

The Green Wave: Cannabis Legalization

Arizona Kicks Off Adult-Use Cannabis Sales in Record Time

Jennifer Fisher, Brett Schuman, Jacob Raver, Hadley Holmes

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Last Friday, on January 22 — less than three months after voters approved Proposition 207 legalizing recreational marijuana — the Arizona Department of Health Services (“ADHS”) opened the state to recreational cannabis sales. By midday, many of the state’s 123 operating medical marijuana dispensaries received approval from ADHS to begin sales to individuals who are at least 21 years old. By the end of the day, the ADHS released a [list](#) of 86 marijuana establishments licensed to sell cannabis to any adult over 21. Most of the licenses went to existing medical dispensaries that were able to start sales right away. This is by far the most expeditious turnaround from voter approval to actual sales of any of the fifteen states that have legalized adult-use cannabis thus far.

The quick turnaround is especially remarkable when compared to the progress (or lack thereof) of the three other states — New Jersey, Montana and South Dakota — that legalized adult-use cannabis last November. All three states have been facing marked obstacles to the rollout of adult-use sales.

In New Jersey, the governor was expected to sign implementing legislation before the start of the new year. Instead, legislation remains indefinitely stalled because the governor and legislature can't agree whether civil or criminal penalties should exist for minors (and adults under 21) who possess or use marijuana. In Montana, the voter-approved ballot measure set January 1, 2022 as the deadline for the state's Department of Revenue to begin accepting adult-use marijuana license applications — with a pivot to approved sales expected in late 2022. But earlier this month, Montana lawmakers refused the Department of Revenue's request for \$1.35 million in funding to start the adult-use program. Without this funding, it is questionable whether Montana will meet the voter-established deadline. In turn, South Dakota's adult-use cannabis legalization is facing a determined lawsuit from the Superintendent of the South Dakota Highway Patrol and a county sheriff. In a twist, Governor Noem issued an executive order this month stating that she instructed the police officers to file the lawsuit on her behalf. Whether the lawsuit has any real potential to overturn the election results remains to be seen.

In stark contrast, by mid-December 2020, ADHS had already drafted initial rules and regulations for the adult-use program, covering, among other things, licensing structure and fees, license approval timelines, product labeling and public

safety protocols. These regulations, which became effective January 15, 2021, create a relatively simple and consolidated adult-use licensing structure. Unlike the regulatory regimes of many other states, an adult-use license in Arizona authorizes the holder to cultivate, manufacture and sell cannabis to customers.

However, under Arizona's new regulations, the number of adult-use licenses currently available is severely limited and is generally tied to the number of existing medical dispensaries per county. For example, in counties where there are currently no medical marijuana dispensaries, the ADHS will issue two adult-use licenses. The ADHS will issue only one adult-use license for counties with a single dispensary and no adult-use licenses for counties with at least two medical dispensaries. Priority was also given to nonprofit medical cannabis dispensaries that are registered and in good standing with ADHS. Notwithstanding these county limitations, ADHS will issue 26 additional licenses under a social equity ownership program — as required under the Act — but the regulatory details have yet to be worked out.

As for adult-use delivery licenses, applicants will have to wait. Under the Act, ADHS cannot promulgate any regulations permitting recreational marijuana delivery until January 1, 2023.

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