

STATE OF NEW YORK

8084

IN SENATE

January 25, 2022

Introduced by Sens. HINCHEY, KRUEGER -- read twice and ordered printed,
and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law and the cannabis law, in
relation to providing a conditional adult-use cultivator license and a
conditional adult-use processor license

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Section 520 of the agriculture and markets law is amended
2 by adding a new subdivision 3 to read as follows:

3 3. The department shall collaborate and confer with the office of
4 cannabis management, including sharing any relevant documentation,
5 regarding the establishment by the cannabis control board of conditional
6 adult-use cannabis cultivator licenses for previously authorized hemp
7 growers, including but not limited to any terms imposed on such hemp
8 growers as a condition of receiving such a conditional adult-use canna-
9 bis cultivator license.

10 § 2. The cannabis law is amended by adding a new section 68-c to read
11 as follows:

12 § 68-c. Conditional adult-use cultivator license. 1. A conditional
13 adult-use cultivator license shall be subject to the same authorizations
14 and restrictions applied to any adult-use cultivator pursuant to section
15 sixty-eight of this article for the duration of the conditional period
16 of the license, as well as to any new terms and conditions imposed by
17 the board and office.

18 2. To be eligible to apply for a conditional adult-use cultivator
19 license, a cultivator must:

20 (a) have held a valid industrial hemp grower authorization from the
21 department of agriculture and markets, as of December thirty-first, two
22 thousand twenty-one, which authorized the growing of cannabinoid hemp,
23 and is in good standing with the department of agriculture and markets;

24 (b) have grown and harvested hemp for at least two of the past four
25 years pursuant to that license and be able to provide proof, as defined
26 by the office, of the amount of hemp planted by the applicant during
27 each of the two years that hemp was grown; and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD14348-03-2

1 (c) as an individual applicant have an ownership interest of fifty-one
2 percent or more, or as any other applicant have an ownership interest of
3 fifty-one percent or more of the entity that is the licensee.

4 3. A conditional adult-use cultivator license shall authorize the
5 cultivation of cannabis outdoors or in a greenhouse without the use of
6 artificial lighting in the canopy area at any point in time. Artificial
7 lighting is permissible only to maintain immature or vegetative mother
8 plants. A conditional adult-use cultivator licensee may cultivate up to
9 forty-three thousand five hundred sixty square feet of canopy outdoors
10 or twenty-five thousand square feet of canopy in a greenhouse. A culti-
11 vator may cultivate both outdoors and in a greenhouse provided the cano-
12 py in a greenhouse is less than twenty-thousand square feet and the
13 total canopy is equal to or less than thirty-thousand square feet.

14 4. A conditional adult-use cultivator licensee must comply with any
15 environmental standards and requirements mandated by the office.

16 5. The cultivation of cannabis shall only be permitted within the same
17 or an adjacent county in which the conditional adult-use cultivator
18 licensee had previously been authorized by the department of agriculture
19 and markets to grow hemp.

20 6. A conditional adult-use cultivator licensee shall have the authori-
21 ty to manufacture and distribute cannabis products provided that such
22 final products shall be in the form of cannabis flower without holding
23 an adult-use processor or distributor license established pursuant to
24 sections sixty-nine and seventy-one of this article, until June first,
25 two thousand twenty-three, provided that the licensee complies with all
26 requirements for the manufacture and distribution of cannabis products
27 as set out in by the board in regulations or in the terms and conditions
28 of the conditional license. Following June first, two thousand twenty-
29 three, any conditional adult-use cultivator seeking to manufacture and
30 distribute cannabis products shall be required to apply for and receive
31 a processor and distributor license to conduct this activity.

32 7. For the duration of the conditional period of the conditional
33 adult-use cultivator license, the ownership or organizational structure
34 of the entity that is the licensee shall not be amended, except pursuant
35 to the provisions of subdivisions two, three and four of section sixty-
36 seven of this article.

37 8. The office shall set out specific terms and conditions setting out
38 requirements necessary to be awarded and maintain a conditional adult-
39 use cultivator license, including but not limited to the requirement
40 that a licensee agrees to participate in a social equity mentorship
41 program and an environmental sustainability program.

42 9. The board shall establish a non-refundable application and license
43 fee, in a manner consistent with section sixty-three of this article,
44 for the conditional adult-use cultivator license. The license shall be
45 valid for up to two years from the date of issuance of the license.

46 10. A conditional adult-use cultivator license shall be deemed to have
47 been surrendered to the board and a conditional adult-use cultivator
48 licensee shall be deemed not to be in good standing, as determined in
49 the discretion of the executive director in a written notice, effective
50 upon delivery to the licensee at the licensee's last known address on
51 file with the office, for reasons including but not limited to:

52 (a) failure to abide by all the terms and conditions of the condi-
53 tional adult-use cultivator license;

54 (b) failure to adhere to all requirements set out in regulations and
55 guidance, including those promulgated after receiving the conditional
56 adult-use cultivator license;

1 (c) failure to submit information, records, or reports;
2 (d) failure to correct deficiencies in accordance with an approved
3 corrective action plan;
4 (e) deviation from regulations, licensing terms, or standard operating
5 procedures in a manner that the office determines may jeopardize health
6 or safety of the public, or the quality of products grown or produced;
7 (f) failure to provide office employees with access to the premises;
8 and
9 (g) failure to begin operations within six months of the date of the
10 issuance of the license.

11 11. A licensee whose conditional adult-use cultivator license has been
12 deemed surrendered may within ten days of the delivery date of such
13 notice appeal the determination of the executive director to the board
14 pursuant to subdivision eighteen of section ten of this chapter. The
15 board shall have sole discretion to determine the conduct of the appeal.
16 Upon review by the board, the board shall issue a final written determi-
17 nation which may then be reviewed pursuant to section one hundred thir-
18 ty-five of this chapter and article seventy-eight of the civil practice
19 law and rules.

20 12. In the event that a conditional adult-use cultivator licensee
21 elects to cease operation of all permitted activities or to surrender
22 its license, the following provisions shall apply:

23 (a) the conditional adult-use cultivator licensee shall notify the
24 office in writing at least thirty days prior to the anticipated date of
25 closure;

26 (b) such written notice shall include a proposed plan for closure. The
27 plan shall be subject to office approval and shall include timetables
28 and describe the procedures and actions the licensee shall take to prop-
29 erly destroy or otherwise dispose of all the licensee's supply of canna-
30 bis and/or cannabis products; and

31 (c) the licensee or former licensee must maintain and make available
32 to the office all records related to the cultivation of cannabis for a
33 period of three years.

34 13. No later than ninety days before the expiration of a conditional
35 adult-use cultivator license, the office shall review the conditional
36 adult-use cultivator licensee to determine whether they are in good
37 standing with the office. Good standing shall include, but not be limit-
38 ed to, compliance with subdivision seven of this section. Any licensee
39 found to be in good standing shall be eligible to apply for and receive
40 an adult-use cultivation license, provided the licensee can meet all
41 requirements of the new license. Such a licensee will receive an adult-
42 use cultivator license for the size of canopy that they were licensed to
43 grow pursuant to their conditional adult-use cultivator license or a
44 larger size canopy as may be set out by the board in regulation. A
45 licensee may not separately apply for any license type under this arti-
46 cle permitting the cultivation of adult-use cannabis while holding a
47 conditional adult-use cultivator license.

48 14. For the purposes of this section, the office has the authority to
49 define terms including but not limited to "greenhouse", "immature plant"
50 and "canopy" as part of the terms and conditions of the conditional
51 adult-use cultivator license.

52 15. Nothing herein shall limit the authority, power, or other rights
53 or remedies of the board or office.

54 § 3. Section 69 of the cannabis law is amended to read as follows:

55 § 69. Adult-use processor license. 1. A processor's license shall
56 authorize the acquisition, possession, processing and sale of cannabis

1 from the licensed premises of the adult-use cultivator by such licensee
2 to duly licensed processors or distributors. A person holding an adult-
3 use processor's license may apply for, and obtain, one distributor's
4 license solely for the distribution of their own products.

5 2. For purposes of this section, processing shall include, but not be
6 limited to, blending, extracting, infusing, packaging, labeling, brand-
7 ing and otherwise making or preparing cannabis products. Processing
8 shall not include the cultivation of cannabis.

9 3. No processor shall be engaged in any other business on the premises
10 to be licensed; except that a person issued an adult-use cannabis culti-
11 vator, processor, and/or distributor license or a processor who has also
12 been issued a hemp grower license by the department of agriculture and
13 markets or a cannabinoid hemp processor license under this chapter may
14 hold and operate all issued licenses on the same premises.

15 4. No cannabis processor licensee may hold more than one cannabis
16 processor license provided a single license may authorize processor
17 activities at multiple locations, as set out in regulations by the
18 board.

19 5. No adult-use cannabis processor shall have a direct or indirect
20 interest, including by stock ownership, interlocking directors, mortgage
21 or lien, personal or real property, management agreement, share parent
22 companies or affiliated organizations or any other means, in any prem-
23 ises licensed as an adult-use cannabis retail dispensary or in any busi-
24 ness licensed as an adult-use cannabis retail dispensary or in any
25 registered organization registered pursuant to article three of this
26 chapter.

27 6. Adult-use processor licensees are subject to minimum operating
28 requirements as determined by the board in regulation.

29 § 4. The cannabis law is amended by adding a new section 69-a to read
30 as follows:

31 § 69-a. Conditional adult-use processor license. 1. A conditional
32 adult-use processor license shall be subject to the same authorizations
33 and restrictions applied to any adult-use processor pursuant to section
34 sixty-nine of this article for the duration of the conditional period of
35 the license, as well as to any new terms and conditions imposed by the
36 board and office.

37 2. To be eligible to apply for a conditional adult-use processor
38 license, a processor must:

39 (a) have applied for a cannabinoid hemp processor license pursuant to
40 section ninety-two of this chapter before January first, two thousand
41 twenty-two;

42 (b) hold an active cannabinoid hemp processor license issued by the
43 office; and

44 (c) as an individual applicant have an ownership interest of fifty-one
45 percent or more, or as any other applicant have an ownership interest of
46 fifty-one percent or more of the entity that is the licensee.

47 3. A conditional adult-use processor license shall authorize the proc-
48 essing and manufacturing of cannabis products provided the licensee
49 complies with all requirements for the processing and manufacture of
50 cannabis products as set out by the board. A conditional adult-use
51 processor licensee shall only perform extraction activities if author-
52 ized to under the licensee's cannabinoid hemp processor license and all
53 extraction methods are subject to office approval.

54 4. A conditional adult-use processor licensee must comply with any
55 environmental standards and requirements as mandated by the office.

1 5. The processing of cannabis shall only be permitted at the same
2 location in which the conditional adult-use processor licensee is
3 authorized to process hemp, unless expressly authorized by the office.

4 6. A conditional adult-use processor licensee shall have the authority
5 to distribute cannabis products without holding an adult-use distributor
6 license established pursuant to section seventy-one of this article
7 until June first, two thousand twenty-three, provided that the licensee
8 complies with all requirements for the distribution of cannabis products
9 as set out by the office. After June first, two thousand twenty-three,
10 any conditional processor seeking to distribute cannabis products shall
11 be required to apply for and receive a distributor license to conduct
12 this activity.

13 7. For the duration of the conditional period of the conditional
14 adult-use processor license, the ownership or organizational structure
15 of the entity that is the licensee shall not be amended, except pursuant
16 to the provisions of subdivisions two, three and four of section sixty-
17 seven of this article.

18 8. The board shall establish a non-refundable application and license
19 fee, in a manner consistent with section sixty-three of this article,
20 for the conditional adult-use processor license. The license shall be
21 valid for up to two years from the date of issuance of the license.

22 9. A conditional adult-use processor license shall be deemed to have
23 been surrendered to the board and a conditional adult-use processor
24 licensee shall be deemed not to be in good standing, as determined in
25 the discretion of the executive director in a written notice, effective
26 upon delivery to the licensee at the licensee's last known address on
27 file with the office, for reasons including but not limited to:

28 (a) failure to abide by all the terms and conditions of the condi-
29 tional adult-use processor license;

30 (b) failure to adhere to all requirements set out in regulations and
31 guidance, including those promulgated after receiving the conditional
32 adult-use processor license;

33 (c) failure to submit information, records, or reports;

34 (d) failure to correct deficiencies in accordance with an approved
35 corrective action plan;

36 (e) deviation from regulations, licensing terms, or standard operating
37 procedures in a manner the office determines may jeopardize health or
38 safety of the public, or the quality of products produced;

39 (f) failure to provide office employees with access to the premises;
40 and

41 (g) failure to begin operations within six months of the date of the
42 issuance of the license.

43 10. A licensee whose conditional adult-use processor license has been
44 deemed surrendered may within ten days of the delivery date of such
45 notice appeal the determination of the executive director to the board
46 pursuant to subdivision eighteen of section ten of this chapter. The
47 board shall have sole discretion to determine the conduct of the appeal.
48 Upon review by the board, the board shall issue a final written determi-
49 nation which may then be reviewed pursuant to section one hundred thir-
50 ty-five of this chapter and article seventy-eight of the civil practice
51 law and rules.

52 11. In the event that a conditional adult-use processor licensee
53 elects to cease operation of all permitted activities or to surrender
54 its license, the following provisions shall apply:

1 (a) the conditional adult-use processor licensee shall notify the
2 office in writing at least thirty days prior to the anticipated date of
3 closure;

4 (b) such written notice shall include a proposed plan for closure. The
5 plan shall be subject to office approval and shall include timetables
6 and describe the procedures and actions the licensee shall take to prop-
7 erly destroy or otherwise dispose of all the licensee's supply of canna-
8 bis and/or cannabis products; and

9 (c) the licensee or former licensee must maintain and make available
10 to the office all records related to the cultivation of cannabis for a
11 period of three years.

12 12. No later than ninety days before the expiration of a conditional
13 adult-use processor license, the office shall review the conditional
14 adult-use processor licensee to determine whether they are in good
15 standing with the office. Good standing shall include, but not be limit-
16 ed to, compliance with subdivision seven of this section. Any licensee
17 found to be in good standing shall be eligible to apply for and receive
18 an adult-use processor license, provided the licensee can meet all
19 requirements of the new license.

20 13. For the purposes of this section, the office has the authority to
21 define terms including but not limited to "extraction" and "canopy" as
22 part of the terms and conditions of the conditional adult-use processor
23 license.

24 14. Nothing in this section shall limit the authority, power, or other
25 rights or remedies of the board or office.

26 § 5. This act shall take effect immediately.