

Adult-Use Cannabis

The Cannabis Regulation and Tax Act ([410 ILCS 705/1-1 et seq.](#)) legalized the possession and private use of cannabis for Illinois residents 21 years of age or older, effective January 1, 2020. On July 15, 2021, Governor JB Pritzker signed HB 1443, now Public Act (P.A.) 102-0098, which amends the Cannabis Regulation and Tax Act and the Compassionate Use of Medical Cannabis Program Act ([410 ILCS 130/1 et seq.](#)).



LOCAL REGULATION OF CONSUMPTION

Municipalities may not restrict the private consumption of cannabis that is authorized by the Act. However, the Act prohibits the use of cannabis in public places, schools and child care facilities among other locations. Municipalities may adopt and enforce local ordinances to regulate possession and public consumption of cannabis, so long as the regulations and penalties are consistent with the Act.

HOME GROW LIMITED TO MEDICAL PROGRAM PARTICIPANTS

Home grow cannabis is authorized only for medical cannabis program participants, limited to five plants in their residence, and is subject to specified restrictions. Home grow of recreational cannabis by non-medical participants is prohibited. [More information about the medical cannabis program is available via this link.](#)



ZONING

The Act preserves local zoning authority and directly authorizes municipalities to prohibit (opt out) or significantly limit the location of cannabis businesses by ordinance. Municipalities have the authority to enact reasonable zoning regulations that are not in conflict with the Act. This includes the authority to opt out of either commercial production or distribution (dispensaries) of adult-use cannabis within their jurisdiction. Municipalities may enact zoning ordinances and regulations designating the time, place, manner and number of cannabis business operations, including minimum distances between locations through conditional use permits. In order to

accommodate the sale of adult-use cannabis by operators of medical cannabis dispensaries, P.A. 102-0098 authorizes the relocation of medical cannabis dispensaries to sites outside of a jurisdiction that prohibits adult-use cannabis retail sales, and authorizes the relocation of sites that initially accommodated medical dispensaries but are not optimal for adult-use cannabis retail sales. Any relocation remains subject to local ordinances that prohibit or regulate adult-use cannabis establishments.

BUSINESS REGULATION

In addition to zoning authority, municipalities have the authority to allow for on-premises use of cannabis at licensed cannabis dispensaries and retail tobacco stores. The Act anticipates that local authorities may engage in inspections of cannabis-related businesses. Municipalities may establish and impose civil penalties for violations of the local ordinances and regulations.

LOCAL REVENUE

Municipalities, by ordinance, may impose a Municipal Cannabis Retailers' Occupation Tax on adult-use cannabis products of up to 3% of the purchase price, in 0.25% increments. Counties may impose up to 3.75% in unincorporated areas, and up to 3% within municipalities, both in 0.25% increments. The taxes imposed under this Act shall be in addition to all other occupation, privilege or excise taxes imposed by the State of Illinois or by any unit of local government, such as regular sales tax. The Illinois Municipal Code provides that municipal tax ordinances adopted and certified to the Illinois Department of Revenue (IDOR) on or before April 1 of any year, shall be administered and those local tax collections enforced by IDOR commencing on July 1 of the same year. Ordinances adopted and certified to IDOR on or before October 1 of any year shall be administered and collections enforced by IDOR commencing on January 1 of the following year. ([65 ILCS 5/8-11-23](#)).



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SMOKE FREE ILLINOIS ACT

The Act applies the restrictions of the Smoke Free Illinois Act on smoking cannabis, and provides that property owners may prohibit the use of cannabis by any guest, lessee, customer or visitor. In addition, lessors may prohibit cultivation of cannabis by their lessees.

EMPLOYER PROVISIONS

The Act provides employer protections including that nothing in the enactment prohibits employers from adopting reasonable zero-tolerance or drug-free workplace employment policies concerning drug testing, smoking, consumption, storage or use of cannabis in the workplace or while on-call. The Act provides that those policies may include pre-employment and random drug testing for cannabis. Those policies must be applied in a nondiscriminatory manner. Employers may prohibit the use of cannabis by employees in the workplace and engage in discipline, including termination, for violations of those policies and workplace rules. The Act further provides that public employers may prohibit the consumption, possession, sales, purchase or delivery of cannabis or cannabis-infused substances while on or off duty by law enforcement officers, correctional officers, probation officers, paramedics or firefighters.

STATE LICENSING

The Act authorizes the production and distribution of cannabis and cannabis products through state-licensed cultivators, craft growers, infusers, transporters and dispensaries. Cannabis transporters are separately licensed by the Act. P.A. 103-0578 waives the required fees for cannabis transporter licenses from January 1, 2024, through January 1, 2027, and also places a moratorium on new cannabis organization licenses until January 1, 2027. The state issues licenses according to a graduated scale. The Act allows up to 500 dispensing organizations and up to 30 cultivation center licenses. As of December 13, 2023, 87 cannabis craft grower licenses and 55 cannabis transporter licenses have been issued by the Illinois Department of Agriculture.

GRANTS AND INVESTMENT

The Act establishes the Restore, Reinvest and Renew (R3) Program to invest in communities historically impacted by economic disinvestment and violence. The Illinois Criminal Justice Information Authority (ICJIA) has identified R3 areas that qualify for funding, and grants will be awarded through the R3 program.

SOCIAL EQUITY

The Act provides for a social equity program to establish a legal adult-use cannabis industry that is accessible to those most adversely impacted by the enforcement of drug-related laws in this state, including cannabis-related laws. Qualifying social equity applicants may be awarded financial assistance and incentives if they are interested in establishing cannabis related businesses. P.A. 102-0098 provides for the award of up to five social equity justice involved medical cannabis dispensing organization licenses in a lottery. A lottery will address issues with the previous award process for adult-use dispensing organizations and will allocate licenses to applicants that tied the high score in that process. In order to advance the goal of providing economic opportunity to disproportionately impacted individuals and communities, P.A. 102-0098 provides that 110 conditional adult-use dispensing organization licenses will be awarded through two other lotteries. Fifty-five licenses will be awarded by lot in a qualifying applicant lottery distributed by region, and 55 social equity justice involved licenses will be awarded in a lottery distributed by region. Social equity and social equity justice involved applicants may be granted a state license for a site within 1,500 feet of a dispensing organization, but must still obtain local approval for the site.

STATE REVENUE

State revenues derived from the Cannabis Regulation and Tax Act are deposited into the Cannabis Regulation Fund. The funds are distributed to multiple state agencies for implementation of the Act. The legalization of adult-use cannabis also includes a new source of Local Government Distributive Fund (LGDF) dollars. A portion of Cannabis Regulation Fund revenues (8% of deposits) go to local governments, through LGDF, which are used to fund crime prevention programs, training and interdiction efforts. The Cannabis Regulation Fund is derived from monies collected from state taxes, license fees and other amounts required to be transferred into the Fund.

DECRIMINALIZATION AND EXPUNGEMENTS

A significant portion of the Act addresses the decriminalization of cannabis through mandatory and discretionary expungements of criminal convictions relating to non-violent cannabis offenses. The Act provides that all law enforcement agencies must expunge qualifying records on a schedule based on when the records were created. In response to an inquiry for expunged records, the law enforcement agency receiving such inquiry shall reply as it does when no records ever existed. It shall provide a certificate of disposition or confirmation that the record was expunged to the individual whose record was expunged.

