



# Minnesota Adult-Use Cannabis Bill Summary

House Majority Leader Ryan Winkler's 222-page bill to end cannabis prohibition — HF 4632 — would legalize marijuana for adults 21 and older and replace Minnesota's unregulated illicit market with a taxed and regulated system. It reflects input from a wide array of stakeholders, including from a statewide listening tour. HF 4632 includes protections for public health and public safety along with a strong focus on social equity. It would provide for expungement of prior cannabis convictions and community development grants and foster participation in the cannabis industry by individuals from impacted communities.

While the Minnesota Legislature has adjourned its 2020 session, HF 4632 may form the basis for legislation that can be considered when lawmakers return in 2021.

Here are some of HF 4632's key details:

**Adult-Use Possession and Home Cultivation.** Adults 21 and older could possess, give away, and securely cultivate the following amounts of cannabis:

- Gifting or possession outside of home: Up to 1.5 ounces of cannabis, eight grams of concentrates, and edibles with no more than 800 milligrams of THC
- In one's residence: Up to 10 pounds of cannabis and up to eight plants, four of which could be flowering; cultivation must occur in an enclosed, locked space that is not open to public view

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**Prohibitions.** The following would continue to be prohibited:

- Using cannabis in a motor vehicle, in public (other than at a licensed on-site establishment), anywhere smoking is prohibited, or in a correctional facility
- Having an "open container" of cannabis — cannabis with a broken seal — in a motor vehicle, other than in the trunk or a similar compartment
- Using a volatile solvent for extraction, except by a licensed cannabis business

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**Civil nuisance.** Allows individuals to obtain relief in court for cannabis-related nuisances — injunctive relief and either a \$100 civil penalty or actual damages

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**Expungement and resentencing.** Provides for the automatic expungement of records for possession of modest amounts of cannabis; expunged records would not appear in background checks; also creates a Cannabis Expungement Board to consider petitions for resentencing or expungement for offenses that would no longer be criminal or that were downgraded to non-felony lower offenses

- Defines eligibility and procedures, including requiring that the offense not involve a dangerous weapon or infliction of bodily harm
  - Requires the Cannabis Expungement Board to consider if expungement or resentencing would be in the public interest, including considering if the person's release would pose a danger to society
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**Parole and probation.** Individuals on probation or supervised release can be prohibited from using cannabis if abstinence is considered consistent with a recommended level of care, as determined after a chemical use assessment.

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**Employment protections.** Revises an existing law that provides employees cannot be fired for using legal consumable products outside of work to include cannabis; specifies that employers can continue to take action against individuals who consume cannabis or are impaired by cannabis during work hours

- Prohibits employers from denying jobs to candidates based on a positive test result for cannabis, except as otherwise required by state or federal law
  - Generally prohibits employers from requiring cannabis testing of employees on a random or arbitrary basis; allows cannabis testing in some limited cases, such as if the employer has a reasonable suspicion that the person was impaired during work hours; includes exceptions for drug testing for safety-sensitive positions, peace officers, firefighters, counselors, those working with children, medical patients or vulnerable adults, and any other position where federal or state law, or a federal grant, requires testing
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**Non-Discrimination in State Benefits.** Exempts cannabis convictions from restrictions or bars on receiving food stamps and family welfare assistance

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**Regulatory control.** Creates a seven-member appointed Cannabis Management Board to license and regulate cannabis businesses

- Members include experts in agriculture production, corporate management, industry oversight, economic development, and promoting social equity
  - The board will create an Office of Social Equity to administer a grants program for communities with a disproportionate negative impact from prohibition. The grants can be used for economic development, services to prevent violence, early intervention, and community safety and stability.
  - The board may delegate some of its duties, such as inspections and licensing, to community health boards if it enters into agreements to do so.
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**License types.** The board will issue the following types of licenses: Retail, manufacturer, transporter, wholesaler, testing facility, microbusiness, event organizer, delivery service, medical cannabis business, and craft or bulk cultivator. Licenses will be tiered, and licensees may petition the board to adjust the tier.

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**Business regulations.** Cannabis businesses must comply with security requirements, health and safety rules, advertising restrictions, equity reporting, and other rules issued by the board.

- **Equity reporting.** Cannabis businesses must submit an annual report on the status of diversity in the business ownership, management, and employment and in services for which the business contracts.
  - **The environment.** The agriculture commissioner will adopt rules governing the use of pesticides, fertilizers, and soil amendments, along with mandatory standards for good agricultural and manufacturing practices.
  - Regulators must approve each cannabis product for sale. They cannot approve products resembling lollipops or ice cream, or that look like any real or fictional person, animal, or fruit. Edibles cannot be modeled after a brand of products primarily consumed by or marketed to children. No serving can have more than 10 milligrams of THC, and no package can contain more than 100 milligrams of THC.
  - Cannabis advertisements cannot do any of the following: include false or misleading statements or unverified claims, depict those under 21, promote overconsumption, or include images designed or likely to appeal to children, including cartoons, children, or animals. Outdoor advertising is prohibited; businesses may have signs with their business names but they can't include a logo or image. Ads are not allowed on any medium where 30% or more of the audience is expected to be under 21.
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**Retailers.** Retailers may sell usable cannabis, along with immature cannabis plants and seedlings, and other products approved by the board to adults.

- Retailers must post notices required by the board, including warning that driving under the influence is illegal.
  - Retailers may not give away cannabis or sell to intoxicated customers.
  - Security requirements will include maintaining video surveillance records, specific locking requirements, secure entrances, lighting requirements, and mandated staffing levels. All cannabis except a single sample jar of each product — for smelling — must be stored in a secure storage area.
  - Unless otherwise explicitly allowed by the city or county, retail sales may not start before 8:00 a.m. and cannot continue past 2:00 a.m. On Sundays, retail sales cannot start before 10:00 a.m.
  - Except for medical patients, only those 21 and older may enter.
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**Cultivation.** Craft cultivators are limited to 10,000 feet of canopy, while bulk cultivators are limited to 30,000 feet. Both indoor and outdoor cultivation is allowed as long as it complies with lighting, security, and other rules.

- Craft cultivation licenses are prioritized. Bulk cultivator licenses cannot be issued before July 1, 2026, unless they are needed to meet demand.
  - Growers must abide by odor control and environmental standards, including related water, energy use, and solid waste.
  - Cultivators are not allowed to adulterate cannabis with anything intended to alter its color, appearance, weight, or smell.
  - Cannabis must be certified organic by the agriculture commissioner.
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**Manufacturers.** Cannabis manufacturers need an endorsement from the board to produce edibles and, separately, to extract THC from cannabis.

- Manufacturers can only use methods of extraction and volatile chemicals that have been approved by the board.
  - Manufacturers must have a certification from an independent industrial hygienist or professional engineer approving all electrical, gas, fire suppression, and exhaust systems. Expert approval is also required for methods for storing and disposing of hazardous substances.
  - Manufacturers must meet sanitary standards and may only add chemicals or compounds approved by the board to concentrates.
  - All ingredients in cannabis products must be disclosed.
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**Microbusinesses.** Microbusinesses may cultivate up to 2,000 square feet of canopy, perform extractions, manufacture edible products, purchase cannabis from manufacturers, and sell cannabis at retail or for on-site consumption. They may offer live or recorded entertainment, consistent with local rules.

- Microbusinesses cannot allow alcohol or tobacco.
  - Microbusinesses may not allow vaporized or smoked cannabis on-site.
  - Microbusinesses can only allow single servings of edible cannabis onsite.
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**Delivery companies and transporters.** The following requirements apply both to transporters — which transport cannabis between licensees — and delivery companies — which deliver cannabis to consumers.

- All vehicles must be staffed by at least two people.
  - Cannabis must be transported in a locked, safe, and secure storage compartment that is part of the motor vehicle or in a locked storage container that has a separate key or combination pad.
  - Identifying logos and business names are prohibited on the vehicles.
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**Transporters.** Only licensed transporters may transport cannabis between licensees, including to cannabis events.

- All vehicles must be electric.

- Delivery times and routes must be randomized.
  - Transporters must have a surety bond or insurance covering at least \$1,000,000 for injury and \$300,000 for cargo.
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**Labs.** Testing labs must be accredited and must follow protocols, including related to sampling, testing validity, and batch size.

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**Events.** Licensed cannabis events must have local approval and any required permits. They can last up to four days and may allow on-site consumption. Licensed retailers and microbusinesses may sell cannabis at the events.

- Events must be limited to individuals aged 21 and older.
  - Cannabis events cannot allow alcohol or tobacco sales or consumption.
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**Legacy medical cannabis businesses.** There is a category of licenses for legacy medical cannabis businesses. They may also obtain licenses as an adult-use cultivator, manufacturer, and retailer.

- In the event of a shortage, they must prioritize medical cannabis supply.
  - Legacy businesses have five years to comply with the board-issued energy use standards.
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**Limits on multiple licenses.** Each type of business is limited in the number and type of other cannabis licenses they can hold. The limitations include:

- No one may hold more than one cannabis retail license in one city or county.
  - Testing labs cannot hold any other type of license.
  - Retailers, cultivators, manufacturers, and microbusinesses cannot hold transporter licenses.
  - Retailers cannot hold cultivator licenses, and vice versa, except in the case of a legacy medical cannabis business.
  - The board may limit the number of licenses a person or business can hold.
  - The above limits apply to every cooperative member, director, manager, and general partner of a cannabis business.
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**Licensing process.** The board will determine the number of licenses of each type that it will issue and must consider the goals of meeting demand and limiting the supply of illicit cannabis. Applicants will be scored on factors including if they are social equity applicants or veterans, along with their plans for security and record keeping, employee training, labor and employment practices, environmental practices, diversity (with goals for ownership, management, employment, and contracting), and their financial situation and business plan. Added points would be awarded for serving an underrepresented market, including medical cannabis.

- **Social equity applicants** include any military veteran who was denied honorable discharge due to a cannabis offense and/or any individual who lived over the last five years in a census tract with more than a 20% poverty rate or where the median family income wasn't over 80% the state median income.
  - **Labor peace.** All applicants must include an attestation signed by a bona fide labor organization that they have entered into a labor peace agreement.
  - **Recent drug felony ban.** No individual can be employed at, or be licensed to operate, a cannabis business if they were convicted of a drug felony unless:
    - 1) the conviction was for cannabis possession or sales, or
    - 2) at least five years have elapsed since the person completed their sentence.
  - All applicants must be Minnesota residents. At least 75% of the ownership of each business must be by Minnesota residents.
  - **Adults only.** Owners and employees must be at least 21.
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**Local control.** Localities cannot prohibit cannabis businesses or their operations, but they may adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business. Localities must certify within 30 days if local applicants comply with local zoning ordinances and fire and building codes.

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**Fees.** The only fees that can be charged are application fees of no more than \$250.

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**Tax rate.** A 10% gross receipts tax is levied on retail and on-site sales. It appears the state's standard 6.875% sales tax also applies.

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**Revenue allocation.** HF 4632 lists several areas that revenue will be allocated to, but does not specify what percent or amount of revenue will go to each. It would fund several types of competitive grants programs for industry training, technical assistance, and start-up funding, along with funding for communities with high rates of poverty. HF 4632 would also direct some funding to cannabis misuse education and police training on cannabis laws and impaired driving.

- **Cannabis training and start-up.** Several grants programs — mostly with revolving loans — would be established to facilitate cannabis industry training for workers, job creation, assistance navigating the regulatory process, and start-up funding. They would focus on individuals facing barriers to education or employment, areas where long-term residents would qualify as social equity applicants, workers with less than three years of experience, and farmers. The grants programs would be named CanTrain, CanNavigate, CanStartup, CanGrow, and CanLearn.
- **Investing in communities.** It would also create a competitive grants program — CanRenew — for community development organizations to invest in communities where long-term residents

are eligible to be social equity applicants. Grantees could target economic development, violence prevention, youth development, civil legal aid, and other community needs.

- **Substance use disorder funding.** Some funding would be used for substance use disorder prevention, including for education about cannabis' adverse health effects, educating pregnant individuals, and creating a model program for education in middle and high schools. Substance use disorder prevention grants would be issued by the commissioner of human services, after considering recommendations from the Adult-Use Cannabis Substance Use Disorder Advisory Council.
    - Adult-Use Cannabis Substance Use Disorder Advisory Council members would include four legislators, the commissioner of human services or a designee, a member of the Cannabis Management Board, two representatives of licensed substance use disorder treatment programs, a person in recovery, a physician, a psychologist, and a representative of a disproportionately impacted community.
  - **Law enforcement training.** Some of the funds would be used for training police on changes to cannabis laws and to increase the number of trained Drug Recognition Experts, who are trained to detect impaired drivers.
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**Cannabis Use and Substance Education.** Requires government agencies to create and implement several education programs about the risks of cannabis use for: middle and high school students, pregnant and breastfeeding individuals, and parents of young children (in conjunction with home visit programs).

- The education commissioner, after consulting with health and human services commissioners, will identify at least one medically accurate model program to educate middle and high school students on the health effects of cannabis and substance use on children and adolescents. All districts and charter schools must have access to the program(s), including training for instructors, written materials, and curriculum resources. Programs must be age-appropriate and include physical and mental health effects of cannabis and substance use by children and adolescents, including on the developing brain, related unsafe and unhealthy behaviors, signs of substance use disorders, treatment options, and healthy coping strategies.
  - Schools must all implement comprehensive education programs on cannabis and substance use.
  - The health commissioner will conduct an educational program to raise awareness of the top three adverse health effects on underage individuals.
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**Data collection.** The commissioner of health will collect data and produce reports on the prevalence of adult-use and underage cannabis use. The assessment will include baseline and biennial data post-legalization, including by type of cannabis products consumed, with breakdowns by age. The reports may include recommendations to promote public health, including to discourage underage use.

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**Medical cannabis.** Management of the medical cannabis program is moved from the department of health to the Cannabis Management Board. HF 4632 also reiterates the existing medical cannabis law, with some modest improvements and some provisions on how it relates to adult-use.

- Allows smoked or vaporized cannabis, but continues to prohibit cannabis in its natural, flower form (Smoked cannabis is currently prohibited.)
  - Adult-use retailers and medical cannabis businesses may distribute up to a 90-day supply of medical cannabis to patients, but a pharmacist must give final approval for the distribution.
  - Retailers that are also licensed to sell medical cannabis must have a distinct space and entrance for medical cannabis and must have sufficient space for a pharmacist employee to consult with patients.
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**Rescheduling.** Transfers marijuana and tetrahydrocannabinols from Schedule I to Schedule III.

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**Appropriations.** Provides funding to carry out the duties listed in the bill: In Fiscal Year 2021, it appropriates \$15 million to the Cannabis Management Board, \$75,000 to the Department of Agriculture, \$500,000 to the Department of Public Safety, \$75,000 to the Department of Health, \$150,000 to the Department of Human Services, \$500,000 to the Supreme Court, \$125,000 to the Department of Commerce, and \$125,000 to the Department of Natural Resources.

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