

**Illinois Department of Revenue
Regulations**

Title 86 Part 423 Section 160 Search Warrant; Issuance and Return; Process; Confiscation of Cannabis; Forfeitures
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**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 423
CANNABIS PURCHASER EXCISE TAX**

Section 423.160 Search Warrant; Issuance and Return; Process; Confiscation of Cannabis; Forfeitures

- a) *If a peace officer of this State or any duly authorized officer or employee of the Department has reason to believe that any violation of the Law or this Part has occurred and that the person violating the law or this Part has in that person's possession any cannabis in violation of the Law or this Part, that peace officer or officer or employee of the Department may file or cause to be filed his or her complaint in writing, verified by affidavit, with any court within whose jurisdiction the premises to be searched are situated, stating the facts upon which the belief is founded, the premises to be searched, and the property to be seized, and procure a search warrant and execute that warrant.*
- b) *Upon the execution of the search warrant, the peace officer, or officer or employee of the Department executing the search warrant shall make due return of the warrant to the court issuing the warrant, together with an inventory of the property taken under the warrant. The court must then issue process against the owner of the property if the owner is known; otherwise, process must be issued against the person in whose possession the property is found, if that person is known. In case of inability to serve process upon the owner or the person in possession of the property at the time of its seizure, notice of the proceedings before the court must be given in the same manner as required by the law governing cases of attachment. Upon the return of the process duly served or upon the posting or publishing of notice made, as appropriate, the court or jury, if a jury is demanded, shall proceed to determine whether the property so seized was held or possessed in violation of the Law or this Part. If a violation is found, judgment shall be entered confiscating the property and forfeiting it to the State and ordering its delivery to the Department. In addition, the court may tax and assess the costs of the proceedings.*
- c) *When any cannabis has been declared forfeited to the State by the Department, as provided in Section 423.155 and this Section, and when all proceedings for the judicial review of the Department's decision have terminated, the Department will, to the extent that its decision is sustained on review, destroy or maintain and use the cannabis in an undercover capacity.*
- d) *The Department may, before any destruction of cannabis, permit the true holder of trademark rights in the cannabis to inspect the cannabis in order to assist the Department in any investigation regarding the cannabis. [410 ILCS 705/65-43]*

(SOURCE: Adopted at 44 Ill. Reg.10751, effective June 02, 2020.)

