



# IDFPR

## Illinois Department of Financial and Professional Regulation

Division of Professional Regulation

[idfpr.illinois.gov](http://idfpr.illinois.gov)

**JB PRITZKER**  
Governor

**MARIO TRETO, JR.**  
Secretary

**CECILIA ABUNDIS**  
Director

December 21, 2022

**NOTE:** This combined document reflects the First Notice Documents (pages 2-24) and changes made in the rules' Final Adoption (pages 25-80). This document provides the public with a copy of the Final Adopted rules prior to their publication in the Illinois Administrative Code. As soon as the Illinois Administrative Code is updated to reflect the Final Adoption, the Department will make those rules publicly available here.



# **IDFPR**

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**JB PRITZKER**  
Governor

**MARIO TRETO, JR.**  
Acting Secretary

**CECILIA ABUNDIS**  
Acting Director

March 14, 2022

Office of the Secretary of State  
Index Department  
Administrative Code Division  
111 East Monroe Street  
Springfield, Illinois 62756

Dear Administrator:

Please find enclosed for publication in the next issue of the Illinois Register the original copy of the Notice of Proposed Amendments of Part 1291, the Cannabis Regulation and Tax Act of Title 68 of the Illinois Administrative Code.

Sincerely,

Craig Cellini,  
Rules Coordinator

Enclosures

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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Cannabis Regulation and Tax Act
- 2) Code Citation: 68 Ill. Adm. Code 1291
- 3) 

<u>Section Numbers:</u> 1291.10 1291.400 1291.405 1291.410 1291.420 1291.440	<u>Proposed Actions:</u> Amendment New Section New Section New Section New Section New Section
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- 4) Statutory Authority: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705]
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 102-98 mandates that the Department issue at least 50 additional Conditional Adult Use Dispensing Organization Licenses on or before December 21, 2022 [410 ILCS 705/15-35.20(c)]. The proposed rulemaking provides a general description of the 2022 license lottery explaining the general process and the actions the Department will take in creating and publishing the application and list of applicants eligible to participate in the lottery. It provides the process for an applicant to challenge the results of the lottery. The rule further provides the list of regions where the licenses will be distributed and the amounts of each license distributed per region and explains that each applicant is limited to one application for the lottery and the penalty for submitting additional applications. Additionally, the rules briefly explain the process for awarding of the conditional licenses based on the results of the lottery.

The rulemaking also provides the requirements for application including the fee and requirements for an applicant to qualify as a social equity applicant. It also provides the timelines for the entire lottery process from publication of application through the issuance of conditional licenses and outlines the penalties and corrective actions required if two or more applications include the same principal officer. It also provides the process for the death of a principal officer.

The proposed rule also outlines the proof period for top participants to submit the information to the Department to prove their eligibility. It also provides the timelines and process for the submission and review of these documents, the reasons the Department may deny an applicant, as well as the process for challenging the Department's findings. The rule also outlines the restrictions placed on a conditional license. These restrictions include a prohibition on the sale, transfer, assignment, and ownership structure. The rule also provides the limited circumstances where a principal officer may be added with

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respect to the death of another principal officer. Further, it provides a description of the required documentation to prove the licensee has found a physical location.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 2<sup>nd</sup> Floor  
Springfield, IL 62786

217/785-0813  
Fax: 217/557-4451

All written comments received within 45 days after this issue of the Illinois Register will be considered.

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: State-licensed cannabis dispensaries would be affected.
  - B) Reporting, bookkeeping or other procedures required for compliance: See attached rulemaking.

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- C) Types of professional skills necessary for compliance: Those skills required by the Cannabis Regulation and Tax Act [410 ILCS 705].
  
- 14) Small Business Impact Analysis:
  - A) Types of businesses subject to the proposed rule:  
54 – professional, scientific and technical services
  
  - B) Categories that the agency reasonably believes the rulemaking will impact, including:
    - ii. – regulatory requirements
  
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2021

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1291  
CANNABIS REGULATION AND TAX ACT

Section

1291.10	Definitions
1291.50	Tied Applicant
1291.220	Relocation of an Early Approval Adult Use Dispensing Organization License at a Same Site
<u>1291.400</u>	<u>2022 Lottery</u>
<u>1291.405</u>	<u>License Distribution</u>
<u>1291.410</u>	<u>Application</u>
<u>1291.420</u>	<u>Post Lottery Proof Requirements</u>
<u>1291.440</u>	<u>Post Issuance Licensing Requirements</u>

AUTHORITY: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705]

SOURCE: Adopted by emergency rulemaking at 43 Ill. Reg. 14934, effective December 9, 2019, for a maximum of 180 days; emergency rule expired June 5, 2020; adopted at 44 Ill. Reg. 14103, effective August 24, 2020; emergency amendment at 45 Ill. Reg. 9586, effective July 15, 2021, for a maximum of 150 days; Subpart B of the emergency amendment suspended by the Joint Committee on Administrative Rules at 45 Ill. Reg. 10881, effective August 18, 2021; suspension withdrawn at 45 Ill. Reg. 12206, effective September 16, 2021; emergency amendment to emergency rule at 45 Ill. Reg. 11851, effective September 16, 2021, for the remainder of the 150 days; emergency amendment at 45 Ill. Reg. 13442, effective October 12, 2021, for a maximum of 150 days; amended at 45 Ill. Reg. 16320, effective December 7, 2021; amended at 46 Ill. Reg. 2660, effective January 28, 2022; amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1291.10 Definitions**

Terms not defined in this Section shall have the same meaning as in the Cannabis Regulation and Tax Act [410 ILCS 705]. Nothing in this Part is intended to confer a property or other right, duty, privilege or interest entitling an applicant to an administrative hearing upon denial of a dispensing organization application. The denial of a dispensing organization application does

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not preclude judicial review of the denial. The following definitions are applicable for purposes of this Part:

"Act" means the Cannabis Regulation and Tax Act [410 ILCS 705].

"ADA" means the Americans With Disabilities Act of 1990 (42 USC 12101).

"Address of record" means the address record by the Department in the applicant's application file maintained by the Department.

"Adult Use Dispensing Organization License" means a license issued by the Department that permits a person to act as a dispensing organization under this Act and any administrative rule made in furtherance of this Act.

"Affiliate" means a Person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, that Person.

"Affiliated entity" means any business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the Person.

"Applicant" means the Proposed Dispensing Organization Name as stated on a license application.

"Application date" is the date an application for approval was received by the Department.

"Application points" means the number of points a Dispensary Applicant receives on an application for a Conditional Adult Use Dispensing Organization License.

"Application submission window" means the period between August 1<sup>st</sup> and August 15<sup>th</sup> of every odd numbered year during which the Department will receive applications to be approved as a Responsible Vendor Provider unless the date falls on a holiday or weekend in which case the window is extended to the next business day. The application submission window shall close at 5 p.m. central time on the final day on which applications are accepted.

"Approved list" is the list of providers.

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*"BLS region" means a region in Illinois used by the United States Bureau of Labor Statistics to gather and categorize certain employment and wage data. The 17 regions in Illinois are: Bloomington, Cape Girardeau, Carbondale-Marion, Champaign-Urbana, Chicago-Naperville-Elgin, Danville, Davenport-Moline-Rock Island, Decatur, Kankakee, Peoria, Rockford, St. Louis, Springfield, Northwest Illinois nonmetropolitan area, West Central Illinois nonmetropolitan area, East Central Illinois nonmetropolitan area, and South Illinois nonmetropolitan area. (Section 1-10 of the Act)*

"Bulk cannabis inventory" means cannabis and cannabis-infused products stored in the reinforced vault in clear, heat-sealed or taped shrink wrap bags or sheeting that is labeled with the date the inventory is sealed, the last four digits of the batch number, the number of items contained within the wrapping, and the date the inventory was last counted. Bulk Cannabis Inventory is included in the dispensing organization's total inventory available for sale.

"By lot" means a randomized method of choosing between two or more ~~applicants~~ Eligible Tied Applicants or Qualifying Applicants.

"Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including:

derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not;

the seeds thereof, the resin extracted from any part of the plant; and

any compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction.

"Cannabis" does not include:

the mature stalks of the plant;

fiber produced from the stalks, oil or cake made from the seeds of the plant;



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any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination;

industrial hemp as defined and authorized under the Industrial Hemp Act [505 ILCS 89].

"Cannabis" does include cannabis flower, concentrate, and cannabis-infused products.

"Cannabis business establishment" means a cultivation center, craft grower, processing organization, infuser organization, dispensing organization, or transporting organization.

"Cannabis flower" means marijuana, hashish, and other substances that are:

identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as *indica*, of all strains of cannabis; and

raw kief, leaves, and buds

"Cannabis flower" does not include resin that has been extracted from any part of a plant, nor any compound, manufacture, salt, derivative, mixture, or preparation of a plant, its seeds, or resin.

"Cannabis-Infused product" means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis or cannabis concentrate that is not intended to be smoked.

"Conditional license" means a Conditional Adult Use Dispensing Organization License.

"Department" means the Department of Financial and Professional Regulation.

"Dispensary Applicant" means the Proposed Dispensing Organization Name as stated on an application for a Conditional Adult Use Dispensing Organization License.

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"Disproportionately Impacted Area" or "DIA" means a census tract or comparable geographic area that satisfies the following criteria as determined by the Department of Commerce and Economic Opportunity, that:

- a) meets at least one of the following criteria:
  - 1) the area has a poverty rate of at least 20% according to the latest federal decennial census, or
  - 2) 75% or more of the children in the area participate in the feral free lunch program according to reported statistics from the State Board of Education, or
  - 3) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program, or
  - 4) the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the United States Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application; and
- b) has high rates of arrest, conviction, and incarceration related to the sale, possession, use cultivation, manufacture, or transport of cannabis.

**"Dispensing organization" means a facility operated by an organization or business that is licensed by the Department to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Part, "dispensing organization" includes a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Program Act [410 ILCS 130] or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License. (Section 1-10 of the Act)**

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"Dispensing Organization License" or "License" means any Early Approval Adult Use Dispensing Organization License, Conditional Adult Use Dispensing Organization License, or Adult Use Dispensing Organization License.

"Dispensing organization agent ID card" or "agent ID card" means a document issued by the Department that identifies a person as a dispensing organization agent, agent-in-charge, or principal officer.

"DOA" means the Illinois Department of Agriculture.

"DPH" means the Illinois Department of Public Health.

"Email address of record" means a primary or alternate contact email address recorded by the Department in the applicant's application file maintained by the Department.

"Eligible applicant" means a tied applicant eligible to participate in the process by which a remaining available license is distributed by lot.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and the HIPAA Privacy Rule as found at 45 CFR 164.

"Individual" means a natural person.

"ISP" means the Illinois State Police.

"Laboratory" means an independent laboratory located in Illinois and approved by DOA to have custody and use of controlled substances for scientific and medical purposes and for purposes of instruction, research or analysis.

"Member of an impacted family" or "impacted family member" means an individual who has a parent, legal guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to the effective date of this Act, was arrested or convicted of, or adjudicated delinquent for any offense that is eligible for expungement under this Act.

"Notify" means to send via regular United States mail or email.

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"On-site instruction" means class is held at a physical location in-person or remotely by real-time video technology tools.

"Person" means a natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

*"Principal officer" includes a cannabis business establishment applicant or licensed cannabis business establishment's board member, owner with more than 1% interest of the total cannabis business establishment or more than 5% interest of the total cannabis business establishment of a publicly traded company, president, vice president, secretary, treasurer, partner, officer, member, manager member, or person with a profit sharing, financial interest, or revenue sharing arrangement. This definition includes a person with authority to control the cannabis business establishment or a person who assumes responsibility for the debts of the cannabis business establishment. (Section 1-10 of the Act)*

*"Qualifying Applicant" means an applicant that submitted an application pursuant to Section 15-30 of the Act that received at least 85% of 250 application points available under Section 15-30 as the applicant's final score and meets the definition of "Social Equity Applicant" as defined in the Act.*

"Reinforced vault" means a room built to the specifications listed in Section 1291.220(g).

"Remaining available license" means a license in a BLS region that has not been awarded by the Department at the conclusion of the scoring process period. There may be more than one remaining available license in a BLS region. For example, if four licenses are available in a BLS region and the five highest scoring Dispensary Applicants receive scores of 245, 240, 235, 235, and 235 points, the applicants receiving 245 and 240 application points will be awarded licenses and the three applicants receiving 235 points may become Eligible Applicants. Likewise, if one license is available in a BLS region and there are five Dispensary Applicants with the highest score, all five Dispensary Applicants may become Eligible Applicants.

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"Scoring process period" is the period of time between the conclusion of the submission period for a conditional license application and when the Department publishes the names of tied applicants that may become eligible applicants.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"State verification system" means a web-based system established and maintained by the State of Illinois that is available to the Department, DOA, ISP, and dispensing organizations and the tracking of the date of sale, amount, and price of cannabis purchased by purchasers.

"Tied applicant" means an application submitted by a Dispensary Applicant pursuant to Section 15-30 that received the same number of application points under Section 15-30 as the Dispensary Applicant's final score as one or more top-scoring applications in the same BLS region and would have been awarded a license but for the one or more other top-scoring applications that received the same number of application points. Each application for which a Dispensary Applicant was required to pay a required application fee for the application period ending January 2, 2020 shall be considered an application of a separate Tied Applicant.

"Top participant" means an applicant drawn by lot in a winning slot such that it has the opportunity to be issued a conditional license.

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1291.400 2022 Lottery

- a) The Department may distribute at least 50 conditional licenses by lot pursuant to this Part.
- b) All licenses issued pursuant to this Part shall be drawn by lot on the same day to the extent possible.
- c) Prior to conducting any lottery pursuant to this Part, the Department shall publish on its website a list of all applicants eligible to participate in the lottery.

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- d) After the Department publishes the list of applicants eligible to participate in the lottery, all applicants shall have 5 business days to contest the Department's list of applicants eligible to participate in the lottery. This contestation shall be on a form or in a manner prescribed by the Department.
- e) The Department may revise and republish its list of applicants eligible to participate in the lottery if it concludes that any applicants were improperly included or excluded. The Department is not required to provide any additional opportunities to contest the list of applicants eligible to participate in the lottery beyond the initial 5 business days identified in paragraph (d).
- f) The Department may conduct a lottery at any time after the 5-business day period to contest the list of lottery participants has concluded.
- g) The publishing of the list of applicants to participate in the lottery, and any revised list, is not a final agency decision. Any opportunity to contest the list shall not be considered a rehearing or an action for administrative review.
- h) The Department shall publish the certified results of the lottery. The Department's publishing of the certified results of the lottery constitutes a final agency decision and may be appealed pursuant to the Administrative Review Law, 735 ILCS 5/3-101 et seq.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1291.405 License Distribution**

- a) To ensure the geographic dispersion of conditional license holders, the following number of licenses issued as a result of any lottery conducted pursuant to Section 1291.400 of this Part shall be awarded in the following BLS regions and amounts:
  - 1) Bloomington: 1
  - 2) Cape Girardeau: 1
  - 3) Carbondale-Marion: 1
  - 4) Champaign-Urbana: 1

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- 5) Chicago-Naperville-Elgin: 36
  - 6) Danville: 1
  - 7) Davenport-Moline-Rock Island: 1
  - 8) Decatur: 1
  - 9) Kankakee: 1
  - 10) Peoria: 2
  - 11) Rockford: 1
  - 12) St. Louis: 3
  - 13) Springfield: 1
  - 14) Northwest Illinois nonmetropolitan: 1
  - 15) West Central Illinois nonmetropolitan: 1
  - 16) East Central Illinois nonmetropolitan: 1
  - 17) South Illinois nonmetropolitan: 1
- b) Applicants are prohibited from applying in more than one BLS region and are limited to one application in that BLS region. If an applicant submits more than one application, the applicant forfeits all applications from entry into the lottery and is prohibited from being a top participant.
- c) Within each BLS Region, the first applicant drawn will have the first opportunity to a conditional license. The second applicant drawn will have the second opportunity to a conditional license. The same pattern will continue for each subsequent applicant drawn.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1291.410 Application

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- a) The Department shall publish an online application for applicants. Paper applications will not be accepted.
- b) After publishing the online application, the application window shall remain open for submissions for a minimum of 10 business days following the day the application was published. Applications must be submitted by 5:00 P.M. Central Time on the last day of the application window and no applications will be accepted after the application window closes.
- c) A principal officer cannot be included on more than one application. The Department shall require that all applicants provide each of its principal officers' Social Security Numbers, and any other unique, identifying information, required in the application to ensure that an individual principal officer is not listed as a principal officer on more than one application.
- d) All applicants shall pay a non-refundable application fee of \$250, to be deposited into the Cannabis Regulation Fund.
- e) An application shall be accepted only if it is complete. All incomplete applications shall be denied. A completed application shall include the nonrefundable fee and, at a minimum, the following information:
  - 1) the applicant's proposed entity name;
  - 2) the name of the person(s) filling out the application;
  - 3) the BLS Region in which the applicant is applying;
  - 4) the names, Social Security Numbers, home addresses, birthdates, phone numbers, and email addresses, for all proposed principal officers of the proposed entity;
  - 5) the identification of and contact information, including phone number and email address, for a primary and alternate contact of the proposed entity, at least one of whom must also be a principal officer;
  - 6) an acknowledgment that if awarded an opportunity for a conditional license in the lottery, the applicant (1) will meet and prove at least one of



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the criteria of paragraph (A) of this section for Option 1 Applicants; or (2) will meet and prove at least 4 of the criteria of paragraph (B) of this section for Option 2 Applicants. The acknowledgment will also include a statement or indication that the applicant understands the timeframes to do so as required in these rules.

A) Option 1 (only 1 required):

- i) That the applicant is an Illinois resident with at least 51% ownership and control by one or more individuals who have resided for at least 5 of the preceding 10 years in a DIA; or
- ii) That the applicant is an Illinois resident with at least 51% ownership and control by one or more individuals who: (1) have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Act, or (2) is a member of an impacted family.

B) Option 2 (4 required, which may be any combination of the 4 or a single criterion 4 times):

- i) Applicant is at least 26% owned or controlled by one or more individuals who: (1) have resided for at least 5 of the preceding 10 years in a DIA; (2) have been arrested for, convicted of, or adjudicated delinquent for a violation of any offense that is eligible for expungement under the Act; or (3) is a member of an impacted family.
- ii) Applicant will operate the dispensary in a DIA for at least two years from the date of issuance of the Adult Use Dispensing Organization License, as evidence by an attestation to the Department of this commitment and a lease or evidence of ownership of a building in a DIA;
- iii) During at least the first two years from the date of issuance of the Adult Use Dispensing Organization License, applicant will purchase at least 25% of all cannabis products offered to consumers from one or more infusers or

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craft growers licensed by the Illinois Department of Agriculture as a Social Equity Applicant, as that term is defined in the Act. This must be evidenced by an attestation to the Department of this commitment prior to the issuance of a conditional license, as well as annual compliance reports to be submitted to the Department for the first two years after issuance of the Adult Use Dispensing Organization License.

- iv) During the first two years from the date of issuance of the Adult Use Dispensing Organization License, applicant will purchase at least 30% of the total amount of its contracts on subcontractors and vendors that are registered Illinois BEP vendors that are owned by minorities, women, and person with disabilities, as defined in the Business Enterprise for Minorities, Women, and person with Disabilities Act. This must be evidenced by an attestation to the Department of this commitment prior to the issuance of a conditional license, as well as annual compliance reports to be submitted to the Department for the first two years after issuance of the Adult Use Dispensing Organization License.
  
- v) For a minimum of two years from the date of issuance of the Adult Use Dispensing Organization License, applicant will establish or facilitate a cannabis industry training or education program at an Illinois Community College, as defined in the Public Community College Act. Applicant must provide 1) a grant of at least \$250,000 to the community college, and 2) mentorship to students participating in the program. Mentorship includes but is not limited to: paid internships for students, paid corporate fellowships for graduates, hiring from community colleges, or one-on-one mentoring and career advising. This must be evidenced by an attestation to the Department of this commitment prior to the issuance of a conditional license, as well as annual compliance reports to be submitted to the Department for the first two years after issuance of the Adult Use Dispensing Organization License.

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- vi) Within 60 calendar days of being issued the conditional license, applicant will pay \$250,000 as an unrestricted grant to another cannabis business establishment licensed as a Social Equity Applicant as that term is defined in the Act, or to a top participant that was issued their conditional license as an Option 1 applicant. The applicant is prohibited from having any ownership or control in the cannabis business establishment to which it issues the grant at the time the grant is issued. This must be evidenced by proof of payment to the grantee and an attestation that the applicant does not have any ownership or control in the grantee.
- vii) Within 60 calendar days of being issued the conditional license, applicant will pay \$500,000 to the Cannabis Business Development Fund. This must be evidenced by proof of payment to the Fund.
- 7) An acknowledgment that if awarded a conditional license, neither the entity nor any of its principal officers would violate the Act's license number limitations.
- f) If an applicant fails to meet and prove the criteria identified in Option 1 or Option 2 above within 45 calendar days from the date the applicant receives a notice of being a top participant from the Department and any required 10 business day deficiency period or 5 business day intent to deny periods as those periods are set forth in Section 1291.420 of this Part, the Department shall deny issuance of a conditional license and proceed to the next top participant as described in Section 1291.420 of this Part.
- g) If two or more applications include the same principal officer, the Department may notify the applicant at its identified primary and alternate contacts and the principal officer who is listed on two or more applications, via email. Upon this notification, the identified principal officer has 3 business days to notify the Department of its resignation from one of the proposed entities. This notification shall be submitted to the Department in a form or manner prescribed by the Department. If the identified principal officer does not notify the Department of

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the principal officer's required resignation within the required time period, each applicant notified shall forfeit its application and nonrefundable fee.

- h) If the Department determines that any information on an application or supporting documents is not truthful, the applicant associated with that application will be prohibited from participating in the lottery, from being a top participant, and from being issued a conditional license or Adult Use Dispensing Organization License. The Department shall notify the next eligible top participant drawn by lot of its opportunity for the conditional license, in accordance with Section 1291.405C of this Part.
- i) If a principal officer identified on an application dies after the applicant has submitted its application but prior to the conducting of any lottery, the applicant does not need to inform the Department unless the applicant becomes a top participant eligible for a conditional license after the lottery is conducted. If the applicant becomes a top participant, the applicant is required to follow the process identified in Section 1291.420 of this Part.
- j) The Department shall only communicate with the applicant or top participant's primary and alternate contact regarding the applicant or top participant's application. In order to change its primary or alternate contact information, an applicant or a top participant must submit a request to change from the current primary or alternate contact email address the Department has on record.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1291.420 Post Lottery Proof Requirements

- a) The Department shall publish a list of supporting documents applicants must submit in order to prove it meets the criteria required in Option 1 or Option 2 of paragraph (e) of Section 1291.410 to be issued a conditional license. This list shall be published on the Department's website on the same day the Department opens the application window.
- b) Top participants shall have 45 calendar days from the day the lottery is certified to submit all required supporting documents to the Department in a form or manner prescribed by the Department.

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- c) After a top participant has submitted its supporting documents, the Department has at least 60 calendar days to review the documentation.
- d) If the Department determines that the supporting documents are insufficient, the Department shall issue a deficiency notice to that top participant. The top participant shall have 10 business days from the date of the deficiency notice to submit sufficient documentation.
- e) If the top participant fails to provide sufficient documents after this deficiency period, the Department shall inform a top participant of its intent to deny the issuance of a conditional license prior to any denial of a conditional license.
- f) Top participants shall have 5 business days from the date of the notice of intent to deny to contest the Department's decision or provide sufficient supporting documents. This contestation shall be in a form or manner prescribed by the Department.
- g) The Department shall have 10 business days to review a top participant's contestation of the Department's intent to deny and any supporting documents and either affirm or revoke its intent to deny.
- h) The Department's decision to either affirm or revoke its intent to deny constitutes a final agency decision and may be appealed under the Administrative Review Law pursuant to [735 ILCS 5/3-101 et seq].
- i) If the Department informs a top participant of a deficiency or of its intent to deny the issuance of a conditional license because of one of the applicant's principal officers, the principal officer may resign from the top participant (or another licensee) in order for the top participant to remain eligible for a conditional license. Proof of this resignation shall be submitted to the Department in a form or manner prescribed by the Department.
- j) If a principal officer of a top participant resigns after that top participant has been notified of the Department's intent to deny, that top participant may not replace the resigned principal officer. If a principal officer of a top participant resigns after that top participant has been notified of the Department's deficiency notice or intent to deny, and that top participant therefore becomes ineligible to meet the requirements of the Act and these Rules, the Department shall deny that top participant a conditional license.

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- k) If the Department affirms its intent to deny, the Department shall deny issuance of a conditional license and proceed to the next to participant as described in Section 1291.420 of this Part.
- l) If the Department denies issuance of a conditional license to a top participant, the Department shall notify the next eligible top participant drawn by lot of its opportunity for the conditional license, in accordance with Section 1291.405(c) of this Part.
- m) The Department may issue conditional licenses to top participants on a rolling basis.
- n) If a principal officer of an applicant dies after the submission of any application, and that applicant is then selected as a top participant, the top participant shall present proof of death to the Department. A deceased principal officer may be replaced only if that principal officer was necessary for the top participant to remain eligible to be issued a conditional license. If a necessary principal officer of a top participant dies prior to issuance of the conditional license, the top participant shall have 45 calendar days to submit proof of a replacement principal officer in order to remain eligible for a conditional license.
- o) The Department shall deny issuance of a conditional license if it would result in a single person or entity having a direct or indirect financial interest in more than 10 Early Approval Adult Use Dispensing Organization Licenses, conditional licenses, or Adult Use Dispensing Organization Licenses. Any entity that is awarded a conditional license that results in a single person or entity have a direct or indirect financial interest in more than 10 licenses shall forfeit the most recently issued license and suffer a penalty to be determined by the Department, unless the entity declines the license at the time it is awarded.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1291.440 Post Issuance Licensing Requirements

- a) A conditional license cannot be sold, transferred, or assigned and the conditional license holder cannot in any way change its ownership structure, including by removing or adding any principal officers, except for in the event of the death of a principal officer.

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- b) If a principal officer of a conditional license holder dies prior to the issuance of any Adult Use dispensing Organization License under Section 15-36 of the Act, the conditional license holder shall inform the Department of the death and submit an updated table of organization.
- c) A principal officer may be added to the ownership structure of a conditional license holder only in the event of replacing a deceased principal officer, subject to the Department's approval of that principal officer.
- d) The death of a principal officer following issuance of a conditional license shall not impact the conditional license holder's eligibility to be issued an Adult Use Dispensing Organization License under Section 15-36 of the Act.
- e) A conditional license holder who receives a conditional license through any lottery conducted pursuant to this Part has 365 calendar days from the date of issuance of the conditional license to identify a physical location for the dispensing organization retail storefront. For purposes of this paragraph, proof of identifying a physical location includes but is not limited to one of the following: proof building ownership by the top participant; agreement to purchase building or lease that is dependent on zoning or state license approval; signed lease for the term of the initial license; or proof of zoning approval or application for zoning approval. A conditional license holder shall provide evidence that the location is not within 1,500 feet of an existing dispensing organization. If a conditional license holder is unable to find a suitable physical address within 365 calendar days of the issuance of the conditional license, the Department may extend the period for finding a physical address another 180 calendar days if the conditional license holder demonstrates the steps it has taken to secure a location and hardship. If the Department denies the request for an extension or the conditional license holder is unable to become operational within 545 calendar days of being awarded a conditional license, the Department shall rescind the conditional license.
- f) If the Department issued a conditional license pursuant to the criteria identified in Option 2 of paragraph (e) in Section 1291.410 of this Part, that conditional license holder shall provide the Department proof of compliance with those criteria prior to being issued its Adult Use Dispensing Organization License. If the conditional license holder does not provide proof of compliance to the Department, the Department may decline to issue an Adult Use Dispensing Organization License

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to the conditional license holder. For two years after issuance of the Adult Use Dispensing Organization License, the Department shall require the licensee to submit annual proof of compliance for the licensees that applied under Option 2 of paragraph (e) of Section 1291.410. Such proof includes but is not limited to any information identified in Option 2 of paragraph (e) of Section 1291.410 of this Part, as well as any other supporting documents that the Department may request.

- g) If a licensee that was issued its Adult Use Dispensing Organization License pursuant to the criteria identified in Option 2 of paragraph (e) of Section 1291.410 of this Part, fails to comply with any of the required criteria in its annual compliance report, the Department may take disciplinary action against the licensee pursuant to 410 ILCS 705/15-145.
- h) The Department shall deny a request for sale of an Adult Use Dispensing Organization License awarded pursuant to this Part during the first two years after issuance of the Adult Use Dispensing Organization License if the licensee has not met its commitments prior to sale or the proposed purchasers agree to meet those commitments as part of the transaction for the duration of the original commitment.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)





# IDFPR

## Illinois Department of Financial and Professional Regulation

Office of the Cannabis Regulation Oversight Officer

[www.idfpr.com](http://www.idfpr.com)

**JB PRITZKER**  
Governor

**MARIO TRETO, JR.**  
Secretary

December 13, 2022

Office of the Secretary of State  
Index Department  
Administrative Code Division  
111 East Monroe  
Springfield, Illinois 62756

Dear Administrator:

Please find enclosed for publication in the next issue of the *Illinois Register*:

1. One original copy of the Notice of Adopted Amendments of Part 1291, the Cannabis Regulation and Tax Act of Title 68 of the Illinois Administrative Code.
2. One original copy of the Certificate of Adopted Amendments.
3. One original copy of the text for filing with the Department's permanent rules.
4. The Certification of Objection and Recommendation from the Joint Committee on Administrative Rules.

Sincerely,

**Craig Cellini**  
Rules Coordinator

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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Cannabis Regulation and Tax Act
- 2) Code Citation: 68 Ill. Adm. Code 1291
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1291.10	Amendment
1291.400	New Section
1291.405	New Section
1291.410	New Section
1291.420	New Section
1291.440	New Section
- 4) Statutory Authority: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705]
- 5) Effective Date of Rule:
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: 46 Ill. Reg. 5127; March 26, 2022
- 10) Has JCAR issued a Statement of Objections to this rulemaking? Yes
- 11) Differences between proposal and final version: The Department received comments on the proposed rulemaking from stakeholders and members of the public during the public comment period. In addition to the Department making changes to reflect many of the public comments in these final rules, JCAR provided additional parameters during the hearing process that have also been incorporated. The Department agreed with most of the recommendations, and the discussions with JCAR and its staff were productive and led to both substantive and technical modifications to the proposed rulemaking. Below is a detailed explanation of the changes made to these rules.

In the caption, Section 1291.400 was retitled "Conditional License Lottery under Section 15-35.20(c) of the Act;" Section 1291.405 was retitled "Conditional License Distribution

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under Section 15-35.20(c) of the Act;” Section 1291.410 was retitled “Conditional License Lottery Application under Section 15-35.20(c) of the Act;” Section 1291.420 was retitled “Conditional License Post Lottery Proof Requirements under Section 15-35.20(c) of the Act;” and Section 1291.440 was retitled “Conditional Licensee Requirements under Section 15-35.20(c) of the Act,” to reflect the contents of each Section more accurately.

In Section 1291.10 (Definitions), the definition for “Disproportionately Impacted Area” was removed. In the same section, definitions for “Firearm injury” and “Victim” were added due to revisions in Section 1291.410 (Conditional License Lottery Application under Section 15-35.20(c) of the Act).

In Section 1291.400 (Conditional License Lottery under Section 15-35.20(c) of the Act), subsection (a) was modified to read, “no more than 55” conditional licenses would be issued under this Section. The Act mandates the Department issue “at least 50” conditional licenses. This subsection was adjusted to reflect the exact number of licenses that will be issued pursuant to this lottery. Subsection (b) was added to clarify that Sections 1291.400 through 1291.440 only apply to the 55 conditional licenses to be issued. Subsections (c) and (d) were modified to replace the word “Part” with “Section”. Language was added to subsection (e) to clarify the form and manner to contest eligibility for the license lottery. Subsection (f) was edited to clarify that the final list of participants is not contestable under the previous subsection.

In Section 1291.410 (Conditional License Lottery Application under Section 15-35.20(c) of the Act), subsection (a) was modified to clarify that the application would be posted on the Department’s website. In subsection (b), “application window” was changed to “application submission window” for clarification. “Individual Taxpayer Identification Number” was added to subsection (c) to reflect that both Social Security Numbers and Individual Taxpayer Identification Numbers are acceptable for the application.

Section 1291.410 subsection (e) contains the most substantive changes from the initial proposal. In subsection (e), Options 1 and 2 were replaced by Criteria A and B, respectively. One of the major goals of the CRTA is to correct the wrongs that occurred during the national “war on drugs.” Criteria A nationalizes the previously used disproportionately impacted area criteria from the CRTA. Criteria B nationalizes the criteria related to interaction with the criminal justice system. Nationalizing the components of Criteria B removes any indication that the convictions of an applicant, whether personally convicted or family member of a convicted individual, must have occurred in Illinois. Criteria B also allows for victims of firearm injuries to qualify for the application.

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In Section 1291.420 (Conditional License Post Lottery Proof Requirements under Section 15-35.20(c) of the Act), subsection (a) was adjusted to reflect the changes to Criteria A and B as well as stating that the Department will publish a list of supporting documents to satisfy the requirements outlined in Section 1291.410. Subsection (b) was edited to add the correct email address to submit documents via the State's file share system. Subsection (f) was updated to conform with the Department's Administrative Rules (68 Ill. Adm. Code 1110). Former subsection (g) was removed because its contents are captured in the Department's Administrative Rules referenced in subsection (f).

For the remainder of this explanation, the subsections referenced are those reflected in the Rule's currently submitted form. Subsection (h) was edited to include the form and manner that any principal officer resignations should be submitted. Subsection (i) added the terms "top" and "this Part" for correct grammatical usage. Subsection (l) was modified to explain that licenses would be issued as applications are verified or on a "rolling basis." Subsection (m) was edited for grammar adding the clauses "after the death of that principal officer" and "to the Department." Language was added to subsection (o) to provide citations to the Act where the provisions originated. Subsection (o) reiterates that no principal officer may have a financial interest in more than 10 Adult Use Dispensing Organization licenses in accordance with Section 15-30(k) of the Act.

In Section 1291.440 (Conditional Licensee Requirements under Section 15-35.20(c) of the Act), language was added to subsection (c) to clarify that the Department will consider the replacement principal officer's experience when a request to replace a deceased principal officer occurs. Subsection (e) was adjusted for clarity and minor grammatical changes were implemented in accordance with JCAR's recommendations. Subsections (f), (g), and (h) were removed entirely at the suggestions of both JCAR and public commentors. These subsections included certain length-of- ownership based sale restrictions.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an Emergency Rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and purpose of rulemaking: Public Act 102-98 mandates that the Department issue at least 50 additional Conditional Adult Use Dispensing Organization Licenses on or before December 21, 2022 [410 ILCS 705/15-35.20(c)]. The proposed rulemaking provides a general

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description of the 2022 license lottery explaining the actions the Department will take to create and publish the application, the lottery process, how lottery top participants may provide that they are eligible for conditional licensure, the number of licenses to be distributed in specific BLS regions, and explains that each applicant is limited to one application for the lottery and the process for awarding of the conditional licenses based on the results of the lottery. The rulemaking provides the timeline for the entire lottery process from publication of application through the issuance of conditional licenses and outlines the penalties and corrective actions required if certain prohibited actions occur. The rules also provide the process by which conditional licensees must identify physical locations in order to be issued a full Adult Use license.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 2<sup>nd</sup> Floor  
Springfield, Illinois 62786

(217) 785-0810 Fax: (217) 557-4451

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1291  
CANNABIS REGULATION AND TAX ACT

Section

1291.10	Definitions
1291.50	Tied Applicant
1291.220	Relocation of an Early Approval Adult Use Dispensing Organization License at a Same Site
<u>1291.400</u>	<u>Conditional License Lottery under Section 15-35.20(c) of the Act</u>
<u>1291.405</u>	<u>Conditional License Distribution under Section 15-35.20(c) of the Act</u>
<u>1291.410</u>	<u>Conditional License Lottery Application under Section 15-35.20(c) of the Act</u>
<u>1291.420</u>	<u>Conditional License Post Lottery Proof Requirements under Section 15-35.20(c) of the Act</u>
<u>1291.440</u>	<u>Conditional Licensee Requirements under Section 15-35.20(c) of the Act</u>

**AUTHORITY:** Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705]

**SOURCE:** Adopted by emergency rulemaking at 43 Ill. Reg. 14934, effective December 9, 2019, for a maximum of 180 days; emergency rule expired June 5, 2020; adopted at 44 Ill. Reg. 14103, effective August 24, 2020; emergency amendment at 45 Ill. Reg. 9586, effective July 15, 2021, for a maximum of 150 days; Subpart B of the emergency amendment suspended by the Joint Committee on Administrative Rules at 45 Ill. Reg. 10881, effective August 18, 2021; suspension withdrawn at 45 Ill. Reg. 12206, effective September 16, 2021; emergency amendment to emergency rule at 45 Ill. Reg. 11851, effective September 16, 2021, for the remainder of the 150 days; emergency amendment at 45 Ill. Reg. 13442, effective October 12, 2021, for a maximum of 150 days; amended at 45 Ill. Reg. 16320, effective December 7, 2021; amended at 46 Ill. Reg. 2660, effective January 28, 2022; amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1291.10 Definitions**

Terms not defined in this Section shall have the same meaning as in the Cannabis Regulation and Tax Act [410 ILCS 705]. Nothing in this Part is intended to confer a property or other right, duty, privilege or interest entitling an applicant to an administrative hearing upon denial of a dispensing organization application. The denial of a dispensing organization application does

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not preclude judicial review of the denial. The following definitions are applicable for purposes of this Part:

"Act" means the Cannabis Regulation and Tax Act [410 ILCS 705].

"ADA" means the Americans With Disabilities Act of 1990 (42 U.S.C. USC 12101).

"Address of record" means the address record by the Department in the applicant's application file maintained by the Department.

"Adult Use Dispensing Organization License" means a license issued by the Department that permits a person to act as a dispensing organization under this Act and any administrative rule made in furtherance of this Act.

"Affiliate" means a Person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, that Person.

"Affiliated entity" means any business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the Person.

"Applicant" means the ~~proposed dispensing organization name~~ ~~Proposed Dispensing Organization Name~~ as stated on a license application.

"Application date" is the date an application for approval was received by the Department.

"Application points" means the number of points a Dispensary Applicant receives on an application for a Conditional Adult Use Dispensing Organization License.

"Application submission window" means the period between August 1<sup>st</sup> and August 15<sup>th</sup> of every odd numbered year during which the Department will receive applications to be approved as a Responsible Vendor Provider unless the date falls on a holiday or weekend in which case the window is extended to the next business day. The application submission window shall close at 5 p.m. central time on the final day on which applications are accepted.

"Approved list" is the list of providers.

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*"BLS region" means a region in Illinois used by the United States Bureau of Labor Statistics to gather and categorize certain employment and wage data. The 17 regions in Illinois are: Bloomington, Cape Girardeau, Carbondale-Marion, Champaign-Urbana, Chicago-Naperville-Elgin, Danville, Davenport-Moline-Rock Island, Decatur, Kankakee, Peoria, Rockford, St. Louis, Springfield, Northwest Illinois nonmetropolitan area, West Central Illinois nonmetropolitan area, East Central Illinois nonmetropolitan area, and South Illinois nonmetropolitan area. (Section 1-10 of the Act)*

"Bulk cannabis inventory" means cannabis and cannabis-infused products stored in the reinforced vault in clear, heat-sealed or taped shrink wrap bags or sheeting that is labeled with the date the inventory is sealed, the last four digits of the batch number, the number of items contained within the wrapping, and the date the inventory was last counted. Bulk Cannabis Inventory is included in the dispensing organization's total inventory available for sale.

"By lot" means a randomized method of choosing between two or more ~~applicants~~ Eligible Tied Applicants or Qualifying Applicants.

"Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including:

derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not;

the seeds thereof, the resin extracted from any part of the plant; and

any compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction.

"Cannabis" does not include:

the mature stalks of the plant;

fiber produced from the stalks, oil or cake made from the seeds of the plant;



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any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination;

industrial hemp as defined and authorized under the Industrial Hemp Act [505 ILCS 89].

"Cannabis" does include cannabis flower, concentrate, and cannabis-infused products.

"Cannabis business establishment" means a cultivation center, craft grower, processing organization, infuser organization, dispensing organization, or transporting organization.

"Cannabis flower" means marijuana, hashish, and other substances that are:

identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as *indica*, of all strains of cannabis; and

raw kief, leaves, and buds

"Cannabis flower" does not include resin that has been extracted from any part of a plant, nor any compound, manufacture, salt, derivative, mixture, or preparation of a plant, its seeds, or resin.

"Cannabis-Infused product" means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis or cannabis concentrate that is not intended to be smoked.

"Conditional license" means a Conditional Adult Use Dispensing Organization License.

"Department" means the Department of Financial and Professional Regulation.

"Dispensary Applicant" means the proposed dispensing organization name Proposed Dispensing Organization Name as stated on an application for a Conditional Adult Use Dispensing Organization License.

*"Dispensing organization" means a facility operated by an organization or business that is licensed by the Department to acquire cannabis from a cultivation*

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*center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Part, "dispensing organization" includes a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Program Act [410 ILCS 130] or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.* ~~Adult Use Dispensing Organization License.~~ (Section 1-10 of the Act)

"Dispensing Organization License" or "License" means any Early Approval Adult Use Dispensing Organization License, Conditional Adult Use Dispensing Organization License, or Adult Use Dispensing Organization License.

"Dispensing organization agent ID card" or "agent ID card" means a document issued by the Department that identifies a person as a dispensing organization agent, agent-in-charge, or principal officer.

"DOA" means the Illinois Department of Agriculture.

"DPH" means the Illinois Department of Public Health.

"Email address of record" means a primary or alternate contact email address recorded by the Department in the applicant's application file maintained by the Department.

"Eligible applicant" means a tied applicant eligible to participate in the process by which a remaining available license is distributed by lot.

"Firearm injury" means a gunshot wound or penetrating injury from a weapon that uses a powder charge to fire a projectile. Weapons that use a power charge include handguns, rifles, and shotguns. Injuries from air- and gas-powered guns, BB guns, and pellet guns are not considered firearm injuries as these types of guns do not use a powder charge to fire a projectile.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and the HIPAA Privacy Rule as found at 45 CFR 164.

"Individual" means a natural person.

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"ISP" means the Illinois State Police.

"Laboratory" means an independent laboratory located in Illinois and approved by DOA to have custody and use of controlled substances for scientific and medical purposes and for purposes of instruction, research or analysis.

*"Member of an impacted family" or "impacted family member" means an individual who has a parent, legal guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to June 25, 2019, was arrested or convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Act. (Section 1-10 of the Act)*

"Notify" means to send via regular United States mail or email.

"On-site instruction" means class is held at a physical location in-person or remotely by real-time video technology tools.

*"Person" means a natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. (Section 1-10 of the Act)*  
~~"Person" means a natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.~~

*"Principal officer" includes a cannabis business establishment applicant or licensed cannabis business establishment's board member, owner with more than 1% interest of the total cannabis business establishment or more than 5% interest of the total cannabis business establishment of a publicly traded company, president, vice president, secretary, treasurer, partner, officer, member, manager member, or person with a profit sharing, financial interest, or revenue sharing arrangement. This definition includes a person with authority to control the cannabis business establishment or a person who assumes responsibility for the debts of the cannabis business establishment. (Section 1-10 of the Act)*

*"Qualifying Applicant" means an applicant that submitted an application pursuant to Section 15-30 of the Act that received at least 85% of 250 application points available under Section 15-30 as the applicant's final score and meets the definition of "Social Equity Applicant" as defined in the Act. (Section 1-10 of the Act)*

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"Reinforced vault" means a room built to the specifications listed in Section 1291.220(g).

"Remaining available license" means a license in a BLS region that has not been awarded by the Department at the conclusion of the scoring process period. There may be more than one remaining available license in a BLS region. For example, if four licenses are available in a BLS region and the five highest scoring Dispensary Applicants receive scores of 245, 240, 235, 235, and 235 points, the applicants receiving 245 and 240 application points will be awarded licenses and the three applicants receiving 235 points may become Eligible Applicants. Likewise, if one license is available in a BLS region and there are five Dispensary Applicants with the highest score, all five Dispensary Applicants may become Eligible Applicants.

"Scoring process period" is the period of time between the conclusion of the submission period for a conditional license application and when the Department publishes the names of tied applicants that may become eligible applicants.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"State verification system" means a web-based system established and maintained by the State of Illinois that is available to the Department, DOA, ISP, and dispensing organizations ~~for~~and the tracking of the date of sale, amount, and price of cannabis purchased by purchasers.

*"Tied applicant" means an application submitted by a Dispensary Applicant pursuant to Section 15-30 of the Act that received the same number of application points under Section 15-30 of the Act as the Dispensary Applicant's final score as one or more top-scoring applications in the same BLS region and would have been awarded a license but for the one or more other top-scoring applications that received the same number of application points. Each application for which a Dispensary Applicant was required to pay a required application fee for the application period ending January 2, 2020 shall be considered an application of a separate Tied Applicant. (Section 1-10 of the Act)*  
**"Tied applicant" means an application submitted by a Dispensary Applicant pursuant to Section 15-30 that received the same number of application points under Section 15-30 as the Dispensary Applicant's final score as one or more top-scoring applications in the same BLS region and would have been awarded a license but for the one or more**

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~~other top-scoring applications that received the same number of application points. Each application for which a Dispensary Applicant was required to pay a required application fee for the application period ending January 2, 2020 shall be considered an application of a separate Tied Applicant.~~

"Top participant" means an applicant drawn by lot in a winning slot such that it has the opportunity to be issued a conditional license.

"Victim" means

a person injured as a result of a firearm injury perpetrated or attempted against them;

the spouse, parent, or child of a person killed or injured as a result of a firearm injury perpetrated or attempted against the person, or anyone living in the household of a person killed or injured in a relationship that is substantially similar to that of a parent, spouse, or child;

a person injured while attempting to assist a person against whom a firearm injury is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person under the circumstances;

a person injured while assisting a law enforcement official apprehend a person who has perpetrated a firearm injury or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official; or

a person who personally witnessed a firearm injury.

The victim must not be the offender in the criminal act and must not have provoked or incited the crime.

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1291.400 Conditional License Lottery under Section 15-35.20(c) of the Act

- a) The Department may distribute no more than 55 conditional licenses by lot pursuant to the requirements of Section 15-35.20(c) of the Act and this Part.

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- b) The requirements contained in Sections 1291.400 through 1291.440 shall only apply to the 55 conditional licenses issued pursuant to Section 15-35.20(c) of the Act.
- c) All licenses issued pursuant to this Section shall be drawn by lot on the same day to the extent possible.
- d) Prior to conducting any lottery pursuant to this Section, the Department shall publish on its website a list of all applicants eligible to participate in the lottery.
- e) After the Department publishes the list of applicants eligible to participate in the lottery, all applicants shall have 5 business days to contest the Department's list of applicants eligible to participate in the lottery. Any contestation must be filed on the form published on the Department's website and submitted in the manner included on that form.
- f) The Department will revise and republish its list of applicants eligible to participate in the lottery if it concludes that any applicants were improperly included or excluded. The republished list of applicants is not subject to contestation under subsection (e). The Department is not required to provide any additional opportunities to contest the list of applicants eligible to participate in the lottery beyond the initial contest period described in subsection (e).
- g) The Department may conduct a lottery at any time after the 5-business day period to contest the list of lottery participants has concluded.
- h) The publishing of the list of applicants to participate in the lottery, and any revised list, is not a final agency decision. Any opportunity to contest the list shall not be considered a rehearing or an action for administrative review.
- i) The Department will publish the certified results of the lottery.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1291.405 Conditional License Distribution under Section 15-35.20(c) of the Act

- a) To ensure the geographic dispersion of conditional license holders, the following number of licenses issued as a result of any lottery conducted pursuant to Section 1291.400 shall be awarded in each BLS Region in the following amounts:

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- 1) Bloomington: 1
- 2) Cape Girardeau: 1
- 3) Carbondale-Marion: 1
- 4) Champaign-Urbana: 1
- 5) Chicago-Naperville-Elgin: 36
- 6) Danville: 1
- 7) Davenport-Moline-Rock Island: 1
- 8) Decatur: 1
- 9) Kankakee: 1
- 10) Peoria: 2
- 11) Rockford: 1
- 12) St. Louis: 3
- 13) Springfield: 1
- 14) Northwest Illinois nonmetropolitan: 1
- 15) West Central Illinois nonmetropolitan: 1
- 16) East Central Illinois nonmetropolitan: 1
- 17) South Illinois nonmetropolitan: 1. (Section 15-35(a) and 15-35.10(a) of the Act)

- b) Applicants are prohibited from applying in more than one BLS region and are limited to one application in that BLS region. If an applicant submits more than one application, the applicant forfeits all applications from entry into the lottery and is prohibited from being a top participant.

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- c) Within each BLS Region, the first applicant drawn will have the first opportunity to a conditional license. The second applicant drawn will have the second opportunity to a conditional license. The same pattern will continue for each subsequent applicant drawn.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1291.410 Conditional License Lottery Application under Section 15-35.20(c) of the Act

- a) The Department will publish an online application for applicants on the Department's website. Paper applications will not be accepted.
- b) After publishing the online application, the application submission window shall remain open for submissions for a minimum of 10 business days. Applications must be submitted by 5:00 P.M. Central Time on the last day of the application submission window and no applications will be accepted after the application submission window closes.
- c) A principal officer cannot be on more than one application. The Department shall require that all applicants provide each of its principal officers' Social Security Numbers or Individual Taxpayer Identification Number, and any other unique, identifying information, required in the application to ensure that an individual principal officer is not listed as a principal officer on more than one application.
- d) All applicants shall pay a non-refundable application fee of \$250, to be deposited into the Cannabis Regulation Fund.
- e) An application shall be accepted only if it is complete. All incomplete applications shall be denied. A completed application shall include the nonrefundable fee and, at a minimum, the following information:
- 1) the applicant's proposed entity name;
  - 2) the name of the persons filling out the application;
  - 3) the BLS Region in which the applicant is applying;



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- 4) the names, Social Security Numbers or Individual Taxpayer Identification Number, home addresses, birthdates, phone numbers, and email addresses, for all proposed principal officers of the proposed entity;
- 5) the identification of and contact information, including phone number and email address, for a primary and alternate contact of the proposed entity, at least one of whom must also be a principal officer;
- 6) an acknowledgment that if awarded an opportunity for a conditional license in the lottery, 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 subsection (e)(6)(A) (Criteria A) and one of the criteria under subsection (e)(6)(B) (Criteria B). This does not mean multiple individuals need to meet identical criteria, but each individual must meet at least one criteria from Criteria A and one criteria from Criteria B.

A) Criteria A (only 1 required):

- i) An individual who has resided for at least 5 of the preceding 10 years in a census tract that has a poverty rate of at least 20%, according to the latest 5-year American Community Survey (Table S1701: Poverty Status in the Past 12 Months) that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at <https://data.census.gov/cedsci/table?q=poverty%20rate&g=0100000US%241400000&tid=ACSSST5Y2020.S1701>;
- ii) An individual who has 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 in the latest 5-year American Community Survey (Table S2201: Food Stamps/Supplemental Nutrition Assistance Program (SNAP)) that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at

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<https://data.census.gov/cedsci/table?q=snap%20participation&g=0100000US%241400000&tid=ACSSST5Y2020.S2201>  
;

- iii) An individual who has 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, superecenter, or large grocery store for an urban area or greater than 20 miles for a rural area, as classified by the latest United States Department of Agriculture Economic Research Service's Food Access Research Atlas data set that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at the United States Department of Agriculture Economic Research Service's Food Access Research Atlas, is available at <https://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas>;
- iv) An individual who has received Medicaid, Supplemental Security Income, Social Security Disability, and/or subsidized housing for at least 5 of the preceding 10 years; and/or,
- v) An individual who has resided for at least 5 of the preceding 10 years in a census tract in the top 15<sup>th</sup> percentile for the percent of residents in the census tract failing to graduate from High School in that state, as classified by the latest 5-year American Community Survey (Table S1501: Educational Attainment) that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at <https://data.census.gov/cedsci/table?q=s1501&g=0100000US.%241400000>

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- B) Criteria B (only 1 required):
- i) An individual 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:
    - 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;
  - ii) An individual who has 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:
    - possession of not more than 500 grams of cannabis;  
or
    - manufacture, delivery, or possession with intent to deliver, or manufacture or cannabis up to 30 grams.
  - iii) An individual who has been a victim of firearm injury, as those terms are defined in this Part. This must be evidenced by either a police report or medical record.
- C) As soon as reasonably possible, but no later than 5 business days prior to the acceptance of applications, the Department shall make publicly available the documents applicants may use to establish eligibility under both subsection (e)(6)(A) (Criteria A) and subsection (e)(6)(B) (Criteria B).
- 7) An acknowledgment that if awarded a conditional license, neither the entity nor any of its principal officers will violate the Act's license number limitations.
- 8) The acknowledgement will also include a statement or indication that the applicant understands the timeframes to do so as required in this Part.

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- f) If an applicant fails to meet and prove the criteria identified in subsection (e)(6)(A) (Criteria A) and subsection (e)(6)(B) (Criteria B) within 45 calendar days after the date of the notice of being a top participant from the Department and any required 10 business day deficiency period or 5 business day intent to deny periods as those periods are set forth in Section 1291.420, the Department shall deny issuance of a conditional license and proceed to the next top participant as described in Section 1291.405(c).
- g) If two or more applications include the same principal officer, the Department will notify the applicant at its identified primary and alternate contacts and the principal officer who is listed on two or more applications, via email. Upon this notification, the identified principal officer has 3 business days to notify the Department of its resignation from all but one of the proposed entities. This notification shall be submitted to the Department in writing to [FPR.CannabisAdministration@illinois.gov](mailto:FPR.CannabisAdministration@illinois.gov). If the identified principal officer does not notify the Department of the principal officer's required resignation within the required time period, each applicant notified shall forfeit its application and nonrefundable fee.
- h) False Information
- 1) If the Department determines that any information on an application or in supporting documents is not truthful, the applicant associated with that application will be prohibited from:
- A) participating in the lottery;
  - B) being a top participant; and
  - C) being issued a conditional license or Adult Use Dispensing Organization License.
- 2) The Department shall notify the next eligible top participant drawn by lot of its opportunity for the conditional license, in accordance with Section 1291.405(c).
- i) If a principal officer identified on an application dies after the applicant has submitted its application but prior to the conducting of any lottery, the applicant does not need to inform the Department unless the applicant becomes a top participant eligible for a conditional license after the lottery is conducted. If the

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applicant becomes a top participant, the applicant is required to follow the process identified in Section 1291.420.

- j) The Department will only communicate with the applicant or top participant's primary and alternate contact regarding the applicant or top participant's application. In order to change its primary or alternate contact information, an applicant or a top participant must submit a request to change from the current primary or alternate contact email address the Department has on record.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1291.420 Conditional License Post Lottery Proof Requirements under Section 15-35.20(c) of the Act**

- a) The Department will publish a list of supporting documents (e.g., mortgage statements, bank statement, government-issued identification) that an applicant must submit in order to prove it meets the criteria required in Section 1291.410(e)(6)(A) (Criteria A) and Section 1291.410(e)(6)(B) (Criteria B) to be issued a conditional license. This list shall be published on the Department's website on the same day the Department opens the application submission window.
- b) Top participants shall have 45 calendar days after the day the lottery is certified to submit all required supporting documents to the Department via FPR.CannabisAdministration@illinois.gov or via the State file share system available upon request to the same email address.
- c) After a top participant has submitted its supporting documents, the Department has at least 60 calendar days to review the documentation.
- d) If the Department determines that the supporting documents are insufficient, the Department shall issue a deficiency notice to that top participant. The top participant shall have 10 business days after the date that appears on the deficiency notice to submit sufficient documentation.
- e) If the top participant fails to provide sufficient documents after this deficiency period, the Department shall inform a top participant of its intent to deny the issuance of a conditional license prior to any denial of a conditional license.

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- f) Top participants shall have 5 business days after the date that appears on the notice of intent to deny to contest the Department's decision. Any contestation must be filed in accordance with 68 Ill. Adm. Code 1110.
- g) The Department's final order to either affirm or revoke its intent to deny constitutes a final agency decision and may be appealed under the Administrative Review Law [735 ILCS 5/3-101].
- h) If the Department informs a top participant of a deficiency or of its intent to deny the issuance of a conditional license because of one of the applicant's principal officers has violated the Act or this Part, the principal officer may resign from the top participant (or another licensee) in order for the top participant to remain eligible for a conditional license. Proof of this resignation shall be submitted to the Department on the form published on the Department's website and submitted in the manner included on that form.
- i) If a principal officer of a top participant resigns after that top participant has been notified of the Department's intent to deny, that top participant may not replace the resigned principal officer. If a principal officer of a top participant resigns after that top participant has been notified of the Department's deficiency notice or intent to deny, and that top participant therefore becomes ineligible to meet the requirements of the Act and this Part, the Department shall deny that top participant a conditional license.
- j) If the Department affirms its intent to deny, the Department shall deny issuance of a conditional license and proceed to the next to participant as described in Section 1291.420.
- k) If the Department denies issuance of a conditional license to a top participant, the Department shall notify the next eligible top participant drawn by lot of its opportunity for the conditional license, in accordance with Section 1291.405(c).
- l) The Department may issue conditional licenses to top participants in the order in which they are received by the Department. Nothing in this subsection (l) prevents the Department from issuing conditional licenses before all top participants have submitted all necessary documentation.
- m) If a principal officer of an applicant dies after the submission of any application, and that applicant is then selected as a top participant, the top participant shall present proof of death to the Department. A deceased principal officer may be

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replaced only if that principal officer was necessary for the top participant to remain eligible to be issued a conditional license. If a necessary principal officer of a top participant dies prior to issuance of the conditional license, the top participant shall have 45 calendar days after the death of that principal officer to submit proof of a replacement principal officer to the Department in order to remain eligible for a conditional license.

- n) The Department shall deny issuance of a conditional license if it would result in a single person or entity having a direct or indirect financial interest in more than 10 Early Approval Adult Use Dispensing Organization Licenses, conditional licenses, or Adult Use Dispensing Organization Licenses. Any entity that is awarded a conditional license that results in a single person or entity having a direct or indirect financial interest in more than 10 licenses shall forfeit the most recently issued license and suffer a penalty to be determined by the Department in accordance with section 15-145 of the Act, unless the entity declines the license at the time it is awarded. (Section 15-30(k) of the Act)

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1291.440 Conditional Licensee Requirements under Section 15-35.20(c) of the Act**

- a) A conditional license cannot be sold, transferred, or assigned and the conditional license holder cannot in any way change its ownership structure, including by removing or adding any principal officers, except for in the event of the death of a principal officer.
- b) If a principal officer of a conditional license holder dies prior to the issuance of any Adult Use Dispensing Organization License under Section 15-36 of the Act, the conditional license holder shall inform the Department of the death and submit an updated table of organization.
- c) A principal officer may be added to the ownership structure of a conditional license holder only in the event of replacing a deceased principal officer, subject to the Department's approval of that principal officer. The Department will consider, but is not limited to, the proposed principal officer's role, qualifications, and the necessity of adding a principal officer when considering the new principal officer.

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- d) The death of a principal officer following issuance of a conditional license shall not impact the conditional license holder's eligibility to be issued an Adult Use Dispensing Organization License under Section 15-36 of the Act.
  
- e) Identifying a Physical Location
  - 1) A conditional license holder who receives a conditional license through any lottery conducted pursuant to Section 1291.400 has 365 calendar days after the date of issuance of the conditional license to identify a physical location for the dispensing organization retail storefront. For purposes of this subsection (e), proof of identifying a physical location includes, but is not limited to, one of the following:
    - A) proof of building ownership by the top participant;
    - B) agreement to purchase building or lease that is dependent on zoning or state license approval;
    - C) signed lease for the term of the initial license; or
    - D) proof of zoning approval or application for zoning approval.
  - 2) A conditional license holder shall provide evidence that the location is not within 1,500 feet of an existing dispensing organization.
  - 3) If a conditional license holder is unable to find a suitable physical address within 365 calendar days after the issuance of the conditional license, the Department may extend the period for finding a physical address another 180 calendar days if the conditional license holder demonstrates the steps it has taken to secure a location and hardship. If the Department denies the request for an extension or the conditional license holder is unable to become operational within 545 calendar days after being awarded a conditional license, the Department will rescind the conditional license and may proceed to the next applicant drawn in accordance with Section 121.405(c).

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## CERTIFICATE OF ADOPTED AMENDMENTS

The Department of Financial and Professional Regulation certifies that the attached hereto is a true and correct copy of:

Heading of Part: Cannabis Regulation and Tax Act

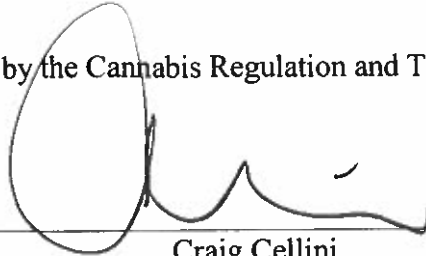
Code Citation: 68 Ill. Adm. Code 1291

Sections Involved:

1291.10  
1291.400  
1291.405  
1291.410  
1291.420  
1291.440

which was duly amended by this agency.

Statutory Authority: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705]



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Craig Cellini  
IDFPR Rules Coordinator

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1291  
CANNABIS REGULATION AND TAX ACT

## Section

- 1291.10 Definitions
- 1291.50 Tied Applicant
- 1291.220 Relocation of an Early Approval Adult Use Dispensing Organization License at a Same Site
- 1291.400 Conditional License Lottery under Section 15-35.20(c) of the Act
- 1291.405 Conditional License Distribution under Section 15-35.20(c) of the Act
- 1291.410 Conditional License Lottery Application under Section 15-35.20(c) of the Act
- 1291.420 Conditional License Post Lottery Proof Requirements under Section 15-35.20(c) of the Act
- 1291.440 Conditional Licensee Requirements under Section 15-35.20(c) of the Act

AUTHORITY: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705]

SOURCE: Adopted by emergency rulemaking at 43 Ill. Reg. 14934, effective December 9, 2019, for a maximum of 180 days; emergency rule expired June 5, 2020; adopted at 44 Ill. Reg. 14103, effective August 24, 2020; emergency amendment at 45 Ill. Reg. 9586, effective July 15, 2021, for a maximum of 150 days; Subpart B of the emergency amendment suspended by the Joint Committee on Administrative Rules at 45 Ill. Reg. 10881, effective August 18, 2021; suspension withdrawn at 45 Ill. Reg. 12206, effective September 16, 2021; emergency amendment to emergency rule at 45 Ill. Reg. 11851, effective September 16, 2021, for the remainder of the 150 days; emergency amendment at 45 Ill. Reg. 13442, effective October 12, 2021, for a maximum of 150 days; amended at 45 Ill. Reg. 16320, effective December 7, 2021; amended at 46 Ill. Reg. 2660, effective January 28, 2022; amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1291.10 Definitions**

Terms not defined in this Section shall have the same meaning as in the Cannabis Regulation and Tax Act [410 ILCS 705]. Nothing in this Part is intended to confer a property or other right, duty, privilege or interest entitling an applicant to an administrative hearing upon denial of a dispensing organization application. The denial of a dispensing organization application does not preclude judicial review of the denial. The following definitions are applicable for purposes of this Part:

"Act" means the Cannabis Regulation and Tax Act [410 ILCS 705].

"ADA" means the Americans With Disabilities Act of 1990 (42 U.S.C. 12101).

"Address of record" means the address record by the Department in the applicant's application file maintained by the Department.

"Adult Use Dispensing Organization License" means a license issued by the Department that permits a person to act as a dispensing organization under this Act and any administrative rule made in furtherance of this Act.

"Affiliate" means a Person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, that Person.

"Affiliated entity" means any business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the Person.

"Applicant" means the proposed dispensing organization name as stated on a license application.

"Application date" is the date an application for approval was received by the Department.

"Application points" means the number of points a Dispensary Applicant receives on an application for a Conditional Adult Use Dispensing Organization License.

"Application submission window" means the period between August 1<sup>st</sup> and August 15<sup>th</sup> of every odd numbered year during which the Department will receive applications to be approved as a Responsible Vendor Provider unless the date falls on a holiday or weekend in which case the window is extended to the

next business day. The application submission window shall close at 5 p.m. central time on the final day on which applications are accepted.

"Approved list" is the list of providers.

*"BLS region" means a region in Illinois used by the United States Bureau of Labor Statistics to gather and categorize certain employment and wage data. The 17 regions in Illinois are: Bloomington, Cape Girardeau, Carbondale-Marion, Champaign-Urbana, Chicago-Naperville-Elgin, Danville, Davenport-Moline-Rock Island, Decatur, Kankakee, Peoria, Rockford, St. Louis, Springfield, Northwest Illinois nonmetropolitan area, West Central Illinois nonmetropolitan area, East Central Illinois nonmetropolitan area, and South Illinois nonmetropolitan area. (Section 1-10 of the Act)*

"Bulk cannabis inventory" means cannabis and cannabis-infused products stored in the reinforced vault in clear, heat-sealed or taped shrink wrap bags or sheeting that is labeled with the date the inventory is sealed, the last four digits of the batch number, the number of items contained within the wrapping, and the date the inventory was last counted. Bulk Cannabis Inventory is included in the dispensing organization's total inventory available for sale.

"By lot" means a randomized method of choosing between two or more applicants.

"Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including:

derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not;

the seeds thereof, the resin extracted from any part of the plant; and

any compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction.

"Cannabis" does not include:

the mature stalks of the plant;

fiber produced from the stalks, oil or cake made from the seeds of the plant;

any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination;

industrial hemp as defined and authorized under the Industrial Hemp Act [505 ILCS 89].

"Cannabis" does include cannabis flower, concentrate, and cannabis-infused products.

"Cannabis business establishment" means a cultivation center, craft grower, processing organization, infuser organization, dispensing organization, or transporting organization.

"Cannabis flower" means marijuana, hashish, and other substances that are:

identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as *indica*, of all strains of cannabis; and

raw kief, leaves, and buds

"Cannabis flower" does not include resin that has been extracted from any part of a plant, nor any compound, manufacture, salt, derivative, mixture, or preparation of a plant, its seeds, or resin.

"Cannabis-Infused product" means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis or cannabis concentrate that is not intended to be smoked.

"Conditional license" means a Conditional Adult Use Dispensing Organization License.

"Department" means the Department of Financial and Professional Regulation.

"Dispensary Applicant" means the proposed dispensing organization name as stated on an application for a Conditional Adult Use Dispensing Organization License.

*"Dispensing organization" means a facility operated by an organization or business that is licensed by the Department to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis*

*seeds, paraphernalia, or related supplies under the Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Part, "dispensing organization" includes a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Program Act [410 ILCS 130] or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License. (Section 1-10 of the Act)*

"Dispensing Organization License" or "License" means any Early Approval Adult Use Dispensing Organization License, Conditional Adult Use Dispensing Organization License, or Adult Use Dispensing Organization License.

"Dispensing organization agent ID card" or "agent ID card" means a document issued by the Department that identifies a person as a dispensing organization agent, agent-in-charge, or principal officer.

"DOA" means the Illinois Department of Agriculture.

"DPH" means the Illinois Department of Public Health.

"Email address of record" means a primary or alternate contact email address recorded by the Department in the applicant's application file maintained by the Department.

"Eligible applicant" means a tied applicant eligible to participate in the process by which a remaining available license is distributed by lot.

"Firearm injury" means a gunshot wound or penetrating injury from a weapon that uses a powder charge to fire a projectile. Weapons that use a power charge include handguns, rifles, and shotguns. Injuries from air- and gas-powered guns, BB guns, and pellet guns are not considered firearm injuries as these types of guns do not use a powder charge to fire a projectile.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and the HIPAA Privacy Rule as found at 45 CFR 164.

"Individual" means a natural person.

"ISP" means the Illinois State Police.

"Laboratory" means an independent laboratory located in Illinois and approved by DOA to have custody and use of controlled substances for scientific and medical purposes and for purposes of instruction, research or analysis.

*"Member of an impacted family" or "impacted family member" means an individual who has a parent, legal guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to June 25, 2019, was arrested or convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Act. (Section 1-10 of the Act)*

"Notify" means to send via regular United States mail or email.

"On-site instruction" means class is held at a physical location in-person or remotely by real-time video technology tools.

*"Person" means a natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. (Section 1-10 of the Act)*

*"Principal officer" includes a cannabis business establishment applicant or licensed cannabis business establishment's board member, owner with more than 1% interest of the total cannabis business establishment or more than 5% interest of the total cannabis business establishment of a publicly traded company, president, vice president, secretary, treasurer, partner, officer, member, manager member, or person with a profit sharing, financial interest, or revenue sharing arrangement. This definition includes a person with authority to control the cannabis business establishment or a person who assumes responsibility for the debts of the cannabis business establishment. (Section 1-10 of the Act)*

*"Qualifying Applicant" means an applicant that submitted an application pursuant to Section 15-30 of the Act that received at least 85% of 250 application points available under Section 15-30 as the applicant's final score and meets the definition of "Social Equity Applicant" as defined in the Act. (Section 1-10 of the Act)*

"Reinforced vault" means a room built to the specifications listed in Section 1291.220(g).

"Remaining available license" means a license in a BLS region that has not been awarded by the Department at the conclusion of the scoring process period. There may be more than one remaining available license in a BLS region. For example, if four licenses are available in a BLS region and the five highest scoring Dispensary Applicants receive scores of 245, 240, 235, 235, and 235 points, the applicants receiving 245 and 240 application points will be awarded licenses and the three applicants receiving 235 points may become Eligible Applicants. Likewise, if one license is available in a BLS region and there are five Dispensary

Applicants with the highest score, all five Dispensary Applicants may become Eligible Applicants.

"Scoring process period" is the period of time between the conclusion of the submission period for a conditional license application and when the Department publishes the names of tied applicants that may become eligible applicants.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"State verification system" means a web-based system established and maintained by the State of Illinois that is available to the Department, DOA, ISP, and dispensing organizations for the tracking of the date of sale, amount, and price of cannabis purchased by purchasers.

*"Tied applicant" means an application submitted by a Dispensary Applicant pursuant to Section 15-30 of the Act that received the same number of application points under Section 15-30 of the Act as the Dispensary Applicant's final score as one or more top-scoring applications in the same BLS region and would have been awarded a license but for the one or more other top-scoring applications that received the same number of application points. Each application for which a Dispensary Applicant was required to pay a required application fee for the application period ending January 2, 2020 shall be considered an application of a separate Tied Applicant. (Section 1-10 of the Act)*

"Top participant" means an applicant drawn by lot in a winning slot such that it has the opportunity to be issued a conditional license.

"Victim" means

a person injured as a result of a firearm injury perpetrated or attempted against them;

the spouse, parent, or child of a person killed or injured as a result of a firearm injury perpetrated or attempted against the person, or anyone living in the household of a person killed or injured in a relationship that is substantially similar to that of a parent, spouse, or child;

a person injured while attempting to assist a person against whom a firearm injury is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person under the circumstances;



a person injured while assisting a law enforcement official apprehend a person who has perpetrated a firearm injury or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official; or

a person who personally witnessed a firearm injury.

The victim must not be the offender in the criminal act and must not have provoked or incited the crime.

(Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1291.400 Conditional License Lottery under Section 15-35.20(c) of the Act**

- a) The Department may distribute no more than 55 conditional licenses by lot pursuant to the requirements of Section 15-35.20(c) of the Act and this Part.
- b) The requirements contained in Sections 1291.400 through 1291.440 shall only apply to the 55 conditional licenses issued pursuant to Section 15-35.20(c) of the Act.
- c) All licenses issued pursuant to this Section shall be drawn by lot on the same day to the extent possible.
- d) Prior to conducting any lottery pursuant to this Section, the Department shall publish on its website a list of all applicants eligible to participate in the lottery.
- e) After the Department publishes the list of applicants eligible to participate in the lottery, all applicants shall have 5 business days to contest the Department's list of applicants eligible to participate in the lottery. Any contestation must be filed on the form published on the Department's website and submitted in the manner included on that form.
- f) The Department will revise and republish its list of applicants eligible to participate in the lottery if it concludes that any applicants were improperly included or excluded. The republished list of applicants is not subject to contestation under subsection (e). The Department is not required to provide any additional opportunities to contest the list of applicants eligible to participate in the lottery beyond the initial contest period described in subsection (e).
- g) The Department may conduct a lottery at any time after the 5-business day period to contest the list of lottery participants has concluded.
- h) The publishing of the list of applicants to participate in the lottery, and any revised list, is not a final agency decision. Any opportunity to contest the list shall not be considered a rehearing or an action for administrative review.
- i) The Department will publish the certified results of the lottery.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1291.405 Conditional License Distribution under Section 15-35.20(c) of the Act**

- a) To ensure the geographic dispersion of conditional license holders, the following number of licenses issued as a result of any lottery conducted pursuant to Section 1291.400 shall be awarded in each BLS Region in the following amounts:
- 1) *Bloomington: 1*
  - 2) *Cape Girardeau: 1*
  - 3) *Carbondale-Marion: 1*
  - 4) *Champaign-Urbana: 1*
  - 5) *Chicago-Naperville-Elgin: 36*
  - 6) *Danville: 1*
  - 7) *Davenport-Moline-Rock Island: 1*
  - 8) *Decatur: 1*
  - 9) *Kankakee: 1*
  - 10) *Peoria: 2*
  - 11) *Rockford: 1*
  - 12) *St. Louis: 3*
  - 13) *Springfield: 1*
  - 14) *Northwest Illinois nonmetropolitan: 1*
  - 15) *West Central Illinois nonmetropolitan: 1*
  - 16) *East Central Illinois nonmetropolitan: 1*
  - 17) *South Illinois nonmetropolitan: 1.* (Section 15-35(a) and 15-35.10(a) of the Act)

- b) Applicants are prohibited from applying in more than one BLS region and are limited to one application in that BLS region. If an applicant submits more than one application, the applicant forfeits all applications from entry into the lottery and is prohibited from being a top participant.
- c) Within each BLS Region, the first applicant drawn will have the first opportunity to a conditional license. The second applicant drawn will have the second opportunity to a conditional license. The same pattern will continue for each subsequent applicant drawn.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1291.410 Conditional License Lottery Application under Section 15-35.20(c) of the Act**

- a) The Department will publish an online application for applicants on the Department's website. Paper applications will not be accepted.
- b) After publishing the online application, the application submission window shall remain open for submissions for a minimum of 10 business days. Applications must be submitted by 5:00 P.M. Central Time on the last day of the application submission window and no applications will be accepted after the application submission window closes.
- c) A principal officer cannot be on more than one application. The Department shall require that all applicants provide each of its principal officers' Social Security Numbers or Individual Taxpayer Identification Number, and any other unique, identifying information, required in the application to ensure that an individual principal officer is not listed as a principal officer on more than one application.
- d) All applicants shall pay a non-refundable application fee of \$250, to be deposited into the Cannabis Regulation Fund.
- e) An application shall be accepted only if it is complete. All incomplete applications shall be denied. A completed application shall include the nonrefundable fee and, at a minimum, the following information:
  - 1) the applicant's proposed entity name;
  - 2) the name of the persons filling out the application;
  - 3) the BLS Region in which the applicant is applying;
  - 4) the names, Social Security Numbers or Individual Taxpayer Identification Number, home addresses, birthdates, phone numbers, and email addresses, for all proposed principal officers of the proposed entity;
  - 5) the identification of and contact information, including phone number and email address, for a primary and alternate contact of the proposed entity, at least one of whom must also be a principal officer;
  - 6) an acknowledgment that if awarded an opportunity for a conditional license in the lottery, 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 subsection (e)(6)(A) (Criteria A) and one of the criteria under subsection (e)(6)(B) (Criteria B). This does not mean multiple individuals need to meet identical criteria, but each individual must meet at least one criteria from Criteria A and one criteria from Criteria B.

A) Criteria A (only 1 required):

- i) An individual who has resided for at least 5 of the preceding 10 years in a census tract that has a poverty rate of at least 20% according to the latest 5-year American Community Survey (Table S1701: Poverty Status in the Past 12 Months) that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at  
<https://data.census.gov/cedsci/table?q=poverty%20rate&g=0100000US%241400000&tid=ACSST5Y2020.S1701>;
- ii) An individual who has 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 in the latest 5-year American Community Survey (Table S2201: Food Stamps/Supplemental Nutrition Assistance Program (SNAP)) that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at  
<https://data.census.gov/cedsci/table?q=snap%20participation&g=0100000US%241400000&tid=ACSST5Y2020.S2201>;
- iii) An individual who has 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 United States Department of Agriculture Economic

Research Service's Food Access Research Atlas data set that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at the United States Department of Agriculture Economic Research Service's Food Access Research Atlas, is available at <https://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas>;

- iv) An individual who has received Medicaid, Supplemental Security Income, Social Security Disability, and/or subsidized housing for at least 5 of the preceding 10 years; and/or,
- v) An individual who has resided for at least 5 of the preceding 10 years in a census tract in the top 15<sup>th</sup> percentile for the percent of residents in the census tract failing to graduate from High School in that state, as classified by the latest 5-year American Community Survey (Table S1501: Educational Attainment) that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at <https://data.census.gov/cedsci/table?q=s1501&g=0100000US,%241400000>

B) Criteria B (only 1 required);

- i) An individual 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:
  - 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;
- ii) An individual who has 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:

- possession of not more than 500 grams of cannabis;  
or
  - manufacture, delivery, or possession with intent to deliver, or manufacture or cannabis up to 30 grams.
- iii) An individual who has been a victim of firearm injury, as those terms are defined in this Part. This must be evidenced by either a police report or medical record.
- C) As soon as reasonably possible, but no later than 5 business days prior to the acceptance of applications, the Department shall make publicly available the documents applicants may use to establish eligibility under both subsection (e)(6)(A) (Criteria A) and subsection (e)(6)(B) (Criteria B).
- 7) An acknowledgment that if awarded a conditional license, neither the entity nor any of its principal officers will violate the Act's license number limitations.
- 8) The acknowledgement will also include a statement or indication that the applicant understands the timeframes to do so as required in this Part.
- f) If an applicant fails to meet and prove the criteria identified in subsection (e)(6)(A) (Criteria A) and subsection (e)(6)(B) (Criteria B) within 45 calendar days after the date of the notice of being a top participant from the Department and any required 10 business day deficiency period or 5 business day intent to deny periods as those periods are set forth in Section 1291.420, the Department shall deny issuance of a conditional license and proceed to the next top participant as described in Section 1291.405(c).
- g) If two or more applications include the same principal officer, the Department will notify the applicant at its identified primary and alternate contacts and the principal officer who is listed on two or more applications, via email. Upon this notification, the identified principal officer has 3 business days to notify the Department of its resignation from all but one of the proposed entities. This notification shall be submitted to the Department in writing to [FPR.CannabisAdministration@illinois.gov](mailto:FPR.CannabisAdministration@illinois.gov). If the identified principal officer does not notify the Department of the principal officer's required resignation within the required time period, each applicant notified shall forfeit its application and nonrefundable fee.
- h) False Information



- 1) If the Department determines that any information on an application or in supporting documents is not truthful, the applicant associated with that application will be prohibited from:
  - A) participating in the lottery;
  - B) being a top participant; and
  - C) being issued a conditional license or Adult Use Dispensing Organization License.
- 2) The Department shall notify the next eligible top participant drawn by lot of its opportunity for the conditional license, in accordance with Section 1291.405(c).
  - i) If a principal officer identified on an application dies after the applicant has submitted its application but prior to the conducting of any lottery, the applicant does not need to inform the Department unless the applicant becomes a top participant eligible for a conditional license after the lottery is conducted. If the applicant becomes a top participant, the applicant is required to follow the process identified in Section 1291.420.
  - j) The Department will only communicate with the applicant or top participant's primary and alternate contact regarding the applicant or top participant's application. In order to change its primary or alternate contact information, an applicant or a top participant must submit a request to change from the current primary or alternate contact email address the Department has on record.

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1291.420 Conditional License Post Lottery Proof Requirements under Section 15-35.20(c) of the Act**

- a) The Department will publish a list of supporting documents (e.g., mortgage statements, bank statement, government-issued identification) that an applicant must submit in order to prove it meets the criteria required in Section 1291.410(e)(6)(A) (Criteria A) and Section 1291.410(e)(6)(B) (Criteria B) to be issued a conditional license. This list shall be published on the Department's website on the same day the Department opens the application submission window.
- b) Top participants shall have 45 calendar days after the day the lottery is certified to submit all required supporting documents to the Department via [FPR.CannabisAdministration@illinois.gov](mailto:FPR.CannabisAdministration@illinois.gov) or via the State file share system available upon request to the same email address.
- c) After a top participant has submitted its supporting documents, the Department has at least 60 calendar days to review the documentation.
- d) If the Department determines that the supporting documents are insufficient, the Department shall issue a deficiency notice to that top participant. The top participant shall have 10 business days after the date that appears on the deficiency notice to submit sufficient documentation.
- e) If the top participant fails to provide sufficient documents after this deficiency period, the Department shall inform a top participant of its intent to deny the issuance of a conditional license prior to any denial of a conditional license.
- f) Top participants shall have 5 business days after the date that appears on the notice of intent to deny to contest the Department's decision. Any contestation must be filed in accordance with 68 Ill. Adm. Code 1110.
- g) The Department's final order to either affirm or revoke its intent to deny constitutes a final agency decision and may be appealed under the Administrative Review Law [735 ILCS 5/3-101].
- h) If the Department informs a top participant of a deficiency or of its intent to deny the issuance of a conditional license because of one of the applicant's principal officers has violated the Act or this Part, the principal officer may resign from the top participant (or another licensee) in order for the top participant to remain eligible for a conditional license. Proof of this resignation shall be submitted to

the Department on the form published on the Department's website and submitted in the manner included on that form.

- i) If a principal officer of a top participant resigns after that top participant has been notified of the Department's intent to deny, that top participant may not replace the resigned principal officer. If a principal officer of a top participant resigns after that top participant has been notified of the Department's deficiency notice or intent to deny, and that top participant therefore becomes ineligible to meet the requirements of the Act and this Part, the Department shall deny that top participant a conditional license.
- j) If the Department affirms its intent to deny, the Department shall deny issuance of a conditional license and proceed to the next to participant as described in Section 1291.420.
- k) If the Department denies issuance of a conditional license to a top participant, the Department shall notify the next eligible top participant drawn by lot of its opportunity for the conditional license, in accordance with Section 1291.405(c).
- l) The Department may issue conditional licenses to top participants in the order in which they are received by the Department. Nothing in this subsection (l) prevents the Department from issuing conditional licenses before all top participants have submitted all necessary documentation.
- m) If a principal officer of an applicant dies after the submission of any application, and that applicant is then selected as a top participant, the top participant shall present proof of death to the Department. A deceased principal officer may be replaced only if that principal officer was necessary for the top participant to remain eligible to be issued a conditional license. If a necessary principal officer of a top participant dies prior to issuance of the conditional license, the top participant shall have 45 calendar days after the death of that principal officer to submit proof of a replacement principal officer to the Department in order to remain eligible for a conditional license.
- n) *The Department shall deny issuance of a conditional license if it would result in a single person or entity having a direct or indirect financial interest in more than 10 Early Approval Adult Use Dispensing Organization Licenses, conditional licenses, or Adult Use Dispensing Organization Licenses. Any entity that is awarded a conditional license that results in a single person or entity having a direct or indirect financial interest in more than 10 licenses shall forfeit the most recently issued license and suffer a penalty to be determined by the Department in accordance with section 15-145 of the Act, unless the entity declines the license at the time it is awarded. (Section 15-30(k) of the Act)*

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1291.440 Conditional Licensee Requirements under Section 15-35.20(c) of the Act**

- a) A conditional license cannot be sold, transferred, or assigned and the conditional license holder cannot in any way change its ownership structure, including by removing or adding any principal officers, except for in the event of the death of a principal officer.
- b) If a principal officer of a conditional license holder dies prior to the issuance of any Adult Use Dispensing Organization License under Section 15-36 of the Act, the conditional license holder shall inform the Department of the death and submit an updated table of organization.
- c) A principal officer may be added to the ownership structure of a conditional license holder only in the event of replacing a deceased principal officer, subject to the Department's approval of that principal officer. The Department will consider, but is not limited to, the proposed principal officer's role, qualifications, and the necessity of adding a principal officer when considering the new principal officer.
- d) The death of a principal officer following issuance of a conditional license shall not impact the conditional license holder's eligibility to be issued an Adult Use Dispensing Organization License under Section 15-36 of the Act.
- e) Identifying a Physical Location
  - 1) A conditional license holder who receives a conditional license through any lottery conducted pursuant to Section 1291.400 has 365 calendar days after the date of issuance of the conditional license to identify a physical location for the dispensing organization retail storefront. For purposes of this subsection (e), proof of identifying a physical location includes, but is not limited to, one of the following:
    - A) proof of building ownership by the top participant;
    - B) agreement to purchase building or lease that is dependent on zoning or state license approval;
    - C) signed lease for the term of the initial license; or
    - D) proof of zoning approval or application for zoning approval.
  - 2) A conditional license holder shall provide evidence that the location is not

within 1,500 feet of an existing dispensing organization.

- 3) If a conditional license holder is unable to find a suitable physical address within 365 calendar days after the issuance of the conditional license, the Department may extend the period for finding a physical address another 180 calendar days if the conditional license holder demonstrates the steps it has taken to secure a location and hardship. If the Department denies the request for an extension or the conditional license holder is unable to become operational within 545 calendar days after being awarded a conditional license, the Department will rescind the conditional license and may proceed to the next applicant drawn in accordance with Section 121.405(c).

(Source: Added at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SECOND NOTICE CHANGES

**Agency:** Department of Financial and Professional Regulation

**Rulemaking:** Cannabis Regulation and Tax Act (68 Ill. Adm. Code 1291; 46 Ill. Reg. 5127)

### Changes:

1. In line 13, change "2022 Lottery" to "Conditional License Lottery under Section 15-35.20(c) of the Act".
2. In line 14, change "License Distribution" to "Conditional License Distribution under Section 15-35.20(c) of the Act".
3. In line 15, change "Application" to "Conditional License Application under Section 15-35.20(c) of the Act".
4. In line 16, change "Post Lotter Proof Requirements" to "Conditional License Post Lotter Proof Requirements under Section 15-35.20(c) of the Act".
5. In line 17, change "Post Issuance Licensing Requirements" to "Conditional Licensee Requirements under Section 15-35.20(c) of the Act".
6. In line 45, strike "USC" and add "U.S.C.".
7. In line 62, strike "Proposed Dispensing Organization Name" and add "proposed dispensing organization name".
8. In line 153, strike "Proposed Dispensing Organization Name" and add "proposed dispensing organization name".
9. In line 166, strike "Adult Use Dispensing Organization License" and add "Adult Use Dispensing Organization License".
10. In line 187, change "Firearm Injury" to "Firearm injury".
11. Change line 204-208 to "Member of an impacted family" or "impacted family member" means an individual who has a parent, legal guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to June 25, 2019, was arrested or convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Act. (Section 1-10 of the Act)".
12. Strike lines 215-218 and add "Person" means a natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. (Section 1-10 of the Act)".

13. In line 233, after the period add "(Section 1-10 of the Act)".
14. In line 258, strike the first "and" and add "for".
15. Strike lines 261-269 and add "*"Tied applicant" means an application submitted by a Dispensary Applicant pursuant to Section 15-30 of the Act that received the same number of application points under Section 15-30 of the Act as the Dispensary Applicant's final score as one or more top-scoring applications in the same BLS region and would have been awarded a license but for the one or more other top-scoring applications that received the same number of application points. Each application for which a Dispensary Applicant was required to pay a required application fee for the application period ending January 2, 2020 shall be considered an application of a separate Tied Applicant. (Section 1-10 of the Act)*".

16. Change lines 274-287 to:

"Victim" means

a person injured as a result of a firearm injury perpetrated or attempted against them;

the spouse, parent, or child of a person killed or injured as a result of a firearm injury perpetrated or attempted against the person, or anyone living in the household of a person killed or injured in a relationship that is substantially similar to that of a parent, spouse, or child;

a person injured while attempting to assist a person against whom a firearm injury is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person under the circumstances;

a person injured while assisting a law enforcement official apprehend a person who has perpetrated a firearm injury or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official; or

a person who personally witnessed a firearm injury.

The victim must not be the offender in the criminal act and must not have provoked or incited the crime."

17. In line 291, change "**2022 Lottery**" to "**Conditional License Lottery under Section 15-35.20(c) of the Act**".
18. Change lines 293-294 to:
  - "a) The Department may distribute no more than 55 conditional licenses by lot pursuant to the requirements of Section 15-35.20(c) of the Act and this Part.



- b) The requirements contained in Sections 1291.400 through 1291.440 shall only apply to the 55 conditional licenses issued pursuant to this Section 15-35.20(c) of the Act."
19. In lines 296, 299, 302, 307, 313, and 316, change the subsection labels to "c)" through "h)" respectively.
  20. In lines 296 and 299, change "Part" to "Section".
  21. Change lines 304-305 to "applicants eligible to participate in the lottery. Any contestation must be filed on the form published on the Department's website and submitted in the manner included on that form.".
  22. In line 307, change "may" to "will".
  23. In line 309, after the period add "The republished list of applicants is not subject to contestation under subsection (e).".
  24. Change line 311 to "beyond the initial contest period described in subsection (e).".
  25. Change lines 320-323 to "i) The Department will publish the certified results of the lottery.".
  26. In line 327, change "License Distribution" to "Conditional License Distribution under Section 15-35.20(c) of the Act".
  27. Change line 331 to "1291.400 shall be awarded in each BLS Region in the following amounts:".
  28. Italicize lines 333-365.
  29. In line 365, after ": 1" add "". (Section 15-35(a) of the Act)".
  30. In line 379, change "Application" to "Conditional License Application under Section 15-35.20(c) of the Act".
  31. Change line 381 to "a) The Department will publish an online application for applicants on the Department's website. Paper".
  32. In lines 384, 387, and 388, before "window" add "submission".
  33. In lines 385-386, delete "following the day the application was published".
  34. In line 390, delete "included".
  35. In line 406, change "person(s)" to "persons".
  36. In line 419, change "The" to lowercase.

37. In lines 421 and 423, change "Criteria 1" to "subsection (e)(6)(A) (Criteria A)".
38. In lines 422 and 424, change "Criteria 2" to "subsection (e)(6)(B) (Criteria B)".
39. In line 426, change "Criteria 1" to "Criteria A".
40. In line 428, change "a" to "at".
41. Change lines 430 to "20%, according to the latest 5-year American Community Survey (Table S1701: Poverty Status in the Past 12 Months) that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is".
42. In line 438, change the comma to "in the latest 5-year American Community Survey (Table S2201: Food Stamps/Supplemental Nutrition Assistance Program (SNAP)) that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is".
43. In line 452, after "latest" add "United States Department of Agriculture Economic Research Service's Food Access Research Atlas".
44. Change lines 453-456 to "application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at".
45. Change lines 469-474 to "classified by the latest 5-year American Community Survey (Table S1501: Educational Attainment) that is publicly available at the start of the application submission window for the lottery conducted under Sections 1291.400 through 1291.440. The data set is available at <https://data.census.gov/cedsci/table?q=s1501&g=0100000US,%241400000>".
46. In line 476, change "Criteria 2" to "Criteria B".
47. Change lines 480-483 to:  
"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;".
48. Change lines 488-491 to  
"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 or cannabis up to 30 grams.".

49. In line 494, change "these Rules" to "this Part".
50. In line 497, change the subsection label to "C" and move the subsection to the appropriate indent level.
51. Change line 501 to "subsection (e)(6)(A) (Criteria A) and subsection (e)(6)(B) (Criteria B).".
52. In line 504, change "would" to "will".
53. In line 508, change "these rules" to "this Part".
54. In lines 510-511, change "Option 1 or Option 2 above" to "subsection (e)(6)(A) (Criteria A) and subsection (e)(6)(B) (Criteria B)".
55. In line 511, change "from the date the applicant receives a" to "after the date of the".
56. In line 514, change "1291.420(c) of this Part" to "1291.405(c)".
57. In line 516, delete "of this Part".
58. In line 519, change "may" to "will".
59. In line 522, after "from" add "all but".
60. In lines 523-524, change "a form or manner prescribed by the Department" to "writing to FPR.CannabisAdministration@illinois.gov".
61. Change lines 528-534 to:
  - "h) False Information
    - 1) If the Department determines that any information on an application or in supporting documents is not truthful, the applicant associated with that application will be prohibited from:
      - A) participating in the lottery;
      - B) being a top participant; and
      - C) being issued a conditional license or Adult Use Dispensing Organization License.
    - 2) The Department shall notify the next eligible top participant drawn by lot of its opportunity for the conditional license, in accordance with Section 1291.405(c).
62. In line 541, delete "of this Part".

63. In line 543, change "shall" to "will".
64. In line 551, change "**Post Lotter Proof Requirements**" to "**Conditional License Post Lotter Proof Requirements under Section 15-35.20(c) of the Act**".
65. In line 553, change "shall" to "will" and change "that applicants" to "(e.g., mortgage statements, bank statement, government-issued identification) that an applicant".
66. In lines 554-555, change "Option 1 or Option 2 of paragraph (e) of Section 1291.410" to "Section 1291.410(e)(6)(A) (Criteria A) and Section 1291.410(e)(6)(B) (Criteria B)".
67. In line 557, before "window" add "submission".
68. In line 559, change "from" to "after".
69. Change lines 560-561 to "submit all required supporting documents to the Department via FPR.CannabisAdministration@illinois.gov or via the State file share system available upon request to the same email address.".
70. In line 568, change "from the date of the" to "after the date that appears on the".
71. In line 575, change "from the date of" to "after the date that appears on".
72. Change lines 576-578 to "deny to contest the Department's decision. Any contestation must be filed in accordance with 68 Ill. Adm. Code 1110.".
73. Delete lines 580-582.
74. In lines 584-615, change the subsection labels to "g)" through "m)", respectively.
75. In line 584, change "decision" to "final order".
76. Change line 586 to "Law [735 ILCS 5/3-101].".
77. In line 590, after "officers" add "has violated the Act or this Part".
78. In lines 592-593, change "in a form or manner prescribed by the Department" to "on the form published on the Department's website and submitted in the manner included on that form".
79. In line 599, after "that" change "to" to "top".
80. In line 600, change "these Rules" to "this Part".
81. In lines 605 and 609-610, delete "of this Part".
82. In lines 612-613, change "on a rolling basis" to "in the order in which they are received by the Department. Nothing in this subsection (l) prevents the Department from issuing conditional licenses before all top participants have submitted all necessary".

documentation".

83. In line 621, after "days" add "after the death of that principal officer".

84. In line 622, after "officer" add "to the Department".

85. Change lines 624-631 to

"n) The Department shall deny issuance of a conditional license if it would result in a single person or entity having a direct or indirect financial interest in more than 10 Early Approval Adult Use Dispensing Organization Licenses, conditional licenses, or Adult Use Dispensing Organization Licenses. Any entity that is awarded a conditional license that results in a single person or entity having a direct or indirect financial interest in more than 10 licenses shall forfeit the most recently issued license and suffer a penalty to be determined by the Department in accordance with section 15-145 of the Act, unless the entity declines the license at the time it is awarded. (Section 15-30(k) of the Act)".

86. In line 635, change "**Post Issuance Licensing Requirements**" to "**Conditional Licensee Requirements under Section 15-35.20(c) of the Act**".

87. In line 643, capitalize "dispensing".

88. In line 649, after the period add "The Department will consider, but is not limited to, the proposed principal officer's role, qualifications, and the necessity of adding a principal officer when considering the new principal officer.".

89. Change lines 655-672 to:

"e) Identifying a Physical Location

1) A conditional license holder who receives a conditional license through any lottery conducted pursuant to Sections 1292.400 has 365 calendar days after the date of issuance of the conditional license to identify a physical location for the dispensing organization retail storefront. For purposes of this subsection (e), proof of identifying a physical location includes, but is not limited to, one of the following:

A) proof of building ownership by the top participant;

B) agreement to purchase building or lease that is dependent on zoning or state license approval;

C) signed lease for the term of the initial license; or

D) proof of zoning approval or application for zoning approval.

2) A conditional license holder shall provide evidence that the location is not

within 1,500 feet of an existing dispensing organization.

- 3) If a conditional license holder is unable to find a suitable physical address within 365 calendar days after the issuance of the conditional license, the Department may extend the period for finding a physical address another 180 calendar days if the conditional license holder demonstrates the steps it has taken to secure a location and hardship. If the Department denies the request for an extension or the conditional license holder is unable to become operational within 545 calendar days after being awarded a conditional license, the Department will rescind the conditional license and may proceed to the next applicant drawn in accordance with Section 1291.405(c)."

(kk)  
(10/3/22)

**JOINT COMMITTEE ON ADMINISTRATIVE RULES**  
ILLINOIS GENERAL ASSEMBLY

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**JOINT COMMITTEE ON ADMINISTRATIVE RULES**

**CERTIFICATION OF OBJECTION AND RECOMMENDATION**

I, Kim Schultz, Executive Director of the Joint Committee on Administrative Rules, being first duly sworn on oath, depose and state that, pursuant to Section 5-110 of the Illinois Administrative Procedure Act, the Joint Committee on Administrative Rules, at its meeting on September 13, 2022, voted an Objection and Recommendation with respect to the Department of Financial and Professional Regulation's rulemaking titled Cannabis Regulation and Tax Act (68 Ill. Adm. Code 1291; 46 Ill. Reg. 5127).

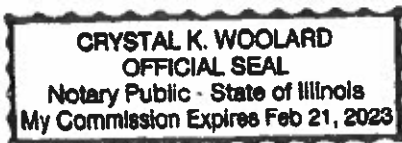
A statement of the Joint Committee's specific Objection and Recommendation accompanies this certification.

Failure to respond within 90 days after receipt of this Certification of Objection and Recommendation will constitute withdrawal of the proposed rulemaking in its entirety. The agency's response will be placed on the Committee's agenda for further consideration.

Handwritten signature of Kim Schultz in black ink.

Kim Schultz, Executive Director

Subscribed and sworn to before me this 20<sup>th</sup> day of September, 2022.

Handwritten signature of Crystal K. Woolard in black ink, written over a horizontal line.  
Notary Public

Attachments: Statement of Objection  
Agreements

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION AND RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

Heading of the Part: Cannabis Regulation and Tax Act

Code Citation: 68 Ill. Adm. Code 1291

Section Numbers: 1291.10                      1291.410  
1291.400                      1291.420  
1291.405                      1291.440

Date Originally Published in the Illinois Register: 3/25/22  
46 Ill. Reg. 5127

At its meeting on 9/13/22, the Joint Committee on Administrative Rules objected to the Department of Financial and Professional Regulation rulemaking titled Cannabis Regulation and Tax Act (68 Ill. Adm. Code 1291; 46 Ill. Reg. 5127), for failing to comply with the statutory authority on which the proposed rulemaking is based or interpreting (1 Ill. Adm. Code 220.900(a)(1)(B)). In this rulemaking, the Department is amending the procedures for applying for conditional adult use dispensing organization licenses without first conducting a disparity study. Section 15-35.20(a) of the Cannabis Regulation and Tax Act [410 ILCS 705] allows the Department to adopt rules that modify or change the licensing application process to reduce or eliminate the barriers identified in the disparity and availability study commissioned by the Illinois Cannabis Regulation Oversight Officer. Since a disparity study has not been commissioned, the changes to the application process contained in this proposed rule cannot be in response to that study and therefore do not align with the intended requirements of the statute. JCAR further recommend the Department engage stakeholders and members of the General Assembly to pursue an amendment to the Cannabis Regulation and Tax Act during the 102nd GA so that the concerns raised in this motion regarding the conditional and full adult use dispensing organization licensure process can be properly addressed.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the Committee's agenda for further consideration.