



# Overview of the Illinois Cannabis Regulation and Tax Act

On June 25, 2019, Gov. J.B. Pritzker signed into law HB 1438, which will end cannabis prohibition and replace it with a system to tax and regulate cannabis for adults 21 and over. The new law, which was sponsored by Sen. Heather Steans and Rep. Kelly Cassidy, is comprehensive in its approach. In addition to legalizing possession and use for adults, it expands the current medical cannabis licensing system, includes automatic expungement for cannabis offenses, adds the ability for medical patients to grow cannabis at home, and offers significant benefits to communities hit hardest by inequities that were part of the war on cannabis.

Here are some key provisions of the Cannabis Regulation and Tax Act.

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## **Cannabis possession and sales**

Starting January 1, 2020, adults 21 and older may possess cannabis and purchase cannabis products in licensed stores. Possession is limited to:

- 30 grams of raw cannabis;
- Cannabis-infused product or products containing no more than 500 mg of THC; and
- Five grams of cannabis product in concentrated form.

Non-residents may purchase half that amount, or 15 grams of cannabis, 250 mg of THC in a cannabis-infused product, and 2.5 grams of concentrated cannabis product.

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## **Expunging criminal records**

HB 1438 will usher in one of the most sweeping criminal justice reforms so far in the cannabis movement.

- The governor's clemency process will be used for convictions of up to 30 grams. These expungements will be automatic.
- For amounts of 30-500 grams, the clemency process also applies, however the individual must petition the court to vacate the conviction.

In all, around 770,000 cannabis-related records will be eligible for expungement.

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## **Equity**

**Social equity program:** The program provides benefits directly to those who have suffered because

of the war on cannabis. Not only does HB 1438 remove convictions through expungement, it specifically provides additional points for business applicants, access to financial resources for start-up costs, and resources to communities that were hardest hit from the war on cannabis.

*How it works:*

A “social equity applicant” is a business whose ownership or staff have been directly impacted by the war on cannabis. These are people who have either been arrested or convicted of a cannabis-related offense, or a person with strong ties to a community that has been disproportionately impacted by both poverty and cannabis drug law enforcement. Such a business must be owned by 51% or more of those who qualify, or for businesses with 10 or more staff, 51% of the workers must qualify.

Social equity applicants qualify for assistance in various ways:

- Applicants for business licenses that qualify as social equity applicants will receive **additional points on applications** in the scoring system.
- A **Cannabis Business Development Fund** will provide financial resources for business start-ups, which can be used to offset licensing fees or used for low-interest loans. The fund will start with \$12 million of funds as soon as possible after July 1, 2019, and additional early fees will be transferred into it. It is anticipated to grow to \$30 million.
- Local colleges can obtain a license for training programs to help residents prepare for cannabis industry-related jobs.
- The **3R Program** (the Restore, Reinvest, and Renew Program) will allow community groups to develop programs to benefit disadvantaged communities.

**Training:** The Department of Agriculture and Community College board will create up to eight pilot programs to train students to work in the legal cannabis industry. At least five of the eight programs must be for schools in which at least 50% of the students are low income.

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## **Home cultivation for patients**

Beginning on January 1, 2020, medical cannabis patients may purchase cannabis seeds and grow up to five plants at their residence. There are limitations on home growing, however, including a cap of five plants per household, regardless of the number of residents who are 21 or over, and plants will need to be secured and out of view by the public. Home cultivators can keep what they grow, but possession limits still apply outside the residence, and sales are prohibited unless part of a licensed cannabis business.

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## **Business licenses**

The following types of cannabis business licenses will be issued:

- Dispensary: Provides cannabis products to adult consumers.
- Infuser: Infuses products such as edibles with cannabis extract.
- Transporter: Transports cannabis between business licensees.
- Craft Grower: Can grow between 5,000 and 14,000 square feet of canopy space and may be

- separately licensed as an infuser and a dispensary at the same facility.
- Cultivation Center: Can grow up to 210,000 square feet of canopy space
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### **The transition timeline**

- October 15, 2019: applications for up to 75 dispensaries will be made available. These new businesses will serve in addition to medical dispensaries that get approval to serve adult consumers during the transition.
  - January 1, 2020: sales begin. Existing medical cannabis cultivators and dispensaries will cultivate and provide to adult consumers until additional licensees can apply and get approved. New dispensary license applications will be accepted by this date.
  - January 7, 2020: applications for infusers, transporters, and a new category of cultivator called a craft grower will be published for business applicants.
  - March 15, 2020: the state will begin receiving and processing new license applications.
  - May 1, 2020: new dispensaries licenses will be issued, and the state will begin a disparity and market study of the cannabis industry.
  - July 1, 2020: up to 40 craft grower and infuser licenses will be issued, along with an unlimited number of transporter licenses.
  - Once the disparity and market studies are complete, the state can issue additional licenses if needed. These licenses must take into account the findings of the disparity study.
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### **Taxes**

At the wholesale level, cannabis products will be subject to a 7% tax when they are sold by cultivation centers or craft grows.

At the retail level, Illinois is taking a unique approach. Rather than a blanket tax for all cannabis products, Illinois will charge a tax rate based on the relative potency of the cannabis and the type of product. The more concentrated THC is, the higher the tax rate:

- 10% tax will apply to cannabis flower or products with less than 35% THC
- 20% tax will apply to products infused with cannabis, such as edible products
- 25% tax will apply to any product with a THC concentration higher than 35%

In addition to these scalable tax rates, the state's regular 6.25% sales tax rate also applies, along with local taxes of up to 3.5%. The range consumers will pay at the register — which does not include the 7% tax levied at wholesale — will be between 19.55% to 34.75% retail tax, depending on the product's potency

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### **Revenue distribution**

After covering the costs of administration and expungement, the remaining funds will be distributed as follows:

- 2% to public education and safety campaigns
  - 8% to the Local Government Distributive Fund, for prevention and training for law enforcement
  - 25% to the Recover, Reinvest, and Renew (3R) Program
  - 20% to mental health services and substance abuse programs
  - 10% to pay unpaid bills
  - 35% to the General Revenue Fund
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