

Empire State Cannabis Update: Social & Economic Equity is Non-Negotiable for Adult-Use Applicants



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The Spirit of the MRTA: Structure Benefits Social Equity

When New York State passed the Marijuana Regulation and Taxation Act (MRTA) in March of 2021, legalizing the possession and use of cannabis by adults twenty-one and older, the state placed emphasis on incentivizing participation in the new industry for individuals and communities disproportionately impacted by cannabis prohibition. Building a fair, inclusive, and equitable foundation for the New York market was at the forefront of the MRTA.

At its core, the MRTA seeks to accomplish two major objectives: (1) generate needed tax revenue for the state; and (2) make substantial investments in communities and people most impacted by cannabis criminalization.

The MRTA aims to invest 40% of its newly generated tax revenue toward rebuilding communities harmed by the War on Drugs through the New York State Community Reinvestment Grant Fund (the “Fund”). Qualified

community-based nonprofit organizations and local governments could apply for funding through the Fund to support community revitalization efforts.

Additionally, the MRTA establishes a goal to award 50% of all adult-use licenses to social & economic equity (SEE) applicants, including: (a) individuals who have lived in communities disproportionately impacted by the War on Drugs; (b) minority and women owned businesses; (c) distressed farmers; and (d) service-disabled veteran-owned businesses.

Pursuant to §64 of the MRTA, those that are awarded licenses are required to implement a SEE plan that benefits communities and people disproportionately impacted by the enforcement of cannabis laws and later provide evidence of the execution of such plan when prompted.

The New York Social Equity & Economic Plan

To implement the goals of the MRTA, the Cannabis Control Board (CCB), in consultation with the Chief Equity Officer and the Executive Director of the Office of Cannabis Management (OCM), created the New York Social Equity & Economic (NYSEE) Plan. The 86-page plan provides relevant background information on cannabis prohibition and outlines the equity pillars for the cannabis industry in New York including: (a) prioritizing small, independent businesses; (b) building trust within those communities most impacted; (c) investing resources for SEE groups to get involved; and (d) educating the public on their rights in accordance with the Cannabis Law and regulations.

The NYSEE Plan also lists current social equity initiatives, with the Conditional Adult-Use Retail Dispensary (CAURD) program being among one of the most well-known. CAURD licensees are the first retail dispensaries to open for legal adult-use retail cannabis sales in New York State, and most of these businesses are owned by justice-involved individuals. Other current initiatives include the New York Social Equity Cannabis Investment Fund, the Cannabis Compliance Training and Mentorship Program, and various business support services to strengthen the operation of cannabis entrepreneurs. A glimpse into what the future of the cannabis industry will look like under the NYSEE Plan demonstrates the state's commitment to SEE.

Cannabis Businesses Should Highlight Social Equity

The key takeaway for hopeful permanent (non-conditional) market applicants is that the strongest applications will be those that include a strong SEE component, which will need to be in the form of a written SEE plan. Given that SEE is one the two major pillars of the MRTA and to date, the CCB and OCM have attempted to prioritize SEE groups in the initial stages of the market, a robust social equity plan with measurable initiatives is non-negotiable. Having a sincere plan to show how your cannabis company intends to benefit those communities disproportionately impacted by the War on Drugs, *especially* for businesses that do not qualify as SEE applicants themselves, is a major advantage in the application process.

To date, OCM has provided little guidance on what a social equity plan must include, but this is unsurprising. A SEE plan for a cultivator located in a rural community is likely (and should be) largely different from a SEE plan for a retail dispensary located in a suburban or metropolitan area. Indeed, the lack of guidance from OCM properly allows companies to offer their respective communities unique benefits and collaborations such as sourcing products from minority-owned cultivators, providing financial support for local nonprofits, planning community

programming, and providing workforce and business training.

As the first permanent market applications are expected to release around Labor Day, the time for cannabis businesses to formalize their SEE plans – and the sooner the better.

The Lippes Mathias [Cannabis Practice Team](#) will continue to monitor developments in New York’s burgeoning cannabis industry, including any SEE developments and initiatives, as well as the timeline for release of permanent market applications. If you have any questions, please contact one of our attorneys.

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