



Ursillo, Teitz & Ritch, Ltd.

Counsellors At Law

2 Williams Street
(at South Main Street)
Providence, Rhode Island 02903-2918

Michael A. Ursillo *
Andrew M. Teitz, AICP *†
Scott A. Ritch *†

Troy L. Costa †
Amy H. Goins *†
Peter F. Skwirz *†
Admitted in RI*, MA†

Tel (401) 331-2222
Fax (401) 751-5257
mikeursillo@utrlaw.com

MEMORANDUM

TO: The Honorable Bristol Town Council
Hon. Steven Contente, Town Administrator

FROM: Michael A. Ursillo, Town Solicitor

DATE: March 25, 2022

SUBJECT: Proposed legislation legalizing recreational marijuana

TOWN CLERK'S OFFICE
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On March 1, 2022, bills were introduced in the General Assembly (H7593 and S2430) that would legalize recreational marijuana (also known as cannabis) in the State of Rhode Island. The proposed legislation would create a state licensing system for licensing the cultivation and sale of recreational cannabis, similar to the system in place for licensing medical cannabis. While the proposed legislation is extensive, there are three areas of concern to municipalities that are highlighted in this memorandum.

First, the bill currently proposes to enact RIGL 21-28.11-13(a)(3), which provides for a "local cannabis excise tax equal to three percent (3%) of each retail sale." The excise tax would be collected by the state tax administrator along with a state excise tax in the amount of 10% of the sale. The local excise tax funds, pursuant to proposed RIGL 21-28.11-13(c), "shall be distributed at least quarterly and credited and paid by the state treasurer to the city or town where the cannabis is delivered." Aside from this local excise tax, municipalities are prohibited by proposed RIGL 21-28.11-14 from collecting any "fee, tax charge or expense" from recreational cannabis licensees, other than a "fee, tax, charge or expense generally assessed or collected from residents or businesses located in the municipality."

Second, the bill proposes RIGL 21-28.11-15(a), which allows a local municipal council to pass a resolution putting a question on the ballot for the November 8, 2022, election. The ballot question would read as follows: "Shall cannabis licenses for businesses involved in the cultivation, manufacture, laboratory testing and for the retail sale of adult recreational use cannabis be issued in the city (or town)?" If the local council adopts a resolution placing this question on the ballot, the state would be prohibited from issuing any recreational cannabis licenses in the municipality until the matter was voted on at the November 8, 2022 election. If a majority of electors at the 11/8/22 election voted to not have recreational cannabis, then state could not issue any license for

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the sale of recreational cannabis in the municipality and the municipality would not receive any share of the local excise tax.

Finally, the bill proposes RIGL 21-28.11-16, which provides that, even if recreational cannabis is allowed in the municipality, the municipality may still enact ordinances that “impose reasonable safeguards on the operation of cannabis establishments, provided they are not unreasonable and impracticable” or in conflict with state law or regulation. These measures could include local zoning regulations that “[g]overn the time, place and manner of cannabis establishment operations and of any business dealing in cannabis accessories.” The municipality may also “[r]estrict the licensed cultivation, processing and manufacturing of cannabis that is a public nuisance.” Further, the municipality may “[e]stablish reasonable restrictions on public signs related to cannabis establishments.”

It is likely that some version of this bill will be enacted at this legislative session. The Town has until early August to send its proposed ballot questions to the Secretary of State to be printed on the 11/8/22 ballot. Accordingly, the Council will likely have to act fairly quickly in deciding whether to place the recreational cannabis question on the ballot once some form of this legislation is enacted by the General Assembly. Depending on whether the question is placed on the ballot and, if so, whether local voters approve or reject recreational cannabis sales, the Council would need to begin to consider what zoning and other reasonable safeguards should be enacted on a local level.