

Opportunities and Risks – How Will the New Massachusetts Recreational Marijuana Law Affect You and Your Business?

If you are interested in being kept up-to-date on the issues impacting this industry, [please provide your contact information here](#).

On November 8, Massachusetts voters cast their ballots in favor of Question 4, beginning the process by which businesses and individuals may legally grow, sell and possess marijuana for recreational purposes in Massachusetts. *The Regulation and Taxation of Marijuana Act*, which will become effective December 15, 2016, provides for a newly formed Cannabis Control Commission that will establish regulations and begin accepting license applications for testing facilities, cultivators, product manufacturers and marijuana retailers no later than October 1, 2017. These facilities must be allowed to commence their business operations no later than January 1, 2018.

The legalization of recreational marijuana under Massachusetts law will create unique opportunities and risks for newly formed and existing businesses as rules and regulations are established by the Commission and in light of marijuana still being an illegal controlled substance under federal law. There will be a myriad of challenges for those looking to invest in and operate companies that will grow, process and sell marijuana, as well as for existing businesses that must now consider how the new law and regulations will affect them.

For instance:

- **Commercial Landlords:** You will need to understand the unique issues that arise in connection with leasing to a marijuana cultivation facility or retailer. What key provisions should you consider including in your leases? What are the risks of having your property seized?
- **Banks and Credit Unions:** How should you respond if a marijuana related business seeks to establish a deposit or merchant account with you?
- **Lenders and Investors:** How can you safely lend to or invest in a marijuana business, and what requirements might be imposed by the Commonwealth on taking equity stakes or collateral in those businesses? How can you realize on your collateral?
- **Employers:** What can you do if an employee reports to work impaired or with marijuana on their person?
- **Insurers and Insurance Agencies:** How should you react when a customer seeks to insure inventory consisting of marijuana plants and products or a landlord seeks to insure against casualty and other risks?

Businesses and individuals must consider how the new law will affect them long before the Commission approves the opening of new recreational marijuana facilities. Our Marijuana Advisory Practice is prepared to respond promptly to your questions, discuss issues with you and meet your needs in this area. In the upcoming months, we will release a series of updates on marijuana law and policy, discussing some of the risks and opportunities in this new industry and making some recommendations regarding best practices. The challenges can be great, but so can the opportunities.

Date Created

November 9, 2016