



## PA Bipartisan Senate Cannabis Regulation Bill SB 120 — Detailed Bill Summary

Senate Law and Justice Chairman Dan Laughlin's SB 120 is a bipartisan bill to legalize, regulate, and tax cannabis for adults 21 and older in the Commonwealth. It would expunge records, release cannabis prisoners, and prevent discrimination against responsible cannabis consumers in regards to occupational and professional licensing, child custody, and medical care. SB 120 would also allow registered patients to discreetly and securely cultivate a few medical cannabis plants at home. A new Cannabis Control Board would license and regulate privately operated cannabis businesses. Existing medical cannabis businesses could convert to also serve adult-use consumers for a fee, and a modest number of additional licenses could be issued, including to microcultivators, impacted individuals, and small businesses. Adult-use cannabis sales would be taxed at 14%.

### Possession Limit

Starting 180 days after passage, allows adults 21 and over to:

- Possess, use, purchase, and transport up to 30 grams of cannabis (just over an ounce), 1,000 milligrams of THC in infused products, and five grams of cannabis concentrate.
- Share cannabis with other adults, within legal limits.

### Prohibited Acts

- Cannabis cannot be smoked or vaporized in a public space or anywhere covered by the Clean Indoor Air Act.
  - A first violation is a civil fine of up to \$250.
  - A subsequent offense carries a fine of up to \$1,000.
- Cannabis use may be prohibited by anyone in lawful possession of property.
- Cannabis must be in a "cannabis container" and reasonably inaccessible while in a motor vehicle that is moving.
- No one under 21 may enter a cannabis establishment, other than medical cannabis patients and their registered caregivers.
- The bill does not:
  - allow home cultivation, except by registered patients and caregivers.
  - allow cannabis use "knowingly in close physical proximity to an individual younger than 21 years of age."
  - allow anyone to undertake an action while under the influence of cannabis if doing so would be negligent or malpractice.
  - allow cannabis possession in schools, school buses, correctional institutions, or a residence that is used for permitted childcare or social services, unless it is permitted under the medical cannabis provisions.
  - allow cannabis to be used in a motor vehicle, including a parked vehicle, unless it is permitted under the medical cannabis provisions.
  - authorize or require an individual or business to violate federal law, "including the ability to consume cannabis in public housing or on college or university campuses."

- allow driving or boating while using cannabis or being under the influence.
  - It defines “under the influence of cannabis” as including an employee having 15 nanograms of THCA per milliliter in their urine.

## **Civil Protections for Responsible Cannabis Consumers and Limitations**

- Provides non-discrimination protections for adults who responsibly use cannabis, including related to occupational and professional licensing, child custody, child welfare, and medical care, including organ transplants.
- Does not prevent discrimination against cannabis consumers by government or private employers.

## **Removing Jail Time for Minors in Possession**

- Removes possible jail time for possession of cannabis by those under 21 years of age and changes the penalty to:
  - for a first offense, a fine of no more than \$250.
  - for second or subsequent offense, a fine of no more than \$1,000.
- The minor may be admitted to adjudication alternatives or a preadjudication disposition.
- In the case of minors under the age of 18, a parent or guardian will also be notified.

## **Cannabis Control Board**

- Establishes a Cannabis Control Board as the licensing and regulatory authority for both medical and adult-use cannabis.
  - Three members would be appointed by the governor and one member would be appointed by each of the four legislative caucuses.
    - A supermajority consisting of all four legislatively-appointed members and at least one governor-appointed member is required in some votes, including approving and denying permits.
  - Board members would be paid a full-time salary and retirement benefits.
  - Each of the seven members also may employ a special assistant.
  - Includes ethics provisions regarding conflicts of interest and adopting a code of conduct for board members, staff, and contractors for the Board and their immediate family members.
  - The following government officials or their designees would serve ex officio: the Attorney General, the State Police Commissioner, and the secretaries of Agriculture, Health, and Community and Economic Development.
- The Board will also have an executive director and staff.
  - The governor will nominate an interim executive director within seven days, and the Senate will hold a confirmation vote within seven days.
  - Includes a two-year black-out period after the end of their employment in which many Board employees and contractors cannot work for a licensee or participate in activity before the Board on their behalf.
- The Medical Marijuana Program Fund will be transferred to the Board.
- Moves the Department of Health’s regulatory control over medical cannabis to the Board.
  - All Medical Marijuana Program staff will move from the health department to the Board and retain their civil service employment status.
- The Board will set fees, timelines, and minimum requirements, and set up a competitive scoring

process for applications.

- Allows the formation of advisory committees and subcommittees on issues including public health and wellness, community safety and well-being, the judicial and carceral systems, education, employment, business and entrepreneurship, agriculture and food systems, and medical cannabis program efficiency.
- Within 18 months, and every year thereafter, the Board will issue a report on its operations, licensing, fees, sales, taxes, operational costs, and other matters.

## **License Types**

- The Cannabis Control Board will issue at least five types of adult-use cannabis businesses permits, to:
  - dispensing organizations
  - cultivation centers, which can also produce cannabis-infused products
  - micro-cultivation centers, which are limited to 3,000 square feet of canopy space for flowering plants
  - warehousing and distribution
  - testing labs

## **Cannabis Licensing — Existing Medical Businesses**

- Within 90 days of passage, licensed medical cannabis growers/processors in good standing are authorized to also grow and sell adult-use cannabis if they pay a licensing fee of \$250,000.
  - Each licensed medical cannabis grower/processor will also be approved for a second location, with no limit on square footage or additional fee.
  - Converting growers/processors may also relocate their existing facilities.
- Within 180 days of passage, licensed medical cannabis dispensaries in good standing are authorized to also sell adult-use cannabis if they pay a fee of \$100,000 per permit.
  - Permits, and the conversion fees, cover up to three dispensing locations.
- Current medical cannabis organizations and their principals cannot be affiliated with more than 24 storefronts.
- The Board will have 90 days from passage to issue new temporary regulations. Existing medical businesses can begin adult-use sales whether or not these rules have been issued, and medical cannabis rules will apply.
- Existing medical businesses will have 90 days from the passage of a new temporary regulation to comply with the temporary regulation.

## **Cannabis Licensing — New Permits**

- The Cannabis Control Board may issue up to 30 new dispensary permits, up to 15 to disproportionately impacted area applicants and up to 15 to small business applicants.
  - Applicants must pay a non-refundable \$50,000 application fee.
  - Each permit is for a single location. (Medical cannabis dispensary permits are for up to three locations.)
  - The locations are dual use, for both adult-use consumers and patients.
  - Each applicant would have to submit proof they own or rent the premises.
  - Applicants could file up to three applications.
- The Board may issue up to 15 microcultivation permits.
  - Microcultivation applicants must pay a \$5,000 non-refundable fee.

- Microcultivators may share space with dispensaries if they have separate vaults where cash and cannabis are sold, but cannot have more than 50% shared ownership.
- There is no deadline for the new permits to be issued.
- Every year for the first three years and every three years thereafter, the Board would conduct a comprehensive market analysis on whether to change the number of dispensary permits and microcultivation permits.
- No new cultivation permits would be issued until there is a comprehensive market analysis.
  - Only three new cultivation permits can be issued at any time except to existing medical cannabis grower-processors.
  - If new cultivation permits are issued, microcultivation permits would be given the first opportunity.
- The Board will issue warehousing and distribution permits.
  - The initial application fee is \$2,500 and the annual renewal fee is \$5,000.
  - At least 51% of an applicant's ownership must be held by people with Pennsylvania residency for at least two years prior to applying.
- Most new permits will be issued pursuant to a merit-based scoring system, with three different people scoring each application.
  - SB 120 does not specify how warehouse and distribution permits will be selected.
- Microcultivation applicants and small business or disproportionately impacted area applicants for dispensary permits must submit applications that include fees, proof they own or have a valid lease for the location, a business plan, a facilities plan, a community engagement plan, the local zoning ordinance, and — if applicable — proof of approval of the local zoning office. If applicable, they will also submit evidence of their status as a small business or disproportionately impacted area applicant.
  - Final approval is contingent upon the construction and an inspection.
- These requirements are not listed for new cultivation center applicants or warehouse or distribution applicants.
- Laboratories must be accredited and approved by the Board. They cannot have any financial or management interest in most types of cannabis businesses, though the prohibition does not extend to warehouse and distribution licenses.

## **Fostering Equity and Diversity in the Cannabis Industry**

- The Cannabis Control Board is required to develop policies and procedures to prioritize and promote diversity and full participation by individuals from disproportionately impacted communities.
- The Board may issue up to 15 dispensary permits, each for a single location, to disproportionately impacted area (DIA) applicants.
  - Defines a DIA applicant as an applicant with an annual income of \$75,000 or less and \$250,000 or less in assets. DIA applicants must have 75% ownership and control by people who lived in a DIA for at least five of the past 10 years.
  - Disproportionately impacted areas are defined as an area:
    - with a poverty rate of at least 20% according to the last Census
    - where 75% or more of the children participate in the national school lunch program
    - where 20% of the households receive SNAP assistance, or
    - with an unemployment rate of more than 120% at the national average.
- The Department of Community and Economic Development will establish a fund to provide financial assistance, grants, and loans to DIA applicants and small business applicants. The grants will be made on a competitive annual basis.

- If a DIA or small business applicant sells or transfers their permit to someone who does not qualify as one between one and five years after it starts operations, the new permittee must pay back any waived fees, grants, and/or Cannabis Development Fund loans the equity applicant received.
- Each year, the Board, with help from the Department of Community and Economic Development, must issue a report assessing diversity in the industry and “methods for reducing or eliminating any identified barriers to entry, including access to capital.”

## Local Role

- Local governments may enact reasonable rules governing the time, place, manner, and number of cannabis businesses, including minimum distance limitations between cannabis business establishments and sensitive locations.
  - They may not enact ordinances to prohibit a cannabis business establishment from locating within their jurisdiction.
- No local government may “unreasonably prohibit the use of cannabis” authorized by the bill.

## Regulations and Violations

- Rules must be promulgated no longer than 180 days after the promulgation of temporary regulations.
  - Gives permittees 180 days to comply with any new regulation.
- The Cannabis Control Board will consult with stakeholders and promulgate rules:
  - including related to security, seed-to-sale tracking, integrating the medical program, product safety, packaging, ownership and financial disclosure, transfer of ownership, recordkeeping, advertising, inspections, transportation, curbside pickup, and home delivery from dispensing and micro-cultivation organizations.
    - A separate section allows delivery by cultivation centers to patients.
  - on enforcement procedures, including fines, suspensions, and revocations.
  - governing procedures for investigation and enforcement of unregulated and unpermitted cultivating, processing, transporting, and dispensing of cannabis in Pennsylvania.
- Cannabis and cannabis products must be tested for microbiological contaminants, mycotoxins, pesticide active ingredients, heavy metals, residual solvent, active ingredients, and THC potency.
- Each cannabis establishment Board member and worker must register with the Board, be fingerprinted, and undergo a background check.
  - ID cards won’t be issued to people who are delinquent in filing or paying Pennsylvania taxes.
  - It is not clear what other convictions may be disqualifying. It specifies that nonviolent criminal convictions related to cannabis are not disqualifying.
- Regulators may issue fines of up to \$10,000 per violation to businesses and agents.
- Permits and cards may not be reissued if the permittee or cardholder fails to file tax returns, fails to pay taxes, or willfully violates the cannabis regulation law or regulations.
- The Board will develop a two-hour course for principals and employees who have direct contact with cannabis or with patients and caregivers.

## Packaging, Product, and Labeling Rules

- The Cannabis Control Board will develop regulations governing labeling, packaging, and product

safety, including requiring warnings, QR codes linking to more product information, requiring clearly delineated servings, prohibiting packaging and edibles likely to appeal to minors, and a universal symbol for cannabis.

- Warnings will include: “Cannabis consumption may impair the ability to drive or operate heavy machinery, is for adult use only and should not be used by pregnant or breastfeeding women. Keep out of reach of children.”
- Product safety rules will be consistent with best practices for food products.
- Packaging standards must include freshness, tamper-evidence, and limiting access to minors.
- The Board may develop regulations related to refrigeration, hot-holding, and handling for infused products.
- Packaging for infused products must be sealed in a child-resistant container or packaged in a label consistent with current standards.
- Each cannabis-infused product must include the total milligram content of THC, THCA, CBD, and CBDA, along with other ingredients.
- Packages of cannabis and cannabis-infused products can include up to 1,000 milligrams of THC, with no more than 10 milligrams per serving.
- Products with more than 70% THC must specify that they are high potency products.

## **Dispensary Regulations**

- Dispensaries:
  - may be open from 8 a.m. to 10 p.m., unless the locality provides otherwise.
  - must implement security requirements including continuous motion-activated video recording, security alarms, seed-to-sale tracking, and an inventory point-of-sale system.
  - must have an approved recall policy.
  - must have at least one agent-in-charge, with specified responsibilities including opening and closing the store, recordkeeping, inventory and reconciliation, agent training, maintaining files, and compliance.

## **Cultivation Regulations**

- Cultivation must be in an enclosed, locked facility.
- Cultivation centers and microcultivation centers:
  - may transport their own products, or contract with a dispensary or lab to transport them.
  - must have physical inventory recorded weekly.
  - must implement a security plan including facility access controls, perimeter intrusion detection, personnel identification, and 24-hour motion-activated surveillance.
  - may not discriminate between dispensaries in the pricing of like products, though this does not prevent volume discounts.
- Cultivation centers may manufacture edibles and other infused products. It is unclear if microcultivation centers may do so.
- Microcultivation centers cannot be in areas zoned residential.
- The Secretary of Agriculture will publish a list of pesticides that may be used by cultivation centers. Microcultivation centers must comply with all state and federal rules in pesticides, in addition to any Board rules.



## Advertising Regulations

- The Board will craft advertising regulations “that balance the ability of a cannabis business establishment to engage in reasonable marketing and promotional activities” while not allowing advertising directed at minors.
- Advertising can only be restricted from being false or misleading, promoting over-consumption, depicting minors consuming cannabis, making unsupported health claims, and including images designed to appeal to minors.

## Taxation and Revenue Distribution

- Imposes 14% in taxes at retail — a 6% sales tax and an 8% excise tax.
  - The 6% sales tax appears to apply to medical cannabis.
- Allocates cannabis taxes as follows:
  - 10% to municipalities with cannabis businesses, based on the proportion of cannabis businesses in the municipality,
  - 10% to counties with cannabis businesses in unincorporated areas, based on the proportion of cannabis businesses there, and
  - 80% to the Cannabis Regulation Fund.
- Directs 80% of taxes and all fees to the Cannabis Regulation Fund. Allocates the fund as follows, after it repays start-up costs:
  - 40% to the Board for its operations, including outreach efforts and other projects
  - 15% for assisting patients in financial need with the costs of cannabis and reimbursing for background checks on caregivers
  - 10% for distribution to local police departments that demonstrate a need relating to enforcing the cannabis law
  - 10% to the Department of Drug and Alcohol Programs for drug abuse prevention, counseling and treatment services
  - “Any other purpose specified under this act”
  - The remainder, up to 25%, is transferred to the General Fund “to provide economic relief to this Commonwealth.”

## Application and Renewal Fees and Revenue

- Medical cannabis dispensary permit holders would pay a one-time \$100,000 fee to convert to dual use. The existing permits apply to up to three locations.
- Fifty dispensary permits have been issued. This would bring in approximately \$5 million if they all convert.
- Medical cannabis growers/processors would pay a one-time \$250,000 fee to convert to dual use.
  - Up to 25 grower/processor permits are authorized, so this would bring in about \$6.25 million if they all convert.
- Disproportionately impacted area applicants and small business applicants would be charged a non-refundable \$50,000 application fee for a single location.
- Microcultivation applicants would be charged a non-refundable \$5,000 application fee.
- Warehousing and distribution permits would pay an initial application fee of \$2,500 and the annual renewal fee is \$5,000.
- The Board would set fees for other types of license renewals and for employee IDs.
- Medical cannabis patients and caregivers would continue to be charged a \$50 processing fee,

which could be waived for demonstrated financial hardship.

## **Cannabis Clean Slate**

- Provides for the state-initiated expungement of arrest, prosecution, and conviction records for certain cannabis offenses. The covered offenses are as follows, if they were non-violent:
  - possessing or gifting up to 30 grams of cannabis or eight grams of hash, and
  - the manufacture, delivery, or possession with intent to manufacture or deliver cannabis
- Within six months of passage, the administrative office of Pennsylvania courts must transmit to the Pennsylvania state police central repository all records related to a covered arrest or conviction. The Pennsylvania State Police will have 30 days to flag if a record is not eligible for expungement. The Court of Common Pleas will then order the expungement of all criminal history records.
- Anyone serving a sentence for conduct that the bill makes expungeable will be released.
- The Bureau of Motor Vehicles must restore driving privileges that were suspended or revoked as a result of the individual's conviction.

## **Medical Cannabis Provisions**

- Most of the medical cannabis law is recodified but remains largely the same.
- Makes the following improvements to the medical cannabis program:
  - allows physicians to certify patients under their continuing care for any condition they determine the patient may benefit from.
  - allows edible products to be sold in the medical cannabis program.
  - allows patients who are 21 or older and Pennsylvania residents to grow up to two mature and one immature plants, provided that:
    - plants must be grown in an enclosed, locked space on the person's residential property. Landlords may prohibit cultivation. Patients must take reasonable precautions to keep plants secure from unauthorized access.
    - plants must be out of ordinary public view.
    - patients cannot share their home-grown cannabis.
    - the cap of two mature and one immature plant applies to households.
    - amounts of harvested cannabis exceeding 30 grams must be stored securely in the residence where the medical cannabis is grown.
  - requires state and county correctional facilities to adopt written policies by October 17, 2027, on the use and possession of medical cannabis by corrections employees.
- Allows the Board to open applications for up to two more academic clinical research centers by July 16, 2028, and another two by August 15, 2028. Licensees will be able to operate a grower/processor and dispensaries.
  - Applicants must have at least \$15 million in capital.
- The bill does not list anxiety disorders, chronic hepatitis C, dyskinetic and spastic movement disorder, neurodegenerative diseases, terminal illnesses, Tourette, or opioid use disorder, which were approved administratively, as qualifying conditions.
- Continues to:
  - require patients to keep medical cannabis that has not been used in the original package in which it was dispensed.
  - require patients and caregivers to possess an identification card whenever they are in possession of medical cannabis.
  - charge a \$50 annual fee (which may be waived for hardship) on patients and caregivers



- cards.
- impose misdemeanor penalties for patients possessing more than their limit, “adulterating” their medical cannabis, or who share medical cannabis — even with a legal adult-use consumer.
- require caregivers to undergo a background check, and to ban anyone with a conviction within five years for selling or possessing drugs. Allows the Board to deny cards for any applicant with a history of drug abuse or diversion.
- Allows patients to possess a 90-day supply, as they may now. Does not define a medical cannabis unit in statute or a 90-day supply.
- Weakens existing employment protections for medical cannabis patients.
  - Under current law, employers cannot discipline or fire a patient for their status as a medical cannabis patient.
  - SB 120 allows employers to make an adverse decision based on merely being a medical cannabis patient “if the employer has engaged in an interactive process with the employee or applicant to evaluate the individual’s ability to perform the essential functions of the position with or without reasonable accommodation.”
  - Allows employers to require a drug test, including for cannabis, after making a conditional offer of employment for safety-sensitive positions, which is broadly defined.
  - Allows employers to require employees to disclose that they have a medical cannabis card if they apply for a safety-sensitive position.
  - Does not allow a cause of action for “Actions taken pursuant to an employer’s lawful workplace drug policy, including subjecting an employee or job applicant to a lawful drug and alcohol test, lawful and nondiscriminatory random drug test and discipline, termination of employment or withdrawal of a job offer after a failure of a drug test.”
  - Provides “If an employer makes an adverse employment decision against an employee or job applicant under this act, the employee or job applicant may not challenge the adverse employment decision under any other State or local law.”

## Miscellaneous

- Removes marijuana from Schedule I and deschedules it under state law.
- In addition to criminal penalties, unlicensed cannabis sales, cultivation, processing, and offering for sale will carry a civil penalty of up to \$10,000 for each offense. Each day is a separate offense.
  - Any business or consumer harmed by unlicensed cannabis commerce may get an injunction. They will be awarded three times their actual damages. Punitive damages are also possible.
- Repeals mandatory minimum sentences for cannabis.
- The Cannabis Control Board and Department of Revenue will monitor prices from “grower/processors” (the term for medical licensees) and dispensaries. If they determine prices are excessive, they may be capped for six-month periods.
- Exempts financial institutions from state criminal penalties for providing financial services to cannabis business establishments.
- Provides that contracts relating to the operation of a cannabis business establishment are enforceable in court.