



Legislation Text

File #: 21-1189, Version: 1

Dept./ Agency: Law Department

Action: () Ratifying (X) Authorizing () Amending

Type of Service: Waiving 20-day period for an ordinance to take effect

Purpose: This resolution seeks to authorize an emergency be declared to exist, for Ordinance 6F-z adopted on August 4, 2021, which creates Title XIV, Cannabis, to the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented to permit and regulate adult-use and license cannabis establishments.

Ordinance No(s):

Ordinance 6F-z adopted on First Reading by the Municipal Council on August 4, 2021.

Ordinance 6PSF-aa(S) is scheduled for a Public Hearing, Second Reading and Final Passage on August 17, 2021.

Additional Information:

No Action Taken 7R6-a (s/as) 081721

WHEREAS, on November 3, 2020, voters in the State of New Jersey approved Public Question No. 1, which amended the Constitution of the State of New Jersey to legalize the Adult-Use of marijuana, also known as “cannabis”, for persons age 21 and older and legalizes the cultivation, processing and sale of retail marijuana; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the Adult-Use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreation (“adult use”) cannabis operations, use, and possession; and

WHEREAS, the City of Newark is designated as an “Impact Zone”, which are defined in the Act for the purposes of furthering principles of social justice, and in which the Cannabis Regulatory Commission shall prioritize applications for licenses; and

WHEREAS, Section 31 of the Act authorizes municipalities to adopt an ordinance to permit or prohibit one or more classes of licensed business; and

WHEREAS, the Act establishes six (6) marketplace classes of licensed cannabis businesses including:

Class 1 Cannabis Cultivator license- for facilities involved in growing and cultivating cannabis;
and

Class 2 Cannabis Manufacturer license- for facilities involved in the manufacturing, preparation, and packaging of cannabis items; and

Class 3 Cannabis Wholesaler license- for facilities involved in obtaining and selling cannabis items for later resale by other licensees; and

Class 4 Cannabis Distributer license- for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another; and

Class 5 Cannabis Retailer license- for locations at which cannabis items and related supplies are sold to consumers; and

Class 6 Cannabis Delivery license- for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, Section 31 of the Act authorizes municipalities to regulate the number of permitted cannabis licensed businesses, and the time, manner, place, and other aspects of licensed cannabis business establishments; and

WHEREAS, Section 31 of the Act authorizes municipalities to prohibit the operation of any one or more classes of licensed cannabis businesses, but not the delivery of cannabis items and related supplies by a delivery service, within the jurisdiction of the municipality; and

WHEREAS, Section 31 of the Act stipulates that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (i.e. by August 21, 2021); and

WHEREAS, pursuant to Section 31 of the Act, the failure to adopt a municipal ordinance shall mean that for a period of five years thereafter, Class 1 Cultivator, Class 2 Manufacturer, Class 3 Wholesaler, and Class 4 Distributor, Class 5 Retailer, and Class 6 Delivery licensed business shall not be numerically limited, permitted automatically in the municipality, and not regulated by the municipality it sits in but on the overall State regulations; and

WHEREAS, the enforcement of cannabis laws has led to the unequal treatment and targeting of minority communities and has contributed to the mass incarceration of Black and Brown people in New Jersey and throughout the country; and

WHEREAS, regulating the manufacture, distribution, and sale of cannabis is of paramount

concern to the Municipal Council and must be designed in such a way that strengthens our ability to keep cannabis away from minors; and

WHEREAS, a controlled system of cannabis manufacturing, distribution, and sale must be designed in a way that enhances public health and minimizes potential harm to Newark families; and

WHEREAS, N.J.S.A. 40:48-2 authorizes a municipality to make, amend, repeal and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, the Municipal Council seeks to create Title XIV, Chapter XIV, Cannabis to the Newark Municipal Code to permit and regulate Adult-Use and License Cannabis Establishments; and

WHEREAS, the Municipal Council seeks to regulate a legalized cannabis market and industry in the City of Newark to allow for stringent quality control and best practices, better ensuring a safer product than an unregulated market in order to promote public health, wealth, and safety; and

WHEREAS, Ordinance 6F-z was advanced and adopted on First Reading by the Municipal Council on August 4, 2021 and is scheduled for a Public Hearing, Second Reading and Final Passage on August 17, 2021; and

WHEREAS, there is an exigent need for Ordinance 6F-z to be effective after being adopted upon Public Hearing, Second Reading and Final Passage on August 17, 2021, as the Act requires that municipalities adopt regulation ordinance on or before August 21, 2021; and

WHEREAS, the delay in the effective date of Ordinance 6F-z is critically important to the City of Newark in order to be compliant with the Act; and

WHEREAS, N.J.S.A. 40:69A-181(b) authorizes a Governing Body to adopt a resolution declaring an emergency and authorizing that an ordinance take immediate effect, so long as at least two-thirds of all the members of the Governing Body vote in favor of such resolution; and

WHEREAS, the Municipal Council recognizes the exigent need for the Ordinance to take immediate effect so that the City can be in compliance with Section 31 of the Act; and

WHEREAS, the Municipal Council has determined that it is therefore necessary and appropriate to adopt this Resolution pursuant to N.J.S.A. 40:69A-181(b) declaring an emergency and determining that the Ordinance adopted on August 17, 2021 shall take immediate effect upon the Mayor's signature and publication.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. For the reasons set forth herein and the important public policies enunciated, an

emergency is hereby declared to exist and Ordinance 6F-z, which creates Title XIV Cannabis to the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, to become effective, once adopted by the Municipal Council after Public Hearing, Second Reading and Final Passage, in accordance with N.J.S.A. 40:69A-181(b). This is due to the exigent need to meet the deadline placed on the ordinance by the State, pursuant to N.J.S.A. 24:61-1 et seq.

STATEMENT

This Resolution hereby authorizes an emergency to be declared; and further authorizes Ordinance 6F-z, adopted, on First Reading by the Municipal Council on August 4, 2021, which creates Title XIV Cannabis to the Revised General Ordinances of the City of Newark, New Jersey, 2000, which creates municipal regulations for cannabis establishments and Adult-Use within the City of Newark, to become effective after being adopted upon Public Hearing, Second Reading and Final Passage on August 17, 2021, in accordance with N.J.S.A 40:69A-181(b) due to the exigent need for the City to be in compliance with Section 31 of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, pursuant to N.J.S.A. 24:61-1 et seq.