Jim Kaitschuk
Executive Director
Illinois Sheriffs’ Association
CANNABIS - HB 1438 PA 101-0027
11TH STATE
LAW ENFORCEMENT AND CANNABIS
THE COMPONENTS OF HB 1438

- Allows 21+ to purchase cannabis 1/1/20
- 30 grams, 5g concentrate 5 plants taller than 5 inches
- ½ this for out of state
- No registration or scanning at dispensary
- No driver or passenger may possess within passenger area or anywhere unless in sealed, odorless child proof container
- Can’t possess on school bus, school grounds, licensed child care provider
▪ NO Possession in motor vehicle - suspension
▪ Very similar to contributing to delinquency of minor-Class A
▪ Improperly stored-not in sealed container
Under the influence - under 21 zero tolerance
21 or older - same penalties as today
There is no roadside testing available yet although some is being piloted - the bill provides for validated roadside tests
5 nanograms of whole blood or 10 of any other fluids - warrant or consent
FST - are officers trained Aride or DRE
Home grow is allowed for medical only --- however, we don’t have any ability to inspect

Chronic pain is now a condition for medical marijuana - this could be a tremendous increase in the number of individuals in the medical program and thus homegrow

Smoking in public is NOT allowed for - follows the Smoke Free Illinois Act

Cannot be placed in “public view”

Enclosed locked space --- this could include other structures on property
Law enforcement gets 8 percent of what we don’t know yet - this money can be used like DUI $ today

This will come as a separate check that can only be used for these purposes like Local Government Distributive Fund is today

LE $$-DON’T KNOW HOW MUCH YET
Expunging criminal records

- Different categories — arrests and convictions
- Arrests are automatic
- The governor’s clemency process will be used for convictions of up to 30 grams. These expungements will be automatic, so long as they were not included as part of a violent crime.
- For amounts of 30-500 grams, the clemency process also applies, however the individual must petition the court to vacate the conviction.
- In all, advocates estimate around 770,000 cannabis-related records will be eligible for expungement.
Much of this is still under discussion as to how it will actually work.

The new law defines “Minor Cannabis Offense”: is not more than 30 grams.

ALL LE shall automatically expunge all records of arrests if:
- 1yr elapsed
- No criminal charges filed
- 1/1/13 to 1/1/20-by 1/1/21
- 1/1/00 to 1/1/13-by 1/1/23
- EVERYTHING prior by 1/1/25

THE DETAILS.......CONVICTIONS VS. ARRESTS
- Governor pardon for “minor”
- ISP to research and locate all eligible records and notify PRB within 180 days of effective date
- PRB notifies appropriate SA (Class 4) and SA respond within 60
- SA may object, no other LE is allowed
- Court shall act within 90 days of receipt of order to order all LE to expunge records
- Allows for dismissal of pending case for minor offenses
- IF person is imprisoned solely for minor-must be released upon expungement order

CONVICTIONS
Next Steps:

- Law is under review to determine any necessary changes
- Discussion ongoing to determine how all of this will function in real time
- Better understanding of the needed resources if this truly goes back forever
- I would expect more changes in the future

QUESTIONS??