

Cannabis Law Practice

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New Jersey Finally Enacts Adult-Use Cannabis Law, Simultaneously Addresses Decriminalization and Previous Convictions

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Although it took much longer than expected following New Jersey's November 2020 vote to legalize adult-use marijuana, Governor Phil Murphy finally yesterday signed several cannabis reform bills into law, including Assembly Bill 21 ([A21](#)), "The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act", which legalizes cannabis use and possession for adults 21 years of age and older in the Garden State, and paves the way for regulation of the same. The Governor also signed a "clean-up" bill, which clarifies marijuana and cannabis use and possession penalties for individuals younger than 21 years of age ([A5342](#)) as well as a bill that decriminalizes marijuana and hashish possession and provides remedies for people currently facing certain marijuana charges ([A1897](#)). In a [press release](#) issued yesterday, the Governor stated that "[a]lthough this process has taken longer than anticipated, I believe it is ending in the right place and will ultimately serve as a national model."

By way of background, on November 3, 2020, New Jersey voters approved a referendum to legalize adult-use marijuana in the State beginning on January 1, 2021. Although State lawmakers initially moved quickly to introduce enabling legislation (A21 and S21) just days after the successful referendum vote, the bills stalled due to a number of disagreements amongst legislators, the Governor, and various stakeholders over, among other things, social justice and equity, taxation, licensure fees, and workplace protections. Eventually, state legislators presented amended bills to the Governor in December, but he refused to sign them due to disagreements regarding penalties for underage cannabis use.

Finally, on February 22, 2021—over three and a half months after New Jersey voters approved the adult-use referendum—the Governor signed into law the three reform measures. Pursuant to A21:

- Regulation and Licensure. The Cannabis Regulatory Commission (CRC) will promulgate regulations to govern the medical and adult-use cannabis industries, and the CRC will oversee the licensure of cannabis businesses.
- Reinvestment. The State will reinvest cannabis revenues in designated "impact zones".
- Diversity and Inclusion. The CRC will promote diversity and inclusion in business ownership as part of its application processes.
- Employment Protections. The bill contains employment protections for people who engage in lawful behavior with respect to cannabis.
- ATCs Will Receive Adult-Use Priority. It is anticipated that currently-licensed medical cannabis alternative treatment centers (ATC) will receive priority access to adult-use licensure endorsements upon approval from the CRC if an ATC certifies that it has municipality approval and that it has sufficient quantities of medical cannabis available to meet both medical and adult-use sales demands.

As noted above, the Governor also signed A1897, which reforms criminal and civil penalties for marijuana and hashish offenses, and provides remedies for people currently facing certain marijuana charges. More specifically, the bill:

- Prevents unlawful low-level distribution and possession offenses from being used in pretrial release, probation, and parole decisions;
- Provides certain protections against discrimination in employment, housing, and places of public accommodation; and
- Creates a pathway to vacate active sentences for certain offenses committed before enactment of the enabling legislation.

Finally, the Governor signed a “clean-up bill,” A5342, clarifying penalties for marijuana and cannabis possession and consumption for individuals younger than 21 years of age, and correcting inconsistencies in A21 and A1897 concerning marijuana and cannabis penalties for those under 21 years of age. These issues sharply divided stakeholders, and it is likely they will be the subject of continued debate moving forward, particularly with regard to the mechanics of implementation of the law.

The Governor signing these reform bills into law is a historic step forward. However, some groups have continued to express reservations about the legislative measures. For example, the New Jersey Business & Industry Association (NJBIA) has expressed concerns about workplace protections and public safety, which it says the current bills left unresolved. In a statement [issued](#) shortly after Governor Murphy signed the bills into law, the NJBIA expressed that it is “disappointed that the enabling legislation signed today to create an adult-use cannabis market falls short on allowing businesses to effectively maintain drug-free workplaces, as they are essential for certain safety occupations,” but that it looks “forward to working with the Legislature and the Governor’s office on clean-up legislation to address the safety concerns of the employer communities.”

Notably, the signing of the adult-use cannabis reform bills comes on the heels of a Superior Court of New Jersey, Appellate Division [decision](#) last week that lifted the stay on the last round of medical cannabis license applications from 2019 and rejected the claims of seven medical marijuana dispensary applicants whose submissions were disqualified by the New Jersey Department of Health (DOH) in 2019 on technical grounds. The DOH issued a Request for Applications (RFA) for medical cannabis licenses in July 2019, and applicants anticipated that winners would be announced by the end of that year. However the entire process was derailed after several disqualified applicants filed suit and obtained a stay that precluded the DOH from even scoring applications, let alone awarding licenses. On February 18, 2021, the Appellate Division vacated the stay, permitting the DOH to proceed with scoring those applications and awarding licenses. However, just exactly what that scoring will look like remains to be seen. In a prior decision issued on November 25, 2020, the Appellate Division sided with a group of applicants from the 2018 application process and remanded the matter for further proceedings to address the endemic scoring defects and related problems. In light of these developments, and the signing of the adult-use cannabis reform bills yesterday, New Jersey’s cannabis program finally seems to be back on track.

We are continuing to monitor New Jersey’s medical and adult-use cannabis program rollouts, and will issue further analyses regarding the same, as appropriate. In the meantime, if you have questions regarding an issue raised in this alert, please contact the authors or the attorney at the Firm with whom you are regularly in contact.

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