

The Marijuana Regulation & Taxation Act (MRTA) and You:

10 Questions about New York's Marijuana Legalization Bill



What does the Marijuana Regulation & Taxation Act do?

The MRTA (S.1527/A.1617) legally regulates the use, production, sale, and other activities related to marijuana and marijuana products in New York. It restructures criminal penalties for marijuana use, possession, and sale, while establishing a regulatory structure similar to what exists for alcohol in New York State. The MRTA also retroactively addresses previously-criminalized offenses and provides opportunities for the resentencing and reclassification of convictions.

Does the MRTA still carry criminal penalties for activity related to marijuana?

Yes. Under the MRTA there are still two arrestable offenses: sale to a person under the age of 21 and the unlicensed sale of over a pound of marijuana. Additional activities listed in the New York Penal Law could result in a violation and a fine but not an arrest, including low-level unlicensed sale (sale of less than a pound of marijuana), possession of more than 2 pounds of marijuana or 4 and a half ounces of marijuana concentrates, and violation of the regulations for home cultivation. Lastly, smoking in public or places where smoking tobacco is currently prohibited will result in a fine.

Law enforcement may continue to charge felonies for the most serious marijuana-related offenses, such as driving under the influence, transporting marijuana across state lines, and providing marijuana to minors.

What is the age of use established under the MRTA? What happens to young people?

The MRTA establishes 21 as the legal age of use for marijuana and marijuana products. Additionally, it restricts people under the age of 21 from participating in the marijuana industry as licensees or employees and contains provisions to remand dispensary owners who sell marijuana or marijuana products to people under the age of 21.

Under the MRTA, the possession of marijuana by young people is treated similar to underage drinking in New York. The minor's marijuana or marijuana products will be confiscated and they will be issued a ticket for a small fine and required to complete a drug education program.

The MRTA indirectly tackles the problem of youth access to the regulated market with ID requirements. It also addresses the illicit market by building up a successful industry that diverts people away from illicit sales. Crucially, the MRTA ensures that under no circumstances is an arrest made or a criminal record created for a young person who uses marijuana. Criminalization has proven to cause greater and more lasting harm than the plant itself.

Who will be regulatory body responsible for overseeing the new marijuana industry?

The MRTA establishes the Bureau of Marijuana Policy to assume regulatory responsibility of the marijuana industry. The Bureau will be housed within the existing State Liquor Authority and will undertake the similar purpose of providing oversight, promulgating regulations, and issuing licenses.

The MRTA also authorizes this Bureau to act as a convener of agencies whose current oversight activities naturally align with an aspect of the industry, including the Department of Agriculture & Markets, the Department of Environmental Conservation, the Department of Health, the Department of Taxation and Finance, and others who will play a role in ensuring that the goals of legalization are met and that regulation outcomes benefit the state.

Are New Yorkers able to grow their own marijuana plants at home under the MRTA?

Yes. Under the MRTA, individuals over the age of 21 are allowed to cultivate up to 6 plants at home and retain the fruits of those plants. The MRTA requires that plants be secured in a locked place and that the grow area not be easily visible to the public. Local jurisdictions may also add additional regulations to the home cultivation of marijuana plants, provided they are reasonable and do not entirely restrict a person's ability to grow.

After the MRTA, what happens to people previously arrested for marijuana?

The MRTA contains several provisions for people who have been directly impacted by prohibition policies and enforcement. People who have been convicted of low-level possession (including possession in public view) and low-level sale will

have that conviction vacated from their record. Other offenses related to possession or sale that were previously misdemeanors or felonies will be reclassified and/or sealed. People currently incarcerated for such offenses would either be released or have their offense reclassified and sentence appropriately reduced pursuant to the new statute.

What licenses are available under the MRTA? And how does the licensing process work?

Under the MRTA, the Bureau of Marijuana Policy will award licenses to produce, process, test, dispense, distribute, and deliver marijuana. The MRTA restricts vertical integration to provide the maximum amount of space for new companies to develop and contribute to a New York-focused market. Similar to New York's craft wine and beer industry, which has seen phenomenal growth, the MRTA also encourages entry into the legal market through a micro-license structure that allows small-scale production and sale as well as delivery. The start-up costs associated with these activities are much lower, and reduce barriers to entry for people with less access to capital.

The application process for these licenses will operate similar to the current process of applying for a liquor license in New York. An individual will submit an application to the Bureau of Marijuana Policy which will review and issue the license, if granted. For physical locations, the property intended for use must meet zoning requirements that parallel zoning for locations that sell alcohol, including their distance from a school or place of worship. The Bureau of Marijuana Policy will then notify the local municipal government or community board and allow for public input in their determination of whether or not to approve or deny a license.

Under the MRTA, licensees are also required to submit a plan to ensure diversity in hiring that outlines specific actions to be taken by the licensee to produce a workforce that resembles the community in which the license is used.

Are there conditions placed on who may apply for a license?

The MRTA instructs the Bureau of Marijuana Policy to deny licenses due to an applicant's conviction of an offense related to owning and operating a business, including fraud and tax evasion. The Bureau of Marijuana Policy is prohibited from considering individuals' past drug convictions for the purposes of denying a license.

What happens to New York's medical marijuana program?

The MRTA does not touch the Compassionate Care Act and the medical marijuana program that it established. However, the MRTA does extend civil protections in the fields of housing, employment, and education to medical marijuana patients to ensure equal protection under the law.

What happens to the revenue generated by legalization?

After addressing the administrative costs of regulating the marijuana market, tax revenue will be used to conduct studies analyzing the impacts of marijuana legalization on public health, public safety, youth use, the state economy, the environment, and on the criminal justice system. Additional funds will be distributed to study the efficacy of New York's regulations and their success in ensuring diversity and inclusion in licensing.

The remaining funds are allocated as such: 25% to the state education department, 25% to a drug treatment and public education fund, and 50% to the establishment of a Community Grants Reinvestment Fund.

The Community Grants Reinvestment Fund is established to provide a mechanism to invest in communities that have been disproportionately impacted by the drug war. It will be accessible to community-based organizations for job training and placement, re-entry services, adult education programming, and other services.

The NY State Legislature should make the SMART choice: End prohibition, create a system to tax and regulate marijuana, and repair and reinvest in communities most harmed by the war on marijuana and communities.

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