

THE WHEEL IS TURNING AND YOU CAN'T SLOW DOWN: AN UPDATE ON THE TRI-STATE OF CANNABIS

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Trying “just a little bit harder” and “just a little bit more” than years past, the Tri-State’s cannabis wheel is churning full speed ahead in 2022. New Jersey, New York, and Connecticut each began accepting applications for various adult-use licenses over the past several months and if the application process continues running smoothly, each state expects to open its doors to retail consumers before year’s end. While all three programs are uniquely different from each other, they are on remarkably similar launch trajectories that will undoubtedly transform the U.S. cannabis landscape and shift the balance of powers to the Northeast. This article will serve as an update on the status of each state’s recreational program.

Here are the key takeaways: (1) Adult-use sales in New Jersey will begin April 21, 2022; (2) New York approved the first 52 adult-use cannabis cultivation licenses on April 14, 2022 and expects to begin adult-use sales by December 2022; and (3) Connecticut has received more than 560 applications for its various license categories and anticipates the adult-use program to officially open by the end of 2022.

New Jersey

For background, New Jersey’s licensing scheme is broken down into six license types:

1. Cultivator License;
2. Manufacturer License;
3. Wholesaler License;
4. Distributor License;
5. Retailer License; and
6. Delivery License.

In addition to the traditional “annual license”, the New Jersey’s Cannabis Regulatory Commission (“CRC”) is prioritizing small businesses by creating a “conditional license” process to ease entrepreneurs into the new industry. Conditional applicants need only submit background disclosures to the CRC along with business plans and regulatory compliance plans. If the CRC approves the application, conditional licensees will have 120 days to meet the necessary requirements for an annual license.

Opening its adult-use cultivation and manufacturing application periods in December 2021, and its retail dispensary application period in March 2022, the CRC has already received over 730 applications. As of April 11, 2022, the CRC had approved 102 total applications: 70

conditional cultivation applicants and 32 conditional manufacturing applicants. These businesses will have 120 days (plus a short extension period) to complete a conversion application for final licensure before they can begin cultivating and manufacturing marijuana.

Despite the conditional license winners' inability to touch or possess marijuana until they receive approval for annual licensure, the CRC recently sanctioned seven medical operators' expansion applications to sell recreational cannabis at 13 different locations across the state. According to a CRC press release, "individuals 21 years and older will be able to purchase cannabis products legally without a medical card" beginning April 21, 2022.

New York

Beginning in 2018, New York had been in an unofficial race with New Jersey to be the first to launch its cannabis program. This past week, New York met defeat when New Jersey's CRC announced recreational sales would begin April 21 in the Garden State. Nevertheless, New York continues its forward progress, making significant strides in 2022 to begin recreational sales under the leadership of the Office of Cannabis Management ("OCM") and the Cannabis Control Board ("CCB").

Briefly, New York has multiple license categories, including:

1. Cultivator License;
2. Nursery License;
3. Processor License;
1. Distributor License;
2. Cooperative License;
3. Microbusiness License;
4. Retail Dispensary License;
5. On-Site Consumption License; and
6. Delivery License.

In February 2022 the state legislature passed a unique and thoughtful bill permitting current hemp cultivators and hemp processors to apply to grow and process adult-use marijuana. The legislation created 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. Importantly, cultivation is limited to just one acre of outdoor grow or 25,000 square feet of greenhouse grow. Indoor grows are not permitted under the conditional cultivation license.

Shortly thereafter, the OCM announced its “Seeding Opportunity Initiative” and in conjunction with the CCB released regulations creating a “Conditional Adult Use Dispensary License” reserved exclusively for “justice served” individuals meaning that they themselves, or their family members, have been convicted of a marijuana-related offense in the state of New York. The OCM aims to open the application period for Conditional Adult Use Dispensary Licenses over the 2022 summer with the lofty goal of licensing 50-100 conditional dispensaries by year’s end.

Jumpstarting the initiative, the OCM and CCB opened the application window for conditional adult-use cultivator licensees on March 15, 2022. By April 14, 2022, the CCB announced it had received 150 applications and approved 52 conditional cultivation licenses, ensuring that the first cannabis products on dispensary shelves come from New York farmers. That means these 52 licensees can now begin cultivating adult-use marijuana.

Over the next several months, the OCM and CCB expect to release the remaining regulations for New York’s adult-use program and open the application window for both conditional adult-use processors and conditional adult-use dispensary licensee hopefuls. Meanwhile, it may not be until 2023 that businesses can begin applying for standard cultivation, processing and dispensary licenses.

Connecticut

Taking a different approach to licensing than its neighbor states, Connecticut opened its adult-use application period February 3, 2022, relying on a lottery-based system to determine application winners. The Constitution State has a plethora of license categories for recreational cannabis, all of which will be regulated by the Department of Consumer Protection (“DCP”). The different licenses that the DCP has begun accepting applications for and the respective dates in which the initial application window opened include:

1. Cultivator License located in a Disproportionately Impacted Area (February 3, 2022);
2. Micro-cultivator Licenses (February 10, 2022);
3. Product Manufacturer Licenses (March 10, 2022);
4. Food and Beverage Manufacturer Licenses (March 3, 2022);
5. Product Packager Licenses (March 17, 2022)
6. Retailer Licenses (February 3, 2022);
7. Hybrid Retailer Licenses (February 24, 2022);
8. Delivery Service Licenses (February 17, 2022); and
9. Transporter Licenses (March 24, 2022);

Marking another key difference, Connecticut instituted 90-day application periods for each license type and will be limiting the number of initial license winners. For example, the state will license just six general retailers and six social equity retailers, five general food and beverage manufacturers and five social equity food and beverage manufactures, two general micro-cultivators and two social equity micro-cultivators, etc. According to the DCP's weekly cannabis establishment lottery report, the agency has received 75 social equity lottery applications and 492 general lottery applications as of April 14, 2022.

In prior statements, the DCP has made clear that it intends to begin adult-use sales by the end of 2022.

Conclusion

2022 will go down in history as the year the Tri-State area finally ended its decades-long prohibition on marijuana but there is still considerable work for both the regulators and the industry to accomplish. Together, we must continue pushing a "little bit harder, just a little bit more, a little bit further than [we've] gone before."

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