



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5472

by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

New Act
410 ILCS 82/35
410 ILCS 705/10-35
410 ILCS 705/55-25

Creates the Local Cannabis Licensing Act. Provides that a governmental unit (a county or municipality) may issue licenses for temporary events, cannabis clubs, and cannabis tours that will allow for the sale and consumption of cannabis or cannabis-infused products and for the sale of cannabis paraphernalia at such temporary events, clubs, or tours. Allows tours of cannabis craft grower or cultivation center facilities. Requires ordinances with specified regulations of such temporary events, cannabis clubs, and cannabis tours before any licenses are issued. Limits home rule powers. Amends the Cannabis Regulation and Tax Act and Smoke Free Illinois Act making conforming changes. Effective immediately.

LRB101 20538 AWJ 70152 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Local
5 Cannabis Licensing Act.

6 Section 5. Definitions. As used in this Act:

7 "Cannabis business establishment", "cannabis",
8 "cannabis-infused product", "cannabis paraphernalia", "craft
9 grower", "cultivation center", "dispensing organization", and
10 "dispensing organization agent" have the meanings given to
11 those terms in the Cannabis Regulation and Tax Act.

12 "Cannabis club" means a public or private restaurant, bar,
13 or other business licensed under Section 15 that allows
14 communal consumption of cannabis or cannabis-infused products
15 on premises.

16 "Governmental unit" means a county or municipality.

17 Section 10. Temporary event licenses.

18 (a) The consumption and sale of cannabis, cannabis-infused
19 products, or cannabis paraphernalia at a temporary event is
20 subject to regulation by a municipality, for events within the
21 municipality, and a county, for events outside of a
22 municipality.

1 (b) A person conducting a temporary event for the
2 consumption and sale of cannabis, cannabis-infused products,
3 or cannabis paraphernalia must hold a temporary event license
4 issued by the governmental unit for the premises at which the
5 temporary event is conducted.

6 (c) An applicant for a temporary event license under this
7 Section must:

8 (1) apply for the license in the manner required by
9 ordinance of the governmental unit;

10 (2) provide proof that the applicant is 21 years of age
11 or older; and

12 (3) submit a plan to the governmental unit, in a form
13 and manner prescribed by the governmental unit, detailing
14 how persons under 21 years of age will be prevented from
15 gaining access to the premises at which the temporary event
16 is to be conducted.

17 (d) The premises at which an applicant intends to conduct a
18 temporary event may not be located:

19 (1) in an area that is zoned exclusively for
20 residential use; or

21 (2) within 1,000 feet of a public or private elementary
22 or secondary school.

23 (e) An applicant for a temporary event license under this
24 Section and the premises at which the temporary event is to be
25 conducted must meet the requirements of any ordinance adopted
26 by the governmental unit under this subsection.

1 Before a governmental unit may issue any temporary event
2 license under this Section, the governmental unit must adopt an
3 ordinance which includes:

4 (1) application and licensure fees for a license issued
5 under this Section;

6 (2) the maximum term of a license issued under this
7 Section;

8 (3) a prohibition on licenses issued under this Section
9 from being continuously issued for a single location;

10 (4) a requirement that sold on a premises for which a
11 license has been issued under this Section will be sold by
12 a cannabis business establishment;

13 (5) allowing the consumption of cannabis or
14 cannabis-infused products in designated areas of a
15 premises for which a license has been issued under this
16 Section;

17 (6) a requirement that each enclosed portion of a
18 premises for which a license has been issued under this
19 Section where cannabis or cannabis-infused products are
20 smoked, aerosolized, or vaporized must have a ventilation
21 system that:

22 (A) exhausts smoke, aerosols, and vapors from that
23 portion of the premises; and

24 (B) is designed and terminated in accordance with
25 building code standards for the applicable occupancy
26 classification; and

1 (7) a requirement that a premises for which a license
2 has been issued under this Section must meet any public
3 health and safety standards and industry best practices
4 established by the governmental unit by rule or ordinance.

5 The governmental unit may not adopt an ordinance or rule
6 that:

7 (1) prohibits a person that holds a license issued
8 under this Section from adopting policies that allow
9 persons attending the temporary event to bring cannabis,
10 cannabis-infused products, or cannabis paraphernalia into
11 the temporary event; or

12 (2) imposes public health or safety standards on
13 temporary events if those standards serve no purpose other
14 than deterring the consumption of cannabis or
15 cannabis-infused products at a temporary event.

16 (f) License fees adopted under of this Section must be
17 reasonably related to the cost of inspecting and regulating the
18 temporary event.

19 Section 15. Cannabis clubs.

20 (a) The consumption of cannabis or cannabis-infused
21 products at a cannabis club is subject to regulation by a
22 municipality, for cannabis clubs within the municipality, and a
23 county, for cannabis clubs outside of a municipality.

24 (b) A person operating a cannabis club must hold a cannabis
25 club license issued by the governmental unit for the premises

1 at which the consumption occurs.

2 (c) An applicant for a cannabis club license under this
3 Section must:

4 (1) apply for the license in the manner required by
5 ordinance of the governmental unit; and

6 (2) provide proof that the applicant is 21 years of age
7 or older.

8 (d) The premises at which an applicant intends to have a
9 cannabis club may not be located:

10 (1) in an area that is zoned exclusively for
11 residential use; or

12 (2) within 1,000 feet of a public or private elementary
13 or secondary school.

14 (e) An applicant for a cannabis club license under this
15 Section and the premises at which the cannabis club is to be
16 located must meet the requirements of any ordinance adopted by
17 the governmental unit under this subsection. The ordinance must
18 include:

19 (1) a requirement that a person that holds a license
20 must renew the license annually;

21 (2) fees for the application, licensure, and renewal of
22 licensure for a license;

23 (3) a restriction on the consumption of cannabis or
24 cannabis-infused products to designated enclosed areas of
25 a premises for which a license has been issued;

26 (4) a prohibition of the production, propagation, and

1 processing of cannabis, cannabis-infused products, or
2 cannabis paraphernalia on a premises for which a license
3 has been issued;

4 (5) a requirement that cannabis, cannabis-infused
5 products, or cannabis paraphernalia sold on a premises for
6 which a license has been issued shall be sold by a
7 dispensing organization;

8 (6) a requirement that each enclosed portion of a
9 premises for which a license has been issued under this
10 Section where cannabis or cannabis-infused products are
11 smoked, aerosolized, or vaporized must have a ventilation
12 system that:

13 (A) exhausts smoke, aerosols, and vapors from that
14 portion of the premises; and

15 (B) is designed and terminated in accordance with
16 building code standards for the applicable occupancy
17 classification; and

18 (7) a requirement that a premises for which a license
19 has been issued under this Section must meet any public
20 health and safety standards and industry best practices
21 established by the governmental unit by rule or ordinance.

22 The governmental unit may not adopt an ordinance or rule
23 that:

24 (1) prohibits a person that holds a license issued
25 under this Section from adopting policies that allow
26 persons present at the cannabis club to bring cannabis,

1 cannabis-infused products, or cannabis paraphernalia into
2 the cannabis club; or

3 (2) imposes public health or safety standards on
4 cannabis clubs if those standards serve no purpose other
5 than deterring the consumption of cannabis or
6 cannabis-infused products at a cannabis club.

7 (f) License fees adopted under of this Section must be
8 reasonably related to the cost of inspecting and regulating the
9 cannabis club.

10 (g) If any provision of this Section conflicts with
11 paragraph (8) of Section 35 of the Smoke Free Illinois Act
12 relating to a dispensing organization, the provisions of
13 paragraph (8) of Section 35 of the Smoke Free Illinois Act
14 prevail.

15 Section 20. Cannabis tours.

16 (a) A craft grower or cultivation center may offer tours to
17 the public of its licensed facility.

18 (b) A tour may be offered only to persons who are 21 years
19 of age or older.

20 (c) A craft grower or cultivation center that offers tours
21 under this Section may enter into a contract with a dispensing
22 organization to allow an dispensing organization agent to sell
23 cannabis, cannabis-infused products, or cannabis paraphernalia
24 during the tour on the premises of the craft grower or
25 cultivation center offering the tour.

1 (d) The governmental unit may:

2 (1) require a craft grower or cultivation center to
3 submit to the governmental unit, in a form and manner
4 prescribed by the governmental unit, a plan that details
5 how the craft grower or cultivation center will:

6 (A) prevent persons who are under 21 years of age
7 from entering the premises of the craft grower or
8 cultivation center during a tour; and

9 (B) ensure the health and safety of persons taking
10 a tour; or

11 (2) adopt ordinances or rules as necessary to carry out
12 the provisions of this Section.

13 Section 25. Home rule. A home rule unit may not regulate or
14 license temporary events, cannabis clubs, or cannabis tours in
15 a manner inconsistent with this Act. This Act is a limitation
16 under subsection (i) of Section 6 of Article VII of the
17 Illinois Constitution on the concurrent exercise by home rule
18 units of powers and functions exercised by the State.

19 Section 900. The Smoke Free Illinois Act is amended by
20 changing Section 35 as follows:

21 (410 ILCS 82/35)

22 Sec. 35. Exemptions. Notwithstanding any other provision
23 of this Act, smoking is allowed in the following areas:

1 (1) Private residences or dwelling places, except when
2 used as a child care, adult day care, or healthcare
3 facility or any other home-based business open to the
4 public.

5 (2) Retail tobacco stores as defined in Section 10 of
6 this Act in operation prior to the effective date of this
7 amendatory Act of the 95th General Assembly. The retail
8 tobacco store shall annually file with the Department by
9 January 31st an affidavit stating the percentage of its
10 gross income during the prior calendar year that was
11 derived from the sale of loose tobacco, plants, or herbs
12 and cigars, cigarettes, pipes, or other smoking devices for
13 smoking tobacco and related smoking accessories. Any
14 retail tobacco store that begins operation after the
15 effective date of this amendatory Act may only qualify for
16 an exemption if located in a freestanding structure
17 occupied solely by the business and smoke from the business
18 does not migrate into an enclosed area where smoking is
19 prohibited. A retail tobacco store may, with authorization
20 or permission from a unit of local government, including a
21 home rule unit, or any non-home rule county within the
22 unincorporated territory of the county, allow the
23 on-premises consumption of cannabis in a specially
24 designated areas.

25 (3) (Blank).

26 (4) Hotel and motel sleeping rooms that are rented to

1 guests and are designated as smoking rooms, provided that
2 all smoking rooms on the same floor must be contiguous and
3 smoke from these rooms must not infiltrate into nonsmoking
4 rooms or other areas where smoking is prohibited. Not more
5 than 25% of the rooms rented to guests in a hotel or motel
6 may be designated as rooms where smoking is allowed. The
7 status of rooms as smoking or nonsmoking may not be
8 changed, except to permanently add additional nonsmoking
9 rooms.

10 (5) Enclosed laboratories that are excluded from the
11 definition of "place of employment" in Section 10 of this
12 Act. Rulemaking authority to implement this amendatory Act
13 of the 95th General Assembly, if any, is conditioned on the
14 rules being adopted in accordance with all provisions of
15 the Illinois Administrative Procedure Act and all rules and
16 procedures of the Joint Committee on Administrative Rules;
17 any purported rule not so adopted, for whatever reason, is
18 unauthorized.

19 (6) Common smoking rooms in long-term care facilities
20 operated under the authority of the Illinois Department of
21 Veterans' Affairs or licensed under the Nursing Home Care
22 Act that are accessible only to residents who are smokers
23 and have requested in writing to have access to the common
24 smoking room where smoking is permitted and the smoke shall
25 not infiltrate other areas of the long-term care facility.
26 Rulemaking authority to implement this amendatory Act of

1 the 95th General Assembly, if any, is conditioned on the
2 rules being adopted in accordance with all provisions of
3 the Illinois Administrative Procedure Act and all rules and
4 procedures of the Joint Committee on Administrative Rules;
5 any purported rule not so adopted, for whatever reason, is
6 unauthorized.

7 (7) A convention hall of the Donald E. Stephens
8 Convention Center where a meeting or trade show for
9 manufacturers and suppliers of tobacco and tobacco
10 products and accessories is being held, during the time the
11 meeting or trade show is occurring, if the meeting or trade
12 show:

13 (i) is a trade-only event and not open to the
14 public;

15 (ii) is limited to attendees and exhibitors that
16 are 21 years of age or older;

17 (iii) is being produced or organized by a business
18 relating to tobacco or a professional association for
19 convenience stores; and

20 (iv) involves the display of tobacco products.

21 Smoking is not allowed in any public area outside of
22 the hall designated for the meeting or trade show.

23 This paragraph (7) is inoperative on and after October
24 1, 2015.

25 (8) A dispensing organization, as defined in the
26 Cannabis Regulation and Tax Act, authorized or permitted by

1 a unit local government to allow on-site consumption of
2 cannabis, if the establishment: (1) maintains a specially
3 designated area or areas for the purpose of heating,
4 burning, smoking, or lighting cannabis; (2) is limited to
5 individuals 21 or older; and (3) maintains a locked door or
6 barrier to any specially designated areas for the purpose
7 of heating, burning, smoking or lighting cannabis.

8 (9) Temporary events, cannabis clubs, or cannabis
9 tours licensed under the Local Cannabis Licensing Act.

10 (Source: P.A. 101-593, eff. 12-4-19.)

11 Section 905. The Cannabis Regulation and Tax Act is amended
12 by changing Sections 10-35 and 55-25 as follows:

13 (410 ILCS 705/10-35)

14 Sec. 10-35. Limitations and penalties.

15 (a) This Act does not permit any person to engage in, and
16 does not prevent the imposition of any civil, criminal, or
17 other penalties for engaging in, any of the following conduct:

18 (1) undertaking any task under the influence of
19 cannabis when doing so would constitute negligence,
20 professional malpractice, or professional misconduct;

21 (2) possessing cannabis:

22 (A) in a school bus, unless permitted for a
23 qualifying patient or caregiver pursuant to the
24 Compassionate Use of Medical Cannabis Program Act;

1 (B) on the grounds of any preschool or primary or
2 secondary school, unless permitted for a qualifying
3 patient or caregiver pursuant to the Compassionate Use
4 of Medical Cannabis Program Act;

5 (C) in any correctional facility;

6 (D) in a vehicle not open to the public unless the
7 cannabis is in a reasonably secured, sealed container
8 and reasonably inaccessible while the vehicle is
9 moving; or

10 (E) in a private residence that is used at any time
11 to provide licensed child care or other similar social
12 service care on the premises;

13 (3) using cannabis:

14 (A) in a school bus, unless permitted for a
15 qualifying patient or caregiver pursuant to the
16 Compassionate Use of Medical Cannabis Program Act;

17 (B) on the grounds of any preschool or primary or
18 secondary school, unless permitted for a qualifying
19 patient or caregiver pursuant to the Compassionate Use
20 of Medical Cannabis Program Act;

21 (C) in any correctional facility;

22 (D) in any motor vehicle;

23 (E) in a private residence that is used at any time
24 to provide licensed child care or other similar social
25 service care on the premises;

26 (F) in any public place; or

1 (G) knowingly in close physical proximity to
2 anyone under 21 years of age who is not a registered
3 medical cannabis patient under the Compassionate Use
4 of Medical Cannabis Program Act;

5 (4) smoking cannabis in any place where smoking is
6 prohibited under the Smoke Free Illinois Act;

7 (5) operating, navigating, or being in actual physical
8 control of any motor vehicle, aircraft, watercraft, or
9 snowmobile while using or under the influence of cannabis
10 in violation of Section 11-501 or 11-502.1 of the Illinois
11 Vehicle Code, Section 5-16 of the Boat Registration and
12 Safety Act, or Section 5-7 of the Snowmobile Registration
13 and Safety Act;

14 (6) facilitating the use of cannabis by any person who
15 is not allowed to use cannabis under this Act or the
16 Compassionate Use of Medical Cannabis Program Act;

17 (7) transferring cannabis to any person contrary to
18 this Act or the Compassionate Use of Medical Cannabis
19 Program Act;

20 (8) the use of cannabis by a law enforcement officer,
21 corrections officer, probation officer, or firefighter
22 while on duty; nothing in this Act prevents a public
23 employer of law enforcement officers, corrections
24 officers, probation officers, paramedics, or firefighters
25 from prohibiting or taking disciplinary action for the
26 consumption, possession, sales, purchase, or delivery of

1 cannabis or cannabis-infused substances while on or off
2 duty, unless provided for in the employer's policies.
3 However, an employer may not take adverse employment action
4 against an employee based solely on the lawful possession
5 or consumption of cannabis or cannabis-infused substances
6 by members of the employee's household. To the extent that
7 this Section conflicts with any applicable collective
8 bargaining agreement, the provisions of the collective
9 bargaining agreement shall prevail. Further, nothing in
10 this Act shall be construed to limit in any way the right
11 to collectively bargain over the subject matters contained
12 in this Act; or

13 (9) the use of cannabis by a person who has a school
14 bus permit or a Commercial Driver's License while on duty.

15 As used in this Section, "public place" means any place
16 where a person could reasonably be expected to be observed by
17 others. "Public place" includes all parts of buildings owned in
18 whole or in part, or leased, by the State or a unit of local
19 government. "Public place" includes all areas in a park,
20 recreation area, wildlife area, or playground owned in whole or
21 in part, leased, or managed by the State or a unit of local
22 government. "Public place" does not include: a private
23 residence unless the private residence is used to provide
24 licensed child care, foster care, or other similar social
25 service care on the premises; a temporary event, a cannabis
26 club, or a cannabis tour licensed under the Local Cannabis

1 Licensing Act.

2 (b) Nothing in this Act shall be construed to prevent the
3 arrest or prosecution of a person for reckless driving or
4 driving under the influence of cannabis, operating a watercraft
5 under the influence of cannabis, or operating a snowmobile
6 under the influence of cannabis if probable cause exists.

7 (c) Nothing in this Act shall prevent a private business
8 from restricting or prohibiting the use of cannabis on its
9 property, including areas where motor vehicles are parked.

10 (d) Nothing in this Act shall require an individual or
11 business entity to violate the provisions of federal law,
12 including colleges or universities that must abide by the
13 Drug-Free Schools and Communities Act Amendments of 1989, that
14 require campuses to be drug free.

15 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)

16 (410 ILCS 705/55-25)

17 Sec. 55-25. Local ordinances. Unless otherwise provided
18 under this Act or under the Local Cannabis Licensing Act or
19 otherwise in accordance with State law:

20 (1) A unit of local government, including a home rule
21 unit or any non-home rule county within the unincorporated
22 territory of the county, may enact reasonable zoning
23 ordinances or resolutions, not in conflict with this Act or
24 rules adopted pursuant to this Act, regulating cannabis
25 business establishments. No unit of local government,

1 including a home rule unit or any non-home rule county
2 within the unincorporated territory of the county, may
3 prohibit home cultivation or unreasonably prohibit use of
4 cannabis authorized by this Act.

5 (2) A unit of local government, including a home rule
6 unit or any non-home rule county within the unincorporated
7 territory of the county, may enact ordinances or rules not
8 in conflict with this Act or with rules adopted pursuant to
9 this Act governing the time, place, manner, and number of
10 cannabis business establishment operations, including
11 minimum distance limitations between cannabis business
12 establishments and locations it deems sensitive, including
13 colleges and universities, through the use of conditional
14 use permits. A unit of local government, including a home
15 rule unit, may establish civil penalties for violation of
16 an ordinance or rules governing the time, place, and manner
17 of operation of a cannabis business establishment or a
18 conditional use permit in the jurisdiction of the unit of
19 local government. No unit of local government, including a
20 home rule unit or non-home rule county within an
21 unincorporated territory of the county, may unreasonably
22 restrict the time, place, manner, and number of cannabis
23 business establishment operations authorized by this Act.

24 (3) A unit of local government, including a home rule
25 unit, or any non-home rule county within the unincorporated
26 territory of the county may authorize or permit the

1 on-premises consumption of cannabis at or in a dispensing
2 organization or retail tobacco store (as defined in Section
3 10 of the Smoke Free Illinois Act) within its jurisdiction
4 in a manner consistent with this Act. A dispensing
5 organization or retail tobacco store authorized or
6 permitted by a unit of local government to allow on-site
7 consumption shall not be deemed a public place within the
8 meaning of the Smoke Free Illinois Act.

9 (4) A unit of local government, including a home rule
10 unit or any non-home rule county within the unincorporated
11 territory of the county, may not regulate the activities
12 described in paragraph (1), (2), or (3) in a manner more
13 restrictive than the regulation of those activities by the
14 State under this Act. This Section is a limitation under
15 subsection (i) of Section 6 of Article VII of the Illinois
16 Constitution on the concurrent exercise by home rule units
17 of powers and functions exercised by the State.

18 (5) A unit of local government, including a home rule
19 unit or any non-home rule county within the unincorporated
20 territory of the county, may enact ordinances to prohibit
21 or significantly limit a cannabis business establishment's
22 location.

23 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)

24 Section 999. Effective date. This Act takes effect upon
25 becoming law.