



WITH ALEECE BURGIO

Episode 23: “Cannabis Administration Opportunity Act”
 Speakers: Aleece Burgio, host, Barclay Damon

[Aleece Burgio] Hey, everyone, this is a Barclay Damon Live broadcast. You’re listening to The Cannabis Counselor, and I’m your host, Aleece Burgio. Let’s get into it.

[AB] What’s up, everybody? This is Episode 23 of The Cannabis Counselor. I’m your host, Aleece Burgio. And today we’re going to be talking about the Cannabis Administration Opportunity Act, which has been sponsored by Senate Majority Leader Chuck Schumer, Senator Cory Booker and Senate Finance Committee Chair Ron Wyden. It’s a really impressive bill, kind of the first of its kind that’s been introduced, a lot of social equity provisions. And we’re going to kind of dive in to the bill and talk about what’s been put at the forefront and kind of things that we’ve seen along the way that have definitely changed.

This is a bill...technically, it’s ... it’s an introduction, not really a bill. So it was 163 pages, but it’s being used more so for discussion purposes. They’re saying that the actual draft is going to happen in the fall. But what this bill essentially says is that they’re going to remove cannabis from the Controlled Substances Act. And as we know, cannabis was listed as a controlled substance along with Schedule I. So it’s heroin. It’s LSD, it’s ecstasy, all on the same line. Cocaine is Schedule II, but they’re going to remove it entirely and allow states to decide whether or not they want to legalize marijuana themselves, which still gives states their rights to do so. It’s kind of like alcohol, it’s kind of like tobacco, but it’s a bill that does take some oversight and some ownership of cannabis, which makes sense, right? I mean, we’ve been operating in this industry for so long without any type of regulatory scheme for labeling, for marketing. We don’t have anything in place for banking, especially right now. We’re looking at this issue in New York State, and I’m sure all the people that are listening, who are trying to become operators who maybe haven’t been operating in a multi-state are looking for bank accounts. This is a comprehensive legislation that allows for States to still own it, but for the federal government to remove a lot of the difficulties for things we’ve ... that they’ve been problematic in the past.

No longer is 280E the provision that only allows cannabis businesses to tax on cost of goods sold, that’s going to be eliminated. Banking will be available for businesses. Insurance will be available. If you are a person who is smoking or in federal housing, you no longer could be penalized or removed from housing for smoking or having in your home marijuana, which is really a big deal, right. Because even though marijuana is legalized at the state level—so here in New York State, we have allowed it, and there’s a home grow allotment that’s happening here in New York after 18 months after the first



sale. But anyone in federal housing knows that they're not going to be allowed to smoke or have those marijuana plants in their facility, or in their home that they're renting.

It's crazy when you think about it, because 18 states plus Washington, D.C. have legalized adult use cannabis. And then on top of that, 37 states have medical marijuana, 37 out of the 50. I mean, this is something that just can't be ignored anymore. So it makes a lot of sense that there's a bill in place that at least allows for that recognition and to quantify the fact that, hey, it's operating. This is a billion-dollar business, and it's expected to be, like a \$100 billion by 2030, which could probably be a conservative estimate if we really think about it on, you know, taxable cannabis. But it's overall, it's something that shouldn't be ignored anymore. And so I'm glad that finally we see a piece of legislation that tackles it, but also gives states this opportunity to really vet their programs out similar to alcohol. Not every state has the same alcohol rules. I mean, obviously, for cannabis, you'll still have to be 21 and older to purchase, but it won't impede on how the states have been operating currently, like Washington, Oregon, Colorado, New Jersey. It does mean though ... say this bill does come into play, New York needs to get their program up and running. They have to have something in place if this was ever passed. Now, do I think that this bill will pass? I'm going to say no. I mean, back in March, you had President Biden still firing people for marijuana use. He's not pro cannabis legalization. He's never claimed to be pro cannabis legalization.

I think it's more likely than not that it would be a decriminalization bill that we see President Biden favoring. But, you know, it does get the group talking. And I think if you ask people in the industry, they don't anticipate that this Cannabis Opportunity ... Administration Opportunity Act is going to get passed. But it does put into play some really important conversations about who would be governing, how it would be taxed, and just social equity provisions that have to be baked in. And so the social equity provisions are right where they need to be. Some probably obviously, we can expand. But expungement of records, petitioning the court for re-sentencing on nonviolent crimes that are pertaining to cannabis, reinvesting in communities who have been disproportionately impacted by the Prohibition. You know, these are really important things to not hinder, you know, the progressive nature that we're seeing as states start to legalize adult use further on, we're seeing Connecticut having nice provisions. New York had great provisions. Illinois just revised their social equity provisions, and we have to keep that momentum going. Otherwise, it's a pretty big loss. So I have all the faith in Senator Cory Booker to take the stand on that. I think he has had in the right place in terms of how to make sure that this is an inclusive type of industry. And that's what we're looking for, I think overall, for it to be equitable, both in the social aspect and the economic aspect.

What I think is a little nerve-wracking, though, and, you know, for the states that are just getting going, New Jersey, Connecticut, New York, Virginia, New Mexico, say this were to pass, this would allow interstate commerce because it's no longer federally banned. There wouldn't be an issue with transporting across state lines. And so I just ... unless there's something that indicates that interstate commerce wouldn't be allowed, it would be problematic, at least in New York, if, for example, an Oregon grower could sell their product at a New York dispensary.

And I think it would absolutely give a leg up to all these multi-state operators, of course. But for the



little guys and for the program that we have currently for this New York State legalization program, we're looking at micro businesses, we're looking at social equity businesses, and those could easily get crippled by a large industry who's been growing for 5–10 years already, kind of coming in and taking that spot away for at least having that type of product.

So the other important part I think we should talk about for the Cannabis Administration Opportunity Act is just a taxation component. There is this baked-in language that suggests that there will be a 10% tax to start. And then it could go up to 25% within the first five years. That's a really high tax, considering that we would be looking at not only of the federal excise tax, but also any of the state taxes that we're looking at. So states would be able to govern themselves. They have their own tax regime. And then on top of that, you could cut on the 25% tax at the federal level.

We always have to be mindful about a black market, you know, rise when a cannabis product is too expensive. And so I want to make sure that that's something that we're always thinking about just in general. And I know operators, it's always a huge concern. They've been burned so many times before just with having to do the lack of write-offs for 280E. But you want to facilitate this in a capitalistic nature, you don't want to hinder it. And so if we're looking at a \$100 billion industry and it's getting taxed like crazy, how many operators are we truly going to have? Can small businesses afford to enter with that type of language? And will people still continue to purchase at the legalized level or will they look to go to the black market.

So, let's stay tuned. We'll talk about this more as the fall comes around and the bill, I think, would then be introduced. Hopefully we get maybe even some more changes, we'll see. But overall, it's been a very good start to a very tough issue. Thanks for tuning in. We'll see you next week.

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