



THE **Cannabis** COUNSELOR
FEATURING ALEECE BURGIO

Episode 3: Hemp
Speaker: Aleece Burgio

Hey, everyone! This is a Barclay Damon Live broadcast. You're listening to the Cannabis Counselor and I'm your host Aleece Burgio. Let's get into it!

What's up, everybody? This is Episode 3 of the Cannabis Counselor. Today we're going to dive into the hemp license structuring of New York State post the hemp extraction bill. So now we're in a whole new arena governed by the Department of Health and a bunch of new licenses have opened up to expand the hemp program here.

So today we're going to be talking about those licenses and we have: one, the hemp retail license, which is new; the hemp distribution license; a manufacturing license; and a processor license. The processor license isn't anything new. It's just now been moved over from the authority of the Department of Agriculture to the Department of Health. To kind of give a brief background, since I think 2014 we've been governed by research partner agreements. So New York State had research partner agreements with producers and processors to kind of test out and see how hemp would do in New York State. What we found out is that there was a lot of benefits to growing and processing hemp, and so at the federal level this research partner legislation was set to expire and then the states needed to adopt a program to continue with hemp as a commodity in New York State. So, growing—just for reference—we're still using the research partner agreement. It's still governed by the Department of Agriculture, but it's set to expire in New York State because New York State didn't submit a plan to the USDA to continue to have a grow program in New York State. So now growers are going to have to apply with the USDA in fall of 2021.

For the rest of the licenses, let's talk about what the Department of Health is requiring for you to have a license in New York State for hemp. So, hemp retail licenses. This is very new. It has a lot of positive aspects to it because—and I'm sure everyone knows this—you can go anywhere and you can literally buy CBD. You could go to your deli, there's like CBD water. You're going to your Bodega, you can pick up a tincture. Your masseuse is putting in their oils. It's everywhere. The problem with that is you don't really know what you're getting. CBD is not all equal. Right? So what this program does is a retailer will have to have a hemp license that looks at all the other licenses to make sure that they're getting a product from seed to sale. When I say seed to sale, I mean you know where your CBD came from: if it's from out of state, if it's from in state, where it was processed, where it was manufactured, and now where it's been sold and who it's been sold to.

The other license is a distribution license. Now the distribution license has kind of the same requirements as the retail license. It lasts a year, it's \$300 for the application. Some of the things that they'll be asking for both is: what's your location, your hours of operation, proof of your New York State sales tax, your source of cannabinoid hemp. So is it coming from New York? If so, what farm? Are they registered with this research partner? Are they with the USDA? Planned types of cannabinoid hemp products to be sold? When I say cannabinoid hemp products, we're just talking about things like is it going to be in beverages, which we now are allowed to have. Any type of food—which we're now



allowed to have, you know, small amounts of CBD in cannabinoid food products. Is it a tincture? Is it a salve? Is it a lotion? Is it a pill? Those are the products you need kind of list out and let the New York State Department of Health know what you're going to be putting on your shelves.

The third license is this manufacturing license. It's an important one because I think it's where the most gray area activity has been in terms of using finished products and putting it into other products you're selling to the consumer. So what do I mean by that? A manufacturer is someone who might be getting a processed cannabinoid product—so processed cannabinoid extracted CBD—and then putting it in something else. And so you're not the processor as defined by this research partner agreement. But what are you? In this case, you're a manufacturer and there was no license for you to apply under in the last year because you didn't need the bill for what the research partner agreement said. So a lot of people...a lot of businesses were taking finished CBD product and putting it into other things: things like lotions, things like tinctures and salves, and other products where you would white label it and now it's your product. Manufacturers need to have a manufacturing license. They're considering it a processor's license, but kind of its own thing. And that license is good for I believe—let me just double check here—I think it's good for two years and it's a \$2,000 license fee and a \$500 application fee.

We actually had a lot of clients who were in that gray area manufacturing and they were big business. They were people who were doing a lot of other things, and it was kind of the tail end of their operations. And at the time, they didn't need a license, but now you need a license. And so it's considered a processor license, which a processor license cost more. Right? That's when we're talking about extraction. Processor license is going to be \$4,500 license and \$1,000 to apply. Manufacturers and processors are going to need apply with the same documents. You're going to need a business plan. You'll need an extraction method (that's more so for the processor), but you'll also need to probably talk about your manufacturing methods. You have to show—just like in a retail—your planned source of cannabinoid hemp or hemp extract. They want to know where your CBD or your hemp extract is coming from. That's a really important part of this full-service hemp space. It's incredibly progressive. There isn't really a hemp program in the country like New York's right now, which is very cool to be a part of. But they want to know where your hemp is coming from. Worker's comp, product liability insurance, certificate of occupancy, GMP audit: good manufacturing practices. This is going to be part of every processor for the future—whether it's hemp or marijuana. You will need to get a GMP certification. It takes a little bit of time and there's a lot of companies that do it. So if you need a referral to one, please feel free to reach out. But these are going to be just topics that are going to continue to come up and your GMP certification and your certificate of occupancy are going to be your long-lead items. These are things that are going to take you awhile when you want to get into the processor or manufacturing space if you don't already have them. And then the big one, the last one, is your ownership percent interest, which, you know, it's something you have break down. If you're planning on ever selling your license, that's obviously something to look at. Will you maintain ownership interest? Was it a financial burden? So be very confident on where your ownership interest is, where your investment points are, in order to move forward in your processing license.

So those are the four big licenses. Just to recap: it's the retail, it's the distributor, it's the manufacturing, and it's a processor license. And those are all available on the Department of Health website. There's this new portal that you go into. You have your Department of Health ID and you apply through that way.

So things to think about when you're entering into the hemp industry. It's a little bit different than where we were last year. Right now, there's no smoke whole hemp. There's a ban on flower. That's a really big deal because, for the better part of the research partnership agreement people, were selling smokable hemp because it really wasn't regulated. Again, it was another gray area. Not having



smokable hemp really is a detriment to farmers. The farmers had been using smokable hemp as a way to recoup costs when hemp hadn't had a great year in 2020. So, it doesn't make much sense, too, when you think about this—and remember you listen to the CRTA, listen to the MRTA—we're about to legalize adult-use cannabis and our hemp program is going to ban flower, but our adult-use program's going to have flower. How does it make any sense? Right? So hemp's going to have no flower, medical marijuana right now doesn't have any flower, but adult-use is going to have flower. Those three things need to match up. So Diane Savino, one of our senators, has put in a bill in the legislature that would remove that smokable hemp ban and then we also need to find new legislation for medical marijuana because the medical marijuana program is set to expire in July.

So there's all these things that kind of need to be rectified in congruence, and it makes sense that everything's housed under the Office of Cannabis Management—which we talked about in Episode 1—which governs hemp, medical, and adult-use. All these regulations have to make sense together, otherwise it's just too piecemealed. And we already are going to have this problematic issue because our medical marijuana program was one of the worst in the country in my opinion. It was so restrictive, we didn't have enough demand. And so we're transitioning into an adult-use market without a solid medical program and that's going to make it harder on ourselves. And the most we can do is sustain these really great hemp regulations that we have, I mean, plus smokable hemp. That would make this a full circle really good piece of legislation. We need to revamp our medical marijuana to get more incentives for people to get their medical marijuana card. That might include home grow—which we've talked about—it might include, you know, trying to get insurance companies to cover it. Overall these need to be congruent and synergize. So hopefully that happens soon.

We will touch back in to talk more about hemp extractions in this podcast in a few episodes. Thank you for listening to Episode 3, where we talked about the hemp extraction bill, the license structure, and how to apply. We look forward to have you listening for Episode 4. Tune in for the New Jersey regulations, where we will be talking with Gabby Figueroa from Barclay Damon's office. She's an associate here and we look forward to hearing her expertise on the New Jersey market. As a little caveat we did this episode and we had to scrap it because New Jersey just keeps changing regulations every five seconds. So this will be Episode 4 when we do New Jersey. Thanks for tuning in and we will see you next week.

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