

## Illinois Hit With More Suits Over Pot Biz Licensing Process

By **Sarah Jarvis**

Law360 (September 23, 2021, 8:57 PM EDT) -- Three cannabis companies have brought lawsuits in state court against the Illinois Department of Agriculture after it disqualified their applications for craft grow and transporter licenses, urging the court to reverse the department's decisions.

The three suits, all filed in Cook County Circuit Court in the past week, were brought by Prairie State Cannabis LLC, Cannabus LLC and ia GP LLC. The trio said their license bids were either scrapped erroneously or without proper notification of alleged errors in their applications, or both.

Prairie alleged in its Sept. 17 suit that it timely submitted applications for a transporter license and a craft grow license in April 2020 and that it received notices of disqualification for both applications last month. The company was notified on Sept. 10 that the applications were disqualified because it didn't respond to a June 1, 2021, deficiency notice.

But Prairie alleged it never received a deficiency notice on that date or anytime after that. The company said it wasn't sent a deficiency notice because of a clerical or technical error by the state Department of Agriculture.

"The department's decision to disqualify plaintiff is arbitrary and capricious, clearly erroneous, and not in accordance with the law because the department and its staff failed to send notices to plaintiff and failed to consistently apply its regulations to the plaintiff, as required by law," Prairie said in its complaint.

Prairie said it emailed the department to say it hadn't received any deficiency notices and to request a hearing. But the department reiterated that it had sent the June deficiency notice and that "it is the responsibility of the applicant to maintain and monitor a functioning email address." The department also said no hearing process is available for an applicant that was disqualified for failure to respond to a notice.

In Cannabus' complaint, filed Tuesday, the company said it timely submitted a transporter license application last year but got a notification on Aug. 17 that its application was disqualified. The department gave no specific explanation for its decision, Cannabus alleged.

After the company sent an email inquiry, the department notified Cannabus on Sept. 10 that it was disqualified because it didn't address a deficiency with a fingerprint consent form, according to the suit. Cannabus said it had previously submitted documentation for that part of the application, but was given "no further information or opportunity to address any alleged failure on which the department was basing its decision."

In ia GP's Tuesday complaint, which also names Illinois Gov. J.B. Pritzker as a defendant, the company said its craft grow license application was disqualified by the Agriculture Department on Aug. 17. The company said the department issued a notice on Sept. 10 indicating that while ia GP timely responded to a deficiency notice sent on June 1, the response didn't address all the deficiencies the department had purportedly identified.

The company called the disqualification "clearly erroneous," and said it went against the "manifest weight of the evidence."

Counsel for the cannabis companies and representatives of the governor's office and Department of Agriculture didn't immediately respond to requests for comment Thursday.

Illinois legalized recreational pot at the start of 2020, but the COVID-19 pandemic led to delays in its license process, which has been mired in litigation. The Illinois Craft Cannabis Association **sued** regulators last October, asking a court to order them to award the licenses immediately, but the court later found Pritzker was within his rights to put the licenses on hold during the pandemic.

The state Agriculture Department **said in July 2021** that it notified applicants that were eligible to receive 213 marijuana licenses: 40 craft grow, 32 infuser and 141 transporter.

As for new dispensary licenses, the state's marijuana regulators announced in September 2020 that only 21 of the more than 900 businesses that applied for an initial batch of 75 licenses would be entering a lottery for the licenses. State and federal lawsuits followed, and the state later **announced** it would rescore the applications and give applicants a chance to correct errors — a plan that spurred another round of lawsuits.

Pritzker announced in July the state would hold three lotteries in July and August for 185 licenses to operate cannabis dispensaries. The state was subsequently hit with lawsuits over **social equity scoring**, a **provision** that favors applicants owned and controlled by military veterans, and regulators' **purported refusal** to acknowledge the resignation of a principal for two applicants.

**Another suit** filed by a trio of applicants in federal court over their alleged wrongful exclusion from one of the lotteries was voluntarily dismissed last month, according to court records.

The Illinois Department of Financial and Professional Regulation, which oversees the lotteries, **announced** this month that it would hold an additional lottery for recreational cannabis retail licenses after "administrative errors" hobbled six applicants' entries in the July 29 contest. The department said the new lottery would not affect any of the 185 licenses already awarded in the other three lotteries.

Prairie State Cannabis is represented by Bryna J. Dahlin and Juan Morado Jr. of Benesch Friedlander Coplan & Aronoff LLP.

Cannabus is represented by David S. Ruskin and Elysa Chew of HMB Legal Counsel.

The company ia GP is represented by Seth A. Horvath of Nixon Peabody LLP.

Counsel information for the defendants in all cases wasn't immediately available Thursday.

The cases are Prairie State Cannabis LLC v. Illinois Department of Agriculture et al., case number 2021CH04770, Cannabus LLC v. Illinois Department of Agriculture, case number 2021CH04831, and ia GP LLC v. The Illinois Department of Agriculture et al., case number 2021CH04835, in the Circuit Court of Cook County, Illinois, County Department, Chancery Division.

--Additional reporting by Celeste Bott, Dave Simpson, Morgan Conley, Katryna Perera and Sam Reisman. Editing by Robert Rudinger.