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Personal Possession (21+) & Home Grow

Full decriminalization on Aug. 1

- 2 ounces of flower in public
- 2 pounds of flower in person's private residence
- 8 grams of cannabis concentrate
- Edible products with total of up to 800 mg THC
- Home grow: 8 plants total, no more than 4 mature
- Paraphernalia allowed

Office of Cannabis Management: Early Implementation

- Minnesota Department of Agriculture serving as incubator agency to stand up the Office of Cannabis Management (OCM)
- Interim Leader and Director search
- Posted key leadership positions
 - General Counsel, Gov. Relations, Finance, HR, Communications, Social Equity, Tribal Liaison
- Cannabis Advisory Council
 - Governor's Office of Boards and Commissions leading vetting, screening and notification for 51-member council
 - Governor Walz to name members Fall 2023
 - First meeting to be held before the end of the year

Office of Cannabis Management: Early Implementation (cont.)

- Create cross-agency implementation teams
 - Communications, Engagement and Outreach
 - Rulemaking
 - Licensing System Design
 - Operations (Finance, Human Resources, Facilities, and IT)
 - Temporary Regulations
- Begin creating job descriptions to fill up to 150 positions to staff agency
- Launch rulemaking process
- Procurement, permanent office location, interagency agreements
- Prepare for applications and licensing upon completion of rulemaking

- As sovereign nations, tribes determine how they want to regulate and oversee businesses.
- MN Cannabis Law is among the strongest in nation to honor and recognize tribal sovereignty.
- Law also allows Gov. Walz or his designee to enter into compacts with tribal governments.
- Two tribal nations have opened dispensaries on tribal land.

Roles of Other State Agencies

- CanRenew grants that allocate some of the cannabis tax revenues the state collects for grants to nonprofits, local governments, and groups dedicated to improving health outcomes, violence prevention, and economic development (OCM)
- Substance use treatment, recovery, and prevention grants (DHS)
- Youth prevention and education campaigns (MDH)
- Education for people who are pregnant/may become pregnant or are breastfeeding (MDH)

Roles of Other State Agencies (cont.)

- Training and education about cannabis for Family Home Visiting program (MDH)
- Grants to local and Tribal public health to create/disseminate materials, safe use and prevention training, and community engagement (MDH)
- Dual-Training Pipeline program to create earn-and-learn opportunities for employers to help meet cannabis workforce needs (DLI)

Key Dates of Interest

- **May 30**, Gov. Walz signs adult-use cannabis bill (23rd state in the nation to legalize adult-use cannabis)
- **May 31**, MDH assumes regulatory authority over hemp-derived cannabinoid products
- **July 1**, cannabis tax on retail sales starts (includes lower-potency hemp products)
- **Aug. 1**, full decriminalization (legal adult-use cannabis possession, consumption, & home grow)
- **Sept. 2023**, posted first key leadership positions
- **Fall 2023**, Cannabis Advisory Council members named
- **Fall 2023**, launch of rulemaking for adult-use cannabis and lower-potency hemp products
- **Fall 2023**, registration of businesses that sell hemp-derived cannabinoid products
- **2024**, rulemaking continues; hiring continues; testing and final preparation for licensing system launch; education and outreach for prospective business applicants
- **Early 2025**, license applications anticipated for adult-use cannabis and lower-potency hemp product businesses
- **First quarter 2025**, first retail dispensary sales anticipated (outside of tribal nations)

2024 Legislative Session

Peder Kjeseth | Minnesota Department of Agriculture Assistant Commissioner

- **The 2024 Legislative Session provides an opportunity to clarify and clean up elements of the new law.**
- Considerations for potential OCM proposals:
 - What do we need in the short term to ensure successful implementation?
 - What do we need to ensure that we can effectively regulate and administer the program in the long term?
- What changes might advocates bring forward?

- **Feedback/Input:**

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Office of Cannabis Management Rulemaking

Chris McNulty | Minnesota Department of Agriculture Deputy General Counsel

What is Administrative Rulemaking?

- Legislature directs a state agency to develop rules (aka regulations) deemed necessary to implement a law; “gap fillers.”
- Administrative Procedure Act (APA) outlines formal process agency must follow:
 - Notice requirements to public and to stakeholders
 - Opportunity for public comment (and possibly public hearing)
 - Review by Administrative Law Judge
- Once approved by ALJ, rules have effect of law

OCM Rulemaking Authority

- §342.02, subdivision 5: Rulemaking:
 - Grants OCM ability to adopt rules using “expedited rulemaking process” in Administrative Procedures Act (§14.389)
 - Removes some procedural requirements – but required process still exists
 - But does not relieve OCM from drafting the content – most time-consuming component
 - OCM will follow all technical requirements, plus proactive and robust engagement efforts
 - Rules must be published in State Register before July 1, 2025.

'Necessary to Implement'

- Examples of the “gaps” that require rulemaking:

[§342.44] **HEMP BUSINESS LICENSES; APPLICATIONS AND ISSUANCE.**

Subdivision 1. **Application; contents.** (b) The office, by rule, shall establish forms and procedures for the processing of hemp licenses issued under this chapter.

[§342.07] **AGRICULTURAL AND FOOD SAFETY PRACTICES; RULEMAKING.**

Subdivision 1. **Plant propagation standards.** In consultation with the commissioner of agriculture, the office by rule must establish certification, testing, and labeling requirements for the methods used to grow new cannabis plants or hemp plants, including but not limited to growth from seed, clone, cutting, or tissue culture.

[§342.08] **ESTABLISHMENT OF ENVIRONMENTAL STANDARDS**

Subdivision 1. **Water standards.** In consultation with the commissioner of the Pollution Control Agency, the office by rule must establish appropriate water standards for cannabis businesses.

Topics Requiring Rulemaking

- Licensing – 16 types (forms, procedures, required disclosures, felony disqualifications, limits on licenses held)
- Social Equity considerations
- Manufacturing and retail (facilities and operations)
- Packaging and Labeling
- Testing (laboratory approval, sampling, protocols and standards)
- Expedited complaint process (for local government)
- Statewide monitoring system (distribution records)
- Environmental controls (odor limits, water use, energy use, solid waste disposal)
- Use of pesticides and fertilizers
- Others

Effect of Rulemaking on Licensing

- Rules **must** be approved before licenses can be issued
 - Need ALJ approval of application forms and procedures
 - Public health and consumer safety concerns
 - Inspection and regulatory enforcement criteria development
- **No licenses can be issued before criteria are approved and in force.**

OCM Rulemaking Timeline

- OCM Rulemaking Process and Estimated Timeline:
 1. Drafting of Rules: Fall 2023 – Fall 2024
 2. **Outreach and Collaboration: Beginning Fall 2023**
 - **Ongoing conversations with stakeholders and general public throughout drafting process**
 - **Inform and consult with public and experts; solicit feedback to improve finished rules**
 3. Coordination with Minnesota Revisor of Statutes: Summer and Fall 2024
 4. Notice of Intent to Adopt Publication: Late 2024
 5. Public written comment period: may submit comments for 30 days following NOI publication
 6. Approval by ALJ: within 14 days after submission by OCM
 7. **Publication of Notice of Adoption (rules become effective): Spring 2025**
 8. Governor has option to veto

Until OCM Rules are Approved

- Regulation of low potency edibles resides with Minnesota Department of Health.
- Operation of other cannabis businesses without a license is against the law.

Local Government Provisions

Local Gov – Prohibitions on Use

- § 342.09 – Cannabis products may not be used:
 - By those under 21
 - In a motor vehicle
 - Where smoking, etc. is prohibited under § 144.414 (Minnesota Clean Air Act)
 - On public or charter school grounds or facilities
 - In state correctional facilities
 - Where smoke/vapor would be inhaled by a minor
 - **In violation of local ordinance established pursuant to § 152.0263, subd. 5**
 - Local gov may adopt ordinance establishing petty misdemeanor offense for person using cannabis or cannabis product in a public place

Municipal or County Cannabis Store

- Minn. Stat. § 342.32, subd. 5:

"A city or county may establish, own, and operate a municipal cannabis store subject to the restrictions of this chapter."

- Law is otherwise silent.

- § 342.13 – Local Control
 - (a) – Cannot prohibit personal possession, transportation, or use as allowed under new law.*
 - (b) – Except per 342.22, local gov. cannot prohibit establishment of licensed canna-businesses.
 - (c) – May adopt reasonable time, place, and manner restrictions on canna-businesses, including: within 1,000 feet of school or 500 feet of day care, residential treatment facility, or an attraction in public park regularly used by minors (playground, athletic field).
 - (d) - OCM will work with local governments to establish templates for ordinances, local registration and compliance checks required in 342.22
 - (e) – Interim ordinance OK if local gov is conducting a study; can prohibit throughout jurisdiction if conducting a study and public hearing is held before ordinance adoption and ordinance expires 1/1/2025.

Local Government, Con't.

- (f) – Local gov must certify on OCM form that business applicant complies with local ordinances (and fire and building codes) before OCM issues license.
- (g) – OCM must contact local gov about applicants and allow 30 days for comment on license application; zoning violations, concerns, “public information about business” may be shared.
- (h) – OCM must adopt expedited complaint process for local gov.
 - Must provide initial response within 7 days
 - Necessary inspections within 30 days
 - Immediate threat to public health or safety for certain license types (e.g. cultivator, wholesaler)– response in 1 day.
 - Local gov may enforce local ordinance on its own

Local Government, Con't

- (i) - Local gov business limitations – may limit licensed retailers, micro, and mezzobusinesses with retail endorsement to (1) registration per 12,500 residents.
- (j) – If county has one registration for every 12,500 residents, city or town within the county not obligated to register any (but may!).

- § 342.22 – Retailers; Local Registration and Enforcement.
 - Before making retail sales, cannabis businesses must register with local gov.
 - City may give county authority to issue registrations
 - Subd. 2 – fee schedule.
 - Annual Compliance checks: local gov shall conduct compliance checks
 - Age verification systems
 - Operations
 - Limits on cannabis products being sold
 - Unannounced age verification checks (with specific requirements)
 - May suspend license for up to 30 days and notify OCM
 - OCM can issue longer suspension or order re-instatement

Ways to Engage With OCM

- OCM website: mn.gov/cannabis
- Rulemaking email list sign-up
- Input sessions: beginning Fall 2023
 - Virtual, In-Person, Online resources
 - Topic-specific consultations
- Rulemaking feedback form on OCM website for rules in progress
 - Upon launch – late 2023.
- Office of Administrative Hearings comment portal for final rule drafts
 - 30-day comment period - late 2024, early 2025

Thank You!

Send your questions to:

cannabis.info@state.mn.us