

# **ADULT USE CANNABIS SUMMARY**

*The following summarizes the major elements of the amendment that will be filed to Senate Bill 7 to legalize recreational adult use cannabis in Illinois.*

## **PERSONAL USE OF CANNABIS**

Starting January 1, 2020, adults over 21 will be able to legally purchase cannabis for recreational use from licensed dispensaries across the state.

- Possession limit for Illinois residents:
  - 30 grams of cannabis flower;
  - 5 grams of cannabis concentrate;
  - 500 milligrams of THC contained in a cannabis-infused product; or
  - People may possess more than 30 grams of cannabis if it is grown and secured in their residence under certain conditions.
  
- Possession limit for non-Illinois residents:
  - 15 grams of cannabis flower;
  - 2.5 grams of cannabis;
  - 250 milligrams of THC contained in a cannabis-infused product.
  
- The possession limits are to be considered cumulative.

## **COMPASSIONATE USE OF MEDICAL CANNABIS PILOT PROGRAM**

- The legalization of adult use cannabis does not alter the state’s medical cannabis pilot program.

## **PROMOTING EQUITY**

- Creation of a \$20 million low-interest loan program
  - DCEO will administer a low-interest loan program to qualified “social equity applicants” to help defray the start-up costs associated with entering the licensed cannabis industry.
  
- Establishment of a “social equity applicant” status for licensing
  - A social equity applicant is an Illinois resident that meets one of the following criteria:
    - Applicant with at least 51 percent ownership and control by one or more individuals who have resided for at least 5 of the preceding 10 years in a disproportionately impacted area.
    - Applicant with at least 51 percent ownership and control by one or more individuals who have been arrested for, convicted of, or adjudged to be a ward of the juvenile court for any offense that is eligible for expungement under this Act or member of an impacted family;
    - For applicants with a minimum of 10 full-time employees, an applicant with at least 51% of current employees who:
      - Currently reside in a disproportionately impacted area; or
      - Have been arrested for, convicted of, or adjudged to be a ward of the juvenile court for any offense that is eligible for expungement under this Act or member of an impacted family.

- Application for new entrants to the market
  - Scoring process for dispensaries. (The Department of Agriculture will develop a similar process through the rulemaking process for cultivation centers, processors, and craft growers.)
    - The legislation contains the scoring process IDFPR will use to review applications.
    - Out of a total of 200 points, 25 points are specifically designated for applicants that qualify as “social equity applicants.”
    - IDFPR may award up to 12 bonus points for applicants for preferred, but not required, initiatives. Bonus points will only be awarded in the event that the department receives a greater number of applications that meet the minimum number of points required.
      - Labor and employment practices (2)
      - Labor peace agreement (2)
      - Local community/neighborhood report (2)
      - Environmental plan (2)
      - Illinois owner (2)
      - A plan to engage the community (2)
- Fee waivers
  - The Department of Financial and Professional Regulation and the Department of Agriculture will waive 50 percent of any non-refundable license application fees (up to 2 applications) and any non-refundable fees associated with purchasing a license to operate a cannabis business establishment (up to two licenses) if social equity applicants meet certain conditions.
- Reducing up-front costs
  - Applicants who receive a conditional dispensing organization license will have 180 days from the date of the award to identify a physical location for the dispensing organization retail storefront when new entrants are allowed in the market. This will reduce the costs associated with entering the industry.
- Limitations on ownership
  - No person or entity shall hold any legal, equitable, or beneficial interest, directly or indirectly, of more than 3 cultivation centers.
  - No person or entity shall hold any legal, equitable, or beneficial interest, directly or indirectly, of more than 10 dispensing organizations.
  - No craft grower license shall be issued to any person or entity with more than 10% interest in a cultivation center.
  - No person or entity shall hold any legal, equitable, ownership, or beneficial interest, directly or indirectly, of more than one craft grower license under this article.
- Identify disproportionately impacted areas.
  - DCEO will designate “disproportionately impacted areas” for social equity applicants
    - “Disproportionately impacted area” is defined as a geographic area that is economically disadvantaged and has been impacted by high rates of arrest, conviction, and incarceration for violations of the Cannabis Control Act.

## ACHIEVING EQUITY THROUGH OWNERSHIP AND LICENSURE

*The following process is designed to ensure the most equitable marketplace in the country.*

- Early approval adult use license for current medical cannabis license holders
  - Timeline for licensing
    - Cultivation organizations:
      - Medical cannabis cultivators may apply for a license within 60 days of the effective date of the Act.
      - Licenses will be distributed to eligible applicants within 45 days.
    - Dispensing organizations:
      - Medical cannabis dispensaries may apply for a license within 60 days of the effective date of the Act.
      - Licenses will be distributed to eligible applicants within 14 days.
      - The sale of adult use cannabis will begin January 1, 2020.
      - These entities may apply for a second license at a new location under the same parameters.
  - Licensing costs for early approval adult use licenses
    - Cultivation organizations:
      - Non-refundable permit fee: \$100,000
      - Cannabis business development fund fee: 5% of total sales between July 1, 2018 to July 1, 2019 or \$500,000, whichever is less.
    - Dispensing organizations:
      - License 1
        - Non-refundable permit fee: \$30,000
        - Cannabis business development fund fee: 3% of total sales between July 1, 2018 to July 1, 2019 or \$100,000, whichever is less.
      - License 2
        - Non-refundable permit fee: 30,000
        - Cannabis business development fund fee: \$200,000
- New entrants to the adult use cannabis market
  - License types
    - Cultivation centers
    - Craft growers
    - Processors
    - Transporting organizations
    - Dispensing organizations
  - Timeline
    - WAVE 1
      - Department of Financial and Professional Regulation
        - May 1, 2020: The agency awards licenses for up to 75 new dispensing organizations
      - Department of Agriculture
        - July 1, 2020: The agency awards up to 40 licenses for processors, up to 40 licenses for craft growers, and licenses for transporting organizations.

- WAVE 2
  - Department of Financial and Professional Regulation
    - December 21, 2021: The agency awards up to 110 licenses for new dispensing organizations
  - Department of Agriculture
    - December 21, 2021: The agency awards up to 60 licenses for craft growers, up to 60 licenses for processors, and licenses for transporting organizations.
- Licensing costs for new entrants to the market
  - Craft growers
    - Non-refundable application fee \$5,000
    - License fee \$40,000
  - Processors
    - Non-refundable application fee \$5,000
    - License fee \$40,000
  - Transporting organizations
    - Non-refundable application fee \$5,000
    - License fee \$10,000
  - Dispensing organizations
    - Non-refundable application fee \$5,000
    - License fee \$30,000

#### **INVESTING IN COMMUNITIES THAT SUFFERED THROUGH THE WAR ON DRUGS**

- The proposal would establish a new grant program, the Restoring Our Communities (ROC) program, to invest in communities that have suffered the most because of discriminatory drug policies.
- ROC program overview
  - ICJIA will designate “ROC Areas” or locations where applicants will be eligible to apply for state funding through the ROC Board.
  - The ROC Board will consist of over 22 members and be chaired by the Governor, or his designee, and the Attorney General, or his designee.
  - The ROC Board will develop a grant application, solicit applications from eligible ROC Areas, distribute grants across the state, and monitor and evaluate ROC programs.
  - The ROC Board will deliver an annual report to the Governor’s Office about its progress.

## EXPUNGING RECORDS

The following stand-alone offenses eligible for expungement.

<b>Section 4 Possession</b> (unlawful for any person to knowingly possess cannabis in the following amounts)		
a. <10g	Civil law violation	Fees; May be given probation and charges dismissed §10(a)
b. 10-30g	Class B Misdemeanor	<6 months; May be given probation and charges dismissed §10(a)
c. 30-100g	Class A Misdemeanor	<1 year; May be given probation and charges dismissed §10(a)
d. 100-500g	Class 4 Felony	1-3 years
<b>Section 5 Manufacturer/Deliver</b> (unlawful for any person knowingly to manufacture, deliver, or possess with intent to deliver or manufacture cannabis in the following amounts)		
a. <2.5g	Class B Misdemeanor	<6 months; May be given probation and charges dismissed §10(a)
b. 2.5-10g	Class A Misdemeanor	<1 year; May be given probation and charges dismissed §10(a)
c. 10-30g	Class 4 Felony	1-3 years; May be given probation and charges dismissed §10(a)
<b>Section 8 Plants</b> (unlawful for any person knowingly to produce or possess cannabis sativa plant unless authorized for purposes of research)		
a. < 5 plants	Class A Misdemeanor	< 1 year; May be given probation and charges dismissed §10(a)
b. 5-20 plants	Class 4 Felony	1-3 years; May be given probation and charges dismissed §10(a)

- Process for expungement
  - The proposal sets forth an expedited process of expunging the criminal records of individuals arrested, convicted, on supervision, or on probation for misdemeanor or Class 4 felony

violations of the Cannabis Control Act. The primary goals of this section are to (1) expunge cannabis-related records, and (2) streamline the process.

- The automatic expungement process requires the following:
  - The Department of State Police must identify all individuals with criminal records that are eligible for expungement and automatically expunge records of minor violations within two years of the effective date of the Act.
  - Within 180 days of the effective date of this act, the Department of State Police must notify (a) the prosecutor's offices responsible for prosecuting the offenses, (b) local law enforcement agencies, and (c) the Illinois Attorney General's office identifying all individuals with minor violations that are eligible for expungement.
  - Within 180 days of receipt of the notice from the Department of State Police, the appropriate States Attorney's offices shall file a proposed order with the court seeking expungement on behalf of individuals with eligible offenses. The Attorney General's office may file the proposed order if the State's Attorney has not.
  - Within 180 days after receiving the proposed order, the court will review the proposed order and order the expungement of court and law enforcement records unless it determines that the offense does not meet the definition of a minor violation.
  - The court will provide copies of the order to the Department of State Police, the arresting agency, relevant criminal justice agencies, and the individual whose record has been expunged.
- **The automatic expungement process does not apply to individuals with misdemeanor or Class 4 felony violations that were accompanied by charges other than a qualifying offense. Individuals with those records, and individuals in other circumstances, may separately petition the court to have their records expunged.**

## EMPLOYMENT

- Nothing in the proposal prohibits employers from adopting reasonable employment policies concerning smoking, consumption, storage or use of cannabis in the workplace.
- Nothing in the proposal prohibits employers from disciplining an employee or terminating employment of an employee for violating the employer's employment policies or workplace drug policy.

## TAXATION

- All taxes are deposited in the new Cannabis Regulation Fund
- Cultivation privilege tax
  - 7% of the gross receipts from the sale of cannabis by a cultivator, craft grower, or processor to a dispensing organization
- Cannabis purchaser excise tax:
  - 10% of the purchase price – Cannabis with a THC level at or below 35%
  - 20% of the purchase price – All cannabis infused products
  - 25% of the purchase price – Cannabis with a THC level above 35%
  - These taxes shall be in addition to all other occupation, privilege, or excise taxes imposed by the State of Illinois or by any municipal corporation or political subdivision.
- Municipal purchaser excise tax:
  - Municipalities may enact a purchaser excise tax up to 3% in increments of 0.25%
  - Counties may enact a purchaser excise tax up to 0.5% in incorporated areas in increments of 0.25%
  - Unincorporated areas may adopt a purchaser excise tax up to 3.5% in increments of 0.25%

## ALLOCATION OF STATE REVENUE

- The Department of Revenue will provide an official FY20 revenue estimate in the coming days.
- Tax revenue will be deposited in the new Cannabis Regulation Fund
- State agencies responsible for administering the adult use cannabis program will receive resources to cover administrative costs from the taxes collected by the program.
- All remaining revenue will be allocated as follows:
  - 35% will be transferred to the General Revenue Fund,
  - 25% will be transferred to the Restoring Our Communities Fund for community reinvestment,
  - 20% will be transferred to a fund that will support mental health and substance abuse services at local health departments,
  - 10% will be transferred to the Budget Stabilization Fund to pay the backlog of unpaid bills,
  - 8% will be transferred to the Illinois Law Enforcement Training and Standards Board to create a law enforcement grant program, and
  - 2% will be transferred to the Drug Treatment Fund to fund public education and awareness.

## GOVERNANCE

- Governor's Office
  - The Governor will appoint a Cannabis Regulation Oversight Officer who will be stationed in IDFPR. This person, and his or her team, will have the authority to make statutory and regulatory recommendations concerning the adult use program. This person will also coordinate efforts between state agencies involved in regulating and taxing the sale of cannabis in Illinois.
- Department of Revenue
  - Responsible for enforcing and collecting taxes associated with the sale of cannabis.
- Department of Agriculture
  - Responsible for licensure and oversight of cultivation centers, craft growers, processing organizations, and transporting organizations.
  - Responsible for authorizing laboratories that test cannabis
- Department of Financial and Professional Regulation
  - Responsible for licensure and oversight of dispensing organizations.
- Illinois State Police
  - Responsible for conducting background checks on everyone involved in the licensed cannabis sector.
  - Responsible for reviewing security plans for all licensed entities.
  - Responsible for reviewing all criminal history record information and identifying all individuals with minor violations that are eligible for automatic expungement.
- Department of Public Health
  - Responsible for developing recommendations surrounding health warnings and facilitating the Adult Use Cannabis Public Health Advisory Committee.
- Department of Commerce and Economic Opportunity
  - Responsible for administering a loan program, a grant program, and technical assistance for social equity applicants.
- Department of Human Services
  - Responsible for making recommendations to the Adult Use Cannabis Public Health Advisory Committee regarding drug treatment and prevention.
  - Responsible for developing and disseminating consumer education materials.
- ICJIA

- Responsible for designating ROC areas across the state that may apply for funding from the ROC board for community reinvestment.

## **PUBLIC HEALTH AND SAFETY**

- Twenty percent of revenue generated by the sale of adult use cannabis will support efforts to address substance abuse and mental health.
- Advertising
  - No cannabis business establishment shall place or maintain, or cause to be placed or maintained, an advertisement, of cannabis or a cannabis-infused product in any form or through any medium:
    - Within 1,000 feet of the perimeter of a school grounds, playground, hospital, healthcare facility, recreation center or facility, child care center, public park or public library, or any arcade to which admission is not restricted to person's age 21 years or older;
    - On or in a public transit vehicle or public transit shelter;
    - On or in a publicly owned or public operated property;
    - Which contains information that is false or misleading, promotes excessive consumption, depicts a person under 21 years of age consuming cannabis, includes the image of a cannabis leaf; or
    - Includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that are popularly used to advertise to children, or any imitation of candy packaging or labeling, or that promotes the consumption of cannabis.
    - These restrictions do not apply to noncommercial messages.
- Packaging requirements
  - The following warnings shall apply to all cannabis products: "This product contains cannabis and is intended for use by adults 21 and over. Its use can impair cognition and may be habit forming. This product should not be used by pregnant or breastfeeding women. It is unlawful to sell or provide this item to any individual, and may not be transported outside the state of Illinois. It is illegal to operate a motor vehicle while under the influence of cannabis. Possession or use of this product may carry significant legal penalties in some jurisdictions and under federal law."
  - All harvested cannabis intended for distribution to a cannabis enterprise must be packaged in a sealed, labeled container.
  - Packaging of any product containing cannabis shall be child-resistant and light-resistant consistent with current standards, including the Consumer Product Safety Commission standards referenced by the Poison Prevention Act.
  - The label of each cannabis product shall contain, among other things, a "use by" date on the label, the quantity of cannabis contained in the product, and a content list.
  - All cannabis products must contain warning statements established for consumers, of a size to be legible and readily visible to a consumer inspecting a package, which may not be covered or obscured in any way.
  - Packaging must not contain information that:
    - Is false or misleading;
    - Promotes excessive consumption;
    - Depicts a person under 21 years of age consuming cannabis;

- Includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that are popularly used to advertise to children, or any packaging or labeling that bears resemblance to any product available for consumption as a commercially available candy, or that promotes consumption of cannabis;
- Contains any seal, flag, crest, coat of arms, or other insignia likely to mislead the consumer to believe that the product has been endorsed, made or used by the State of Illinois.

## **HOME GROW**

- Illinois households are permitted to grow up to five cannabis plants under certain conditions:
  - The grower is an adult aged 21 or older,
  - The grower is in a household that owns the residence or has permission from the owner,
  - The grower is limited to growing 5 or less plants,
  - The grower must keep cannabis in a separately locked room away from members of the household who are under 21, and
  - The grower is prohibited from growing cannabis in public view.

## **LOCAL ORDINANCES**

- Municipalities may pass ordinances prohibiting the establishments of dispensaries in their jurisdiction.
  - Local units of government must adopt 'opt out' ordinances within one year of the effective date of the statute or they are limited to adopting 'opt out' provisions via local referendum.
- Municipalities may enact reasonable zoning restrictions pertaining to licensed cultivation centers, craft growers, processing organizations, and dispensaries.