



PA 22-103—sHB 5329
General Law Committee

AN ACT CONCERNING CANNABIS

SUMMARY: This act makes several changes in the law governing the regulation and licensing of adult use (recreational) cannabis. It does the following:

1. explicitly prohibits gifting, selling, or transferring cannabis under certain circumstances and establishes penalties for violating the bans (§§ 2-4);
2. allows a licensed cultivator to create up to two equity joint ventures, which must be approved by the Social Equity Council and licensed by the Department of Consumer Protection (DCP) (§ 5);
3. sets a deadline of 14 months from when DCP approved the expansion or conversion for certain producers or dispensary facilities to create the needed equity joint ventures (two for producers and one for dispensary facilities) before being liable for the full conversion fee (§§ 6 & 7);
4. prohibits the Social Equity Council from approving an equity joint venture applicant that shares any individual owner with another equity joint venture that meets the social equity applicant criteria (§ 21);
5. makes several changes to cannabis advertising, including (a) prohibiting out-of-state entities and individuals from advertising cannabis or related services, (b) limiting cannabis advertisements on electronic or illuminated billboards to between 11:00 p.m. and 6:00 a.m., and (c) exempting certain outdoor business signs at a cannabis establishment from certain signage requirements (§ 8);
6. eliminates the density cap that prohibits a municipality from granting zoning approval for more retailers or micro-cultivators, based on municipal population (§ 9);
7. establishes a working group to study regulating hemp and the possibility of including it in the state's cannabis program (§ 10); and
8. deems Social Equity Council members as having resigned if they miss three consecutive meetings or 50% of the meetings in a calendar year (§ 21).

Separately, the act extends to physician assistants (PAs) the ability to certify a patient for medical marijuana use (except for glaucoma) (§§ 11-14, 16 & 18-20). Beginning July 1, 2023, it also eliminates the fees for a qualifying patient or caregiver registration (currently \$25) and administrative costs for issuing or renewing registrations (currently \$75 for qualifying patients) (§§ 15 & 17).

EFFECTIVE DATE: Upon passage, except the provisions (1) extending medical marijuana certification authority to PAs are effective July 1, 2022, and (2) eliminating the medical marijuana fees are effective July 1, 2023.

§§ 2-4 — BAN ON CERTAIN GIFTS, SALES, AND TRANSFERS

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Existing law allows consumers (i.e., people age 21 or older) to give cannabis to other consumers for free (i.e., without compensation or consideration) if the giver reasonably believes that the other person can have it without exceeding the Responsible and Equitable Regulation of Adult-Use Cannabis Act's possession limit (CGS § 21a-279d).

The act explicitly limits this allowance by prohibiting individuals from gifting, selling, or transferring cannabis to another person under the following circumstances:

1. to induce, or in exchange for, any donation for any purpose, including a charitable donation or a donation made to gain admission to an event;
2. at any location, other than a dispensary facility, retailer, or hybrid retailer, (a) where a consumer may purchase an item other than cannabis, a cannabis product, or related services or (b) that requires consideration, including membership in a club, to gain admission to the location; or
3. as part of a giveaway associated with attendance at an event, including a door prize, goodie bag, or swag bag.

The act explicitly allows individuals with a bona fide social relationship to give cannabis to one another if it is done without consideration and is not associated with a commercial transaction.

Fines

In addition to any existing penalty, the act subjects anyone who violates this provision to the following fines and hearing:

1. a municipal fine the act allows to be locally adopted, which may be up to \$1,000 per violation (§ 3);
2. a Department of Emergency Services and Public Protection (DESPP) fine of \$1,000 per offense, payable by mail to the Centralized Infractions Bureau without appearing in court; and
3. an administrative hearing held by the Department of Revenue Services (DRS) commissioner for failing to pay taxes, which may result in a civil penalty of up to \$1,000 per violation.

Under the act, "per offense" and "per violation" mean either per transaction or per day the violation continues, as the DESPP or DRS commissioner determines for the respective violation.

For the fines established by municipal ordinance, the act allows any police officer or other person the municipal chief executive officer authorizes to issue citations to violators. Municipalities that adopt this type of ordinance must also adopt a citation hearing procedure. Revenue from the municipal fines must be deposited into the municipality's general fund or in a designated special fund.

§§ 5-7 & 21 — EQUITY JOINT VENTURES

Cultivators (§ 5)

The act allows a licensed cultivator to create up to two equity joint ventures

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(i.e., businesses that are at least 50% owned and controlled by someone who meets social equity applicant income and residency criteria), subject to Social Equity Council approval and DCP licensing requirements. Each equity joint venture must be in any cannabis establishment business other than one with a cultivator license. By law, a “cannabis establishment” is a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana), food and beverage manufacturer, product manufacturer or packager, delivery service, or transporter.

Application Procedure and Contents. Like existing law for equity joint ventures by producers and dispensary facilities, the act requires a licensed cultivator applying for an equity joint venture to submit to the council information that allows it to determine the venture’s ownership terms. This includes the organizing documents outlining each backer’s ownership stake, initial investment, and payout information. Cultivators may also need to include evidence of business formation, ownership allocation, ownership and financing terms, and proof of social equity status.

Upon receiving the council’s written approval, the equity joint venture applicant must apply for a DCP license in the same form as required by other cultivators, except the application is not subject to the lottery. (By law, if there are more than the maximum number of applications, there is a lottery to identify applications for review.)

Ownership and Location Limits. The act prohibits a cultivator, including its backer, from increasing its ownership in an equity joint venture to more than 50% in the seven years after DCP issues the license. It also prohibits equity joint ventures that share a common cultivator or backer from being located within 20 miles of another commonly owned equity joint venture.

Financial Ratio. The act requires an equity joint venture applicant to pay 50% of any applicable licensing fees (the full fee is \$25,000 for a provisional license and \$75,000 for a license or renewal) for the first three renewals and then the full amount after that.

Producers and Dispensary Facilities (§§ 6 & 7)

Ownership. By law, producers seeking a license expansion and dispensary facilities seeking to convert to a hybrid retailer may pay reduced fees in exchange for creating a certain number of equity joint ventures (i.e., two for producers and one for dispensaries). Under prior law, these equity joint ventures had to have the social equity applicant own at least 50% of the business. The act instead requires that the (1) equity joint venture be at least 50% owned and controlled by an individual or individuals who meet the social equity applicant criteria or (2) equity joint venture applicant is an individual who meets the social equity applicant criteria.

By law, a social equity applicant is an individual who (1) had an average household income of less than 300% of the state median over the three tax years immediately before the application and (2) was a resident of a disproportionately impacted area for at least (a) five of the 10 immediately preceding years or (b) nine

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years before he or she turned age 18. It may also be a person (e.g., business entity) that is at least 65% owned and controlled by an individual or individuals who meet these criteria. A disproportionately impacted area is a census tract with a historical conviction rate for drug-related offenses or an unemployment rate greater than 10%.

Fee Deadline. Under prior law, if a producer or dispensary paid the reduced expansion or conversion fee but did not create the required equity joint ventures, it was liable for the full fee amount (i.e., \$3 million for producers and \$1 million for dispensary facilities). The act specifies that (1) ventures must be created and receive a final license within 14 months after DCP approves the license expansion or conversion and (2) the amount due is minus the paid reduced conversion fee.

Limitations. The act limits producers and dispensary facilities that receive approval to expand or convert to creating no more than two equity joint ventures. They may not apply for, or create, any additional equity joint ventures if, as of May 24, 2022, the producer or facility has at least two equity joint ventures that have received a provisional license.

Financial Ratio. The act requires an equity joint venture applicant to pay 50% of any applicable licensing fees for the first three renewal cycles and then the full amount after that. By law, the reduced conversion fee is \$1.5 million for producers and \$500,000 for dispensary facilities, with an annual renewal fee of \$75,000 for the former and \$25,000 for the latter (CGS § 21a-420e(d); Conn. Agencies Regs., § 21a-408-29).

Sharing Ownership (§ 21)

The act prohibits the Social Equity Council from approving any equity joint venture applicant that shares any individual owner with another equity joint venture that meets the social equity applicant criteria (see above).

§ 8 — ADVERTISEMENTS

The act prohibits out-of-state entities and individuals from advertising cannabis or related services in Connecticut. It does so by limiting those who can advertise cannabis to cannabis establishment licensees.

Billboards

Existing law, unchanged by the act, allows billboard advertisements for cannabis establishments only if there is reliable evidence that at least 90% of the audience is reasonably expected to be at least 21 years old. The act further limits billboard advertising by prohibiting electronic or illuminated billboard cannabis advertisements between 6:00 a.m. and 11:00 p.m.

Business Names and Logo Use

Existing law prohibits cannabis establishments from advertising cannabis or

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cannabis paraphernalia, goods, or services in a way that targets or is designed to appeal to those under age 21. The act specifies that this ban applies to the use of a business name or logo.

Plant Images

The act prohibits establishments from using any image or other visual representation of the cannabis plant or part of it, including the leaf, in displays or advertisements.

Additionally, the act prohibits displaying the image or visual representation if it is (1) clearly visible to someone from the outside of the facility used to operate the cannabis establishment or (2) used on the outside of the facility used to operate the cannabis establishment.

Minimum Distance From Certain Buildings

The act increases the minimum distance, from 500 to 1,500 feet, needed to advertise cannabis or cannabis products or paraphernalia in any physical form visible to the public from certain buildings (i.e., elementary or secondary school grounds, recreation centers or facilities, child care centers, playgrounds, public parks, and libraries). It also adds houses of worship to the list of buildings subject to this requirement. (PA 22-104, § 54, eliminates these changes and instead prohibits cannabis establishments from advertising on any billboard within 1,500 feet of the buildings listed above.)

Outdoor Sign Exemption

The act exempts certain outdoor business signs posted at a cannabis establishment from the law's (1) required warning against underage use and (2) audience requirement (i.e., ascertaining that at least 90% of the audience is expected to be at least age 21). The exemption applies to any outdoor sign (e.g., monument, pylon, or wayfinding sign) that meets the following criteria:

1. contains only the cannabis establishment's name and logo;
2. has (a) no image or other visual representation of the cannabis plant or part of it, including the leaf, and (b) no more than three colors; and
3. is located on (a) the cannabis establishment's premises, whether leased or owned, or (b) a commercial property occupied by multiple tenants, including the cannabis establishment.

Violation

As under existing advertising penalties, the act makes a violation of these advertising requirements an unfair trade practice (see BACKGROUND).

§ 9 — MUNICIPAL DENSITY CAP

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The act eliminates density cap provisions that (1) until June 30, 2024, limited the number of retailers and micro-cultivators in proportion to municipal resident population and (2) after July 1, 2024, allowed the DCP commissioner to set a cap.

Under prior law, there was a cap of one retailer and one micro-cultivator for every 25,000 residents, as determined by the 2020 census, until June 30, 2024. Prior law then allowed the DCP commissioner to set a density cap. Municipalities were prohibited from granting zoning approval for more establishments than the respective caps.

§ 10 — HEMP WORKING GROUP

The act requires the General Law Committee chairpersons to convene a working group to study the following topics:

1. the regulation of hemp and its products and producers licensed in Connecticut and neighboring states;
2. how neighboring states integrated hemp and its products and producers into their recreational cannabis programs, statutes, and regulations; and
3. possible legislation to integrate hemp and its products and licensed producers into Connecticut’s recreational cannabis statutes by allowing (a) licensees to convert their licenses to licenses under the recreational cannabis statutes and (b) hemp products, including cannabidiol, that these licensees produce to be sold in licensed cannabis dispensaries.

Membership and Meetings

The working group includes the General Law Committee chairpersons (who also serve as the working group’s chairpersons); the DCP and agriculture commissioners, or their respective designees; and six legislative appointments, as shown in the following table.

Hemp Working Group Appointed Members

Appointing Authority	Appointee Qualification
House speaker	Connecticut Farm Bureau representative
Senate president pro tempore	Person who grows hemp in the state
House majority leader	Connecticut cannabis industry representative
Senate majority leader	Connecticut cannabis industry representative
House minority leader	Legislator representing rural districts
Senate minority leader	Legislator representing rural districts

All initial appointments must be made by June 23, 2022 (30 days after the act’s passage), and appointing authorities must fill any vacancies. The chairpersons must schedule the group’s first meeting, which must be held by July 23, 2022 (60 days after the act’s passage).

Administration and Reporting

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Under the act, the General Law Committee's administrative staff must serve as the working group's administrative staff. The working group must submit a report on its findings and recommendations to the General Law Committee by January 1, 2023. The group terminates when it submits the report or on January 1, 2023, whichever is later.

§§ 11-14, 16 & 18-20 — PHYSICIAN ASSISTANTS

The act extends to PAs the ability to certify a patient for medical marijuana use (except for patients whose debilitating medical condition is glaucoma). Existing law allows advanced practice registered nurses (APRNs) and physicians to certify patients (but only physicians can certify glaucoma patients).

Among other things, the act allows PAs to do the following:

1. diagnose a patient's qualifying debilitating condition;
2. issue a written certification, for up to one year, for a patient to use medical marijuana after (a) completing a medically reasonable assessment of the patient's medical history and condition; (b) making the diagnosis that the palliative use of marijuana would likely outweigh the health risks; and (c) explaining the potential risks and benefits to the patient and parent or guardian of a patient lacking legal capacity;
3. until June 30, 2023, certify a qualifying patient's use of medical marijuana and provide follow-up care using telehealth if the patient complies with other certification and recordkeeping requirements; and
4. possess and supply marijuana to treat side effects of chemotherapy, if licensed to do so by the DCP commissioner.

The act extends to PAs the same protections from civil, criminal, and disciplinary liability that already apply to physicians and APRNs under the medical marijuana law. As is the case for physicians and APRNs, the act prohibits PAs from having a financial interest in any cannabis establishment, except retailers and delivery services.

§ 21 — SOCIAL EQUITY COUNCIL

The act sets attendance requirements for Social Equity Council members. Any member who fails to attend three consecutive meetings after May 24, 2022, or who fails to attend at least 50% of all meetings in any calendar year beginning on and after January 1, 2023, is deemed to have resigned from office.

Under the act, the appointing authority must (1) fill the vacancy for the unexpired term of any member deemed to have resigned under this provision and (2) use best efforts to ensure the appointment reflects the racial, gender, and geographic diversity of the state's population.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

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The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease-and-desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.