

Michigan Releases Interim Rules For Adult Recreational Marijuana Industry



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In December 2018, Michigan joined the growing ranks of U.S. states that have legalized the adult use of marijuana for recreational purposes (Adult Use). Michigan has long had a medical marijuana industry, but the law and rules governing the Adult Use market are separate and distinct from the medical marijuana framework. Michigan's Marijuana Regulatory Agency (MRA) is tasked with promulgating and enforcing the state's Adult Use rules. On July 3, the MRA released a set of interim rules, called "Emergency Rules," that will be in effect for six months.

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The MRA will begin accepting applications for Adult Use cannabis business licenses on November 1, 2019. In the meantime, the Emergency Rules have been released to give potential licensees time to get themselves prepared to submit applications. One major caveat for potential Michigan cannabis enterprises, however, is that the MRA's Emergency Rules only allow for applications from Michigan residents that are currently licensed under the state's preexisting medical marijuana laws. That prohibition against new and foreign market participants will stay in effect until December 6, 2021. After that, the application process opens up to everyone.

Another notable feature of the Emergency Rules is the focus on achieving a level of racial and economic diversity in the individual business people comprising the market participants. To achieve this, the Emergency Rules remove the capitalization requirements for new businesses that were part of the medical marijuana law. The Emergency Rules also require both the state and new license applicants to provide "a social equity plan detailing a plan to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities." This adds a commendable but potentially complicated step to the application process, and applicants should be prepared to build and execute on a social equity plan related to their business ambitions.

From a nuts-and-bolts standpoint, licenses will be valid for one year, and then they are renewable annually. The initial application fee is \$6,000, regardless of the type of license applied for, and then there is an additional license fee that varies from \$1,000 to \$40,000, depending on the type of license at issue. The annual renewal fee is dynamic and is tied to the volume of business done under the license in the previous year, so businesses that move more volume of marijuana and marijuana-infused products will pay a higher renewal fee than smaller operations.

The MRA has also established a multi-tiered system of licenses, with tight regulations around the transfer of marijuana products between the tiers. The main tiers are grower, processor, secure transport, safety compliance testing, retail and microbusiness. The MRA has also established several special licenses, such as temporary, event-based licenses and licenses for on-premises consumption.

The Emergency Rules also set forth procedures for hearings to dispute the denial of license applications and to challenge any fines or penalties imposed for violations of the rules.

The Emergency Rules provide a comprehensive roadmap for individuals and businesses contemplating participation in Michigan's new Adult Use market. We will continue to monitor the MRA's Adult Use announcements as we gear up for the November 1, 2019 opening of the application process.