

Illinois Set to Roll out New Cannabis Retail License Applications and Lottery in Early 2023

Cannabis Business Legal News

By Darren Grady on January 19, 2023

Last month, the Illinois Department of Finance and Professional Regulation (IDFPR), announced that it would begin accepting applications for 55 new adult-use cannabis retail licenses after January 30, 2023. The IDFPR, the governmental entity tasked with regulating the recreational cannabis dispensaries in Illinois, has issued guidelines for what is being called the Social Equity Criterial Lottery. In order to be issued a conditional license pursuant to this application and lottery process, an applicant must be able to establish that it is 51% or more owned or controlled by one or more individuals who each meet the combination of at least one of the criteria under two distinct categories (A and B) set forth by the IDFPR.

For "Criteria A" the individual must have: a) resided for at least 5 of the preceding 10 years in an area that has a poverty rate of at least 20%, or b) resided for at least 5 of the preceding 10 years in a census tract where at least 20% of the households receive assistance under the Supplemental Nutrition Assistance Program, or c) resided for at least 5 of the preceding 10 years in a census tract area classified as "low income and low access" where at least 100 households are more than one-half mile from the nearest supermarket and have no access to a vehicle or a significant number (at least 500 people) or share (at least 33%) of the population is greater than 1 mile from the nearest supermarket, supercenter, or large grocery store for an urban area or greater than 20 miles for a rural area, as classified by the latest data set that is publicly available at the start of the application window, or d) received Medicaid, Supplemental Security Income, Social Security Disability, and/or subsidized housing for at least 5 of the preceding 10 years, or e) resided for at least 5 of the preceding 10 years in a census tract in the top 15th percentile for the percent of residents in the census tract failing to graduate from High School in that state.

For "Criteria B" the individual must have a) been arrested for, convicted of, or adjudicated delinquent for any offense, or substantially similar offense, of Illinois, federal, or other state law for: possession of not more than 500 grams of cannabis; or manufacture, delivery, or possession with intent to deliver, or manufacture of cannabis up to 30 grams; or b) a family member who has been arrested for, convicted of, or adjudicated delinquent for any offense, or

substantially similar offense, of Illinois, federal, or other state law for these same crimes, or c) been a victim of a firearm injury.

After the applications are processed, the IDFPR will post the list of eligible lottery participants. If the applicant is awarded an opportunity for a conditional license in the lottery, in order to actually be issued the conditional license, the applicant must then actually prove the business entity is 51% or more owned or controlled by one or more individuals who each meet the combination of at least one of the criteria under Criteria A and one of the criteria under Criteria B. The applicant will have 45 days to submit this proof along with other operational requirements. After the prove up period, the applicants' documents will be reviewed by the IDFPR, and each applicant will be allowed time to cure any deficiencies. After a successful prove up, the IDFPR will issue a conditional license. The conditional license does not allow the holder to actually sell cannabis, but rather allows the holder to begin its zoning, operational, and build-out process.

The application process has been greatly streamlined compared to the sprawling and highly intricate applications that were required for dispensary applicants when Illinois first legalized recreational cannabis. Based on a "mock" application released by the IDFPR (the final application form has yet to be released), the applicant will need to fill out a form that is less than five pages, providing only basic information on proposed ownership and the proposed entity and making certain acknowledgements that the applicant fits the aforementioned criteria. The 55 new licenses will be distributed throughout seventeen different pre-determined geographic regions within Illinois (also known as BLS – Bureau of Labor Statistics). In another significant change from the initial round of retail licensing, no applicant group may file more than one application. Additionally, each application is limited to only one BLS Region. Finally, the application fee has been greatly reduced, from \$2,500.00 to \$250.00.

With these changes, it certainly looks like Illinois is attempting to level the playing field, so to speak, and create a process that is more equitable for applicants who cannot afford to flood the system with multiple applications. Further, Illinois is continuing to stress the importance of equity in its cannabis market and community. Governor J.B. Pritzker has often mentioned his desire to make the Illinois' cannabis market one of the most accessible and equitable in the country, and this new round of licensing appears poised to achieve that goal.

Despite the greatly streamlined application process, the window for submission will likely be short (approximately two weeks), and qualifiers for the lottery are expected to be announced as soon as February 21, 2023. Additionally, the post-lottery prove up period will be document intensive and draw detailed scrutiny from the IDFPR as it aims to make sure that the Social Equity Applicants are truly qualified under the set criteria. Applicants can benefit greatly from the guidance and counsel of experienced cannabis lawyers in Illinois, and should seek assistance to guide them through this new process.

Illinois Set to Roll out New Cannabis Retail License Applications and Lottery in Early 2023