



## Agreement Reached on Cannabis Legislation: Includes Local Control and Local Revenue

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(corrected version)

As you likely know, the Governor and legislative leaders have announced an agreement on legislation to legalize adult-use cannabis in New York. NYCOM took no position on legalization, but if legislation was to be approved we strongly advocated for local control and local revenue. Thanks to the efforts of NYCOM's membership, the final bill retained the previously agreed-to allocation of a new 4% cannabis excise tax to cities/villages/towns (3%) and counties (1%). In addition, after repeatedly making the point that cities, villages and towns would be the level of local government most impacted by the legalization of adult-use cannabis, we are happy to see that the legislation also grants these units of local government the authority to opt out of allowing the sale of cannabis at retail dispensaries or on-site consumption sites within their jurisdiction.

Below is additional information on how these two primary issues were resolved:

### Local Control

- **Opt-Out Authorization** – The legislation that will be approved later this week gives cities, villages and towns the ability to pass a local law by 12-31-21 to opt-out of allowing retail dispensaries or on-site establishments to locate within their boundaries. The local opt-out law would be subject to permissive referendum (i.e., a referendum via petition of the local registered voters or, only in the case of a village, a resolution of the governing body requiring the local law be put to a vote of the residents). If a municipality opts out, the governing body could, at any point in the future, repeal the opt-out local law. Such repeal would also be subject to permissive referendum. *EDITOR'S NOTE: This paragraph was amended from the original version to reflect the fact that only the governing body of a village is authorized to pass a resolution requiring a referendum.*
- **"Time, Place and Manner" Restrictions** – Cities, villages and towns that have not opted out of allowing retail dispensaries or on-site consumption sites to locate within their boundaries would be able to impose reasonable time, place and manner restrictions on those types of facilities. Other cannabis-related operations would be subject to local zoning regulations.
- **Notification to Municipalities** – Not less than 30 days nor more than 270 days before filing an application with the state for licensure as an adult-use retail dispensary or an on-site consumption establishment, an applicant must notify the municipality in which the premises is located of the applicant's intent to file such an application.

## Local Revenue

- In addition to a new 9% excise tax for state purposes, there would be a new 4% excise tax for local government purposes which would be imposed on the retail sale of adult-use cannabis products. The revenue from the 4% tax will be distributed quarterly to each county and each county will be entitled to retain 25% of such revenue. The remaining 75% of the revenue would be distributed quarterly by the counties to the cities, villages and towns within such county in which a retail dispensary is located in proportion to the sales of adult-use cannabis products by the retail dispensaries in such cities, villages and towns.
- Where a retail dispensary is located in a village within a town that also permits cannabis retail sales, then the county shall distribute the monies attributable to such retail dispensary to the town and village in such proportion as agreed upon by the governing body of such town and village or, in the absence of such an agreement, the money shall be evenly divided between the town and the village.

Once the legislation is approved and signed into law, NYCOM will provide our members with a more detailed summary of the law's key provisions impacting local governments. Meanwhile, if you have any questions, please contact NYCOM General Counsel Wade Beltramo at [wade@nycom.org](mailto:wade@nycom.org).

