



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2812

Introduced 2/16/2023, by Rep. Bob Morgan - Kelly M. Cassidy

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10  
410 ILCS 130/105  
410 ILCS 705/55-21

Amends the Compassionate Use of Medical Cannabis Program Act. Provides that a medical cannabis container shall be compliant with standards established by the Consumer Product Safety Commission, unless the medical cannabis container carries a warning that it is not recommended for use in households with children. Amends the Use Tax Act and the Cannabis Regulation and Tax Act to make corresponding changes.

LRB103 29816 CPF 56224 b

1 AN ACT concerning safety.

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

4 Section 5. The Use Tax Act is amended by changing Section  
5 3-10 as follows:

6 (35 ILCS 105/3-10)

7 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
8 Section, the tax imposed by this Act is at the rate of 6.25% of  
9 either the selling price or the fair market value, if any, of  
10 the tangible personal property. In all cases where property  
11 functionally used or consumed is the same as the property that  
12 was purchased at retail, then the tax is imposed on the selling  
13 price of the property. In all cases where property  
14 functionally used or consumed is a by-product or waste product  
15 that has been refined, manufactured, or produced from property  
16 purchased at retail, then the tax is imposed on the lower of  
17 the fair market value, if any, of the specific property so used  
18 in this State or on the selling price of the property purchased  
19 at retail. For purposes of this Section "fair market value"  
20 means the price at which property would change hands between a  
21 willing buyer and a willing seller, neither being under any  
22 compulsion to buy or sell and both having reasonable knowledge  
23 of the relevant facts. The fair market value shall be

1 established by Illinois sales by the taxpayer of the same  
2 property as that functionally used or consumed, or if there  
3 are no such sales by the taxpayer, then comparable sales or  
4 purchases of property of like kind and character in Illinois.

5 Beginning on July 1, 2000 and through December 31, 2000,  
6 with respect to motor fuel, as defined in Section 1.1 of the  
7 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
8 the Use Tax Act, the tax is imposed at the rate of 1.25%.

9 Beginning on August 6, 2010 through August 15, 2010, and  
10 beginning again on August 5, 2022 through August 14, 2022,  
11 with respect to sales tax holiday items as defined in Section  
12 3-6 of this Act, the tax is imposed at the rate of 1.25%.

13 With respect to gasohol, the tax imposed by this Act  
14 applies to (i) 70% of the proceeds of sales made on or after  
15 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
16 proceeds of sales made on or after July 1, 2003 and on or  
17 before July 1, 2017, and (iii) 100% of the proceeds of sales  
18 made thereafter. If, at any time, however, the tax under this  
19 Act on sales of gasohol is imposed at the rate of 1.25%, then  
20 the tax imposed by this Act applies to 100% of the proceeds of  
21 sales of gasohol made during that time.

22 With respect to majority blended ethanol fuel, the tax  
23 imposed by this Act does not apply to the proceeds of sales  
24 made on or after July 1, 2003 and on or before December 31,  
25 2023 but applies to 100% of the proceeds of sales made  
26 thereafter.

1           With respect to biodiesel blends with no less than 1% and  
2 no more than 10% biodiesel, the tax imposed by this Act applies  
3 to (i) 80% of the proceeds of sales made on or after July 1,  
4 2003 and on or before December 31, 2018 and (ii) 100% of the  
5 proceeds of sales made after December 31, 2018 and before  
6 January 1, 2024. On and after January 1, 2024 and on or before  
7 December 31, 2030, the taxation of biodiesel, renewable  
8 diesel, and biodiesel blends shall be as provided in Section  
9 3-5.1. If, at any time, however, the tax under this Act on  
10 sales of biodiesel blends with no less than 1% and no more than  
11 10% biodiesel is imposed at the rate of 1.25%, then the tax  
12 imposed by this Act applies to 100% of the proceeds of sales of  
13 biodiesel blends with no less than 1% and no more than 10%  
14 biodiesel made during that time.

15           With respect to biodiesel and biodiesel blends with more  
16 than 10% but no more than 99% biodiesel, the tax imposed by  
17 this Act does not apply to the proceeds of sales made on or  
18 after July 1, 2003 and on or before December 31, 2023. On and  
19 after January 1, 2024 and on or before December 31, 2030, the  
20 taxation of biodiesel, renewable diesel, and biodiesel blends  
21 shall be as provided in Section 3-5.1.

22           Until July 1, 2022 and beginning again on July 1, 2023,  
23 with respect to food for human consumption that is to be  
24 consumed off the premises where it is sold (other than  
25 alcoholic beverages, food consisting of or infused with adult  
26 use cannabis, soft drinks, and food that has been prepared for

1 immediate consumption), the tax is imposed at the rate of 1%.  
2 Beginning on July 1, 2022 and until July 1, 2023, with respect  
3 to food for human consumption that is to be consumed off the  
4 premises where it is sold (other than alcoholic beverages,  
5 food consisting of or infused with adult use cannabis, soft  
6 drinks, and food that has been prepared for immediate  
7 consumption), the tax is imposed at the rate of 0%.

8 With respect to prescription and nonprescription  
9 medicines, drugs, medical appliances, products classified as  
10 Class III medical devices by the United States Food and Drug  
11 Administration that are used for cancer treatment pursuant to  
12 a prescription, as well as any accessories and components  
13 related to those devices, modifications to a motor vehicle for  
14 the purpose of rendering it usable by a person with a  
15 disability, and insulin, blood sugar testing materials,  
16 syringes, and needles used by human diabetics, the tax is  
17 imposed at the rate of 1%. For the purposes of this Section,  
18 until September 1, 2009: the term "soft drinks" means any  
19 complete, finished, ready-to-use, non-alcoholic drink, whether  
20 carbonated or not, including, but not limited to, soda water,  
21 cola, fruit juice, vegetable juice, carbonated water, and all  
22 other preparations commonly known as soft drinks of whatever  
23 kind or description that are contained in any closed or sealed  
24 bottle, can, carton, or container, regardless of size; but  
25 "soft drinks" does not include coffee, tea, non-carbonated  
26 water, infant formula, milk or milk products as defined in the

1 Grade A Pasteurized Milk and Milk Products Act, or drinks  
2 containing 50% or more natural fruit or vegetable juice.

3 Notwithstanding any other provisions of this Act,  
4 beginning September 1, 2009, "soft drinks" means non-alcoholic  
5 beverages that contain natural or artificial sweeteners. "Soft  
6 drinks" does ~~do~~ not include beverages that contain milk or  
7 milk products, soy, rice or similar milk substitutes, or  
8 greater than 50% of vegetable or fruit juice by volume.

9 Until August 1, 2009, and notwithstanding any other  
10 provisions of this Act, "food for human consumption that is to  
11 be consumed off the premises where it is sold" includes all  
12 food sold through a vending machine, except soft drinks and  
13 food products that are dispensed hot from a vending machine,  
14 regardless of the location of the vending machine. Beginning  
15 August 1, 2009, and notwithstanding any other provisions of  
16 this Act, "food for human consumption that is to be consumed  
17 off the premises where it is sold" includes all food sold  
18 through a vending machine, except soft drinks, candy, and food  
19 products that are dispensed hot from a vending machine,  
20 regardless of the location of the vending machine.

21 Notwithstanding any other provisions of this Act,  
22 beginning September 1, 2009, "food for human consumption that  
23 is to be consumed off the premises where it is sold" does not  
24 include candy. For purposes of this Section, "candy" means a  
25 preparation of sugar, honey, or other natural or artificial  
26 sweeteners in combination with chocolate, fruits, nuts or

1 other ingredients or flavorings in the form of bars, drops, or  
2 pieces. "Candy" does not include any preparation that contains  
3 flour or requires refrigeration.

4 Notwithstanding any other provisions of this Act,  
5 beginning September 1, 2009, "nonprescription medicines and  
6 drugs" does not include grooming and hygiene products. For  
7 purposes of this Section, "grooming and hygiene products"  
8 includes, but is not limited to, soaps and cleaning solutions,  
9 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
10 lotions and screens, unless those products are available by  
11 prescription only, regardless of whether the products meet the  
12 definition of "over-the-counter-drugs". For the purposes of  
13 this paragraph, "over-the-counter-drug" means a drug for human  
14 use that contains a label that identifies the product as a drug  
15 as required by 21 CFR ~~C.F.R.~~ § 201.66. The  
16 "over-the-counter-drug" label includes:

17 (A) a ~~A~~ "Drug Facts" panel; or

18 (B) a ~~A~~ statement of the "active ingredient(s)" with a  
19 list of those ingredients contained in the compound,  
20 substance or preparation.

21 "Prescription ~~Beginning on the effective date of this~~  
22 ~~amendatory Act of the 98th General Assembly, "prescription and~~  
23 ~~nonprescription medicines and drugs" includes medical cannabis~~  
24 ~~purchased by a qualifying patient or a designated caregiver~~  
25 ~~from a registered dispensing organization under the~~  
26 ~~Compassionate Use of Medical Cannabis Program Act~~ or a

1 secondary site dispensary or dispensary under the Cannabis  
2 Regulation and Tax Act.

3 As used in this Section, "adult use cannabis" means  
4 cannabis subject to tax under the Cannabis Cultivation  
5 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
6 and does not include cannabis subject to tax under the  
7 Compassionate Use of Medical Cannabis Program Act.

8 If the property that is purchased at retail from a  
9 retailer is acquired outside Illinois and used outside  
10 Illinois before being brought to Illinois for use here and is  
11 taxable under this Act, the "selling price" on which the tax is  
12 computed shall be reduced by an amount that represents a  
13 reasonable allowance for depreciation for the period of prior  
14 out-of-state use.

15 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
16 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-5, eff.  
17 4-19-22; 102-700, Article 60, Section 60-15, eff. 4-19-22;  
18 102-700, Article 65, Section 65-5, eff. 4-19-22; revised  
19 5-27-22.)

20 Section 10. The Compassionate Use of Medical Cannabis  
21 Program Act is amended by changing Section 105 as follows:

22 (410 ILCS 130/105)

23 Sec. 105. Requirements; prohibitions; penalties for  
24 cultivation centers.



1           (a) The operating documents of a registered cultivation  
2 center shall include procedures for the oversight of the  
3 cultivation center, a cannabis plant monitoring system  
4 including a physical inventory recorded weekly, a cannabis  
5 container system including a physical inventory recorded  
6 weekly, accurate record keeping, and a staffing plan.

7           (b) A registered cultivation center shall implement a  
8 security plan reviewed by the Illinois State Police and  
9 including but not limited to: facility access controls,  
10 perimeter intrusion detection systems, personnel  
11 identification systems, 24-hour surveillance system to monitor  
12 the interior and exterior of the registered cultivation center  
13 facility and accessible to authorized law enforcement and the  
14 Department of Agriculture in real-time.

15           (c) A registered cultivation center may not be located  
16 within 2,500 feet of the property line of a pre-existing  
17 public or private preschool or elementary or secondary school  
18 or day care center, day care home, group day care home, part  
19 day child care facility, or an area zoned for residential use.

20           (d) All cultivation of cannabis for distribution to a  
21 registered dispensing organization must take place in an  
22 enclosed, locked facility as it applies to cultivation centers  
23 at the physical address provided to the Department of  
24 Agriculture during the registration process. The cultivation  
25 center location shall only be accessed by the cultivation  
26 center agents working for the registered cultivation center,

1 Department of Agriculture staff performing inspections,  
2 Department of Public Health staff performing inspections, law  
3 enforcement or other emergency personnel, and contractors  
4 working on jobs unrelated to medical cannabis, such as  
5 installing or maintaining security devices or performing  
6 electrical wiring.

7 (e) A cultivation center may not sell or distribute any  
8 cannabis to any individual or entity other than another  
9 cultivation center, a dispensing organization registered under  
10 this Act, or a laboratory licensed by the Department of  
11 Agriculture.

12 (f) All harvested cannabis intended for distribution to a  
13 dispensing organization must be packaged in a labeled medical  
14 cannabis container and entered into a data collection system.  
15 A medical cannabis container shall be compliant with standards  
16 established by the Consumer Product Safety Commission, unless  
17 the medical cannabis container carries a warning that it is  
18 not recommended for use in households with children.

19 (g) No person who has been convicted of an excluded  
20 offense may be a cultivation center agent.

21 (h) Registered cultivation centers are subject to random  
22 inspection by the Illinois State Police.

23 (i) Registered cultivation centers are subject to random  
24 inspections by the Department of Agriculture and the  
25 Department of Public Health.

26 (j) A cultivation center agent shall notify local law

1 enforcement, the Illinois State Police, and the Department of  
2 Agriculture within 24 hours of the discovery of any loss or  
3 theft. Notification shall be made by phone or in-person, or by  
4 written or electronic communication.

5 (k) A cultivation center shall comply with all State and  
6 federal rules and regulations regarding the use of pesticides.  
7 (Source: P.A. 101-363, eff. 8-9-19; 102-538, eff. 8-20-21.)

8 Section 15. The Cannabis Regulation and Tax Act is amended  
9 by changing Section 55-21 as follows:

10 (410 ILCS 705/55-21)

11 Sec. 55-21. Cannabis product packaging and labeling.

12 (a) Each cannabis product produced for sale shall be  
13 registered with the Department of Agriculture on forms  
14 provided by the Department of Agriculture. Each product  
15 registration shall include a label and the required  
16 registration fee at the rate established by the Department of  
17 Agriculture for a comparable medical cannabis product, or as  
18 established by rule. The registration fee is for the name of  
19 the product offered for sale and one fee shall be sufficient  
20 for all package sizes.

21 (b) All harvested cannabis intended for distribution to a  
22 cannabis enterprise must be packaged in a sealed, labeled  
23 container.

24 (c) Any product containing cannabis shall be sold in a

1 sealed, odor-proof, and child-resistant cannabis container  
2 consistent with current standards, including the Consumer  
3 Product Safety Commission standards referenced by the Poison  
4 Prevention Act unless the sale is between or among a craft  
5 grower, infuser, or cultivation center or the medical cannabis  
6 container carries a warning that it is not recommended for use  
7 in households with children.

8 (d) All cannabis-infused products shall be individually  
9 wrapped or packaged at the original point of preparation. The  
10 packaging of the cannabis-infused product shall conform to the  
11 labeling requirements of the Illinois Food, Drug and Cosmetic  
12 Act, in addition to the other requirements set forth in this  
13 Section.

14 (e) Each cannabis product shall be labeled before sale and  
15 each label shall be securely affixed to the package and shall  
16 state in legible English and any languages required by the  
17 Department of Agriculture:

18 (1) the name and post office box of the registered  
19 cultivation center or craft grower where the item was  
20 manufactured;

21 (2) the common or usual name of the item and the  
22 registered name of the cannabis product that was  
23 registered with the Department of Agriculture under  
24 subsection (a);

25 (3) a unique serial number that will match the product  
26 with a cultivation center or craft grower batch and lot

1 number to facilitate any warnings or recalls the  
2 Department of Agriculture, cultivation center, or craft  
3 grower deems appropriate;

4 (4) the date of final testing and packaging, if  
5 sampled, and the identification of the independent testing  
6 laboratory;

7 (5) the date of harvest and "use by" date;

8 (6) the quantity (in ounces or grams) of cannabis  
9 contained in the product;

10 (7) a pass/fail rating based on the laboratory's  
11 microbiological, mycotoxins, and pesticide and solvent  
12 residue analyses, if sampled;

13 (8) content list.

14 (A) A list of the following, including the minimum  
15 and maximum percentage content by weight for  
16 subdivisions (e) (8) (A) (i) through (iv):

17 (i) delta-9-tetrahydrocannabinol (THC);

18 (ii) tetrahydrocannabinolic acid (THCA);

19 (iii) cannabidiol (CBD);

20 (iv) cannabidiolic acid (CBDA); and

21 (v) all other ingredients of the item,  
22 including any colors, artificial flavors, and  
23 preservatives, listed in descending order by  
24 predominance of weight shown with common or usual  
25 names.

26 (B) The acceptable tolerances for the minimum

1 percentage printed on the label for any of  
2 subdivisions (e) (8) (A) (i) through (iv) shall not be  
3 below 85% or above 115% of the labeled amount.

4 (f) Packaging must not contain information that:

5 (1) is false or misleading;

6 (2) promotes excessive consumption;

7 (3) depicts a person under 21 years of age consuming  
8 cannabis;

9 (4) includes the image of a cannabis leaf;

10 (5) includes any image designed or likely to appeal to  
11 minors, including cartoons, toys, animals, or children, or  
12 any other likeness to images, characters, or phrases that  
13 are popularly used to advertise to children, or any  
14 packaging or labeling that bears reasonable resemblance to  
15 any product available for consumption as a commercially  
16 available candy, or that promotes consumption of cannabis;

17 (6) contains any seal, flag, crest, coat of arms, or  
18 other insignia likely to mislead the purchaser to believe  
19 that the product has been endorsed, made, or used by the  
20 State of Illinois or any of its representatives except  
21 where authorized by this Act.

22 (g) Cannabis products produced by concentrating or  
23 extracting ingredients from the cannabis plant shall contain  
24 the following information, where applicable:

25 (1) If solvents were used to create the concentrate or  
26 extract, a statement that discloses the type of extraction

1 method, including any solvents or gases used to create the  
2 concentrate or extract; and

3 (2) Any other chemicals or compounds used to produce  
4 or were added to the concentrate or extract.

5 (h) All cannabis products must contain warning statements  
6 established for purchasers, of a size that is legible and  
7 readily visible to a consumer inspecting a package, which may  
8 not be covered or obscured in any way. The Department of Public  
9 Health shall define and update appropriate health warnings for  
10 packages including specific labeling or warning requirements  
11 for specific cannabis products.

12 (i) Unless modified by rule to strengthen or respond to  
13 new evidence and science, the following warnings shall apply  
14 to all cannabis products unless modified by rule: "This  
15 product contains cannabis and is intended for use by adults 21  
16 and over. Its use can impair cognition and may be habit  
17 forming. This product should not be used by pregnant or  
18 breastfeeding women. It is unlawful to sell or provide this  
19 item to any individual, and it may not be transported outside  
20 the State of Illinois. It is illegal to operate a motor vehicle  
21 while under the influence of cannabis. Possession or use of  
22 this product may carry significant legal penalties in some  
23 jurisdictions and under federal law."

24 (j) Warnings for each of the following product types must  
25 be present on labels when offered for sale to a purchaser:

26 (1) Cannabis that may be smoked must contain a

1 statement that "Smoking is hazardous to your health."

2 (2) Cannabis-infused products (other than those  
3 intended for topical application) must contain a statement  
4 "CAUTION: This product contains cannabis, and intoxication  
5 following use may be delayed 2 or more hours. This product  
6 was produced in a facility that cultivates cannabis, and  
7 that may also process common food allergens."

8 (3) Cannabis-infused products intended for topical  
9 application must contain a statement "DO NOT EAT" in bold,  
10 capital letters.

11 (k) Each cannabis-infused product intended for consumption  
12 must be individually packaged, must include the total  
13 milligram content of THC and CBD, and may not include more than  
14 a total of 100 milligrams of THC per package. A package may  
15 contain multiple servings of 10 milligrams of THC, indicated  
16 by scoring, wrapping, or by other indicators designating  
17 individual serving sizes. The Department of Agriculture may  
18 change the total amount of THC allowed for each package, or the  
19 total amount of THC allowed for each serving size, by rule.

20 (l) No individual other than the purchaser may alter or  
21 destroy any labeling affixed to the primary packaging of  
22 cannabis or cannabis-infused products.

23 (m) For each commercial weighing and measuring device used  
24 at a facility, the cultivation center or craft grower must:

25 (1) Ensure that the commercial device is licensed  
26 under the Weights and Measures Act and the associated



1 administrative rules (8 Ill. Adm. Code 600);

2 (2) Maintain documentation of the licensure of the  
3 commercial device; and

4 (3) Provide a copy of the license of the commercial  
5 device to the Department of Agriculture for review upon  
6 request.

7 (n) It is the responsibility of the Department to ensure  
8 that packaging and labeling requirements, including product  
9 warnings, are enforced at all times for products provided to  
10 purchasers. Product registration requirements and container  
11 requirements may be modified by rule by the Department of  
12 Agriculture.

13 (o) Labeling, including warning labels, may be modified by  
14 rule by the Department of Agriculture.

15 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19;  
16 102-98, eff. 7-15-21.)