
Is the RI Legislature Getting Serious About Legalization?

Description

It appears that political support for legalizing recreational cannabis in Rhode Island may finally be reaching a critical mass. The details of *how* Rhode Island might go about legalizing recreational cannabis—and not *whether* to do it — are now the subject of legislative hearings and maneuvering at the Rhode Island State House.

There are two bills under discussion. Both would legalize the possession of certain amounts of marijuana for adults 21 years and older, and both would organize a system of private retail locations to be licensed to sell recreational cannabis as soon as Spring 2022.

The first proposal, crafted at the direction of Senate leadership and introduced by Sen. Josh Miller and Majority Leader Michael McCaffrey, would create a new Cannabis Control Commission to approve licenses and oversee the marketplace, similar to the one in Massachusetts. Currently licensing for medical cannabis regime, including cultivation of plants, is the responsibility of the Office of Cannabis Regulation within the R.I. Department of Business Regulation. The Senate's bill would also allow for home-growing of up to six "active" marijuana plants and 12 total plants.

A second bill, proposed at the direction of the new Governor, Dan McKee, was included in the administration's budget proposal for the next fiscal year. The Governor's plan would more tightly restrict the growing of marijuana plants, barring people from growing cannabis at home (outside of certain registered home grows for medical marijuana patients). The Governor's plan also continues a moratorium on additional licensed cultivation in Rhode Island, based on the approximately 70 licensed cultivators already growing cannabis in the state.

The Senate bill does not set a hard cap on the number of licensed retail stores that could be opened, theoretically allowing the marketplace to determine that, subject only to a cap on licenses at one per 10,000 residents for a municipality, with each community—regardless of its total population—able to have at least 3 licensed retailers. There is an opt-out provision for local jurisdictions (if approved via voter referendum), but municipalities opting out would forego what could be significant local tax revenue.

The Governor's plan, in contrast, proposes to cap the number of retail stores at 25 per year statewide for the first three years, utilizing a two-tiered lottery system that would first select women- and minority-owned businesses for the first five licenses, and then a general lottery to randomly select the remainder from those who submit applications.

One carve-out to the Governor's lottery proposal is that existing Rhode Island compassion centers would not have to enter the lottery at all but would be eligible for a new hybrid license to sell cannabis for both medical and recreational use. There are currently 3 licensed compassion centers (with 6 additional licenses expected to be issued this Spring via lottery). Under the Governor's plan, all nine dispensaries – the 3 currently 3 licensed and the 6 to be issued this year – would be allowed to see the hybrid license.

The Senate bill would create a process for expungement of past marijuana offenses. The Governor's proposal does not, although he has voiced support for the idea.

The Governor's plan includes a 10% excise tax and 7% sales tax on cannabis sales, plus a weight-based excise tax. The expected total tax on cannabis purchases under this plan is about 20%. The Senate proposal also has anticipated a 20% total tax rate, but is divided into a 3% local tax for the city or town where the store is

located, in addition to the 7% sales tax and a new 10% excise tax. The Senate bill also addresses the high barrier to entry for applicants – lowering application fees from the \$10,000 application fee and \$500,000 annual fee for current compassion center licensees to a \$500 application fee and a \$20,000 license fee for retailers.

Among the anticipated winners regardless of which (if any) proposal becomes law are the 70 or so currently-licensed cultivators in Rhode Island. Those cultivators are currently prevented from selling their products to consumers in Rhode Island or over state lines, leaving them with an extremely limited market. Having more retail outlets to which to sell their inventory could substantially increase sales for the cultivators.

With these two proposals generating significant discussion at the State House, attention will soon turn to the House of Representatives. The level of support for legalization there remains somewhat unknown. House Speaker Joe Shekarchi has said he is neither for nor against legalization and will listen to the testimony when the bills are heard in committee. Shekarchi has previously said that he is “absolutely” open to the idea, but has not committed to supporting it.

Neither the Governor’s, nor the Senate’s proposal is quite like what former Gov. Gina Raimondo envisioned for the state prior to leaving office to become U.S. Secretary of Commerce. The former governor’s 2020 budget called for legalization through a model of state-run retail stores, but neither the legislature nor her successor have indicated an intent to use that model.

The growing momentum in Rhode Island comes as lawmakers in a growing list of states are legalizing cannabis, including New York and New Jersey. Neighboring Connecticut is also actively considering legalization efforts this year, and Connecticut Gov. Ned Lamont included a cannabis legalization plan in his budget request this year.

2021 could finally be the year for Rhode Island legalization. Stay tuned.

Partridge Snow & Hahn’s [Cannabis Advisory Practice Blog](#) provides updates on marijuana law and policy, covering some of the risks and opportunities in the industry, and makes recommendations regarding best practices. **If you are interested in receiving these updates via email, please submit the form below:**

Date Created

April 23, 2021