



Legislative Briefing: Marijuana Legislation

A-21/S-21

November 10, 2020

Agenda

- Current Status
- Overview of Legislation
- Next Steps
- Questions

Current Status

- A-21/S-21 “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”
- Approved by both the Assembly Oversight, Reform & Federal Relations and Senate Judiciary Committees on Monday, November 9
- Scheduled for a hearing before Assembly Appropriations and Senate Budget on Thursday, November 12
- Can be scheduled for a Voting Session as early as November 16
- But there are difference of opinion among Legislative Leaders

Overview of Legislation

Cannabis Grower (Class 1 License)

- **Cannabis grower**
 - Licensed person or entity
 - Grows, cultivates, or produces cannabis in New Jersey, and sells
 - May transport to other cannabis growers, processors, wholesalers or retailers, but not consumers.
 - May also be referred to as “cannabis cultivation facility”.

Cannabis Processor (Class 2 License)

- **Cannabis processor**
 - Licensed person or entity
 - Processes cannabis items in New Jersey by purchasing or otherwise obtaining cannabis, manufacturing, preparing, and packaging cannabis items, and selling
 - Optionally transporting these items to other cannabis processors, wholesalers, or retailers, but not to consumers.
 - May also be referred to as “cannabis product manufacturing facility.”

Cannabis Wholesaler (Class 3 License)

- **Cannabis wholesaler**
 - Licensed person or entity
 - Purchases or otherwise obtains, stores, sells, or otherwise transfers
 - May transport cannabis items for the purpose of resale or other transfer to either to another cannabis wholesaler or to a cannabis retailer, but not to consumers.

Cannabis Distributor (Class 4 License)

- **Cannabis distributor**
 - Licensed person or entity
 - Transports cannabis items in bulk intrastate from one licensed cannabis establishment to another licensed establishment.
 - May engage in temporary storage as necessary to carry out transportation activities.

Cannabis Retailer (Class 5 License)

- **Cannabis retailer**
 - Licensed person or entity
 - Purchases or otherwise obtains cannabis from cannabis growers and cannabis items from cannabis processors or cannabis wholesalers, and sells these to consumers from a retail store
 - May use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers.

Cannabis Delivery (Class 6 License)

- **Cannabis delivery service**
 - Licensed person or entity
 - Provide courier services for cannabis retailer
 - Make deliveries of cannabis items and related supplies to consumers
- **Delivery**
 - Transportation of cannabis items and related supplies to a consumer.
 - Includes the use by a licensed cannabis retailer of any 3rd party technology platform to receive, process, and fulfill orders by consumers
 - Provided that any physical acts in connection with filling the order and delivery must be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer.

Local Cannabis Tax

- By ordinance
- Cannot exceed:
 - 2% cannabis grower
 - 2% cannabis processor
 - 1% cannabis wholesaler
 - 2% cannabis retailer
- Paid to municipality
- Delinquencies same as property taxes

License Applicant

- An applicant must:
 - Have at least 1 significantly involved person who lives in NJ for at least 2 years at the date of the application, and provide proof they are 21 or older
 - Must meet the requirements of any rule or regulations adopted the Commission
 - The owner, unless they hold less than 5%, any director, any officer, and employee undergo a criminal history record background check

License Background Check

- Each person must submit to being fingerprinted
- No check of criminal history record background information unless written consent of applicant
- If a person refuses, cannot be considered for the license
- Each person must bear the cost of the criminal history record background check including all cost to administer and process

Applications

- Must include, but not limited to:
 - Quality control & quality assurance
 - Recall plans
 - Water management & waste disposal plans
 - Odor mitigation practices
 - Safety & Security plan
 - Community Impact, Social Responsibility & Research Statement

License Process

- Submitted to Cannabis Regulatory Commission
- Required to forward a copy of the application to the municipality within 7 days
- Municipality must determine whether the application complies with local restrictions on times of operation, location, manner, and the number of cannabis businesses.
- Municipality must inform the Commission whether the application complies with local restrictions on times of operation, location, manner, and the number of cannabis businesses.
- Commission must approve a license that meets the requirements of this law
 - Unless they find by clear and convincing evidence that the applicant would be manifestly unsuitable to perform the activities for the license class sought

- Commission cannot consider
 - Any conviction of a crime or offense involving a controlled dangerous substance or controlled substance analog that occurred prior to the effective date of the bill or
 - Any offense that is now legal under this bill
- Commission must consider any conviction involving
 - Fraud
 - Deceit
 - Embezzlement
 - Employing a minor in a drug distribution scheme
 - Similar indictable offense in this or another jurisdiction involving the use of a minor to dispense or distribute a controlled dangerous substance or controlled substance analog

Cannabis Regulatory Commission

- Determine the number of licenses
- Review applications
- Adopt rules and regulations

Municipal Regulations & Ordinances

- May enact ordinances that:
 - Govern times of operation, location, manner, and number of type of cannabis businesses
 - Establish civil penalties for ordinance violation
- Cannot prohibit cannabis delivery services
- Nulls and voids any ordinance previously enacted ordinances prohibiting cannabis related activities

Opt-Out Ordinance

- 180 days
- Prohibiting one or more types of cannabis businesses
- Otherwise
 - Permitted use in all industrial zones
 - Selling of cannabis conditional use in all commercial zones or retail zones
- If municipality does not opt-out must wait 5 years to adopt ordinance to opt-out

Microbusinesses

- **Microbusiness**

- Person or entity licensed
- Cannabis grower, processor, wholesaler, distributor, retailer, or delivery service
- Has no more than 10 employees
- Operate in space of no more than 2,500 square feet area
 - Except a grower can operate in space of no more than 2,500 square feet measured on a horizontal plane and grow no higher than 24 feet above that plan
- Process no more than 1,000 cannabis plants each month
 - Except a distributor's possession for transportation
- Cannabis processor cannot acquire and process no more than 1,000 pounds of cannabis in dried form each month
- Cannabis wholesaler cannot acquire for resale no more than 1,000 pounds each month. Cannabis retailer cannot acquire for sale no more than 1,000 pounds each month

Impact Zones

- Any municipality
- Based on past criminal marijuana enterprises contributing to higher concentrations of law enforcement activity, unemployment, and poverty within part parts, or throughout, that
 - Has a population of 120, 000 or more; **or**
 - Ranks in the top 40% of municipalities for marijuana or hashish related arrest in the calendar year next preceding the effective date of the bill
 - Has a crime index of 825 or higher based on most recently issued annual Uniformed Crime Report; and
 - Has a local unemployment rate that ranks in the top 15% of all municipalities for the calendar year next preceding that effective date

Outstanding Issues

- Outstanding Issues
 - Employment issues such as CDL licenses
 - Opt-Out instead of Opt-In
 - Drug Recognition Enforcement ongoing funding
 - Community approval must be defined
 - Right to Farm and special events

Need to Engage

- As soon as the ink is dry this becomes a local issue
- Municipalities must consider
 - Opt in or Opt out
 - Local Option Tax
 - Will you be able to cover your costs?
 - Municipal Land Use impacts?
 - Expungement

Questions