



Personal Adult-Use Cannabis: Business License Applications Are Finally Here

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By **Lisa Gora** and **Natalie Moszczynski** | January 6, 2022

Exactly 296 days after New Jersey's governor signed the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the Act) into law, the state's Cannabis Regulatory Commission (CRC) began accepting license applications to operate specific cannabis businesses. The first day applications were accepted was Dec. 15, 2021, which date will undoubtedly go down in history and marks the first step toward creating New Jersey's personal, adult-use cannabis market.

Currently, medicinal cannabis can only be obtained from 12 existing alternative treatment centers operating in the state, and is only available for purchase by New Jersey residents who hold a medical cannabis card. A resident who does not have a medical cannabis card issued by the Division of Medicinal Marijuana cannot purchase legal cannabis in New Jersey. However, Dec. 15, 2021, marked the first stepping stone for residents other than medical cannabis cardholders to be able to purchase personal adult-use cannabis from licensed cannabis retail businesses. The Class 5 Retailer License is the only one to allow holders to sell directly to a consumer; however, this license was not included in the first round of the application process but will be available for the public to apply for starting March 15, 2022. The licenses available for application on Dec. 15, 2021, were the following:

- **Class 1 Cultivator License:** Upon issuance of this license, the license holder will be permitted to grow, cultivate, or produce cannabis. The license-holder cannot sell directly to the consumer.
- **Class 2 Manufacturer License:** Upon issuance of this license, the license holder will be permitted to process cannabis items in New Jersey and manufacture, prepare, package, and transport the products to a retailer. The license-holder cannot sell directly to the consumer.
- **The Testing laboratory License:** Upon issuance of this license, the license holder shall be permitted to sample and test cannabis items in accordance with the Act, as well as sample and test medical cannabis and medical cannabis products in accordance with the Jake Honig Compassionate Use Medical Cannabis Act, (N.J.S.A. 24:6I-1, et seq.) upon certification or licensing pursuant to N.J.S.A. 24:6I-18.

The CRC is accepting applications on a rolling basis, and as of the writing of this article, there are no deadlines to submit applications. However, if the CRC decides to end the application process, advance notice of at least 30 days prior to the application close date is necessary. The CRC will provide priority review, scoring and approval to conditional and microbusiness applicants, as well as those that qualify as social equity businesses, diversely owned businesses, and impact zone businesses.

In order to qualify as a social equity business, the license applicant must demonstrate that either: (i) at least 51% of the ownership is held by one or more persons who have lived in an economically disadvantaged area, as defined by the CRC, for five of the 10 preceding years, and is a member of a household that had a household income that is 80% or less of the average median household income in New Jersey; or (ii) at least 51% of the ownership is held by one or more persons who have been adjudicated delinquent for or convicted of at least two marijuana- or hashish-related disorderly persons offenses, or at least one marijuana- or hashish-related indictable offense, and such person has been rehabilitated.

In order to qualify as an impact zone business, the license applicant's cannabis business must be located within an impact zone, as designated by the CRC, or 51% or more of the ownership is held by a current resident of an impact zone who has lived there for three or more consecutive years prior to submission of the application; or the license applicant presents a plan that ensures that 25% of its employees reside in any of New Jersey's impact zones, and at least 25% of that group live in the impact zones nearest to the town the cannabis business will operate.

To qualify as a diversely owned business, the license applicant must obtain a certificate from the New Jersey Small Business Enterprise Unit that demonstrates it has been recognized as a woman-owned, disabled-veteran-owned, or minority-owned business in New Jersey. Provided a license applicant can demonstrate that they meet one of the above categories, the application would be pushed to the front of the line for review based on a hierarchy of prioritization established by the CRC. If such an application is deemed complete, it will be assigned for scoring before non-prioritized applications.

The requirements for the applications are extensive; among them are various types of disclosures, background checks, and requests for business and operational plans. However, despite the arduous application process, within four hours of the application portal launch, 500 entrepreneurs had made accounts, with the application portal averaging 155 new users per hour by 1 p.m., according to the CRC. The interest toward this monumental change is evident—entrepreneurs want to be at the forefront of personal, adult-use cannabis in New Jersey.

Applications for the Class 5 Retailer License will open March 15, 2022. However, the CRC has not established regulations and applications for other license types, such as: Class 3 Wholesaler, Class 4 Distributor, and Class 6 Delivery Service. Since timelines for these licenses have not yet been delineated, it will not be until the CRC can amend their adult-use regulations on Feb. 23, 2022, that a potential timeline for these license types may be published.

The CRC is required to maintain its initial regulations for 12 months before it may make amendments as per the New Jersey Administrative Procedures Act, N.J. Stat. §52:14B. Section N.J.S.A. §52:14B-4 allows for an agency to adopt, amend or repeal any rule; provided the following are satisfied:

1. Give 30 days' notice in the New Jersey Register and to any parties who have required such a notice, as well as to news media and for public viewing via the agency's website. Any intended action and proposed changes must be part of the distribution.
2. Provide a statement for public viewing to go along with the notice that summarizes the proposed rule, its purposes and effects, the specific legal authority under which adoption is authorized, an explanation of the expected socioeconomic impact of the rule, a regulatory flexibility analysis (or a statement that one is not necessary), a job impact statement, an agriculture industry impact statement, and others as provided in N.J.S.A. §52:14B-4(a)(2).
3. Allow any interested persons a reasonable opportunity to submit comments, arguments, and any opinions either orally or in writing. If there is little interest in the proposed rule, a 30-day comment period is sufficient. However, if there is enough public interest, the agency shall provide a 30-day

extension to receive submissions from interested third parties. There shall be a public hearing on the proposed rule if sufficient interest is shown, and if a request for such is made within 30 days of the publication of the proposal in the Register.

4. Create and distribute a report of any commentary for public viewing along with the agency's responses to such opinions, questions, and comments.

As of this writing, the CRC has not taken any steps to publicly propose amendments to the regulations that govern the personal, adult-use cannabis industry. Similarly, it is unclear exactly what could be amended—whether it would be guidelines for the three unregulated types of licenses or changes applicable to future license applicants for the already available license types.

Disclaimer: *Cannabis remains a scheduled narcotic under federal law, and anyone considering entering this field should first consult with competent counsel.*

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