



April 12, 2024

Chair Latz and Members of the Judiciary and Public Safety Committee:

With the legalization of cannabis, Minnesota has a significant opportunity to reduce unnecessary consequences of the criminal justice system, increase public safety, create thousands of jobs, and boost overall economic growth and prospects. As we have seen in other states, to accomplish these goals, **it is critical that legalization entails a licensing structure that promotes competition, limits unnecessary exclusion and disadvantages to prospective licensees, and significantly reduces the black market.** We strongly urge legislators to carefully consider the following changes as Senate File 4782 moves forward implementing recommendations and fixes to last year's legislation.

Americans for Prosperity (AFP) agrees with several of the recommendations detailed in the Office of Cannabis OCM's 2024 Annual Report to the Legislature to make the licensing process more efficient and inclusive, including:

1. Doing away with the requirement to secure a premise and comply with local codes prior to being even considered for a license.
2. Creating a more efficient local endorsement process that maintains necessary municipal checks on objective criteria for licensure while limiting more subjective challenge from localities that can severely delay license approval.
3. Creating a single supply chain for medical and recreational cannabis.

However, we have the following concerns over proposed changes to the program:

#### **Arbitrary License Caps**

While Chapter 63 will require at least 381 retail registrations, it would be a mistake for OCM to limit licenses to this number and to not routinely review market demand in order to properly serve consumers, ensure robust competition, and limit the threat of a cannabis oligopoly.

As your January 16 report on consumer demand rightly stated: "Until the adult use market is launched and sales for both types of outlets can be thoroughly assessed, estimates of adequate product supply and outlets for the adult use program will likely be inaccurate."

It is concerning to see in your January 16 report titled "An Examination of Cannabis Consumers and Cannabis Demand in Minnesota" that you equate the term "competitive" to limiting the availability of licenses (See Section 4).

Equally as concerning, the report states, "Similarly, there is no evidence to suggest that open licensing policies are more effective in reducing the illicit market in the long-term than limited licensing policies." In fact, arbitrary license limitation will of course stymie competition, lead to less innovation, and higher costs to the consumer; all drivers of the illicit market. Imagine if the



Minnesota Department of Health (MDH) began limiting restaurant licenses in order to drive competition? We'd have worse quality food at a higher cost, leading to more people eating in (the restaurant equivalent of the black market). Therefore, continued evaluation of demand and how it's being met should be the primary factor when considering the number of licenses.

### **Complication and Cost of Application Process**

As we have seen in other states, some of the greatest financial benefactors of recreational cannabis are firms who specialize in navigating the bureaucracy of the application process. Higher costs and more red tape mean fewer candidates who can afford to obtain a license, increasing the risk of corruption and oligopolistic power. Additionally, these costs will ultimately be felt by the consumer, making legal market products less competitive with the black market.

### **Requiring a Labor Organization to Attest to Labor Peace Agreement**

A current provision requires a cannabis retail license applicant to provide an attestation (approved by a labor union) to enter into a labor peace agreement. As Geoff Lawrence, Research Director at Reason Foundation stated in a letter to Chair Becker-Finn and members of the Minnesota House Committee on Judiciary Finance and Civil Law, "We anticipate these provisions will cause delays in the market's development, render it less dynamic, give undue influence to unrelated third parties, and would violate federal labor laws." We implore you to read this letter and consider these concerns. Additionally, there is concern from OCM of certain provisions related to local control as something that will cause unnecessary delay, influence, and costs. We hope OCM sees this provision in the same light.

### **Use of Criminal History for License Applications**

While there have been complications, it is encouraging to see the legislature implement procedures to expunge records and resentence individuals convicted of certain cannabis related offenses.

While it is imperative for OCM to consider the success and viability of new cannabis licensees, arbitrarily denying licenses based on a person's past criminal behavior will impede on the legislature and OCM's shared goal of successful reentry for those most impacted by prohibition and the criminal justice system at large.

Similarly, to other licensing reforms across the country, OCM should:

- Lay out clear guidance on what offenses are disqualifying or could be likely disqualifying.
- Consider evidence beyond just someone's criminal record and ensure if there is a denial based on criminal history, the applicant is informed why and is able to provide additional information for reconsideration.
- Ensuring any denial based on criminal history has a direct nexus to the actual occupation itself and would cause a public safety and/or health issue.
- Allowing for a pre-check of this process prior to significant resources being utilized by the applicant only to be denied later on. Additionally, although non-cannabis drug-



related offenses may have a direct nexus to working in the cannabis business, these applicants should also be looked at beyond their conviction.

Finally, we issue a word of caution on social equity. We applaud the legislature and OCM for making efforts to reverse the negative impacts of cannabis prohibition. However, social equity programs in other states, including California, New York, Illinois, New Jersey, and Virginia have shown they are ripe for corruption, with third parties being able to take advantage of these programs, rather than those the endeavors are intended to benefit. This is compounded when incentives such as earlier market launches are promised for equity licenses, high application fees, and complicated red tape. Assisting those who have been directly impacted is a noble goal, but OCM and the legislature need to be mindful of problems in other states, and adjust current equity plans accordingly.

Thank you for this opportunity to share our views.

Sincerely,

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