



MCBATM

MINORITY CANNABIS BUSINESS ASSOCIATION



2017 Model Legislation Summary

This Act provides a comprehensive statutory framework for cannabis legalization with express provisions to 1) remedy disparate burdens placed on communities of color in the enforcement of cannabis prohibition 2) prevent future similar disparities, and 3) encourage participation in the legal cannabis industry by communities of color.

Section 1 Purpose and Findings.

Section 1 lays out the legislative intent of the Act. The legislature intends to establish a framework for the lawful cultivation, possession, use, manufacture, distribution, and sale of cannabis and cannabis-related products by individuals and businesses. The legislature further intends to remedy the adverse consequences of prior cannabis prohibition on persons and communities of color and to avoid similar adverse consequences in the future.

Section 2 Reform of Civil and Criminal Penalties.

Section 2 repeals all prior civil and criminal penalties related to cannabis and establishes new ones. This section and the regulations issued under it supersede all prior statutory and regulatory penalties related to cannabis and drug paraphernalia as defined in federal law, and cannabis-related goods and services. New schedules of civil and criminal penalties are established for conduct related to cannabis in excess of certain weights and in relationship to minors in certain age ranges. The new maximum penalties and lengths of incarceration are greatly reduced from prior state laws. Courts are granted the discretion to impose certain alternative sentences for cannabis-related offenses in lieu of monetary penalties and imprisonment.

Section 3 Relief From Sentencing, Penalties, and Court Costs for Prior Offenses.

Section 3 provides relief for individuals subject to sentences and monetary penalties due to certain cannabis-related convictions. Fines and court costs are forgiven and sentences are commuted for individuals convicted of cannabis-related crimes. This section directs the Departments of Corrections and Probation and the Trial Court to issue regulations and forms to implement the relief provided under this section. Private rights of action (the right for individuals

to seek various forms of relief from courts) are created for individuals to seek enforcement of this section.

Section 4 Sentencing Enhancements and Offender Classifications and Restrictions.

Section 4 prohibits the use of conduct that is no longer criminal under this Act as the basis for post-conviction increases in sentences, imposition of criminal classifications, or loss of licensure.

Section 5 Criminal Records.

Section 5 permits the expungement of adult and juvenile criminal records of cannabis-related charges and convictions. The Department of Probation is required to issue regulations for the implementation of this section and to ensure its implementation within the Department and other agencies holding criminal record information. Under this section, there is no cost to the individual seeking expungement.

Section 6 Employment Practices.

Section 6 restricts how employers may discriminate on the basis of cannabis-related activities. This section sets out comprehensive limits on discriminatory or burdensome employment policies and practices regarding cannabis-related activities. Employers may not impose restrictions on lawful cannabis-related activities for off-duty employees. Employers may not restrict off-duty unlawful cannabis-related activity in a manner more burdensome than for the unlawful off-duty use of alcohol. For example, an employee may not be subject to a policy terminating employees for off-duty driving-while-impaired due to cannabis use unless the employer has an equivalent policy for terminating employees for off-duty driving-while-impaired due to alcohol use.

For on-duty employees, employment policies and practices regarding on-duty cannabis use, intoxication, or smoking must be no more restrictive than policies and practices for on-duty use of alcohol or tobacco.

Requests for individual modifications or exemptions from policies regarding cannabis use are to be treated in a manner comparable to requests for reasonable accommodation on the basis of religion or disability.

Discrimination in the hiring process and in the structure, benefits, and privileges of employment such as work schedules and salaries on the basis of past or current cannabis-related activities are substantially restricted or prohibited.

Section 7 Commissioner for Workforce Development; Disparate Impact Studies.

Section 7 provides for the study of employment disparities related to prior cannabis-related convictions and within the lawful cannabis industry.

This section requires the state's Commissioner of Workforce Development to periodically assess employment-related disparities according to race, gender, religion, sexual orientation, and country of origin faced by persons with prior cannabis-related convictions and persons involved in lawful cannabis activities. Based on those studies, the Commissioner will provide recommendations for reducing those disparities.

Section 8 Housing.

Section 8 generally prohibits discrimination on the basis of cannabis-related criminal offenses or cannabis use in relationship to the rental or sale of residential housing. A narrow exception is provided for sober homes and similar therapeutic housing.

Section 9 Qualifying Public Housing.

Section 9 provides a narrow exception to Section 8 related to those forms of public or publicly-funded housing where federal law requires that landlords or other managers retain the discretion to deny or terminate housing on the basis of drug-related offenses. Denial or termination of housing on the basis of a cannabis-related offense must be based on evidence of actual conduct, separate from simply being arrested. Denials or terminations on the basis of cannabis-related conduct must be reported to the Attorney General's Office for assessment for racially discriminatory conduct or disparate racial impact.

Section 10 Places of Public Accommodation and Public Assembly.

Section 10 generally prohibits restrictions on cannabis use in places of indoor public accommodation and outdoor public assembly that are stricter than those imposed on tobacco use. A narrow exception is provided for federal properties and places under exclusive federal control.

Section 11 Credit and Business Transactions.

Section 11 generally prohibits discrimination in financial transactions and credit reports on the basis of any juvenile cannabis-related offense or past adult cannabis-related offense that has been made permissible under the Act. Arrest and conviction information for conduct that is no longer criminal under this Act must be removed from credit reports.

Section 12 Business and Economic Development.

Section 12 requires that the state's Office for Economic Development implement policies to ensure racial, ethnic, and gender diversity in the cannabis industry. Policies under this section must ensure that diverse groups are afforded equal opportunity in licensing and permitting; regulated entities promote participation of diverse groups and provide equal access to employment; regulated entities establish business policies that encourage diverse groups for contracting or professional services; and that no recipient of public funds for business or economic development or job training engages in adverse discrimination against cannabis-related businesses or job applicants. The Office must engage in substantial outreach and provide business funding for economically disadvantaged entities and persons or communities

disproportionately affected by cannabis prohibition. Periodically, the Office must report publicly on the inclusion of diverse groups in the lawful cannabis industry.

Section 13 Business Certification.

Section 13 requires that the state's Office for Economic Development ensure that qualified cannabis-related business are eligible for minority-owned, women-owned, LGBT-owned, and disadvantaged business certifications and their related benefits.

Section 14 Diversification of Zoning and Land Use.

Section 14 generally prohibits the use of zoning and land use regulations to target and prevent the ordinary operation of cannabis-related businesses. The burden for compliance with zoning or land use regulations and the requirements for seeking a variance should be no greater for a cannabis-related business than for any other similar business. Jurisdictions that have banned cultivation or retail sale of marijuana products are not be entitled to local grants arising from marijuana tax revenue.

Section 15 Family and Children.

Section 15 substantially prohibits the use of cannabis or lawful cannabis-related activities as a relevant factor or evidence in proceedings regarding parental rights, child welfare, guardianship, and probate matters.

Section 16 Education Institutions, Financial Aid, and Student Loans.

Section 16 establishes a comprehensive framework for student discipline, the restriction of benefits and privileges related to unlawful cannabis-related conduct in schools, and reporting by schools. Generally, student conduct policies may not impose burdens greater than the equivalent policy for alcohol. Schools are permitted to establish rehabilitative programs in lieu of punitive measures. Schools may not revoke student loans or other similar financial benefits due to lawful cannabis-related activities.

Section 17 Office of Justice Reinvestment (OJR).

Section 17 establishes an Office of Justice Reinvestment to foster a diverse and lawful marijuana sector; ensure that revenue derived from that sector is directed towards communities most impacted by drug prohibition; and to ensure that those communities have access to business licenses. The Office will be supported by the first 5% of annual revenue from cannabis-related taxes and fees. The Office will have certain regulatory powers related to its purpose.

Section 18 Cannabis Control and Licensure Commission (CCLC).

Section 18 establishes a Cannabis Control and Licensure Commission with regulatory powers regarding cannabis business licensing, the enforcement of laws and regulations in the cannabis industry, and ensuring a competitive cannabis economic sector. The Commission must operate

within specific limits. It may not set numerical limits on applicants and licenses and may generally not set geographic restrictions.

Section 19 Cannabis Advisory Board (CAB).

Section 19 establishes a Cannabis Advisory Board which is an independent agency broadly authorized to investigate and make recommendations about the cannabis economic sector and other cannabis-related issues. make recommendations regarding the regulation of cannabis and any related activity. It is composed of experts in a broad range of areas related to cannabis and appointed by the Governor.

Section 20 Cannabis Sales and Business Income Taxes.

Section 20 creates a comprehensive tax framework for the cannabis industry. A cannabis sales tax of 10% is imposed by the State. Any city or town may choose to impose an additional 2% local sales tax. Every 4 years, the Cannabis Control and Licensure Commission will set a progressive cannabis business income tax rate. The gross revenue of cannabis business taxes shall be directed to the general operations and the implementation of this Act and as directed in this section.

Section 21 Implementation Through Local Delegation and Control.

Section 21 permits municipalities to establish a temporary legal framework for the lawful operation of cannabis-related businesses if the State fails to implement any part of the Act dealing with the licensing of cannabis-related businesses. Such a temporary legal framework must be consistent with the remedial and protective parts of this Act. Any state license, benefit or privilege that subsequently preempts a municipal license, benefit or privilege must be available to the holder in a timely manner.

Section 22 Severability.

Section 22 provides that the Act, although intended to be comprehensive, remains in force, even if one or more provisions are found to be invalid. The remaining valid provisions still retain the force of law, individually and as a whole.