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EMERGING STATES REPORT:
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THE EMPIRE STATE LOOKS GOOD TO LEGALIZE

At the beginning of 2020 the outlook for states considering legalizing adult-use and medical cannabis was exciting. Then in the middle of March business as usual took a back seat to addressing a deadly pandemic. For some states, plans to move forward with legalization attempts were not halted because the work had already been put in and the issue was either decided by legislatures or voters at the ballot box, but for New York the pandemic put a halt on most legislation, including legalizing cannabis for adult use. The NY state budget is, for the third consecutive year, including the proposed legislation for adult-use cannabis. The challenge in previous legalization attempts was the debate over where tax revenue generated from cannabis sales should be allocated, there does not seem to be the same debate this time around. Before diving into the challenges and prospects for an adult-use cannabis market in New York let's take a look at their legalization timeline so far.

New York Legalization Timeline Figure 1

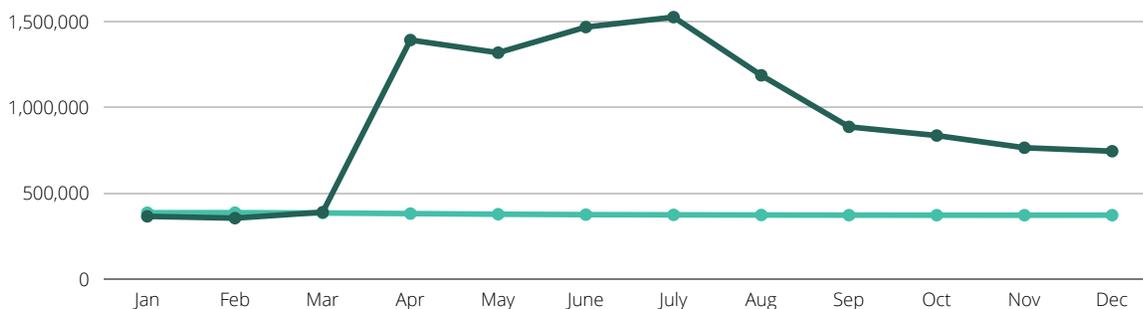


On July 7, 2014 the Compassionate Care Act is signed into law by Governor Andrew M Cuomo. December 31, 2014 a notice of proposed rulemaking is published in the state register, beginning the public comment period. February 17, 2015 the public comment period ends for the proposed regulations. NYSDOH received hundreds of public comments and complete an assessment of the public comments receipt. April 15, 2015 a notice of adoption is published in the state register.

The medical marijuana program regulations provide a framework for practitioner registration, patient certification, patient and caregiver registration, as well as requirements for registering organizations to manufacture, transport and sell medical marijuana within New York State based on the authority of the compassionate care act. April 27, 2015 NYSDOH begins accepting applications for registration as a registered organization from interested entities. June 5, 2015 deadline for NYSDOH read receipt of completed applications for registration as a registered organization from other interested entities. July 31, 2015 five applicants are selected to become registered organizations. October 20, 2015 for our medical use of marijuana course and practitioner registration system are launched, allowing practitioners to begin to register with the program. December 23, 2015 patients certification, patient registration, and caregiver registration system is launched, allowing practitioners registered with the program to begin certifying patients and allowing certified patients and designated caregivers to register and receive registry identification cards. January 7, 2016 registered organization dispensing facilities open across New York State. November 2017 to mark Veterans Day Governor Andrew Cuomo signed a bill to add Post Traumatic Stress Disorder PTSD as a qualifying condition as well as chronic pain to the list of qualifying conditions. In 2019 Governor Andrew Cuomo signed a 08420/S06579 into law which corrected the states decriminalization law and add an automatic Expungement for past convictions. In the same year legalization fell short after lawmakers failed to reach an agreement on how the law should be implemented since the Senate lacked the votes needed to pass the measure it died. In 2020 Governor Andrew Cuomo 's placed cannabis as an issue within the state's budget for the second consecutive year, however due to COVID-19 that budget did not get voted on and so the opportunity for legalization in 2020 did not happen. This brings us to 2021 where for the third consecutive year Governor Andrew Cuomo is including adult use marijuana legalization in his budget proposal to the legislature.

New York had looked good in 2020 to actually realize full adult use legalization. This was however, until COVID-19 struck in late March, early April. Through government shut down and high infection rates, New York's economy was devastated especially in New York City. This devastation hit all of the typical consumer areas that depended heavily upon the status quo of workers having to work in office buildings in the city. The city has lost approximately 60% of its restaurants and it is difficult to determine how hard the entertainment industry has been impacted with the data from gig workers unavailable and unaccounted for in job loss numbers. It is unclear how well the entertainment industry will bounce back once COVID-19 is no longer a threat. The state of New York had a tough year in 2020 thanks to COVID-19. New York has been the hardest state hit by COVID-19, with more than 33,000 deaths and an overall economy that will be slower to recover as office buildings remain empty, tourism is restricted, and a significant percentage of ancillary businesses, including restaurants have permanently closed. This strain on the economy is forcing New York to look at new avenues for tax revenue. Figure 2 illustrates a comparison of unemployment rates for the state of New York from 2019 to 2020. While number of New Yorkers who filed for unemployment in 2019 remained relatively stable, the pandemic dramatically increased the number of unemployment claims reaching a peak in July before declining starting in August. While the unemployment rate seems to be stabilizing as of November-December it is clear that the unemployment rate is still higher than it had been a year before and may take time and the end of the pandemic to drop back to lower levels.

Fig. 2 New York Unemployment Figures 2019 v 2020 (Bureau of Labor Statistics)



It shouldn't be surprising that Governor Cuomo and the state legislature see adult-use cannabis sales as a potential revenue source to aid the economic rebuild for New York since the state is facing a \$15 billion deficit. [1]

[1] <https://www.budget.ny.gov/pubs/archive/fy22/ex/book/briefingbook.pdf>

Current Market Challenges

New Jersey just legalized cannabis for adult use in November through the ballot. It is far more likely that their market will be open before New York gets a chance so New Jersey will have a minor foothold for a short period of time before New York adult use cannabis facilities can be up and running.

Potential Licensing Opportunities and Permits

As with any Request for proposals that estate can issue there a certain information of the state of New York will be asking for shit I don't use licenses be offered. The information they will request may include, but not be limited to: information about the applicants identity which includes racial and ethnic diversity, ownership and investment information which includes the corporate structure, evidence of a good moral character which includes fingerprinting, information about the premises where the licensed operation will be located, financial statements, and anything else they decide to have prescribed within the regulations. The application fee is unclear at this time. Potential owners cannot be under the age of 21 and a licensee may not employ anyone under the age of 18. This clarification, even if it's only for adult use, does answer a question that has come up in other states as to what the minimum age for employment in the cannabis industry, most states require employees to be 21 or older. Apparently from New York it's 18, though it wouldn't be surprising if that age limit is risen up to 21 given that's the legal age for adult use. New York appears to want to limit vertical integration within its adult use market. To accomplish this, it is not allowing cultivators, processors, distributors two on a retail dispensary license along with its cultivation, processor, distributor licenses. The only exception to this would be

a microbusiness licensee which could upon approval from the executive director have the ability to cultivate, process, distribute, and have retail adult use license activities under one single micro business license. It should also be noted that Retailers must own the property where their business will be located. An interesting development with respect to New York's proposed adult-use cannabis legislation is the establishments of permits for aspects of the industry that tend to fall into legal grey areas. These permits cover the following:

- Nursery Permit – to propagate, clone, and cultivate plants for licensed cultivators, registered organizations, caregivers, and patients.
- Solicitor's Permit – to offer for sale or solicit offers for products from a licensed facility
- Broker's Permit – to act as a broker in the purchase and sale of cannabis products and/or medical cannabis for a fee or commission for licensed facilities authorized to produce cannabis products, medical cannabis, or cannabinoid hemp.
- Trucking Permit – allows trucking or transportation of cannabis products and/or medical cannabis by a person other than a registered organization or licensee.
- Warehouse Permit – allows for the storage of cannabis, cannabis products, or medical cannabis at a location that is otherwise not registered or licensed by the state.
- Temporary Retail Cannabis Permit – authorizes the sale of adult-use cannabis to cannabis consumers, for a limited purpose or duration.
- Caterer' Permit – authorizes the service of cannabis products at a function, occasion or event at a hotel, restaurant, club, ballroom, or other premises within approved hours at an approved location or event.
- Packaging Permit – authorizes a licensed cannabis producer to sort, package, label and bundle cannabis products from one or more registered organizations or licensed processors, on the premises of the licensed cannabis distributor or at a warehouse for which a permit has been issued.

What remains unclear at this time is how quickly the required compliance boards and regulations will be put into place to facilitate a privileged license application period if adult-use is passed. However, given the state's need for revenue it seems

unlikely for the state to take too long after passing the long to bring an adult-use cannabis market online.

Potential Tax RevenueThe bill would enact the Cannabis Regulation and Taxation Act which identifies three types of taxes that will be applied to cannabis. First tax is a wholesale THC-based tax and this would be done at various rate according to the potency level or the THC content of different product categories. The bill states that this is “an effort to more accurately capture both the true market value and potential public health risks associated with the final cannabis product”. The wholesale tax with breakdown as follows:

- flower/pre-roll/shake would be taxed at 0.7 cents per milligram of THC;
- concentrates/oil products would be taxed at \$0.01 per milligram of THC; and
- infused products/animal products will be taxed at \$0.04 per milligram of THC

The next tax would be an adult use cannabis sales tax at 10.25% of the final retail sales price. Finally, the third way cannabis will be taxed is by any applicable state or local sales that would normally occur with a retail sale of any product.

Conclusion

Overall, New York is likely to legalize adult-use cannabis in 2021 and be able to compete with New Jersey by 2023 if implementation proceeds at a decent pace. This will provide some much-needed revenue for a state that in its budget briefing declared it was abandoned by the federal government for much of the pandemic so far. It will be interesting to see how well the state can pull itself up by its bootstraps by legalizing adult-use cannabis among other budgetary measures. New York will be a bit of a challenge for multi-state operators who are used to being able to be vertically integrated but will be a boon for cannabis brands that specialize in either cultivation, production, or retail.