

Marijuana Legalization Proposed Again in Wisconsin: Considerations and Potential Opportunities

Cannabis Business Legal News

By Krissy Atterholt on March 6, 2025

In the 2025-27 proposed Wisconsin state budget, Governor Evers takes another swing at legalizing marijuana. Companion bills AB50 and SB45 ("Bills") detail what legalization could look like in the state.

The Bills would create several avenues to legally obtain marijuana, including through an adult-use market, a medical program, and home grow opportunities. Interestingly and certainly noteworthy, the Bills would also regulate delta-8 and delta-10 THC as marijuana and eliminate the prohibition of possessing or using marijuana drug paraphernalia.

Individuals and businesses interested in the marijuana industry should be aware of potential market opportunities and permit considerations as the Bills move through the legislature.

Medical Marijuana Program

The Bills would allow qualifying persons 18 years and older to participate in the medical marijuana program. To become a qualified patient, an individual would need to be diagnosed by a physician as having or undergoing a debilitating medical condition or treatment and meet the age requirement. Debilitating medical conditions include, but are not limited to, cancer, glaucoma, AIDS, inflammatory bowel disease, hepatitis C, Alzheimer's, ALS, nail patella syndrome, Ehlers-Danlos Syndrome, and PTSD.

Medical marijuana would not be subject to sales or excise tax. Penalties, including fines and imprisonment, would still exist for individuals who possess more marijuana than is allowed and individuals who sell, distribute, or transfer marijuana without a permit. Marijuana would also remain impermissible under federal law. The Department of Revenue ("DOR") would be responsible for creating and maintaining a medical marijuana registry program.

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Adult-Use Market

The Bills would allow Wisconsin residents who are 21 years and older to legally possess no more than two ounces of marijuana and non-residents who are 21 years and older to possess no more than one-quarter ounce.

Permit Types and Applicant Considerations

The DOR would be responsible for distributing separate permits to produce, distribute, and sell marijuana. It would also be able to grant a microbusiness permit, which allows a marijuana producer to operate two other DOR marijuana permit types.

The Wisconsin Department of Agriculture, Trade and Consumer Protection ("DATCP") would be responsible for registering entities as tetrahydrocannabinols (THC) testing laboratories. DATCP would also be in charge of additional permitting for producers and processors.

Permit holders would be subjected to an excise tax, which would go into the state's general fund. They would not be able to operate within 500 feet of a school, playground, recreation facility, child care facility, public park, public transit facility, or library.

Although permit requirements vary, generally speaking, an individual would, at a minimum, need to:

- Be a Wisconsin resident for at least 90 days prior to the application date.
- Be 21 years or older.
- Have a criminal record free of certain crimes and offenses.

The Bills would require DOR and DATCP to use a competitive scoring system for permits, evaluating applicants on their ability to protect the environment, provide local jobs, ensure worker and consumer safety, operate secure facilities, and uphold the law. If our firm's experience is any indicator, the application system would be highly competitive, and licenses would be awarded only to those who are able to obtain every available point.

Home Grow

Under the proposed Bills, individuals would be able to cultivate as many as six marijuana plants for personal use. Penalties, including fines and imprisonment, could be imposed against persons based on the number of excess plants and how many of those marijuana plants have reached the flowering stage.

Next Steps in Legalization

As the budget proposal and companion bills were introduced only days ago, Wisconsin has a series of hurdles to pass to see marijuana legalized in any capacity. Should these legalization efforts advance, we can expect a series of extensive changes and potentially the elimination of avenues of accessibility.

Initial responses to the proposal indicate that medical marijuana may have a path forward, but not necessarily as written in the Bills or budget proposal. Those interested in becoming involved in the marijuana industry in Wisconsin should stay tuned.

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