CLIENT ALERTS & INSIGHTS

2022 Promises to be a Big Year for Cannabis Laws in Ohio

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If 2021 was the appetizer, expect 2022 to be the main course for cannabis laws in Ohio. Three separate efforts were launched in 2021 to expand upon Ohio's existing medical marijuana program. In July, two Democratic State Representatives introduced a bill (HB 382) to legalize the recreational use of marijuana in Ohio. Among other things, the bill would allow for adult cultivation and possession of marijuana, expungement of criminal records for previous marijuana offenses, and a 10% excise tax on sales. The bill has not advanced.

In December 2021, a similar proposal labeled the Ohio Adult Use Act (House Bill 498) was introduced by two Republican State Representatives to extend Ohio's current medical marijuana program to include non-medicinal adult use, putting in place a responsible, highly regulated framework for the growth, processing, distribution, and sale of marijuana and marijuana products for Ohioans 21 and over. Under the bill, Ohio's successful Medical Marijuana Control Program would be extended to also regulate the non-medical cultivation, processing, sale, and adult-use of cannabis products. It would be renamed the Division of Marijuana Control to reflect its role in running both the medical marijuana and adult-use programs. HB 498 is still waiting to be scheduled for a hearing in the House Finance Committee.

Also in December, The Coalition to Regulate Marijuana Like Alcohol filed more than 200,000 petition signatures with the Ohio Secretary of State in support of an initiated law to expand the legal use of marijuana. Under the proposal, Ohioans 21 and older could buy and use marijuana recreationally, just like alcohol. Limited personal cultivation of the plant would be allowed, and existing licensed medical marijuana cultivators could expand their facilities. Existing licensed cultivators and dispensaries would eventually be issued adult-use dispensary licenses. Sales would be subject to a 10% tax.

Just this week, the Ohio Secretary of State's office ruled that the Coalition fell short of collecting the required signatures. The group now has until January 14 to collect 13,062 additional signatures under the state's "cure" period, the time during which signature campaigns can address deficiencies in the petitions they submitted. If they are successful and the additional signatures are verified, the proposal will go to the General Assembly for consideration. If the General Assembly does not pass the proposal as written, supplemental petitions may be circulated to place the proposal on the November 2022 general election ballot.

In anticipation of the ballot initiative, the Ohio Senate passed SB 261 last month, sponsored by two Republican State Senators, to broaden Ohio's medical marijuana laws. The bill expands conditions for which medical marijuana can be recommended to migraines, autism, opioid use disorder and any

condition that could “reasonably be expected to be relieved” from marijuana. The bill also expands the forms in which medical marijuana can be legally used, though smoking would still be prohibited. The number of medical marijuana dispensaries would also be increased, and licensed cultivators could seek to expand. The bill would increase the percentage of allowable THC content in medical marijuana and would also have the Ohio Department of Commerce regulate all aspects of the medical marijuana program. The bill is now awaiting consideration by the Ohio House.

In addition to legislative action in state capitols across the country, there is also federal debate on the issue. Marijuana is currently a Schedule 1 substance under the Controlled Substances Act, but efforts to de-schedule it are gaining traction.

With so many different proposals pending, it is uncertain exactly how Ohio cannabis law is going to change in 2022. But one thing can be said for sure--the law will change in the new year. Benesch's Government Relations Practice Group and Regulated Industries Group will be monitoring these proposals as they develop.

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