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Social Equity Licenses & the Smart and Safe Arizona Act

Marijuana Industry Trade Association Social Equity Webinar Series

October 18, 2021

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Executive Director, Arizona Public Health Association

Director, Arizona Department of Health Services (2009-2015)

Final Social Equity Rule Application Requirements:

Ownership

- One or more of the principal officers or board members of the applying entity must hold at least 51% **ownership** in the entity.
- “**Ownership**” means that an individual has an interest in an applying entity that:
 - Entitles the individual to at least that portion of distributed profits of the applying entity that is proportional to the % of the individual’s interest in the applying entity;
 - Ensures that the individual has a % of the voting rights in the applying entity that is proportional to the % of the individual’s interest in the applying entity; and
 - Is not subject to *restrictions or assignments of voting rights that cause benefits derived from the individual’s interest in the applying entity to go to another person other than voluntary sale of the interest or the individual’s death or incapacity.*

Final Rule Application Requirements: **Advance Contract Prohibition**

- Applicants must attest that principal officers, board members and applicants “... *have not directly or indirectly promised to enter into any agreements for a change in ‘ownership’ that will cause the applicant to no longer qualify for a marijuana establishment license*”.



Final Rule Application Requirements: **Educational Training**

- Each of the principal officers or board members that hold at least 51% ownership in the entity (in aggregate) must complete an ADHS provided educational training course.
- The ADHS provided course covers state laws and regulations for operating a marijuana establishment, information about getting financial backing, and details about the ADHS rules for operating a marijuana establishment.

Application Requirements:

Felony Exclusions

- Principal officers & board members **cannot have had** an “A.R.S. § 36-2801 felony offense” for:
 - A violent crime classified as a felony in ARS 13-901.03(B) (regardless of jurisdiction); **or**
 - A violation of a state or federal controlled substance law that was classified as a felony (regardless of jurisdiction) **except for:**
 - Offenses for which the sentence was completed more than 10 years ago; **or**
 - An offense that would have been immune from prosecution under section 36-2811 (if it occurred before the AZ Medical Marijuana Act) **or** was adjudicated outside of Arizona.



Final Rule Application Requirements: **Applicant Gating Criteria**

- The principal officers/board members as part of the applying entity must meet **3 of the following 4 criteria**:
- **Criteria #1: Household Income**
 - Had a household income in at least 3 of the previous 5 years less than 400% of the federal (HHS) poverty level

Final Rule Application Requirements:

Applicant Gating Criteria

- The principal officers/board members as part of the applying entity must meet **3 of 4 criteria**:
- **Criteria #2: Previous Marijuana Conviction**
 - Is eligible for and has petitioned for expungement pursuant to A.R.S 36-2862 (less than 2.5 oz of *Cannabis*)*; **or**
 - Was convicted of a violation of federal or state law related to marijuana or marijuana paraphernalia, and does not have an excluded felony offense

*See A.R.S 36-2862 for more offenses

Final Rule Application Requirements:

Applicant Gating Criteria

- The principal officers/board members as part of the applying entity must meet **3 of 4 criteria**:
- **Criteria #3: Relative with a Previous Marijuana Conviction**
 - Has a spouse, surviving spouse, parent, child, sibling or legal guardian who was convicted of a violation of federal or state laws related to marijuana or marijuana paraphernalia.

Final Rule Application Requirements:

Applicant Gating Criteria

- The principal officers/board members as part of the applying entity must meet **3 of 4 criteria**:
- **Criteria #4: Lived in a Community Disproportionately Impacted by Marijuana Laws**
 - Has lived for at least 3 of the last 5 years in a “community that has been disproportionately affected by the enforcement of Arizona’s previous marijuana laws”

Final Rule Application Requirements: Applicant Gating Criteria

- The qualifying Zip Codes are posted here: [ADHS - Social Equity Ownership - How to Qualify](#).
- Zip Codes that qualify met both of these criteria:
 - Aggregate population for Black/African American, Hispanic & American Indian is greater than 50% of the total population; and
 - Total population receiving SNAP benefits is above 25%.

ADHS States (without displaying the evidence) that “*Racial groups excluded from this factor were not disproportionately impacted by the enforcement of previous marijuana laws*”.



Final Rule Application Requirements: **Officer & Board Security**

- Applications must establish that principal officers and board members **cannot be removed from their position** without:
 - The written consent of the principal officer or board member, or
 - A court order for removal of the principal officer or board member.



Final Rule Application Requirements: **Application Limit**

- No principal officer or board member of the applying entity can be a principal officer or board member on more than one other marijuana establishment.

Final Rule Additional Requirement for Social Equity Licensees: **Community Benefit**

- In addition to complying with all other requirements for operating a marijuana establishment, successful social equity licensees must show how they will *help communities disproportionately affected by the enforcement of Arizona's marijuana laws* through:
 - Specific hiring or interning practices; or
 - Donation of a percentage of gross profits to nonprofits not affiliated with the marijuana establishment that focus on social or health inequities in the community (percentage undefined)

Additional Application Requirements

- Applications accepted 12/1/21 and 12/14/21
- Application Fees are \$4,000 (non-refundable)
- The ADHS will conduct a random selection if there are more than 26 qualified applicants
- ADHS is required to issue the 26 social equity licenses in late 2021 or early 2022 (See ARS 36-2854(A)(1)(f))

Final Rules

- AZDHS Final Social Equity Ownership Program Rules

Remember: Expungement Is Here!

- Persons eligible for expungement of previous marijuana charges have been able to apply to the courts beginning July 12, 2021. Eligible charges include:
 - Possessing, consuming, or transporting 2.5 oz or less of marijuana (not more than 12.5 grams can be concentrate)
 - Possessing, transporting, cultivating, or processing 6 or fewer marijuana plants
 - Possessing, using, or transporting marijuana paraphernalia
- Expungement forms available at azcourts.gov/prop207
- ADHS is required to distribute \$4M to entities that offer clinics and assistance to help people file expungement requests