



Central Illinois Builders of AGC
300 West Edwards, Suite 300
Springfield, Illinois 62704
217/744-2100
Fax 217/744-2104
<http://www.cibagc.org>

OFFICERS:

Chris S. Uhlarik
President

John B. Sutherland
Senior Vice President

Michael A. Sunley
Vice President

Michael S. Broeren
Secretary/Treasurer

Jody R. Alderman
Specialty Contractor Delegate

Steven V. Halverson
Past President

DIRECTORS:

Cody W. Gerdes
John E. Goetz
Douglas J. McCoy
Gary D. Oehler
Keith C. Poettker
Mitchell S. Schinzler
Al J. Slagel
Michael R. Slagel

NATIONAL DIRECTORS:

Edward J. Hynds, Jr.
John B. Meek

SPECIALTY DIRECTORS:

Michael L. Landgrebe
Brian D. Rich
William M. Walter

ASSOCIATE DIRECTORS:

Douglas B. Mahurin
Stephen L. Povse

STAFF:

Roger D. Huebner
Executive Vice President

MEMORANDUM

June 26, 2019

TO: CIB MEMBERSHIP

FROM: Roger D. Huebner, CIB Executive Vice President

RE: Cannabis Regulation and Tax Act

On June 25, 2019, Governor JB Pritzker signed into law the Cannabis Regulation and Tax Act, making Illinois the 11th state to allow marijuana for recreational use. The new Act is 610 pages in length and covers a variety of topics on the subject of the legalization of recreational marijuana including its production, sale, taxation and expungement of prior convictions. The effective date of the Act is June 25, 2019. The actual legal purchase and usage effective date is January 1, 2020.

For CIB employers the question of drug policies and workplace regulation of usage is detailed within the legislation on pages 60 through 63, Section 10 – 50 Employment; employer liability. The section is attached for your use.

Reviewing the language, it allows employers to have reasonable zero tolerance or drug-free workplace policies and employment policies concerning drug testing. Please review and refresh yourself on your company's policies, procedures and protocol.

Also attached is Governor Pritzker's press release which, after the quotes, has an overview of the legislation.

If you have any questions, please give me a call or email me at rhuebner@cibagc.org.

BUILD WITH THE BEST



Office of the Governor
JB Pritzker

FOR IMMEDIATE RELEASE

Tuesday, June 25, 2019

CONTACT

Gov.Press@illinois.gov

Gov. Pritzker Signs Most Equity-Centric Law in Nation to Legalize Adult-Use Cannabis

Creates \$30 Million Loan Program, Social Equity Applicant Status for Licensing, Expunges Roughly 700,000 Records

Chicago — Surrounded by a bipartisan group of lawmakers and criminal justice reform advocates, Governor JB Pritzker signed the most equity-centric law in the nation to legalize adult-use cannabis in Illinois, beginning Jan. 1, 2020.

House Bill 1438 promotes equity and invests in the communities that suffered through the war on drugs, serving as a model for the legalization and decriminalization of cannabis.

“As the first state in the nation to fully legalize adult-use cannabis through the legislative process, Illinois exemplifies the best of democracy: a bipartisan and deep commitment to better the lives of all of our people,” **said Gov. JB Pritzker.** “Legalizing adult-use cannabis brings an important and overdue change to our state, and it’s the right thing to do. This legislation will clear the cannabis-related records of nonviolent offenders through an efficient combination of automatic expungement, gubernatorial pardon and individual court action. I’m so proud that our state is leading with equity and justice in

its approach to cannabis legalization and its regulatory framework. Because of the work of the people here today and so many more all across our state, Illinois is moving forward with empathy and hope.”

“This legislation lives true to the promise to bring justice, equity and opportunity throughout our state,” **said Lt. Gov. Juliana Stratton**. “By including components focused on repairing the harm caused by the failed war on drugs and decades of policies that caused mass incarceration — Illinois is national leader with policy that’s a national model.”

“I am proud to say that, by working with hundreds of stakeholders and spending years seeking community input, we have crafted the most just, well-regulated cannabis plan in the country,” **said Sen. Heather Steans (D-Chicago)**. “This law keeps our children safe by prioritizing public safety, includes extensive restorative justice measures and brings in much-needed revenue for our state. I am thankful to all of my colleagues who stayed with me in this fight and to Gov. JB Pritzker for making it law.”

“This team effort sets a new standard for what cannabis reform can look like when undertaken with an openness to tough discussions, a commitment to strong outcomes and a willingness to do the hard work together,” **said Rep. Kelly Cassidy (D-Chicago)**. “We set out to do this differently and we did, because we stuck to those principles. The result is historic and full of promise that I intend to ensure we deliver on.”

“This historic legislation will right the wrongs of the past and truly serve as a model for other state legislatures as they look for an equity-centric approach to legalize and regulate recreational cannabis,” **said Rep. Jehan Gordon-Booth (D-Peoria)**. “The communities that have suffered through the war on drugs will now have an opportunity to enter a new market and be successful. This is nothing short of a landmark moment for criminal justice reform in the state of Illinois that took years to reach. I thank my colleagues in both chambers for making today a reality.”

“One of the things that we wanted to make sure we accomplished with legalization was ensuring we put social equity at the center and the heart of our efforts, acknowledging that while we normalize and legalize something that is happening across the country, that we tie the direct nexus to the communities that the prohibition has hurt the most,” **said Sen. Toi Hutchinson (D-Chicago Heights)**.

“Legalizing cannabis and ushering in the expungement of 700,000 records will bring justice to the communities that have been hardest hit by its senseless prohibition,” **said Rep. Celina Villanueva (D-Chicago)**. “This monumental step forward shows what’s possible when public policy is centered around equity in every step of the way. After years of hard work, I’m proud that Illinois will lead the nation in bringing justice and fairness to the cannabis marketplace.”

“Today is an affirmation of individual liberty. Adult use of cannabis should be a personal choice,” **said Rep. David Welter (R-Morris)**. “Beyond that, I am proud of our

commitment that 20% of the revenue generated by legalization will go toward funding for mental health and substance abuse services in Illinois. An additional 10% will go to pay down the state's backlog of unpaid bills; which directly benefits hospitals, health care and social service providers in every community across the state."

"My office is proud to have helped develop this historic legislation, which will provide conviction relief to hundreds of thousands of Illinois residents in the most extensive and equitable way possible," said **Cook County State's Attorney Kim Foxx**. "The time for justice is now, especially for communities of color who have long been disproportionately impacted by low-level cannabis convictions and the failed war on drugs. We look forward to continuing our efforts to ensure the broadest relief possible under this revolutionary law."

"This legislation recognizes that to move forward and create a new cannabis industry, we have to mend the historic inequalities that have torn communities apart," said **Esther Franco-Payne, executive director of Cabrini Green Legal Aid**. "Expunging the records of hundreds of thousands of people and making social equity at the center of this bill will change lives and revitalize communities. Cabrini Green Legal Aid thanks Governor Pritzker for his leadership and members of the General Assembly who made this day possible."

A detailed fact sheet is attached, and an overview of key elements can be found below.

OVERVIEW

ACHIEVING EQUITY THROUGH OWNERSHIP AND LICENSURE

- Creates a \$30 million low-interest loan program to defray the start-up costs associated with entering the licensed cannabis industry.
- Establishes a "social equity applicant" status for licensing.
- Designates 20% of the total points for qualifying applicants to obtain a license for a dispensary, cultivation center, infuser, craft grower or transporting organization.
- Waives 50% of non-refundable license fees.
- Allows 180 days from the license award date to identify a physical location for the dispensary, reducing up-front costs.
- Limits ownership to three cultivation centers or craft grow facilities or 10 dispensaries.
- Dedicates a portion of sales in early approval facilities to a cannabis business development fund.

INVESTING IN COMMUNITIES THAT SUFFERED THROUGH THE WAR ON DRUGS

- Establishes the Restore, Reinvest and Renew (R3) Grant Program to address the impact of economic disinvestment, violence, and the historical overuse of the criminal justice system.
- 25% of state cannabis revenue will be transferred to the Criminal Justice Information Projects Fund to support the R3 program.

PROVIDING RELIEF FOR MINOR VIOLATIONS OF THE CANNABIS CONTROL ACT

- Roughly 700,000 records are eligible for expungement under the Cannabis Regulation and Tax Act.
- Approximately 405,000 records are eligible for automatic expungement or the clemency process.
 - Category 1: Local law enforcement and ISP will automatically expunge arrests not leading to a conviction for possession and manufacture or possession with intent to deliver for up to 30 grams.
 - Category 2: Governor will grant pardons authorizing expungement for convictions for possession and manufacture or possession with intent to deliver for up to 30 grams.
- An additional 302,000 are eligible for the motion to vacate process.
 - Category 3: Individuals and State's Attorneys may file motions with courts to vacate convictions for possession up to 500 grams.
- Exclusions: If the cannabis offense was connected to a violent crime it is ineligible for the automatic expungement processes, but the individual (or State's Attorney) can still file motion with the court to vacate conviction.

PUBLIC HEALTH AND SAFETY

Starting January 1, 2020, adults over 21 will be able to legally purchase cannabis for recreational use from licensed dispensaries across the state. The new law takes several steps to protect public health and safety of all Illinoisans.

- Possession limit for Illinois residents:
 - 30 grams of cannabis flower;
 - 5 grams of cannabis concentrate; and
 - No more than 500 milligrams of THC contained in a cannabis-infused product; and
 - Registered patients in the medical cannabis pilot program may possess more than 30 grams of cannabis if it is grown and secured in their residence under certain conditions.
- Possession limit for non-Illinois residents:
 - 15 grams of cannabis flower;
 - 2.5 grams of cannabis; and

- No more than 250 milligrams of THC contained in a cannabis-infused product.
- 20% of state cannabis revenue will support efforts to address substance abuse and prevention and mental health.
- Established a DUI Cannabis Task Force.
- Regulates advertising, packaging and location of cannabis businesses near public spaces, including schools and parks.
- Allows local governments to regulate the location of a cannabis business and home grow.
- Home grow limited to participants of the Compassionate Use of Medical Cannabis Pilot Program, and caps to 5 plants per household.

TAXATION

The taxation structure is competitive with other states and seeks to raise revenue to promote equity while also eliminating the black market.

- Cultivation privilege tax:
 - 7% of the gross receipts from the sale of cannabis by a cultivator or a craft grower to a dispensing organization
- Cannabis purchaser excise tax:
 - 10% of the purchase price – Cannabis with a THC level at or below 35%
 - 20% of the purchase price – All cannabis infused products
 - 25% of the purchase price – Cannabis with a THC level above 35%
 - This tax is not imposed on cannabis that is subject to tax under the Compassionate Use of Medical Cannabis Pilot Program Act.

ALLOCATION OF STATE REVENUE

The Illinois Department of Revenue projects that this industry will generate over \$57 million in tax revenue and licensing fees in FY20 and, in tax revenue alone, \$140.5 million in FY21, \$253.5 million in FY22, \$323.5 million in FY23, and \$375.5 million in FY24.

- Minus administrative costs, the remaining state revenue will be allocated as follows:
 - 35% for the General Revenue Fund,
 - 25% for the Criminal Justice Information Projects Fund to support the R3 program,
 - 20% for the Department of Human Services Community Services Fund to address substance abuse and prevention and mental health concerns,
 - 10% for the Budget Stabilization Fund to pay the backlog of unpaid bills,
 - 8% for the Local Government Distributive Fund to support crime prevention programs, training, and interdiction efforts, including

- detection, enforcement, and prevention efforts, relating to the illegal cannabis market and driving under the influence of cannabis, and
- 2% for the Drug Treatment Fund to fund public education campaign and to support data collection and analysis of the public health impacts of legalizing the recreational use of cannabis.

###

Public Act 101-0027
Effective 6/25/19

Section 10-50. Employment;
employer liability.

- 7 (a) Nothing in this Act shall prohibit
an employer from
- 8 adopting reasonable zero tolerance or drug
free workplace
- 9 policies, or employment policies concerning
drug testing,
- 10 smoking, consumption, storage, or use of
cannabis in the
- 11 workplace or while on call provided that
the policy is applied
- 12 in a nondiscriminatory manner.
- 13 (b) Nothing in this Act shall require
an employer to permit
- 14 an employee to be under the influence of or
use cannabis in the
- 15 employer's workplace or while performing
the employee's job
- 16 duties or while on call.
- 17 (c) Nothing in this Act shall limit or
prevent an employer
- 18 from disciplining an employee or
terminating employment of an
- 19 employee for violating an employer's
employment policies or
- 20 workplace drug policy.
- 21 (d) An employer may consider an
employee to be impaired or
- 22 under the influence of cannabis if the
employer has a good
- 23 faith belief that an employee manifests
specific, articulable
- 24 symptoms while working that decrease or
lessen the employee's
- 25 performance of the duties or tasks of the
employee's job

HB1438 Enrolled

- 61 -

LRB101 04919 JRG 49928 b

- 1 position, including symptoms of the employee's speech,
2 physical dexterity, agility, coordination, demeanor,
3 irrational or unusual behavior, or negligence or carelessness
4 in operating equipment or machinery; disregard for the safety
5 of the employee or others, or involvement in any accident that
6 results in serious damage to equipment or property; disruption
7 of a production or manufacturing process; or carelessness that

8 results in any injury to the employee or others. If an employer
9 elects to discipline an employee on the basis that the employee
10 is under the influence or impaired by cannabis, the employer
11 must afford the employee a reasonable opportunity to contest
12 the basis of the determination.

13 (e) Nothing in this Act shall be construed to create or
14 imply a cause of action for any person against an employer for:

15 (1) actions, including but not limited to subjecting an
16 employee or applicant to reasonable drug and alcohol
17 testing under the employer's workplace drug policy,
18 including an employee's refusal to be tested or to
19 cooperate in testing procedures or disciplining or
20 termination of employment, based on the employer's good
21 faith belief that an employee used or possessed cannabis in
22 the employer's workplace or while performing the
23 employee's job duties or while on call in violation of the
24 employer's employment policies;

25 (2) actions, including discipline or termination of
26 employment, based on the employer's good faith belief that

HB1438 Enrolled

- 62 -

LRB101 04919 JRG 49928 b

1 an employee was impaired as a result of the use of
2 cannabis, or under the influence of cannabis, while at the
3 employer's workplace or while performing the employee's
4 job duties or while on call in violation of the employer's
5 workplace drug policy; or

6 (3) injury, loss, or liability to a third party if the
7 employer neither knew nor had reason to know that the
8 employee was impaired.

9 (f) Nothing in this Act shall be construed to enhance or
10 diminish protections afforded by any other law, including but
11 not limited to the Compassionate Use of Medical Cannabis Pilot
12 Program Act or the Opioid Alternative Pilot Program.

13 (g) Nothing in this Act shall be construed to interfere
14 with any federal, State, or local restrictions on employment
15 including, but not limited to, the United States Department of
16 Transportation regulation 49 CFR 40.151(e) or impact an
17 employer's ability to comply with federal or State law or cause
18 it to lose a federal or State contract or funding.

19 (h) As used in this Section, "workplace" means the
20 employer's premises, including any building, real property,
21 and parking area under the control of the employer or area used
22 by an employee while in performance of the employee's job
23 duties, and vehicles, whether leased, rented, or owned.
24 "Workplace" may be further defined by the employer's written
25 employment policy, provided that the policy is consistent with
26 this Section.

HB1438 Enrolled

- 63 -

LRB101 04919 JRG 49928 b

1 (i) For purposes of this Section, an employee is deemed "on
2 call" when such employee is scheduled with at least 24 hours'
3 notice by his or her employer to be on standby or otherwise
4 responsible for performing tasks related to his or her
5 employment either at the employer's premises or other
6 previously designated location by his or her employer or
7 supervisor to perform a work-related task.