



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5708

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

720 ILCS 550/1	from Ch. 56 1/2, par. 701
720 ILCS 550/4	from Ch. 56 1/2, par. 704
720 ILCS 550/9	from Ch. 56 1/2, par. 709
720 ILCS 550/10	from Ch. 56 1/2, par. 710
725 ILCS 5/111-3.1 new	

Amends the Cannabis Control Act. Provides that the knowing possession of not more than 30 grams of any substance containing cannabis is a petty offense charged by a Uniform Cannabis Ticket with a fine of \$100 (rather than a Class C misdemeanor for 2.5 grams or less, a Class B misdemeanor for more than 2.5 grams to 10 grams, and a Class A misdemeanor for more than 10 grams to 30 grams). Provides that knowing possession of more than 30 grams but not more than 500 grams of any substance containing cannabis is a Class A misdemeanor for a first offense (rather than a Class 4 felony) and a Class 4 felony for a subsequent offense (rather than a Class 3 felony). Amends the Code of Criminal Procedure of 1963. Establishes procedures concerning the Uniform Cannabis Ticket.

LRB098 15954 RLC 55596 b

1 AN ACT concerning criminal law.

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

4 Section 5. The Cannabis Control Act is amended by changing
5 Sections 1, 4, 9, and 10 as follows:

6 (720 ILCS 550/1) (from Ch. 56 1/2, par. 701)

7 Sec. 1.

8 The General Assembly recognizes that (1) ~~the current state~~
9 ~~of scientific and medical knowledge concerning the effects of~~
10 ~~cannabis makes it necessary to acknowledge the physical,~~
11 ~~psychological and sociological damage which is incumbent upon~~
12 ~~its use; and (2)~~ the use of cannabis occupies the ~~unusual~~
13 position of being widely used and pervasive among the citizens
14 of Illinois ~~despite its harmful effects; and (2)~~ (3) previous
15 legislation enacted to control or forbid the use of cannabis
16 has often unnecessarily and unrealistically drawn a large
17 segment of our population within the criminal justice system
18 without succeeding in deterring the expansion of cannabis use.
19 It is, therefore, the intent of the General Assembly, in the
20 interest of the health and welfare of the citizens of Illinois,
21 to establish a reasonable penalty system which is responsive to
22 the current state of knowledge concerning cannabis and which
23 directs the greatest efforts of law enforcement agencies toward

1 the commercial traffickers and large-scale purveyors of
2 cannabis. To this end, this Act provides wide latitude in the
3 sentencing discretion of the courts and establishes penalties
4 in a sharply rising progression based on the amount of
5 substances containing cannabis involved in each case.

6 (Source: P.A. 77-758.)

7 (720 ILCS 550/4) (from Ch. 56 1/2, par. 704)

8 Sec. 4. Cannabis possession.

9 (a) It is unlawful for any person knowingly to possess
10 cannabis. Any person who violates this section with respect to:

11 (1) ~~(a)~~ not more than 30 ~~2.5~~ grams of any substance
12 containing cannabis is guilty of a petty offense charged by
13 a Uniform Cannabis Ticket and shall be fined \$100 ~~Class C~~
14 ~~misdemeanor;~~

15 (2) ~~(blank); (b) more than 2.5 grams but not more than~~
16 ~~10 grams of any substance containing cannabis is guilty of~~
17 ~~a Class B misdemeanor;~~

18 (3) ~~(blank); (c) more than 10 grams but not more than~~
19 ~~30 grams of any substance containing cannabis is guilty of~~
20 ~~a Class A misdemeanor; provided, that if any offense under~~
21 ~~this subsection (c) is a subsequent offense, the offender~~
22 ~~shall be guilty of a Class 4 felony;~~

23 (4) ~~(d)~~ more than 30 grams but not more than 500 grams
24 of any substance containing cannabis is guilty of a Class A
25 misdemeanor ~~4 felony;~~ provided that if any offense under

1 this paragraph (4) ~~subsection (d)~~ is a subsequent offense,
2 the offender shall be guilty of a Class 4 ~~3~~ felony;

3 (5) ~~(e)~~ more than 500 grams but not more than 2,000
4 grams of any substance containing cannabis is guilty of a
5 Class 3 felony;

6 (6) ~~(f)~~ more than 2,000 grams but not more than 5,000
7 grams of any substance containing cannabis is guilty of a
8 Class 2 felony;

9 (7) ~~(g)~~ more than 5,000 grams of any substance
10 containing cannabis is guilty of a Class 1 felony.

11 (Source: P.A. 90-397, eff. 8-15-97.)

12 (720 ILCS 550/9) (from Ch. 56 1/2, par. 709)

13 Sec. 9. (a) Any person who engages in a calculated criminal
14 cannabis conspiracy, as defined in subsection (b), is guilty of
15 a Class 3 felony, and fined not more than \$200,000 and shall be
16 subject to the forfeitures prescribed in subsection (c); except
17 that, if any person engages in such offense after one or more
18 prior convictions under this Section, Section 4 (a)(4) ~~(d)~~,
19 Section 5 (d), Section 8 (d) or any law of the United States or
20 of any State relating to cannabis, or controlled substances as
21 defined in the Illinois Controlled Substances Act, in addition
22 to the fine and forfeiture authorized above, he shall be guilty
23 of a Class 1 felony for which an offender may not be sentenced
24 to death.

25 (b) For purposes of this section, a person engages in a

1 calculated criminal cannabis conspiracy when:

2 (1) he violates Section 4 (a)(4) ~~(d)~~, 4 (a)(5) ~~(e)~~, 5 (d), 5
3 (e), 8 (c) or 8 (d) of this Act; and

4 (2) such violation is a part of a conspiracy undertaken or
5 carried on with 2 or more other persons; and

6 (3) he obtains anything of value greater than \$500 from, or
7 organizes, directs or finances such violation or conspiracy.

8 (c) Any person who is convicted under this Section of
9 engaging in a calculated criminal cannabis conspiracy shall
10 forfeit to the State of Illinois:

11 (1) the receipts obtained by him in such conspiracy; and

12 (2) any of his interests in, claims against, receipts from,
13 or property or rights of any kind affording a source of
14 influence over, such conspiracy.

15 (d) The circuit court may enter such injunctions,
16 restraining orders, directions, or prohibitions, or take such
17 other actions, including the acceptance of satisfactory
18 performance bonds, in connection with any property, claim,
19 receipt, right or other interest subject to forfeiture under
20 this Section, as it deems proper.

21 (Source: P.A. 84-1233.)

22 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

23 Sec. 10. (a) Whenever any person who has not previously
24 been convicted of, or placed on probation or court supervision
25 for, any offense under this Act or any law of the United States

1 or of any State relating to cannabis, or controlled substances
2 as defined in the Illinois Controlled Substances Act, pleads
3 guilty to or is found guilty of violating Sections ~~4(a), 4(b),~~
4 ~~4(e),~~ 5(a), 5(b), 5(c) or 8 of this Act, the court may, without
5 entering a judgment and with the consent of such person,
6 sentence him to probation.

7 (b) When a person is placed on probation, the court shall
8 enter an order specifying a period of probation of 24 months,
9 and shall defer further proceedings in the case until the
10 conclusion of the period or until the filing of a petition
11 alleging violation of a term or condition of probation.

12 (c) The conditions of probation shall be that the person:
13 (1) not violate any criminal statute of any jurisdiction; (2)
14 refrain from possession of a firearm or other dangerous weapon;
15 (3) submit to periodic drug testing at a time and in a manner
16 as ordered by the court, but no less than 3 times during the
17 period of the probation, with the cost of the testing to be
18 paid by the probationer; and (4) perform no less than 30 hours
19 of community service, provided community service is available
20 in the jurisdiction and is funded and approved by the county
21 board.

22 (d) The court may, in addition to other conditions, require
23 that the person:

24 (1) make a report to and appear in person before or
25 participate with the court or such courts, person, or
26 social service agency as directed by the court in the order

1 of probation;

2 (2) pay a fine and costs;

3 (3) work or pursue a course of study or vocational
4 training;

5 (4) undergo medical or psychiatric treatment; or
6 treatment for drug addiction or alcoholism;

7 (5) attend or reside in a facility established for the
8 instruction or residence of defendants on probation;

9 (6) support his dependents;

10 (7) refrain from possessing a firearm or other
11 dangerous weapon;

12 (7-5) refrain from having in his or her body the
13 presence of any illicit drug prohibited by the Cannabis
14 Control Act, the Illinois Controlled Substances Act, or the
15 Methamphetamine Control and Community Protection Act,
16 unless prescribed by a physician, and submit samples of his
17 or her blood or urine or both for tests to determine the
18 presence of any illicit drug;

19 (8) and in addition, if a minor:

20 (i) reside with his parents or in a foster home;

21 (ii) attend school;

22 (iii) attend a non-residential program for youth;

23 (iv) contribute to his own support at home or in a
24 foster home.

25 (e) Upon violation of a term or condition of probation, the
26 court may enter a judgment on its original finding of guilt and

1 proceed as otherwise provided.

2 (f) Upon fulfillment of the terms and conditions of
3 probation, the court shall discharge such person and dismiss
4 the proceedings against him.

5 (g) A disposition of probation is considered to be a
6 conviction for the purposes of imposing the conditions of
7 probation and for appeal, however, discharge and dismissal
8 under this Section is not a conviction for purposes of
9 disqualification or disabilities imposed by law upon
10 conviction of a crime (including the additional penalty imposed
11 for subsequent offenses under Section 4(a)(4), ~~4(e)~~, ~~4(d)~~, 5(c)
12 or 5(d) of this Act).

13 (h) Discharge and dismissal under this Section, Section 410
14 of the Illinois Controlled Substances Act, Section 70 of the
15 Methamphetamine Control and Community Protection Act, Section
16 5-6-3.3 or 5-6-3.4 of the Unified Code of Corrections, or
17 subsection (c) of Section 11-14 of the Criminal Code of 1961 or
18 the Criminal Code of 2012 may occur only once with respect to
19 any person.

20 (i) If a person is convicted of an offense under this Act,
21 the Illinois Controlled Substances Act, or the Methamphetamine
22 Control and Community Protection Act within 5 years subsequent
23 to a discharge and dismissal under this Section, the discharge
24 and dismissal under this Section shall be admissible in the
25 sentencing proceeding for that conviction as a factor in
26 aggravation.

1 (Source: P.A. 97-1118, eff. 1-1-13; 97-1150, eff. 1-25-13;
2 98-164, eff. 1-1-14.)

3 Section 10. The Code of Criminal Procedure of 1963 is
4 amended by adding Section 111-3.1 as follows:

5 (725 ILCS 5/111-3.1 new)

6 Sec. 111-3.1. Uniform Cannabis Ticket.

7 (a) As used in this Section, "local authorities" means a
8 duly organized State, county, or municipal peace unit or police
9 force.

10 (b) For violation of paragraph (1) of subsection (a) of
11 Section 4 of the Cannabis Control Act, the local authorities
12 having jurisdiction shall, except as otherwise provided in this
13 Section, charge the violation by a Uniform Cannabis Ticket. A
14 copy of the Uniform Cannabis Ticket shall be sent to the
15 circuit court clerk, within 30 days, but in no event later than
16 90 days after the violation. The Uniform Cannabis Ticket shall
17 include:

18 (1) the name and address of the defendant;

19 (2) the violation charged;

20 (3) the municipality where the violation occurred or if
21 in an unincorporated area the county where the violation
22 occurred;

23 (4) the statutory fine for the offense;

24 (5) the date by which the fine must be paid or plea of

1 not guilty entered by the defendant;

2 (6) a warning that failure to pay the fine or enter a
3 plea of not guilty by the date set in the Ticket, may
4 result in an order of contempt by the court and shall
5 result in issuance of a warrant of arrest for the
6 defendant; and

7 (7) a notice that the person may plead guilty and pay
8 the fine to the circuit court clerk or enter a plea of not
9 guilty to the circuit court clerk and request a trial.

10 (c) A person may not be arrested for an offense subject to
11 charging by a Uniform Cannabis Ticket, except as provided in
12 this subsection. A person may be arrested if:

13 (1) he or she is in possession of an identification
14 card, license, or other form of identification issued by
15 the federal government, this State or any other state,
16 municipality, or college or university, and fails to
17 produce the identification upon request of a police officer
18 who informs the person that he or she has been found in
19 possession of what appears to the officer to be a violation
20 of paragraph (1) of subsection (a) of Section 4 of the
21 Cannabis Control Act;

22 (2) he or she is without any form of identification and
23 fails or refuses to truthfully provide his or her name,
24 address, and date of birth to a police officer who has
25 informed the person that the officer intends to issue the
26 person with a Uniform Cannabis Ticket for a violation of

1 paragraph (1) of subsection (a) of Section 4 of the
2 Cannabis Control Act; or

3 (3) he or she fails to pay the fine or enter a plea of
4 not guilty within the time period set in the Uniform
5 Cannabis Ticket.

6 (d) The amount of bail for the offense charged by a Uniform
7 Cannabis Ticket shall be the amount as the Illinois Supreme
8 Court may establish by rule.

9 (e) The copy of the Uniform Cannabis Ticket filed with the
10 circuit court constitutes a complaint to which the defendant
11 may plead, unless he or she specifically requests that a
12 verified complaint be filed.

13 (f) Except as otherwise provided in this Section, no other
14 finances, fees, penalties, or costs shall be assessed on a plea of
15 guilty to a Uniform Cannabis Ticket.

16 (g) A defendant who fails to pay the fine or enter a plea
17 of not guilty within the time period set in the Uniform
18 Cannabis Ticket is guilty of a petty offense as provided in the
19 offense charged in the Ticket.

20 (h) Nothing contained in this Section shall prohibit a unit
21 of local government from enacting an ordinance or bylaw
22 regulating or prohibiting the consumption of cannabis in public
23 places and providing for additional penalties for the public
24 use of cannabis, provided that the penalties are not greater
25 than those for the public consumption of alcohol.

26 (i) No issuance of a Uniform Cannabis Ticket or entry of a

1 plea of guilty to a Uniform Cannabis Ticket shall be considered
2 a violation of parole, mandatory supervised release,
3 probation, conditional discharge, or supervision.

4 (j) A violation of paragraph (1) of subsection (a) of
5 Section 4 of the Cannabis Control Act shall not result in the
6 creation of a criminal history record of any kind and no
7 information about the violation shall be maintained in any
8 criminal record or database.