

# STATE OF NEW YORK

7045--B

2023-2024 Regular Sessions

## IN SENATE

May 17, 2023

Introduced by Sens. COONEY, CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the cannabis law and the state finance law, in relation to enacting the "cannabis adult-use transition act"

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "cannabis adult-use transition act".  
3 § 2. Legislative findings and intent. Chapter 92 of the laws of 2021,  
4 known as the Marijuana Regulation and Taxation Act, legalized and regu-  
5 lated cannabis for adult-use; expanded and improved the medical cannabis  
6 program and the hemp program; established the Cannabis Control Board and  
7 the Office of Cannabis Management, and codified historical social and  
8 economic equity policies. Chapter 18 of the laws of 2022 created the  
9 conditional adult-use cultivator and processor licenses to jump start  
10 New York's adult-use cannabis market with small New York farmers.  
11 The legislature recognizes that due to a variety of circumstances  
12 beyond the control of New York's cannabis licensees and applicants,  
13 there have been delays and unforeseen challenges with the implementation  
14 of various components of the state's cannabis markets. Conditional  
15 cultivators cannot afford to process their cannabis or sell their  
16 finished products; conditional processors are struggling with limited  
17 retail outlets; conditional adult-use retail dispensary licensees and  
18 applicants do not have access to capital, locations, or the resources  
19 they need to become operational; and the state's medical registered  
20 organizations and patients are facing a diminishing medical cannabis  
21 market. As a result, the state's cannabis industries are losing value

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

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1 and jobs, patients are being left behind, and the illicit market is  
2 growing.

3 § 3. Subdivisions 2 and 3 of section 14 of the cannabis law are  
4 amended to read as follows:

5 2. The state cannabis advisory board shall consist of [~~thirteen~~]  
6 seventeen voting appointed members, along with a representative from the  
7 department of environmental conservation, the department of agriculture  
8 and markets, the office of children and family services, the department  
9 of labor, the department of health, the division of housing and communi-  
10 ty renewal, the office of addiction services and supports, and the  
11 department of education, serving as non-voting ex-officio members. The  
12 governor shall have [~~seven~~] eleven appointments, the temporary president  
13 of the senate and the speaker of the assembly shall each have three  
14 appointments to the board. The members shall be appointed to each serve  
15 three year terms and in the event of a vacancy, the vacancy shall be  
16 filled in the manner of the original appointment for the remainder of  
17 the term. The appointed members and representatives shall receive no  
18 compensation for their services but shall be allowed their actual and  
19 necessary expenses incurred in the performance of their duties as board  
20 members.

21 3. Advisory board members shall have statewide geographic represen-  
22 tation that is balanced and diverse in its composition. Appointed  
23 members shall have an expertise in public and behavioral health,  
24 substance use disorder treatment, effective rehabilitative treatment for  
25 adults and juveniles, homelessness and housing, economic development,  
26 environmental conservation, job training and placement, criminal  
27 justice, and drug policy. Further, the advisory board shall include  
28 residents, one retailer, one certified patient, one service disabled  
29 veteran, and one supply tier licensee from communities most impacted by  
30 cannabis prohibition, people with prior drug convictions, the formerly  
31 incarcerated, and representatives from the farming industry, cannabis  
32 industry, and organizations serving communities impacted by past federal  
33 and state drug policies.

34 § 4. Paragraph (c) of subdivision 3 of section 99-ii of the state  
35 finance law, as added by chapter 92 of the laws of 2021, is amended to  
36 read as follows:

37 (c) Actual and necessary costs incurred by the office of cannabis  
38 management and the cannabis control board, and the urban development  
39 corporation, related to the administration of incubators and other  
40 assistance to qualified social and economic equity applicants including  
41 the administration, capitalization, and provision of low and zero inter-  
42 est loans to such applicants [~~pursuant to~~], including the conditional  
43 adult-use retail dispensary licensees. The office of cannabis management  
44 shall administer these resources in accordance with the social equity  
45 and economic plan mandated pursuant to article four of the cannabis law  
46 and in accordance with section sixteen-ee of the urban development  
47 corporation act. Such costs shall be paid out of revenues received,  
48 including, but not limited to, from special one-time fees paid by regis-  
49 tered organizations pursuant to section sixty-three of the cannabis law.

50 § 5. Section 39 of the cannabis law is amended to read as follows:

51 § 39. Registered organizations and adult-use cannabis. The board shall  
52 [~~have the authority to~~] grant [~~some or all of the~~] registered organiza-  
53 tions [~~registered with the department of health and~~] currently regis-  
54 tered and in good standing with the office, the ability to obtain  
55 adult-use cannabis licenses pursuant to article four of this chapter and

1 subject to any [~~fees, rules or conditions~~] regulation prescribed by the  
2 board [~~in regulation~~].

3 § 6. Subdivision 1-a of section 63 of the cannabis law is amended to  
4 read as follows:

5 1-a. The [~~board shall also have the authority to assess a registered~~  
6 ~~organization with a~~] one-time special licensing fee for a registered  
7 organization adult-use cultivator processor, distributor retail dispensary  
8 [~~license. Such fee shall be assessed at an amount to adequately~~]  
9 licensed pursuant to section sixty-eight-a of this article, shall be  
10 twenty million dollars, an amount to be used exclusively to fund social  
11 and economic equity and incubator assistance pursuant to this article  
12 and paragraph (c) of subdivision three of section ninety-nine-ii of the  
13 state finance law. Five million dollars of such fee shall be payable  
14 upon licensure, and one million dollars thereafter within thirty days of  
15 each twenty million dollars in revenue generated by such licensee until  
16 paid in full, or such obligation expires on December thirty-first, two  
17 thousand thirty, whichever occurs first. At least fifty percent of the  
18 total fees collected shall be administered by the office as grants or  
19 zero or low interest loans to the conditional adult-use retail dispensary  
20 licensees. Conditional adult-use retail dispensary licensees who  
21 accept zero or low interest loans shall be allowed to prepay such loans  
22 without penalty. Provided, however, that the board shall not allow  
23 registered organizations to dispense adult-use cannabis from more than  
24 three of their medical cannabis dispensing locations. [~~The timing and~~  
25 ~~manner in which registered organizations may be granted such authority~~  
26 ~~shall be determined by the board in regulation.~~] An eligible registered  
27 organization shall be authorized as a registered organization adult-use  
28 cultivator processor distributor retail dispensary pursuant to section  
29 sixty-eight-a of this article upon approval of an application to the  
30 office that must be available to such registered organizations no later  
31 than August first, two thousand twenty-three and remain available there-  
32 after. The office must approve or deny such application within thirty  
33 days of its submission or it shall be deemed approved. A registered  
34 organization adult-use cultivator processor distributor retail dispensary  
35 licensee shall be authorized to cultivate, process, and distribute  
36 in the adult-use cannabis market, provided however, that each licensee's  
37 first co-located dispensary shall not offer adult-use cannabis for  
38 retail sale until or after December twenty-ninth, two thousand twenty-  
39 three; the second co-located dispensary shall not offer adult-use canna-  
40 bis for retail sale until or after January first, two thousand twenty-  
41 four; and the third co-located dispensary shall not offer adult-use  
42 cannabis for retail sale until or after April first, two thousand twen-  
43 ty-four. These licensees must submit a plan to the office demonstrating  
44 their commitment to diversifying the co-located dispensary shelf space  
45 for adult-use with cannabis products from adult-use cultivators and  
46 processors licensed pursuant to sections sixty-eight, sixty-eight-b,  
47 sixty-eight-c, sixty-nine, sixty-nine-a, seventy, and seventy-three of  
48 this article in accordance with any regulations promulgated by the  
49 board.

50 § 7. Subdivisions 3 and 13 of section 68-c of the cannabis law, as  
51 added by chapter 18 of the laws of 2022, are amended and two new subdivi-  
52 sions 16 and 17 are added to read as follows:

53 3. A conditional adult-use cultivator license shall authorize the  
54 cultivation of cannabis outdoors or in a greenhouse or aquaponics facil-  
55 ity with no more than twenty artificial lights unless otherwise author-  
56 ized by the office. A conditional adult-use cultivator licensee may

1 cultivate up to forty-three thousand five hundred sixty square feet of  
2 flowering canopy outdoors or twenty-five thousand square feet of flower-  
3 ing canopy in a greenhouse or aquaponics facility. A cultivator may  
4 cultivate both outdoors and in a greenhouse or aquaponics facility  
5 provided the flowering canopy in a greenhouse or aquaponics facility is  
6 less than twenty-thousand square feet and the total flowering canopy is  
7 equal to or less than thirty-thousand square feet.

8 13. No later than ninety days before the expiration of a conditional  
9 adult-use cultivator license, the office shall, pursuant to a request by  
10 the licensee, review the conditional adult-use cultivator licensee to  
11 determine whether they are in good standing with the office. Good stand-  
12 ing shall include, but not be limited to, compliance with subdivision  
13 seven of this section. Any licensee found to be in good standing shall  
14 be eligible to apply for and receive an adult-use cultivation license,  
15 provided the licensee can meet all requirements of the new license. Such  
16 a licensee will receive, at minimum, an adult-use cultivator license for  
17 the size of flowering canopy that they were licensed to grow pursuant to  
18 their conditional adult-use cultivator license or a larger size flower-  
19 ing canopy [~~and~~] with immediate authorization to use unlimited artifi-  
20 cial [~~light~~] lighting in accordance with any environmental sustainabili-  
21 ty standards as may be set out by the board in regulation. A licensee  
22 may not separately apply for any license type under this article permit-  
23 ting the cultivation of adult-use cannabis while holding a conditional  
24 adult-use cultivator license.

25 16. Notwithstanding any other provision of this chapter, a conditional  
26 adult-use cultivator or processor licensee shall be authorized to sell  
27 tested, packaged, and sealed cannabis products to registered organiza-  
28 tions for retail sale at up to three of such registered organizations'  
29 existing medical cannabis dispensing facilities until June first, two  
30 thousand twenty-four, provided however that the conditional cultivator  
31 or processor licensees shall prioritize wholesaling to conditional  
32 adult-use retail dispensaries. A registered organization shall prior-  
33 itize shelf space for cannabis products from conditional adult-use  
34 cultivator or processor licensees as set forth in regulations promulgat-  
35 ed by the board and shall pay three percent of any sales of such  
36 products through June first, two thousand twenty-six to the state, with  
37 two-thirds of such funds used toward grants authorized pursuant to para-  
38 graphs (c) and (d) of subdivision three of section ninety-nine-ii of the  
39 state finance law to offset tax obligations of the conditional adult-use  
40 retail dispensary licensees and the remaining one-third of such funds  
41 used at the discretion of the office in implementing social and economic  
42 equity programs. Such payments by the registered organizations shall  
43 account to the special one time licensing fee assessed pursuant to  
44 section sixty-three of this article.

45 17. The office is authorized to create a loan program for conditional  
46 adult-use cultivators for the purpose of having any cannabis grown under  
47 a conditional adult-use cultivator license in two thousand twenty-two  
48 processed into shelf stable formats. The end-product of such processing  
49 shall be returned to the licensee for future use.

50 § 8. Subdivision 6 of section 72 of the cannabis law is amended to  
51 read as follows:

52 6. No cannabis retail licensee shall locate a storefront within five  
53 hundred feet of a school grounds as such term is defined in the educa-  
54 tion law or within two hundred feet of a house of worship. The board  
55 and/or office shall not establish additional setback requirements.

1 § 9. The cannabis law is amended by adding a new section 85-a to read  
2 as follows:

3 § 85-a. Provisions governing conditional adult-use retail dispensary  
4 licenses. 1. The office shall approve, deny, or request additional  
5 information in regards to a conditional adult-use retail dispensary  
6 licensee's submission for location approvals within thirty days of  
7 receipt or the location request shall be automatically approved so long  
8 as it complies with the setback requirements of this chapter.

9 2. The office and dormitory authority shall make the list of addresses  
10 for any executed lease agreements entered into and potentially available  
11 to eligible conditional adult-use retail dispensary licensees publicly  
12 available on their websites, and upon request. Such list shall be  
13 updated each week to maximize the transparency for retail dispensary  
14 licensees securing store locations and shall not include or block any  
15 locations without an executed lease.

16 § 10. This act shall take effect immediately; provided, however, that  
17 the amendments to section 68-c of the cannabis law made by section seven  
18 of this act shall not affect the repeal of such section and shall be  
19 deemed repealed therewith.