

CANNABIS UPDATES

SOCIAL EQUITY MANDATES, DELIVERY, AND SOCIAL CONSUMPTION

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MMA Summer 2025 Municipal Legal Updates Program
August 6, 2025



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AN ACT RELATIVE TO EQUITY IN THE CANNABIS INDUSTRY

CHAPTER 180 OF THE ACTS OF 2022



Effective November 9, 2022

PROMOTION OF SOCIAL EQUITY

Minimum Standards for Addressing Opportunity for those Disproportionately Harmed

- ▶ The Act encouraged municipalities to negotiate host community agreements with social equity businesses and economic empowerment priority applicants
- ▶ The Act required host communities to adopt **initial** social equity policies or procedures “to establish minimum acceptable standards for host communities to **promote and encourage full participation** in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities” not later than **July 1, 2023**
- ▶ The Act also directed the Cannabis Control Commission to develop **regulatory requirements** for municipalities to **promote and encourage full participation** during negotiations of HCAs with **Social Equity Businesses** and minimum acceptable **standards governing HCA negotiations with Social Equity Businesses**

MINIMUM ACCEPTABLE EQUITY STANDARDS GOVERNING MUNICIPALITIES AND HOST COMMUNITIES

- ▶ Host Communities were required to adopt local rules or bylaws to comply with 935 CMR 500.181(3) and 935 CMR 501.181(3) on or **before May 1, 2024**
- ▶ Host Communities **must self-report compliance** through the Massachusetts Cannabis Industry Portal (MassCIP)
- ▶ Failure to comply may result in **fines and sanctions**, after receiving notice and opportunity to comply, beginning **May 1, 2025**



MANDATORY TRANSPARENT PRACTICES TO PROMOTE AND ENCOURAGE FULL EQUITY PARTICIPATION



A host community **must publicize** certain information in a conspicuous location at its offices and on its website which shall, at minimum, include:

- ▶ **All** required steps of a host community’s “**local approval process**”, including, but not limited to, **all associated fees**, **deadlines**, and **meeting schedules** for local bodies involved in the local approval process
 - ▶ ***Local Approval Process** means the steps involving a host community’s cannabis licensing, including, but not limited to, zoning, all associated fees, deadlines, and meeting schedules for local bodies involved in such processes*
- ▶ **Identification of key individuals** involved in a host community’s local approval process, including, but not limited to, their name, title, business address, and business contact information such as email address or phone number

MANDATORY TRANSPARENT PRACTICES TO PROMOTE AND ENCOURAGE FULL EQUITY PARTICIPATION



- ▶ A list of **all documentation** required by a host community's local approval process, in **downloadable form and paper form**
- ▶ Identification of **application criteria** for local approval to operate a marijuana establishment and **scoring methodologies** relied on by a host community
- ▶ **General scoring information** for all applicants and a host community's scoring of each individual applicant
- ▶ **A host community's explanation, in narrative form, of its reasoning for the approval or denial of an application**
- ▶ Any other information required by the CCC

- ▶ A host community must develop an equity plan to promote and encourage full participation that:
 - ▶ *Encourages applications* from Social Equity Businesses; and
 - ▶ Includes *goals, programs, and measurements* a host community will utilize to promote and encourage equity participation.
- ▶ A host community shall publish data regarding its total applicant pool, which shall identify each Social Equity Business and license applicant that has been designated as a Social Equity Program Participant or Economic Empowerment Priority Applicant, or who have been pre-verified.
- ▶ A host community shall adhere to “best practices” for HCA negotiations



CCC's BEST PRACTICES FOR HCA NEGOTIATIONS

- ▶ Develop a **standard evaluation form** (or use a form developed by the CCC) that scores components of an application.
- ▶ The evaluation form shall include consideration of equity in the **overall evaluation score**, which must comprise not less than 25% of the total evaluation score.



In circumstances where a host community imposes a cap on the number of businesses that may obtain local approval to operate, **if a host community later decides to allow additional businesses, at least 50% of those licenses, but no less than 1 license**, above the previously-established cap shall be reserved for Social Equity Businesses or license applicants that have been designated as Social Equity Participants or Economic Empowerment Priority Applicants.

Required Standards for Negotiations with Equity Parties



- Prioritize negotiations of HCAs with equity parties.
- Engage in an ongoing dialogue by providing multiple opportunities for discussion and negotiation of HCA terms including, at minimum, two conferences.
- Include any attorney, representative, or other advocate, if elected by an equity party, in all negotiation discussions and conferences.
- Promote language access by providing a certified interpreter or translator to assist an equity party during all negotiation discussions and conferences.
- Provide reasonable opportunities for an equity party to review a proposed HCA, HCA term or condition outside of a negotiation conference, or to seek review or input by a third party of their choice.
- Negotiate the terms of an HCA in good faith, including consideration of flexible terms that may mitigate particular challenges affecting an equity party, such as access to capital, with all terms and clauses conspicuously identified and openly discussed.
- Allow an equity party to propose an amendment to, or seek cancellation of, an HCA within thirty days from the date of execution of the HCA.

- ▶ Host Communities must also adopt a **plan to positively impact communities** that were disproportionately harmed by marijuana prohibition and enforcement.
- ▶ Host Communities must publicize this plan in a conspicuous location at their offices and on their website. The plan must outline the goals, programs, and measurements the Host Community will pursue.



LICENSE CATEGORIES

- ❖ Craft Marijuana Cooperative
- ❖ Cultivator
- ❖ Independent Testing Laboratory
- ❖ **Marijuana Courier**
- ❖ **Marijuana Delivery Operator**
- ❖ Marijuana Research Facility
- ❖ Microbusiness
- ❖ Product Manufacturer
- ❖ Retailer
- ❖ Standards Laboratory
- ❖ Transporter
- ❖ Medical Marijuana Treatment Center
- ❖ **Social Consumption Establishment**



MARIJUANA DELIVERY



- ▶ Adult-use marijuana **delivery licenses** will be offered **exclusively** to:
- ▶ Certified Economic Empowerment Priority Applicants
- ▶ Social Equity Program Participants
- ▶ **Delivery endorsements** are available only to Marijuana Microbusinesses with majority ownership comprised of Certified Economic Empowerment Priority Applicants and/or Social Equity Program Participants
- ▶ The CCC approved extending the exclusivity period for delivery license types until at **least April 2026** to allow further research into the success of businesses with Delivery Courier, Delivery Operator, and Delivery Endorsement license

► WHERE are deliveries permitted?

Delivery is **restricted** to:

- Municipalities that have authorized retail marijuana
- Municipalities that host a delivery service
- Municipalities that notify the CCC they have opted-in to delivery by bylaw, ordinance or regulations



Delivery is **prohibited** at:

- Dormitories and other university housing, commercial hospitality operations including hotels and bed-and-breakfasts, and federally subsidized housing.

► WHEN are deliveries permitted?

- Deliveries shall not occur between the hours of 9:00 p.m. and 8:00 a.m. **unless explicitly** allowed by a city or town's **bylaw or ordinance**.

SOCIAL CONSUMPTION ESTABLISHMENTS

- ▶ Under prior state law, social consumption licenses were banned unless municipalities first had a referendum and specific local election which can only happen every 2 years; this process was unavailable to many municipalities.
- ▶ The Act directly addressed this issue, creating two distinct paths for municipal approval for social consumption of marijuana or marijuana products on the premises where they are sold - (1) **adoption of an ordinance or bylaw** allowing marijuana so-called “cannabis cafes”, OR (2) **approval by the voters at an election**.



ELIGIBILITY FOR SOCIAL CONSUMPTION (PILOT PROGRAM)

- ▶ The CCC previously authorized (and then voted in 2023 to eliminate) a pilot program in which 12 municipalities were authorized to host marijuana establishments where adults ages 21 and older could consume marijuana on site.
- ▶ WHO can run a social consumption establishment?
 - ▶ Economic empowerment priority applicants or social equity program participants, microbusinesses, and craft marijuana cooperatives.
 - ▶ After 36 months, exclusivity goals of program will be re-evaluated





UNDER EXISTING REGULATIONS

A marijuana social consumption establishment may:

- Sell food pre-packaged, shelf-stable and drink items other than edibles if all necessary local licenses and permits have been obtained
- Sell products between the hours of 8:00 A.M. and 9:00 P.M. unless otherwise explicitly authorized
- Permit patrons to vape indoors with appropriate HVAC systems
- Permit patrons to smoke outdoors, with municipal permission, in designated areas in compliance with outdoor tobacco smoking rules

A marijuana social consumption establishment may not:

- Sell alcohol or tobacco products
- Gift or discount marijuana and marijuana products
- Allow patrons to possess or consume marijuana or marijuana products not purchased from the social consumption establishment
- Allow patrons to consume alcohol or smoke tobacco indoors

PROPOSED DRAFT REGULATIONS

On July 29, 2025, the CCC voted to approve draft on-site Social Consumption regulations

- ▶ Would expand exclusivity period for **60 months**
- ▶ Would create three new license categories:
 1. **Supplemental** On-site Consumption License
 2. **Hospitality** On-site Consumption License
 3. **Event Organizer** On-site Consumption License



► Supplemental On-site Consumption License

- Available to qualifying Marijuana Establishments
- On-site consumption in designated consumption areas within or attached to an existing establishment; events within an existing or adjoining facility; and consumption of product purchased on site

► Hospitality On-site Consumption License

- Available for new or existing non-cannabis businesses to host on-site consumption events in partnership with qualifying Marijuana Establishments in designated consumption areas
- *On-site consumption at lounges, movie theaters, lodging facilities, and gyms??*
- May also seek permits from local or state authorities to serve non-shelf stable food alongside shelf-stable items



► Event Organizer On-site Consumption License

- Marijuana Event Organizer must obtain a Host Community Agreement at its Principal Place of Business
- Available for qualifying Marijuana Establishments to organize and host temporary consumption events at designated consumption areas on specified dates and times, not to exceed five consecutive days or twenty-four events annually
- Temporary On-site Consumption Permit from CCC needed for each Temporary Consumption Event
- A Marijuana Event Organizer shall obtain “all the necessary local permitting” required where the Temporary Consumption Event is proposed to be located prior to the Commission’s approval of an Event Plan



Other Proposed Changes



- ▶ May **portion servings** of Marijuana and Marijuana Products to Consumers, and **White Label, Repackage**, Transfer, Waste, Wholesale and **Warehouse** Finished Marijuana or Marijuana Products acquired from a Marijuana Establishment.
- ▶ Must develop procedures to:
 - ▶ ensure that all sales of Marijuana and Marijuana Products under a Social Consumption Establishment license shall include a **QR code or other machine-readable code technology, menu, label**, or supplementary insert provided to the Consumer with information about the **estimated amount of time for the onset effects** for each specific product offered.
 - ▶ ensure that **only Marijuana Accessories** provided or sold by the Social Consumption Establishment **are used on the Premises**.
- ▶ Must register as a vendor with the Department of Revenue and collect and **remit marijuana retail taxes** in accordance with 830 CMR 64N.1.1: Marijuana Retail Taxes.

Other Proposed Changes

- ▶ Must offer a **Cooling Down Area** where Consumers may wait for the effects of consumption of Marijuana or Marijuana Products to dissipate.
- ▶ **Outdoor Smoking Consumption Areas** are allowed **without waiver request** that required **municipal permission**
- ▶ May sell, allow sales, or delivery of non-infused food or drinks for consumption on-site, and **must obtain appropriate authorization** from the Department of Public Health and **local Board of Health prior to sale**
- ▶ Must offer Consumers a **sealed exit bag** to take unconsumed or partially consumed Marijuana or Marijuana Products from the Premises
- ▶ **Extended sales** between the hours of **7:00 A.M. and 12:00 A.M.** unless otherwise explicitly authorized



- ▶ **Upcoming Public Hearing: September 8, 2025, at 10AM**
 - ▶ Revised regulations for 935 CMR 500.000: Adult Use of Marijuana
 - ▶ Revised regulations for 935 CMR 501.000: Medical Use of Marijuana
 - ▶ A link to view the Public Hearing will be published at: <https://mass-cannabis-control.com/calendar/>.
 - ▶ Anyone wishing to offer testimony on these regulations can appear in person. Alternatively, written testimony may also be submitted by mail or email, with 'Regulation Comment' in the subject line. All submissions should include the submitters' full name, and organization or affiliation, if any.
 - ▶ Written comments must be received by 5:00PM EST on September 8, 2025.



MUNICIPAL REGULATION

A municipality may:

- ▶ Enact and enforce **local bylaws and ordinances** governing the **time, place and manner** of marijuana establishment operations, including social consumption locations;
- ▶ **Prohibit or limit the number** of marijuana establishments, including social consumption establishments; and
- ▶ Establish **civil penalties for public consumption**.



ANY FINAL QUESTIONS?



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