

Cannabis State Residency Requirements Flaming Out?

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As New Jersey continues to chart the regulatory pathway forward for the adult use cannabis marketplace in the state, many municipalities, industry professionals, and consumers alike have been navigating the complications of state marijuana production guidelines and laws. Obstacles within cannabis licensing and sales regimes are not exclusive to the Garden State and still challenge states with more established legal cannabis sales. Residency requirements, as they pertain to cannabis business ownership and licensing, have been a bone of contention nationally as some states attempt to keep licenses and revenue in-house. Keeping away large already proven multi-state operators and investors from reaping the rewards of New Jersey's soon to be lucrative cannabis community may seem fair however, the legality of that notion may be more complicated.

New Jersey has attempted to get out in front of "Big Cannabis" by setting statutes for residency requirements and creating what is known as a microbusiness license. In order to qualify for a microbusiness license, which among other criteria, requires all of the owners of the business to live in New Jersey and also prove they have done so for a consecutive two year period. In addition, twenty five percent of New Jersey's cannabis cultivator licenses have been earmarked exclusively for microbusiness license holders.

While the microbusiness license provision is beneficial for residents, the question of fairness to our neighbors may be an issue on the cannabis horizon. A recent decision by a federal judge in Missouri may have microbusiness license holders looking in the rear view mirror for those large multi-state operators. A Missouri rule called for medical marijuana businesses to be at least fifty one percent owned by state residents. However, an out of state investor sued Missouri's medical cannabis regulators over said requirement and U.S. District Judge Nanette K. Laughrey thought enough of that complaint to grant a preliminary injunction against Missouri's cannabis rule requiring a residency provision. Laughrey felt that Missouri could accomplish certain goals without discriminating against potential marijuana business owners from out of state. At the same time, in another federal court next door in Oklahoma, a judge tossed a lawsuit challenging Oklahoma's cannabis residency provisions. It is reasonable to expect that out of state players may look to challenge restrictions imposed by New Jersey.

Certainly, residency requirements will continue to create controversy from all sides of state borders. There are positive aspects to the microbusiness license structure such as reserving space for women and disabled veteran owned businesses as well as steering business towards communities previously negatively impacted by dated and harsh cannabis penalties. That said, the argument is being made that benefits can still be rolled out to reward residents without locking out neighboring cannabis capitalists. New Jersey is speculated to become the largest recreational cannabis market on the entire east coast and residency requirements may be the kind of roadblock that attracts an attempt to a legal challenge.