

# NJ State Legislation PL2021 and more

## A Legal Summary

September 26, 2021

Formatted by HOOG™;  
Original summary draft by David Kuriakose of Jafri Law Firm;

### Abstract

The following is a legal summary of all the recent legislation to legalize recreational cannabis in New Jersey. The purpose of this summary is to give a high-level overview of the key parts of the legislation and make clear the potential implications to prospective licensees.

HOOG™ asked our original law firm to prepare for us a summary of all the details, which may aid in the design of our open-source software suite. As part of our commitment to open-sourcing cannabis knowledge, we're proud to provide this summary to the open internet for free.

## 1 Change Log

**v0.1** published quick facts

**v0.2** possession laws, licensing & regulatory structure overview

**v0.3** underage possession subsection, sections on taxation & overall takeaways

## 2 Quick Facts

- An amendment legalizing cannabis became part of the state constitution on January 1, 2021
- Enabling legislation and three related bills were signed into law by Governor Phil Murphy on February 22, 2021:
  - Regulated cannabis:
    - \* When the substance is bought, sold, and used under certain conditions, it is treated as “regulated cannabis” and fully legal in New Jersey.
    - \* Cannabis will not be available in the State for several months until the Cannabis Regulatory Commission issues rules governing its use.

- **NJSA 2C:35-2** Marijuana and hashish:
  - \* All forms of the substance that are not regulated cannabis or medical cannabis are treated as “marijuana” or “hashish.”
  - \* Marijuana and hashish are still defined as “controlled dangerous substances” under N.J.S.A. 2C:35-2 but are largely decriminalized for non-distribution offenses.
- **PL 2021** - decriminalizes possession of cannabis, sets up the framework for the CRC and a future recreational market in NJ (*see full summary below*).

- It still is **not** technically legal to buy or sell recreational marijuana, and will **not** be until state officials write regulations and award licenses to the businesses that will make up the new legal market. Similar situation to NY waiting on OCM regulations to be defined.
- According to Dianna Houenou, who is the incoming chair of the New Jersey Cannabis Regulatory Commission (CRC), residents probably will not be able to walk into a recreational marijuana dispensary and buy cannabis until 2022.

### 3 PL 2021 - Possession

- Decriminalizes possession of 17 grams or less of hashish and six ounces or less of cannabis, meaning no crime, offense, or civil violation.
- Eliminates penalties for possessing, purchasing, or transporting cannabis.
- Eliminates the use of, or being under the influence of, cannabis or hashish as a punishable offense.
- Eliminates the odor of cannabis or burnt cannabis or hashish as a reason to initiate a search of a person.
- Eliminates law enforcements’ ability to arrest, detain, or ability to take a person into custody for unlawful distribution or possession of cannabis unless the person committed another violation of the law.
- Removes the requirement to deliver cannabis to nearest law enforcement for possession of cannabis, cannabis-infused product, or concentrate.
- First offense for distributing one ounce or less is a written warning.
- Reduces the penalty for manufacturing, distribution, and possession with intent to distribute up to one ounce or less to a written warning, followed by charge of a fourth-degree crime for subsequent instances.

#### 3.1 - Underage Possession:

- Underage use or possession will be met with smaller penalties including written warnings and referrals to community services like mentorship and counseling — as opposed to harsh fines or criminal punishments.
- Makes underage possession of cannabis or hashish (up to one ounce or 28.35 grams) a civil penalty of \$50 for persons between 18 and 20 years of age.
- For underage possession over the lawful possession limit for persons between 18 and 20, the civil penalty is \$100.
- For persons under age of 18 who commit a possession or consumption violation, for a first offense, the person would be subject to a “point of violation” warning or “juvenile intervention.”

## 4 PL 2021 - Licensing

- Cannabis Regulatory Commission has the power to regulate the purchase, sale, cultivation, manufacturing, packaging, transportation, and delivery of “cannabis” items. It also has the power to grant, refuse, suspend, revoke, and limit licenses or conditional licenses.
- Within 180 days after bill is signed into law, or within 45 days of all five members of the commission being appointed, the commission will adopt rules and regulations to carry out its duties.
- “Cannabis grower” means any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis growers, cannabis processors, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Grower license. A cannabis grower may also be referred to as a “cannabis cultivation facility.”
- 25% of the total licenses issued, regardless of class, to such applicants OR to a business that includes a plan to employ at least 25% of employees who reside in impact zones.
- 10% of total licenses issued for each class, and at least 25% of the overall total licenses, would be designated for and only issued to “microbusinesses.”
- All license fees and penalties collected will be deposited into the “Cannabis Enforcement Assistance and Marketplace Modernization Fund.” The fund would also receive deposits from tax revenues on the sale of personal use cannabis items. Money would be appropriated as follows:
  - 70% for investments, including through grants, loans, reimbursements for expenses, and other financial assistance, in municipalities

described as “impact zones,” as well as directing financial assistance to qualifying persons residing therein; and

– 30% to pay for the operational costs of the commission, reimbursing expenses incurred by any county

- Fees shall be imposed by the commission and shall be deposited in the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Funds
- The legislation establishes an optional Social Equity Excise Fee. These funds would invest, through grants, loans, reimbursements for expenses, and other financial assistance in for-profit and non-profit organizations and public entities, as well as direct financial assistance to individuals, in order to create, expand, and promote educational and economic opportunities and activities for the health and well-being of the both communities and individuals.
- Requires a cannabis grower/cultivator to meet any public health and safety standards, industry best practices, and all applicable regulations established by the commission [by rule or regulation] related to the production of cannabis or the propagation of immature cannabis plants and the seeds of the plant
- Every grower/cultivator shall keep a complete and accurate record of all sales of cannabis flowers, cannabis leaves, and immature cannabis plants, and a complete and accurate record of the number of cannabis flowers produced, the number of ounces of cannabis leaves produced, the number of immature cannabis plants produced, and the dates of production; the obligation of every cannabis establishment to keep a complete and accurate record of all sales of cannabis items and a complete and accurate record of the number of ounces.
- The commission has the right to examine these records.

## 5 PL 2021 - Taxation

- Municipalities have the option to authorize and regulate the number of licensed cannabis businesses in their location, as well as the manner and times of operation. However, only the commission can regulate delivery services.
- Municipalities can adopt a local transfer tax imposed on sales. The tax cannot exceed 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.

## 6 Takeaways

- It still is not technically legal to buy or sell recreational marijuana, and will not be until state officials write regulations and award licenses to the businesses that will make up the new legal market.
- According to the incoming chair of the New Jersey Cannabis Regulatory Commission, Dianna Houenou, residents will not be able to walk into a recreational marijuana dispensary & buy cannabis until probably 2022.