

Legalization of Adult-use Marijuana

SB 1406

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Presentation to Senate Rehabilitation and Social Services Committee

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Virginia's Marijuana Path

- 2015 – First law to allow possession of some cannabis oils by patients with specific medical needs
- 2016 – Creation of pharmaceutical processor program
- 2017 – Re-enactment of pharmaceutical processor program and finalization of regulations
- 2018 – Expansion of diagnosed conditions
- 2019 – Additional expanded authority for health professionals and processors
- 2020 – Allowance for up to 5 additional dispensing facilities
- Also 2020 – Decriminalization of simple marijuana possession

Two Separate Marijuana Studies

- Joint Audit and Legislative Review Commission (JLARC) – report conducted throughout 2020
 - Spoke to other states who have legalized marijuana
 - Talked to stakeholders and state regulators
 - Focused on public health and social equity as well
 - Final report released in November
- Marijuana Legalization Work Group – mandated by 2020's marijuana decriminalization bill
 - 21 members: policy experts, health professionals, government officials, and community leaders
 - Talked to other states, criminal justice reform advocates, and other marijuana and social equity policy thought leaders
 - 15 public meetings between July and October
 - Final report released in November

Governor Northam's Priorities

- Social equity, racial equity, and economic equity
- Public health
- Protections for young people
- Upholding the Virginia Indoor Clean Air Act
- Data collection

Big Picture

- ABC to promulgate regulations (APA exempt) by July 1, 2022
- License issuance would begin after regulations are finalized
- Legal sales could begin January 1, 2023
- Expungement begins when bill is enacted (July 1, 2021)
- Purchase limits of one ounce of plant material or equivalent
- Personal cultivation allowed – 2 mature, 2 immature plants per household
- Limited concentration of retail establishments
- Local opt-in for retail

Big Picture

- ABC authority to limit number of licenses
- Promotes diverse, competitive industry – additional requirements for vertically integrated businesses
- Provisions to protect children
- Packaging and labeling requirements
- Tax at retail level (21% excise, state sales, 3% optional local)
- Revenue distributed among early childhood education, public health goals, substance abuse prevention and treatment, and equitable community reinvestment

Big Picture – Social Equity

- Equity is keystone of the bill
- Close collaboration with Dr. Janice Underwood and the Office of Diversity, Equity, and Inclusion
- Key Principles
 - Equitable business participation
 - Criminal record expungement
 - Community reinvestment

Policy Areas

- Regulatory Structure
- Product Safety
- Public Health and Youth Protection
- Taxes and Revenue
- Criminal code changes
- Social equity

Regulatory Structure

- Regulatory authority to Virginia ABC
- New Cannabis Advisory Board to counsel ABC Board
- Cannabis Health Advisory Council as well
- Pharmaceutical Processor program will be as untouched as possible and will move to ABC on timeline agreed to by agencies
- Robust licensing program – cultivation, manufacturing, wholesale, retail, and testing – priority for social equity applicants
 - ABC can set number of licenses and the size of cultivation facilities
 - Low-THC cannabis sub category – more flexibility than industrial hemp
- All products tested and tracked, seed-to-sale

Product Safety, Public Health, & Youth Protection

- Product composition safety measures (e.g. adulterants)
- Not allowed to contain nicotine, alcohol, or other narcotics
- THC and other cannabinoid limits by serving size and package
- Warning labels with universal THC symbol and other details
- No false or misleading claims, including about health benefits
- Child safety
 - No product shapes or packaging attractive to children
 - Child-safe, tamper evident packaging
 - Products cannot be easily confused with non-cannabis products

Product Safety, Public Health, & Youth Protection

- Clear information about cannabinoid content on label
- Opaque packaging
- Flexibility to mandate plain packaging
- Retailers required to share information about potential negative impacts and train employees on how to share this information with consumers
- Products in stores out of the reach of customers and no on-site consumption

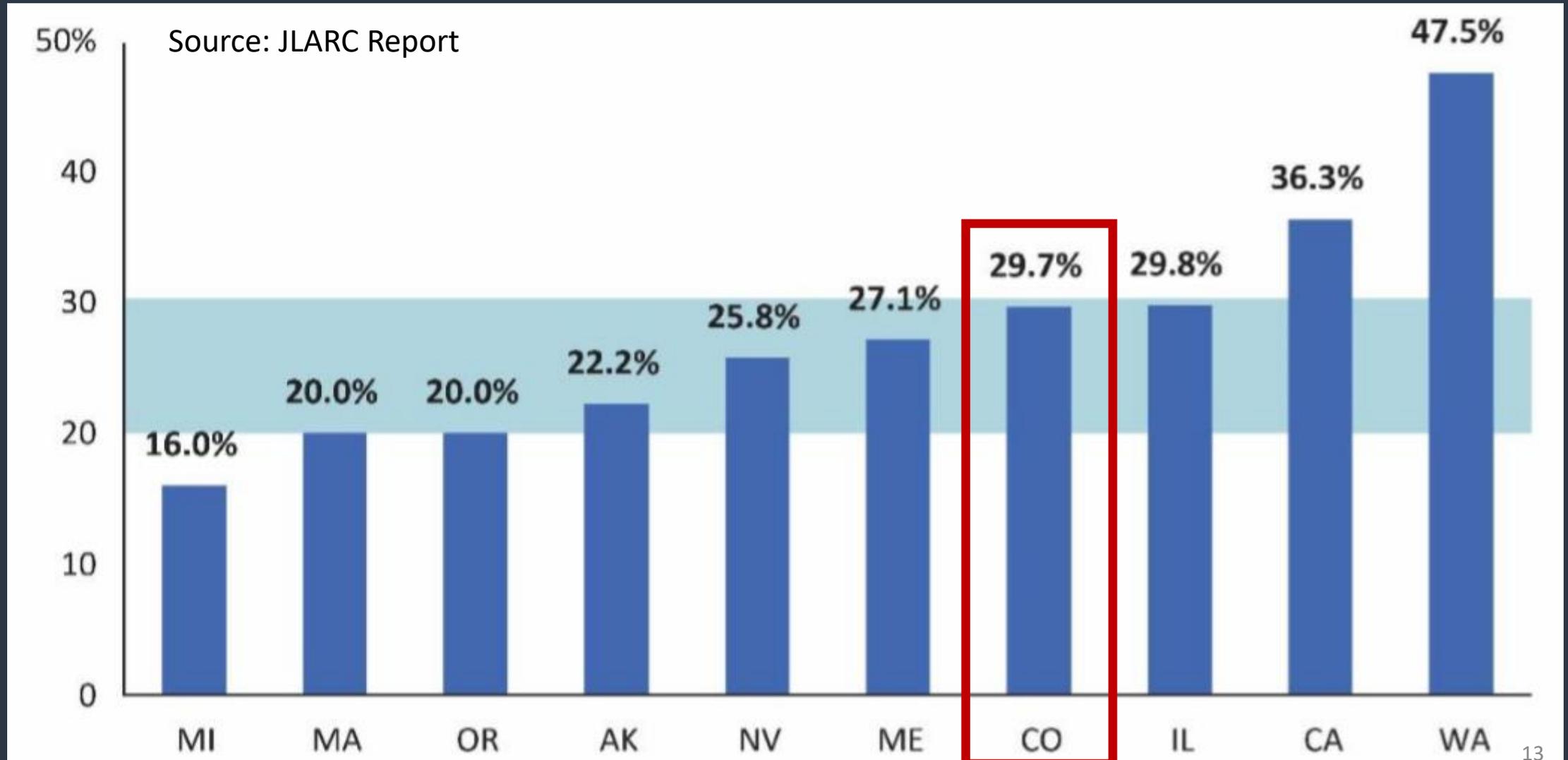
Taxes and Revenue

- Taxes collected at retail point of sale
 - 21% state excise tax
 - Existing state sales tax
 - 3% potential local tax for localities that opt-in
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Total tax would range from 29.3% - 30%

Goal: high enough to generate revenue for program administration and other priorities, but also low enough to ensure capture of illicit market

Taxes and Revenue



Taxes and Revenue

- Revenues used for
 - 40% - early childhood education for at-risk 3 and 4 year olds
 - 30% - Cannabis Equity Reinvestment Fund
 - 25% - substance abuse prevention and treatment
 - 5% - other public health programs

Criminal Code Changes

- Underage (21) possession and consumption illegal
 - Drug education for first offenders
- Update code to reflect marijuana's new status – such as making it illegal to sell without a license
- Driving – DUI laws will not change, but increased focus and spending on Drug Recognition Experts (DREs)
 - No marijuana consumption by both drivers and passengers on public roads and highways while car is being driven
 - No open containers or partly consumed marijuana in passenger area

Social Equity

- Expungement of prior criminal records
 - Automatic for most misdemeanors, petition process for some felonies
 - \$25 million in Governor's introduced budget to pay for expungement
 - Begins immediately after bill is enacted – July 1, 2021
- Diverse participation in the industry
 - Preference for social equity qualified applicants
 - Reduced license and application fees and avoiding requirements that have disparate impacts on social equity applicants
 - Cannabis Business Diversity and Equity Support Team
 - Low-interest loans

Social Equity

- Cannabis Equity Reinvestment Fund: overseen by a board of 20 members—receives 30% of marijuana revenues
 - Scholarships
 - Grants for workforce development, youth mentoring, job training and placement, and reentry services in impacted communities
 - Contribute to Virginia's Indigent Defense Fund
 - Put money into the Cannabis Equity Loan Fund

All three equity principles are important to achieving our goals

Conclusion

- Much work has already been put into this by our team, legislators, and advocates and community leaders
- Result of a multiyear effort and after two in-depth policy studies
- Thoughtful, equitable legalization
- Protects youth, highlights public health, and legalizes cannabis equitably, while bringing tens of millions of dollars to Virginia in tax revenue