



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3083

Introduced 2/19/2021, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7.5
410 ILCS 705/10-20
410 ILCS 705/15-73 new
410 ILCS 705/15-145

Amends the Cannabis Regulation and Tax Act. Requires the Department of Public Health to provide by rule for the establishment of a list of self-excluded persons who may request to be placed on the list and are prohibited from entering a dispensary or purchasing any product or service at a dispensary. Provides that the rules must establish specified procedures regarding the list and require dispensaries to establish procedures designed to remove self-excluded persons from targeted mailings or other forms of advertising or promotions and deny self-excluded persons entry and access to the dispensary and the products and services provided by the dispensary. Prohibits dispensaries from allowing entry to or serving any person who is on the self-exclusion list. Provides that the list of self-excluded persons shall be exempt from public inspection, copying, and disclosure, except for the limited purpose of assisting in the proper administration of procedures established under the amendatory Act. Allows the Department of Public Health to adopt rules requiring a dispensing organization to use a purchaser's identification to check whether the purchaser is on the self-exclusion list. Provides that allowing entry to or serving any person who is on the self-exclusion list is grounds for discipline by the Department of Financial and Professional Regulation. Makes a conforming change in the Freedom of Information Act. Effective immediately.

LRB102 02663 CPF 12666 b

1 AN ACT concerning health.

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

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory exemptions. To the extent provided for
8 by the statutes referenced below, the following shall be
9 exempt from inspection and copying:

10 (a) All information determined to be confidential
11 under Section 4002 of the Technology Advancement and
12 Development Act.

13 (b) Library circulation and order records identifying
14 library users with specific materials under the Library
15 Records Confidentiality Act.

16 (c) Applications, related documents, and medical
17 records received by the Experimental Organ Transplantation
18 Procedures Board and any and all documents or other
19 records prepared by the Experimental Organ Transplantation
20 Procedures Board or its staff relating to applications it
21 has received.

22 (d) Information and records held by the Department of
23 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible
2 disease or any information the disclosure of which is
3 restricted under the Illinois Sexually Transmissible
4 Disease Control Act.

5 (e) Information the disclosure of which is exempted
6 under Section 30 of the Radon Industry Licensing Act.

7 (f) Firm performance evaluations under Section 55 of
8 the Architectural, Engineering, and Land Surveying
9 Qualifications Based Selection Act.

10 (g) Information the disclosure of which is restricted
11 and exempted under Section 50 of the Illinois Prepaid
12 Tuition Act.

13 (h) Information the disclosure of which is exempted
14 under the State Officials and Employees Ethics Act, and
15 records of any lawfully created State or local inspector
16 general's office that would be exempt if created or
17 obtained by an Executive Inspector General's office under
18 that Act.

19 (i) Information contained in a local emergency energy
20 plan submitted to a municipality in accordance with a
21 local emergency energy plan ordinance that is adopted
22 under Section 11-21.5-5 of the Illinois Municipal Code.

23 (j) Information and data concerning the distribution
24 of surcharge moneys collected and remitted by carriers
25 under the Emergency Telephone System Act.

26 (k) Law enforcement officer identification information

1 or driver identification information compiled by a law
2 enforcement agency or the Department of Transportation
3 under Section 11-212 of the Illinois Vehicle Code.

4 (l) Records and information provided to a residential
5 health care facility resident sexual assault and death
6 review team or the Executive Council under the Abuse
7 Prevention Review Team Act.

8 (m) Information provided to the predatory lending
9 database created pursuant to Article 3 of the Residential
10 Real Property Disclosure Act, except to the extent
11 authorized under that Article.

12 (n) Defense budgets and petitions for certification of
13 compensation and expenses for court appointed trial
14 counsel as provided under Sections 10 and 15 of the
15 Capital Crimes Litigation Act. This subsection (n) shall
16 apply until the conclusion of the trial of the case, even
17 if the prosecution chooses not to pursue the death penalty
18 prior to trial or sentencing.

19 (o) Information that is prohibited from being
20 disclosed under Section 4 of the Illinois Health and
21 Hazardous Substances Registry Act.

22 (p) Security portions of system safety program plans,
23 investigation reports, surveys, schedules, lists, data, or
24 information compiled, collected, or prepared by or for the
25 Regional Transportation Authority under Section 2.11 of
26 the Regional Transportation Authority Act or the St. Clair

1 County Transit District under the Bi-State Transit Safety
2 Act.

3 (q) Information prohibited from being disclosed by the
4 Personnel Record Review Act.

5 (r) Information prohibited from being disclosed by the
6 Illinois School Student Records Act.

7 (s) Information the disclosure of which is restricted
8 under Section 5-108 of the Public Utilities Act.

9 (t) All identified or deidentified health information
10 in the form of health data or medical records contained
11 in, stored in, submitted to, transferred by, or released
12 from the Illinois Health Information Exchange, and
13 identified or deidentified health information in the form
14 of health data and medical records of the Illinois Health
15 Information Exchange in the possession of the Illinois
16 Health Information Exchange Office due to its
17 administration of the Illinois Health Information
18 Exchange. The terms "identified" and "deidentified" shall
19 be given the same meaning as in the Health Insurance
20 Portability and Accountability Act of 1996, Public Law
21 104-191, or any subsequent amendments thereto, and any
22 regulations promulgated thereunder.

23 (u) Records and information provided to an independent
24 team of experts under the Developmental Disability and
25 Mental Health Safety Act (also known as Brian's Law).

26 (v) Names and information of people who have applied

1 for or received Firearm Owner's Identification Cards under
2 the Firearm Owners Identification Card Act or applied for
3 or received a concealed carry license under the Firearm
4 Concealed Carry Act, unless otherwise authorized by the
5 Firearm Concealed Carry Act; and databases under the
6 Firearm Concealed Carry Act, records of the Concealed
7 Carry Licensing Review Board under the Firearm Concealed
8 Carry Act, and law enforcement agency objections under the
9 Firearm Concealed Carry Act.

10 (w) Personally identifiable information which is
11 exempted from disclosure under subsection (g) of Section
12 19.1 of the Toll Highway Act.

13 (x) Information which is exempted from disclosure
14 under Section 5-1014.3 of the Counties Code or Section
15 8-11-21 of the Illinois Municipal Code.

16 (y) Confidential information under the Adult
17 Protective Services Act and its predecessor enabling
18 statute, the Elder Abuse and Neglect Act, including
19 information about the identity and administrative finding
20 against any caregiver of a verified and substantiated
21 decision of abuse, neglect, or financial exploitation of
22 an eligible adult maintained in the Registry established
23 under Section 7.5 of the Adult Protective Services Act.

24 (z) Records and information provided to a fatality
25 review team or the Illinois Fatality Review Team Advisory
26 Council under Section 15 of the Adult Protective Services

1 Act.

2 (aa) Information which is exempted from disclosure
3 under Section 2.37 of the Wildlife Code.

4 (bb) Information which is or was prohibited from
5 disclosure by the Juvenile Court Act of 1987.

6 (cc) Recordings made under the Law Enforcement
7 Officer-Worn Body Camera Act, except to the extent
8 authorized under that Act.

9 (dd) Information that is prohibited from being
10 disclosed under Section 45 of the Condominium and Common
11 Interest Community Ombudsperson Act.

12 (ee) Information that is exempted from disclosure
13 under Section 30.1 of the Pharmacy Practice Act.

14 (ff) Information that is exempted from disclosure
15 under the Revised Uniform Unclaimed Property Act.

16 (gg) Information that is prohibited from being
17 disclosed under Section 7-603.5 of the Illinois Vehicle
18 Code.

19 (hh) Records that are exempt from disclosure under
20 Section 1A-16.7 of the Election Code.

21 (ii) Information which is exempted from disclosure
22 under Section 2505-800 of the Department of Revenue Law of
23 the Civil Administrative Code of Illinois.

24 (jj) Information and reports that are required to be
25 submitted to the Department of Labor by registering day
26 and temporary labor service agencies but are exempt from

1 disclosure under subsection (a-1) of Section 45 of the Day
2 and Temporary Labor Services Act.

3 (kk) Information prohibited from disclosure under the
4 Seizure and Forfeiture Reporting Act.

5 (ll) Information the disclosure of which is restricted
6 and exempted under Section 5-30.8 of the Illinois Public
7 Aid Code.

8 (mm) Records that are exempt from disclosure under
9 Section 4.2 of the Crime Victims Compensation Act.

10 (nn) Information that is exempt from disclosure under
11 Section 70 of the Higher Education Student Assistance Act.

12 (oo) Communications, notes, records, and reports
13 arising out of a peer support counseling session
14 prohibited from disclosure under the First Responders
15 Suicide Prevention Act.

16 (pp) Names and all identifying information relating to
17 an employee of an emergency services provider or law
18 enforcement agency under the First Responders Suicide
19 Prevention Act.

20 (qq) Information and records held by the Department of
21 Public Health and its authorized representatives collected
22 under the Reproductive Health Act.

23 (rr) Information that is exempt from disclosure under
24 the Cannabis Regulation and Tax Act.

25 (ss) Data reported by an employer to the Department of
26 Human Rights pursuant to Section 2-108 of the Illinois

1 Human Rights Act.

2 (tt) Recordings made under the Children's Advocacy
3 Center Act, except to the extent authorized under that
4 Act.

5 (uu) Information that is exempt from disclosure under
6 Section 50 of the Sexual Assault Evidence Submission Act.

7 (vv) Information that is exempt from disclosure under
8 subsections (f) and (j) of Section 5-36 of the Illinois
9 Public Aid Code.

10 (ww) Information that is exempt from disclosure under
11 Section 16.8 of the State Treasurer Act.

12 (xx) Information that is exempt from disclosure or
13 information that shall not be made public under the
14 Illinois Insurance Code.

15 (yy) Information prohibited from being disclosed under
16 the Illinois Educational Labor Relations Act.

17 (zz) Information prohibited from being disclosed under
18 the Illinois Public Labor Relations Act.

19 (aaa) Information prohibited from being disclosed
20 under Section 1-167 of the Illinois Pension Code.

21 (bbb) Information exempt from public inspection,
22 copying, and disclosure under subsection (d) of Section
23 15-73 of the Cannabis Regulation and Tax Act.

24 (Source: P.A. 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;
25 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.
26 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,

1 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;
2 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; 101-13, eff.
3 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221,
4 eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19;
5 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff.
6 1-1-20; 101-600, eff. 12-6-19; 101-620, eff 12-20-19; 101-649,
7 eff. 7-7-20.)

8 Section 10. The Cannabis Regulation and Tax Act is amended
9 by changing Sections 10-20 and 15-145 and by adding Section
10 15-73 as follows:

11 (410 ILCS 705/10-20)

12 Sec. 10-20. Identification; false identification; penalty.

13 (a) To protect personal privacy, the Department of
14 Financial and Professional Regulation shall not require a
15 purchaser to provide a dispensing organization with personal
16 information other than government-issued identification to
17 determine the purchaser's age, and a dispensing organization
18 shall not obtain and record personal information about a
19 purchaser without the purchaser's consent. A dispensing
20 organization shall use an electronic reader or electronic
21 scanning device to scan a purchaser's government-issued
22 identification, if applicable, to determine the purchaser's
23 age and the validity of the identification. Any identifying or
24 personal information of a purchaser obtained or received in

1 accordance with this Section shall not be retained, used,
2 shared or disclosed for any purpose except as authorized by
3 this Act.

4 (b) A person who is under 21 years of age may not present
5 or offer to a cannabis business establishment or the cannabis
6 business establishment's principal or employee any written or
7 oral evidence of age that is false, fraudulent, or not
8 actually the person's own, for the purpose of:

9 (1) purchasing, attempting to purchase, or otherwise
10 obtaining or attempting to obtain cannabis or any cannabis
11 product; or

12 (2) gaining access to a cannabis business
13 establishment.

14 (c) A violation of this Section is a Class A misdemeanor
15 consistent with Section 6-20 of the Liquor Control Act of
16 1934.

17 (d) The Secretary of State may suspend or revoke the
18 driving privileges of any person for a violation of this
19 Section under Section 6-206 of the Illinois Vehicle Code and
20 the rules adopted under it.

21 (e) No agent or employee of the licensee shall be
22 disciplined or discharged for selling or furnishing cannabis
23 or cannabis products to a person under 21 years of age if the
24 agent or employee demanded and was shown, before furnishing
25 cannabis or cannabis products to a person under 21 years of
26 age, adequate written evidence of age and identity of the

1 person. This subsection (e) does not apply if the agent or
2 employee accepted the written evidence knowing it to be false
3 or fraudulent. Adequate written evidence of age and identity
4 of the person is a document issued by a federal, State, county,
5 or municipal government, or subdivision or agency thereof,
6 including, but not limited to, a motor vehicle operator's
7 license, a registration certificate issued under the Military
8 Selective Service Act, or an identification card issued to a
9 member of the Armed Forces. Proof that the licensee or his or
10 her employee or agent was shown and reasonably relied upon
11 such written evidence in any transaction forbidden by this
12 Section is an affirmative defense in any criminal prosecution
13 therefor or to any proceedings for the suspension or
14 revocation of any license based thereon.

15 (f) The Department of Public Health may adopt rules
16 requiring a dispensing organization to use a purchaser's
17 identification to check whether the purchaser is on the
18 self-exclusion list established under Section 15-73 of this
19 Act.

20 (Source: P.A. 101-27, eff. 6-25-19.)

21 (410 ILCS 705/15-73 new)

22 Sec. 15-73. Self-exclusion list.

23 (a) The Department of Public Health shall provide by rule
24 for the establishment of a list of self-excluded persons who
25 are prohibited from entering a dispensary or purchasing any

1 product or service at a dispensary. A person may request to be
2 placed on the list by acknowledging in a manner to be
3 established by the Department of Public Health that the person
4 wishes to be excluded and by agreeing that, during any period
5 of voluntary exclusion, the person may not enter any
6 dispensary or purchase any product or service at a dispensary.

7 (b) The rules established under subsection (a) shall:

8 (1) establish procedures for placement on, and removal
9 from, the list of self-excluded persons, provided that,
10 notwithstanding any law to the contrary, prior to the
11 removal from the list a hearing must be conducted that is
12 not open to the general public and at which it shall be
13 established by the person seeking removal that there is no
14 longer a basis for the person to be maintained on the
15 self-exclusion list;

16 (2) establish procedures for the transmittal to all
17 dispensaries of identifying information concerning
18 self-excluded persons; and

19 (3) require dispensaries to establish procedures
20 designed to, at a minimum, remove self-excluded persons
21 from targeted mailings or other forms of advertising or
22 promotions and deny self-excluded persons entry and access
23 to the dispensary and the products and services provided
24 by the dispensary.

25 (c) A dispensary shall not allow entry to or serve any
26 person who is on the self-exclusion list established under

1 this Section.

2 (d) Notwithstanding any other law to the contrary, the
3 list of self-excluded persons shall be exempt from public
4 inspection, copying, and disclosure. This subsection shall not
5 be construed to prohibit a dispensary from disclosing the
6 identity of a properly self-excluded person for the limited
7 purpose of assisting in the proper administration of
8 self-exclusion procedures established under this Section.

9 (410 ILCS 705/15-145)

10 Sec. 15-145. Grounds for discipline.

11 (a) The Department may deny issuance, refuse to renew or
12 restore, or may reprimand, place on probation, suspend,
13 revoke, or take other disciplinary or nondisciplinary action
14 against any license or agent identification card or may impose
15 a fine for any of the following:

16 (1) Material misstatement in furnishing information to
17 the Department;

18 (2) Violations of this Act or rules;

19 (3) Obtaining an authorization or license by fraud or
20 misrepresentation;

21 (4) A pattern of conduct that demonstrates
22 incompetence or that the applicant has engaged in conduct
23 or actions that would constitute grounds for discipline
24 under this Act;

25 (5) Aiding or assisting another person in violating

1 any provision of this Act or rules;

2 (6) Failing to respond to a written request for
3 information by the Department within 30 days;

4 (7) Engaging in unprofessional, dishonorable, or
5 unethicial conduct of a character likely to deceive,
6 defraud, or harm the public;

7 (8) Adverse action by another United States
8 jurisdiction or foreign nation;

9 (9) A finding by the Department that the licensee,
10 after having his or her license placed on suspended or
11 probationary status, has violated the terms of the
12 suspension or probation;

13 (10) Conviction, entry of a plea of guilty, nolo
14 contendere, or the equivalent in a State or federal court
15 of a principal officer or agent-in-charge of a felony
16 offense in accordance with Sections 2105-131, 2105-135,
17 and 2105-205 of the Department of Professional Regulation
18 Law of the Civil Administrative Code of Illinois;

19 (11) Excessive use of or addiction to alcohol,
20 narcotics, stimulants, or any other chemical agent or
21 drug;

22 (12) A finding by the Department of a discrepancy in a
23 Department audit of cannabis;

24 (13) A finding by the Department of a discrepancy in a
25 Department audit of capital or funds;

26 (14) A finding by the Department of acceptance of

1 cannabis from a source other than an Adult Use Cultivation
2 Center, craft grower, infuser, or transporting
3 organization licensed by the Department of Agriculture, or
4 a dispensing organization licensed by the Department;

5 (15) An inability to operate using reasonable
6 judgment, skill, or safety due to physical or mental
7 illness or other impairment or disability, including,
8 without limitation, deterioration through the aging
9 process or loss of motor skills or mental incompetence;

10 (16) Failing to report to the Department within the
11 time frames established, or if not identified, 14 days, of
12 any adverse action taken against the dispensing
13 organization or an agent by a licensing jurisdiction in
14 any state or any territory of the United States or any
15 foreign jurisdiction, any governmental agency, any law
16 enforcement agency or any court defined in this Section;

17 (17) Any violation of the dispensing organization's
18 policies and procedures submitted to the Department
19 annually as a condition for licensure;

20 (18) Failure to inform the Department of any change of
21 address within 10 business days;

22 (19) Disclosing customer names, personal information,
23 or protected health information in violation of any State
24 or federal law;

25 (20) Operating a dispensary before obtaining a license
26 from the Department;

1 (21) Performing duties authorized by this Act prior to
2 receiving a license to perform such duties;

3 (22) Dispensing cannabis when prohibited by this Act
4 or rules;

5 (23) Any fact or condition that, if it had existed at
6 the time of the original application for the license,
7 would have warranted the denial of the license;

8 (24) Permitting a person without a valid agent
9 identification card to perform licensed activities under
10 this Act;

11 (25) Failure to assign an agent-in-charge as required
12 by this Article;

13 (26) Failure to provide the training required by
14 paragraph (3) of subsection (i) of Section 15-40 within
15 the provided timeframe;

16 (27) Personnel insufficient in number or unqualified
17 in training or experience to properly operate the
18 dispensary business;

19 (28) Any pattern of activity that causes a harmful
20 impact on the community; ~~and~~

21 (29) Failing to prevent diversion, theft, or loss of
22 cannabis; and-

23 (30) Allowing entry to or serving any person who is on
24 the self-exclusion list established under Section 15-73.

25 (b) All fines and fees imposed under this Section shall be
26 paid within 60 days after the effective date of the order

1 imposing the fine or as otherwise specified in the order.

2 (c) A circuit court order establishing that an
3 agent-in-charge or principal officer holding an agent
4 identification card is subject to involuntary admission as
5 that term is defined in Section 1-119 or 1-119.1 of the Mental
6 Health and Developmental Disabilities Code shall operate as a
7 suspension of that card.

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

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.