



SotaCann Minnesota's Cannabis Trade Association

Our ask of legislators is to urge OCM to:

1. Run the preapproval round as originally planned before running other lottery rounds after allowing previously denied applicants to cure their application.
2. Provide comprehensive statute-compliant guidance on what is allowed by prospective applicants and what is not.
3. Make clear the total number of capped licenses that OCM intends to make available in future licensing rounds.
4. Move forward with hiring a permanent director with the relevant real-world industry experience necessary to succeed.

Minnesota is behind schedule:

The legislation that legalized adult-use cannabis in Minnesota was passed in late May of 2023. Preparation for the regulatory apparatus that would be required for the creation of an adult-use cannabis industry began well in advance of the passage of that legislation. Over a year and a half later, the Office of Cannabis Management does not have a permanent director and has yet to license a single cannabis business. To give some context on how this has played out elsewhere, Ohio legalized cannabis via ballot initiative in November of 2023; recreational sales came online on August 6 of 2024 - just ten months later.

It is important to note that given Minnesota's lack of cannabis cultivation infrastructure, there will be a substantial lag between the licensing of cultivators and the availability of products that may be sold to consumers. This lag is created by the time it takes to build out facilities, hire staff, grow cannabis, and prepare products for retail sale. Under the best of circumstances, a lag time of 6 months can be expected; a 12-18-month lag would not be surprising.

Minnesota came close to executing a "preapproval" licensing round in early December 2024. Unfortunately, OCM canceled that round after litigation was brought by applicants who were denied entrance into that licensing round. OCM has tentatively scheduled a future licensing round for the summer of 2025, but serious concerns exist about how litigation (among other issues) could impact that theoretical licensing round.

Minnesota can get back on track - here's how:

Our #1 priority is getting to a lottery round and getting out from under the current litigation, whether that litigation is being brought by prospective operators who were denied entry into the preapproval lottery or the more recent litigation that is being brought by prospective operators that were approved for the preapproval lottery round.

The decision to cancel the preapproval lottery is very problematic. It harms the applicants who entered the lottery based on the promise of a smaller pool for the preapproval round

and then entry into two subsequent rounds. Cancellation radically devalues their application, to say nothing of the time and money they have spent up to this point. In short, it penalizes the most highly motivated operators who enter the Minnesota market. It also invites more litigation; one lawsuit has already been filed, and more will likely follow.

The way forward is to proceed with the preapproval round while allowing applicants a chance to cure their applications or get their money back.

- OCM has already agreed to the cure/refund portion of this approach. Given OCM's proposed timeline for future lottery rounds, that process almost certainly must be completed by February, as it would be very problematic to begin a new application round without having resolved the questions created by the preapproval round – particularly around the True Party of Interest statute. There is a lot of confusion here, as the statute explicitly authorizes individuals to be on multiple applications if their equity interest is less than 10%. Having those issues outstanding only invites a repeat of the current problem and further delay.
- Upon completing the work detailed above, moving forward with the preapproval lottery provides an opportunity to come to an accommodation with all the current litigants – those initially approved and those initially denied. It is also an opportunity to stress-test the system. Finding and fixing issues before prospective licensing rounds in the summer is essential if issues exist. Failure to do so could result in another round of litigation and further delays in the program. As it is, given the likely 12–18-month lag between licensure and cultivation coming online, we're looking deep into 2026 or even 2027 before there's a viable market. Any legal bump in the road could push that out another 6–12 months.

The pre-approval process is backed by a final review/conversion to a complete license process, which gives OCM a powerful tool for weeding out any potential non-compliant operators without endangering the entire program.

- In short, this approach potentially fixes the extant litigation issues, creates a more durable system, and gets licensure rolling several months earlier than the current timeline. The downside is minimal – the workaround curing applications has to be done no matter what. If, in the worst-case scenario, there is another failure to get to a lottery, that failure will provide critical information before future licensing rounds.

Separate from the above mentioned issues, it is critical that OCM clearly state the number of licenses in the capped categories that the state plans to make available in the subsequent licensing rounds. Further clarity on how OCM plans to treat micro licenses is also critical. Without this information, prospective operators cannot make an informed decision about their participation in a subsequent licensing round, which has an even greater impact on prospective operators who have already committed time and money to entering the preapproval round.

Our goal is to stand up an industry that:

- Is a healthy mix of operators of various sizes to ensure market stability
- Provides Minnesota consumers with safe products
- Outcompetes the illicit market
- Creates jobs and tax revenue
- Accomplishes each of these goals as quickly as possible



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