

AN ACT TO ENSURE SAFE ACCESS TO MARIJUANA

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AN ACT TO ENSURE SAFE ACCESS TO MARIJUANA

- On November 8, 2016, Massachusetts voters approved (53% in favor) Question 4 legalizing the adult use of marijuana and marijuana establishments (Chapter 334 of the Acts of 2016).
- On July 28, 2017, Governor Baker signed the General Court's revised law on the subject, "An Act to Ensure Safe Access to Marijuana" (the "Act"), adopted as Chapter 55 of the Acts of 2017.
- The Act also makes changes to the Medical Use of Marijuana Program, which was established by Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana," following the passage of Ballot Question 3 in the 2012 general election.



PERSONAL USE OF NON-MEDICAL MARIJUANA

Personal use
of marijuana
not subject to
municipal
regulation:

- **Public possession of 1 ounce or less of marijuana**
 - 21 years or older
- **Home growth**
 - Up to 10 ounces of marijuana for personal use
 - Any marijuana produced on premises by not more than 6 marijuana plants
 - Up to 12 plants if multiple growers on the premises
- **Give away/Transfer to other consumers up to 1 ounce**
 - No remuneration
 - Not advertised to public
 - 21 or older
- **Possession and manufacturing of marijuana accessories**
 - Persons 21 years of age or older may also possess or manufacture marijuana accessories or sell such accessories to a person 21 years of age or older.

TYPES OF LICENSED ADULT USE MARIJUANA

Types of Adult-Use Marijuana Establishments as defined in
G.L. c.94G, s.1

- "Marijuana cultivator"
- "Marijuana retailer"
- "Marijuana product manufacturer"
- "Independent testing laboratory"
- Any other type of licensed marijuana-related business



TYPES OF LICENSED ADULT USE MARIJUANA

**Additional types of
Licensed
Marijuana
Establishments
(Draft CCC Regs
935 CMR 500.005)**

- Craft Marijuana Cultivator Cooperative
- Microbusiness
- Retail (brick and mortar)
- Retail (delivery only)
- Third party transporter
- Existing Licensee Transporter
- Social Consumption – Primary Use
- Social Consumption – Mixed Use



TYPES OF LICENSED MEDICAL USE MARIJUANA

Medical Use Marijuana licensed by the Department of Public Health
(105 CMR 725.00)

- Medical Marijuana Treatment Center (or RMD)
 - Each RMD is licensed (registered) to cultivate, process and retail its own marijuana under a single license
 - DPH will continue to regulate medical-use marijuana in the short-term under its existing regulatory scheme, 105 CMR 725
 - Transfer of transfer of oversight and regulation of medical-use marijuana to the Cannabis Control Commission will occur on or before December 31, 2018.



THE CANNABIS CONTROL COMMISSION

- Five member Cannabis Control Commission (“CCC”) has been given comprehensive oversight for all adult use and medical use marijuana
- CCC is charged with implementing and enforcing statewide regulations addressing the following:
 - public health issues, including product labeling, advertising and potency
 - Industry issues, including cultivation, distribution, transportation and seed-to-sale tracking
 - Market participation for communities, including women, minorities, veterans and growing cooperatives
 - Licensing
 - Inspections
 - Enforcement



CURRENT TIMELINE

August 1, 2017
– Cannabis
Advisory Board
*(Already in
place)*

- Appointment of a 25-member Cannabis Advisory Board, with members appointed by a variety of officials and organizations, charged with making recommendations on guidelines, rules and regulations for the recreational use of marijuana.

September 1,
2017 – Cannabis
Control
Commission
*(Already in
place)*

- Appointment of a five-member CCC, by the Governor, Attorney General and Treasurer.

Steven J. Hoffman, Chairman
Jennifer Flanagan
Britte McBride
Kay Doyle
Shaleen Title

CURRENT TIMELINE

-
- | | |
|---|--|
| March 15, 2018 – CCC Adoption of Regulations | <ul style="list-style-type: none">• Adoption of regulations, guidelines and protocols by the CCC for the issuance of licenses for recreational marijuana establishments.• <i>Draft regulations were approved on December 21, 2017</i> |
| April 1, 2018 – Acceptance of License Applications Begins | <ul style="list-style-type: none">• Acceptance of applications by the CCC for recreational marijuana licenses not later than April 1. |
| June 1, 2018 – License Issuance | <ul style="list-style-type: none">• The CCC may begin issuing licenses, prioritizing applications under statutory criteria. The CCC must approve or deny applications within 90 days. |
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MUNICIPAL ROLE IN LICENSING BY THE CANNABIS CONTROL COMMISSION

As part of CCC license application under Draft Regulations applicants will be required to:

Conduct a “Community Outreach Hearing”

Enter into Host Community Agreement

Certify compliance with local zoning, including buffer zone requirements

ZONING BYLAWS/ORDINANCES

Municipalities may regulate the “time, place and manner” of marijuana establishment operations and impose reasonable safeguards

Ordinances and bylaws may not be “unreasonably impracticable.”

- *“the measures necessary to comply” may not subject licensees to “unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.” (G.L. c.94G, s.1)*

Municipalities may determine that a proposed marijuana-related use falls under an existing use authorized by its bylaws or ordinances

- *Municipalities may not interpret prohibitory bylaws/ordinances as excluding marijuana establishments*

Draft CCC regulations state that a municipality may implement its own licensing process/fees provided it does not conflict with state law.

LIMITATION OR PROHIBITION

Pursuant to G.L. c.94G, §3, a municipality may prohibit or limit recreational marijuana establishments by bylaw or ordinance with respect to the following:

prohibit the operation of **one or more types** of marijuana establishments

limit the number of marijuana retailers **to fewer than 20 percent** of the number of retail off-premises alcoholic beverage licenses issued under G.L. c.138 by the municipality

limit the number of any type of marijuana establishment to **fewer than the number of medical marijuana treatment centers** registered to engage in the same type of activity in the municipality.

LIMITATION OR PROHIBITION - PROCESS

If a municipality voted in favor of Question 4 on November 8, 2016 [i.e., a majority of voters casting ballots voted “yes” on the question], then two votes must be taken before a prohibiting or limiting bylaw/ordinance can be effective:

- (1) it must be approved by the voters by ballot at an annual or special election, and
- (2) the ordinance or bylaw must be approved by the local legislative body.

ON-SITE SOCIAL CONSUMPTION

Petition for Question on State Ballot to Social Consumption

Requirements:

Petition of not fewer than 10 percent of the number of the voters of the city or town voting at the state election preceding the filing of the petition (G.L. c.94G, s.3(b))

- The ballot question must be presented to the voters of the city or town at the next biennial state election to allow the consumption of marijuana and marijuana products on the premises where they are sold.
- Petition must conform to provisions of General Laws relating to initiative petitions at the municipal level
- Likely requirement will be for petition to be filed with the Secretary of the Commonwealth no later than the first Wednesday in August.

ZONING MORATORIA

Zoning Moratoria

- A zoning moratorium, imposing a temporary limit on the ability of applicants to locate marijuana establishments within a municipality, may be a powerful tool available to municipalities to allow additional time to plan for regulation of marijuana uses.
- The Attorney General has approved moratoria in many municipalities through December 31, 2018.
- Approximately one-third of the municipalities in the Commonwealth have imposed a moratorium or some form of prohibition to date.

LOCAL TAX OPTION



- The Act created a new Chapter 64N of the General Laws setting tax rates for the sale of recreational marijuana products.
- Section 3 allows cities and towns to impose a local sales tax on the “sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town” up to 3% of the total sales price, an increase from the previous 2%.
- If a municipality has already accepted §3, a new vote of the legislative body will be required in order to increase a sales tax rate up to 3%.

QUESTIONS?



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