

NJ Passes Law To Legalize Adult Use Cannabis - *Cannabis Business Executive*

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On December 17, 2020, both houses of New Jersey's legislature passed companion bills to create a new regulatory framework to govern the cultivation, processing, distribution and sale of state legal marijuana. The bill is expected to be promptly signed into law by Governor Murphy. This law will give effect to the constitutional amendment passed by New Jersey voters on November 3, 2020 to legalize personal use cannabis.

New Jersey's adult use law provides opportunities for separate licenses for cultivators, manufacturers, wholesalers, distributors, retail dispensaries and home delivery transport, and provides that at least 25% of all licenses must be issued to New Jersey resident owned "microbusiness" applicants to encourage the participation of smaller entrepreneurs. Until 2023, cultivators, manufacturers, wholesalers, distributors could not also hold retail dispensary licenses and vice versa.

The new law will allow microbusinesses to apply to expand into full scale operations. The law also allows for conditional licenses to be awarded to persons with an income of no more than \$200,000 or \$400,000 if filing jointly, and provides that no less than 35% of all licenses in each class should be conditional licenses. All applicants for licenses, other than microbusiness, must obtain a signed project labor agreement with a bona fide labor organization.

Until January 2023, there will be no more than 37 cultivation licenses permitted, and the newly formed Cannabis Regulatory Commission will have discretion to cap the other classes of licenses based on market demand. That cultivation cap includes the existing 12 medical marijuana

cultivation licenses and would include the 9 cultivation licenses available from a 2019 round of license applications (if those are awarded). As a result, there may only be 16 additional cultivation licenses made available, and 13 of those will be required to be awarded to conditional licenses.

In an effort to remedy some of the ill effects of the War on Drugs, the law provides priorities for applicants in “impact zones,” and is structured to encourage diversity by having 15% of all licenses awarded to minority owned businesses and another 15% owned by women or disabled veterans. The municipalities qualifying as impact zones are: Atlantic City, Bridgeton, Camden, Commercial Twp., East Orange, Elizabeth, Franklin Twp. (Somerset), Jersey City, Irvington, Maurice River Twp., Millville, Newark, New Brunswick, Orange, Passaic, Paterson, Perth Amboy, Plainfield, Quinton Twp., Salem, Trenton, and Vineland. The law subjects all cannabis sales to New Jersey’s 6.625% sales tax and allows the imposition of an additional “Social Equity Excise Fee” on cultivator’s sales of cannabis. The Social Equity Excise Fee and 70% of the sales tax will be dedicated to social equity programs and reinvestment into communities negatively impacted by the War on Drugs.

While this is a historic step for New Jersey, significant more work still is required and a lot of questions need to be answered before this industry can take off.

Importantly the law provides that the Cannabis Regulatory Commission has 180 days or within 45 days after the 5th Commissioner of the CRC is appointed, whichever is later, to publish initial rules and to begin accepting applications for licensure. That later clause could allow the Governor flexibility to delay appointing the 5th Commissioner until the CRC is close to finalizing its rules if it will take more than 180 days. The law does allow the CRC to establish task forces to make recommendations on the regulations, which hopefully will allow relevant industry experts to guide the CRC on best practices.

The law also allows each of New Jersey’s 525 municipalities 180 days to adopt local zoning restrictions or exclusionary measures and to impose up to a 2% tax on cannabis products. As a result, businesses interested in applying in New Jersey will need to watch closely local law developments over the next six months.

The law also prohibits financial institutions from engaging in any discriminatory activities against cannabis businesses; but does not explain, nor seek to harmonize, that requirement with federal laws that effectively preclude financial institutions from providing banking services to the cannabis industry.

Today New Jersey took a significant step forward. As many legislators commented when voting in favor of the bill, it is not perfect, but it is a good start and there will be time for interested parties to help shape the regulations and suggest future amendments to the law.

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