

Local Regulation of Adult-Use Cannabis Business Establishments

September 23, 2019

Special Committee of the Whole

Striking a Balance between Local Regulation, State Law, & an Emerging Market

- ▶ Summary of Cannabis Regulation and Tax Act (CRTA)
- ▶ Scope of local authority over cannabis business establishments
- ▶ Discussion

Cannabis Regulation & Tax Act (P.A. 101-0027)

- ▶ First state to legalize adult recreation use by legislative action
- ▶ Key Components
 - ▶ Legalization of adult (21+) possession and use of cannabis for recreational purposes
 - ▶ Rapid but controlled expansion of cultivation centers and dispensaries
 - ▶ New cannabis businesses
 - ▶ State and local taxation
- ▶ SB 2023 (P.A. 101-0363) - Expands Medical Cannabis Law

Timing

- ▶ Effective immediately but...
 - ▶ First legal sales: January 1, 2020
 - ▶ No legal consumption until legal means to purchase
- ▶ Existing cultivation centers (20) and dispensaries (55) eligible for:
 - ▶ “Early Approval” licenses to grow and sell from existing location
 - ▶ “Secondary Location” licenses to open another retail storefront
- ▶ Potential “Day One” Retail Market: ~100 dispensaries statewide
- ▶ On or before May 1, 2020
 - ▶ Estimate additional 47 Dispensing Organizations (Chicago-Naperville, Elgin BLS Market)

Timing

- ▶ On or before July 1, 2020 (applications due March 31, 2020)
 - ▶ 40 Licenses for infusers
 - ▶ 40 Licenses for craft growers
 - ▶ Licenses for transporters (no cap)
- ▶ After July 1, 2020
 - ▶ Additional 75 recreational dispensing organization licenses
- ▶ By January 1, 2021
 - ▶ Additional 110 recreational dispensing organization licenses
 - ▶ Additional 60 licenses for infusers
 - ▶ Additional 60 licenses for craft growers
- ▶ After January 1, 2022
 - ▶ State can modify or raise number of dispensing organization licenses assigned to each region
 - ▶ no more than 500 recreational dispensing organization licenses
 - ▶ no more than 150 craft growers licenses

What will be allowed? Use & Sale

- ▶ Adult recreational possession and use - 21 and up
- ▶ Licensed commercial sale of leaf, edibles, and tested derivatives
- ▶ On-Premises consumption in dispensaries and other establishments

Classes of Recreational Cannabis Business Establishments

- Cultivation Center
- Craft Grower
- Dispensary
- Processor
- Infuser
- Testing Facility
- Transporter

State Licensing of Cannabis Business Establishments

- Licensing of cannabis businesses will be exclusive to the State
- Noncompliance with local zoning rules can be a reason for denial of a license
 - Must be properly zoned in the municipality it is seeking to operate within
 - Must be in compliance with local zoning rules and distance limitations

What will be prohibited?

- ▶ Location of a dispensary within 1,500 feet of another dispensary
- ▶ Prohibits Consumption:
 - ▶ in “Public Places”
 - ▶ on school grounds
 - ▶ “in close physical proximity” to persons under 21
 - ▶ Prohibited by the Smoke Free Illinois Act
- ▶ Sale to minors
- ▶ Home delivery

What will be prohibited?

- ▶ Advertising cannot:
 - ▶ make medical or health claims
 - ▶ Include images of cannabis leaf or buds
 - ▶ Include imagery that would appeal to minors
- ▶ Youth possession and consumption (other than for medical purpose)
- ▶ Open Container
- ▶ Driving Under the Influence
- ▶ Use by firefighters and police while “on duty” or “on call”

Extent of Local Authority

- **CAN** outright ban any or all cannabis businesses by ordinance
- **CAN** enact reasonable zoning regulations for cannabis businesses that do not conflict with the Act
- **CAN** require conditional/special use permit for cannabis businesses to impose “time, place, manner, and number” of operations
- **CAN** prohibit, permit, and regulate private businesses that allow on premise consumption
- **CAN** locally regulate consumption in a manner consistent with the Act
- **CAN** impose a Municipal Cannabis Retailers’ Occupation Tax
- **CANNOT** “unreasonably prohibit” home grow (medical cannabis program)
- **CANNOT** “unreasonably prohibit” the use of cannabis consistent with the Act

Credits:

- ▶ Illinois Municipal League - <https://iml.org/page.cfm?key=22360>
- ▶ Holland & Knight, LLP (presentation at IML Annual Municipal Attorney Conference)
- ▶ Sponsors Municipal Toolkit - <http://www.senatorsteans.com/adult-use-cannabis>
- ▶ IDFPR Cannabis Programs - <https://www.idfpr.com/ILCannabis.asp>
- ▶ Metro West Council of Government

Discussion

▶ Regulation of Adult-Use Cannabis Business Establishments

- ▶ Craft Grower
- ▶ Cultivation Center
- ▶ Dispensing Organization
- ▶ Infuser
- ▶ Processor
- ▶ Transporter
- ▶ Testing Facility

▶ Economic Impact

- ▶ Municipal Sales Tax
- ▶ Utility Usage
- ▶ New Industry

▶ Process

- ▶ Planning & Zoning Commission
- ▶ City Ordinances