

MARIJUANA LEGALIZATION

Key Considerations for Marijuana Legalization, 2020

RECOMMENDATIONS

Licensed tiers for marijuana cultivation ► The General Assembly may wish to consider including a requirement in any legislation authorizing commercial marijuana sales that the marijuana regulatory body develop different tiers of cultivation licenses and set maximum size limits for each tier based on cultivation square footage or number of plants under cultivation. (Recommendation 12)

Cultivation license awards and requirements ► The General Assembly may wish to consider including a requirement in any legislation authorizing commercial marijuana sales that the marijuana regulatory body (i) award medium and large cultivator licenses through a lottery, (ii) set stringent qualification standards for applicants for medium and large cultivation licenses, and (iii) require license awardees to meet facility and operations compliance standards before cultivation can begin. (Recommendation 14)

Processor and distributor license regulations ► The General Assembly may wish to consider including a requirement in any legislation authorizing commercial marijuana sales that the marijuana regulatory body develop tiers or other categories of processor and distributor licenses that allow specialization and minimize the need for applicants or licensees to meet regulatory standards that do not apply to the specific products they are processing or distributing. (Recommendation 15)

Limiting medical marijuana licenses ► If the General Assembly authorizes commercial marijuana sales, it may wish to consider authorizing the issuance of no more than five new medical marijuana licenses in the three to five years following commercial legalization. (Recommendation 25)

Staffing cost and proposal for new regulatory agency ► If the General Assembly creates a new board and agency to regulate commercial marijuana, it may wish to consider directing the agency to develop and submit a detailed staffing and cost proposal after it is created to the governor and the General Assembly. (Recommendation 42)

POLICY OPTIONS TO CONSIDER

Staff typically propose policy options rather than make recommendations when (i) the action is a policy judgment best made by elected officials—especially the General Assembly, (ii) evidence suggests action could potentially be beneficial, or (iii) a report finding could be addressed in multiple ways.

Workgroup to develop marijuana law enforcement training ► If marijuana is legalized in Virginia, the General Assembly could direct the Department of Criminal Justice Services to convene a workgroup to develop a model marijuana law enforcement officer policy and training curriculum. The workgroup should include commonwealth’s attorneys, public defenders, and state and local law enforcement officers. (OPTION 1)

Expungement of previous marijuana offenses ► If marijuana is legalized in Virginia, the General Assembly could direct the Virginia State Police to establish and coordinate an automatic expungement process for criminal records of past marijuana offenses that are no longer illegal. (OPTION 6)

Exempting small cultivators from production caps ► If the General Assembly authorizes commercial marijuana sales, it could direct the marijuana regulatory body to exempt the smallest tier of cultivators from production caps to increase opportunities for small businesses and address social equity. The regulator could also have the authority to temporarily suspend new license awards if it appears that the market is becoming oversupplied. (OPTION 8)

Less stringent qualifications for small cultivators ► If the General Assembly authorizes commercial marijuana sales, it could direct the marijuana regulatory body to set less stringent qualification standards for small cultivation applicants than for large and medium cultivation applicants and make license awards to all small cultivators who are qualified candidates to increase opportunities for small businesses and address social equity. (OPTION 9)

Social equity: hiring ► If the General Assembly authorizes commercial marijuana sales, it could address social equity by directing the marijuana regulatory agency to (i) use community outreach efforts to connect marijuana businesses with prospective employees and (ii) request or require businesses applying for marijuana licenses to develop and submit social equity hiring plans. (OPTION 19)

Social equity: businesses selling to marijuana businesses ► If the General Assembly authorizes commercial marijuana sales, it could address social equity by directing the marijuana regulatory agency to apply elements of social equity programs to businesses that sell goods or services to marijuana businesses. (OPTION 20)

Higher tax rates for potent and easier-to-consume products ► If the General Assembly authorizes commercial marijuana sales, it could assess a marijuana sales tax consisting of progressively higher rates for more potent and easier-to-consume products to discourage overconsumption. (OPTION 27)