Legalized Adult Use Cannabis: On the Verge of History in New Jersey

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Authored by Brian P. Sharkey

Last week included a breakthrough moment for New Jersey on its potential path to legalization of adult use cannabis, as Governor Phil Murphy, a long-time proponent of legalization, and legislative leaders announced an agreement on the broad outlines of a legalization bill. The legislative leaders were Senate President Steve Sweeney, Assembly Speaker Craig Coughlin, Senator Nicholas Scutari, and Assemblywoman Annette Quijano. It is worth noting that Governor Murphy, along with all of those legislative leaders, are Democrats. This week, the cannabis legislation progressed through the legislative process, and a potentially historic vote on adult use legalization could occur on March 25.

After months of negotiations, on March 12 the Governor and the aforementioned legislative leaders reached an agreement that would subject adult use cannabis to an excise tax of $42 per ounce, which would be imposed when it is cultivated. Furthermore, municipalities that have a cultivator or manufacturer in their jurisdiction will receive the revenue from a 2% tax on the product within their jurisdiction. Municipalities that have a wholesaler in their borders will receive revenue from a 1% tax on the product within their jurisdiction, and municipalities that have a retailer will receive revenue from a 3% tax on the product within their jurisdiction.

The Governor and legislative leaders also announced that a five-member Cannabis Regulatory Commission would govern adult use cannabis in the State. The Commission will be responsible for promulgating all regulations concerning adult use cannabis and will supervise the applications for licensing of adult use dispensaries. In addition, the agreement included an expedited expungement process for individuals convicted of low-level cannabis offenses, as well as several provisions that are intended to ensure the participation of Minority and Women-Owned Business Enterprises, low-and middle-income individuals, and disadvantaged communities in the new cannabis industry.

Commenting on the agreement, Governor Murphy stated that "[l]egalizing adult-use marijuana is a monumental step to reducing disparities in our criminal justice system[.] After months of hard work and thoughtful negotiations, I'm thrilled to announce an agreement with my partners in the Legislature on the broad outlines of adult-use marijuana legislation. I believe that this legislation will establish an industry that brings fairness and economic opportunity to all of our communities, while promoting public safety by ensuring a safe product and allowing law enforcement to focus their resources on serious crimes." Similarly, Senate President Sweeney commented that "[t]his plan will allow for the adult use of cannabis in a responsible way[.]It will create a strictly regulated system that permits adults to purchase limited amounts of marijuana for personal use. It will bring marijuana out of the underground market so that it can be controlled, regulated

and taxed, just as alcohol has been since the end of Prohibition. This plan will also advance important social justice reforms to help reverse the discriminatory impact that drug laws have had on diverse communities." Likewise, Speaker Coughlin observed that "[t]he agreement reached to legalize adult-use cannabis is the result of incredibly hard work by many people over many months[.] Getting to this point wasn't easy. We talked and we negotiated in good faith, but most importantly, we listened. I want to thank Governor Murphy and Senate President Sweeney for their tireless efforts and willingness to compromise so we could put forth the most responsible legislation possible. I believe this new, regulated industry will help boost our economy, but I'm particularly proud of the critical social justice components included in the bill."

In the immediate days following the announcement, some legislators expressed support for the legislation, others remained non-committal, and others declared their opposition. Less than a week after the announcement, the cannabis adult use legislation cleared a major hurdle in the Legislature. On March 18, the Senate Budget and Appropriations Committee approved the legislation by a vote of 7-4-2. The 7 Senators who voted in favor of the bill were all Democrats, as were the two Senators who abstained. The 4 Senators who voted against the legislation were all Republicans. Meanwhile, the Assembly Appropriations Committee approved the legislation by a vote of 6-1-2-2. The six legislators who voted in favor of the legislation were all Democrats, as were the 2 legislators who abstained. The 2 legislators who voted against the bill were Republicans, as were the 2 members who did not vote.

The passage of the legislation by the committees in both the Senate and Assembly received praise from supporters and criticism from opponents. As to the former, Assembly Speaker Coughlin stated that "I'm very encouraged to see the adult-use cannabis bill was approved by the Assembly Appropriations Committee today. We have worked collaboratively on the details with the Governor and the Senate and will continue to work together to secure the votes needed for passage." An example of the reaction from opponents is illustrated by Senator Michael Doherty, a Republican who announced that he would vote against the legislation. In a press release, Senator Doherty commented that "[t]his legislation to legalize recreational marijuana is a deal with the devil[.] … Governor Murphy and Democrats in the Legislature are in a rush to legalize it without answering all of the outstanding questions[.] Many of the supposed benefits to society will be outweighed by the new social ills that will be created. It's clear that legalization is being pursued for short-term political gain, not because it represents good public policy. I simply cannot condemn this proposal shortly enough."

It is expected that a vote on the adult use legislation will likely occur on Monday, March 25, which is the last day of the voting session before the Legislature breaks to work on the State budget. If approved by the Legislature, Governor Murphy, who has included cannabis tax revenue in his budget plan, is expected to sign the bill into law. However, at this time, passage in the Legislature is far from certain. Although the Democrats control both the Senate and the Assembly, this is not a simple partisan vote, as several Democrats have already expressed opposition to the legislation, and, according to press reports, there currently are not enough votes in the Legislature to pass the bill. However, Governor Murphy, legislative leaders, and other supporters will be working strenuously over the next week to convince legislators to approve the historic bill, while opponents will be working equally hard to defeat the measure.