

**FREQUENTLY ASKED QUESTIONS –
CANNABIS REGULATION AND TAX ACT – PUBLIC ACT 101-0027**

UPDATED JULY 10, 2019

Provided by:



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INTRODUCTION

This Frequently Asked Questions Document is intended as a resource for local governmental clients of Klein, Thorpe and Jenkins, Ltd. relative to Public Act 101-0027: the Cannabis Regulation and Tax Act (referred to throughout this document simply as the “Act”). This document will be updated frequently from now until the Act becomes effective on January 1, 2020, and thereafter as implementation issues arise and can be specifically addressed, so be sure to check with your KTJ attorney from time to time to ensure you are using the most current version (see cover page for date).

The Act is over 600 pages long, and there are a number of additional requirements and details in the Act that are not included here due to space considerations. We have strived, in creating this document, to address the aspects of most interest to our local governmental clients. KTJ is happy to provide additional details and guidance on subjects within the Act not specifically covered here for clients who are interested.

As with any significant new State act awaiting implementation, there are a number of open issues that will only be clarified with time. The exact scope of local business licensing and enforcement authority is one example here. What would happen to existing recreational cannabis establishments should a local government repeal authority for their operation after they are operating is another example. Public health concerns and effects, the impact of the Act on healthcare and liability insurance costs, how workplaces will be impacted, and development of acceptable testing protocols for impairment are other open issues or unknowns at this point.

Although the Act is the by far the most sweeping measure ever taken by the State to legalize cannabis, there have been several other pieces of legislation in recent years related to the legalization and decriminalization of cannabis of which you should be aware. The Illinois Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1, *et seq.* (adopted in 2013) (the “Medical Cannabis Pilot Program Act”) was signed by Governor Patrick Quinn on August 1, 2013, as Public Act 098-0122, effective January 1, 2014. Under the Medical Cannabis Pilot Program Act the Illinois Department of Agriculture and Department of Financial and Professional Regulation adopted administrative rules regulating “registered qualified patients,” “medical cannabis cultivation centers” and “medical cannabis dispensing organizations.” In all the Medical Cannabis Pilot Program Act authorized 56 dispensaries and 20 cultivation centers state-wide. Additionally, the Illinois Cannabis Control Act was signed by Governor Bruce Rauner on July 27, 2016, as Public Act 99-0697, effective July 27, 2016. The Cannabis Control Act decriminalized the possession of cannabis. Under the Cannabis Control Act possession of up to 10 grams was now only punishable by a \$100 (minimum) to \$200 (maximum) fine and possession of 10 to 30 grams was classified as a Class B misdemeanor. These pieces of legislations are referred to throughout this document and discussed in conjunction with the Act.

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ADVERTISING

What are the restrictions on advertising for a cannabis business establishment?

- No cannabis business establishment nor any entity or person shall engage in advertising that contains any statement or illustration that is:
 - False or misleading;
 - Promotes the overconsumption of cannabis;
 - Displays cannabis;
 - Shows someone under 21 consuming cannabis;
 - Makes health or medicinal claims about cannabis;
 - Includes the image of the cannabis leaf or bud; or
 - Includes any image that is likely to appeal to minors.

- No cannabis business establishment nor any person or entity shall place or maintain or cause to be placed or maintained an advertisement in any form:
 - Within 1000 feet of school grounds, playgrounds, hospitals, health care facilities, recreation centers, child care centers; public parks, public libraries; or game arcades that admit persons under the age of 21 ;
 - On or in a public transportation vehicle or on a public transportation shelter: or
 - On or in publicly owned or publicly operated property.

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CRAFT GROWERS

What is the definition of “Craft grower?”

- "Craft grower" means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering state. The Department of Agriculture may authorize an increase or decrease of flowering stage cultivation space in increments of 3,000 square feet by rule based on market need, craft grower capacity, and the licensee's history of compliance or noncompliance, with a maximum space of 14,000 square feet for cultivating plants in the flowering stage, which must be cultivated in all stages of growth in an enclosed and secure area. A craft grower may share premises with a processing organization or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

Are craft growers inspected? How, and by whom?

- Craft growers are subject to random inspections by the Department of Agriculture, the Department of Public Health, local safety or health inspectors, and the Department of State Police.

To whom may craft growers sell cannabis?

- Craft growers can sell or distribute cannabis to a cultivation center, a craft grower, an infuser organization, a dispensing organization, or as otherwise authorized by rule.

What are the limitations on the location of craft growers?

- A craft grower may not be located in an area zoned for residential use.
- A craft grower shall not be located within 1,500 feet of another craft grower or a cultivation center.

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CULTIVATION CENTERS

What is the definition of “Cultivation center?”

- "Cultivation center" means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, process, transport (unless otherwise limited by the Act), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

Are cultivation centers inspected? How, and by whom?

- Cultivation centers are subject to random inspections by the Department of Agriculture, the Department of Public Health, local safety or health inspectors, and the Department of State Police.

To whom may cultivation centers sell cannabis?

- Cultivation centers can sell or distribute cannabis or cannabis-infused products to dispensing organizations, craft growers, infusing organizations, transporters, or as otherwise authorized by rule.

What is the maximum space a cultivation center may provide for plants in the flowering stage?

- A cultivation center may not contain more than 210,000 square feet of canopy space for plants in the flowering stage for cultivation of adult use cannabis as provided in this Act.

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DISPENSING ORGANIZATIONS

What is the definition of “Dispensing organization?”

- "Dispensing organization" means a facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in the Act, dispensary organization shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Pilot Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

What methods of sale by dispensing organizations are prohibited?

- Drive-through windows
- Vending machines
- Transport of cannabis to residences or other locations where purchasers may be for delivery

When are dispensaries allowed to operate?

- Operation is allowed between 6 A.M. and 10 P.M.
- Operation is prohibited when video surveillance equipment is inoperative.
- Operation is prohibited when point-of-sale equipment is inoperative.
- Operation is prohibited when the State’s cannabis electronic verification system is inoperative.
- Operation is prohibited when there are fewer than 2 people working.

What products are dispensing organizations prohibited from selling?

- Dispensing organizations cannot sell any product containing alcohol except tinctures, which are limited to containers no larger than 100 milliliters.
- They are prohibited from selling clones or other live plant material.
- Selling cannabis, cannabis concentrate, or cannabis-infused products in combination or bundled with each other for one price is prohibited.

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Can dispensing organizations sell cannabis outside of Illinois or obtain cannabis from outside of Illinois?

- Dispensing organizations cannot transport cannabis or cannabis products across state lines.
- Dispensing organizations may not obtain cannabis or cannabis-infused products from outside the State of Illinois.

What type of packaging is required for cannabis sold at dispensing organizations?

- All cannabis sold by a dispensing organization to purchasers must be in a container or package with a label identifying, at a minimum, the name of the dispensing organization, the contents, and the weight of the raw cannabis in grams or, for cannabis products, the amount of THC in milligrams.

Are there restrictions in the Act on the location of dispensing organizations?

- A dispensing organization may not be located within 1500 feet of the property line of a pre-existing dispensing organization.

What is the process for a dispensing organization to dispense cannabis to a purchaser?

- Before cannabis is dispensed:
 - The age of the purchaser shall be verified by checking a government-issued identification card by use of an electronic reader or electronic scanning device to scan the identification;
 - The validity of the government-issued identification card must be verified;
 - Any appropriate purchaser education or support materials shall be offered; and
 - Information must be entered into the State’s cannabis electronic verification system, including the dispensing organization’s agent’s identification number, the dispensing organization’s identification number, the amount, type (including strain, if applicable) of cannabis or cannabis-infused product dispensed, and the date and time the cannabis was dispensed.
- A dispensing organization shall refuse to sell cannabis to anyone unless the person produces a valid identification showing that the person is 21 years of age or older. However, a medical cannabis dispensing organization may sell cannabis or cannabis-infused products to a person who is under 21 years of age if the sale complies with the provisions of the Compassionate Use of Medical Cannabis Pilot Program Act and rules.

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DUI

How will DUI's be addressed under the new law?

- Driving under the influence of cannabis will continue to be illegal.
- The Act allows for use of validated roadside chemical tests or standardized field sobriety tests approved by the National Highway Traffic Safety Administration when conducting investigations of a violation of Section 625 ILCS 5/11-501 of the Motor Vehicle Code or a similar local ordinance by drivers suspected of driving under the influence of cannabis.
- The results of validated roadside chemical tests and standardized field sobriety tests are, under the Act, are admissible at a civil or criminal trial or proceeding for an arrest for a cannabis-related offense as defined in Section 11-501 of the Illinois Vehicle Code or a similar local ordinance.
- The Act creates a DUI Cannabis Task Force to examine best practices for driving under the influence of cannabis enforcement and emerging technology in roadside testing.
- The Act creates various statutory presumptions applicable to cannabis DUIs:
 - Tetrahydrocannabinol concentration of 5 nanograms or more in whole blood or 10 nanograms or more in an other bodily substance creates a presumption that a person was under the influence of cannabis; and
 - Tetrahydrocannabinol concentration of less than 5 nanograms in whole blood or less than 10 nanograms in an other bodily substance does not give rise to a presumption that the person was or was not under the influence of cannabis, but may be considered with other competent evidence in determining whether the person was under the influence of cannabis.
- The refusal to submit to a chemical test will result in the imposition of driver's license sanctions under Section 11-501.1 of the Illinois Motor Vehicle Code.
- The refusal to take validated roadside chemical tests or standardized field sobriety tests is admissible in any civil or criminal action or proceeding regarding impairment by use of cannabis.
- An authorized medical cannabis patient who drives is deemed to have given consent to (i) validated roadside chemical tests or (ii) standardized field sobriety tests.
- Law enforcement officers must have an independent, cannabis-related factual basis giving reasonable suspicion that a person is driving or in actual physical control of a motor vehicle while impaired by the use of cannabis to conduct validated roadside chemical tests or standardized field sobriety tests .

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EMPLOYMENT CONCERNS

Can an employer maintain a drug-free workplace?

- The Act specifies that nothing shall prohibit an employer from adopting:
 - reasonable zero-tolerance or drug-free workplace policies;
 - employment policies concerning drug testing; or
 - regulations concerning smoking, consumption, storage, or use of cannabis at the workplace.
- These policies must be applied in a nondiscriminatory manner.
- Employers' policies may cover use of cannabis in the employer's workplace, while performing the employee's job duties, or while "on call." An employee is deemed "on call" when he or she is scheduled with at least 24 hours' notice by employer to be on standby or otherwise responsible for performing tasks related to his or her employment.
- An employer may discipline an employee for violating a workplace drug policy. If the employer elects to discipline the employee, the employer must give the employee reasonable opportunity to contest the determination.
- Nothing in the Act shall be construed to interfere with any federal, State, or local restrictions on employment including, but not limited to, the United States Department of Transportation regulation 49 CFR 40.151(e), or impact an employer's ability to comply with federal or State law or cause it to lose a federal or State contract or funding.

How can an employer determine whether an employee is impaired by the use of cannabis?

- An employer may consider an employee to be impaired if the employer has a good faith belief that the employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks.

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EXPUNGEMENTS

What records will be automatically expunged?

- The Act mandates that arrest records relating to offenses under the Cannabis Control Act for possession of under 30 grams of any substance containing cannabis that are not associated with an arrest, conviction or other disposition of a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act. (“Minor Cannabis Offenses”) will be automatically expunged by all law enforcement agencies, including records of an arrest, charges not initiated by arrest, orders of supervision, or orders of qualified probation for all offenses committed prior to the Act if:
 - One year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records; and
 - No criminal charges were filed or if filed they were dismissed and/or arrestee was acquitted.

What is the schedule for automatic expungement?

- The Act provides that all law enforcement agencies must expunge qualifying records according to the following schedule:
 - Records created prior to the effective date of the Act, but on or after January 1, 2013, shall be automatically expunged prior to January 1, 2021;
 - Records created prior to January 1, 2013, but on or after January 1, 2000, shall be automatically expunged prior to January 1, 2023; and
 - Records created prior to January 1, 2000, shall be automatically expunged prior to January 1, 2025.

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What is the Process for expungement for offenders actually convicted of Minor Cannabis Offenses or of more serious violations under the Cannabis Control Act?

- Within 180 days of the effective date of the Act, the Department of State Police must notify the Prisoner Review Board of those convictions for Minor Cannabis Offenses that are eligible for expungement under the Act.
- The Act provides a process for the Prisoner Review Board to make recommendations to the Governor for pardons for certain convictions for Minor Cannabis Offenses.
- Those convicted for more serious violations of the Cannabis Control Act and not qualifying for a pardon have the option of petitioning for expungement through the circuit court.

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FOIA

Are all records and documents created or obtained by a public body pursuant to the provisions of the Act subject to the Illinois Freedom of Information Act (“FOIA”)?

- The Act adds an exemption to FOIA for confidential information described in Section 55-30 of the Cannabis Regulations and Tax Act (information received by state agencies from cannabis establishment licensees or applicants).
- The name and address of a dispensing organization licensed under the Act shall be subject to disclosure under FOIA. The name and cannabis business establishment address of the person or entity holding each cannabis business establishment license shall be subject to disclosure.
- Complaints from consumers or members of the general public received regarding a specific, named licensee or complaints regarding conduct by unlicensed entities shall be subject to disclosure under FOIA.

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HOME CULTIVATION

What are the limitations and requirements to grow cannabis at home?

- Only registered medical cannabis patients over 21 years of age may participate in home cultivation.
- Additionally, cultivation in private residences by medical cannabis patients is subject to the following limitations:
 - There is a limit of 5 plants that are 5 inches or more per household without a cultivation center or craft grower license;
 - Cannabis plants may not be cultivated in an area subject to public view;
 - Reasonable precautions must ensure that the plants are secure from unauthorized access or access by a person under 21 years of age;
 - Cannabis cultivation must occur in an enclosed locked space;
 - Cannabis cultivation may only occur on residential property lawfully in possession of the medical cannabis patient or with the consent of the person in lawful possession of the property;
 - The medical cannabis patient may allow their authorized agent to tend to the plants for brief periods of time if the resident is temporarily away
 - A medical cannabis patient may only purchase cannabis seed from a dispensary;
 - Purchase of live plant material is prohibited; and
 - If the home grown plants yield more than the allowable possession limit of 30 grams of raw cannabis, then the excess cannabis must remain secured within the residence of residential property in which it was grown.

Can a landlord prohibit growth of cannabis on their property?

- An owner or lessor of residential property may prohibit the cultivation of cannabis by a lessee.

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INFUSER ORGANIZATIONS OR INFUSERS

What is the definition of “Infuser organization” or “infuser?”

- "Infuser organization" or "infuser" means a facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

Are infusers inspected? How, and by whom?

- Infusers are subject to random inspections by the Department of Agriculture, the Department of Public Health, local safety or health inspectors, and the Department of State Police.

To whom may infusers sell cannabis?

- Infusers may only sell or distribute cannabis to a dispensing organization, or as otherwise authorized by rule.

What are the limitations on the location of infusers?

- An infuser may not be located in an area zoned for residential use.
- An infuser may share premises with a craft grower or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

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LICENSING

Is a license required to operate a cannabis establishment in Illinois?

- Yes. The State Office of Cannabis Control shall issue licenses for all dispensing organizations. Dispensing Organizations are defined by the Act as a facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Act to purchasers or to qualified registered medical cannabis patients and caregivers.

Can municipalities require licenses to operate a cannabis establishment within their boundaries?

- While licensing is a function of the State under the Act, local governments can still enforce generally applicable business registration requirements for cannabis establishments and conduct inspections of the premises to ensure compliance with local ordinances.

What are the different types of Licenses?

The Act creates the following Adult Use Cannabis Licenses, subject to various fees and subject to administration by the Department of Agriculture (DOA) and the Department of Financial and Professional Regulation (IDFPR):

- Early Approval Adult Use Dispensing Organization - A license that permits a medical cannabis dispensing organization licensed under the Compassionate Use of Medical Cannabis Pilot Program Act as of the effective date of the Act to begin selling cannabis to purchasers as permitted by the Act as of January 1, 2020.
- Early Approval Adult Use Cultivation Center - A license that permits a medical cannabis cultivation center licensed under the Medical Cannabis Pilot Program Act as of the effective date of the Act to begin cultivating, infusing, packaging, transporting (unless otherwise provided in the Act), and selling cannabis to cannabis business establishments for resale to purchasers as permitted by the Act as of January 1, 2020. A cultivation center may begin producing cannabis and cannabis-infused products once the Early Approval Adult Use Cultivation Center License is approved. A cultivation center that obtains an Early Approval Adult Use Cultivation Center License may begin selling cannabis and cannabis-infused products to approved Dispensing Organizations on December 1, 2019.
- Conditional Adult Use Dispensing Organization License - A license awarded to top-scoring applicants for an Adult Use Dispensing Organization License that reserves to the applicant

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the right to an adult use dispensing organization license if the applicant meets certain conditions described in the Act. A dispensing organization that is awarded a Conditional Adult Use Dispensing Organization License is not entitled to purchase, possess, sell, or dispense cannabis or cannabis-infused products until the applicant has received an Adult Use Dispensing Organization License.

- Conditional Adult Use Cultivation Center License - A license awarded to top-scoring applicants for an Adult Use Cultivation Center License that reserves to the applicant the right to an Adult Use Cultivation Center License if the applicant meets certain conditions as determined by the Department of Agriculture by rule. A cultivation center applicant that is awarded a Conditional Adult Use Cultivation Center License is not entitled to grow, purchase, possess, or sell cannabis or cannabis-infused products until the applicant has received an Adult Use Cultivation Center License.
- Adult Use Dispensing Organization - A license issued by the Department of Financial and Professional Regulation that permits a person to act as a dispensing organization under the Act and any administrative rule made in furtherance of the Act.
- Adult Use Cultivation Center - A license issued by the Department of Agriculture that permits a person to act as a cultivation center under the Act and any administrative rule made in furtherance of the Act.
- Craft Grower - The Department of Agriculture shall issue up to 40 craft grower licenses by July 1, 2020. A craft grower is a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization.
- Infuser - The Department of Agriculture shall issue up to 40 infuser licenses through a process provided for in the Act no later than July 1, 2020. "Infuser organization" or "infuser" means a facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product. An infuser is prohibited from extracting cannabis concentrate from raw cannabis material. Only cultivation centers and craft growers will be allowed to extract cannabis concentrate.
- Transporter - Transporting organization" or "transporter" means an organization or business that is licensed by the Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program.

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Do State licenses need to be renewed?

- Yes. All licenses expire and are subject to the renewal provisions set forth in the Act.
- Adult Use Dispensing Organization Licenses shall expire on March 31 of even-numbered years. Licensees must submit a renewal application as provided by the Department and pay the required renewal fee.

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LOCAL GOVERNMENT

Can municipalities prohibit cannabis establishments within their boundaries?

- Yes. A unit of local government may enact ordinances to prohibit or significantly limit a recreational cannabis business establishment's location.
- NOTE: While recreational cannabis business establishments may be prohibited, the Medical Cannabis Pilot Program Act specifically provides that medical marijuana disbursement facilities may not be prohibited within municipal borders. For medical cannabis establishments, then, municipalities can only regulate location via “reasonable” zoning regulations (special use permits, etc.).

Can municipalities and other units of local government regulate cannabis establishments within their boundaries?

- A unit of local government may enact reasonable zoning ordinances or resolutions not in conflict with the Act or with Office of Cannabis Control, Department of Public Health, Department of Financial and Professional Regulation, and Department of Agriculture rules regulating cannabis establishments.
- A unit of local government may enact ordinances or rules governing the time, place, manner and number of cannabis establishment operations, including a minimum distance limitation between cannabis establishments and locations it deems sensitive through the use of conditional use permits.

Can municipalities regulate the on-premises consumption of cannabis and/or allow cannabis cafes and lounges?

- A unit of local government may regulate and/or allow the on-premises consumption of cannabis at or in a cannabis business establishment within its jurisdiction in a manner consistent with the Act. The Act allows the creation of “cannabis cafes/lounges” in the discretion of the municipality. Cannabis business establishments or other entities authorized or permitted by a municipality to allow on-site consumption shall not be deemed a public place within the meaning of the Smoke Free Illinois Act.

Can municipalities and other units of local government prohibit the use of cannabis within their boundaries?

- No unit of local government, including a home rule unit, may unreasonably prohibit the use of cannabis authorized by the Act.

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Does the Act contain any location restrictions on dispensaries?

- A dispensing organization may not be located within 1,500 feet from another dispensing organization
- NOTE: These distance restrictions are different than those imposed by the Medical Cannabis Pilot Program, Act. Under the Medical Cannabis Pilot Program Act registered cultivation centers could not locate within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use (410 ILCS 130/105(c)) and registered dispensing organizations could not locate within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility or be located in a house, apartment, condominium, or an area zoned for residential use (410 ILCS 130/130(d)). Under the Act, a unit of local government may enact rules governing minimum distance limitations between cannabis establishments and locations it deems sensitive.

Does failure to be in compliance with local zoning regulations have any impact on a cannabis establishment's ability to operate in Illinois?

- A state-issued cannabis establishment license will be denied if the applicant would not be in compliance with local zoning rules.

Can municipalities and other units of local government fine or penalize cannabis establishments for violation of local zoning regulations?

- A unit of local government may establish civil penalties for violation of an ordinance or rules governing the time, place and manner of operation of a cannabis establishment in the jurisdiction of the unit of local government.

Can municipalities regulate personal possession and consumption of cannabis?

- The Act provides municipalities with the authority to locally regulate possession and consumption of cannabis by private citizens in a manner consistent with the Act. Therefore, municipalities can adopt the prohibitions and penalties of the Act into their Codes which will give the local governments the ability to enforce and prosecute personal possession and consumption violations through local adjudication or the circuit court.

Does the Act apply to home-rule units of government?

- A unit of local government may not regulate cannabis-related activities in a manner more restrictive than their regulation by the State under the Act. Home rule preemption applies here.

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- “This subsection is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.” Section 55-25(4).
- Home Rule Preemption is specifically set forth in Section 55-90. “Except as otherwise provided in this Act, a unit of local government, including a home rule unit, may not regulate or license the activities described in this Act.” [emphasis added]

Can voters choose to limit or prohibit cannabis establishments within a municipality?

- They can, but only in Chicago. The Act allows the legal voters of any precinct within a municipality with a population of over 500,000 to petition their local alderman, using a petition form made available online by the city clerk, to introduce an ordinance establishing the precinct as a restricted zone. "Restricted cannabis zone" means a precinct within which home cultivation, one or more types of cannabis business establishments, or both has been prohibited pursuant to an ordinance initiated by a petition under the Act.

Does the Act contain any operational rules for recreational cannabis dispensaries?

- The Act in Section 15-70 contains a list of specific business operational rules for recreational cannabis dispensaries that provide a clear base-line of regulatory guidelines for these establishments. Municipalities can include these in any statement on approvals or conditions that are part of any conditional use permit. These rules include:
 - A dispensing organization must include the legal name of the dispensary on the packaging of any cannabis product it sells.
 - Dispensing organizations are prohibited from selling any product containing alcohol except tinctures, which must be limited to containers that are no larger than 100 milliliters.
 - A dispensing organization may only accept cannabis deliveries into a restricted access area. Deliveries may not be accepted through the public or limited access areas unless otherwise approved under the Act.
 - A dispensing organization shall maintain compliance with State and local building, fire, and zoning requirements or regulations.
 - A dispensing organization shall submit a list to the State of the names of all service professionals that will work at the dispensary.
 - A dispensing organization's license allows for a dispensary to be operated only at a single location.
 - A dispensary may operate between 6 a.m. and 10 p.m. local time.
 - A dispensing organization must keep all lighting outside and inside the dispensary in good working order and wattage sufficient for security cameras.
 - A dispensing organization shall not:

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- Produce or manufacture cannabis;
- Accept a cannabis product from an adult use cultivation center, craft grower, infuser, dispensing organization, or transporting organization unless it is pre-packaged and labeled in accordance with the Act and any rules that may be adopted pursuant to the Act;
- Obtain cannabis or cannabis-infused products from outside the State of Illinois;
- Sell cannabis or cannabis-infused products to a purchaser unless the dispensary organization is licensed under the Compassionate Use of Medical Cannabis Pilot Program, and the individual is registered under the Compassionate Use of Medical Cannabis Pilot Program or the purchaser has been verified to be over the age of 21;
- Enter into an exclusive agreement with any adult use cultivation center, craft grower, or infuser.
- Refuse to conduct business with an adult use cultivation center, craft grower, transporting organization, or infuser that has the ability to properly deliver the product and is permitted by the Department of Agriculture, on the same terms as other adult use cultivation centers, craft growers, infusers, or transporters with whom it is dealing;
- Operate drive-through windows;
- Allow for the dispensing of cannabis or cannabis-infused products in vending machines;
- Transport cannabis to residences or other locations where purchasers may be for delivery;
- Enter into agreements to allow persons who are not dispensing organization agents to deliver cannabis or to transport cannabis to purchasers.
- Operate a dispensary if its video surveillance equipment is inoperative;
- Operate a dispensary if the point-of-sale equipment is inoperative;
- Operate a dispensary if the State's cannabis electronic verification system is inoperative;
- Have fewer than 2 people working at the dispensary at any time while the dispensary is open;
- Be located within 1,500 feet of the property line of a pre-existing dispensing organization;
- Sell clones or any other live plant material;
- Sell cannabis, cannabis concentrate, or cannabis-infused products in combination or bundled with each other or any other items for one price, and each item of cannabis, concentrate, or cannabis-infused product must be separately identified by quantity and price on the receipt;
- Violate any other requirements or prohibitions set by State rules.

**FREQUENTLY ASKED QUESTIONS –
CANNABIS REGULATION AND TAX ACT – PUBLIC ACT 101-0027**

SOCIAL JUSTICE

What other Agency oversight does the State have for social issues related to cannabis production, sale and use?

- The Restoring Our Communities (ROC) program will be created. The ROC program will be a performance incentive funding program for high-need, underserved communities throughout the State.
- The purpose of the ROC program will be to directly address the impact of economic disinvestment and the historical use of criminal justice responses to community and individual needs by supporting local design and control of community-based responses to these impacts that can be accessed outside of the criminal justice system.
- The ROC program will provide planning and implementation grants as well as technical assistance to collaborative groups that include human service providers and community-based organizations, individuals who have experienced the criminal justice system or other systems of State intervention, and individuals who have been consumers of social programs administered by the State or local jurisdictions and local leaders from all sectors.

**FREQUENTLY ASKED QUESTIONS –
CANNABIS REGULATION AND TAX ACT – PUBLIC ACT 101-0027**

TAXATION, REVENUES AND APPROPRIATIONS

How is cannabis cultivation going to be taxed on the state level?

- Beginning on January 1, 2020, a Cannabis Cultivation Privilege Tax is imposed upon the privilege of cultivating cannabis at the rate of 7% of the gross receipts from the sale of cannabis by a cultivator.
 - This tax rate already exists under current medical cannabis law.
 - As all funds collected under the Cannabis Regulation and Tax Act and under the Compassionate Use of Medical Cannabis Pilot Program Act will be deposited into the Cannabis Regulation Fund, the 7% cultivation tax that previously only applied to the cultivation of medical cannabis is repealed, effective July 1, 2020. (See 410 ILCS 130/200), and replaced by the same tax that applies to both recreational and medical cannabis cultivation.
 - All funds received by the Department of Revenue under the privilege tax shall be paid into the Cannabis Regulation Fund in the State treasury.
- The Cannabis Cultivation Privilege Tax will be collected in addition to all other occupation or privilege taxes imposed by the State of Illinois or by any municipal corporation or political subdivision (whether the cultivation is for medical or recreational purposes).

How is the sale of cannabis going to be taxed on the state level?

- Beginning on January 1, 2020, a Cannabis Purchaser Excise Tax is imposed upon purchasers for the privilege of using cannabis at the following rates:
 - Purchases of cannabis flower or products with less than 35% THC – 10% tax.
 - Cannabis-infused products (i.e., edibles) – 20% tax.
 - Products with a THC concentration higher than 35% – 25% tax.
- The purchase price of any product that contains any amount of cannabis or any derivative is subject to the tax on the full purchase price of the product.
- The purchase of cannabis is also subject to state and local sales taxes; it is collected in addition to all other occupation, privilege, or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision of the State.
- All funds received by the Department of Revenue under the excise tax will be paid into the Cannabis Regulation Fund in the State treasury.
- 8% of state taxes collected on cannabis sales will be allocated to the Local Government Distributive Fund for the purpose of funding crime prevention programs, law enforcement training and drug interdiction efforts.

**FREQUENTLY ASKED QUESTIONS –
CANNABIS REGULATION AND TAX ACT – PUBLIC ACT 101-0027**

How is cannabis going to be taxed on the local level?

- On and after January 1, 2020, the corporate authorities of any county or municipality may, by ordinance, impose a County and Municipal Cannabis Retailers' Occupation Tax.
- For municipalities, the tax is imposed upon purchasers for the privilege of using cannabis purchased in the municipality. The rate of tax shall not exceed 3% of the purchase price. If imposed, the tax shall only be imposed in 0.25% increments.
- Non-home rule counties are authorized to impose a tax of up to 0.75% in incorporated areas and 3.75% on sales emanating from unincorporated areas.
- Cook County, the only home-rule county in the state, is authorized to impose a tax of 3% regardless of whether the sale occurs in an incorporated or unincorporated area.
- The tax shall not be imposed on cannabis that is subject to tax under the Compassionate Use of Medical Cannabis Pilot Program Act.
- The State Department of Revenue will collect and enforce this tax.
- Any ordinance imposing the tax must be certified by the municipal clerk of that unit of local government and filed with the Illinois Department of Revenue before June 1st of any year, to be effective and enforced by the Department of Revenue on September 1st of that year.
- This tax will be collected in addition to all other occupation, privilege, or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision of the State.

What is the State going to do with the funds collected in the form of state taxes, license fees and any other monies collected with regard to cannabis production and sale?

- The Cannabis Regulation Fund will be created in the State treasury. Unless otherwise provided, all funds collected under the Cannabis Regulation and Tax Act and under the Compassionate Use of Medical Cannabis Pilot Program Act shall be deposited into the Cannabis Regulation Fund, consisting of taxes, license fees, other fees and any other amounts required to be deposited or transferred into the Fund.
- Monthly, the transfers of revenues received into the Cannabis Regulation Fund shall be certified as follows:
 - First, to pay for the direct and indirect costs associated with the implementation, administration and enforcement of the Compassionate Use of Medical Cannabis Pilot Program Act and the Cannabis Regulation and Tax Act, the Department of Revenue shall certify the transfer of 1/12 of the fiscal year amount appropriated to the numerous agencies involved with the program;

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- Second, after the above-noted transfers have been made, the remainder shall be transferred to the following funds:
 - 35% transferred to the General Revenue Fund
 - 25% transferred to the Criminal Justice Information Projects Fund to support Restoring, Reinvest and Renew Program for community reinvestment
 - 20% transferred to Department of Human Services Community Services Fund to fund mental health and substance abuse services at local health departments
 - 10% transferred to Budget Stabilization Fund to pay the backlog of unpaid bills
 - 8% transferred to Local Government Distributive Fund to create a “grant program” to fund crime prevention programs, training, and interdiction efforts relating to the illegal cannabis market and cannabis-based DUIs
 - 2% transferred to the Drug Treatment Fund for public education and awareness

How are existing Retailers’ Occupation Taxes affected?

- Retailers’ Occupation Taxes, assessed on both a local and statewide level, will not be deposited into the Cannabis Regulation Fund. Nothing in the Compassionate Use of Medical Cannabis Pilot Program Act and the Cannabis Regulation and Tax Act affects the collection of these taxes, or their deposit in the State’s general funds and/or distribution to local municipalities under local ordinance.
- Under the State Retailers’ Occupation Tax, the sale of cannabis is classified as a “sale of tangible personal property at retail”.

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USE AND POSSESSION

How much cannabis can a resident of the State of Illinois legally possess under the Act?

- For an Illinois resident who is 21 years or older, the possession limit is any combination of the following:
 - 30 grams of raw cannabis;
 - Cannabis-infused product or products containing a total of no more than 500 mg of THC;
 - 5 grams of cannabis product in concentrated form;
- For individuals who register as qualifying patients under the State’s existing medical cannabis program only:
 - Up to 5 Cannabis plants and the cannabis produced from those 5 plants, secured within the residence or dwelling unit (no matter how many people reside in a residence, only 5 plants are allowed per residence).
 - If the plants produce more than the 30 grams of raw cannabis that one individual is allowed to possess, the excess cannabis product must remain in the residence.
 - Qualifying patients are allowed to possess any combination of the amounts indicated above for Illinois residents. Additionally, if they have plants that yield more than the 30 grams, the excess must remain secured in the residence or residential property it is grown.

How much cannabis may a non-resident of the State of Illinois legally possess under the Act?

- For a person who is 21 year of age or older and who is not a resident of Illinois, the possession limit is any combination of the following:
 - 15 grams of raw cannabis, or;
 - 250 mg of THC contained in cannabis-infused products;
 - or 2.5 grams of concentrated cannabis.
 - NOTE: a non-resident may not possess cannabis plants.

Where is a person restricted from possessing cannabis?

- The Act will not permit any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in any of the following conduct:
 - Possessing cannabis on a school bus.
 - Possessing cannabis on the grounds of any preschool or primary or secondary school unless approved as a medical cannabis patient.
 - Possessing cannabis in any correctional facility.

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- Possessing cannabis in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed, tamper-evident container and reasonably inaccessible while the vehicle is moving.
- Possessing cannabis in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.

Where will the use of cannabis be prohibited?

- The Act will not permit any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for, the following:
 - Consuming cannabis on a school bus.
 - Consuming cannabis on the grounds of any preschool or primary or secondary school unless authorized in the medical cannabis program.
 - Consuming cannabis in any correctional facility.
 - Consuming cannabis in any motor vehicle.
 - Consuming cannabis in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.
 - Consuming cannabis in any public place or knowingly in close physical proximity to anyone under 21 years of age.
 - Consuming cannabis in any public place where a person could reasonably be expected to be observed by others.
 - Consuming cannabis in any location where smoking is prohibited by the Smoke Free Illinois Act (410 ILCS 82/1 *et seq.*), including hospitals, restaurants, retail stores, offices, commercial establishments, etc.
 - Note: Universities, colleges and other post-secondary educational institutions can restrict or prohibit cannabis use on their property.

How is a “public place” defined under the Act?

- A “public place” is defined as any place where a person could reasonably be expected to be observed by others.
- A “public place” includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government.
- A “public place” does not include a private residence unless the private residence is used to provide licensed child care, foster care or other similar social service care on the premises.

Are there certain specific activities that you cannot perform while using cannabis?

- Operating, navigating or being in actual physical control of any motor vehicle, aircraft or motorboat while using or under the influence of cannabis

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- Use of cannabis by a law enforcement officer, corrections officer, probation officer or firefighter while on duty.
- Use of cannabis by a person who has a school bus permit or a Commercial Driver's License while on duty.
- Driving under the influence of cannabis - DUI and reckless driving based on THC impairment may continue to be charged.