

2019 POLICY BRIEF

RECREATIONAL CANNABIS AND LOCAL GOVERNMENTS

BACKGROUND:

On August 1, 2013, Illinois enacted the “Compassionate Use of Medical Cannabis Pilot Program Act” (P.A. 98-0122). The program allows persons who are diagnosed with a qualifying debilitating medical condition to register with the Illinois Department of Public Health (IDPH) in order to obtain access to cannabis for medical use.

Since the establishment of this program, some Illinois legislators and interested parties have called for the state to legalize cannabis for recreational use.

CANNABIS REGULATION AND TAX ACT:

On Tuesday, June 25, 2019, Governor J.B. Pritzker signed the “Cannabis Regulation And Tax Act” (P.A. 101-0027) into law to legalize the sale and use of recreational cannabis in Illinois. On that date Illinois became the 11th state to legalize recreational cannabis. Illinois’ recreational cannabis law is the first such law to be approved by state office holders and not through a statewide public referendum. Recreational cannabis usage will become legal on January 1, 2020.

The new law allows residents age 21 and older to legally possess up to 30 grams of cannabis, up to 5 grams of cannabis concentrate or up to 500 milligrams of THC contained in a cannabis-infused product. Nonresidents could possess up to 15 grams of cannabis.

Revenue and Spending

Proponents estimate that sales from recreational cannabis will generate \$57 million for the SFY2020 state budget and \$140 million next year. One estimate suggests the revenue raised from cannabis legalization could eventually reach \$500 million a year.

Of the state tax revenue generated, 35% would go to the state General Fund, 25% for community reinvestment, 20% for mental health and substance abuse treatment, 10% for the state’s unpaid bills, 8% for law enforcement training grants and 2% for public drug education.

Local Regulatory Authority

Local governments not desiring to allow for the sale of recreational cannabis within their jurisdictions may adopt “opt out” ordinances. In no case can a local government ban individual possession.

QUICK FACTS

- Illinois became the 11th state to legalize the sale and use of recreational cannabis
- Counties and municipalities have authority to opt-out and prohibit cannabis sales within their jurisdictions
- Counties and municipalities are authorized to tax retail cannabis sales
- Local governments maintain zoning authority over cannabis establishments
- Employers can adopt “zero tolerance” policies for employees in the workplace
- The law includes a process for expungement of criminal convictions for possession of smaller amounts of cannabis



The bill authorizes local governments to enact reasonable zoning ordinances to regulate the location of cannabis establishments. This authority includes regulation of on-premises consumption of cannabis at or in a business establishment within its jurisdiction in a manner consistent with the Act.

Local Taxation Provisions

The “Cannabis Regulation and Tax Act” establishes authority for local governments to impose a tax on recreational cannabis sales. On and after January 1, 2020:

- Counties are authorized to impose up to a 0.75% tax for recreational cannabis sales that occur within municipalities and up to a 3.75% sales tax within unincorporated areas.
- Cook County is permitted to impose up to a 3% tax on recreational cannabis sales that occur within municipalities and 3.75% for sales occurring within unincorporated areas. A separate bill not yet signed into law (SB 2023) would allow all counties to impose taxes at the Cook County rates.
- In addition to these local sales taxes, counties will continue to receive their traditional share of the 6.25% state sales tax as applied to recreational cannabis sales.

Employment

Employers are permitted to maintain reasonable “zero tolerance” or drug-free workplace policies. This includes employment policies concerning drug testing, smoking, consumption, storage or use of cannabis in the workplace as long as the policy is applied in a non-discriminatory manner.

The law amends the Illinois Right to Privacy in the Workplace Act to prohibit employers from taking disciplinary action against employees for using cannabis outside of the workplace in a legal manner. Violations under the Illinois Right to Privacy Act may subject the employer to damages, attorneys’ fees, costs and statutory penalties.

The law permits an employer to discipline or terminate an employee’s tenure with the employer based on a “good faith” belief that the workplace drug policy has been violated. It should be noted that the term “good faith” is not defined in the law.

Social Equity Provisions

The law provides for financial assistance to minority applicants seeking entrance into the cannabis industry. A Cannabis Business Development Fund is intended to lower licensing fees and provide low-interest business loans for minority entrepreneurs. The law also establishes cannabis job training programs at community colleges, with a majority of these programs at schools where the student population is more than 50 percent low-income.



Expungement of Criminal Convictions

The bill establishes a process for the expungement of convictions associated with the production or possession of no more than 30 grams of cannabis as long as convictions do not involve a violent crime. The expungement process will involve the Governor, state police and local state's attorneys. State's attorneys and individuals would be permitted to request that a court vacate convictions involving up to 500 grams of cannabis.

Limited Homegrow Authorized

Homegrow would be limited to individuals registered to use cannabis for medicinal purposes. The law allows an eligible person to grow no more than five plants.

