

10 Things You Need to Know About the Recreational Cannabis Legalization Bill Recently Introduced to the Minnesota Legislature

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Many years ago, the Beatles released a hit song titled “Got to Get You Into my Life,” a veiled reference to cannabis use. Recently, the Minnesota legislature took a significant step toward bringing adult recreational use cannabis into the lives of Minnesotans. The mammoth bill legalizing adult recreational use was introduced to the Minnesota legislature in January and is currently moving through the House and the Senate. It is a whopper, weighing in at well over 200 pages. Here are ten high points to know about the bill, which is subject to ongoing change as it winds its way toward the Governor’s desk.

1. It is clear that a new state agency will be created to manage and oversee cannabis in Minnesota.

Unsurprisingly, the agency will be called the Office of Cannabis Management (OCM). The OCM will oversee the adult recreational program and take over control and management of the existing medical cannabis program from the Office of Medical Cannabis and Department of Health. The OCM will also take over management and regulation of the lower potency (hemp-based edibles) program from the Board of Pharmacy. The bill requires the Governor to appoint a director of the OCM, and the OCM must establish a Division of Social Equity to perform such duties as administering grants to communities that experienced a disproportionate, negative impact from cannabis prohibition in order to promote economic development.

2. The actual adult recreational use provisions in the bill set the age limit to use, possess or transport cannabis products at 21. Should the bill pass, a Minnesotan could possess up to two ounces of cannabis flower in a public place and up to five pounds of cannabis in their home. Minnesotans are permitted to use cannabis products at home or in their yards, on the premises of an establishment or event licensed to permit onsite consumption, or on private property not accessible to the public. Under the bill, Minnesotans cannot consume cannabis in their motor vehicles, at a location where smoking tobacco is prohibited, or in a public school.

3. The bill would allow Minnesotans to “homegrow” up to eight cannabis plants, of which four or fewer may be mature, flowering plants. Those that opt to homegrow cannabis can give up to two ounces to others over 21,

but the homegrower cannot sell their cannabis.

4. The current bill identifies thirteen different licenses, including licenses for cannabis cultivators (including craft cultivators and bulk cultivators), manufacturers, retailers, wholesalers, transporters, microbusinesses, testing facilities, event organizers, medical (cultivators, processors, and retailers), and lower potency edible retailers. In an interesting twist, the lower potency edible retailers will not be able to obtain any other cannabis license. Such retailers will, however, be able to obtain liquor licenses and sell lower-potency edible products intended to be consumed as beverages for onsite consumption.

5. Be forewarned: if you are thinking of getting into the cannabiz, you should know that vertical integration (growing, processing, manufacturing, and retailing) of cannabis is prohibited under the current version of the bill. In fact, the licensing provisions of the bill expressly state which licenses an applicant can hold and which ones, by virtue of holding certain licenses, an applicant cannot obtain. There is an exception to this prohibition against vertical integration. A cannabis microbusiness is permitted limited vertical integration under the bill.

6. The drafters of the bill also wanted to make sure that local governments did not shut cannabis licensees out of their municipalities. The bill provides that local governments cannot ban cannabis from their cities, nor can they prohibit the possession, transportation or use of cannabis authorized under the bill. On the other hand, local governments can adopt reasonable restrictions on the time, place, and manner of operation of a cannabis business, provided, however, that such restrictions do not prohibit the establishment or operation of a cannabis business. Also, a city or county can operate a cannabis retail operation subject to the bill's licensing requirements. This could create a very similar operation to a municipal liquor store.

7. The bill is aimed at keeping the cannabis operators local – 75 percent of each licensed business must be owned by Minnesotans, and the entity itself must be organized in the State of Minnesota. The process for obtaining a cannabis license is based upon a competitive scoring system that utilizes the following categories: applicant's status as social equity applicant; applicant's status as a veteran applicant; security, record keeping, and employee training plans; business plan and financial situation; diversity plan; labor and employment plan; knowledge and experience; and environmental plan.

8. The drafters created several grant programs to assist organizations in the cannabis business. For example, the CanGrow program awards grants to help farmers navigate and expand into the cannabis industry. Another example is the CanRenew program awards grants to organizations for investments in communities where long-term residents are eligible to be social equity applicants.

9. There is a process for expungement as well. The proposed legislation will cause the creation of a Cannabis Expungement Board, as well as the process for the expungement of records of those convicted of nonfelony cannabis offenses.

10. Finally, there are a host of amendments to existing legislation governing employee testing and discipline. Employers cannot require job applicants to submit to testing for cannabis as a condition of employment.

However, there are exceptions for when such testing is required by other federal or state laws. Under the bill, random testing of employees will not be allowed either.

Whether you fashion yourself to be a Midnight Rider^[i] or the Joker^[ii], or you are simply an interested or concerned Minnesota resident, adult recreational cannabis legislation has arrived in Minnesota. If you are considering entering the cannabis industry, Hinshaw & Culbertson LLP can assist with your legal needs and help you navigate the complicated cannabis legislation and industry. Please note that the bill is still proceeding through committee hearings and is subject to change.

[i] Allman Brothers Band. “Midnight Rider.” Idlewild South, Capricorn, 1970.

[ii] Steve Miller Band. “The Joker.” The Joker, Capitol Records, 1973.

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