

New Jersey League of Municipalities

TO: NJ Municipal Elected Officials
FROM: Mike Cerra, NJLM
Executive Director
DATE: March 2, 2021
RE: Guidance on Cannabis Legalization

State Resource Page

Governor Murphy signed into law legislation legalizing and regulating cannabis use and possession for adults 21 years and older, [A-21](#) (P.L.2021,c.16). The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, and decriminalizing marijuana and hashish possession, [A-1897](#) (P.L.2021,c.19).

The Governor also signed [S-3454](#) (P.L.2021,c.25), clarifying marijuana and cannabis use and possession penalties for individuals younger than 21 years old.

Attorney General Gurbir Grewal announced the launch of a [Marijuana Decriminalization & Cannabis Legalization Resource Page](#). The webpage is intended to provide resources and information for police and prosecutors to help them navigate the new laws and policy. The Resource Page provides access to newly issued AG Directive 2021-1, governing the dismissals of certain pending marijuana charges, and access to interim guidance for law enforcement officers regarding marijuana decriminalization.

The Attorney General's office has also produced a [downloadable Q&A page on Cannabis topics](#).

Municipal Considerations

- **Existing Ordinances:** Any existing municipal ordinances regulating or prohibiting cannabis are null and void. They must be readopted to be effective.
- **Opt-In or Opt-Out Timeline:** Municipalities have 180 days (until August 21, 2021) to take action to either prohibit or limit the number of cannabis establishments, distributors, or delivery services; the location, manner, and times of operation, and establishing civil penalties for violation of ordinances. [Special League Advisory on Opting Out](#)
[DOWNLOAD: Sample Opt-Out Ordinance](#)
- **No Action Result:** If municipalities do not take action within 180 days, any class of cannabis establishment or distributor will be permitted to operate in the municipality, and depending on the type of establishment, be considered a permitted use in certain zones.
- **5-Year Periods:** Once a municipality permits cannabis establishment or distributor operations in their community that action remains valid for 5 years. After this 5-year period, a municipality has another 180-day window to prohibit or limit cannabis operations, but this action only applies prospectively. Those who initially opt-out can opt-in at any time.
- **Local Cannabis Tax:** Municipalities can enact by ordinance a local cannabis tax that cannot exceed 2% for cannabis cultivator, manufacturer, and/or retailer; and 1% for wholesalers. The tax percentage is based on the receipts for each sale and is paid directly to the municipality in the manner prescribed by the municipality. Any delinquencies are treated the same as delinquent property taxes. The tax cannot apply to delivery services to consumers or transfers for the purpose of bulk transportation.
- **Delivery Rights:** A municipality cannot prohibit the delivery of cannabis items and related supplies by a delivery service within their jurisdiction.
- **Civil Rights:** When responding to a call related to underage consumption or possession of cannabis or alcohol can be guilty of a crime of official deprivation of civil rights if knowingly violating the provisions of the new law regarding interactions with underage persons.

League Stance

While the League does not have a position on the topic of legalized recreational marijuana, we provide information as a tool for our members at a time when legalization is being considered by New Jersey's citizens. The League's Task Force has explored and researched the impacts of the legalization of adult recreational use on municipalities.

In addition, NJLM formed a coalition with the New Jersey Urban Mayors Association and the New Jersey Conference of Mayors. While the coalition does not take a position on legalization, we are working together to ensure that municipal interests are protected.

Updated: March 2, 2021