**A-21 / S-21**

**“New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”**

Establishes the Cannabis Regulatory Commission (CRC)

Creates six “marketplace” classes of licensed businesses

* Class 1 Cannabis Cultivator
* Class 2 Cannabis Manufacturer
* Class 3 Cannabis Wholesaler
* Class 4 Cannabis Distributor
* Class 5 Cannabis Retailer
* Class 6 Cannabis Delivery

Creates a license for cannabis testing facilities, which could test samples of both personal use cannabis and medical cannabis products for compliance with health, safety, and potency standards.

Increases the number of available clinical registrant permits, from four to five.

Existing alternative treatment centers will be permitted to cultivate from up to two physical locations, provided that the alternative treatment center’s combined mature cannabis plant grow canopy between both locations does not exceed 150,000 square feet of bloom space or the square footage of canopy permitted under the largest tier in the tiered system for grow canopies adopted by the CRC.

The CRC will determine the maximum number of licenses for each “marketplace” class based upon market demands and will prioritize applications for licensure using several factors, including:

* “Impact Zones,” with applications including a person who is a current resident of an impact zone or that includes a plan to employ at least 25 percent of employees who reside in an impact zone.
* “Significantly Involved Person,” who is an in-State resident of at least five years, who holds at least a five percent investment interest or is a member of a group who holds at least a 20 percent investment interest.
* Collective Bargaining Agreements with a bona fide labor organization.
* Project Labor Agreements for the construction or retrofit of facilities.

Cannabis Handlers

* Any individual who performs work for or on behalf of any class of licensee will need to have a valid certification issued by the CRC.

Cannabis Consumption Areas

* A licensed cannabis retailer, medical cannabis dispensary, or clinical registrant may apply to the CRC seeking an endorsement to operate a cannabis consumption area at which the on-premises consumption of personal use or medical cannabis could occur.  The municipality in which the consumption area would operate would also have to provide a local endorsement.
* An on-premises consumption area could either be indoors or outdoors.  An indoor consumption area would be a structurally enclosed area within a cannabis retailer, medical cannabis dispensary, or clinical registrant facility that is separated by solid walls or windows from the area in which retail sales of cannabis items, or retail sales along with the dispensing of medical cannabis occurs, would only be accessible through an interior door.
* A personal use consumption area will need to comply with all ventilation requirements applicable to cigar lounges under the “New Jersey Smoke-Free Air Act.”

Microbusinesses

* 10 percent of the total licenses issued for each license class, and at least 25 percent of the overall total number of licenses issued will be designated for microbusinesses.
* Defined as employing no more than 10 employees, and: possessing no more than 1,000 cannabis plants each month; operating an establishment occupying an area of no more than 2,500 square feet; growing on an area no more than 2,500 square feet; acquiring no more than 1,000 pounds of usable cannabis each month; acquiring for resale no more than 1,000 pounds of usable cannabis; and acquiring for retail sale no more than 1,000 pounds of usable cannabis.

Labor Requirements

* The maintenance of a labor peace agreement will be an ongoing material condition of a full, annual license.
* Failure to enter, or to make a good faith effort to enter, into a collective bargaining agreement within 200 days of the opening of a cannabis business based on a full annual or conditional license will result in the suspension or revocation of a license
* Labor requirements do not apply to microbusinesses.

Transition to Full Legal Market for Cannabis Items

* Within 180 days after the bill is signed into law, or within 45 days of all five members of the CRC being appointed, whichever date is later, rules and regulations are to be adopted, and will be in effect for a period not to exceed one year.
* During an initial 24-month period following the bill’s enactment, there would be a limitation on the number and classes of licenses any one licensee could hold.  During this time, a licensed cultivator, manufacturer, wholesaler, distributor, or delivery service is not permitted to also be a licensed retailer, and vice versa, plus a cultivator or manufacturer could only concurrently hold two licenses (either another cultivator or manufacturer license), and a wholesaler could hold one other distributor license. These restrictions would not apply to an existing medical alternative treatment center deemed to concurrently possess one of each type of cannabis license.
* Throughout this 24-month period, the CRC will allow no more than 37 cannabis cultivators to be simultaneously licensed, including any existing alternative treatment centers.
* Following the 24-month period, a license holder could hold: (1) a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 5 Cannabis Retailer license, and a Class 6 Delivery license concurrently, provided that no license holder would be authorized to concurrently hold more than one license of each class, except for an alternative treatment center that was deemed, during the 24-month period, to have an additional Class 5 Cannabis Retailer license for each satellite dispensary; or (2) a Class 3 Cannabis Wholesaler license and a Class 4 Cannabis Distributor license; in no case could a holder of a Class 3 Cannabis Wholesaler license concurrently hold a license of any other class, other than a license as a cannabis distributor.

The CRC will begin accepting and processing applications for licenses and conditional licenses within 30 days after the commission’s initial rules and regulations have been adopted.

Existing alternative treatment centers must submit written approval to the CRC from the municipality in which the business is located showing its operations comply with the municipality’s restrictions on the number of allowable business, as well as their location, manner, and times of operation.

Existing alternative treatment centers must confirm that it has sufficient quantities of medical cannabis available to meet the reasonably anticipated needs of registered qualifying patients, before engaging in the adult-use retail sale of cannabis items.

The CRC will determine the first date on which cannabis retailers issued licenses and conditional licenses may begin retail sales of personal use cannabis items.  This date will be no more than 180 days after the adoption of the initial rules and regulations.

Municipal Restrictions

* Every municipality will have the option to authorize and regulate the number of licensed businesses, as well as their location, manner, and times of operation within its jurisdiction; however, the time of operation of delivery services would be subject only to regulation by the CRC.
* Any ordinance enacted prior to the bill’s effective date addressing the issue of prohibition within the jurisdiction of a municipality will be null and void, and that municipality can only prohibit the operation of one or more classes of cannabis business by enactment of a new ordinance.
* Only during a 180-day period following the bill’s enactment, a municipality can enact an ordinance to prohibit such operations by any one or more classes of business, but not the delivery of cannabis items and related supplies to consumers by delivery services.
* The failure of a municipality to timely enact an ordinance prohibiting operations will result in any class of cannabis business as being permitted to operate therein for a period of five years.

New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund

* All license fees and penalties collectable by the commission would be deposited into a new fund, referred to as the “Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Fund.”
* At least 70 percent of the tax revenues on retail sales of cannabis items would be appropriated for investments, including through grants, loans, reimbursements of expenses, and other financial assistance, in municipalities designated as an “impact zone,” as well as provide direct financial assistance to qualifying persons residing therein.
* The remainder of the monies in the fund would be appropriated to include: paying for the operational costs of the commission; reimbursing expenses incurred by any county or municipality, or by the Division of State Police, for the training costs associated with the attendance and participation of a police officer or trooper in a Drug Recognition Expert program for detecting, identifying, and apprehending drug-impaired motor vehicle operators; and further investments in “impact zone” municipalities.

 Optional Social Equity Excise Fee on Cultivation Activities

* An optional Social Equity Excise Fee could be imposed by the CRC on personal use cultivation activities by licensed cannabis cultivators. Medical cannabis cultivation activities would not be subject to the excise fee.
* If imposed, the fee will apply to cultivator sales or transfers of usable cannabis to other cannabis businesses, other than another cultivator, and would initially be 1/3 of 1 percent of the Statewide average retail price of an ounce of usable cannabis for consumer purchase.  Beginning nine months following the first sale or transfer of usable cannabis subject to the excise fee by a cultivator that is not also an alternative treatment center, the fee could be adjusted by the commission annually, based on the previous year’s retail price, as follows:

(1) up to $10 per ounce, if the average retail price of an ounce of usable cannabis was $350 or more;

(2) up to $30 per ounce, if the average retail price of an ounce of usable cannabis was less than $350 but at least $250;

(3) up to $40 per ounce, if the average retail price of an ounce of usable cannabis was less than $250 but at least $200; and

(4) up to $60 per ounce, if the average retail price of an ounce of usable cannabis was less than $200.

 Optional Municipal-Level Taxation

* Any municipality is also permitted to adopt an ordinance that authorizes a local transfer tax.  This transfer tax could be imposed on sales that occur within the municipality: between a cannabis business that holds a cultivator, manufacturer, wholesaler, or retail cannabis license and another such licensed cannabis business; between cannabis retailers and customers; or any combination thereof.
* The municipality would have discretion to set the rate or rates of the transfer tax, but a rate could not exceed: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer.
* This tax, if imposed, would be applied in the form of an equivalent user tax on non-sale transactions between cannabis businesses operated by the same license holder.

Legalized and Prohibited Activities Concerning Personal Use Cannabis Items

* Once the provisions for the lawful personal use of cannabis items become operative and retail sales of cannabis items have begun, the following acts would not be an offense under the “New Jersey Code of Criminal Justice,” Title 2C of the New Jersey Statutes, for a person 21 years of age or older:

(1) possessing, purchasing, or transporting: cannabis paraphernalia; one ounce or less of usable cannabis; the equivalent of one ounce or less of usable cannabis as a cannabis product in solid, liquid, or concentrate form, based upon an equivalency calculation for different product forms set by the commission in its regulations; or five grams or less of cannabis resin;

(2) transferring any cannabis item in any amount described above to another person 21 years of age or older, so long as the transfer is for non-promotional, non-business purposes; and

(3) taking delivery of or consuming any lawfully acquired cannabis item, provided that nothing in the bill is intended to permit a person to smoke, vape, or aerosolize a cannabis item in a public place, other than a designated consumption area.

Employee Protections, and Employer Workplace Policies

* An employer would not be permitted to refuse to hire or employ a person, or discharge or take any adverse action against an employee because that person or employee does or does not use cannabis items.  However, an employer could require an employee to undergo a drug test upon reasonable suspicion of an employee’s usage of a cannabis item while engaged in the performance of the employee’s work responsibilities, or upon finding any observable signs of intoxication related to usage of a cannabis item, or following a work-related accident subject to investigation by the employer.  An employer could also require random testing, or testing as part of a pre-employment screening, or regular screening of current employees to determine use during an employee’s prescribed work hours.  The employer could utilize the results of any such drug test when determining the appropriate employment action concerning the employee.
* An employee drug test will be required to include scientifically reliable objective testing methods and procedures, such as testing of blood, urine, or saliva, plus a physical evaluation in order to determine an employee’s state of impairment that was performed by a CRC certified Workplace Impairment Recognition Expert.
* Nothing in the law will require an employer to amend, repeal, or otherwise affect an employer’s policy and efforts to maintain a drug- and alcohol-free workplace, or require an employer to permit or accommodate any personal use cannabis activities in the workplace.