

**New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the “Act”)
Summary of Key Provisions Affecting Cannabis Operators ©2021**

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Licensing

6 Different Classes of Licensed Operators

- Class 1 - Cannabis Cultivator License
- Class 2 - Cannabis Manufacturer License
- Class 3 - Cannabis Wholesaler License
- Class 4 - Cannabis Distributor License
- Class 5 - Cannabis Retailer License
- Class 6 - Cannabis Delivery License

Cannabis Regulatory Commission (the “CRC”)

Establishes the Cannabis Regulatory Commission as the regulatory entity regarding the personal use of cannabis.

Shall have 5 members:

- Dianna Houenou – Chairperson (direct appointee of Gov. Murphy)
- Maria Del Cid (direct appointee)
- William Wallace (direct appointee)
- Krista Nash (appointed upon recommendation of Senate President Stephen Sweeney)
- Sam Delgado (appointed upon recommendation of Assembly Speaker Craig Coughlin).

Number and Type of Licenses Permitted by a Licensee

3 Types of Licenses: full, conditional and microbusiness.

A "conditional license" is issued by the CRC pursuant to an abbreviated application process, after which the conditional license holder has a limited period of time to become fully licensed by satisfying all remaining conditions for full licensure that were not required for the conditional license. It is a requirement of the conditional license that there be a "significantly involved person" and such person and any other person with a financial interest who also has decision making authority must have adjusted gross income for the immediately preceding tax year of no more than \$200,000 (or \$400,000 if filing jointly).

A "microbusiness" is a business employing no more than 10 employees, and: possessing no more than 1,000 cannabis plants each month; operating an establishment occupying an area of no more than 2,500 square feet; growing on an area no more than 2,500 square feet; acquiring no more than 1,000 pounds of usable cannabis each month; acquiring for resale no more than 1,000 pounds of usable cannabis; and acquiring

for retail sale no more than 1,000 pounds of usable cannabis. A microbusiness license could convert to a full license. All of the owners of the microbusiness must have resided in NJ for at least two years.

Each full or conditional license would only be issued to applicants with ownership structures that include an in-State resident of at least 2 years who is a "significantly involved person."

Cultivation licenses capped at 37 during initial 24 months, excluding microbusinesses.

At least 10% of the total licenses issued for each license class, and at least 25% of the overall total number of licenses issued, are to be designated for and only issued to microbusinesses.

At least 35% of the total licenses issued for each class are required to be conditional licenses.

Applications/Priority

The CRC will rank applications utilizing a points system based on criteria such as an applicant's operating, environmental and safety and security plans.

This point system can be adjusted, or a separate point system used, for any application for which a conditional license or a microbusiness license is sought.

In ranking applications, in addition to the awarding of points, the CRC will prioritize applications for licensure using several factors:

- 1) Priority consideration will be given to certified minority, woman and disabled veteran owned businesses,
- 2) Priority consideration will be given based on "impact zones," or municipalities negatively impacted by unemployment, poverty or past marijuana enforcement activity. The CRC would also prioritize having at least 2 licensed businesses in such zones. To the extent possible, the CRC will grant at least 25% of the total licenses to applicants who include a person who is a current resident of an impact zone for at least 3 years. The CRC would also prioritize applicants who plan to employ at least 25% of their employees from such zones, and
- 3) Other priority factors would include applications that include an in-state resident for at least 5 years who is a "significantly involved person," meaning a person who holds at least a 5% investment interest or who is a member of a group who holds at least a 20% investment interest and has controlling decision making authority, or an applicant which meets certain labor environment conditions relating to collective bargaining, labor peace and project labor agreements.

Cannabis Handlers

Any individual who performs work for or on behalf of any class of licensee will need to have a valid certification issued by the CRC.

Cannabis Testing

Creates a license for cannabis testing facilities to determine compliance with health, safety and potency standards -- for both personal use cannabis and medical cannabis products.

Existing Medically Licensed Alternative Treatment Centers (the “ATC”)

Permitted to get adult-use licenses.

Receive priority access to adult-use licenses upon approval from the CRC, provided the ATC certifies that it has municipality approval and sufficient quantities of medical cannabis to meet both medical and adult-use demands.

Permitted to cultivate from up to 2 physical locations, provided the ATCs combined mature cannabis plant grow canopy for both locations does not exceed 150,000 square feet of bloom space or certain other square footage requirements adopted by the CRC.

Labor Requirements

Maintaining a labor peace agreement will be an ongoing material condition of a full, annual license.

Failure to enter, or to make a good faith effort to enter, into a collective bargaining agreement within 200 days of the opening of a cannabis business based on a full annual or conditional license will result in the suspension or revocation of a license.

Labor requirements do not apply to conditional licenses or microbusinesses.

Cannabis Consumption Areas

On-premises consumption is permitted under the Act.

A licensed cannabis retailer, medical cannabis dispensary, or clinical registrant may apply to the CRC seeking an endorsement to operate a cannabis consumption area at which the on-premises consumption of personal use or medical cannabis could occur.

The municipality in which the consumption area would operate would also have to provide a local endorsement.

An on-premises consumption area could either be indoors or outdoors. An indoor consumption area would be a structurally enclosed area within a cannabis retailer, medical cannabis dispensary, or clinical registrant facility that is separated by solid walls or windows from the area in which retail sales of cannabis items, or retail sales along with the dispensing of medical cannabis occurs, would only be accessible through an interior door.

Must comply with all ventilation requirements applicable to cigar lounges under the “New Jersey Smoke-Free Air Act.”

Transition to Full Legal Market

Within 180 days after enactment, or within 45 days of all 5 members of the CRC being appointed, whichever date is later, initial rules and regulations are to be adopted by the CRC, and will be in effect for a period not to exceed one year.

The CRC will begin accepting and processing applications for licenses and conditional licenses within 30 days after the CRC's initial rules and regulations have been adopted.

For full licenses, the CRC will complete its review within 90 days of submission, unless the CRC determines additional time is needed. The full license expires after one year, but can be renewed by submitting a new application.

For Conditional licenses, the CRC will complete an expedited review within 30 days of submission, unless the CRC determines additional time is needed. The conditional license expires after one year, but can be renewed by submitting a new application.

During the initial 24-month period following enactment, there are limitations on the number and classes of licenses any one licensee may hold, as follows:

- 1) A licensed cultivator, manufacturer, wholesaler, distributor or delivery service cannot also be a licensed retailer and vice versa,
- 2) A cultivator or manufacturer may only hold two licenses at the same time,
- 3) A wholesaler could not hold any other license besides distributor,
- 4) These restrictions do not apply to a (vertically integrated) medical ATC, and
- 5) After the initial 24-month period, these restrictions on holding of various classes of licenses will not apply.

An existing medical ATC must submit written approval to the CRC from the municipality in which the business is located showing its operations comply with the municipality's restrictions on the number of allowable business, as well as their location, manner, and times of operation.

An existing medical ATC must confirm that it has sufficient quantities of medical cannabis available to meet the reasonably anticipated needs of registered qualifying patients, before engaging in the adult-use retail sale of cannabis items.

The CRC will determine the first date on which cannabis retailers issued licenses and conditional licenses may begin retail sales of personal use cannabis items. This date will be no more than 180 days after the adoption of the initial rules and regulations.

***Municipal
Restrictions***

Every municipality will have the option to authorize and regulate the number of licensed businesses, as well as their location, manner, and times of operation within its jurisdiction; however, the time of operation of delivery services would be subject only to regulation by the CRC.

Any ordinance enacted prior to the Act's effective date addressing the issue of prohibition within the jurisdiction of a municipality will be null and void, and that municipality can only prohibit the operation of one or more classes of cannabis business by enactment of a new ordinance.

Only during a 180-day period following the Act's enactment, a municipality can enact an ordinance to prohibit such operations by any one or more classes of business, but not the delivery of cannabis items and related supplies to consumers by delivery services.

The failure of a municipality to timely enact an ordinance prohibiting operations will result in any class of cannabis business as being permitted to operate therein for a period of 5 years.

***Taxes/Fees/
Cannabis
Fund***

There will be established a "Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Fund" (the "Fund").

All license fees and penalties collectable by the CRC would be deposited into the Fund. All deposits from the tax revenues collected on medical cannabis transactions and retail sales of personal use cannabis items would also be deposited into the Fund.

Sales of adult-use cannabis items will be subject to the normal 6.625% state sales tax. 15% of this tax revenue will be directed to underage deterrence and prevention. At least 70% of the remaining tax revenues on retail sales of cannabis items would be appropriated for investments, including through grants, loans, reimbursements of expenses, and other financial assistance, in municipalities designated as an “impact zone,” as well as to provide direct financial assistance to qualifying persons residing therein.

The remainder of the monies in the Fund would be appropriated to include: paying for the operational costs of the CRC; reimbursing expenses incurred by any county or municipality, or by the Division of State Police, for the training costs associated with the attendance and participation of a police officer or trooper in a Drug Recognition Expert program for detecting, identifying, and apprehending drug-impaired motor vehicle operators; and further investments in “impact zone” municipalities.

***Optional
Social Equity
Excise Fee on
Cultivation
Activities***

An optional Social Equity Excise Fee could be imposed by the CRC on personal use cultivation activities by licensed cannabis cultivators. Medical cannabis cultivation activities would not be subject to the excise fee.

If imposed, the excise fee will apply to cultivator sales or transfers of usable cannabis to other cannabis businesses, other than another cultivator, and would initially be 1/3 of 1% of the Statewide average retail price of an ounce of usable cannabis for consumer purchase.

Beginning 9 months following the first sale or transfer of usable cannabis subject to the excise fee by a cultivator that is not also an ATC, the fee could be adjusted by the CRC annually, and would fluctuate between \$10 and \$60 depending on the previous year’s retail price.

Revenues generated by the excise fee, if any, would be deposited in the Fund, but separately designated for appropriations in order to create, expand, or promote educational and economic opportunities and activities, and the health and well-being of communities and individuals.

***Optional
Municipal
Level
Taxation***

Any municipality is also permitted to adopt an ordinance that authorizes a local transfer tax. This transfer tax could be imposed on sales that occur within the municipality: between a cannabis business that holds a cultivator, manufacturer, wholesaler, or retail cannabis license and another such licensed cannabis business; between cannabis retailers and customers; or any combination thereof.

The municipality would have discretion to set the rate or rates of the transfer tax, but a rate could not exceed: 2% of the receipts from each sale by a cannabis cultivator; 2% of the receipts from each sale by a cannabis manufacturer; 1% of the receipts from each sale by a cannabis wholesaler; and 2% of the receipts from each sale by a cannabis retailer.

This tax, if imposed, would be applied in the form of an equivalent user tax on non-sale transactions between cannabis businesses operated by the same license holder.