

Cannabis Update: Hemp Applications Take Shape

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On January 25, 2021, the New York State Department of Health (DOH) formally opened the application process for retailers and distributors of products containing cannabidiol (CBD) and other cannabinoids derived from the hemp plant.

This follows our previous *Rochester Business Journal* article, where we discussed the DOH's earlier administrative action—its publication of proposed regulations. Those wide-ranging proposals intended to implement licensing requirements and fees across the supply chain, clarify which products are allowed to be sold (and which are not), and establish quality control standards.



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Public comment concluded on January 11, 2021, and, while some regulations remain in flux—like applications for CBD processors and the ban on hemp flower—the DOH decided to formally open applications for retailers and distributors (governed by Public Health Law Article 33-B).

Cannabinoid Hemp Retail License

Businesses seeking to engage in retail sales of hemp products must obtain a “Cannabinoid Hemp Retail License.” To apply, a retailer must provide the following information to the DOH:

- A summary and description of the hemp products to be sold (e.g., tincture, vape, topicals);
- The source of the hemp products, including the name and contact information of any manufacturer or distributor;
- Proof from the Department of Taxation and Finance that the retailer is registered to collect sales tax in New York State; and
- An attestation that the retailer will comply with the rules and regulations of New York State's Cannabinoid Hemp Program.

While the DOH does not charge application fees, licenses cost \$300 for each retail location (including online) and are valid for one year. If retailers submit their applications before April 1, 2021, they will be permitted to sell hemp products before receiving approval from the DOH, provided the application contains proof that they meet all other requirements. Accordingly, the sooner retailers submit their applications, the faster they will be able to do business.

Cannabinoid Hemp Distributor Permit

Similar to retailers, the DOH requires distributors of cannabinoid hemp products manufactured outside of New York State to apply for a “Cannabinoid Hemp Distributor

Permit” before distributing hemp products to licensed retailers in the State. The distributor's application must satisfy the same requirements as that of a retail license applicant. Again, distributors are not charged an application fee, but licenses cost \$300 for each location (in-person or online) and are valid for one year. By instituting this application process, the DOH is requiring distributors to meet the same quality assurance standards as in-State retailers.

What's Next?

We expect that the Cannabinoid Hemp Retail License and Distributor Permit applications

will be the first of many developments in New York State's cannabinoid hemp marketplace as new regulations take shape. While the rest of the industry awaits further developments—not the least of which is the potential legalization of adult-use marijuana—hemp retailers and distributors should apply immediately to get a head start. By applying immediately, businesses will also develop contacts with the DOH that may be helpful later, should those same businesses seek authority to enter into a legalized adult-use marijuana industry in the State.

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