

WHERE DOES NY/NJ GO FROM HERE?

Voters in each state support legalization by a large majority...but political gamesmanship is clogging up the works.

~ Joshua S. Bauchner
Ansell Grimm & Aaron

By Andrew Ward



Joshua S. Bauchner



After months of will-they-won't-they activity, both New Jersey and New York failed to deliver on legalizing adult-use cannabis. What once seemed to be foregone conclusions to many turned out to be two hard doses of reality that leaves citizens and lawmakers with a foul taste in their mouths.

Instead of adult-use legalization, both have since pivoted to focus on expanding other cannabis parameters.

In New York, lawmakers flipped focus to expanding the state's partial decriminalization law enacted in 1977. The move aims to address the

social justice issues Governor Andrew Cuomo has championed since changing his opinion on legalization.

New Jersey responded to its failure to pass adult-use laws by expanding its medical program. The Jake Honig Compassionate Use Medical Cannabis Act was signed into law by Governor Phil Murphy this summer after the legislative session ended. The act is named after the seven-year-old who died from brain cancer.

Some, but not all, of the subjects addressed in the law include increasing patients' 90-day supply limits, allowing for home delivery, and expanding the list of qualifying conditions. Additions to the list include PTSD, cancer, glaucoma and several other debilitating conditions.

Evan Nison, a cannabis advocate and entrepreneur, has lobbied in both states. He told The Marijuana Times that both states are hard to predict. In New Jersey, where he currently resides, he credits infighting within the majority Democratic party as one reason the law has yet to pass. The fighting is most notably summarized by the battle between Gov. Murphy and Senate President Steve Sweeney.

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"In New Jersey, I believe that we could pretty easily pass legalization to the legislature. The Senate President is holding it up for leverage against the Governor to try to potentially make the Governor look bad for not fulfilling a campaign promise," Nison explained.

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Joshua S. Bauchner is an attorney and serves as head of the New Jersey law firm **Ansell Grimm & Aaron, PC's Cannabis Law Practice**. He also cited political infighting as the source of delaying legalization initiatives, despite the wishes of the people. "Voters in each state support legalization by a large majority, as much as 65%, and even the legislators agree – but political gamesmanship is clogging up the works."

Marc Ross is a founding partner at Sichenzia Ross Ference and serves as an adjunct professor at Hofstra School of Law, where he teaches the Business and Law of Marijuana. Ross credits "political gamesmanship and special interests" for taking down both initiatives.

While Nison believes New Jersey will legalize before New York, Ross thinks the opposite – thanks to Massachusetts and public safety. However, he added that both need to act fast or risk losing valuable tax revenue.

"New York and New Jersey recognize they can't lose all the tax revenue to their sister state, nor do they want to encourage their citizens to drive to Massachusetts to buy marijuana, and thus, increase the likelihood people may be driving under the influence in their states, which would result in more traffic accidents," Ross said.

After Illinois surprised some by beating New Jersey and New York to the legalization punch, can the two states learn from the Midwest? It depends on who you ask.

While Nison did not work on the Illinois legalization effort, he believes that leadership in the state appeared to be on the same page. "Between the Governor and the Senate President...the leadership was working together, from what I understand...It sounds like they were working together, and if the leadership is working together, it's much easier [to pass legislation]."

On the other hand, another legal professional sees it a bit differently. "The legislators of New York and New Jersey know what they need to do here," said Ross. "They don't need lessons from other states like Illinois. They just need the courage and determination to do what the people of their states elected, and pay, them to do – legislate."

Ross cited New York's once restrictive medical cannabis program and its progression in years since. He explained how the state could do the same for adult-use marijuana.

Going forward, **Bauchner** suggests that businesses focus on obtaining licenses early. "Applicants should start lining up real estate, financing, and partners ahead of time so when new licenses become available, they can be ready." He added, "In New York, businesses also can apply to participate in the pilot hemp program, which gets a foot in the door."

Nison said that Democratic infighting in New Jersey could eventually lead to backlash striking the Senate President, even if voters associate legalization more with the Governor. "New Jersey residents associate Murphy's name with legalization more than Sweeney's, but there are enough powerful people in [New Jersey state capital]

Trenton that are paying attention and that will be influenced in the election."

In all, Ross and Nison both believe that legalization will come for both states. Nison sees New Jersey approving the measure no later than 2020.

Ross sees both states approving the measure, but is troubled by the fighting amongst the majority parties. Despite all the conflicts, he predicts that the will of the people will win out. "I believe the citizens will put pressure on their legislators and demand action. After all, that is what [legislators] are elected, and paid, to do."