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Recreational Marijuana Is Legal In New Jersey? Not So Fast...

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On November 3, 2020, New Jersey voters overwhelmingly approved an amendment to our state constitution to implement the legalization of a regulated recreational marijuana use market by adults 21 years of age and older. Widespread public attention to the ballot question, along with the broad public support for the initiative, may lead members of the public and potential business operators to conclude that the sale and personal use of marijuana for recreational purposes is now legal. However, for the present time, and for at least the next several months, **THIS IS NOT THE CASE AND THE SALE AND POSSESSION OF MARIJUANA FOR RECREATIONAL PURPOSES IN NEW JERSEY REMAINS AGAINST THE LAW.**

The recent public vote on the legalization of a regulated recreational marijuana market for adults 21 years of age and older was the result of [resolutions passed by both houses of the New Jersey Legislature](#) to put the potential legalization of adult use recreational marijuana to a public vote in the form of a proposed amendment to the New Jersey Constitution. The text of the constitutional amendment that was approved at the election a few days ago provides that it does not go into effect until January 1, 2021. In addition, the sale and use of recreational marijuana shall be subject to regulation by the Cannabis Regulatory Commission, an entity that was created to oversee the sale and use of medical marijuana. Finally, the constitutional amendment mandates that the Cannabis Regulatory Commission's regulatory authority concerning legalized recreational cannabis shall be authorized by law enacted by the Legislature.

As of today's date, the Commission is not operational as no individuals have been formally appointed to the Commission, the Legislature has not enacted any laws defining the authority of the Commission to regulate the sale or use of recreational marijuana, and, accordingly, the Commission has not yet implemented any regulations setting forth the process by which adult use recreational marijuana may be legally sold or possessed.

In light of these facts, on November 4, 2020, the New Jersey Attorney General [published guidance to the law enforcement community](#) about the impact of the recently passed constitutional amendment. In that document, the Attorney General observed:

"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."

So – be warned. Adult recreational marijuana use and sale is not yet legal in New Jersey. It will likely take some time for the Legislature to appoint individuals to the Cannabis Regulatory Commission. Once a full Commission is appointed, it will likely take some time for the Commission to pass a law to authorize the Cannabis Regulatory Commission to consider and implement regulations, and then it will take time for the Commission to promulgate those regulations.

If you have a question about this legal alert, please contact [Darren Gelber](#) or another member of the Wilentz [Criminal Law Team](#).

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