, we would recommend a review of your zoning ordinance to make sure they comport with the opt-out/in provisions.

**Contact:** Michael F. Cerra, Assistant Executive Director, [mcerra@njlm.org](mailto:mcerra@njlm.org), 609-695-3481 x120.

## **II. Register Now for these Upcoming Seminars and Webinars**

### **a. Medical Marijuana: What Public Employers Need to Know in New Jersey**

**Wednesday, March 27, 2019**

8:30 a.m. - 12:30 p.m.

Doubletree Hotel

700 Hope Road

Tinton Falls, NJ 07724

**CEUs:** CMFO/CCFO-4.0 Off Mgmt/Anc;CPWM-4.0 Mgmt;RMC-4.0 Prof Devel;QPA-4.0 Off Admin/Gen Duties; RPPO/RRPS-4.0 M/S;CPA-4.0 PD;NJCLE-4.0 Pending;PACLE-3.5\*;CPC-3.5

For more information including registration forms and costs, please visit the [March 27 Medical Marijuana Seminar Calendar Announcement](#).

### **b. Mayors Roundtable Event on Cannabis Legislation and Affordable Housing**

**Saturday, April 13, 2019**

9:00 a.m. - 12:00 p.m.

Hilton Meadowlands Hotel

2 Meadowlands Plaza

East Rutherford, NJ 07073

For more information including registration forms and costs please visit the [Mayors Roundtable Event Calendar Listing](#)

### **c. Mayors Roundtable Event on Cannabis Legislation and Affordable Housing**

**Tuesday, April 16, 2019**

9:00 a.m. - 12:00 p.m.  
Hotel ML  
915 Rte. 73  
Mount Laurel, NJ 08054

For more information including registration forms and costs please visit the [Mayors Roundtable Event Calendar Listing](#)

#### **d. Labor and Personnel Law Update**

**Wednesday, April 24, 2019**

8:30 a.m. - 12:30 p.m.  
Doubletree Hotel  
700 Hope Road  
Tinton Falls, NJ 07724

**CEUs:** CMFO/CCFO-4.0 Off Mgmt/Anc, CPWM-4.0 MGMT;RMC-4.0 Prof Devel;QPA-4.0 Off Admin/Gen Duties;CPA-4.0 PD;RPPO/RPPS-4.0 M/S;CRP-3.5;NJCLE-4.0 Pending, PACLE-3.5\*;CPC-3.5

For more information including registration forms and costs, please visit the [April 24 Labor and Personnel Law Update Calendar Announcement](#)

#### **e. Mayors Roundtable Event on Cannabis Legislation and Affordable Housing**

**Monday, April 29, 2019**

9:00 a.m. - 12:00 p.m.  
Princeton Marriott at Forrestal  
100 College Road East  
Princeton, NJ 08540

For more information including registration forms and costs please visit the [Mayors Roundtable Event Calendar Listing](#)

### **III. 27<sup>th</sup> Annual Mayors Legislative Day**

**Friday, April 5, 2019**

8:30 a.m. - 1:00 p.m.  
The State House Annex, Committee Room 4  
125 West State Street  
Trenton, New Jersey

#### **Invited Speakers for this event include:**

- Lieutenant Governor Sheila Y. Oliver
- Attorney General Gurbir S. Grewal
- State Treasurer Elizabeth Maher Muoio
- Senate President Stephen Sweeney
- Assembly Speaker Craig J. Coughlin

- Assemblyman Republican Leader Jon Bramnick
- Mayor Reed Gusciora, Mayor of Trenton
- Mayor Colleen Mahr, Borough of Fanwood, League President
- Committeeman James J. Perry, Sr., Township of Hardwick, League 1<sup>st</sup> Vice President
- Mayor Janice Kovach, Town of Clinton, League 2<sup>nd</sup> Vice President

For more information including registration forms and costs, please visit the [April 5 Legislative Day Calendar Announcement](#)

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