

The Beacon

Vol. XLIV, No. 7

A Publication of the Massachusetts Municipal Association | www.mma.org

Summer 2017

Final marijuana law rewrite changes tax rates, opt-out process

By David Lakeman

Late on July 17, the conference committee charged with hashing out differences between recreational marijuana bills that had been passed by the House and Senate released a final bill that is expected to be passed by both chambers.

The committee had initially set a deadline of June 30 to finish its work.

The language of the final bill (H. 3818) and the delay in finishing it reflected the deep divisions between the House and the Senate on how best to regulate the new industry, which was legalized through passage of a ballot question in last November's statewide election.

Local control

The new bill sets up an unusual two-tiered system for opting out – banning businesses that either sell, grow, manufacture or test recreational marijuana products – based on how a community voted on the ballot question in November.

Communities where voters rejected Question 4 may ban recreational marijuana businesses through their standard ordinance or bylaw process until Dec. 31, 2019. This process will apply to the 91 communities where Question 4 did not pass – about one-quarter of the municipalities in the Commonwealth.

In communities where Question 4 passed, the municipal government must prepare an ordinance or bylaw, which must then be reviewed and summarized by municipal counsel. Following this review, the question – by a vote of the board of selectmen or by the city or town council with the approval of the mayor – must be placed on the ballot at a regular or special municipal election.

The new law does provide language for the ballot question, as suggested by the MMA. (The language and procedure set forth in the new law can be found in Section 27 of H. 3818.)

After Dec. 31, 2019, this ballot requirement will apply to every city and town.

The House bill would have allowed cities and towns to opt out by a vote of the local legislative body, a process that was strongly supported by the MMA. The MMA argued that the process in the House bill was consistent with the full and open process used at the local level for all major decisions.

“Unfortunately, we believe that the conference committee’s compromise version will be very challenging for a large number of communities because the local referendum process is out of

The law also raises the noncriminal threshold for personal possession outside the home from one ounce to two.

The compromise bill also strengthens penalties for underage possession and use of marijuana, and places limits on advertising.

H. 3818 is scheduled for concurrent votes in the House and Senate. With both House and Senate leadership having signed off on the compromise measure, and with no amendments allowed, passage is virtually assured.

To view the text of the bill, visit tinyurl.com/MassMarijuanaCompromise.