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Cannabis delays, financing constraints could hamper New York's goals for pot industry



Nnamdi Ukasoanya of Amityville, owner of Medic Grade LLC, a hemp distribution and retail company, poses for a portrait with CBD flower at his office in Huntington. Ukasoanya said he has contacts in the hemp industry who want to invest in his future dispensary or other cannabis venture, and he may be able to access the state social equity fund or crowdfund online. Credit: Barry Sloan

By Sarina Trangle

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To meet social justice goals, New York wants to cultivate a different strain of cannabis commerce than the largely white, well-financed industry that's cropped up in other states. But some worry the state's strategies to curb big businesses may backfire by also depriving small operators of the capital they need.

Legislators designed the recreational cannabis law to give a leg up to small entrepreneurs, especially Black and Latino New Yorkers disproportionately harmed by the old drug laws. However, Albany's strict rules on investment, delays in getting legal sales going and inability to wipe out the illicit market may hobble the entire industry, including the social and economic equity candidates the state wants to uplift, according to people in the cannabis field.

"We can't be in a situation where we allow established businesses already in the medical marijuana area or the big corporations ... to come in here and monopolize it," said Assemblyman Phil Ramos (D-Brentwood), co-sponsor of the measure that authorized recreational cannabis. "We want to make sure that it is structured in a way that the communities that were aggrieved by those draconian ... laws will now be compensated in the interest of restorative justice."

Legislators stuck a number of provisions in the law designed to prevent businesses from becoming big enough to dominate the market.

WHAT TO KNOW

- **The state's recreational cannabis** law is designed to give a leg up to local entrepreneurs, especially Black and Latino New Yorkers disproportionately harmed by the old drug laws.
- **State regulations restrict involvement** by large companies and investors to give small businesses time to get established.
- **Strict rules on investment**, delays in getting legal sales going and inability to wipe out the illicit market could hobble the entire industry, some say.

Among the provisions: Cannabis companies will, generally, need to stick to one segment of the sector — either wholesale supply, including cultivating, processing and distributing, or retail sales, including operating stores, consumption lounges and delivery — and will only be allowed so many ventures within these segments. For example, no firm can have more than three retail shops. Investors will be

limited in how many companies they may hold a significant ownership stake in, and generally must also stick to either the wholesale or retail side.

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At the same time, regulators focused on supporting small business owners. They reserved the first "conditional" retail licenses for New Yorkers who have — or are related to someone who has — a marijuana conviction, and launched a social equity fund to help these entrepreneurs secure storefronts. About two-thirds of the 58 conditional retail licenses issued so far to businesses went to minority-owned companies, according to the Office of Cannabis Management, which oversees the industry.

More than 90 additional licenses may be granted to companies in this first phase. To diversify the ranks of farmers and processors, the OCM launched a mentorship program that pairs New Yorkers with conditional cultivation and processing licensees.

As these businesses get established, the OCM is exploring guaranteeing zero or low-interest loans and using grants to support social and economic equity candidates, according to Damian Fagon, chief equity officer at OCM. Regulators plan to prohibit medical marijuana firms, many of which are large, publicly traded companies with operations in multiple states, from serving recreational consumers in their dispensaries until the end of 2025. They will be charged millions in entry fees but will be allowed to operate on both the supply and retail sides.



Damian Fagon, chief equity officer at the New York State Office of Cannabis Management, speaks to reporters next to marijuana plants for the adult recreational market hanging in a drying room at a farm in Suffolk County last October. Credit: AP/Mary Altaffer

Long Island entrepreneurs lauded the state for giving smaller businesses a head start in the recreational sector. But they said the hunt for funding remains hard.

State restrictions may stymie efforts to secure startup money, and inadvertently, hold back New Yorkers who can't self-finance their businesses, according to some entrepreneurs and those who work with cannabis investors.

"A lot of major investors are looking at the New York market saying: no, not worth it," said Neil Kaufman, whose Hauppauge-based law firm, Kaufman McGowan PLLC, represents investors and cannabis firms. "It's the people that already have wealth that have the best opportunities here because they're not dependent on the capital markets."

A foundation for fairness

New York officials — seeing that the legal marijuana sector in other states left behind people of color and residents with criminal records — launched what many have described as the most ambitious effort yet to achieve more equity.

Over the past three decades, Black New Yorkers were 15 times more likely and Latino residents were eight times more likely to be arrested for marijuana than white people, according to state regulators, despite research showing these groups use marijuana at similar rates.

So far, the industry has struggled to diversify: about 15.4% of cannabis businesses nationally were owned by people of color, and Black and Hispanic owners were underrepresented, for instance, comprising 1% each of majority owners in Illinois, according to MjBizDaily, a cannabis-focused news site.

New York wants to avoid similar ownership trends, and that's part of what's guiding the phased rollout of licenses, said Fagon.

Once the draft regulations are finalized, applications for general licenses will open, with regulators prioritizing social and economic equity candidates and aiming to issue half of all licenses to them.

This timeline should make finding investors easier for conditional licensees than it will be for businesses that enter the market later, Fagon said. So far just a few hundred conditional licenses have been handed out, including to 16 farmers, three processors and 13 retailers authorized to operate on the Island.

But some of the early Long Island and New York licensees already seem to be struggling to get funding, according to Gary Bierfriend, who runs the Hampton Cannabis Expo, a trade show for potential investors and cannabis professionals.

"Everyone is looking for money," said Bierfriend, noting he receives pitches from companies seeking investors "every day."

Any startup business can struggle to raise capital, but securing funding is particularly tricky for cannabis businesses since the substance remains illegal under federal law and [few banks and credit unions will work with marijuana firms](#), let alone loan them money.

To help, the social equity fund set up by the state will pay upfront costs for conditional retail licensees, who will then have 10 years to pay back the investment plus 10% interest, according to Reuben McDaniel III, president and CEO of the Dormitory Authority of the State of New York, a construction finance authority.

DASNY tapped private investors in an attempt to gather \$200 million for the fund. One professional involved, former New York City comptroller William Thompson Jr., acknowledged last month that

the fund missed its goal of getting \$200 million in commitments by September 2022, and declined to specify how much the fund had raised.

The state is also looking to spur more traditional lending by guaranteeing zero or low-interest loans to social and economic equity businesses. Beginning in 2024, the government would use state money to back up a portion of loans issued by banks and credit unions, Fagon said.

'Drained bank accounts'

Just how much New Yorkers need to start a cannabis company varies widely, experts said. Some farmers described putting tens of thousands of dollars into their crop, while the state's social equity fund is budgeting up to \$1.5 million in setup costs per dispensary, according to McDaniel. Most of the licensees interviewed by Newsday cultivate and process cannabis, and therefore, can't access the social equity fund for dispensaries. Instead, they said they used personal funds and relied on family and friends to finance their ventures, with many declining to provide specific numbers.

In Suffolk County, East End Flower Farm owners Katie Long-Ribeiro and Marcos Ribeiro spent \$70,000 on their first cannabis crop, with much of the money going toward equipment. They haven't seen any money yet from their foray into pot, but Ribeiro praised the state for postponing medical companies' entrance into the recreational market.

"Hopefully, they give the little guys enough opportunity to at least develop a brand before they allow the other ones to kind of control the market," said Ribeiro, of Shirley.



"Hopefully, they give the little guys enough opportunity to at least develop a brand before they allow the other ones to kind of control the market," says Marcos Ribeiro, posing with his Funny Gummy cannabis-infused gummies at his home in Shirley. Credit: Barry Sloan

Joseph Losicco said he's confident he can compete with large operators as soon as he starts growing cannabis at Newbridge Greenhouses Inc. in Riverhead. Consumers will seek out "craft" marijuana from producers with smaller yields, he said. Losicco and another licensee pooled together more than \$250,000 for the construction of three greenhouses and are benefiting from splitting expenses.

"My partner's father is bankrolling my partner, and I drained bank accounts to do what I have to do," said Losicco, 57.

New York needs to provide more alternatives to self-financing if the state wants an equitable, diverse industry, said Frederika Easley, a board member of the Minority Cannabis Business Association, a national trade group. White entrepreneurs are often able to put more into their business because of long-standing racial wealth gaps, research shows. Easley said rules limiting investors' influence may unintentionally squeeze out Black, Latino and Indigenous entrepreneurs, who tend to get little funding from venture capital funds that focus on young companies. So the state should help these applicants access zero or low interest loans or other forms of assistance, Easley said.

"There has to be something developed where equity operators actually have access to lines of cash," said Easley, who described the \$200 million social equity fund as insufficient. "There's some

serious cash that needs to be funneled into this."

At least \$1 million in startup costs await Osbert Orduña, a Suffolk resident whose brand, The Cannabis Place, won a license to open a dispensary in Queens. Orduña and his partners tapped their personal networks to finance a dispensary in New Jersey, so they're hoping the state's social equity fund can help them secure a location they've found in western Queens.



"The ability to secure a low-interest loan from the social equity fund is what gives us the opportunity to launch the business," says Osbert Orduña, a Suffolk resident, who aims to open dispensaries in Queens and New Jersey through his business, The Cannabis Place. Credit: The Cannabis Place

"The ability to secure a low-interest loan from the social equity fund is what gives us the opportunity to launch the business," said Orduña, co-chair of the tristate chapter of the National Hispanic Cannabis Council trade group. "It's already difficult enough to find money. The [state's] caveats on what else your investor can be involved in is a significant hurdle."

Nnamdi Ukasoanya, of Amityville, has applied for a retail license. If he gets one, he said he feels confident he'll be able to get the funding he needs to open a store. His firm, Medic Grade, distributes and sells products with cannabidiols (CBD), a compound found in hemp that has anecdotally been shown to provide wellness benefits. Ukasoanya said he has contacts in the hemp industry who want to invest in his future dispensary or other cannabis venture, and he may be able to access the social equity fund or crowdfund online.



CBD coffee products at Nnamdi Ukasoanya's office in Huntington. Credit: Barry Sloan

Delays, illicit sales a factor

This sense of optimism is not shared among all Long Islanders. Medical marijuana companies have already scooped up most of the investors interested in pot, according to Kaufman and Bierfreund. Under New York's proposed rules, new recreational businesses wouldn't be allowed to take money from investors who already have a significant stake in medical marijuana companies that start selling directly to recreational consumers.

Executives of funds that invest in cannabis said they weren't sure how the state's rules would impact access to capital, but said that delays and a thriving illicit market are big concerns.

All licensed businesses — including the social and economic equity candidates the state wants to support — will have a better shot at success if the government shifts its focus to rooting out the illicit market, according to lawyers, finance professionals and others who work with cannabis investors.

After voting to legalize cannabis in March 2021, lawmakers [initially expected formal, licensed sales to begin](#) in September 2022. The first dispensary opened in Manhattan on Dec. 29; as of Wednesday, just four dispensaries were open statewide, according to the OCM.

People put money into marijuana businesses based on five- or 10-year projections that are now outdated, Bierfriend said. They're not getting repaid as planned, and are being asked to help with unforeseen expenses, such as farmers' need to store their harvests until dispensaries are open, he said.

Meanwhile, hundreds of illicit dispensaries have popped up, Bierfriend said. Without paying for credentials, lab-tested products and taxes, these unauthorized sellers are able to lure consumers with cheaper products than the few licensed outposts, he said.

Gov. Kathy Hochul's office said OCM has worked with law enforcement agencies to shut down unauthorized vendors. The governor's proposed budget includes \$5 million for hiring 37 additional staff members to tackle enforcement, said Jason Gough, a spokesman for Hochul.

Robin Goldstein, co-author of the book "Can Legal Weed Win?" said allowing companies to be involved in both wholesale production and retail sales could keep prices down. "If ... all those functions are internal, then instead of paying markups to other middle men, they're able to run it more efficiently and end up charging a lower [price]," Goldstein said. "Their illegal competitors certainly don't have to be split up in multiple tiers," he added.

Bierfriend predicted the industry's challenges will continue for years. "Until the commercial market can bring products in not only as conveniently as they are in [illicit] storefronts, but be able to match their price, they're going to continually struggle," he said. "The slow rollout has spooked everyone."



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Sarina Trangle covers affordability and cost of living issues and other business topics. She previously worked as an editor and reporter at amNewYork.

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