

# STATE OF NEW YORK

8278

2025-2026 Regular Sessions

## IN SENATE

May 29, 2025

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the cannabis law, in relation to proximity protection and where licensed adult use dispensing facilities may be located

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 12 of section 85 of the cannabis law is amended  
2 and three new subdivisions 13, 14 and 15 are added to read as follows:

3 12. The board is authorized, to promulgate regulations governing  
4 licensed adult-use dispensing facilities, including but not limited to,  
5 the hours of operation, size [~~and location~~] of the licensed facility,  
6 types and concentration of product servings offered and establishing a  
7 minimum and maximum margin for retail dispensary markups of cannabis  
8 product or products before selling to a cannabis consumer. It shall be  
9 unlawful for any retail dispensary to sell any adult-use cannabis prod-  
10 uct for less than the minimum markup allowed in regulation.

11 13. Licensed adult use dispensing facilities shall be no less than one  
12 thousand feet apart in municipalities with a population of twenty thou-  
13 sand people or more, and no less than two thousand feet apart in munici-  
14 palities with a population of less than twenty thousand people.

15 14. Waivers from proximity protection as provided in subdivision thir-  
16 teen of this section may be considered by the cannabis control board. In  
17 making such decisions, the cannabis control board shall:

18 (a) have a presumption against providing a proximity protection waiver  
19 unless quantitative facts warrant it;

20 (b) issue notices of a request to seek a proximity protection waiver  
21 to the owner of the dispensary whose proximity protection is to be  
22 waived and to appropriate officials in any municipality or community  
23 board subject to the request within seven days of the filing of such a  
24 request;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (c) conduct and publicly issue a quantitative analysis at least thirty  
2 days prior to board action of the cannabis dispensary whose proximity  
3 will be waived, including the profitability and financial stability of  
4 such dispensary and any other quantifiable factors that reflect the  
5 ability of the dispensary to profitably function with added market  
6 competition. Such analysis shall represent the basis for making a prox-  
7 imity protection waiver decision;

8 (d) within forty-five days, consult with and get an official written  
9 opinion from the relevant municipality or community board concerning  
10 their support or opposition to a local proximity protection waiver;

11 (e) within forty-five days provide an opportunity for the cannabis  
12 dispensary licensee whose proximity protection could be waived with the  
13 opportunity to submit written comments to the cannabis control board  
14 prior to action being taken on the waiver;

15 (f) hold a public hearing on the proposed waiver, at which the current  
16 licensee, the waiver applicant, any relevant municipality or community  
17 board, and the public shall be heard;

18 (g) provide the cannabis dispensary licensee whose proximity  
19 protection could be waived and relevant municipalities or the community  
20 board with the opportunity to speak before the cannabis control board  
21 prior to a decision being rendered; and

22 (h) establish an appeal process to allow cannabis dispensary licensees  
23 whose business is the subject of a proximity protection waiver to appeal  
24 that decision to an administrative law judge. Such process shall provide  
25 that both parties may be heard prior to a decision being rendered. The  
26 decision of such judge shall be ratified by the board.

27 15. Notwithstanding the provisions of subdivision fourteen of this  
28 section, the cannabis control board may not:

29 (a) approve a proximity protection waiver if one or more illegal  
30 retail cannabis stores are operating in violation of the provisions of  
31 subdivision thirteen of this section;

32 (b) approve a proximity protection waiver that reduces the distance  
33 established in subdivision thirteen of this section by more than five  
34 percent;

35 (c) approve a proximity protection waiver that would impact a cannabis  
36 retail dispensary that has been operational for less than three years;

37 (d) approve a proximity protection waiver for a cannabis retail  
38 dispensary that has a retail sales dimension larger than the store whose  
39 proximity protection has been waived; and

40 (e) approve no more than one proximity protection waiver per licensed  
41 cannabis retail dispensary.

42 § 2. This act shall take effect immediately.