

Illinois Set to Legalize Recreational Marijuana

By Madison Lisotto Whalen

Illinois will soon become the eleventh state to legalize recreational marijuana. The Illinois Legislature passed the Cannabis Regulation and Tax Act ([HB 1438](#)), which allows the legal possession and sale of recreational marijuana beginning January 1, 2020 for adults ages twenty-one (21) and older. This is the first time a state's legislature voted to approve the recreational use of marijuana, rather than the legalization coming through a public referendum. The other ten states include: California, Colorado, DC, Maine, Massachusetts, Michigan, Nevada, Oregon, Washington and Vermont. Illinois Governor J.B. Pritzker is expected to sign the bill into law soon.

Proponents of this legislation emphasized the new revenue that will result from this measure, stating it will not only create new jobs and financial opportunities for state residents, but will also result in additional tax revenue for the state's budget because marijuana will be treated like alcohol in terms of taxation and regulation. In addition to the typical state and local taxes, recreational marijuana sales will have additional taxation rates including:

- Ten percent (10%) for tetrahydrocannabinol ("THC") levels at or less than thirty-five percent (35%);
- Twenty percent (20%) for cannabis-infused products such as edibles; and,
- Twenty-five percent (25%) for THC concentrations of more than thirty-five percent (35%).

Moreover, municipalities have the ability to add special taxes of up to three percent (3%), counties can add up to three and seventy-five hundredth percent (3.75%) in unincorporated areas, and Cook County can add up to three percent (3%) in municipalities.

The Cannabis and Tax Regulation Act provides municipalities and counties with the ability to ban cannabis businesses within their boundaries, however they cannot ban individual possession. Use on private property can be prohibited by the property owner and employers may still maintain zero tolerance workplaces. This law also addresses individuals who have been previously convicted of marijuana possession of up to thirty (30) grams, requiring their referral to the Prisoner Review Board and information sent to the Governor for pardon. Further, public records of arrests and convictions will be expunged or deleted by the Attorney General. Some of the state's anticipated increased tax revenue will be used to help pay for this process.

The Act puts in place a number of limitations and restrictions to include:

- Only persons registered as qualifying patients under the state's existing medical cannabis program can grow marijuana for personal use in their own homes.
- Expungement of minor cannabis offenses was narrowed to exclude felony convictions, though the time period to complete the expungement process was extended.
- Consumption of cannabis is prohibited in public places, on school grounds and "in close physical proximity" to those under the age of twenty-one (21).

- Driving under the influence of cannabis, as well as possession in a motor vehicle, is prohibited, unless the cannabis in the motor vehicle is “reasonably inaccessible.”
- Possession is restricted to thirty (30) grams or less of raw cannabis, five (5) grams of cannabis concentrate, one (1) ounce of flower, or cannabis-infused products with up to five hundred (500) milligrams of THC. Adult visitors to the state of Illinois can possess up to fifteen (15) grams of marijuana.
- Home delivery of cannabis to a consumer by a cannabis business is prohibited.
- Cannabis products may not be transported over state lines.

The passage of the Cannabis and Tax Regulation Act in Illinois is yet another step toward loosening restrictions on cannabis even though questions still remain including workplace policies, operating restrictions on cannabis businesses, tax implications, and complications between local, state and federal law.

Please contact any of the listed attorneys to help you understand, and work through, all of your cannabis-related questions.

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