MMA
Recreational/Adult Use
Marijuana Update

November 15, 2017

Garrett Corbin, State & Federal Relations
Recreational, a.k.a. Adult Use, Marijuana

Separate law addresses medical marijuana
Ballot Initiative Timeline

- **Spring 2015** - Signature Gathering Campaigns Initiated by 2 Groups

- **Nov. 2016** - Maine voters support “Question 1” ballot measure 50.26% to 49.74%

**Question 1 Legalized:**

- Personal use, possession and cultivation of marijuana by persons 21 years of age and older, and

- Commercial operation of retail marijuana stores, cultivation, manufacturing and testing facilities, and social clubs for on-premises sale and consumption
Timeline cont’d - Early 2017

- **January** - Legislature passes **LD 88**, an emergency bill which:
  - clarifies that marijuana use is limited to adults 21 and over,
  - sets a personal possession limit of 2.5 ounces, including up to five grams of marijuana concentrate, and
  - delays agency rulemaking deadline until February 2018.

- **February** - **Special Joint Select Committee on Marijuana Legalization Implementation** formed by Senate President and Speaker of the House
Special Joint Select Committee on Marijuana Legalization Implementation ("MLI")

- 17 Members
  - Senate Chair Sen. Roger Katz (Kennebec County)
  - House Chair Rep. Theresa Pierce (Falmouth)

<table>
<thead>
<tr>
<th>Senator</th>
<th>Representative</th>
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<tbody>
<tr>
<td>Mark Dion of Cumberland</td>
<td>Donald Marean of Hollis</td>
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<td>Joyce Maker of Washington</td>
<td>Kent Ackley of Monmouth</td>
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<td>Susan Deschambault of York</td>
<td>Bruce Bickford of Auburn</td>
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<td>Kimberley Rosen of Hancock</td>
<td>Lydia Blume of York</td>
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<td></td>
<td>Patrick Corey of Windham</td>
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<td>Aaron Frey of Bangor</td>
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<td></td>
<td>Lance Harvell of Farmington</td>
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<td>Craig Hickman of Winthrop</td>
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<td>Erik Jorgensen of Portland</td>
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<td>Kimberly Monaghan of Cape Elizabeth</td>
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Enacted MJI Committee Bills -

LD 243 (Public Law 2017, ch. 278)

An Act To Change the Oversight Agency for Recreational Marijuana from the Department of Agriculture, Conservation and Forestry to the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations and To Allocate Funds for Implementation

- Transfers the authority to oversee adult-use marijuana from the Department of Agriculture, Conservation and Forestry to the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services.
  - The Bureau will be responsible for licensing adult-use marijuana businesses and creating and enforcing regulations.
- Allocates $200,000 to the Joint Select Committee on Marijuana Legalization Implementation and $1.4 million to DAFS to implement.
An Act To Allow Municipalities To Establish Ordinances Banning or Restricting Marijuana Caregivers within 500 Feet of a School

- Authorizes a municipality to adopt and enforce an ordinance that establishes a moratorium on the location within 500 feet of the property line of a preexisting public or private school of new facilities or expansion of existing facilities where registered primary caregivers cultivate medical marijuana plants.

- This authority is repealed July 1, 2018 on the premise that comprehensive updates to the Marijuana Legalization Act will have addressed this issue by that time.
LD 1641 (Public Law 2017, ch. 309)

An Act To Amend the Marijuana Legalization Act Regarding Retail Marijuana Testing Facilities

LD 1641 mandates that any licensed retail marijuana facility must submit marijuana products to a licensed testing facility to ensure the product does not contain one or more contaminants, over acceptable levels, that are injurious to health.

- Testing facility license holders must have zero financial interest in any of the other recreational marijuana retail businesses.
- Licensees are required to submit to an inspection of premises, including any places of storage, upon demand and without notice during all business hours (and other times of apparent activity) by the state licensing authority, law enforcement agency or authorized officials from the municipality in which the licensed premises are located.
MLI Committee “Omnibus” Bill

5 types of commercial recreational marijuana “establishment” licenses issued by the state:

- cultivation facilities
- testing facilities
- manufacturing facilities
- retail stores
- social clubs

- Each establishment will need to obtain a separate state license to operate.
- State licenses will be issued on a conditional basis, subject to municipal approval prior to becoming active.
An important aspect of the legislation was the requirement that municipalities approve warrant articles or adopt or amend ordinances authorizing some or all of the five specified types of commercial marijuana establishments within the community’s boundaries.

Absent the adoption of a permissive ordinance or article, establishments could not operate in the municipality.
MLI Committee “Omnibus” Bill
*not finally enacted into law

**Tax**

- **Overall Effective tax rate** of 20 percent divided equally between sales and excise taxes.
- **10 percent Sales Tax** will apply to final sales at retail stores and social clubs.
- **10 percent volume-based Excise Tax** will apply to wholesale cultivation and manufacturing facility sales.
  - $130 per pound for marijuana flowers,
  - $36.29 per pound for marijuana trimmings,
  - $1.50 per immature plant, and
  - 30 cents per seed
Municipal Revenue

The amount of revenue provided to “participating” or authorizing municipalities in the bill was distributed as follows:

- **Cultivation and Manufacturing facilities - 5% of the applicable excise tax revenue generated by establishments in that municipality**
  - Issued directly to the municipality by the facility
- **Retail Stores and Social Clubs - 5% of the applicable sales tax revenue generated by establishments in that municipality**
  - Returned to the municipality once collected by the state
- **1% of the total sales and excise revenue** received by the state to be **split equally** amongst all participating municipalities.
## Multi-State Municipal Revenue Comparison

<table>
<thead>
<tr>
<th>State</th>
<th>Marijuana Excise Tax</th>
<th>Applicable General Statewide Sales Tax</th>
<th>Additional Special Marijuana Sales Tax</th>
<th>Local Option</th>
<th>Proceeds To Municipalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>Flat $50/oz. (flat $15/oz. of seeds and stems)</td>
<td>None</td>
<td>None</td>
<td>Yes, up to 7.5%</td>
<td>No</td>
</tr>
<tr>
<td>California</td>
<td>Flat $9.25/oz. ($2.75/oz. of leaves)</td>
<td>7.5%</td>
<td>15% of retail sale price</td>
<td>Yes, up to 15%</td>
<td>No</td>
</tr>
<tr>
<td>Colorado</td>
<td>15% (average) on wholesale</td>
<td>2.9%</td>
<td>10% of retail sale price</td>
<td>Yes, up to 8%, average 4.6% sales, plus local excise taxes</td>
<td>15% of special tax revenues</td>
</tr>
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<td>Massachusetts</td>
<td>10.75% retail and wholesale</td>
<td>6.25%</td>
<td>3.75%</td>
<td>Yes, up to 3%</td>
<td>No</td>
</tr>
<tr>
<td>Nevada</td>
<td>15% wholesale</td>
<td>6.85%</td>
<td>10% of retail sale price</td>
<td>Yes, up to 3.55%</td>
<td>No</td>
</tr>
<tr>
<td>Oregon</td>
<td>15% on retail and wholesale</td>
<td>None</td>
<td>17%</td>
<td>Yes, up to 3%</td>
<td>No</td>
</tr>
<tr>
<td>Washington</td>
<td>37% on retail</td>
<td>6.5%</td>
<td>8%</td>
<td>Yes, business and occupation tax, up to 0.2%</td>
<td>2.1% of total excise taxes collected, broken down into 30% based on generated sales, and 70% based on population (per capita) to all municipalities and counties which allow sales.</td>
</tr>
<tr>
<td>Maine (LD 1650)</td>
<td>10% on cultivation</td>
<td>Not applicable</td>
<td>10% sales tax at final point of sale in stores and social clubs</td>
<td>No</td>
<td>5% of sales and excise revenue returned to the municipality where the revenue was produced, 1% of total statewide revenues returned in equal shares to all participating municipalities,</td>
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Municipalities may:

- Regulate marijuana establishments pursuant to Home Rule authority;
- Adopt warrant articles or ordinances generally authorizing the operation of some or all types of marijuana establishments;
- Adopt ordinances limiting the total number of any type of municipally-authorized marijuana establishments within its jurisdiction;
- Adopt or amend ordinances providing land use regulations;
- Adopt ordinances providing licensing requirements applicable to marijuana establishments, including reasonable licensing fees;
- Not accept or grant requests for municipal authorization until:
  - The municipality has authorized some or all types of marijuana establishments, and
  - The applicant has obtained all other applicable municipal approvals, permits or licenses required by the municipality, and
  - The state has issued a conditional license to the applicant to operate the marijuana establishment;
- Not grant requests to applications for establishments located within 1,000 feet of the property line of a pre-existing public or private school, unless the municipality chooses to allow the establishment at a distance less than 1,000 feet but more than 500 feet; and
- Request non-confidential information regarding specific establishments obtained by the state in its application process whenever that information is necessary for the administration of the municipality’s authorization process.
Rise and Fall of MLI Omnibus Bill
"LD 1650"

- September 26 – Public Hearing on draft bill
- September 27-28 – MLI Committee Work Sessions on draft bill
  Final Committee Vote 15-1-1
- October 5th – MMA Convention Presentation
- October 12 – MLI Committee Final Language Review
- October 23 – LD 1650 Enacted in Special Legislative Session
  House votes **84-52** - Senate votes 22-9
- November 3 – Governor LePage issues veto
- November 6 – House supports bill by a margin of **74-62**, sustaining veto