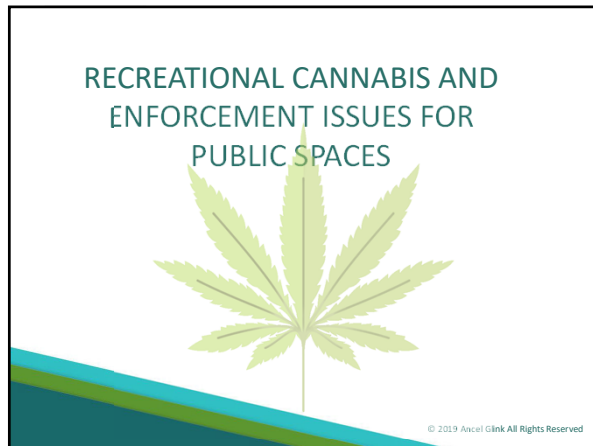
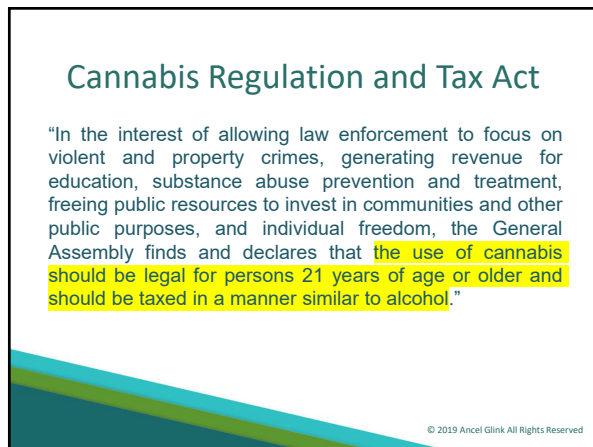
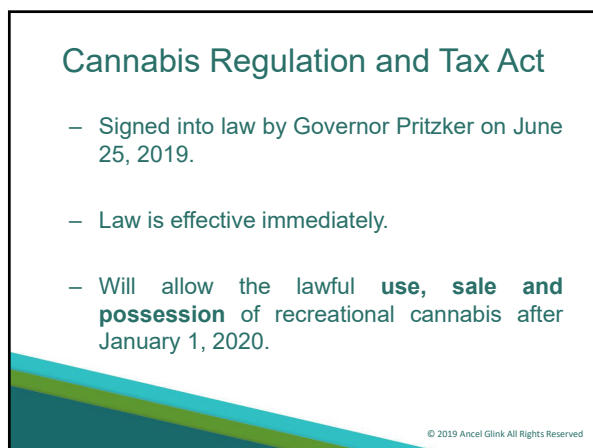




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Distinguish Medical Dispensaries

- Medical Cannabis is a separate licensing scheme from growing to consumption
- Already existing and operating
- Possible for persons under 21 to buy, to possess, to use

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4

Distinguish Medical Possession and Use

Medical Cannabis Cardholders – Allowed no more than 2.5 ounces (70.87 grams) every 14 days derived from INTRASTATE source (cannot get from out of state).

No driver or passenger may possess MEDICAL cannabis in a vehicle upon a highway/street unless it is in a traceable medical cannabis container that is:

1. Reasonably secured
2. Reasonably inaccessible while the vehicle is moving
3. Sealed
4. Odor-Proof, and;
5. Child-Resistant

AND is

A violation of #3, 4 or 5 is a Class A Misdemeanor.

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5

Distinguish Medical Cultivation

Other than licensed manufacturers and Craft Growers, the only people who can legally grow cannabis plants are **Medical Cannabis Cardholders**.

- No more than five (5) plants over 5 inches tall, per household
- Must be in an enclosed, locked space
- Cannot be subject to ordinary public view
- Must take reasonable precautions to ensure plants are secure from unauthorized access
- May only occur on residential property lawfully in possession of the cultivator or on said property with the cultivator's permission
- Qualifying medical cannabis patients must keep any personally produced cannabis in excess of 30 grams (or equivalent) within the residence/property in which it was grown.

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6

Medical Cultivation

- Plants may only be tended to by registered qualifying patients, or by their authorized agent attending to the residence for brief periods.
- Medical Cannabis Cardholders may not sell or give away personally grown cannabis, cannabis plants or cannabis-infused products.
- (b)(9)..."A registered qualifying patient who cultivates more than the allowable number of cannabis plants, or who sells or gives away cannabis plants, cannabis, or cannabis-infused products produced under this Section, is liable for penalties as provided by law, including the Cannabis Control Act, in addition to loss of home cultivation privileges as established by rule."

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7

Federal Supremacy Clause

- No interstate transport; no importing; must be grown in Illinois (shortages feared)
 - Growers are essential to the plan
 - Shortages are why medical card holders can grow
 - Blackmarket will exist – **so documentation will be critical**

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8

Dispensaries

- The law allows up to a maximum of 500 total **adult use cannabis dispensary licenses** throughout the state on a staggered basis through 2022.
- The issuance of the first **adult use cannabis dispensary licenses** through 2021 will be limited by region based on population:
 - Chicago-Naperville-Elgin Area (which includes McHenry County) is allotted 47 licenses.

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9

Early Approval of Dispensaries

- Existing medical cannabis dispensaries and cultivation centers are eligible for early approval for adult use (aka recreational) cannabis. Currently 55 licensed dispensaries.
- Expected to apply in time to be ready to sell on January 1, 2020.



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10

Other Adult-Use Cannabis Businesses

- Cultivation Centers
- Craft Growers
- Infusers
- Transportation Organizations

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11

A few words about the production industry ...

- Because there will be a blackmarket ...
- And those purchases are still illegal

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12

Things to Know about the Business (it could help you in an interaction)

- No drive thru
- No vending machine
- No home delivery
- Hours for purchase set by state are 6am-10pm
- No live plant sales
- No gift packs (bundles)

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13

More to know

- No alcohol sales with sales of cannabis
- Dispensary will have—at least 2 people on duty at all times open; operational video surveillance (or must close); computerized point of sale network that is operational (or must close)
- Computerized POS will provide LABELS

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14

Packaging and Labeling

- NAME OF DISPENSARY
- CONTENTS AND WEIGHT (for flower and concentrate)

--or

- AMOUNT OF THC (infused)

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15

Packaging & Labeling

Cannabis labels cannot contain any of the following:

- False or misleading statements
- Promotion of excessive consumption
- Depiction of a person under 21 years of age consuming cannabis
- The image of the cannabis leaf
- Any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that are popularly used to advertise to children, or any imitation of candy packaging or labeling, or that promotes consumption of cannabis.
- Any seal, flag, crest, coat of arms or other design that will mislead a qualified patient to think that the product has been endorsed, made or used by the State of Illinois or any of its representatives

16

Craft Grower Licenses

Just like craft beer, there will be craft cannabis.

- The State will grant 40 Craft Grower licenses by July 1st, 2020.
- The State may grant up to 60 additional Craft Grower licenses by December 21st, 2021.

Craft Growers may share premises with a licensed processing organization, dispensing organization or both.

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17

POSSESSION

Illinois Residents

- Must be 21+ years of age
- No more than 30 grams of cannabis flower
- No more than 500 milligrams of THC in cannabis-infused products
- No more than 5 grams cannabis concentrate

Non-Illinois Residents

- Must be 21+ years of age
- No more than 15 grams of cannabis flower
- No more than 250 milligrams of THC in cannabis-infused products
- No more than 2.5 grams cannabis concentrate

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18

Definitions

Cannabis Flower - marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis; including raw kief, leaves, and buds, but not resin that has been extracted from any part of such plant; nor any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin.



Source: Cannabis Regulation and Tax Act (Definitions) – 410 ILCS 705/1-10

19

Definitions

Cannabis-Infused Product - A beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis that is not intended to be smoked.



Source: Cannabis Regulation and Tax Act (Definitions) – 410 ILCS 705/1-10

20

Definitions

Cannabis Concentrate - product derived from cannabis that is produced by extracting cannabinoids from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water, ice, or dry ice; or butane, propane, CO₂, ethanol, or isopropanol. The use of any other solvent is expressly prohibited unless and until it is approved by the Department of Agriculture.



21

Cannabis Concentrate Examples



And more:

Source: Cannabis Regulation and Tax Act (Definitions) – 410 ILCS 705/1-10

22

So Again:

Illinois Residents

- Must be 21+ years of age
- No more than 30 grams of cannabis flower
- No more than 500 milligrams of THC in cannabis-infused products
- No more than 5 grams cannabis concentrate

Non-Illinois Residents

- Must be 21+ years of age
- No more than 15 grams of cannabis flower
- No more than 250 milligrams of THC in cannabis-infused products
- No more than 2.5 grams cannabis concentrate

No person shall knowingly obtain, seek to obtain or possess cannabis in excess of their allotted amounts from any dispensing organization, craft grower or qualifying medical grower.

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23

Possession

No person under the age of 21 may legally purchase, possess, use, process, transport, grow, or consume cannabis, except as provided under the following two (2) circumstances:

- Compassionate Use of Medical Cannabis Pilot Program Act, or;
- Community College Cannabis Vocational Pilot Program

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24

Community College Cannabis Vocational Pilot Program

The Community College Cannabis Vocational Pilot Program allows community colleges to teach students 18 years and older about the cannabis industry. This includes allowing them to possess and handle cannabis during class. Participants can get a State-issued ID card showing they are a member of the program.

25

Possession

No driver or passenger may possess cannabis in a vehicle upon a highway/street unless it is in a traceable cannabis container that is:

1. Reasonably secured
2. Reasonably inaccessible while the vehicle is moving
3. AND is
4. Sealed
5. Odor-Proof, and;
6. Child-Resistant

A violation of #3, 4 or 5 is a Class A Misdemeanor.

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26

Drug Paraphernalia

The new law does not state that cannabis paraphernalia is legal. It only states that it may be legally sold by authorized dispensaries and/or their agents. However, it does state:

*"Any cannabis, cannabis-infused product, cannabis paraphernalia, legal property, or interest in legal property that is possessed, owned, or used in connection with the use of cannabis as allowed under this Act, or acts incidental to that use, **may not be seized or forfeited.**"*

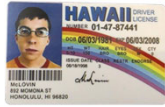
We may still seize any of the above if the suspect possesses cannabis in excess of the allowable amount, or if it is done so for reasons unrelated to the lawful possession or other actions permitted under this Act.



27

False Identification

It is a Class A misdemeanor for any person under the age of 21 to, written or orally, provide information or identification that is false, fraudulent, or not actually the person's own, in order to purchase, attempt to purchase or otherwise obtain or attempt to obtain cannabis or any cannabis product, or to gain access to a cannabis business establishment.



28

USE

- Where can it be consumed?
 - Essentially, only in private areas.
 - Cannabis cannot be consumed in any “public place.”
 - Any place where a person could be reasonably be expected to be observed by others. Includes all governmental buildings, but specifically excludes private residences.

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29

Where Can Cannabis Be Consumed?

- Cannot be consumed in a park, in a school bus, on the grounds of any park district or school, in any motor vehicle (not even in a parking lot), any residence used as a child care facility, or knowingly in close proximity to anyone under 21 years of age.



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30

Hot Boxing in a Car?

- No driver or passenger may use cannabis within the passenger area of any motor vehicle upon a highway/street.
- Parking Lot? Is it public? Go with grounds and therefore no.

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31

Where Can Cannabis Be Consumed?

- Condo declarations may prohibit smoking cannabis in a unit and/or common areas. Cannot prohibit other forms of consumption in unit.
- Businesses can prohibit use of cannabis on their property.



**NO SMOKING
MARIJUANA ON
THESE PREMISES**

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32

use

Parents MAY allow their children to smoke/consume cannabis in their residence, and in their presence. Use discretion to determine if it constitutes abuse/neglect.

Any person allowing others under 21 who are not their own children to smoke at their residence/property is a class A misdemeanor.

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33

Use Restrictions

Restricted People

- Law Enforcement Officers*
- Corrections Officers*
- Probation Officers*
- Firefighters*
- School Bus Driver*
- CDL Holder*



*(*Use is restricted while on-duty in any of these capacities)*

34

What Can Municipalities and the County Do?

- The Act provides municipalities with significant regulatory authority of recreational cannabis businesses, even outside of the State's licensing scheme.
 - Whether to permit such businesses at all
 - Number of such businesses
 - Whether to permit Lounges
- **BUT**, local government cannot prohibit recreational cannabis use and possession all together.

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35

On-Premises Consumption

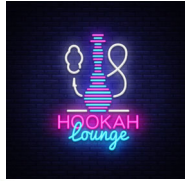
- Municipalities have broad authority to regulate on-site consumption of cannabis.
- “may regulate the on-premises consumption of cannabis at or in a cannabis business establishment.”
- Expected to be controversial. Not common in other states that have legalized cannabis.

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36

Cannabis Lounges?

- The Act allows for on-site consumption at cannabis business establishments **ONLY** if authorized by a local government.
- May allow for “cannabis lounges” similar to hookah lounges.



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37

What about Home Rule Units?

- The Act prevents both non-home rule AND home rule units from regulating recreational cannabis in a manner more restrictive than provided for under the Act.
- Specific denial of home rule powers.



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38

Cannabis Waste

- The Act requires cultivation centers, craft growers, and infusers to comply with local waste requirements for cannabis byproduct or scrap.

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39

Advertising

- The Act contains many restrictions on advertising for recreational cannabis:
 - Ads cannot depict cannabis products or the consumption of cannabis.
 - Cannot make any health claims.
 - Cannot appeal to minors.
 - Cannot be located within 1,000 feet of public parks, schools, playgrounds, or on any public owned or operated property.

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40

Impairment

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41

DUI - Cannabis

(a)(7) - ...the person has, within 2 hours of driving or being in actual physical control of a vehicle, a tetrahydrocannabinol (THC) concentration in the person's whole blood or other bodily substance as defined in paragraph 6 of subsection (a) of Section 11-501.2 of this Code.

Subject to all other requirements and provisions under this Section, this paragraph (7) does not apply to the lawful consumption of cannabis by a qualifying patient licensed under the Compassionate Use of Medical Cannabis Pilot Program Act who is in possession of a valid registry card issued under that Act, unless that person is impaired by the use of cannabis.

Source: Driving under the influence - 625 ILCS 5/11-501(a)(7)

42

DUI - Cannabis

There is a *per se* amount of THC in a person's system that automatically qualifies them as being under the influence (like .08 with alcohol).

- 5 nanograms or more of delta 9 THC per milliliter of blood, or;
- 10 nanograms or more of delta 9 THC per milliliter of other bodily substance

Remember, these tests have to be taken within 2 hours of the person being in actual physical control of the vehicle in order to qualify under this statute.

43

DUI - Cannabis

Hospital medical blood draws are admissible as evidence as a business record exception to the hearsay rule for DUI prosecution, unless the draw is requested by law enforcement.

HOWEVER...

Hospital NIDA drug tests will indicate "NEGATIVE" if the subject has less than 50 nanograms of THC in their system. Also, a hospital blood draw cannot be used as a basis for a Summary Suspension.

Source: Admissibility of chemical tests of blood, other bodily substance, or urine conducted in the regular course of providing emergency medical treatment - 625 ILCS 5/11-501.4

44

Considerations

DUI Cannabis

- Medical Cannabis Cardholders may have a debilitating condition and may be unable to do standardized FST's.
- Try non-standardized FST's (alphabet, count down, finger count, etc).
- Pupil dilation can be an indication of cannabis consumption.
- Recommend taking ARIDE (Advanced Roadside Impairment Detection & Enforcement) training at MTU.
- HGN is not a clinical indicator for cannabis use. Still do the test in case of cannabis + alcohol or other drugs.
- Recommend using lack of convergence, Modified Romberg Balance, and Finger to Nose tests (if ARIDE trained)

45

Considerations

DUI Cannabis

- Don't just take urine if you can help it. Blood draws are highly recommended.
- Urine specimens submitted for analysis should specifically request quantitative Delta 9 THC levels, not the metabolite.
- There is a separate "Warning to Motorist" for DUI-Medical Cannabis.
- For DUI-Cannabis, you **MUST** show impairment. Law requires you to have an "independent, cannabis-related factual basis for DUI investigation" (being a medical cannabis card holder alone does not qualify).

46

Considerations

Vehicle Stops / Searches

- The mere smell of cannabis alone may no longer give us probable cause to search a vehicle and/or its occupants.
- This will also apply to K9 alerts unless it is a dog that was not trained to alert on the odor of cannabis.
- Articulate if the odor is burnt cannabis or raw cannabis.
- Ask questions to help establish PC.
- If there is cannabis in the vehicle that is being transported in an illegal manner, that would seem to constitute probable cause for a search.
 - Blunt/Roach in ash tray
 - Cannabis shake on floor
 - Occupant shows you cannabis in a knotted plastic baggy
 - Broken seal on cannabis container

47

GET TRAINING

- Essential to any Impairment Inquiry

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48

Expungements

- Automatic Expungement by 1/1/21
- Social Justice Components
- "Minor Cannabis Offense," which means:
- "a violation of Section 4 or 5 of the Cannabis Control Act concerning not more than 30 grams of any substance containing cannabis, provided the violation did not include a penalty enhancement under Section 7 of the Cannabis Control Act and is not associated with an arrest, conviction or other disposition for a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act."

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49

Automatic if ...

- all criminal history records of an arrest, charge not initiated by arrest, order of supervision, or order of qualified probation for records involving Minor Cannabis Offenses if:
- (1) one year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records; and
- (2) no criminal charges were filed relating to the arrest or law enforcement interaction or criminal charges were filed and subsequently dismissed or vacated or the arrestee was acquitted.

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50

So ...

- Roundtable discussion

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51
