



Cannabis: Next Frontier of Nevada's Hospitality Industry Just Waiting to be Cultivated

BY DALLAS HARRIS, ESQ.

Las Vegas is the entertainment capital of the world, and with the recent addition of WNBA, NHL, and NFL franchises calling Las Vegas home, the city is on its way to becoming the sports capital of the world as well. This begs the question as to what the next frontier is for the town that does hospitality like no other, and all signs point to the cannabis industry.

Since its legalization in 2017, the recreational marijuana industry has grown exponentially. In 2020, according to the Nevada Cannabis Association, marijuana dispensaries in Nevada sold approximately \$700 million worth of product, resulting in the creation of 8,200 jobs directly by licensed establishments and \$105 million in tax revenue deposited directly to the State Distributive School Account. The industry is showing no signs of slowing,

but with the power of all of this growth come the great responsibilities of public safety and social equity. While the cannabis industry is the next hospitality frontier, it also presents opportunities to ensure that the legal structure that supports the industry is sound.

A Quick History

In 1998 and 2000, voters in Nevada approved Question 9, the Nevada Medical Marijuana Act, making this state one of the first to legalize the use and sale of medical cannabis by amending the state constitution. A Nevada resident who was diagnosed with one of the listed ailments and received a physician's prescription could lawfully possess up to 2.5 ounces of useable cannabis. Although the passage of Question 9 in Nevada created history, the Medicinal Marijuana Act did not contain any legislation addressing how a

certified patient would lawfully receive medical cannabis. Nevada did not adopt laws authorizing the commercial sale of medical cannabis, as well as expanding production and possession limitations, until 2013. Nevada – along with California, Maine, and Massachusetts

– legalized adult-use cannabis in 2016, with Nevada dispensaries opening themselves to recreational customers in July 2017. This created a dual-licensing scheme for cultivation, production, and sale of cannabis in the Silver State.

The Nevada Department of Taxation regulated the cannabis industry until 2020. During the 79th Session of the

Nevada Legislature in 2019, Governor Steve Sisolak sponsored Assembly Bill 533 which, among other things, established the Cannabis Compliance Board (CCB). The industry had grown enough to warrant its own independent

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CONTINUED ON PAGE 23

regulator. The CCB's mission is to govern "Nevada's cannabis industry through strict regulation for all areas of its licensing and operations, protecting the public health and safety of our citizens and visitors while holding cannabis licensees to the highest ethical standards."¹ The CCB hit the ground running and adopted the initial version of the Nevada Cannabis Compliance Regulations (NCCR) on July 21, 2020, and the industry has been operating under this regulatory scheme since then.

The Next Hospitality Frontier

Nevada certainly was not the first state to legalize recreational marijuana, but with decades of experience providing visitors with a world-class hospitality experience, the state is poised to make its cannabis experiences like no other jurisdiction can. Las Vegas has some of the best hotel rooms, restaurants, night clubs, sporting events, concerts, and shopping opportunities in the world. It is no surprise that Las Vegas and Nevada are poised to add cannabis to the long list of things they do best. In fact, some would argue that day is here, given that Las Vegas is already home to the largest cannabis dispensary in the world.² These dispensaries often have a sleek design that is aimed at providing their customers with a unique experience. Some have even been likened to Apple stores in their aesthetic.³

As the industry grows, there is a clear trend toward offering customers an experience customized to their desires, and the options are endless. There are candies, baked goods, concentrates, oils, topical creams, and traditional flower. Each product can be tailored with variations to help the consumer sleep, treat anxiety, or relieve muscle pain. This is the next frontier in hospitality and Las Vegas is at its forefront.

The Next Legal Frontier

The legal questions presented by Nevada's burgeoning cannabis industry

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are endless. Markets work best when they are accompanied by the proper amount of government regulation. Too much regulation causes the industry to suffocate before it even has a chance to blossom, but too little regulation puts public health at risk and stifles competition by concentrated ownership. The challenge presented is allowing the industry to grow without government overreach, while simultaneously ensuring that the product delivered to customers is safe, and that opportunities are available to everyone, especially those who were harmed by our country's previous marijuana policy. For example, while the purchase of marijuana for recreational purposes has been legal since 2017, tourists have had no place where they could legally partake in the purchased product. Hotels and casinos don't allow consumption on their property and public consumption outdoors can still find the consumer in jail. So how effective is the legalization of a product that its intended consumer cannot otherwise legally consume?

Public safety is an issue at the forefront of the minds of both those shaping cannabis policy in Nevada and those charged with the everyday

protection of the public. One form of public safety is ensuring that the product itself is safe for consumption. That process begins with licensing and requires inspections at every stage of the grow and sale processes, from production to retail. Additionally, there are also public safety concerns related to public consumption and driving. This issue is complicated by the fact that the federal government prohibits research on

driving while under the influence of marijuana since cannabis is still listed as a Schedule I substance. State lawmakers have been tasked with developing marijuana impairment laws without sufficient information related to how the human body metabolizes the drug. Until recently, Nevada's DUI laws had a per se limit for marijuana intoxication that was

at such a low level that almost any measurable level of marijuana would cause the person to test above the legal limit whether intoxicated or not.

Two other important legal obstacles to overcome is ensuring that the cannabis industry is open for competition and that there is space for historically disadvantaged communities to share in the market's success. While one is a question of antitrust, and the other is a matter of social justice, both are issues that are easier to address while the market is developing than they would be once the rules have been set and well-funded companies have captured large pieces of the market. While the cannabis industry is still in its nascent stages, competition can be built into the statutory and regulatory framework of the market. Each regulatory requirement or fee for licensing is a barrier to entry that can potentially stifle competition. Furthermore, it is those same barriers that make it more difficult for minorities to own and operate cannabis establishments. The CCB has already completed a substantial amount of work related to market competition and social equity.

CONTINUED ON PAGE 24

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The Path Forward

Nevada is best situated to make the cannabis industry its next hospitality market, with all the tools it needs at its disposal to create a fair and balanced statutory and regulatory framework that promotes robust economic growth, social equity, and public safety. Cannabis sales are growing year after year, and consumption lounges are on their way. However, for all of the industry's success, there are several issues that should be addressed moving forward to ensure that the industry can continue to thrive and innovate. Primarily, the CCB needs to

reform the licensing process to add clear metrics, open and transparent policies, and emphasize diversity in ownership, both geographically and individual demographics. The legislation that legalized cannabis lounges from the 81st Session of the Nevada Legislature in 2021 provides a road map for how the CCB should address social equity in the industry broadly. It established a social equity license for consumption lounges and required the Cannabis Advisory Commission to study the issue of social equity. The CCB must continue to lower barriers to entry to facilitate diversity in ownership. For example, it is well past time that persons with previous nonviolent marijuana convictions be allowed to obtain a license. Lastly, the CCB should move to a single license structure so that operators at every level of the industry can participate in both the recreational and medical markets without the need to apply for and obtain separate licenses.

Economic innovation, a fair and just framework for market entry, and the highest ethical standards to ensure public

safety and trust are the pillars of every other hospitality success in Nevada, and these pillars can ensure that the cannabis industry is that next big success.

ENDNOTES:

1. Cannabis Compliance Board. About the Cannabis Compliance Board. <https://ccb.nv.gov/meet-the-cannabis-compliance-board-ccb/#item-0>.
2. Planet 13 is a 115,000-square-foot facility.
3. Li, Shan. "Marijuana shops are trying to look like the Apple store." Los Angeles Times. Jan. 16, 2017, available at <https://www.latimes.com/business/la-fi-fancy-pot-shops-20161230-story.html>.



DALLAS HARRIS is of counsel at Davison Van Cleve and represents district 11 in the Nevada Senate.

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