

Cannabis Next Steps: Minnesota's Transformative Legislation

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Jen Randolph Reise
Head of Business and Cannabis Law
jen@northstarlaw.com
651-330-9678
NorthStarLaw.com
[Linkedin.com/in/jenreise/](https://www.linkedin.com/in/jenreise/)



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Agenda

Welcome

The Adult Use Market

2024 Cannabis Law Changes

Continuing Issues

Q&A

Adult-Use
Licensing
Medical Cannabis
Criminal Law
Hemp-derived
THC Beverages &
Edibles

Expungements
City Zoning &
Policies
Employment &
Testing

Minnesota was the 23rd state to legalize adult-use marijuana (in 2023)

- ▶ Adult-use (21+), possession, and home growth of marijuana legal August 1, 2023
- ▶ Legalized sales of marijuana, subject to licensing (expected 2025)
- ▶ Minnesota's legal cannabis market is predicted to reach \$1.5 billion in annual sales by 2029, serving over 700,000 consumers annually.




Cannabis Business Licensing

In Process

- Goal was craft industry; no vertical integration except for small businesses
- Limited license state
- Originally, 16 license types
- Municipalities can limit but not ban
- New Office of Cannabis Management (OCM) to promulgate rules and publish applications



2024 Legislation: Licensing Changes

- ▶ Qualified Lottery with Caps, rather than full Merit-Based
- ▶ Pre-approval Round for Social Equity Applicants
- ▶ Accelerated timing:
 - ▶ June 24-July 10: Social equity verification process 
 - ▶ July 24 - August 12: Social equity license preapproval application window
 - ▶ Fall 2024: Lottery is run
- ▶ Non-social equity round expected March (?) 2025
- ▶ Dispensaries could open, at the soonest, July 2025

Social Equity Applicants:

- Previous MJ convictions / impact;
- Veterans; or
- Lives in disadvantaged area.

Entity qualifies if owned 65% or more by social equity applicants

2024 Legislation: Misc. Licensing Changes

- ▶ True party in interest (TPII) rules
- ▶ Munis are not subject to lottery or count against caps
- ▶ Consolidated medical licenses into other license types as endorsements

2024 Medical Cannabis Program Changes

Qualifying Conditions

- Doctors may recommend cannabis for the treatment of any condition for which they think it may be helpful, rather than a closed list of qualifying conditions

Caregiver Grow

- Patients may delegate their home grow plant count to a registered designated caregiver

2024 Legislation: Criminal Law Changes

- ▶ A police officer's perception of the odor of cannabis cannot serve as the sole basis to search a vehicle, codifying the Minnesota Supreme Court's ruling in *State v. Torgerson* that the odor of cannabis, alone, does not justify the search of a vehicle.

Marijuana is a Schedule III controlled substance by state code; still Schedule I under federal law.

Hemp-Derived THC Products

- ▶ HF100 added tax, licensing, & testing requirements
 - ▶ Thereafter, licensing (to come) by OCM
- ▶ 2024 Legislative Changes:
 - ▶ THC on tap
 - ▶ Fixes for serving size issues
 - ▶ No 5-hour rule between serving alcohol and THC – instead, don't serve an “obviously intoxicated” person.



Expungements: A Two-Part Approach

Misdemeanor Cannabis Charges

- ▶ Bureau of Criminal Apprehension (BCA) identifies eligible records and brings them to the court for expungement
- ▶ Court must dismiss the charges and expunge records within 60 days of receiving them from the BCA
- ▶ May 2024: BCA announces it had expunged 57,780 low-level marijuana-related convictions

Felony Cannabis Charges

- ▶ BCA brings eligible offenses to newly created Cannabis Expungement Board (CEB) for review
- ▶ Nonviolent felony offenses or felony cannabis-related activities now associated with a lesser charge given new legislation are eligible for expungement
- ▶ CEB hopes to begin reviewing cases before end of 2024

City Zoning and Policies

Municipal Zoning Requirements

- St. Paul has released zoning map; MPLS and Brainerd have released discussion drafts
- Uncertainty for entrepreneurs attempting to select real estate for their business

HF100 Retail Requirements

- Local governments must allow at least one retail location per every 12,500 residents (may allow more)
- Many moratorium discussions by cities and counties

Cannabis in Public Places

- Allowed on private property (homes, backyards); restaurants/patios with owner OK
- +Public consumption, but limited by ordinance and private property rights
- Note: Minnesota Clean Air Act generally prohibits smoking indoors except in a private residence
- Common compromise: to allow smoking of cannabis where smoking of cigarettes is allowed

Employment & Testing

Protections for Employees

- ▶ MN generally prohibits employers from doing pre-employment testing for cannabis as a condition of employment (except in specified cases: “safety-sensitive positions” being the biggest one)
- ▶ Employers may need to update policies to clearly prohibit cannabis use at work
- ▶ My recommendation: judge by functional impairment

Protections for Medical Patients

- ▶ Further protections against termination for a positive test
- ▶ Medical patients may need access to cannabis to be effective workers (e.g., to prevent seizures)

Q & A

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