

Cannabis Sale Opt-Outs Filed by 9% of NY Towns



A legal recreational cannabis store sign is visible on a road in Great Barrington, Massachusetts.

Joe Mahoney CNHI state reporter

ALBANY — As New York prepares to issue licenses to commercial marijuana shops, about one out of every 10 towns and villages have signaled they are banning both the stores and venues for on-site consumption of cannabis, CNHI has learned.

The data was provided by the Association of Towns of New York State, and is based on filings with the state Department of State, which is a repository for all laws enacted by local governments.

Thus far, 84 towns — or 9% of the towns in New York — have enacted laws opting out of both retail sale of marijuana and on-site consumption venues, said Chris Anderson, research director for the Association of Towns.

Meanwhile, 46 villages — or 9% of the villages in the state — have passed laws opting out of both retail sale and on-site consumption establishments.

Five towns and four villages have opted out of on-site consumption only, Anderson noted.

By opting out, the municipalities are effectively banning the establishments." At this point, it appears there is not a major wave of opt-outs sweeping across the state," Anderson said in an interview.

With the year ending in a little more than a month, he said many towns will meet only twice more before 2022.

"We expect to see some more activity, but it's certainly pretty late in the game," he said. "We have a good indication now it will be a low opt-out percentage statewide."

But when it comes to marijuana — a substance whose possession is now legal by adults 21 or older statewide — there are limits to what activities municipalities can control. And county governments have no say in whether marijuana sales should be banned from their jurisdictions.

"They can't opt out of cultivation, processing and transportation," said Karl Sleight, a veteran Albany attorney who has been advising prospective applicants for marijuana licenses.

Interest in getting licenses from the newly-minted state Cannabis Control Board is mushrooming, though regulations still need to be put in place by the state, Sleight said.

"I've done over 100 video conferences since the law passed," Sleight said. "There is more traction and traffic on this issue than any other one I have seen. It's not often a market like this comes online. It's almost like it was when Prohibition ended. It is the same dynamic, with a huge pent-up demand."

Patrick McCarthy, a lobbyist who represents PharmaCann, a cannabis company with operations in six states, and industrial hemp producers, predicted that some of the municipalities that have opted to ban marijuana will reverse course within the next two years when they see the revenue potential available to their communities.

"The Office of Cannabis Management has gotten off to a very fast start, and that should provide additional confidence to local officials and law enforcement that this is being done in a thoughtful way," McCarthy said. "You only get one chance to set up a brand new industry."

Because regulations for retail stores have not yet been embraced, state officials said it remains to be determined if there will be price controls over what dispensaries can charge consumers for adult-use marijuana.

The new law prohibits the sale of marijuana to anyone less than 21 years old or who is visibly intoxicated.