

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

## SENATE, No. 21

with committee amendments

# STATE OF NEW JERSEY

DATED: NOVEMBER 19, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 21, with committee amendments.

This bill, as amended, titled the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” primarily concerns the development, regulation, and enforcement of activities associated with the personal use of products that contain useable cannabis or cannabis resin (the terms provided to distinguish the legalized products from unlawful marijuana or hashish) by persons 21 years of age or older. This would be accomplished through the expansion of the scope and duties of the Cannabis Regulatory Commission, created by P.L.2019, c.153 (C.24:6I-5.1 et al.) to oversee the State’s medical cannabis program, which is primarily set forth in the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

### Cannabis Regulatory Commission

With respect to the personal use of cannabis, the general duties, functions, and powers of the commission would include:

(1) Regulating the purchase, sale, cultivation, manufacturing, packaging, transportation, and delivery of cannabis items – a broadly defined term which incorporates usable cannabis (dried leaves and flowers), cannabis products, cannabis extracts, and any other form of cannabis resin;

(2) Granting, refusing, suspending, revoking, cancelling, or otherwise limiting licenses or conditional licenses for the cultivation, manufacturing, warehousing, transportation, sale, and delivery of cannabis items. As further detailed below with respect to licensing activities, a “conditional license” is a type of license that would be issued by the commission pursuant to an abbreviated application process, after which the conditional license holder has a limited period of time in which to become fully licensed by satisfying all of the remaining conditions for full licensure which were not required for the issuance of the conditional license;

(3) Investigating and aiding in the prosecution of violations of law relating to cannabis items;

(4) Taking regulatory actions to prohibit advertising of cannabis items in a manner that is appealing to minors, that promotes excessive use, or that promotes illegal activity; and

(5) Regulating the use of cannabis items for scientific, pharmaceutical, manufacturing, mechanical, industrial, and other purposes.

The commission's Office of Minority, Disabled Veterans, and Women Medical Cannabis Business Development would be re-titled by removing the reference to "medical," and this office would establish and administer, under the direction of the commission, unified practices and procedures for promoting participation in the lawful operation of personal use cannabis businesses by persons from socially and economically disadvantaged communities, including by prospective and existing minority owned and women's owned businesses, as these terms are defined in section 2 of P.L.1986, c.195 (C.52:27H-21.18), and disabled veterans' businesses as defined in section 2 of P.L.2015, c.116 (C.52:32-31.2), which could be licensed as personal use cannabis cultivators, manufacturers, wholesalers, distributors, retailers, delivery services, or testing facilities under the bill. These unified practices and procedures would include a business' certification and subsequent recertification at regular intervals as a minority owned or women's owned business, or a disabled veterans' business, in accordance with eligibility criteria and a certification application process established by the commission in consultation with the office.

The effectiveness of the office's methods would be measured by whether the office's actions resulted in not less than 30 percent of the total number of cannabis licenses issued by the commission being issued to businesses certified by the office; their effectiveness would be further assessed by considering whether the actions resulted in not less than 15 percent of licenses being issued to certified minority owned businesses, and not less than 15 percent of licenses being issued to certified women's owned and disabled veterans' businesses. The office, in support of these efforts, would conduct advertising and promotional campaigns, as well as sponsor seminars and informational programs, directed toward those persons and prospective and existing certified businesses, which would address personal use cannabis business management, marketing, and other practical business matters.

#### Ethical and Conflicts-of-Interest Considerations for the Commission, its Employees, and Other Parties

The members of the five-person commission and all commission employees would be subject to ethical and conflicts-of-interest restrictions concerning the regulation of personal use cannabis, addressing activities engaged in prior to, during, and following service with the commission. For instance, a person generally could not be an appointed member or employee of the commission if, during the period commencing three years prior to appointment or employment,

the person held any direct or indirect interest in, or any employment by, a holder of or applicant for a personal use cannabis license, unless the person's prior interest would not, in the opinion of the commission, interfere with the person's obligations of appointment or employment; and generally, for a period of two years commencing from the date that a member's or employee's service terminates, that former member or employee would not be permitted to hold any direct or indirect interest in, or any employment by, a holder of or applicant for a cannabis license (this two-year post-service restriction would not apply to secretarial or clerical employees).

The bill also expands the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), as well as the scope of the Code of Ethics promulgated by the commission, which applies to all commission members and employees with respect to medical cannabis licensing and other activities, and incorporates similar provisions to address personal use cannabis licensing and other activities. Per the existing law, all members and employees would be prohibited from using any official authority to interfere with or affect the result of an election or nomination for office, coerce or advise any person to contribute anything of value to another person or organization for political purposes, or take active part in any political campaign. For the commission members, the executive director of the commission, and any other employee holding a supervisory or policy-making management position, the law also provides a prohibition on making any political contributions to candidates or campaigns, as that term is defined in "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.).

The "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), is also amended to establish restrictions on various State officers or employees, the Governor and full-time professionals employed in the Governor's Office, full-time members of the Judiciary, and various municipal officers in which licensed personal use cannabis entities are located. These restrictions concern not only their own activities, but the activities of their associated partnerships, firms, or corporations, and their family members in connection with either employment or another interest in, or representation of, current license holders or applicants. The restrictions are similar to the restrictions on these people and businesses under the current law concerning casino and medical cannabis licensees and applicants, and casino-related and medical cannabis activities, and include a general prohibition on employment, representation, appearance for, or negotiation on behalf of, any license holder or applicant in connection with any cause, application, or matter, and these restrictions can carry over into the post-employment or post-service period following the departure of a person from State or local employment or office.

As per existing law, the ethical and conflicts-of-interest restrictions would be enforced by the State Ethics Commission, and any person found to have committed a violation would be subject to a civil penalty of not less than \$500 or more than \$10,000. Additionally, any willful violation of the restrictions similar to the restrictions concerning casino and medical cannabis licensees and applicants that are applicable to the above State or municipal elected, appointed, or employed persons, their associated partnerships, firms, or corporations, and their family members, would be considered a disorderly persons offense, punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

If a license holder or applicant for a license commits a violation involving a commission member or employee with respect to the above described pre-service activities, activities during service, or post-service activities, that license holder or applicant could have their license revoked or suspended, or application denied by the commission.

Licensing of Cannabis Businesses; Updating Certain Medical Cannabis Alternative Treatment Centers' Permitted Operations

The bill would establish six “marketplace” classes of licensed businesses: a Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis; a Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items; a Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees; a Class 4 Cannabis Distributor license, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another; a Class 5 Cannabis Retailer license, for locations at which cannabis items and related supplies are sold to consumers; and a Class 6 Cannabis Delivery license, for business providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to that consumer. The commission would determine the maximum number of licenses for each class based upon market demands, and would be authorized to make requests for new license applications as it deemed necessary to meet those demands.

The commission would be responsible for reviewing each application for a full, annual license, or application for a conditional license, intended to be issued and then subsequently replaced with a full license. Applications would be scored and reviewed based upon a point scale with the commission determining the amount of points, the

point categories, and system of point distribution by regulation, subject to some required criteria for consideration in the point scale, such as an analysis of an applicant's: operating plan; environmental plan; and safety and security plans. This point system could be adjusted, or a separate point system used for any application for which a conditional license is sought, or a microbusiness license is sought, the latter being a smaller business operation further discussed below. Further, in ranking applications, in addition to the awarding of points, the commission would prioritize applications for licensure using several other factors.

One prioritizing factor would be based on "impact zones," which are municipalities negatively impacted by past marijuana enterprises that contributed to higher concentrations of law enforcement activity, unemployment, and poverty, and are identified under the bill as any municipality that: (1) has a population of 120,000 or more according to the most recently compiled federal decennial census as of the bill taking effect; or (2) based on data compiled for calendar year 2019, ranks in the top 40 percent of municipalities in the State for small amount marijuana possession arrests; has a crime index total of 825 or higher in the annual Uniform Crime Report by the Division of State Police; and has an annual average unemployment rate that ranks in the top 15 percent of all municipalities in the State. Concerning applications involving impact zones, the commission would not only prioritize applications for at least two licensed businesses in such zones, but would also prioritize applications: that included a person who is a current resident of an impact zone and had resided therein for three or more consecutive years at the time of making the application (to the extent possible the commission would grant at least 25 percent of the total licenses issued, regardless of license class and location of the business, to such applicants); or that included a plan to employ at least 25 percent of employees who reside in an impact zone.

Other prioritizing factors would be based on applications for licensure which included an in-State resident of at least five years who was a "significantly involved person," being someone who holds at least a five percent investment interest or is a member of a group who holds at least a 20 percent investment interest and would have authority to make controlling decisions about the cannabis business, or an applicant that met one of the following conditions for its labor environment:

- being a party to a collective bargaining agreement with a bona fide labor organization that currently represents, or is actively seeking to represent, cannabis workers in New Jersey;
- being a party to a collective bargaining agreement with a bona fide labor organization that currently represents cannabis workers in another state;
- submitting a signed project labor agreement with a bona fide building trades labor organization, which is a form of pre-hire

collective bargaining agreement covering terms and conditions, including labor issues and worker grievances, associated with a project for the construction or retrofit of facilities for the applicant's proposed operations; or

- submitting a signed project labor agreement with a bona fide labor organization for any other applicable project associated with the applicant's proposed operations.

The above described prioritizations based on in-State residency and labor environment factors would also be implemented with respect to future applications for any medical cannabis permit issued pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act."

When processing applications, the commission would also incorporate the licensing efforts, discussed above, that are developed by the Office of Minority, Disabled Veterans, and Women Cannabis Business Development designed to promote the formulation and participation in the lawful operation of cannabis businesses by persons from socially and economically disadvantaged communities.

In accordance with the bill, at least 35 percent of the total licenses issued for each class would be conditional licenses. Either a full license or conditional license would only be issued for applications which presented an ownership structure that included an in-State resident of at least two years who was a "significantly involved person." Another requirement, applicable only to a conditional license, would be that the significantly involved person and any other person with a financial interest who also has decision making authority for a proposed cannabis business could only have, for the immediately preceding taxable year, an adjusted gross income of no more than \$200,000 or no more than \$400,000 if filing jointly with another. For purposes of calculating the 35 percent figure for conditional licenses, the figure would include any conditional license issued to an applicant that was subsequently replaced with a full, annual license (which process is further detailed below).

Additionally, at least 10 percent of the total licenses issued for each license class, and at least 25 percent of the overall total number of licenses issued would be designated for and only issued to "microbusinesses." A microbusiness is described in the bill as employing no more than 10 employees, and: possessing no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation would not be subject to this limit; operating an establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, growing on an area no more than 2,500 square feet measured on a horizontal plane and growing above that plane not higher than 24 feet; in the case of a cannabis manufacturer, acquiring and processing no more than 1,000 pounds of usable cannabis each month; in the case of a cannabis wholesaler, acquiring for resale no more than 1,000 pounds

of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof, each month; and in the case of a cannabis retailer, acquiring for retail sale no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof, each month. For this microbusiness subset of the six classes of cannabis businesses, 100 percent of the ownership would have to involve New Jersey residents who have resided in the State for at least two years.

The minimum 10 percent per class, and 25 percent overall, of microbusiness-designated licenses issued would include the number of conditional licenses issued for each class, as these two categories are not considered mutually exclusive of one another.

The commission would require that an applicant for licensure, other than an applicant seeking to operate a microbusiness of any class or seeking a conditional license, submit an attestation signed by a bona fide labor organization stating that the applicant entered into a labor peace agreement with such bona fide organization. The maintenance of an agreement would be an ongoing material condition of a full, annual license, unless the business was a microbusiness. Submission of proof of an agreement from an applicant originally issued a conditional license would be a requirement for final approval granting full licensure. As an additional labor requirement, failure to enter, or to make a good faith effort to enter, into a collective bargaining agreement within 200 days of the opening of a cannabis business would result in the suspension or revocation of a license.

Any applicant for a license or conditional license would have to provide proof for each person with any investment interest as being 21 years of age or older, and each of the following persons associated with the cannabis business for which licensure is sought would be subject to a criminal history record background check: any owner, other than an owner who holds less than a five percent investment interest or who is a member of a group that holds less than a 20 percent investment interest, and who has no authority for making controlling business decisions; any director; any officer; and any employee. With respect to qualification or disqualification for licensure based on the background check, the commission would be prohibited from considering any convictions for an offense that occurred prior to the bill's effective date involving the manufacturing, distribution or possession with intent to distribute, less than five pounds of marijuana or less than one pound of hashish, or simple possession of any amount of marijuana or hashish, whether convicted under the laws of this or another state, or under federal law, or any other prior conviction, unless less than five years have passed since convicted, or since completing probation, parole, or a term of imprisonment, and the conviction involved fraud, deceit, embezzlement, employing a minor in a drug distribution scheme, or

some other conviction “substantially related to the qualifications, functions, or duties for which the license is required,” as determined by the commission. Such a conviction would not be an automatic disqualifier, as the commission would still have the authority to issue a license or conditional license to an applicant which included a person with a “substantially related” conviction, after examining the nature of the offense associated with the conviction, the circumstances at the time of committing the offense, and evidence of rehabilitation since conviction.

With respect to the application for a full license, the commission would complete its review for license approval or denial within 90 days of the submission of the application, unless the commission determined that more time is required. If approved, a license would be issued by the commission not later than 30 days after it gave notice of the approval, unless the applicant was subsequently found to not be in compliance with relevant regulations or local regulating ordinances applicable to the applicant’s business operations. An issued license would expire after one year, but could be renewed following submission of a new application, in which the applicant would detail aspects of the cannabis licensee’s operations and on-going compliance measures as part of the renewal process.

With respect to the application for a conditional license, the commission would complete an expedited review for approval or denial within 30 days, unless the commission determined that more time is required. If approved, a conditional license would be issued by the commission not later than 30 days after it gave notice of the approval, unless the applicant was subsequently found to not be in compliance with relevant regulations or local regulating ordinances applicable to conditionally licensed operations. The applicant would not need to be in compliance with every aspect of the regulatory requirements expected for full licensure in order to obtain a conditional license, but would need to provide sufficient plans for actions to be taken to eventually achieve compliance for full licensure. During a 120-day period following issuance of the conditional license, which period could be extended for an additional period of up to 45 days at the discretion of the commission, if it determined that the conditional licensee was in compliance with all plans and other measures necessary to achieve full licensure, it would replace the conditional license with a full, annual license, dated to expire one year from its date of issuance and which could be subsequently renewed; if the conditional licensee was not in compliance as needed for full licensure, the conditional license would automatically expire at the end of the 120-day (or extended) review period.

Additionally, the bill would create a license for cannabis testing facilities, which could test samples of both personal use cannabis and medical cannabis products for compliance with health, safety, and potency standards. The above described licensing efforts developed



by the Office of Minority, Disabled Veterans, and Women Cannabis Business Development designed to promote the formulation and participation in the lawful operation of cannabis businesses by persons from socially and economically disadvantaged communities would apply to the licensing of testing facilities. The bill would also permit laboratories newly licensed to test batches of medical cannabis products pursuant to section 25 of P.L.2019, c.153 (C.24:6I-18) to also test personal use cannabis products. Any existing laboratory licensed only to test batches of medical cannabis products would be authorized to test personal use cannabis products under an existing license, if the laboratory certifies to the commission that its facility, and the condition and calibration of any equipment used for testing, meet the commission's new accreditation requirements for licensure as a personal use cannabis testing facility.

Finally, concerning any alternative treatment center that was issued a permit prior to the effective date of the 2019 medical cannabis reform and expansion by P.L.2019, c.153 (C.24:6I-5.1 et al.), or issued a permit after the effective date of that enactment pursuant to an application submitted based on a request for applications published in the New Jersey Register prior to that effective date, or issued a permit after that effective date pursuant to an application submitted prior to that date, any such center would be permitted to cultivate from up to two physical locations, provided that the alternative treatment center's combined mature cannabis plant grow canopy between both locations not exceed 150,000 square feet of bloom space or the square footage of canopy permitted under the largest tier in the tiered system for grow canopies adopted by the commission pursuant to the bill.

#### Certification of Cannabis Handlers

In addition to the above described licensing requirements, any individual who performed work for or on behalf of any class of licensee (or conditional licensee) would need to have a valid certification issued by the commission, in order to participate in: the possession, securing, or selling of cannabis items at the licensed premises; the recording of the possession, securing, or selling of cannabis items at that premises; or the transportation of cannabis items to and from licensed establishments, or residential delivery of cannabis items and related supplies to a retail consumer. The commission could require that anyone applying for a handler certification successfully complete a one-time course which provides training on checking identification, detecting intoxication, the proper handling of cannabis items, and statutory and regulatory provisions relating to cannabis. A person seeking a certification would also be subject to a criminal history record background check, and subject to the same potential disqualifying standards as applicable to applicants for licenses.

An individual with a valid certification as a personal use cannabis handler would be permitted to also simultaneously have a valid

certification as a medical cannabis handler issued under section 27 of P.L.2019, c.153 (C.24:6I-20) so that the individual could additionally perform work for or on behalf of entities issued medical cannabis permits or licenses.

Transition to Full Legal Market for Cannabis Items

Within 180 days after the bill is signed into law, or within 45 days of all five members of the commission being duly appointed in accordance with the appointment process set forth in paragraph (2) of subsection b. of section 31 of P.L.2019, c.153 (C.24:6I-24), whichever date is later (at present the initial appoint process is not complete), and after consultation with the Attorney General, State Treasurer, Commissioner of Health, and Commissioner of Banking and Insurance, the commission would, upon filing proper notice with the Office of Administrative Law, and notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), immediately adopt rules and regulations it prepared that are necessary and proper to enable it to carry out the commission’s duties, functions, and powers with respect to activities associated with the personal use of cannabis. These initial rules and regulations would be in effect for a period not to exceed one year after the date of filing, and thereafter be adopted, amended, or readopted, and any subsequent rules and regulations adopted, amended, or readopted, in accordance with the “Administrative Procedure Act.”

The commission would begin accepting and processing applications for licenses and conditional licenses within 30 days after the commission’s initial rules and regulations have been adopted. Also, at the time of initial adoption, provisions of the bill concerning the lawful operations of licensed cannabis cultivators, manufacturers, wholesalers, distributors, retailers, and delivery services would become operative to permit those cannabis businesses issued licenses by the commission to commence work in growing, cultivating, manufacturing, packaging, and transporting cannabis and cannabis items for future retail sales, which would not yet be authorized by licensed cannabis retailers.

Also becoming operative at this time would be provisions which would deem the following medical cannabis alternative treatment centers to either concurrently hold a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 5 Cannabis Retailer license (and any of their satellite dispensaries would also be deemed to hold a Class 5 retailer license), and a Class 6 Cannabis Delivery license, or alternatively to hold only a Class 3 Cannabis Wholesaler license:

- any alternative treatment center that was issued a permit prior to the effective date of the 2019 medical cannabis reform and expansion by P.L.2019, c.153 (C.24:6I-5.1 et al.), or any alternative treatment center that was issued a permit subsequent to that act’s

effective date pursuant to an application submitted prior to that effective date;

- the one alternative treatment center, out of four, issued a permit pursuant to an application submitted after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) based on a request for applications published in the New Jersey Register prior to that effective date, that is expressly exempt, pursuant to subsection a. of section 11 of P.L.2019, c.153 (C.24:6I-7.1), from statutory provisions prohibiting the holding of concurrent medical cannabis permits, and this alternative treatment center was deemed pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7) to concurrently hold more than one such permit; and

- the one other alternative treatment center, out of three, issued a permit pursuant to an application submitted on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), that is expressly exempt, pursuant to subsection a. of section 11 of P.L.2019, c.153 (C.24:6I-7.1), from statutory provisions prohibiting the holding of concurrent medical cannabis permits, and this other alternative treatment center was deemed pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7) to concurrently hold more than one such permit.

However, any such alternative treatment center deemed to have cannabis licenses, directly or through a satellite dispensary, could not engage in any preparatory work to incorporate personal use cannabis items into its operations, and thus simultaneously function as personal use cannabis businesses, until it submitted written approval to the commission to operate as one or more classes of a cannabis business, received from the municipality in which the business is to be located based on a determination that it's proposed operations comply with the municipality's restrictions on time, location, manner, and allowable number of cannabis businesses, as established in accordance with the bill and further discussed below. Additionally, the commission would only issue actual licenses of the appropriate class so that new personal use activities could begin following a review of the alternative treatment center's operations to confirm that the alternative treatment center has sufficient quantities of medical cannabis and, if applicable, medical cannabis products available to meet the reasonably anticipated need of registered qualifying patients.

Notwithstanding the date determined by the commission to be the first date on which cannabis retailers issued licenses and conditional licenses begin retail sales of personal use cannabis items, discussed below, an alternate treatment center with a locally approved Class 5 Retailer license that is determined by the commission to have sufficient quantities of medical cannabis products to meet patient needs could begin to engage in the retail sale of cannabis items on any date after the date that the commission adopts its initial rules and

regulations, and these could be legally consumed by persons 21 years of age or older.

Prior to and during this transition phase leading up to eventual retail sales of cannabis items, every municipality would have the option to authorize and regulate the times of operation, place, manner, and number of licensed cannabis businesses operating within its jurisdiction, in a manner consistent with the bill's regulation of such businesses. Alternatively, but only during a 180-day period following the bill's enactment, a municipality could enact an ordinance to prohibit such operations by any one or more classes of business, other than business operations by a cannabis delivery service making deliveries to consumers. Only an ordinance to prohibit operations by one or more license classes enacted pursuant to the specific authority to do so by the bill would be valid and enforceable; any ordinance enacted prior to the bill's effective date addressing the issue of prohibition within the jurisdiction of a municipality would be null and void, and that municipality could only prohibit the operation of one or more classes of cannabis business by enactment of a new ordinance in accordance with the bill's provisions.

The failure of a municipality to timely enact an ordinance prohibiting such operations would result in any class of cannabis business that is not prohibited from operating within the local jurisdiction as being permitted to operate therein for a period of five years as follows: the growing, cultivating, manufacturing, and selling and reselling, and transporting of cannabis and cannabis items by a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, or cannabis distributor would be permitted uses in all industrial zones of the municipality; and the selling of cannabis items to consumers from a retail store by a cannabis retailer would be a conditional use in all commercial zones or retail zones, subject to meeting the conditions set forth in any applicable zoning ordinance or receiving a variance from one or more of those conditions in accordance with the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.). At the end of any five-year period following a failure to enact a local ordinance, the municipality could revisit the issue of prohibition, but any ordinance would be prospective only and not apply to any cannabis business already operating within the local jurisdiction subject to the ordinance.

If a municipality allowed the operation of cannabis businesses, a copy of each license application submitted to the commission for a business to be located within that local jurisdiction would be provided to the municipality, which in turn would inform the commission whether the application complies with its local regulatory scheme, and the local review could be the basis for a denial of an application if it is not in compliance.

Lastly, during the transition phrase when applications are being processed and licensed cannabis businesses starting operations or medical alternative treatment centers starting preparatory work or

actually incorporating personal use cannabis items into their operations, the commission would determine the first date on which cannabis retailers issued licenses and conditional licenses may begin retail sales of personal use cannabis items. This date would be no more than 180 days after the adoption of the commission's initial rules and regulations, and the commission would provide at least 30 days' notice of the date to every licensed cannabis establishment and alternative treatment center deemed to be a licensed cannabis establishment, even if that center was already engaging in retail sales. On that date and thereafter, legal retail sales and consumption of personal use cannabis items sold by all licensed cannabis retailers would begin.

Once retail sales by licensed cannabis retailers have begun, there would be a limitation, for a period of 24 months, on the number and classes of licenses any one licensee could hold. During this time, the bill would not permit a licensed cultivator, manufacturer, wholesaler, distributor, or delivery service to also be a licensed retailer, and vice versa, plus a cultivator or manufacturer could only concurrently hold two licenses (either another cultivator or manufacturer license), and a wholesaler would be limited to just the one wholesaler license; these restrictions would not apply to a medical alternative treatment center deemed to concurrently possess one of each type of cannabis license class as described above.

Following the 24-month period, a license holder could hold:

- a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 5 Cannabis Retailer license, and a Class 6 Delivery license concurrently, provided that no license holder would be authorized to concurrently hold more than one license of each class, except for an alternative treatment center that was deemed, during the 24-month period, to have an additional Class 5 Cannabis Retailer license for each satellite dispensary as described above; or
- a Class 3 Cannabis Wholesaler license; in no case could a holder of a Class 3 Cannabis Wholesaler license concurrently hold a license of any other class.

Concerning the above described alternative treatment centers deemed from the onset to hold cannabis licenses and actually issued licenses based upon local approval, after a period no greater than one year from the date that retail sales by licensed cannabis retailers have begun, all such centers, in order to continue their operations concerning personal use cannabis, would be required to submit to the commission a certification, prior to the date that a cannabis license was set to expire, as to the continued material accuracy of their previously approved medical permit application in accordance with the "Jake Honig Compassionate Use Medical Cannabis Act," and their compliance with the provisions of this bill as required by the commission. The certification would also need to be supported by a

new written approval from the municipality in which it operates in order for the commission to renew a license for continued personal use business activities.

#### Cannabis Consumption Areas

A licensed cannabis retailer, medical cannabis dispensary or clinical registrant properly permitted, or an alternative treatment center that has a permit to dispense medical cannabis pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” may apply to the commission seeking an endorsement to operate a cannabis consumption area at which the on-premises consumption of personal use or medical cannabis could occur. Along with the commission’s endorsement, the municipality in which the consumption area would operate would also review the application and have to provide a local endorsement.

An endorsed cannabis retailer could only allow the consumption of personal use cannabis at its consumption area. Any other endorsed party involved in the medical cannabis marketplace could only allow the consumption of medical cannabis at its consumption area, unless it was also deemed during the transition period to the legal cannabis market (see above) to have one or more Class 5 Cannabis Retailer licenses and was actually issued such a license or licenses, or had otherwise been issued such a license by the commission, in which case both personal use and medical cannabis could be consumed.

An on-premises consumption area could either be indoors or outdoors. An indoor consumption area would be a structurally enclosed area within a cannabis retailer, medical cannabis dispensary, clinical registrant facility, or alternative treatment center that is separated by solid walls or windows from the area in which retail sales of cannabis, or retail sales along with the dispensing of medical cannabis occurs, would only be accessible through an interior door after first entering the facility, and, in the case of a personal use consumption area, would need to comply with all ventilation requirements applicable to cigar lounges under the “New Jersey Smoke-Free Air Act,” P.L.2005, c.383 (C.26:3D-55 et seq.); the smoking of medical cannabis would not be permitted in an indoor consumption area. An outdoor consumption area would be an exterior structure on the same premises as the cannabis retailer, medical cannabis dispensary, clinical registrant facility, or alternative treatment center, that is either separate from or connected to the facility and that is not required to be completely enclosed, but would need to have enough walls, fences, or other barriers to prevent any view of persons consuming personal use cannabis items or medical cannabis from any sidewalk or other pedestrian or non-motorist right-of-way; and with respect to any consumption by smoking, vaping, or aerosolizing at an outdoor area, the facility would need to ensure that any such activity does not result in migration, seepage, or recirculation of smoke or other exhaled material to any indoor public place or workplace.

### Business Treatment of Cannabis Licensees

Concerning the business treatment of any licensee:

A financial institution, as defined by section 2 of P.L.1983, c.466 (C.17:16K-2), would not be permitted to engage in any discriminatory activities with respect to the banking activities of a cannabis business, or the banking activities of a person associated with a cannabis business. Any such activities could result in the suspension or revocation of a financial institution's charter or other available enforcement action by the Commissioner of Banking and Insurance. Additionally,

(1) A cannabis cultivator would be prohibited from operating or being located on any land that is valued, assessed, or taxed as an agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.);

(2) A person or entity issued any class of license to operate a cannabis business would not be eligible for a State or local economic incentive during the period of time that the economic incentive is in effect;

(3) The issuance of a license to operate as any class of cannabis business to a person or entity that has been awarded a State or local economic incentive would invalidate the right of the person or entity to benefit from the economic incentive as of the date of issuance of the license;

(4) A property owner, developer, or operator of a project to be used, in whole or in part, as a cannabis business would not be eligible for a State or local economic incentive during the period of time that the economic incentive is in effect; and

(5) The issuance of a license to operate as any class of cannabis business at a location that is the subject of a State or local economic incentive would invalidate the right of a property owner, developer, or operator to benefit from the economic incentive as of the date of issuance of the license.

### New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund

All license fees and licensee penalties would be deposited into a new fund, referred to as the "Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Fund." This fund would also receive deposits from the tax revenues collected on medical cannabis transactions pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et al.), as well as tax revenues on personal use cannabis retail sales, which tax is mandated by paragraph 13 of Section VII of Article IV of the New Jersey Constitution legalizing and permitting the State's regulation of cannabis. Monies in this fund would be appropriated by the Legislature annually as follows:

- at least 70 percent would be appropriated for investments, including through grants, loans, reimbursements of expenses, and

other financial assistance, in municipalities described above that would be designated as an “impact zone,” as well as provide direct financial assistance to qualifying persons residing therein; and

• the remainder of the monies in the fund would be appropriated to include: paying for the operational costs of the commission; reimbursing expenses incurred by any county or municipality, or by the Division of State Police, for the training costs associated with the attendance and participation of a police officer or trooper in a Drug Recognition Expert program for detecting, identifying, and apprehending drug-impaired motor vehicle operators; and further investments in “impact zone” municipalities.

Any of the monies appropriated for “impact zone” municipalities that come from the initial dedication of at least 70 percent of monies in the fund would be offset by any revenue constitutionally dedicated to “impact zone” municipalities, should such a constitutional amendment be passed by the public.

#### Optional Social Equity Excise Fee on Cultivation Activities

The bill would establish an optional Social Equity Excise Fee that could be imposed by the commission on personal use cultivation activities by licensed cannabis cultivators, including those alternative treatment centers deemed to be, and actually issued, cultivation licenses; medical cannabis cultivation activities would not be subject to the excise fee. If imposed, the fee would apply to cultivator sales or transfers of usable cannabis to other cannabis businesses, other than another cultivator, and would initially be 1/3 of 1 percent of the Statewide average retail price of an ounce of usable cannabis for consumer purchase. Beginning nine months following the first sale or transfer of usable cannabis subject to the excise fee by a cultivator that is not also an alternative treatment center, the fee could be adjusted by the commission annually as follows:

- up to \$10 per ounce, if the average retail price of an ounce of usable cannabis is \$350 or more;
- up to \$30 per ounce, if the average retail price of an ounce of usable cannabis is less than \$350 but at least \$250;
- up to \$40 per ounce, if the average retail price of an ounce of usable cannabis is less than \$250 but at least \$200; and
- up to \$60 per ounce, if the average retail price of an ounce of usable cannabis is less than \$200.

Any revenues generated by the excise fee would be deposited in the aforementioned “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund,” and specifically designated for annual appropriations by the Legislature, separately from the other monies appropriated as described above, following the commission’s consultation with the Governor and Legislature. These appropriations would invest, through grants, loans, reimbursements of expenses, and other financial assistance in for-profit and non-profit organizations,



public entities, as well as direct financial assistance to individuals, in order to create, expand, or promote educational and economic opportunities and activities, and the health and well-being of both communities and individuals. If the excise fee was not imposed or adjusted as previously described, then appropriations would be made from the General Fund for such purposes in an amount equal to the revenues that would have been collected had it been imposed or adjusted.

#### Optional Municipal-Level Taxation

The bill would also permit any municipality to adopt an ordinance that authorized a local transfer tax. This transfer tax could be imposed on sales that occur within the municipality: between a cannabis business that holds a cultivator, manufacturer, wholesaler, or retail cannabis license and another such licensed cannabis business; between cannabis retailers and customers; or any combination thereof. This local tax could not be imposed on transfers involving distributors for purposes of the bulk transportation of cannabis items, or delivery services for purposes of delivering cannabis items to consumers. The municipality would have discretion to set the rate or rates of the transfer tax, but a rate could not exceed: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer. This tax, if imposed, would be applied in the form of an equivalent user tax on non-sale transactions between cannabis businesses operated by the same license holder. The local transfer tax or user tax would be collected by cannabis businesses and forwarded to the chief financial officer of the municipality for use by that municipality.

#### Legalized and Prohibited Activities Concerning Personal Use Cannabis Items

Once the provisions for the lawful personal use of cannabis items become operative and retail sales of cannabis items have begun, the following acts would not be an offense under the “New Jersey Code of Criminal Justice,” Title 2C of the New Jersey Statutes, for a person 21 years of age or older:

(1) Possessing, purchasing, or transporting: cannabis paraphernalia; one ounce or less of usable cannabis; the equivalent of one ounce or less of usable cannabis as a cannabis product in solid, liquid, or concentrate form, based upon an equivalency calculation for different product forms set by the commission in its regulations; or five grams or less of cannabis resin;

(2) Transferring any cannabis item in any amount described above to another person 21 years of age or older, so long as the transfer is for non-promotional, non-business purposes; and

(3) Taking delivery of or consuming any lawfully acquired cannabis item, provided that nothing in the bill is intended to permit a

person to smoke, vape, aerosolize a cannabis item in a public place, other than a designated consumption area as detailed above.

A person possessing, purchasing, transporting, or transferring to another at any one time any cannabis item in an amount greater than as permitted would generally be considered a violation of the “Comprehensive Drug Reform Act of 1987,” P.L.1987, c.106 (N.J.S.2C:35-1 et al.), and would subject the person to a prosecution as if the person possessed, purchased, transported, or transferred illegal marijuana or hashish in violation of that act.

With respect to consumption, the smoking, vaping, or aerosolizing of a cannabis item would be prohibited in any place pursuant to law that prohibits the smoking of tobacco, including the “New Jersey Smoke-Free Air Act,” P.L.2005, c.383 (C.26:3D-55 et seq.), as well as any “indoor public place” as defined in that act (even if such a place is otherwise permitted to allow the smoking of tobacco), except that smoking, vaping, or aerosolizing would be permitted in a designated consumption area or in up to 20 percent of the guest rooms of a hotel, motel, or other lodging establishment as permitted by the person or entity that owns or controls that establishment. The smoking, vaping, or aerosolizing of cannabis items could also be prohibited or otherwise regulated in private multifamily housing, as decided by the person or entity that owns or controls the housing, in the structure or specific units within the structure of a cooperative by the corporation of other legal entity that owns the structure, and in the units of a condominium, if approved by its association and a majority of all of the unit owners. Any fines or civil penalties that could be assessed for the smoking of tobacco where prohibited under the “New Jersey Smoke-Free Air Act” would be applicable to the smoking, vaping, or aerosolizing of cannabis where prohibited under this bill, other than smoking, vaping, or aerosolizing on elementary or secondary school property, which would be classified as a disorderly persons offense (punishable by imprisonment for up to six months, a fine of up to \$1,000, or both).

As to consumption other than by smoking, vaping, or aerosolizing: a person or entity that owns or controls a property, except for multifamily housing, the structure or specific units of the structure of a cooperative, a unit of a condominium, or a site in a mobile home park on which a manufactured home is located, could prohibit or otherwise regulate consumption on or in that property; and a municipality would be empowered to enact an ordinance making it unlawful for any person 21 years of age or older to consume any cannabis item in a public place, other than school property (which would be punishable as a disorderly persons offense), and the ordinance could provide for a civil penalty of up to \$200 per violation. The bill would also prohibit consumption in any area of any building of, on the grounds of, or in any facility owned, leased, or controlled by, any public or private institution of higher education or a related entity thereof, regardless of whether the area or facility is an indoor place or outdoors, and the

penalty provisions of the “New Jersey Smoke-Free Air Act” would be applicable for a violation.

Mere possession of a cannabis item (in addition to consuming such item) on elementary or secondary school property by a person of legal age to purchase such item would be a disorderly persons offense, as is the case currently with respect to the unauthorized possession of alcohol on such property (punishable by imprisonment for up to six months, a fine of up to \$1,000, or both). Additionally, similar to the statutory law’s treatment of the possession of an “open container” of alcohol, or consumption of alcohol, while operating a motor vehicle, the bill would amend relevant laws in Title 39 of the Revised Statutes to make it a motor vehicle offense for the motor vehicle operator to possess an “open container” or “open package” of a cannabis item. A first offense would be subject to a fine of \$200, and a subsequent offense would be subject to a fine of \$250 or alternatively imposition of a period of community service, the same penalties applied to violations involving an alcoholic beverage. Passengers in motor vehicles would be permitted to possess and consume cannabis items, other than such items intended for smoking, vaping, or aerosolizing.

Regarding the possession or consumption of a cannabis item by a person under the legal age to purchase cannabis, the bill expands the current laws addressing underage possession or consumption of alcoholic beverages to include cannabis items, however consistent with P.L.2019, c.363 (C.52:17B-171.14 et al.), which broadly eliminated the imposition of fines against juvenile delinquents, and P.L.2020, c.50, which accelerated the implementation of this new policy, a fine associated with a violation would not apply to a delinquent offender (under 18 years of age):

- for possession, in a public place, of an amount that may be lawfully possessed by a person of legal age to purchase cannabis items, a first offense would be a petty disorderly persons offense, subject to a fine of not less than \$250;

- for possession, on private property, of an amount that may be lawfully possessed by a person of legal age to purchase cannabis items, a first offense would be a civil penalty of \$100, and a second offense would be a civil penalty of \$200; a third or subsequent offense would be a municipal fine of \$350, which is the same as a subsequent offense for possession of an alcoholic beverage on private property; for possession, on private property, of an amount of cannabis items that exceeds what may be lawfully possessed, or consumption on private property, a first offense would be a municipal fine of \$250, and a second or subsequent offense would be a municipal fine of \$350 (the same penalties as applicable to possession or consumption of an alcoholic beverage).

Finally, it would also be unlawful, generally punishable as a \$50 civil penalty, for an underage person to present a false identification in order to enter a cannabis establishment or obtain cannabis items; this

would differ than using a false identification with respect to alcoholic beverages, which is expressly noted in State law as not constituting an offense and therefore carries with it no statutory punishment.

Consumer and Employee Protections, and Employer Workplace Policies

Individuals (and licensed cannabis businesses) would not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business, occupational, or professional licensing board or bureau, solely for engaging in conduct with respect to personal use cannabis activities as permitted under the bill. Additionally, the presence of cannabinoid metabolites in the bodily fluids of a person engaged in such permitted conduct:

- with respect to a student, tenant, or employee, other than as discussed below concerning employer actions and policies, could not form the basis for refusal to enroll or employ or lease to or otherwise penalize that person, unless failing to do so would put the school, employer, or landlord in violation of a federal contract or cause it to lose federal funding;
- with respect to a patient, could not constitute the use of an illicit substance resulting in denial of medical care, including organ transplant, and a patient's use of cannabis items may only be considered with respect to evidence-based clinical criteria; and
- with respect to a parent or legal guardian of a child or newborn infant, or a pregnant woman, could not form the sole or primary basis for any action or proceeding by the Division of Child Protection and Permanency, or any successor agencies; provided, however, that nothing would preclude any action or proceeding by the division based on harm or risk of harm to a child or the use of information on the presence of cannabinoid metabolites in the bodily fluids of any person in any action or proceeding.

An employer would not be permitted to refuse to hire or employ a person, or discharge or take any adverse action against an employee because that person or employee does or does not use cannabis items; however, an employer could require an employee to undergo a drug test upon any suspicion of an employee's usage of a cannabis item while engaged in the performance of the employee's work responsibilities, or upon finding any observable signs of intoxication related to usage of a cannabis item, or following a work-related accident subject to investigation by the employer, as well as conduct a random drug test, and the employer could utilize the results of that drug test when determining the appropriate employment action concerning the employee. Additionally, nothing in the bill would require an employer to amend, repeal, or otherwise affect an employer's policy and efforts to maintain a drug- and alcohol-free workplace, or require an employer to permit or accommodate any personal use cannabis activities in the workplace.

The bill, to better ensure the above described protections for prospective employees and employees, as well as simultaneously support the authority of employers to require employee drug tests, the commission, in consultation with the Police Training Commission, would prescribe standards, minimum curriculum courses of study, and the approval of private programs, organizations, and schools and their instructors to offer courses of study, for full- or part-time employees, or other contracted persons, to become certified as Workplace Impairment Recognition Experts. These certified persons would be trained to detect and identify an employee's use of cannabis items or other intoxicating substances, and assist in the investigation of workplace accidents.

#### Law Enforcement Drug Recognition Experts

The bill would also codify and expand elements of the existing law enforcement certification process for police officers and others to become a Drug Recognition Expert in order to detect, identify, and apprehend drug-impaired motor vehicle operators. The new standards and course curricula would be offered by schools approved by the Police Training Commission, and the training commission would consult with the Cannabis Regulatory Commission with respect to aspects of the course curricula that focus on impairment from the use of cannabis items or marijuana. Any police officer certified and recognized by the Police Training Commission as a Drug Recognition Expert prior to the effective date of the bill would continue to be recognized as certified until that certification has expired or was no longer considered valid as determined by that commission, or the certification was replaced with a new certification in accordance with the new standards and course curricula for certification set forth in the bill.

#### De-scheduling Marijuana as a Schedule I Controlled Dangerous Substance

On and after the effective date of the bill, marijuana would no longer be included as a Schedule I controlled dangerous substance, which are substances considered to have a high potential for abuse and no accepted medical use, as described in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.). The bill also expressly states that marijuana may not be designated or rescheduled and included in any other schedule by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to the director's designation and rescheduling authority set forth in section 3 of P.L.1970, c.226 (C.24:21-3).

#### No Forfeiture or Postponement of Driving Privileges for Certain Marijuana and Hashish Offenses

As part of a court sentence or adjudication of delinquency imposed after the bill's effective date, a person would not be subject to a forfeiture or postponement of the person's driving privileges based on

a conviction or finding of delinquency for any of the following offenses:

- unlawful distribution of, or possessing or having under control with intent to distribute, less than five pounds of marijuana, or less than one pound of hashish, in violation of paragraph (11) or (12) of subsection b. of N.J.S.2C:35-5, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1), for distributing, or possessing or having under control with intent to distribute, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building;
- obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of any amount of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., subsection b., or subsection c. of N.J.S.2C:35-10; or
- a violation involving any of the aforementioned offenses and using or possessing with intent to use drug paraphernalia with that marijuana or hashish in violation of N.J.S.2C:36-2.

#### Reporting Requirements by the Commission

Lastly, the commission would annually report to the Governor and Legislature regarding the commission's regulation and enforcement activities associated with the personal use of cannabis pursuant to the bill (and the medical use of cannabis pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act"). The annual report would include information on: the number of criminal arrests or charges for small amount marijuana or hashish possession or distribution, cataloged by the jurisdictions in which the acts resulting in the citations, arrests, or charges occurred, and the race, ethnicity, gender, and age of the persons cited, arrested, or charged; the number of motor vehicle stops by law enforcement, cataloged in the same manner; the total number of personal use cannabis licenses issued since the distribution of the previous report to the Governor and Legislature, as well as the number for each class of license issued; the total number and type of applicants that submitted applications for licenses and whether they were approved, reapproved, or denied, plus data compiled by the Office of Minority, Disabled Veterans, and Women Cannabis Business Development about participation in the lawful operation of cannabis businesses by persons from socially and economically disadvantaged communities, as well as minority owned, disabled veterans' owned, and women's owned business development in the personal use cannabis marketplace.

The committee amendments to the bill:

- re-title "cannabis growers" as "cannabis cultivators," as well as "cannabis processors" as "cannabis manufacturers," to better reflect the licensed activities of cultivating and producing cannabis, and

manufacturing of cannabis products and resins undertaken by each license class, respectively, and to more closely match the corresponding medical cultivator and manufacturer permit classes set forth in the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et seq.);

- modify the definition of “produce” and include a new definition of “manufacture” to replace “process,” as well as update references throughout the bill, to more precisely differentiate between the growing, cultivation, and harvesting of cannabis by cannabis cultivators and the operations of cannabis manufacturers in creating cannabis products and resins;

- add a definition and include appropriate references throughout the bill for “usable cannabis,” which is the dried leaves and flowers of the female cannabis plant, and may be sold or transferred to other licensed cannabis businesses and converted into cannabis products or resins; this would also be used to determine the lawful amount which could be possessed under the bill in its dried form or equivalent as a cannabis product in solid, liquid, or concentrate form;

- update the definition and references throughout the bill concerning a “cannabis delivery service,” to clarify that such service would be licensed to make deliveries of cannabis items and related supplies based on consumer orders fulfilled by cannabis retailers, and includes the ability of a consumer to make a purchase directly through the delivery service, which after being presented to the retailer for fulfillment, is then delivered to the consumer by the delivery service;

- revise the definition and references throughout the bill regarding a “cannabis retailer,” to correspond to the above described change to the licensed activities of a cannabis delivery service so that a retailer would accept consumer purchases for fulfillment that are presented by a cannabis delivery service;

- clarify the types of alternative treatment centers that have already been issued permits pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act” that would be permitted to cultivate cannabis from up to two physical locations, as described in the statement above;

- update the application process, for both medical permits and personal use licenses, to give priority to applicants that are parties to collective bargaining agreements with bona fide labor organizations, or with signed project labor agreements with bona fide labor organizations for projects to be associated with applicants following their licensure;

- create more flexibility for the application process by better clarifying those provisions which are applicable to applicants for every license class and those which would only be relevant to certain classes and therefore need not be addressed by all applicants;

- establish authority for the commission to establish a separate point system for reviewing and ranking applicants for a microbusiness license, just as it may do for an applicant for a conditional license;

- modify the application scoring system to be used by the commission to rank applications for licenses by eliminating as a criteria for additional points that an applicant can demonstrate having a school of medicine or osteopathic medicine involved in its governance structure;

- modify the criteria to determine which municipalities would be designated as “impact zones” for purposes of prioritizing the licensing of cannabis businesses in such municipalities or the licensing of their residents to operate cannabis businesses, so that the relevant criteria would be based upon data for calendar year 2019;

- increase the timeframe, from within seven days of receipt to within 14 days of receipt, for when the commission is required to forward a copy of an application to the municipality in which the applicant intends to operate a cannabis business so that it may conduct its local review for approval;

- require that applications for license renewal be filed with the commission no later than 90 days prior to the expiration of an existing license;

- provide that at the time of license renewal, a cannabis cultivator’s grow canopy may increase or decrease under the tiered system for grow canopies adopted by the commission as authorized under the bill;

- expressly permit an individual who has a valid certification as a personal use cannabis handler to also simultaneously have a valid certification as a medical cannabis handler to order to work for or on behalf of entities issued medical cannabis permits as well as entities licensed for personal use cannabis activities;

- alter the process by which the commission would issue a cannabis business license to any medical cannabis alternative treatment center in order for it to engage in personal use cannabis activities after being deemed for license approval under the bill, by requiring the commission first review whether the alternative treatment center has sufficient quantities of medical cannabis supplies to meet the reasonably anticipated needs of patients before a license is issued; this approval process would no longer be triggered by any municipal approval of an alternative treatment center’s quantities of supplies, as required under the bill as introduced;

- expand the timeframe of the initial marketplace transition, from 18 months to 24 months, during which certain licensing restrictions are in place with respect to the types of business licenses that can be concurrently held;

- eliminate the cap on cultivation licenses that may be issued during the 24-month transition period, which was set 28 licenses in the bill as introduced;

- devise a formula for appropriating monies in the “Cannabis Regulatory, Enforcement Assistance, and Marketplace Fund,” other than monies based on the Social Equity Excise Fee, so that at least 70 percent of those monies were appropriated for investments in “impact



zone” municipalities, and the remaining monies for funding cannabis regulatory operations, paying training costs for law enforcement Drug Recognition Experts, and further investments in “impact zone” municipalities;

- provide for an offset of monies to be appropriated based upon at least 70 percent of available monies in the fund going to investments in “impact zone” municipalities, should a constitutional amendment be approved that would dedicate revenues to such municipalities;

- provide the commission with the optional authority to impose a Social Equity Excise Fee on the cultivation of cannabis by any cannabis cultivator based on that cultivator’s sale or transfer of usable cannabis to another cannabis business, other than another cultivator;

- establish a process for the commission to make recommendations to the Governor and Legislature for making social equity appropriations to support educational and economic opportunities, and the health of both communities and individuals, based upon any amount of revenues collected for the equity fee to be appropriated, or, to make appropriations from the General Fund of an equivalent amount that would have been collected if the commission has not imposed the fee, or adjusted the fee amount, as described in the statement above;

- expand the acceptable forms of government identification which may be used to enter a cannabis business, and in particular purchase cannabis items at a cannabis retailer, to include other country’s passports or government-issued documentation for international travel, as well as driver’s licenses or other identification cards issued by territories or possessions of the United States, or the District of Columbia;

- include housing cooperatives among the types of multi-dwelling properties at which the smoking, vaping, or aerosolizing of cannabis items may be prohibited or regulated, but not the consumption of cannabis items by other means;

- clarify the balance between a general protection for a person to not have an employer refuse to hire or employ, or take any adverse employment action against the person, because the person does or does not use cannabis items, with an employer’s authority to require an employee undergo a drug test “upon any suspicion of an employee’s usage of a cannabis item while engaged in the performance of the employee’s work responsibilities, or upon finding any observable signs of intoxication related to usage of a cannabis item, or following a work-related accident subject to investigation by the employer,” or undergo a random drug test, which the employer may utilize the results of when determining appropriate employment action concerning the employee;

- require the commission to create standards and a certification process for a Workplace Impairment Recognition Expert, to be issued to full- or part-time employees, or other contracted persons to perform

work on behalf of an employer, which demonstrates education and training in detecting and identifying an employee's usage of, or impairment from, a cannabis item or other intoxicating substance, or for assisting in workplace accident investigations;

- codify and expand elements of the existing law enforcement certification process for police officers and others to become a Drug Recognition Expert in order to detect, identify, and apprehend drug-impaired motor vehicle operators, which would additionally involve the Police Training Commission consulting with the Cannabis Regulatory Commission on any aspects of the new certification criteria that focused on impairment from the use of cannabis items or marijuana; existing certified experts would be grandfathered and still be recognized as such under the bill following enactment; and

- eliminate the imposition of fines against any juvenile delinquent offender (under 18 years of age) who violates any provisions of the bill establishing offenses for underage possession or consumption of cannabis items punishable by fine, to be consistent with P.L.2019, c.363 (C.52:17B-171.14 et al.), which broadly eliminated the imposition of fines against juvenile delinquents, and P.L.2020, c.50, which accelerated the implementation of this new policy.

#### FISCAL IMPACT:

The Office of Legislative Services anticipates that the bill will grow annual State revenues and expenditures. Municipal and county governments, in turn, will experience annual revenue expansions and reductions as well as annual expenditure increases. This analysis does not consider the fiscal effects of the constitutional amendment that voters approved in November 2020 that legalized personal use cannabis generally and addressed the taxation thereof.

State Government Effects: Annual State revenues will rise by an indeterminate amount on account of: 1) application, license, certification and criminal background check fees to be paid by persons seeking to participate in the regulated personal use cannabis marketplace; and 2) penalties and fines to be paid for violations of the numerous regulatory and other provisions of the bill. If the Cannabis Regulatory Commission were to impose the optional Social Equity Excise Fee, the State would receive additional indeterminate annual revenue.

An indeterminate increase in annual State expenditures will result from the regulation and oversight of the personal use cannabis marketplace, the enforcement of the regulations, the reimbursement of municipal and county expenditures for police officers to participate in drug recognition training, and the granting of financial assistance to municipalities defined as an "impact zone" in the bill and their qualifying residents.

Local Government Effects: Annual revenues of municipal and county governments will increase by indeterminate amounts from: 1)

municipal application and license fees to be paid by persons seeking to operate regulated personal use cannabis establishments within the jurisdiction of a municipality that elects to regulate and license the establishments; 2) fines to be paid for violations of municipal license requirements and regulations; and 3) State reimbursements paid to municipal and county governments for expenses they incur in providing drug recognition training to their police officers.

The revenue gain will be reduced by an indeterminate loss of annual municipal fine revenue as the bill downgrades the underage possession and consumption of alcoholic beverages from a disorderly persons offense to a petty disorderly persons offense. Municipal courts try both offenses and the municipality in which a case is tried receives any penalty or fine that its municipal court imposes on a defendant.

An indeterminate increase in annual municipal and county government expenditures will result from the optional regulation and oversight of personal use cannabis businesses by municipalities, the enforcement of the municipal regulations and State law pertaining to personal use cannabis, and the provision of drug recognition training to police officers.