

Dear Acting Chair Stebbins, Commissioners, and Commission Staff,

As you are well aware, Delivery Operators and Marijuana Couriers have been held back by overly burdensome regulations since the first licensee became operational and started the countdown on the Commission's three-year exclusivity period restricting this license type to social equity businesses pursuant to 935 CMR 500.050(10)(b)¹ and 935 CMR 500.050(11)(f)².

These businesses, which are majority-owned and controlled by Economic Empowerment Priority Applicants or Social Equity Program Participants, have had their success hampered by regulations that:

- Forced them to pay twice the labor costs of delivery operators in other states
- Restricted sales with limited operating hours
- Limited entrepreneurs' ability to repackage products
- Prevent them from delivering to hundreds of thousands of potential customers residing in No Towns and staying in MA tourist accommodations

We are grateful for your diligent and thoughtful work to address several of these issues and applaud you and your team for the implementation of your regulatory updates giving delivery operators and marijuana couriers greater flexibility. We are further encouraged by and thankful for Acting Chair Stebbins' commitment to prioritize a listening session and ongoing regulatory review for social equity businesses in 2025.

We appreciate that the Commission has established a Delivery Exclusivity Working Group to assess and propose changes to the delivery exclusivity period and the opportunity to offer these public comments about the critical need to extend the exclusivity period and make other regulatory enhancements to strengthen the Commission's efforts to advance equitable participation. Specifically, we urge you to:

- **Set exclusivity period for five years**, consistent with social consumption proposal
- **Make the exclusivity period effective the date the current period expires**
- **Require determination that goals have been met and affirmative vote to end exclusivity period**
- Gather and share data and continue the discussion about what achieving the exclusivity period's goals and objectives looks like
- Require exclusivity period to take effect after the fifth license commences operation

We hope these recommendations will be helpful and strongly urge you to consider adopting them to reflect the CCC's ongoing commitment to advancing equitable market participation and the success of our delivery operators. Should you have any questions or feedback, please contact EON Policy Co-Chairs Armani White (armani@masseon) and Kevin Gilnack (kevin@masseon.com).

Adopt a 5-Year Exclusivity Period

We applaud Acting Chair Stebbins, Commissioner Camargo, and the Social Consumption Working Group for proposing a five-year exclusivity for social consumption licenses and strongly encourage the Commission to adopt a five-year exclusivity period for delivery and any other new licenses.

As Acting Chair Stebbins noted, terms for home equity lines of credit (a common source of financing for social equity business owners) start at five years; giving operators a more substantial period to build their business and repay their creditors calibrated to that five-year minimum is a positive start.

To give social equity businesses adequate time to begin repaying creditors, grow their business, and address potential regulatory challenges, the CCC should update these and future exclusivity period regulations to last "for a period of 36 60 months."

¹ "A Marijuana Courier shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of 36 months from the date the first Delivery Operator Licensee receives a notice to commence operations; provided, however, that the Commission may vote to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has not been met; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(10)(b)4..." [highlights and emphasis added]

² "Delivery Operator Licenses shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of 36 months from the date the first Delivery Operator Licensee receives a notice to commence operations; provided, however, that the Commission may vote to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has not been met; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(11)(d)4..."

Reset the Clock for the Delivery Exclusivity Period

With just over 3 months remaining on the initial delivery exclusivity period and 7 active couriers and 16 active delivery operators, the relevant question for the Commission is whether “the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has or has not been met.”

We hope that you will agree that the regulatory changes you addressed during your previous delivery regulatory review – and the stakeholder feedback and public comments that encouraged those changes – are clear indications that the goals of the exclusivity period have not been met.

According to the CCC’s press release about these changes, “These policies, among others, are the result of months of work by Commissioners and staff to **remove barriers for Massachusetts cannabis businesses** and patients while maintaining safety across the adult- and medical-use cannabis industry” [emphasis added].

Commissioner Roy noted when the Commission approved delivery regulatory reforms, Commissioners “...listened closely to industry stakeholders **about the regulatory challenges they currently face and what is needed to move the industry to the next level** without compromising public health or safety,” which included “making **substantial updates to the delivery license type**” [emphasis added].

Commissioner Camargo pointed out that “Removing the requirement that two agents be in a vehicle for deliveries **will help these licensees expand and succeed**” [emphasis added].

These businesses have not had an opportunity to expand and succeed, indicating that the CCC has not made significant progress in the period’s goal to “promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition.”

While the CCC’s overly onerous prohibitions against delivery to No Towns and hotels continue to unnecessarily restrict the success of this industry while doing nothing to advance public health or safety, delivery operators started a new and more optimistic chapter when your regulatory reforms took effect on November 22, 2024.

Given that delivery operators are still struggling to turn a profit and all the struggles they have endured to get this far, we urge you to start the exclusivity period at the end of the current period (April 1, 2025) and absolutely no earlier than the date your regulatory reforms took effect (November 22, 2024).

Require Equity Goals to be Met to End Exclusivity Period

While we appreciate that under existing regulations, the Commission has the opportunity to determine that the goal of the exclusivity period has not been met and extend it, we urge you to consider strengthening this language to prioritize equity and make it the default. **Rather than allowing the equity period to end by default and requiring a determination that the period’s goals haven’t been met, we urge you to allow the equity period to continue by default pending a determination that it has achieved its goal to promote and encourage full participation** using the following language:

“limited on an exclusive basis... for a period of **no less than 36 60** months... provided, however, that the Commission may vote to **extend conclude** that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has **not** been met”

“The licenses shall generally be available to applicants after ~~the 36-month period unless~~ the Commissioners affirmatively votes to **extend conclude** the period of exclusivity ~~by a period of 12 months after the first 36-month period. Any subsequent extension~~ **Conclusion** of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period... have **not** been met.”

Set Equitable Conditions for Commencing Future Exclusivity Periods

The current structure of the exclusivity language only offers that full exclusivity window for earning revenue to the first licensee(s) to commence operations, with each subsequent licensee benefiting from an ever-decreasing window of benefit.

Giving one business the ability to initiate the exclusivity period could unintentionally favor a well-resourced business at the expense of other social equity businesses in the application pipeline, limiting competition and undermining the Commission's equity efforts. While this is no longer relevant for delivery, we urge you to enhance this section of regulation to serve as a model for and be consistent with social consumption regulations.

To encourage competition and foster equitable participation, we urge you to update these and future exclusivity period regulations to commence the period "from the date the first fifth Delivery Operator Licensee receives a notice to commence operations."

Maintain Eligibility Requirements

While current CCC regulations permit the CCC to "expand eligibility for Delivery Licenses during the exclusivity period," we strongly urge you to retain the existing eligibility criteria to provide stability and predictability to vulnerable businesses that are just gaining a path to profitability.

Preserving the eligibility requirement that a business has "majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants" ensures the exclusivity period benefits those most harmed by the war on drugs, particularly as the delivery endorsement for microbusinesses already offers expanded access to this license type.

Continue the Conversation & Invest in Research

Current CCC regulations require the Commission to "develop criteria for evaluating whether the goals of the exclusivity period are met, which shall include, but not be limited to:

- a. Overall rates of participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement of the law;
- b. Overall rates of participation in the regulated Marijuana industry by people of color;
- c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants;
- d. Number of registered agents who are Social Equity Program Participants;
- e. Number of Delivery Licensees in operation and business performance relative to other Marijuana Establishments;
- f. Financial feasibility of continued participation in the regulated Marijuana industry by communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law if exclusivity period ends; and
- g. Any other information the Commission determines relevant"

The regulations further require the CCC to "collect and report on data measuring the criteria throughout the exclusivity period" and "begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 36-month period."

This regulatory review period offers an important opportunity to review and update all of the regulatory language related to the exclusivity period, and our proposed changes would see the exclusivity period active until at least Nov. 22, 2029. This timeframe offers a helpful runway for the CCC to secure funding, build capacity, and gather, analyze, and share this and other data that can be used in evaluating the success of the exclusivity period.

We urge you to convene further conversations with stakeholders to develop a comprehensive framework for evaluating whether the goals and objectives of the exclusivity to promote and encourage full participation in the industry by disparately harmed communities have been met.

Model Delivery Exclusivity Period Regulation Mark-Up

(10) Marijuana Courier.

...

(b) A Marijuana Courier shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of **not less than 36 60** months from the date **April 1, 2025** ~~the first Delivery Operator Licensee receives a notice to commence operations~~ [ed. Note: **for future license types, use “the date the fifth licensee receives a notice to commence operations”**]; provided, however, that the Commission may vote to ~~extend~~ **conclude** that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has ~~not~~ been met; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(10)(b)4.

1. The Commission shall develop criteria for evaluating whether the goals of the exclusivity period are met, which shall include, but not be limited to:
 - a. Overall rates of participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement of the law;
 - b. Overall rates of participation in the regulated Marijuana industry by people of color;
 - c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants;
 - d. Number of registered agents who are Social Equity Program Participants;
 - e. Number of Delivery Licensees in operation and business performance relative to other Marijuana Establishments;
 - f. Financial feasibility of continued participation in the regulated Marijuana industry by communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law if exclusivity period ends; and
 - g. Any other information the Commission determines relevant.
2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the ~~3660~~-month period to provide adequate time to consider whether an extension of the ~~3660~~-month period is necessary prior to the conclusion of that time period.
3. The licenses shall generally be available to applicants after ~~the 36-month period unless~~ the Commissioners affirmatively votes to ~~extend~~ **conclude** the period of exclusivity ~~by a period of 12 months after the first 36-month period. Any subsequent extension~~ **Conclusion** of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. have ~~not~~ been met.
4. If data collected by the Commission demonstrates progress toward the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. and that demand for Consumer delivery is likely to exceed the supply that could be provided by businesses that meet the exclusivity requirements during the exclusivity period, the Commission may vote during the exclusivity period to allow the following additional businesses to own Delivery Licenses:
 - a. Worker-owned cooperatives organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995; or
 - b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO.
 - c. No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Delivery License.
 - d. No Person or Entity with Direct or Indirect Control shall possess, or be granted, more than three Marijuana Courier Licenses.
 - e. After January 8, 2021, any application or license classified as a Delivery-only license pursuant to previously adopted regulations shall be converted to a Delivery Courier application or license governed by 935 CMR 500.050(10).

(11) Marijuana Delivery Operator.

...

(f) Delivery Operator Licenses shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of **not less than 36 60** months from date **April 1, 2025** ~~the first Delivery Operator Licensee receives a notice to commence operations~~ [ed. Note: **for future license types, use “the date the fifth licensee receives a notice to commence operations”**]; provided, however, that the Commission may vote to ~~extend~~ **conclude** that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has ~~not~~ been met; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(11)(d)4.

1. The Commission shall develop criteria for evaluating whether the goals of the exclusivity period are met, which shall include, but not be limited to:
 - a. Overall rates of participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement of the law;
 - b. Overall rates of participation in the regulated Marijuana industry by people of color;
 - c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants;
 - d. Number of registered agents who are Social Equity Program Participants;
 - e. Number of Delivery Licensees in operation and business performance relative to other Marijuana Establishments;
 - f. Financial feasibility of continued participation in the regulated Marijuana industry by communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law if exclusivity period ends; and
 - g. Any other information the Commission determines relevant.
2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the ~~3660~~-month period to provide adequate time to consider whether an extension of the ~~3660~~-month period is necessary prior to the conclusion of that time period.
3. The licenses shall generally be available to applicants after ~~the 36-month period unless~~ the Commissioners affirmatively votes to ~~extend~~ **conclude** the period of exclusivity ~~by a period of 12 months after the first 36-month period. Any subsequent extension~~ **Conclusion** of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(11)(d)1. have ~~not~~ been met.
4. If data collected by the Commission demonstrates progress toward the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(11)(d)1. and that demand for Consumer delivery is likely to exceed the supply that could be provided by businesses that meet the exclusivity requirements during the exclusivity period, the Commission may vote during the exclusivity period to allow the following additional businesses to own Delivery Licenses:
 - a. Worker-owned cooperatives organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995; or
 - b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO.
 - (g) No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Delivery Operator License.
 - (h) No Person or Entity Having Direct or Indirect Control in a Delivery Operator License shall obtain, or be granted, more than a total of three Delivery Operator Licenses.

(i) Two years from the date the first Delivery Operator Licensee receives a notice to commence operations, the Commission or its designee shall commence an evaluation of the development of the Cannabis delivery market in the Commonwealth of Massachusetts, which may include assessing the competitiveness and concentration of the market, the repackaging and white labeling requirements, and any other matter as determined by the Commission. The Commission shall complete its evaluation

within four months, unless the Commission determines that there is a reasonable basis for an extension. The Commission may take any action including, but not limited to, issuing regulations or guidance, it deems necessary to address issues with market development.

Conclusion

Thank you again for your efforts to advance the Commission's legislative mandate to encourage and promote equitable participation in the cannabis industry and the opportunity to offer these comments.

We hope that you will strengthen your exclusivity period regulatory language by adopting the following in your regulatory review:

- Set **exclusivity period for five years**, consistent with social consumption proposal
- Make the **exclusivity period effective the date the current period expires**
- **Require determination that goals have been met and affirmative vote to end exclusivity period**
- Gather and share data and continue the discussion about what achieving the exclusivity period's goals and objectives looks like
- Require exclusivity period to take effect after the fifth license commences operation

We appreciate your consideration of these comments and would be happy to discuss them further or answer any questions. Please do not hesitate to contact EON Policy Co-Chairs Armani White (armani@masseon.com) and Kevin Gilnack (kevin@masseon.com) if we can ever be a resource or partner.

Thank you,

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About Equitable Opportunities Now

EON is committed to advancing equitable ownership and employment opportunities for Black and Brown communities targeted by the War on Drugs through education, advocacy, and programming. We empower people of color and those harmed by prohibition to participate and succeed in the regulated Massachusetts cannabis market. Learn more at www.masseon.com.

About the Mass. Cannabis Equity Council

The Massachusetts Cannabis Equity Council (MCEC) is an advisory committee of cannabis social equity business leaders that provides strategic guidance on EON's programming and policy initiatives. Learn more at www.masseon.com/mcec