

# New York Set A New Standard for Social & Economic Equity in Legal Cannabis: Can Rhode Island do the same?

It is the responsibility of each state that legalizes cannabis to incorporate the lessons learned from other states into any proposed laws and regulations. Wasn't that the whole point of the "wait and see" argument we heard year after year from RI lawmakers, seemingly content to let millions of dollars bleed over the border into Massachusetts? I'm not sure how much research, data analysis or outreach has been going on over on Smith Hill these past ten years, but since I've been working with this issue I have seen very little progress in the conversation, particularly around social and economic equity in RI cannabis policy. The study commission created in 2017 ("News Analysis: RI to Study, not Legalize, Cannabis", Sep 6, 2017) expired without ever filing a report ("News Analysis: What Are Your Elected Officials Smoking?", Apr 18, 2018). If it weren't for long-time champions like Senator **Josh Miller** (D-PVD), whose recent legalization bill is the best attempt at equity we've seen so far, I would be inclined to believe that lawmakers haven't been listening at all.

In fact, in his introduction of the bill (S.2430) at a recent Senate Judiciary Committee hearing, Sen. Miller emphasized the importance of integrating recent outcomes from other states, as well as feedback from advocates and stakeholders, whose input, he said, "is not only important, but critical to the process of getting this right so we are in a position to vote on it... I feel strongly that this will result in a better bill."

In Massachusetts, it has been six years since voters legalized cannabis, yet less than 5% of those eligible for expungement have had their records cleared, and only *five* of over 100 "social equity" licenses have actually been awarded. Those directly harmed by the criminalization of cannabis are still suffering that burden, and prospective business owners have struggled to access the capital, real estate, and education necessary to compete with corporate conglomerates and multi-state operators. Without specific strategies to address these barriers, Little Rhody will go the way of "Big Weed" before we know it.

Let's take a look at New York, where the new cannabis policy has raised the bar when it comes to legislating for true social and economic equity in cannabis. Many of the policies laid out were clearly crafted to try to avoid the pitfalls experienced by some of the early states and to include social equity within legalization. The NY Marijuana Regulation & Taxation Act lays a framework for the strongest social and economic equity program we have seen thus far, especially when it comes to three key policy components: licensing, expungement, and social equity assistance funding. The program is both wide-reaching in scope and specific in language, with too many important provisions to include here, so it's worth checking out the details (read the fact sheet at [cannabis.ny.gov](http://cannabis.ny.gov)). Lawmakers should take note - we can both legalize cannabis this legislative session and ensure that we don't leave some Rhode Islanders behind when we do.

## Licensing

When it comes to issuing cannabis licenses, the devil is in the details. There are a few key parameters

that have the potential to make or break the way a legal cannabis market is rolled out - and who profits from it. The number and type of licenses specifically designated for social equity applicants, as well as when they are awarded, can make a real difference when attempting to offer a leg up to communities that have been historically disadvantaged. In New York, 50% of all adult use licenses will be earmarked for social equity applicants - including women, minorities, disabled veterans and individuals from disproportionately impacted communities. The first licenses awarded will be to these groups, giving them a much-needed head start in the industry. Furthermore, the law will prioritize several low barrier-to-entry license models for social equity applicants - including delivery, microbusiness, cooperative and on-site consumption licenses - and any social equity license can only be sold or transferred to another qualified applicant (for at least three years). The two-tier market structure in New York doesn't allow for vertical integration, which leaves more room for local businesses to compete with multi-state operators, and all non-equity license holders will be required to develop and implement a "social responsibility framework" for their businesses, and to annually report their progress to the Cannabis Control Board, or else their licenses will not be renewed.

By contrast, RI is planning on offering the first retail licenses to the three existing medical marijuana dispensaries (which are all fully vertically-integrated, and owned by people who "knew a guy" at the right time) and they'll be charged a hefty \$125,000 license fee.

But hey, it's less than the \$500,000 we've seen proposed so far - plus, it'll all be going into the social equity fund, so all's well that ends well, right? Not really, but at least under this law the dispensaries would be required to establish and maintain an agreement with a labor union - a move which is sure to be a welcome improvement for dispensary employees, who have tirelessly fought for their right to organize.

In addition, 24 new retail licenses will be issued in six regions of RI, with six licenses reserved for social equity applicants, and six earmarked for worker-owned cooperatives. RI will be the first state to set aside licenses specifically for co-ops, and it seems we have tried to follow New York's lead in terms of restricting the sale or transfer of a social equity or co-op license to only another eligible applicant. However, additional low barrier-to-entry license models are not fully fleshed out in this bill - rather, they are only listed as something the cannabis commission *may* recommend to the general assembly at a later time. The makeup of the commission will be a critical component to keep an eye on, as we cannot realistically expect equity to be prioritized if marginalized populations are not represented with a seat at the table. Lawmakers should consider awarding more (and earlier) retail licenses to social equity applicants in RI, as well as taking inspiration from New York when it comes to creating a more accessible market structure and carefully defining "social responsibility" requirements for non-equity businesses.

### **Automatic (State-Initiated) Expungement**

In states with automatic (state-initiated) clearance of criminal records for marijuana violations - including New York, New Jersey, and Connecticut - hundreds of thousands of citizens have been granted relief from the many burdens of a criminal conviction. By contrast, in non-automatic states, less than 5% of those eligible have actually received relief; expungement provisions in those laws turned out to be nothing more than lip service. So far, RI is setting itself up to be part of the latter group, as evidenced by the proposal of a non-automatic expungement process. Let's learn from New York.

### **Social Equity Assistance Program & Fund**

In New York, 40% of tax revenue from the new dispensaries will be invested back into communities harmed by the failed War on Drugs, which has always disproportionately impacted people of color and will continue to do so in the age of legalization, unless we start making these changes now. Through the New York State Community Reinvestment Grant Fund, community-based non-profit organizations and local governments will be able to apply for funding to support community revitalization efforts. The governor of New York has also earmarked \$200 million in this year's budget to support social equity businesses, mostly to be spent on finding, securing and renovating storefronts for retailers. This unique concept of creating "turnkey" operations - where the state takes on the burden of dealing with the intimidating New York real estate market so that prospective owners without the necessary experience don't have to - is a novel example of the type of individualized and outside-the-box thinking that we will need in order to figure out how to build equity in various contexts.

The recent proposal from Sen. Miller also includes a social equity assistance program and fund, which thankfully looks like it will be maintained separately from the black hole of the state treasury that is the "General Fund," and is to be funded by annual fees from adult-use cannabis businesses. The fund is meant to be used for grants, technical assistance, workforce development and mentoring for social equity applicants, as well as programming intended to support restorative justice, jail diversion and other services for communities impacted by the War on Cannabis.

As far as expungement and licensing provisions, we already have clear data from other states to show which policies have fallen short of achieving their purpose, and what the new standard for social and economic equity in cannabis law should be. I believe the most critical element is *who* is included in (or excluded from) the regulatory and decision-making processes, *how exactly* the social equity assistance program is funded and implemented, and *if* we choose to continue to criminalize Black and brown Rhode Islanders while the state and its power players profit. Our legal cannabis market will only be made better by the diversity of Rhode Islanders that will make it up, and it's beyond time for lawmakers to listen and learn from those who have lived experiences that can inform, influence and improve our cannabis industry.