

# Adult-Use Cannabis Social Equity Toolkit

*Mathew Swinburne, J.D.*

*Associate Director*

*The Network for Public Health Law-Eastern Region*

*11/01/2022*

# Size of the Legal Cannabis Industry

## Legal Cannabis Sales Growth

Current legal market growth projection vs. expanded legal market growth

● Current Legal Sales ● Potential Legal Sales



Note: Historically, states which legalize adult-use cannabis on top of existing medical markets experience declines in medical market patient participation.

# Communities of Color are Missing out on the Cannabis Boom

Nationally, 81% of cannabis business owners are white

- Only 4.3% of owners identify as African Americans.
- 12.8% of U.S. Population is African American
- Ownership does not necessarily denote a controlling interest
- Disparities are magnified when juxtaposed to the damage done to communities of color as part of America's War on Drugs
- Lines up with national problem—18.3% of all businesses are minority owned.**



# Focus on Ownership

- ❑ Legal Cannabis industry supported 321,000 jobs in 2020 → 428,000 jobs in 2021 (33%).
- ❑ Studies show strong racial bias exists in hiring practices
- ❑ White applicants received 36% more callbacks than equally qualified African American applicants and 24% more than equally qualified Latino applicants.
- ❑ 57.8% of White owned firms employed no minority employees, while 93.5% of Black firms had a workforce that was made up of at least 50% minority employees

# **Barriers to Minority Participation**

## **Racial Contours of Poverty**

- ❑ Poverty Rates 2021: White 9.5%, Hispanic 17.6%, and Black 21.7%

## **High Startup Costs**

- ❑ Adult-Use retail location: \$312,000
- ❑ Cannabis processing business: \$500,000

## **Cannabis remains illegal under federal law**

- ❑ Vast majority of banks will not provide services
- ❑ 84% of businesses use the founder's savings to launch the business

## Adult-Use Cannabis Social Equity Toolkit

### ❑ **Sample set:**

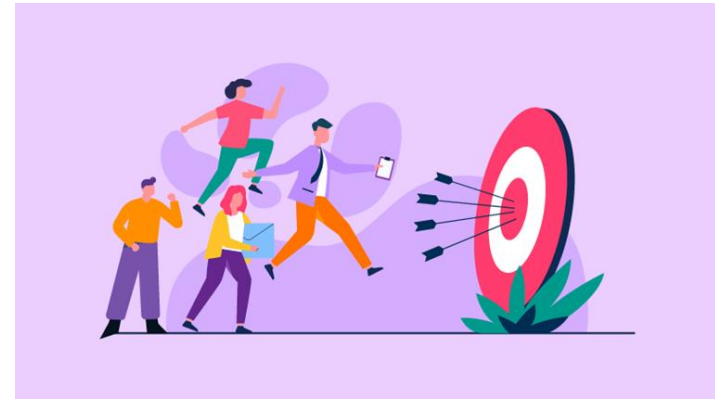
- Currently 20 jurisdictions with adult-use (19 States and D.C.).
- D.C. lacks a licensed market.
- AK, ME, MT, and OR do not have social equity programs.

### ❑ **Survey Focus**

- 10 variables used to define a social equity applicant/licensee
- 10 policy variables focused on DEI and community reinvestment.

# Populations Targeted by DEI Policies?

1. Cannabis Offense (14 States)
2. *Disparately Impacted Communities*-arrests, poverty rate, government benefits (14 States)
3. Income (10 States)
4. Race (5 states)
5. Employee Characteristics (4 states)
6. Gender (3 states)
7. Veteran Status (2 states)
8. Farmer (2 states)
9. Gender Identity (1 state)
10. Location of business (1 state)



# Florida- Pigford License



- ❑ Medical Marijuana Treatment Centers (22)
- ❑ In 2017 required the issuance of 1 license to member of *Pigford v. Glickman* or the *In Re Black Farmers Litigation*.
  - Cases addressed USDA discrimination against black farmers in the provision of farm loans and other credit and benefit programs during the 1980s and 90s.
  - Discrimination was compounded by USDA functionally disbanding the Office of Civil Rights and stopped responding to claims.
  - After several legal challenges, the license was issued to Terry Gwinn in September of this Year.



# State DEI Policy Variables

1. Concrete DEI Goal (9 states)
2. Equity Lead (12 states)
3. Licensing Priority-first in time (4 states)
4. Licensing Preference-application scoring (4 states)
5. Financial Services (13 states)
6. **Training Services (12 states)**
7. Microbusiness License (14 states)
8. Wholesale License (5 States)
9. **Special License Opportunities (4 states)**
10. Community Reinvestment (18 states)
  - **HB 837-Community Reinvestment and Repair Fund**



# Connecticut-Ventures and Partnerships

## Existing licensees must pay certain fees to become a hybrid license holder

- Producers**-\$3 million conversion fee and \$500,000 into fund managed by the Social Equity Council.
- Dispensaries**-\$1 million conversion fee.

## Equity Joint ventures

- Cuts conversion fees in half if hybrid licensee goes into business with social equity applicant.
- Hybrid licensee limited to 50% interest for 7 years.
- Producers must have 2 and Dispensaries 1 joint ventures.

## Equity Partnership (Producers Only)

- Producers do not have to pay \$500,000 Social Equity Council fee if provide a social equity applicant with
  - 5% of their grow space; mentorship; all overhead costs; ensure regulatory compliance; and give all the profits to social equity applicant.
  - Must do so for 5 years.

## Special Licensing Opportunities: Massachusetts

- ❑ Marijuana Courier License
  - Allows delivery of cannabis products from retailer/dispensary directly to customer.
- ❑ Marijuana Delivery Operator License
  - Allows the license to purchase, warehouse, wholesale, and sell marijuana products directly to consumers
- ❑ Exclusively available to “Certified Economic Empowerment Priority Applicants” and “Social Equity Program Participants” for 36 months.
  - Exclusivity period can be extended to help achieve DEI goals.



## New York's Conditional Adult-Use Retail Dispensary Licenses (CAURD)

- ❑ First round of adult-use retail licenses
- ❑ **Justice Involved Individuals (150 licenses)**
  - Convicted of cannabis related offense in New York prior to state legalization of adult-use,
  - Have a parent, legal guardian, child, spouse, or dependent who was convicted of cannabis offense in New York prior to legalization, or
  - Was the dependent of a person who was convicted in New York of a cannabis offense prior to legalization.



# CAURD-Continued

## ❑ Certain nonprofits (25 Licenses)

- Serve *justice involved individuals* and communities with historically high rates of law enforcement activity for marijuana-related offenses.
  - Justice involved individual on its board or serving as an officer, and
  - History of creating vocational opportunities for justice involved individuals
- ❑ CAURD applicants will have access to the Social Equity Cannabis Fund (\$200 million)
  - ❑ State is creating turn-key retail locations that CAURD licensee can sublet from the state.



# Continuing Challenges

- Lack of Access to Capital
- Over/Under Inclusive Equity Definitions?
- Lack of Clear Goals
- Dual License Conundrum
- Continual Evaluation of Barriers to DEI (see e.g., application process)





# Thank you. Any questions?

**Mathew Swinburne**  
**Associate Director**  
**The Network for Public Health Law-Eastern Region**

**[mswinburne@law.umaryland.edu](mailto:mswinburne@law.umaryland.edu) or**  
**[mswinburne@networkforphl.org](mailto:mswinburne@networkforphl.org)**

**[Adult-Use Cannabis Social Equity Toolkit](#)**