Summer 2022: A Brief Cannabis Legalization Update

What To Know:

- The efforts to legalize cannabis have gained traction in some states and run into serious roadblocks in others.
- Nineteen states allow adults to possess and use cannabis for non-medical uses (adult use).
- Thirty-seven states allow for medical cannabis use through state run programs.
- Three senators finally introduced the long-anticipated federal bill, the Cannabis Administration and Opportunity Act.

Thirty-eight states have either decriminalized cannabis or enacted laws authorizing its use for medical or recreational adult use.[1] The most recent state to pass legislation is Rhode Island, which authorized an adult use program. Six other states
will introduce legislation this fall to try to create an adult use program.[2]

Meanwhile, 14 states tried to pass an adult use cannabis bill only to have their efforts fail to succeed. The state of Delaware came the closest, with its legislature passing a bill, which was vetoed by the governor. The state of Maryland was unable to get adult use cannabis passed through its legislature, so voters are proposing a ballot referendum, which we believe is very likely to pass. Six other states are considering or have already introduced ballot referendums.

A comprehensive article on the state of play for passage of legislation in the States was recently published in the Politico and is linked here and worth reviewing as well.

On July 21, 2022, Senate Majority Leader Chuck Schumer (D-NY), Senate Finance Committee Chairman Ron Wyden (D-OR), and Senator Cory Booker (D-NJ) introduced comprehensive federal cannabis reform legislation. The Cannabis Administration and Opportunity Act addresses many issues raised by cannabis industry participants, advocates, elected officials, and other stakeholders over the past decade. While the bill includes thoughtful and comprehensive reform proposals, it is very unlikely to get the votes needed to pass this year in Congress.

Some advocates are still pushing to pass the SAFE Banking Act, allowing banks insured by the FDIC to serve cannabis businesses without fear of violating federal law. Reform advocates also hope that a package of marijuana policy issues can be approved this fall that combines marijuana research, federal criminal record expungement, and the SAFE Banking Act. The likelihood of any action depends on the results of the midterm elections in November.

Finally, we are tracking a proposed amendment jointly introduced by Reps. Barbara Lee (D-CA) and Dave Joyce (R-OH), co-chairs of the Congressional Cannabis Caucus, to the long-standing Congressional Spending Bill rider. Currently, and for the past several years, the rider has prohibited the Department of Justice from spending federal funds to prosecute activity in compliance with state medical cannabis laws. If passed, the proposed amendment to the Fiscal Year 2023 federal spending legislation would also extend the current prohibition to activity in compliance with adult use cannabis laws. As of this alert’s publication date, the amendment had received approval from the House Appropriations Committee and is expected to receive a vote from the House in mid-September.

FOOTNOTES

