

West Virginia

Bailey & Wyant
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Member Presents on Medical Marijuana Legislation



Michael Taylor

Bailey & Wyant, PLLC Member Michael Taylor presents on Medical Marijuana in the Workplace at the WV County Clerks & Deputies Seminar in Canaan Valley. This topic is evolving as West Virginia sees emerging legislation on Medical Marijuana.

On March 29, 2019, Governor Justice vetoed HB2079, which had the goal of allowing vertical integration of the medical cannabis businesses. The law was seeking to amend the current law which prohibits cannabis growers or processors from operating dispensaries.

The purpose of allowing vertical integration was to allow companies involved in West Virginia's medical cannabis to earn a workable profit due to current federal tax law creating an approximately 70 percent tax on dispensary profits. In vetoing the bill, Governor Justice believed that bill, as written, would favor the vertically integrated businesses over non-vertically integrated business due to the tax structure of the bill. Specifically, under the bill, Growers and processors that sold to unrelated cannabis businesses were subject to a 10% gross receipts tax while integrated businesses were subject to a 5% receipts tax based on dispensary sales.

However, during the Legislative Special Session held on May 20, 2019, the Legislature passed SB 1037, which, among other things, eliminates all but the 10% tax. Additionally, SB 1037 eliminated a requirement that called for the Department of Agriculture to conduct all product testing. SB 1037 eliminated the Department of Agriculture to conduct product testing and allows for private labs to do the same. There were some additional other changes in the law, including the elimination of a requirement that a provider try or consider opioids before recommending cannabis.