

The Green Wave: Cannabis Legalization

Overcoming Months-Long Legislative Deadlock, New Jersey Governor Signs Bills Legalizing Cannabis

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On February 22, 2021, New Jersey Governor Phil Murphy signed three separate bills (A21, A1897 and A5342) legalizing adult-use cannabis and creating a regulated adult-use cannabis market in New Jersey. The governor signed the legislation after months of back and forth — heated at times — between legislators and the governor over how the adult-use cannabis legislation should handle underage cannabis use and possession. Indeed, as late as last week, it appeared as if the governor would veto the bills, indefinitely delaying legislation that was originally expected to be enacted no later than early January. However, a key state Senate committee then advanced a “clean up” bill that satisfied the governor’s demand for penalties for underage cannabis use. The “clean up” bill consolidates underage cannabis possession with underage alcohol possession, subjecting both, in the first instance, to a small civil penalty and/or written warning.

In a [statement](#) that accompanied yesterday's signing, the governor acknowledged the unexpected delays but called the legislation "historic" and a "national model" for other states that would "reduce racial disparities" in New Jersey's criminal justice system "while building a promising new industry."

The bills' passage comes more than three months after the overwhelming majority of state voters — nearly 70% — approved a November ballot measure, Public Question No. 1, that amended the New Jersey constitution to make cannabis legal for all purposes for persons at least 21 years of age. As with other states that have legalized adult-use cannabis, New Jersey previously legalized medical cannabis. Medical legalization occurred in 2010, and the New Jersey medical cannabis market has been operational since 2013.

Bills [A1897](#) and [A5342](#) focus on reforming the criminal justice system. They reduce criminal and civil penalties for prior cannabis offenses, and provide a roadmap for modification and remediation of previously imposed cannabis sentences. Bill [A1897](#) specifically establishes a mechanism for vacating active sentences for certain marijuana offenses committed before the bill's enactment, and prohibits consideration of low-level prior distribution and possession offenses in connection with decision-making regarding pretrial release, probation and parole.

The third bill just signed into law — Bill [A21](#) — the "New Jersey Cannabis Regulatory, Enforcement

Assistance, and Marketplace Modernization Act" — is the legislation that legalizes the possession, use and sale of adult-use cannabis going forward. Under [A21](#), the recently established Cannabis Regulatory Commission ("CRC") is authorized to promulgate regulations covering both adult-use *and* medical cannabis. The CRC will oversee the licensing of all cannabis establishments, giving priority to diversity and inclusion. Under the bill, only licensed cannabis establishments will be permitted to cultivate and sell cannabis. Unlike every other state that has legalized adult-use of cannabis, New Jersey will not permit any home-grown cannabis for any purpose, whether recreational or medicinal.

Bill [A21](#) provides a shortened application process for existing medical dispensaries, also known in New Jersey as "alternative treatment centers," to operate as licensed adult-use cannabis establishments. In other words, the alternative treatment centers will be first in line to receive adult-use licenses. In what may be a lengthy licensing process for first-time operators, it appears likely that the alternative treatment centers that successfully expand into adult-use will have a significant head start in the market.

The CRC is obligated to promulgate initial regulations by late August 2021 or no more than 45 days after all five members of the CRC have been seated, whichever occurs first. Within 180 days of the promulgation of the initial regulations, the new law obligates the CRC to authorize the first legal retail sales of adult-use cannabis. Goodwin will provide updates on the regulatory process as it unfolds.

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