

New Jersey Regulation and Legislation to Watch in 2021

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Guillermo C. Artilles

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New Jersey Gov. Phil Murphy is entering 2021 with an eye on winning a second term while his administration imposes restrictions on businesses due to the coronavirus outbreak and crafts regulations for selling adult-use recreational marijuana and implementing an environmental justice law, even as mandatory minimum sentencing reform remains stalled.

Over the last several months, the Murphy administration has imposed a series of limits on businesses to curtail the spread of the COVID-19 virus, forcing them to alter their operations or close their doors entirely.

With the rate of COVID-19 infections having climbed in the state, businesses are bracing for such restrictions to continue in the new year, attorneys said. The ability of businesses to handle the restrictions depends on the nature of their work, according to Pamela J. Moore, an employment attorney at McCarter & English LLP.

"If you have a white-collar workforce and everybody already had a laptop and could work from home anyway, then it was certainly much easier for you to not miss a beat," Moore said.

But she added, "Look at what's happened to the hospitality industry. ... It's a nightmare and state economies that depend on the travel and tourism industry have been decimated."

Moore added that the pending COVID-19 business immunity legislation is "absolutely critical" for businesses to regain their footing after the pandemic. If businesses don't have immunity, there's also the chance they won't be able to secure insurance coverage for such claims, Moore noted.

"[Immunity] brings a sense of financial security," she said. "You're not going to be having huge amounts set aside as reserves for COVID-19 claims."

"I definitely think it's necessary to keep the economy going," Moore added. "We can't have businesses, so that one employee who got COVID may be compensated, but then if a business has to go out because it can't foot the liability for that individual, then 50, 100, 1,000 employees could get hurt from these lawsuits."

Even though the immunity bills have not moved forward at the Statehouse, lawmakers enacted a measure in December to create a system for selling recreational marijuana to consumers 21 years or older. The legislation followed passage of a constitutional amendment legalizing cannabis for adult use.

For players hoping to enter the Garden State market, the key will be “interactions and relationships at the hyper-local level,” according to Guillermo C. Artiles, who leads the cannabis group at McCarter & English. Local elected officials are the “ultimate decision-makers” in many ways, which will be a surprise for a lot of people looking to join the market, he said.

“Folks are going to have to really take their time to do their homework on municipalities that politically are going to be receptive to having ... whatever it is, whether it’s a grow farm or a retail dispensary,” Artiles said. “Are the local politics going to be there to support them?”