



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0144

Introduced 1/14/2021, 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 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.

LRB102 10060 CPF 15380 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

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
11 age 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
16 event is to be conducted.

17 (d) The premises at which an applicant intends to conduct
18 a 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
22 elementary 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 (1) Before a governmental unit may issue any temporary
2 event license under this Section, the governmental unit
3 must adopt an ordinance that includes:

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

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

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

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

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

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

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

25 (ii) is designed and terminated in accordance
26 with building code standards for the applicable

1 occupancy classification; and

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

7 (2) The governmental unit may not adopt an ordinance
8 or rule that:

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

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

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

21 Section 15. Cannabis clubs.

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

1 (b) A person operating a cannabis club must hold a
2 cannabis club license issued by the governmental unit for the
3 premises at which the consumption occurs.

4 (c) An applicant for a cannabis club license under this
5 Section must:

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

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

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

12 (1) in an area that is zoned exclusively for
13 residential use; or

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

16 (e) (1) An applicant for a cannabis club license under this
17 Section and the premises at which the cannabis club is to be
18 located must meet the requirements of any ordinance adopted by
19 the governmental unit under this subsection. The ordinance
20 must include:

21 (A) a requirement that a person that holds a license
22 must renew the license annually;

23 (B) fees for the application, licensure, and renewal
24 of licensure for a license;

25 (C) a restriction on the consumption of cannabis or
26 cannabis-infused products to designated enclosed areas of

1 a premises for which a license has been issued;

2 (D) a prohibition of the production, propagation, and
3 processing of cannabis, cannabis-infused products, or
4 cannabis paraphernalia on a premises for which a license
5 has been issued;

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

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

15 (i) exhausts smoke, aerosols, and vapors from that
16 portion of the premises; and

17 (ii) is designed and terminated in accordance with
18 building code standards for the applicable occupancy
19 classification; and

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

24 (2) The governmental unit may not adopt an ordinance or
25 rule that:

26 (A) prohibits a person that holds a license issued

1 under this Section from adopting policies that allow
2 persons present at the cannabis club to bring cannabis,
3 cannabis-infused products, or cannabis paraphernalia into
4 the cannabis club; or

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

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

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

17 Section 20. Cannabis tours.

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

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

22 (c) A craft grower or cultivation center that offers tours
23 under this Section may enter into a contract with a dispensing
24 organization to allow a dispensing organization agent to sell
25 cannabis, cannabis-infused products, or cannabis paraphernalia

1 during the tour on the premises of the craft grower or
2 cultivation center offering the tour.

3 (d) The governmental unit may:

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

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

11 (B) ensure the health and safety of persons taking
12 a tour; or

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

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

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

23 (410 ILCS 82/35)

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

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

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

1 (3) (Blank).

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

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

21 (6) Common smoking rooms in long-term care facilities
22 operated under the authority of the Illinois Department of
23 Veterans' Affairs or licensed under the Nursing Home Care
24 Act that are accessible only to residents who are smokers
25 and have requested in writing to have access to the common
26 smoking room where smoking is permitted and the smoke

1 shall not infiltrate other areas of the long-term care
2 facility. Rulemaking authority to implement this
3 amendatory Act of the 95th General Assembly, if any, is
4 conditioned on the rules being adopted in accordance with
5 all provisions of the Illinois Administrative Procedure
6 Act and all rules and procedures of the Joint Committee on
7 Administrative Rules; any purported rule not so adopted,
8 for whatever reason, is unauthorized.

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

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

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

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

22 (iv) involves the display of tobacco products.

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

25 This paragraph (7) is inoperative on and after October
26 1, 2015.

1 (8) A dispensing organization, as defined in the
2 Cannabis Regulation and Tax Act, authorized or permitted
3 by a unit local government to allow on-site consumption of
4 cannabis, if the establishment: (1) maintains a specially
5 designated area or areas for the purpose of heating,
6 burning, smoking, or lighting cannabis; (2) is limited to
7 individuals 21 or older; and (3) maintains a locked door
8 or barrier to any specially designated areas for the
9 purpose of heating, burning, smoking or lighting cannabis.

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

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

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

15 (410 ILCS 705/10-35)

16 Sec. 10-35. Limitations and penalties.

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

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

23 (2) possessing cannabis:

24 (A) in a school bus, unless permitted for a

1 qualifying patient or caregiver pursuant to the
2 Compassionate Use of Medical Cannabis Program Act;

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

7 (C) in any correctional facility;

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

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

15 (3) using cannabis:

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

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

23 (C) in any correctional facility;

24 (D) in any motor vehicle;

25 (E) in a private residence that is used at any time
26 to provide licensed child care or other similar social

1 service care on the premises;

2 (F) in any public place; or

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

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

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

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

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

22 (8) the use of cannabis by a law enforcement officer,
23 corrections officer, probation officer, or firefighter
24 while on duty; nothing in this Act prevents a public
25 employer of law enforcement officers, corrections
26 officers, probation officers, paramedics, or firefighters

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

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

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

1 service care on the premises; or a temporary event, a cannabis
2 club, or a cannabis tour licensed under the Local Cannabis
3 Licensing Act.

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

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

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

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

19 (410 ILCS 705/55-25)

20 Sec. 55-25. Local ordinances. Unless otherwise provided
21 under this Act or under the Local Cannabis Licensing Act or
22 otherwise in accordance with State law:

23 (1) A unit of local government, including a home rule
24 unit or any non-home rule county within the unincorporated
25 territory of the county, may enact reasonable zoning

1 ordinances or resolutions, not in conflict with this Act
2 or rules adopted pursuant to this Act, regulating cannabis
3 business establishments. No unit of local government,
4 including a home rule unit or any non-home rule county
5 within the unincorporated territory of the county, may
6 prohibit home cultivation or unreasonably prohibit use of
7 cannabis authorized by this Act.

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

1 by this Act.

2 (3) A unit of local government, including a home rule
3 unit, or any non-home rule county within the
4 unincorporated territory of the county may authorize or
5 permit the on-premises consumption of cannabis at or in a
6 dispensing organization or retail tobacco store (as
7 defined in Section 10 of the Smoke Free Illinois Act)
8 within its jurisdiction in a manner consistent with this
9 Act. A dispensing organization or retail tobacco store
10 authorized or permitted by a unit of local government to
11 allow on-site consumption shall not be deemed a public
12 place within the meaning of the Smoke Free Illinois Act.

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

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

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

2 Section 999. Effective date. This Act takes effect upon
3 becoming law.