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:

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

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

13. Licensed adult use dispensing facilities shall be no less than one thousand feet apart in municipalities with a population of twenty thousand people or more, and no less than two thousand feet apart in municipalities with a population of less than twenty thousand people.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.