

# HB 356 (Martínez) CANNABIS REGULATION ACT

House Co-sponsors D. Armstrong, Ely, Maestas, A. Rubio, and Senate Co-sponsors Ortiz y Pino

February 2019



## SUPPORT

**House Bill 356** regulates the use, production, and sale, of cannabis and cannabis products in New Mexico for adults over 21 years of age. The Act creates a responsible, tightly regulated system of approved licensees with a strict set of rules and regulations, developed by the State Regulation and Licensing Department, similar to those governing the production and sale of tobacco or alcohol.

---

**The New Mexico State Legislature should make the smart choice: End prohibition, create a system to tax and regulate cannabis, and repair and reinvest in communities most harmed by the war on cannabis and communities.**

---

### Important Elements of the Bill:

- **Adults 21 & older** may possess up to two ounces cannabis, and up to 16 grams cannabis extract outside a private residence;
- Establishes the **Cannabis Control Division** within the Department of Regulation & Licensing;
- **Includes a residency requirement for licensure:** Only applicants whose controlling parties can prove two years of continued residency in New Mexico prior to submitting their application may be issued licenses for cannabis activity;
- **Creates a microbusiness' license** to help foster small local businesses, similar to craft breweries and distillers, and requires that licensing fees are scaled to business size;
- **Legislates strong consumer protections** and responsible packaging;
- **Creates a 9% surtax + GRT** on sales of cannabis products;
- Allows municipalities and counties to create an **additional tax of up to add up to 3%** for local projects;
- Allows **local governments to opt-out** of retail commercial cannabis sales;
- **Adults 21 & older can be licensed to cultivate up to six mature plants & six immature plants**, as long as they are not visible to passers-by;
- **Protects the state's Medical Cannabis Program** by ensuring that all licensees serve medical cannabis

patients, requires licensees to hold 33% of their product for medical patients, and creates a subsidy program to support low-income patients; medical cannabis would not be subject to taxation;

- **Directs court system and law enforcement agencies to expunge** criminal history for cannabis-related offenses that are no longer illegal;
- **People currently serving time for cannabis related offenses** shall have their case flagged and the court may recall and dismiss or resentence the individual for a lesser amount of time;
- Creates the **Community Reinvestment Fund** for the purposes of funding job placement, mental health treatment, substance use disorder treatment, legal services to address barriers faced by formerly incarcerated people, linkages to medical care, prevention, early intervention and outreach services, and education for youth, and, to support small business incubators programs to help local New Mexicans enter the new legal cannabis market;
- Creates the **Health and Safety Fund** administered by the Dept. of Health for public education and to create a medical cannabis subsidy program;
- Creates the **Cannabis Research Fund** administered by the UNM Chancellor for Health Sciences for studies on the effects and efficacy of medical and recreational cannabis, impacts on public health and safety, use rates, and cannabis and opioid use disorder treatment; and,
- Increases funding for the **Local DWI Grants** fund establish protocols to determine driver impairment, to fund drug recognition expert field certification training and to purchase roadside tests validated for testing cannabis impairment.

---

**63% of NM residents, and a majority of residents in all quadrants of the state support the legalization, regulation, sales to adults 21 & over, and taxation of cannabis.<sup>ii</sup>**

---

---

**NM local law enforcement<sup>iii</sup> arrested more than 2,200 people for possession of one ounce or less of cannabis between January and June of 2018,<sup>iv</sup> and issued more than 2,000 citations.**

---

---

## ENDORSERS of The Cannabis Regulation Act:

ACLU-NM, EL CENTRO de Igualdad y Derechos, My Destiny, NM Criminal Defense Lawyers Association, NM Public Health Association, Public Health Acupuncture of NM, Retake our Democracy, Transgender Resource Center of New Mexico.

---

### Why Should We Legalize Cannabis for Adult Use?

**Reduce harm:** The criminalization of cannabis use disproportionately harms young people and people of color, sponsors violence and corruption, and fails to curb youth access.

**Create jobs:** Legalizing and regulating cannabis will bring one of the nation's largest cash crops under the rule of law. This will create jobs and economic opportunities in the formal economy instead of the illicit market.

**Save money:** Scarce law enforcement resources will be better used to ensure public safety while reducing corrections and court costs. State and local governments would acquire significant new sources of tax revenue from regulating cannabis sales.

**Consumer safety:** Cannabis product testing and packaging is becoming a standard requirement for legalized cannabis markets. This means consumers are better informed about the cannabis they use and educated on how to keep it out of the reach of children. Labeling requires the NM Drug Poison Control Center hotline number.

**The Tragic Long-Term Consequences of a Cannabis Possession Conviction:** Instead of improving the safety of our communities, our cannabis laws make criminals out of thousands of otherwise law-abiding citizens and impose a lifetime of punishment on those convicted. A minor cannabis possession conviction subjects an individual to a system of legal discrimination that makes it difficult or impossible to secure employment, housing, or student loans. Even

---

<sup>i</sup> "Microbusiness" is defined in HB 356 Sec. 2 M (p 24-25) can collect no more than \$2,000,000 in annual revenue and is licensed by the division to: (1) produce up to 99 mature cannabis plants; (2) manufacture cannabis extracts; (3) be a cannabis retailer; (4) sell, transport or courier the cannabis products; or (5) engage in any other activity authorized by the division.

<sup>ii</sup> Research & Polling Inc. (2018)

<sup>iii</sup> Municipal and County agencies only, not including New Mexico State Police.

<sup>iv</sup>Data sourced from inspection of public records requests made by the Drug Policy Alliance to local NM law enforcement agencies. Sixty-nine agencies were queried 51 responded.

without a conviction, the consequences of an arrest include stigma and humiliation, and difficult financial burdens of posting bail and hiring a lawyer, and lost hours at work or school.

**Taxing and regulating cannabis would create a predictable and significant revenue stream for our cash-strapped state:** A New Mexico economist projects that sales of recreational cannabis could be as much as \$423 million in the first year alone, creating over 11,000 new jobs.<sup>v</sup>

In the first year, the 9% surtax would generate \$38 million. The surtax would send \$7.6 million (20%) to the Community Reinvestment Grants Fund; \$2.2 million (6%) to the Health and Safety Fund; \$2.2 million (6%) to the Local DWI Grant Fund; and \$760 thousand (2%) to the Cannabis Research Fund;<sup>vi</sup> the remaining funds and all revenue from gross receipts tax would increase the General Fund by about \$58 million (\$33 million GRT + \$25 million surtax).

### What are other states doing?

Ten states (Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont and Washington) and the District of Columbia have legalized cannabis for adult use. It is time for New Mexico to remove from the illegal market and take responsibility for creating a safe and effective regulatory system.

**The 2018 Rise Above Colorado Youth Survey confirms the rates of teens' marijuana use remains consistent:** "Despite the concerns, numerous studies conducted both nationally and within the state have found that usage of marijuana and other substances among youth in Colorado is either consistent with previous levels or even lower than the pre-legalization periods."<sup>vii</sup>

A recent study<sup>viii</sup> in the American Journal of Public Health found that Colorado and Washington, the first two states to legalize, have fatal crash rates similar to comparable states without legal marijuana.

<sup>v</sup> O'Donnell, K. (2016) Legalization of Cannabis for Social Use: A New Mexico Market Analysis, updated Jan. 2018.

<sup>vi</sup> Estimates presented are based on the O'Donnell market projections using \$423,000,000 annual sales, year one after the Act is implemented.

<sup>vii</sup> Rise Above Colorado Youth Survey, CO Dept. of Human Services - Office of Behavioral Health (2018) accessed 2/5/19 [riseaboveco.org/articles/2018-RACYS-Results.pdf](https://riseaboveco.org/articles/2018-RACYS-Results.pdf).

<sup>viii</sup> Aydelotte, J. American Journal of Public Health Crash Fatality Rates After Recreational Marijuana Legalization in Washington and Colorado (2017) <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2017.303848>.