

New Jersey Passes Referendum to Legalize Adult Use Marijuana - *NJ Cannabis Blog*

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On November 3, 2020, New Jersey voters passed a constitutional referendum to legalize adult use marijuana under state law (it remains illegal under federal law). But that does not mean that marijuana will suddenly be available in retail stores across the state; that people can now walk down main street smoking pot; or that you can grow your own marijuana. A lot of work needs to be accomplished before the first sales of state-legal adult use marijuana begin in New Jersey. This is the first of a series of posts about the impact of the legalization referendum on the Garden State and what to expect in the coming months.

Before any real change will occur in New Jersey, a state law will need to be passed setting the contours in which marijuana can be grown, processed, transported, advertised, sold, and consumed. The referendum was passed after legislation to legalize adult use marijuana stalled in early 2019. At that time, companion bills had been drafted in both the state senate and assembly, with each bill running over 170 pages long. Those bills grew from a 20-page bill introduced by State Senator Nicholas Scutari in 2014. The extraordinary length of the legislation reflected a desire (while Governor Christie was in office) to ensure that regulations could not be used to stifle the growth of adult use marijuana, the same way the Christie administration had stifled the growth of the medical marijuana market. As a result, the draft legislation contains extremely detailed provisions governing almost every aspect of the marijuana industry from seed through sale; which details in most states are set forth in regulations not statutes.

The devil is in the details. Disputes over the details of the legislation on a variety of issues stalled the passage of the law in 2019, and the legislature will now need to find ways to resolve those disputes (or with a marijuana friendly administration in Trenton, strip down the legislation

and leave some of the details to the regulators). Senator Scutari has publicly said he wants to see legislation passed in November 2020.

Even if his ambitious goal can be achieved, regulations implementing the law will still need to be drafted and the Cannabis Regulatory Commission (“CRC”), which is expected to be created to take over the regulation of both medical marijuana and adult use marijuana, still needs to be formed. The last drafts of legislation from 2019 afforded the to be formed CRC 180 days to prepare initial regulations and 180 days after that before new licenses were expected to be issued. So even if a law is passed this month, it is unlikely that any new licenses will be issued until late 2021.

To fill the gap over the next year or so, Senator Scutari has publicly stated that the existing medical marijuana dispensaries will be permitted to sell to the adult use market. However, the Department of Health, which regulates the existing medical marijuana dispensaries has made clear that will not happen unless and until the need for medical marijuana can be met. Currently, there are 95,000 patients registered for medical marijuana use, and the supply is unable to keep up with the medical demand. So unless the existing operators can quickly ramp up their production, they are unlikely to fill the gap in the immediate future.

While the overwhelming passage of this referendum is a dramatic change for New Jersey (and likely the entire region), state legal marijuana will not immediately be available and there will be much debate at both the state and local level about what this industry will actually look like in New Jersey.