

NJ Lawmakers Move Quickly to Introduce a Law to Legalize Adult Use Marijuana - *Cannabis Business Executive*

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By: Sean Mack, Pashman Stein Walder Hayden

Within six days after voters approved the referendum to legalize cannabis in New Jersey, companion legislation was introduced and then passed through the initial committees in both the General Assembly and the Senate to formalize the legalization of adult use cannabis. Senators Scutari introduced Senate bill S-21 “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” and Representatives Quijano, Holley, Timberlake, McKnight, Danielsen introduced Assembly bill A-21. While some changes are anticipated before final passage, the introduction and quick movement of these bills out of the initial committees is consistent with Senator Scutari’s statements that he wants to see legislation passed this month.

The law would authorize persons 21 or older to possess, consume, display, purchase, or transport up to one ounce of cannabis or the equivalent in a cannabis infused product, or up to five grams of cannabis resin.

However, the smoking or vaping of cannabis would not be permitted in public places, and municipalities are authorized to adopt local laws prohibiting consumption of cannabis in other forms in any public space. Property owners, including casinos and multi-family housing units, are permitted to regulate consumption on their properties (other than smoking which is prohibited in indoor public spaces even if tobacco smoking is permitted).

The law would authorize, subject to municipal ordinances, licensed cannabis retailers and medical marijuana dispensaries to establish “cannabis consumption areas,” either indoors or outdoors, where consumers could consume (and smoke) cannabis. The law does not provide for separate stand-alone cannabis lounges, but only attached to or inside licensed retailers.

The law gives the Cannabis Regulatory Commission (CRC), which was created under New Jersey’s medical cannabis law, authority over adult use cannabis.

The law contemplates that sales of adult use cannabis from licensed cannabis retailers could begin within 10 months from adoption of the law.

The law further mandates that within 180 days after the law is enacted, the CRC must promulgate rules implementing the Act (which will be in place for one year and then must be replaced through formal rule making, including public comment). Those regulations must address everything from licensing, testing, product labels, seed to sale tracking, protecting minors, security, transportation, employee training, and advertising.

The CRC must begin accepting applications for licensure within 30 days after its initial rules are adopted.

In an effort to ensure that the New Jersey cannabis industry is diverse, the law also establishes a new Office of Minority, Disabled Veterans and Women Cannabis Business Development to promote minorities, disabled veterans and women’s participation in the legal cannabis industry, with goals of 30% of adult use and medical cannabis establishments being run by entities so owned. The law also mandates that one member of the CRC must be a member of an organization that advocates against social injustice or inequality.

Consistent with that requirement, on Friday Governor Murphy announced his appointment of Dianne Houenou as Chair of the CRC. Houenou was formerly policy counsel for the ACLU of New Jersey and has a long history of criminal justice reform and has been a strong advocate for social justice in the cannabis industry. The Governor also announced that the current Assistant Commissioner for the Division of Medical Marijuana, Jeff Brown, will be the Executive Director of the CRC. Krista Nash, a member of the Camden County Addiction Awareness Task Force, also was announced as a member of the CRC. The other three seats on the CRC are expected to be filled soon.

In an effort to try to lower the financial barriers to participating in the industry, the law provides for the establishment of microbusinesses for New Jersey residents, which are defined as any cannabis establishment that (1) employs no more than 10 people, (2) has a facility not greater than 2,500 sq. ft (and for cultivators a grow area that size and not taller than 24 feet), (3) possess no more than 1,000 cannabis plants per month, and (4) for processors, wholesalers, and retailers, acquire no more than 1,000 pounds of cannabis per month.

The law will create licenses to be issued separately for growers, processors, wholesalers, distributors and retailers. The law also calls for licensing independent cannabis testing companies. The law also creates a license for delivery service to consumers. The law authorizes the CRC to determine the number of licenses needed to meet market demand.

Unlike statutes in most states, this 200-page bill does not leave all the details to the regulations. Instead it addresses many granular issues. For example, all advertisements must say “This product contains cannabis. For use only by adults 21 years of age or older. Keep out of reach of children.” The law bans any cannabis advertisements within 200 feet of any school and contains other protections for children. The law specifies that a serving size is less than 10mg of THC and 100mg is the maximum permitted size of any edible size.

The law authorizes municipalities to impose a tax of no more than 2% on all retail sales or sales of cannabis between cannabis establishments in their jurisdictions, in addition to the states sales tax (currently 6.625%).

The law will invalidate any municipal ordinance or resolution previously adopted that would prohibit cannabis establishments within any jurisdiction. Each locality will have 180 days from the adoption of this law to decide whether to prohibit cannabis establishments or to adopt time, place and manner restrictions within the locality. Such local laws if adopted (or not) cannot be revisited for 5 years. Absent laws to the contrary, growing, processing, and wholesale cannabis establishments will be a permitted use in all industrial zones, while cannabis retail establishments will be a conditional use in all commercial and retail zones.

The legislation introduced is very similar to draft legislation that could not generate enough support to make it to a vote last year. With the overwhelming support of New Jersey voters favoring legalization of marijuana, advocates hope this legislation will now have enough support to be passed quickly.