

SENATE, No. 3623

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED FEBRUARY 23, 2023

Sponsored by:
Senator MICHAEL L. TESTA, JR.
District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Removes five year prohibition on municipalities promulgating ordinances or regulations related to cannabis industry.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning municipal cannabis ordinances and regulations
2 and amending P.L.2021, c.16.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 31 of P.L.2021, c.16 (C.24:6I-45) is amended to read
8 as follows:

9 31. Municipal Regulations or Ordinances.

10 a. A municipality may enact ordinances or regulations, not in
11 conflict with the provisions of P.L.2021, c.16 (C.24:6I-31 et al.):

12 (1) governing the number of cannabis establishments,
13 distributors, or delivery services, as well as the location, manner,
14 and times of operation of establishments and distributors, but the
15 time of operation of delivery services shall be subject only to
16 regulation by the commission; and

17 (2) establishing civil penalties for violation of an ordinance or
18 regulation governing the number of cannabis establishments,
19 distributors, or delivery services that may operate in such
20 municipality, or their location, manner, or the times of operations.

21 b. A municipality may prohibit the operation of any one or
22 more classes of cannabis establishment, or cannabis distributors or
23 cannabis delivery services, but not the delivery of cannabis items
24 and related supplies by a delivery service, within the jurisdiction of
25 the municipality through the enactment of an ordinance, and this
26 prohibiting ordinance shall apply throughout the municipality, even
27 if that municipality or parts thereof fall within any district, area, or
28 other geographical jurisdiction for which land use planning, site
29 planning, zoning requirements or other development authority is
30 exercised by an independent State authority, commission,
31 instrumentality, or agency pursuant to the enabling legislation that
32 governs its duties, functions, and powers, even if this development
33 authority is expressly stated or interpreted to be exclusive
34 thereunder; the local prohibiting ordinance applies, notwithstanding
35 the provisions of any independent State authority law to the
36 contrary. Only an ordinance to prohibit one or more classes of
37 cannabis establishment, or cannabis distributors or cannabis
38 delivery services enacted pursuant to the specific authority to do so
39 by this section shall be valid and enforceable; any ordinance
40 enacted by a municipality prior to the effective date of this section
41 addressing the issue of prohibiting one or more types of cannabis-
42 related activities within the jurisdiction of the municipality is null
43 and void, and that entity may only prohibit the operation of one or
44 more classes of cannabis establishment, or cannabis distributors or
45 cannabis delivery services by enactment of a new ordinance based

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 upon the specific authority to do so by this section. The failure of a
2 municipality to enact an ordinance prohibiting the operation of one
3 or more classes of cannabis establishment, or cannabis distributors
4 or cannabis delivery services within 180 days after the effective
5 date of P.L.2021, c.16 (C.24:6I-31 et al.), shall result in any class of
6 cannabis establishment, or a cannabis distributor or cannabis
7 delivery service that is not prohibited from operating within the
8 municipality as being permitted to operate therein as follows: the
9 growing, cultivating, manufacturing, and selling and reselling of
10 cannabis and cannabis items, and operations to transport in bulk
11 cannabis items by a cannabis cultivator, cannabis manufacturer,
12 cannabis wholesaler, or as a cannabis distributor or cannabis
13 delivery service shall be permitted uses in all industrial zones of the
14 municipality; and the selling of cannabis items to consumers from a
15 retail store by a cannabis retailer shall be a conditional use in all
16 commercial zones or retail zones, subject to meeting the conditions
17 set forth in any applicable zoning ordinance or receiving a variance
18 from one or more of those conditions in accordance with the
19 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
20 **【At】 Beginning immediately on the effective date of P.L. , c.**
21 **(pending before the Legislature as this bill), any municipality that**
22 **was originally required to wait, pursuant to P.L.2021, c.16 (C.24:6I-**
23 **35 et al.), until the end of a five-year period following the initial**
24 **failure of a municipality to enact an ordinance prohibiting the**
25 **operation of one or more classes of cannabis establishment【,】 or**
26 **cannabis distributors or cannabis delivery services, 【and every five-**
27 **year period thereafter following a failure to enact a prohibiting**
28 **ordinance, the municipality】 shall 【again】 be permitted,**
29 **notwithstanding that original five-year period,** to prohibit the future
30 operation of any one or more classes of cannabis establishment, or
31 cannabis distributors or cannabis delivery services through the
32 enactment of an ordinance **【during a new 180-day period】**, but this
33 ordinance shall be prospective only and not apply to any cannabis
34 establishment, distributor or delivery service **【operating】** already
35 licensed to operate in the municipality prior to the enactment of the
36 ordinance.
37 c. (1) When the commission receives an application for initial
38 licensing or renewal of an existing license for any cannabis
39 establishment, distributor, or delivery service pursuant to section 19
40 of P.L.2021, c.16 (C.24:6I-36), or endorsement for a cannabis
41 consumption area pursuant to section 28 of P.L.2019, c.153
42 (C.24:6I-21), the commission shall provide, within 14 days, a copy
43 of the application to the municipality in which the establishment,
44 distributor, delivery service, or consumption area is to be located,
45 unless the municipality has prohibited the operation of the
46 particular class of business for which licensure is sought pursuant to
47 subsection b. of this section, or in the case of an application seeking

1 a consumption area endorsement, prohibited the operation of
2 cannabis retailers. The municipality shall determine whether the
3 application complies with its local restrictions on the number of
4 cannabis establishments, distributors, or delivery services, or their
5 location, manner, or times of operation, and the municipality shall
6 inform the commission whether the application complies with its
7 local restrictions.

8 (2) A municipality may impose a separate local licensing or
9 endorsement requirement as a part of its restrictions on the number
10 of cannabis establishments, distributors, or delivery services, or
11 their location, manner, or times of operation. A municipality may
12 decline to impose any local licensing or endorsement requirements,
13 but a local jurisdiction shall notify the commission that it either
14 approves or denies each application forwarded to it.
15 (cf: P.L.2021, c.16, s.31)

16
17 2. This act shall take effect immediately.
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20 STATEMENT

21
22 This bill removes the five-year prohibition placed on
23 municipalities to promulgate ordinances and regulations barring
24 certain cannabis industry operations in the municipality.

25 Under current law, if a municipality did not enact an ordinance
26 prohibiting the operation of any one or more classes of cannabis
27 establishment, cannabis distributors, or cannabis delivery services
28 within 180 days of the enactment of the New Jersey Cannabis
29 Regulatory, Enforcement Assistance, and Marketplace
30 Modernization Act (CREAMM Act), the municipality is barred
31 from promulgating rules or regulations prohibiting these operations
32 or establishments for a period of five years, and every five year
33 period thereafter following a failure to enact a prohibiting
34 ordinance.

35 The bill removes the five-year prohibition for which a
36 municipality may enact ordinances or regulations related to the
37 operation of any one or more classes of cannabis establishment, or
38 cannabis distributors or cannabis delivery services.

39 Under the bill, any cannabis establishment, distributor, or
40 delivery service already licensed to operate in the municipality
41 during the original five-year prohibition are not subject to any
42 ordinances or regulations promulgated after the passage of the bill
43 and any new ordinance would be prospective only.