

Marijuana Legalization Legislation

Overview of Legislation

The 2021 General Assembly (GA) is considering a number of bills to legalize and commercialize marijuana in the Commonwealth.

- **SB 1406** (Ebbin) and **HB 2312** (Herring) are the main vehicles, originally proposed by the Northam Administration, though they are changing as they travel through the legislative process (additional bills that were introduced have been incorporated into those vehicles – **SB 1243** (Morrissey) was incorporated into **SB 1406**, and **HB 1815** (Heretick) was incorporated into **HB 2312**).
- **SB 1406** has been heard in the Senate Rehabilitation and Social Services Committee, and is now headed to the Senate Judiciary Committee. It is then expected to be referred to the Senate Finance and Appropriations Committee before being heard by the full Senate.
- **HB 2312** began in the House General Laws Committee, and will now be referred to the House Courts of Justice Committee and then to the House Appropriations Committee.
- **SB 1406** and **HB 2312** seek to legalize marijuana in Virginia and establish the regulatory framework for commercialization by 2024.
- The bills, which are several hundred pages in length and growing, establish parameters for licensing, permitting, personal consumption, education, health initiatives, tax collection, revenue distribution, and criminal justice reform pertaining to marijuana-related offenses.
- The revenue distribution included in **SB 1406** and **HB 2312** as introduced is as follows:
 - 40 percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
 - 30 percent to the Cannabis Equity Reinvestment Fund;
 - 25 percent to substance use disorder prevention and treatment programs; and,
 - 5 percent to public health programs.
- **SB 1406** and **HB 2312** allow a three percent local tax option in addition to 21 percent on retail and non-retail marijuana, retail marijuana products, and marijuana paraphernalia.
- **HB 2312** has been amended to include some preservation of local land use authority, while **SB 1406** currently does not contain specific provisions that would allow local government authority over land use/zoning for marijuana retailers or manufacturers.

Key Local Government Issues

- Opt-in or opt-out – local government option for legalization must be preserved (there is currently discussion about whether that would occur through an ordinance or by referendum).
- Local land use – local government authority, including local zoning, local land use authority, local ordinances, and local business regulations, must be preserved.
- Local taxation – the final legislation must include a local tax option (the Governor’s bills include a three percent local tax option in addition to other state taxes).