



State of New Jersey

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TO: All Chief Law Enforcement Officers
Director, Division of Criminal Justice
All County Prosecutors
All County Municipal Prosecutor Liaisons
All Municipal Prosecutors

FROM: Gurbir S. Grewal, Attorney General

DATE: November 4, 2020

SUBJECT: Interim Guidance on Constitutional Amendment Legalizing Cannabis

On November 3, 2020, New Jersey citizens voted to amend the New Jersey Constitution to legalize regulated marijuana, referred to as “cannabis.” Senate Concurrent Resolution 183 (the Amendment).¹ The Amendment, however, neither legalized, nor decriminalized, the sale or possession of “unregulated” marijuana. Moreover, it does not take effect until January 1, 2021, and requires enabling legislation and regulations, which will set forth the legal amounts and lawful locations for the sale, possession and use of legal cannabis. As such, the possession of marijuana outside New Jersey’s medical cannabis program remains illegal under existing New Jersey laws.

Nevertheless, some may misinterpret or misunderstand the consequences of the Amendment and possess or use marijuana right away, assuming that it is lawful. Given this, law enforcement officers and prosecutors are reminded of their broad discretion when handling low-level marijuana offenses and are encouraged to exercise it consistent with existing guidance from this office.² Under that guidance, law enforcement officers and prosecutors should exercise discretion, but cannot adopt blanket policies that *de facto* decriminalize marijuana, because doing so would not only impermissibly assume a role that belongs to the Legislature, but would also undermine the framework for legalized cannabis that the electorate approved.

¹ https://www.njleg.state.nj.us/2018/Bills/SCR/183_11.PDF.

² See Attorney General’s Guidance Regarding Municipal Prosecutors’ Discretion in Prosecuting Marijuana and Other Criminal Offenses (August 29, 2018), https://www.state.nj.us/lps/dcj/agguide/med_marijuana_memo.pdf.

If legislation is enacted to establish a framework for a legal cannabis market or to decriminalize any quantity of marijuana for personal use, we will promptly provide additional guidance to immediately address issues of fairness and retroactivity, among other topics.

Questions concerning the interpretation and implementation of this memorandum should be addressed to the Director of the Division of Criminal Justice, or the Director's designee.