

MEMORANDUM

To: Ed Michalenko
From: Matthew Natoli
Date: May 4, 2021
Subject: NYS Marijuana Law Review

I. Basics

- Under the new law, New Yorkers are allowed to possess up to three ounces of cannabis for recreational use, or 24 grams of concentrated cannabis.
- It is legal for New Yorkers who are 21 years of age or older to smoke, ingest or consume cannabis products. Eligible users will also be able to give cannabis products to others who meet the age requirement.
- New Yorkers will be able to store up to five pounds of cannabis, provided they take “reasonable steps” to make sure it is stored securely in their homes.
- Penalties for violations of the new law come about for possessing over the permitted amount of cannabis or for selling the drug without a license.
- People with certain low-level marijuana-related convictions for activity that is no longer criminalized under the new law will have their records automatically expunged.

II. Justification for New Marijuana Laws

- The new law is designed to address the racial imbalance of marijuana arrests that has resulted from prior drug laws. Black people in Manhattan have been arrested for low-level marijuana charges at a rate that is 15 times the rate of arrests of white people on similar charges, despite surveys which have shown that black people and white people use marijuana at similar rates.
- Millions of dollars in tax revenue from marijuana sales will be reinvested each year in communities which have been disproportionately affected by policing on drugs. A significant amount of tax revenue will also be invested in public education and drug prevention treatment. A large portion of business licenses will be reserved for minority business owners, disabled veterans, and distressed farmers, among others.

III. Where Cannabis is Allowed

- Cannabis is not allowed in schools, workplaces, or vehicles.

- Local Governments as well as the State Cannabis Agency can create rules to more strictly regulate use of cannabis in public. Smoking publicly where it is not permitted may subject violators to civil fines or community service.
- Police officers may not use the smell of cannabis as justification for stopping and searching a pedestrian.
- “Consumption sites” or “lounges” will be permitted when regulations are in place. Municipalities can opt out of allowing consumption sites.

IV. Legally Purchasing Cannabis

- Retail licenses will allow dispensaries where eligible users can purchase cannabis products. Municipalities can opt out of allowing dispensaries.
- Consumption at dispensaries is limited to those which have an on-site consumption license.
- New York State will issue licenses for cannabis delivery businesses, allowing people to have cannabis delivered to their homes. Municipalities may NOT opt out of this.

V. Impaired Driving

- It is illegal to drive under the influence of marijuana, and police will still have the ability to pull people over if they believe they are impaired.
- Smell of cannabis can be reason to suspect a driver is under the influence, but a police officer can only search “readily accessible” parts of the car (e.g. they cannot search the trunk).
- There is currently no available way to measure whether an individual is under the influence of marijuana. The NYS Health Department is required under the new law to look at emerging devices that may potentially allow police officers to use a saliva test to determine whether an individual is under the influence of marijuana.

VI. Growing Cannabis at Home

- Recreational users will be able to grow up to six plants at home and a maximum of 12 plants per household. They will not be able to do so until 18 months after the first adult-use dispensary opens.
- Medical marijuana patients, or their designated caregivers, will be able to grow marijuana plants later this year.

VII. Tax Implications

- According to the Association of Towns, a 4 percent tax will be imposed on all legal marijuana sales. 1 percent will remain with the county, and 3 percent will be split among municipalities based on the sales that take place within their jurisdiction.

VIII. Options for the Town of DeWitt

- The Town can pass a local ordinance to opt out of the new law by December 31, 2021.
- “Opting out” means the Town will opt out of allowing adult-use retail dispensaries and on-site consumption sites. The Town will also be opting out of the tax benefits discussed above.