

CA Entrepreneurs Hoping for Cannabis Gold Need to Start with Licenses

As 2017 wanes and 2018 rapidly approaches, California cannapreneurs are gearing up for what might be their most productive year yet. Prop 64 won in the Golden State's voting booths last November, ushering in the recreational use of marijuana for adults 21 and over. The law goes into effect on January 1st.

That date just a few weeks away may feel like a simple finish line for consumers eager to procure legal marijuana without a doctor's recommendation, but cannabis industry professionals realize there are an array of regulatory moving parts that come with licensing their legal marijuana business, and losing sight of any one of them can make the difference between success and failure.

Despite the potential for great profits, the potential for frustration exists as well.

There's more to opening a marijuana dispensary than finding the ideal location and marketing the business. Some of the variables are within cannabis investors' and operators' control (education and meticulous attention to state and local licensing regulations are key), and some, like municipal and state licensing decisions or delays, are beyond their control (which may involve waiting, hence the frustration).

“Cannabiz” owners will need two licenses to operate

Earlier this fall the state held an informational event at Exposition Park in Los Angeles. To say it was well-attended is an understatement. It's easy to see why industry insiders are predicting a high number of applications for recreational cannabis business licenses (and many of them are expected to come from cannapreneurs looking to set up legal marijuana dispensaries in L.A.).

And speaking of licenses, a state license is contingent on a local license. This dual licensing requirement might add a layer of complexity to the process, since municipalities don't necessarily have all the wrinkles smoothed out of the regulatory cannabis workflow and paperwork. Developing local laws is up to the municipality itself, and the ensuing variation across cities and counties is expected to lead to licensee confusion at times.

State will begin issuing temporary licenses on Jan. 1

Regardless of potential confusion, however, a state license will not be issued to a prospective marijuana cultivator, distributor, or retailer unless and until that local license is in hand. And no state licenses will be issued before January 1st. Because there is still much regulatory work to be done, those initial state licenses will only be valid for four months, though extensions may be possible if the state has not finalized its regulations by then.

Savvy cannabis operators and investors are gathering information on how to open a marijuana dispensary in California. The California Bureau of Cannabis Control (BCC) has published cannabiz checklists for those interested in securing a state license that permits them to open a recreational marijuana dispensary in the Golden State. And state agencies like the California Department of Food and Agriculture and the state's Department of Public Health have also publicized tips for cannabis entrepreneurs looking to enter the industry via marijuana cultivation or manufacture.

In addition to the prerequisite of obtaining a local license, and in addition to providing some essential information about the business and its owners and investors, applicants should be prepared to provide a floor plan or diagram illustrating the basics of the business's physical space.

Applicants must choose medical or adult-use track

Medical cannabis has been legal in California for more than 20 years. Many industry experts wonder how the adult-use law will impact the established medical market, and indeed, regulations are expected to ultimately encompass both varieties. This doesn't mean that cannabis investors can capitalize on all legal marijuana use all at once, however.

Both state and local requirements stipulate that cannabis operators choose which path they will take. There is no two-birds-with-one-stone approach here: licenses can only be for one type, medical or recreational.

Licenses are not one-size-fits-all

Beyond that important initial designation, prospective cannabis business licensees must also indicate what type of operation they will be running more specifically. For instance, will the business be a retail shop that dispenses cannabis products directly to consumers? (Retailers may also deliver cannabis to customers.)

A non-storefront retailer license is more restrictive, as it does not allow for shopping space for consumers, but rather, enables the cannabis operator to deliver the product to the customer. Cannapreneurs seeking this type of license must maintain a commercial space for cannabis storage and other workflow operations, but consumers would not be permitted to access this area.

Just as retailers will fall into two different categories, so will distributors. Legal marijuana professionals with a distributor license are in the business of transporting cannabis from cultivators to retailers. They are also tasked with verifying that products ready for sale are packaged and labeled in line with state regulations.

Those cannabis businesspeople holding a distributor transport license are not permitted to deliver the product directly to retailers, however. Rather, they traverse the paths between distributors, cultivators, and manufacturers.

Legal cannabis applicants wishing to start small (and perhaps stay small) will be interested in the microbusiness license. Unlike the aforementioned singular-role licenses, a microbusiness owner can wear many hats: cultivation, manufacturing, distribution, and sales. The "micro" caveat is that the growing sites may not exceed 10,000 square feet. Also, the types of manufacturing allowed in a microbusiness are curtailed by additional restrictions.

Cultivators and manufacturers need to go outside the BCC for licenses

All of the above licensure falls under the BCC's regulatory umbrella. Entrepreneurs hoping to obtain a grow license would instead contact the CalCannabis Cultivation Licensing division of the California Department of Food and Agriculture.

And entrepreneurs seeking entry into the manufacturing side of the industry need to connect with the California Department of Public Health — specifically, the agency's Manufactured Cannabis Safety Branch.

This article is provided for educational purposes only and is not offered as, and should not be relied on as, legal advice. Any individual or entity reading this information should consult an attorney for their particular situation. For more information/questions regarding any legal matters, please email info@nelsonhardiman.com or call 310.203.2800.