

ATTORNEYS

Adam Barnosky
Michael Dana Rosen
Bethany A. Grazio
Bradley L. Croft
Gary Bubb

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Cannabis Cafes and Home Delivery Approved by State Regulators

By Adam Barnosky on September 27, 2019



On Tuesday, September 24, the Cannabis Control Commission (CCC) voted to approve a highly-regulated home delivery program for adult-use cannabis, as well as a pilot program for cannabis cafes. While voters approved home deliveries and cannabis cafes as part of the 2016 adult-use ballot initiative, regulations were initially delayed while the CCC opted to focus on more pressing regulatory controls.

The Commission, which voted on the new regulations in a 4-1 vote, estimates that home delivery applications will be available in approximately two months. Below are highlights of the approved home delivery regulations:

- **For the next two years, home delivery licenses will be limited only to Economic Empowerment Priority Applicants, Social Equity Program Participants, and Microbusinesses with a “Delivery Endorsement” from the Commission.**
- **Home delivery businesses will be required to obtain marijuana and marijuana products from other licensed retailers.**
- **Delivery for adult-use cannabis consumers will be permitted in municipalities in which retail sales are permitted, delivery businesses are located, and those that notify the Commission that delivery may operate within its borders.**
- **Deliveries will not be allowed to college or university dormitories or federal public housing.**
- **Orders cannot exceed one ounce, and deliveries cannot happen at the same residence more than once a day.**
- **Delivery vehicles cannot advertise that they are delivering marijuana, will have separately locked compartments for the product and any cash, and have to remain in Massachusetts at all times.**
- **Each delivery van will have constant monitoring by dispatch, a GPS monitoring device, and at least two video cameras — one on the driver and one on storage.**
- **Delivery agents will be required to wear body cameras that will record all deliveries. Video will be retained for 30 days, but will require a court order, search warrant, or constitutionally valid search and seizure for police to access it.**

The new regulations authorize a pilot program for on-site consumption, however, state lawmakers have to act before it can launch. Highlights of the “Social Consumption Pilot Program” are as follows:

- **The pilot program is unable to begin without a change in state law that first allows cities and towns to authorize social consumption in their communities**

- Under the adult-use program, up to 12 communities in Massachusetts will be able to host marijuana establishments in which adults ages 21 and older may consume cannabis on site.
- Licenses for primary-use locations, sometimes referred to as cannabis cafes, will be exclusively available to licensed businesses controlled by and with majority ownership comprised of Microbusinesses, Craft Marijuana Cooperatives, certified Economic Empowerment Priority Applicants, and Social Equity Program Participants for an initial period of two years.
- The Commission will collect data to determine whether goals of the exclusivity period are met after two years and decide whether to extend exclusivity for an additional year or make the license type generally available.
- Consumers won't be able to bring their own cannabis to be consumed but will have to purchase on site.
- Social consumption licenses can only sell in amounts reasonable for on-site consumption.
- Unused product can be resealed and brought home.
- Social consumption licenses cannot also sell alcohol or tobacco, but may sell marijuana accessories.

Sources "Cannabis Control Commission Approves Final Adult Use, Medical Use of Marijuana Regulations," Cannabis Control Commission Press Release (Sept. 24, 2019); and "Cannabis cafes and marijuana delivery are coming to Mass. Here's what you should know," J. Bartlett, Boston Business Journal (Sept. 24, 2019).

Adam R. Barnosky is a member of the Cannabis, Commercial Real Estate, and Hospitality Practice Groups, and represents clients in various capacities within the cannabis industry. His experience includes leasing and permitting of retail dispensaries and cultivation facilities, submission of regulatory filings, pursuing zoning and permitting approvals from state local authorities, and monitoring legislation and regulatory developments across the industry. Adam can be reached at arb@riw.com, (617) 570-3519, or on Twitter at [@adambarnosky](https://twitter.com/adambarnosky).

The Ruberto, Israel & Weiner **Cannabis Practice Group** is an interdisciplinary team of attorneys with broad experience in a number of areas relevant to the industry. We can assist with dispensary as well as cultivation projects. Please contact **Michael D. Rosen**, Cannabis Group Chair, at (617) 742-4200 or mdr@riw.com for more information.

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