

Another snag delays legalized-marijuana legislation

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Two months after voters gave their signoff, governor cites 'drafting error' in long-delayed bills as reason for withholding his signature



Voters okayed recreational marijuana in November, but Trenton has yet to finalize the legislation needed to make it legal.

Creating law can be a messy affair. And this is why legislators invented the “clean-up” bill.

And that is exactly what Gov. Phil Murphy is insisting on, to fix what his office said is a “drafting error” in the two landmark pieces of legislation to legalize recreational marijuana that have been [languishing on his desk since Dec. 17](#).

Though the bills have been years in the making, it was only when they were passed and were sent to his desk that he realized they didn't address something

he believed was important — specifying penalties for minors who possess cannabis. Not until a third, clean-up bill is drafted and passed addressing that issue, he insisted, would he sign the other two.

So instead of tweaking the current bill, both houses of the Legislature are working on a third piece of legislation.

The Assembly [posted its version](#) Monday that would remove all criminal penalties for those under 18 found in possession of marijuana, though they could be subject to counseling or community service. Those between 18 and 21 would be subject to fines starting of between \$250 and \$500, instead of criminal charges. The Senate was still drafting its version of that bill Tuesday.

The bill is scheduled for committee hearing in both houses Thursday, and then a floor vote on Monday.

Fix ‘unintended consequences’ later

“We understand the need to discourage minors from using marijuana, and a structure with fines is better than one with criminal consequences,” said ACLU-NJ Executive Director Amol Sinha. “That said, we are concerned that these fines are too high, especially for those in lower-income communities, and we want to make sure this isn’t another back-door pathway into the criminal justice system. ... Meaning what happens if someone can’t pay the fine? Will they be arrested? We should avoid any such entanglement with the criminal system, and commit to fixing unintended consequences along the way.”

Asked Tuesday when the Senate version of the new legislation will be finalized, Sen. Nicholas Scutari, sponsor of the legalization bill, said, “sometime between now and Thursday morning.” Scutari said lawmakers in the upper house want to make one final tweak, adding language that would create a mechanism to insure that there would be no arrest record for a minor caught with cannabis.

Asked if he thinks the bill will pass Monday, Scutari said he was optimistic, and predicted it would not be the last clean-up bill: “I’m sure there will be more changes this year and next. More scenarios will come up.”

According to several Trenton insiders, the governor's form of legislative negotiation is peculiar, to say the least.

"Never in my many years in state government have I heard of passing a clean-up bill before the bill they want to clean up has been signed into law. If it ever has happened, it's exceedingly rare," said Carl Golden, whose political career dates back to the 70s as a former political reporter, press secretary for Gov. Thomas Kean in the 80s and now as a senior analyst at Stockton University's Hughes Center for Public Policy. "The way this is normally handled is with a conditional veto by the Governor, followed by consultation with legislative leaders to amend a bill."

Long and winding road

The path to legalize adult-use marijuana has been long and tortured.

Scutari (D-Union) first proposed legislation in 2017. But the bill went nowhere because then-Gov. Chris Christie was adamantly opposed. But in 2017, Murphy was elected governor and promised to legalize weed in his first 100 days in office.

Scutari dusted off his bill, but the Legislature was unable to muster up enough votes. So, instead, they decided to put it to the voters in the form of a constitutional amendment. That passed by a 2-1 ratio in November.

The bill was dusted off again. It became two bills: one to legalize and establish a regulated industry for adult-use recreational marijuana, and a second to decriminalize possession of marijuana in amounts under six ounces.

But over the past two months, the [bills were abruptly pulled](#) over a number of objections voiced by lawmakers and social-policy advocates. Finally, it appeared all differences had been resolved, and both houses passed the two bills on Dec. 17.

It was shortly after that when the governor's office identified what they called "a drafting error," and demanded the changes regarding minors.