

Kick-starting New York's Adult-Use Cannabis Program: Legislature Passes SB 8084

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On February 16, 2022, the New York State Legislature passed SB 8084, making significant changes to the Marijuana Regulation and Taxation Act to kick-start New York's adult-use cannabis program. Governor Hochul signed the bill into law on February 22, 2022. The bill permits current hemp cultivators and hemp processors to apply to grow and process adult-use marijuana, creating two new temporary license categories: (1) the conditional adult-use cultivator license; and (2) the conditional adult-use processor license. Subject to additional parameters, only current hemp license holders can apply for these conditional licenses. According to data from the New York Department of Agriculture and Markets and the Office of Cannabis Management, there are approximately 63 hemp cultivators and 25 cannabinoid hemp processor license holders active in New York today.

The legislation mandates the Office of Cannabis Management to issue the conditional licenses no later than December 31, 2022 and the licenses will be valid through June 30, 2024. Below, we detail the requirements for each new conditional license type.

Conditional adult-use cultivator license

- Must have valid hemp grower authorization as of December 31, 2021, and is currently in good standing;
- Must have grown and harvested hemp for at least two of the past four years under the license;
- The hemp licensee must have at least 51% ownership in the conditional adult-use cultivator license and cannot transfer the license until the end of the conditional period;
- The conditional adult-use cultivator license authorizes the cultivation of cannabis outdoors or in a greenhouse with no more than 20 artificial lights;
- Can cultivate up to 43,560 square feet of flowering canopy outdoors or 25,000 square feet of flowering canopy in a greenhouse;
- Must comply with any environmental standards and requirements mandated by the Office of Cannabis Management;
- Cultivation is only permitted within the same or an adjacent county in which the conditional license holder had previously cultivated hemp;

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- Will have temporary authority to minimally process and distribute cannabis products until June 1, 2023;
- Conditional licensees must agree to participate in an environmental sustainability program and a social equity mentorship program; and
- Conditional licensees must also enter into a labor peace agreement with a bona-fide labor organization.

Conditional adult-use processor license

- Must have applied for a cannabinoid hemp processor license before January 1, 2022 and hold an active cannabinoid hemp processor license;
- The hemp licensee must have a least 51% ownership in the conditional adult-use processor license and cannot transfer the license until the end of the conditional period;
- Processing of cannabis is only permitted at the same location in which the licensee is authorized to process hemp;
- Will have temporary authority to distribute cannabis products until June 1, 2023;
- Conditional licensees must agree to participate in an environmental sustainability program and a social equity mentorship program; and
- Conditional licensees must also enter into a labor peace agreement with a bona-fide labor organization.

The legislation also creates a pathway for conditional license holders to apply for a permanent license. If the conditional licensee is in “good standing”, it will be eligible to apply for and receive an adult-use cultivation license or adult-use processor license provided the licensee can meet all other requirements for such licenses.

Should you have any questions about this legislation or any other questions regarding New York’s cannabis program, please do not hesitate to contact the RCCB Cannabis Industry Practice Group or the authors of the article (nwillner@rccbllaw.com and gkaminsky@rccbllaw.com).