

Cannabis Client Alert - Week of November 2, 2020

DENTONS

November 6, 2020

In this week's edition:

- Cannabis ballot initiatives approved in Arizona, Mississippi, Montana, New Jersey and South Dakota
- New Jersey state senator expected to introduce bill to establish adult-cannabis market in wake of approved ballot initiative
- Barbados implements new Medicinal Cannabis Industry Act
- Dentons partner Eric Berlin to be part of virtual roundtable “The New U.S. Cannabis Industry: Post-election Insights and Analysis” on November 6
- And more...

Federal

IRS’ Proposed Regulation Raises Tax Planning Concerns for Cannabis Companies - The IRS recently proposed regulations under Section 471(c)—the law that allows small businesses to use books and records to recast costs as cost of goods sold (COGS) in inventory—which, if finalized, could limit the types of expenses that cannabis companies may recast. Tax advisers are counseling cannabis companies using Section 471(c) to carefully decide which costs to allocate as COGS, “with an eye on the real costs related to producing the product.”

States

Multiple - Election Day cannabis ballot initiatives passed in Arizona, Mississippi, Montana, New Jersey and South Dakota, bringing to 35 the number of US states that have legalized medical cannabis. Of that total, 15 plus the District of Columbia have also legalized full adult use. Voter results suggest that support for cannabis legalization extends across geographic and demographic lines, as well as across political party lines.

IL - A Sangamon County Circuit Court judge ordered state officials to halt efforts at rescoring license applications for recreational cannabis dispensaries in response to a lawsuit filed against the Governor and his administration by three license lottery winners. Illinois officials must pause until at least November 5, the date of a hearing to determine whether state officials should be compelled to award new retail store licenses without offering losing applicants a second chance in the first round of licensing.

KS - A Fall 2020 statewide public opinion survey, Kansas Speaks, reported that adult Kansans support legalizing

cannabis by a three-to-one margin. According to the survey, 67 percent of respondents “strongly support” or “somewhat support” legalizing recreational cannabis for individuals 21 and older. This poll shows Kansas as having a higher cannabis legalization favorability rate than **New York**, where a recent poll put support for cannabis legalization at 61 percent.

MA - The Massachusetts Supreme Judicial Court has ruled that insurance companies cannot be compelled to reimburse insured employees for their medical cannabis use as a “necessary and reasonable medical expense.” The court reasoned that, given the current uncertain regulatory landscape and “shifting winds of Federal enforcement,” it is “not unreasonable for insurance companies to fear that paying for a claimant’s marijuana could expose them to potential criminal prosecution.”

NJ - In light of a recently approved cannabis ballot initiative, State Senator Nick Scutari, chairman of the Judiciary Committee and a staunch supporter of cannabis legalization, is expected soon to introduce a bill that would “establish the adult-cannabis market” in New Jersey.

NJ - The Assembly Appropriations Committee approved a bill that would require workers’ compensation and personal injury protection plans to provide coverage for expenses associated with the medical use of cannabis. The requirement would apply to employers, workers’ compensation insurance carriers and private passenger automobile insurance carriers.

PA - A Pennsylvania appeals court ruled that the state law legalizing medical cannabis does not shield a student from her college’s zero-tolerance drug policy, and the institution was not required to provide reasonable accommodations for the student’s use of medical cannabis. The court determined the Pennsylvania Medical Marijuana Act does not expressly expand existing anti-discrimination laws to protect employees and students prescribed cannabis for medical purposes.

Hemp/CBD

NY - Governor Andrew Cuomo announced that New York has proposed rules for quality control standards and a licensing program for the use of popular hemp-derived CBD in products such as tinctures, salves and lotions. Among other things, processors would be prohibited from claiming that the products treat or prevent disease.

International

Barbados - Barbados recently implemented its 2019 Medicinal Cannabis Industry Act, which requires any person or entity conducting business related to the cannabis industry in the island country to first obtain a license issued by the Barbados Cannabis Licensing Authority. Barbados is one of three Caribbean nations, the others being Jamaica and St. Vincent & the Grenadines, that have enacted commercial cannabis legislation.

Dominica - The Parliament of the Caribbean island nation of Dominica has approved legislation to decriminalize cannabis.

Ukraine - A survey taken of Ukrainian voters as they exited polling stations during recent local elections found broad support for legalizing medical cannabis. The survey was conducted at the behest of Ukrainian President Volodymyr Zelensky.

Uruguayan - Uruguayan officials signed a decree allowing warehouses to store, repackage and ship cannabis products internationally.

European Union - The European Parliament voted to raise the THC limit for industrial hemp from 0.2 percent to 0.3

percent as part of the EU's farm policy overhaul.

Business/Technology

Holistic Industries - Holistic Industries Inc. announced that its Jerry Garcia cannabis collection, Garcia Hand Picked (GHP), will be available in select California dispensaries starting in mid-November, with plans to expand into additional states in 2021.

PharmaCielo - Canadian cannabis grower PharmaCielo Ltd. argued before a California federal judge that a putative investor class action claiming the company lost a third of its value should be dismissed, as it is based solely on a "misleading" "short-seller attack."

Medical

Liver Toxicity and CBD - In an effort to better understand the safety and drug interaction potential of CBD and CBD products, the *International Journal of Molecular Sciences* published a research study that investigated the interaction potential of cannabidiol-rich cannabis extract (CRCE) and popular dietary supplement methylsulfonylmethane (MSM) in a mouse model. The study concluded that there was no evidence of liver toxicity in the CBD-dosed mice.

Cannabis Use and Work-Related Injuries - The National Institutes of Health's National Library of Medicine published a research study examining the relationship between work-related injury and cannabis use in the past year. The study, a cross-sectional analysis of a Canadian Community Health Survey of working individuals taken over a four-year period (2103-16) calculated the odds of experiencing a work-related injury, including "non-repetitive strain injury," among workers who reported using cannabis more than once during the prior 12 months as compared to non-users. The study found no evidence that cannabis users experienced higher rates of work-related injuries than non-users.

Dentons speaks

In Case You Missed It: In an article on streaming news site Cheddar, Dentons US Cannabis Partner Eric Berlin offered insights on the November elections' impact on the cannabis industry in states with cannabis ballot initiatives. In the case of Arizona, Eric said "the fate of the cannabis initiative could come down to how many voters turn out for each presidential candidate." Read full article [here](#).

Dentons is offering in-house counsel clients a CLE webinar series that will leverage legal insights from around the world. See details [here](#).

Please [click here](#) for more information on Dentons US Cannabis group.

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