



Legislative Briefing: Marijuana Legalization

March 3, 2021

Agenda

- Overview of New Laws
 - [P.L. 2021, c. 16](#) “New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act”
 - [P.L. 2021, c. 19](#), which regraded and decriminalization of certain future marijuana and hashish offenses
 - [P.L. 2021, c. 25](#) “clean-up bill” underage possession or consumption of marijuana, hashish, and alcohol
- Questions

Classes of Licenses

- Class 1 – Cannabis Cultivator
- Class 2 – Cannabis Manufacture
- Class 3 – Cannabis Wholesaler
- Class 4 – Cannabis Distributor
- Class 5 – Cannabis Retailer
- Class 6 – Cannabis Delivery Service

Cannabis Cultivator (Class 1 License)

- **Cannabis grower**
 - grows, cultivates, or produces cannabis in New Jersey, and sells
 - sells and may transport to other cannabis growers, processors, wholesalers or retailers, but not consumers.

Cannabis Manufacture (Class 2 License)

- **Cannabis manufacture**
 - processes cannabis items in New Jersey by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling
 - optionally transporting these items to other cannabis processors, wholesalers or retailers, but not to consumers.

Cannabis Wholesaler (Class 3 License)

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

Cannabis Distributor (Class 4 License)

- **Cannabis distributor**
 - 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**
 - purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacture 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.
 - Must accept consumer purchases to be fulfilled from its retailer store that are presented by a cannabis delivery services to be delivered to the consumer.

Cannabis Delivery (Class 6 License)

- **Cannabis delivery service**
 - provide courier services for consumer purchases of cannabis items fulfilled by 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 fulfilling 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 cultivator
 - 2% cannabis manufacture
 - 1% cannabis wholesaler
 - 2% cannabis retailer
- Percentage based on receipts on each sale

Local Cannabis Tax

- Percentage based on receipts on each sale
- Paid directly to municipality (CFO) in manner prescribe by municipality
- Delinquencies same as property taxes
- Does not apply
 - Transfers involving distributors for purpose of bulk transportation or
 - Delivery services to consumers

License Applicant

- An applicant must:
 - Have at least 1 significantly involved person who lives in NJ for at least 2 years as 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, amongst others items:
 - 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
- Require to forward a copy of the application to the municipality within 14 days
- Municipality must determine whether the application complies with local restrictions on times of operation, location, manner, and the number of cannabis businesses.

License Process

- 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

- Members:
 - Dianna Houenou, Commission Chair
 - Krista Nash
 - Maria Del Cid
 - William Wallace
 - Sam Delgado
- Determines date on which retailers can begin retail sales
- Adopt rules and regulations
 - Initial rules within 180 days (August 22, 2021)

Cannabis Regulatory Commission

- Adopt rules
 - governing licenses eligibility, application and evaluation
 - Number of permissible licenses of each type
 - Security requirements for licensees
 - Labeling & packaging requirements
 - Cannabis retailer employee eligibility requirements
 - Advertising & marketing limitations

Municipal Regulations & Ordinances

- May enact ordinances that
 - Govern times of operation, location, manner & number of type of cannabis businesses
 - Establish civil penalties for ordinance violation
 - Permit consumption areas for retail licenses with municipal endorsement
- Cannot prohibit cannabis delivery services (Class 6 Licenses)
- Nulls and voids any ordinance previously enacted ordinances prohibiting cannabis related activities

Limitations of Locations

- Grocery stores
- Delis
- Indoor food markets
- Other stores engaging in retail food
- Premises licensed for retail sales of alcoholic beverages

Opt-Out Ordinance

- 180 days from February 22, 2021
- Prohibiting one or more types of cannabis businesses
- Otherwise
 - Class 1-4 & Class 6 would be permitted use in all industrial zones
 - Retail selling of cannabis (Class 5) conditional use in all commercial zones or retail zones
- Must wait 5 years to adopt ordinance to opt-out

Municipal Regulations & Ordinances

- Repeals statute N.J.S.A. 40:48-1.2
 - Effectively prohibits municipalities from adopting an ordinance prohibiting underage consumption of alcohol & cannabis on private property

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;
 - Based upon data from calendar year 2019 ranks in the top 40% of municipalities for marijuana or hashish related arrest;
 - has a crime index of 825 or higher in the annual Uniformed Crime Report;
 - has a local unemployment rate that ranks in the top 15% of all municipalities for the calendar year next preceding that effective date;
 - Is located within a county of the third class, based upon most recent census population data, that meets all criteria above except having an 825 or higher crime index; or
 - Is located in a county of the second class, based population date of the most recent census and meets other crime and population standards

Underage possession or consumption

- Alcoholic beverage, marijuana, hashish, or any cannabis item
- 1st violation
 - Written warning, without notification to parent or guardian.
- 2nd violation
 - Written warning,
 - Information and materials on social services must be provided to offender.
 - If offender is under 18 notice is provided to parent or guardian.
- 3rd or subsequent violation
 - A write up.
 - Information and materials on social services must be provided to offender.
 - Write up comes with a referral to these social service organization allowing the organization to reach out to the individual, or the parent or guardian if individual is under 18.

- Underage legal age
 - not capable of giving lawful consent to search to determine possession or consumption violation
- Police officer not permitted to request a consent to search.
- Odor would not constitute
 - reasonable articulable suspicion to initiate an investigatory stop,
 - probable cause to initiate search of person or their personal property.
- Plain sight would not constitute probable cause to initiate search of person or their personal property

Resources

- NJLM sample [opt-out ordinance](#)
- Attorney General [Marijuana Decriminalization & Legalization Resource Page](#)
- Upcoming Seminars:
 - March 9 [Cannabis in the Workplace](#)
 - April 9 MLUL and Cannabis
- [NJLM Cannabis page](#) (frequently updated)

Questions



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