

Cannabis Business Blog

As Midnight Strikes, DC's Recreational Marijuana Initiative Becomes Law

By Brad Deutsch on 2.25.15 | Posted in District of Columbia, Federal

Despite some early grumbling from Congress threatening to block DC's ballot initiative from becoming law (because of DC's special status, DC ballot initiatives do not become law until they pass through a 30-day Congressional review period), with only a few hours to go, it appears that the review period has come and gone.

DC Mayor Muriel Bowser held a conference yesterday [outlining](#) the new DC law and how it would be enforced. Under DC's new law, anyone 21 years of age or older will be able to lawfully:

- Possess two ounces or less of marijuana;
- Use marijuana on private property;
- Transfer one ounce or less of marijuana to another person, as long as (a) no money, goods or services are exchanged and (b) the recipient is 21 years of age or older; and
- Cultivate within his or her primary residence up to six marijuana plants, no more than three of which are mature.

It will remain illegal in DC for anyone to:

- Possess more than two ounces of marijuana;
- Smoke or otherwise consume marijuana on public space or anywhere to which the public is invited; including restaurants, bars, coffee shops, and public housing;

- Sell any amount of marijuana to another person; or
- Operate a vehicle or boat under the influence of marijuana.

Some Members of Congress are upset about the new law and Representative Jason Chaffetz, Chairman of the House Committee on Oversight and Government Reform, has [written](#) to Mayor Bowser, warning her that implementation of the DC law is illegal because it would violate the federal spending bill passed at the end of last year barring federal funds from being used “to enact any law, rule, or regulation to legalize or reduce penalties associated with the possession, use or distribution” of marijuana. Chairman Chaffetz has also launched an investigation, demanding that Mayor Bower provide his Committee with information about efforts related to DC’s enactment of the ballot initiative.

Warning Regarding Federal Law: The possession, distribution, and manufacturing of marijuana is illegal under federal law, regardless of state law which may, in some jurisdictions, decriminalize such activity under certain circumstances. Penalties for violating federal drug laws are very serious. For example, a conviction on a charge of conspiracy to sell drugs carries a mandatory minimum prison term of five years for a first offense and, depending on the quantity of marijuana involved, the fine for such a conviction could be as high as \$10 million. In addition, the federal government may seize, and seek the civil forfeiture of, the real or personal property used to facilitate the sale of marijuana as well as the money or other proceeds from the sale. Although the U.S. Department of Justice (DOJ) recently rescinded its guidance regarding prioritization of criminal prosecutions of individuals and entities operating in compliance with effective state regulatory systems, DOJ left in place long standing guidance to federal prosecutors regarding how to exercise this discretion. Individuals and companies are cautioned to consult with experienced attorneys regarding their exposure to potential criminal prosecution before establishing business operations in reliance upon the passage of state laws which may decriminalize such activity. Federal authority to prosecute violations of federal law as crimes or through seizures and forfeiture actions is not diminished by state law. Indeed, due to the federal government’s jurisdiction over interstate commerce, when businesses provide services to marijuana producers, processors or distributors located in multiple states, they potentially face a higher level of scrutiny from federal authorities than do their customers with local operations.