Adult-Use Cannabis in 2023

An Overview from the Office of Cannabis Management (OCM)
Enforcement Activities
OCM Enforcement Actions

• MRTA gives OCM enforcement power over licensed businesses.

• OCM works with local authorities to address issues related to unlicensed cannabis businesses.

• Efforts include identifying unlicensed operators, seizing illicit cannabis, fines, and store closures.
Illicit Sales

Commercial Store Fronts

- OCM’s Enforcement Division has been conducting investigations (locations, owners, products sold etc.) on all illicit cannabis operations since January of 2022.

- The Enforcement Division routinely confers with local DA’s and law enforcement across the state about strategies in cannabis enforcement.

- OCM investigators work on multi-agency task forces to shut down illicit store fronts.

- The Enforcement Division continues to staff up and engage in enforcement actions across the state:
  - visiting illicit stores,
  - issuing cease and desist letters to stores conducting themselves contrary to existing law,
  - assisting local law enforcement in their investigations involving illicit stores.
Mobile / Food Trucks

- No “food truck” or other commercial vehicle sales of adult-use cannabis are legal in NYS.
- OCM’s Enforcement team has been working with local governments to sanction these mobile food trucks.
- Law enforcement violations which will allow them to be removed from the streets: parking tickets/DOH food service violations/expired out-of-state vehicle registrations, improper registrations etc. are being used to shut down operations.
- As an example, assisting NYC Sheriff in impounding 16 illicit truck dispensaries in New York City.
Enforcement

Information about activities that may be in violation of the Cannabis Law can be sent to OCM via email or through our web site.

Suspected violations or complaints emails can be sent to complaints@ocm.ny.gov.

Online referrals may be made here: https://cannabis.ny.gov/report-an-incident

Whenever possible please include the following information when submitting a complaint:

- Name of business
- Time of alleged illicit activity
- Location of alleged illicit activity
- Pictures of alleged illicit activity
- Indicate if there has been previous police contact (i.e., 911 calls)
- Proximity to sensitive use locations (e.g., school, house of worship)
- Contact information of the person reporting the alleged illicit activity (for any follow up questions investigators may have)
Proposed Cannabis Enforcement Bill
Overview – Proposed Amendments

This proposal will strengthen ongoing enforcement efforts to curtail unlicensed activity

- Establishes specific civil and criminal penalties for conducting activities for which a license is required.
- Clarifies and expands OCM’s authority to seize illicit product.
- Establishes summary procedures for OCM and other governmental entities to shut down unlicensed businesses.
- Creates a framework for more effective cross-agency enforcement efforts.
Proposed Amendments—Emergency Relief

- Authorizes the OCM to seek an order of closure from a court to **shut down unlicensed businesses selling cannabis products** on an expedited basis.

- Establishes procedures, modeled after NYC’s Nuisance Law, for obtaining the orders of closure.

- Authorizes other NYS enforcement agencies (district attorneys, county attorneys, corporation counsels, or local governments) the authority to seek this emergency relief following notice to and in cooperation with OCM.

- Clarifies that unlicensed establishments, which make/sell cannabis products, are subject to the stated penalty, which will increase each day the unlicensed activity continues.
Overview of the MRTA

Public Health Overview

✓ Adult-use only (21+) retail market-place

✓ Gives the Cannabis Control Board authority to establish rules for product quality assurance for production and manufacturing and robust laboratory testing requirements

✓ Packaging and labeling can’t appeal to youth

✓ Requires warning labels on all cannabis and cannabis product packages

✓ Any broadcast, cable, radio, print and digital advertisements can only be placed where the audience is expected to be 21 or older. Cannabis advertisement on billboards are banned

✓ No unsolicited internet pop-ups, promoting overconsumption

✓ State lab to conduct quality assurance checks on third-party labs

✓ June 1, 2022, the Cannabis Control Board issued the Packaging and Labeling Proposed Regulations
Child Safety

FAQs on:
- What Parents, Mentors, and Trusted Adults Need to Know About Cannabis
- How to Read a Cannabis Label Fact Sheet

Messaging on:
- Keeping Cannabis Locked, out of sight and Out of Reach
- Keep Cannabis Products in the Original Packaging
- Keep it Separate
Advertising & Signage

• Retail Locations
  – External Signage:
    • Limited to 2 signs, No images, logos or symbols

• Delivery Locations
  – No external signs
  – Website must include age gate and comply with Packaging Marketing Labeling, and Advertising Guidance.
Retail Guidance

- Issued October 28, 2022
- Outlines requirements and expectations for CAURD dispensaries including:
  - Inventory Tracking
  - Staffing & Training
  - Location, Security, Facility Requirements
  - Purchasing, Security
  - Branding, Marketing, Signage
- All CAURD licensees will have to review and sign an attestation agreeing to comply with requirements
Dispensary Verification Tool

- Licensed Dispensaries will display this sign.
- QR Code links to a list of NYS Licensed Dispensaries
- Medical Dispensaries have a similar tool.
Public Education Campaign

- **Cannabis Conversations**: 3-month long campaign to educate the general public about the law and focus on key public health and safety messages, answering the questions:
  
  **Who can use?**  
  **Where can you use?**  
  **How do you safely use?**

- Ran on all types of paid media, in English and Spanish, including: Social Media & Digital, TV, Radio, Streaming, Billboards, Mass Transit, Gas Stations, and more.

- First ad on social equity in cannabis premiered on June 2, 2022, during the NBA Finals.

- Over 135 million impressions, 313,000 clicks, and nearly 22 million video completions across all channels. Performance far exceeded media industry benchmarks.
Cannabis Taxation
Adult-Use Cannabis Taxation

• A THC per mg tax will be used instead of a weight-based tax. The THC per mg tax will be based on the final product type:
  
  o $.03 per mg THC edible, $.05 per mg THC cannabis flower and $.08 per mg THC concentrate.
  
  o THC tax can help push consumers to lower potency products by making high potency products more expensive, helping achieve public health goals.

• 9% state excise tax on the sale of cannabis products by a retailer to a cannabis consumer.

• 4% local excise tax rate at retail price. (25% to county, 75% to city/town/village) Villages within towns may establish their own revenue distribution agreements.
New York State Cannabis Revenue Fund

- All cannabis revenue deposited into this fund
- **Community Grants Reinvestment**
  - Grants to non-profit and community-based organizations in communities disproportionately impacted by cannabis prohibition and other social equity initiatives as determined by the Cannabis Advisory Board
- **Drug Treatment & Public Education**
  - Develop and implement statewide public education campaigns and provide substance use disorder treatment programs for youth and adults
Additional Information
MRTA Regulations

- On November 21, 2022, the Cannabis Control Board also approved adult-use program regulations that establish rules for a safer, equitable, consumer-driven market focused on small businesses.

- The package outlines:
  1. The application and license selection and renewal process,
  2. The role municipalities play in regulating cannabis businesses,
  3. Key social and economic equity program provisions including identification and prioritization,
  4. Environmental and sustainability standards,
  5. Ownership and true party of interest prohibitions,
  6. General business operating requirements including security, record keeping, and transportation.

- The proposed regulations were filed for a 60-day public comment period.
  - Regulations were filed on **December 14, 2022**, and public comment ended on **February 13, 2023**.

- Comments can be filed by emailing **regulations@ocm.ny.gov** or sent via mail to:
  
  New York State Office of Cannabis Management
  PO Box 2071 Albany, NY 12220
Home Growing in NYS?

• **Currently, recreational home cultivation is not legal in NYS**

• 18-months after the first dispensary opens, New Yorkers who are 21 and older can grow in their own home:
  – Up to six plants for personal use (3 mature plants and 3 immature plants)
  – A maximum of 12 plants per household (even if there are three or more adults over the age of 21)

• **Medical cannabis patients can grow as of October 5th:**
  – Only certified patients and designated caregivers 21 years of age or older, registered with the medical cannabis program, can cultivate (grow) medical cannabis.
Home Growing in NYS?

• Injunction

• Federal Government

✓ Hemp is the same plant as adult-use cannabis, it’s just one that contains 0.3% or less THC content and as a result is not a federally controlled substance.
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