

Rhode Island Poised to Legalize Cannabis

Description

After several years of fits and starts, Rhode Island is finally poised to pass a substantive cannabis legalization bill as soon as next week. An amended version of the previously-proposed cannabis bill is now on the fast track toward passage at the State House. Major developments in the amended bill include automatic expungement for past cannabis crimes, the creation of a Cannabis Control Commission, and the inception of retail sales as soon as December 2022.

The amended bill was released Tuesday afternoon and approved yesterday by both the Senate Judiciary Committee and the House Finance Committee. Having advanced through those committees, floor votes on the bills are expected to take place next week.

One of the most significant changes from previous cannabis legalization bills in Rhode Island is a plan to adopt automatic expungement of prior civil or criminal marijuana possession charges (i.e. activities decriminalized by the current bill). The original 2022 legalization bill required those seeking expungement to request it from the courts, which raised numerous objections. The bill now poised for passage instead gives the Rhode Island courts until July 1, 2024, to automatically expunge past convictions, while allowing those who want to seek expungement sooner to request it.

On Tuesday afternoon, Governor McKee's office thanked legislative leaders for addressing his concerns about separation of powers in their new bill. "While this bill is different than the governor's original proposal – it does accomplish his priorities of making sure legalization is equitable, controlled, and safe," a McKee spokesperson said in an email announcement. "We look forward to reviewing the final bill that comes out of the General Assembly and signing legalization of adult-use cannabis into law."

Other highlights of the bill's provisions:

- Legalizes the sale and possession of up to 1 ounce of cannabis for adults ages 21 and older, with no more than 10 ounces for personal use kept at a person's residence. Possession of recreational cannabis and home-growing plants would become legal once marijuana bill is signed into law, while retail sales could start as soon as December 1.
- Creates a Cannabis Control Commission, a new independent office charged with overseeing the cannabis industry in Rhode Island. The Commission will be authorized to issue licenses to cannabis retailers and cultivators, and set regulations for the industry. Regulating the existing medical cannabis market is currently the responsibility of the Department of Business Regulation.
- According to Governor McKee's office and Common Cause Rhode Island, the original bill's process for staffing the Commission (the Governor would have appointed Commission members from lists provided by the House speaker and Senate president) violated the state constitution's separation of powers provision, as did the requirement that the Senate approve the removal of any commissioners. The amended bill removes the list of potential appointees provided by the Senate president and the Senate's power to approve the removal of a commissioner, though it leaves confirmation of the commissioners to the Senate.
- Rhode Island's existing medical marijuana dispensaries — both the existing three that are open, and the six newly-licensed facilities — would be able to transition to hybrid stores, selling both medical and

recreational products. Approved hybrid licensees could start to grow and manufacture marijuana for adult consumers starting August 1, 2022.

- Other retail stores will take longer before they can begin operations. The new Cannabis Control Commission, charged with creating a process for issuing new licenses for up to as many as thirty-three stores in Rhode Island, will not be formed until the bill is signed into law. Twenty-four of those thirty-three licenses would be new standalone adult-use retailers, divided up equally between six geographic zones of the state, and nine hybrid licenses could potentially be approved for the existing licensed medical cannabis dispensaries if they pay a \$125,000 fee to add recreational sales.
- Of the 24 standalone retailers, 25 percent would need to go to social equity applicants and another 25 percent would be for worker-owned cooperatives. While no single entity would be allowed to possess more than one business license, people could invest in multiple companies.
- The amended bill does not set forth any specific process for how the Commission will select retail licensees, whether it be a merit-based process or a random lottery such as that used to select new medical dispensary licensees in 2021.
- There will be a two-year moratorium on new cultivation licenses issued in Rhode Island.
- The amended bill eliminates multiple fees that medical marijuana patients currently pay, including to obtain a medical card and tags for plants. This makes sense: once recreational users can shop in stores and grow at home, medical users should not have to pay fees to purchase and grow medical cannabis simply because they're doing so for medical reasons.
- The taxes associated with the new industry did not change from the prior versions of the legalization bill. It calls for a 20% tax rate, split up into the 7% sales tax, a new 10% cannabis tax, and a 3% tax by the municipality where the marijuana is sold.
- Rhode Island's cities and towns would only be able to opt out of cannabis sales through a voter referendum this fall. Cities and towns that already have a dispensary won't be able to opt out. Cities and towns that opt out will not participate in the revenue.
- Several of the much-discussed social equity provisions remain in the amended bill, including provisions for worker co-ops and a social equity fund to help pay licensing fees to allow a broader spectrum of people to get into the industry.

While the bill is not yet enacted into law, cannabis legalization in Rhode Island has never been closer to reality than it is today. The current version of the bill has now advanced out of committee, has the support of the leadership of both legislative chambers, and is expected to be voted on by both chambers next week. The Governor has indicated support for the bill and is expected to sign it immediately upon passage.

Even assuming passage of the bill, and the Governor's signature, there will remain significant developments to come over the months ahead, among them: the makeup of the Commission, what the rules of the road will be for licensure, whether the existing license holders will transition to hybrid licensees so that they can sell recreational cannabis, and if so, when that will actually start, whether any cities or towns choose to opt out this fall.

In the meantime, it's a day to celebrate for advocates and businesspersons who've been looking forward to this day for many years.

Partridge Snow & Hahn's [Cannabis Advisory Practice](#) provides updates on marijuana law and policy, covering some of the risks and opportunities in the industry, and makes recommendations regarding best practices.

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