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A new spark of legislation for budding recreational marijuana use in Rhode Island

By Jessica Schachter Jewell and William Wynne

In late June 2021, Rhode Island took its first step towards joining neighboring states in the budding industry of marijuana legalization. On June 22, the Rhode Island Senate passed “An Act Relating to Food and Drugs – Cannabis Authorization, Regulation, and Taxation,” which would legalize marijuana for adults 21 years and older (possession of up to an ounce). The bill, if it becomes law, would impose a combined 20% tax on sales, create an independent cannabis-control commission, and allow individuals to legally grow their own pot (up to six plants) at home for personal use. The bill also allows municipalities to pass ordinances concerning the cannabis industry if they are not “unreasonable and impracticable.” Furthermore, a local municipality could vote by referendum in 2022 to reject or ban the industry from its jurisdiction, a move which would exclude that municipality from receiving cannabis-based tax revenue. Although this was a historic vote, the path to legalization is still pretty hazy due both to the timing of the legislative session and multiple competing bills. The House Speaker has said that the House will not consider legalization before the session closes for summer recess on June 30. However, he did say that the House may consider it during a special fall session.

Governor Dan McKee has also indicated that he is not in a huge rush to legalize marijuana and does not seem to be green with envy over Connecticut’s recent legalization, becoming the 19th state to legalize marijuana, or the fact that it is already legal in Massachusetts. He has indicated that he would like to see the Department of Business Regulation, which already oversees medicinal marijuana, oversee recreational pot instead of creating a new commission. McKee does not want to add any costs to state government. Governor McKee’s proposal also includes a more vetted approach to entering the market with twenty-five (25) initial retail licenses, allocating five (5) of which for “qualifying minority business enterprise applicants. His proposal is in stark contrast from former Governor Gina Raimondo, who, prior to joining the Biden administration, called for legalization through a state-run model.

Clearly the details will need to be hashed out as the different proposals present distinct paths to legalization. For example, beyond the differences concerning implementation and administration, the House-sponsored bill includes some different aspects than the bill that was just passed, including the automatic expungement of past marijuana crimes. The Senate bill sets up a process to

petition for expedited expungement on charges involving less than an ounce of marijuana but does not make it automatic.

The changing legalization landscape provides opportunities for local business to enter into a brand new market as well as local municipalities to benefit from specialized tax revenue. Regardless of the precise details, it seems inevitable that Rhode Island will (sooner or later) join the growing list of states where recreational marijuana use is now legal. No matter the finalized form of the legislation, when legalized recreational use comes to Rhode Island it will be accompanied by numerous complex legal issues concerning its implementation, taxation, and use, which will all need to be appropriately analyzed to navigate this new emerging industry.

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