AMENDMENT TO HOUSE BILL 5545

AMENDMENT NO. ______. Amend House Bill 5545 by replacing everything after the enacting clause with the following:

"Section 5. The Cannabis Regulation and Tax Act is amended by changing Section 1-10 as follows:

(410 ILCS 705/1-10)

Sec. 1-10. Definitions. In this Act:

"Adult Use Cultivation Center License" means a license issued by the Department of Agriculture that permits a person to act as a cultivation center under this Act and any administrative rule made in furtherance of this Act.

"Adult Use Dispensing Organization License" means a license issued by the Department of Financial and Professional Regulation that permits a person to act as a dispensing organization under this Act and any administrative rule made in furtherance of this Act.
"Advertise" means to engage in promotional activities including, but not limited to: newspaper, radio, Internet and electronic media, and television advertising; the distribution of fliers and circulars; billboard advertising; and the display of window and interior signs. "Advertise" does not mean exterior signage displaying only the name of the licensed cannabis business establishment.


"Cannabis" means 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, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or
indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means cannabis flower, concentrate, and cannabis-infused products.

"Cannabis business establishment" means a cultivation center, craft grower, processing organization, infuser organization, dispensing organization, or transporting organization.

"Cannabis concentrate" means a product derived from cannabis that is produced by extracting cannabinoids, including tetrahydrocannabinol (THC), 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, CO$_2$, ethanol, or isopropanol and with the intended use of smoking or making a cannabis-infused product. The use of any other solvent is expressly prohibited unless and until it is approved by the Department of Agriculture.

"Cannabis container" means a sealed, traceable, container, or package used for the purpose of containment of cannabis or cannabis-infused product during transportation.
"Cannabis flower" means 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.

"Cannabis-infused product" means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis or cannabis concentrate that is not intended to be smoked.

"Cannabis paraphernalia" means equipment, products, or materials intended to be used for planting, propagating, cultivating, growing, harvesting, manufacturing, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, or otherwise introducing cannabis into the human body.

"Cannabis plant monitoring system" or "plant monitoring system" means a system that includes, but is not limited to, testing and data collection established and maintained by the cultivation center, craft grower, or processing organization and that is available to the Department of Revenue, the Department of Agriculture, the Department of Financial and Professional Regulation, and the Department of State Police for the purposes of documenting each cannabis plant and monitoring
plant development throughout the life cycle of a cannabis plant
cultivated for the intended use by a customer from seed
planting to final packaging.

"Cannabis testing facility" means an entity registered by
the Department of Agriculture to test cannabis for potency and
contaminants.

"Clone" means a plant section from a female cannabis plant
not yet rootbound, growing in a water solution or other
propagation matrix, that is capable of developing into a new
plant.

"Community College Cannabis Vocational Training Pilot
Program faculty participant" means a person who is 21 years of
age or older, licensed by the Department of Agriculture, and is
employed or contracted by an Illinois community college to
provide student instruction using cannabis plants at an
Illinois Community College.

"Community College Cannabis Vocational Training Pilot
Program faculty participant Agent Identification Card" means a
document issued by the Department of Agriculture that
identifies a person as Community College Cannabis Vocational
Training Pilot Program faculty participant.

"Conditional Adult Use Dispensing Organization License"
means a license awarded to top-scoring applicants for an Adult
Use Dispensing Organization License that reserves the right to
an Adult Use Dispensing Organization License if the applicant
meets certain conditions described in this Act, but does not
entitle the recipient to begin purchasing or selling cannabis
or cannabis-infused products.

"Conditional Adult Use Cultivation Center License" means a
license awarded to top-scoring applicants for an Adult Use
Cultivation Center License that reserves the right to an Adult
Use Cultivation Center License if the applicant meets certain
conditions as determined by the Department of Agriculture by
rule, but does not entitle the recipient to begin growing,
processing, or selling cannabis or cannabis-infused products.

"Craft grower" means a facility operated by an organization
or business that is licensed by the Department of Agriculture
to cultivate, dry, cure, and package cannabis and perform other
necessary activities to make cannabis available for sale at a
dispensing organization or use at a processing organization. A
craft grower may contain up to 5,000 square feet of canopy
space on its premises for plants in the flowering state. The
Department of Agriculture may authorize an increase or decrease
of flowering stage cultivation space in increments of 3,000
square feet by rule based on market need, craft grower
capacity, and the licensee's history of compliance or
noncompliance, with a maximum space of 14,000 square feet for
cultivating plants in the flowering stage, which must be
cultivated in all stages of growth in an enclosed and secure
area. A craft grower may share premises with a processing
organization or a dispensing organization, or both, provided
each licensee stores currency and cannabis or cannabis-infused
products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

"Craft grower agent" means a principal officer, board member, employee, or other agent of a craft grower who is 21 years of age or older.

"Craft Grower Agent Identification Card" means a document issued by the Department of Agriculture that identifies a person as a craft grower agent.

"Cultivation center" means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, process, transport (unless otherwise limited by this Act), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

"Cultivation center agent" means a principal officer, board member, employee, or other agent of a cultivation center who is 21 years of age or older.

"Cultivation Center Agent Identification Card" means a document issued by the Department of Agriculture that identifies a person as a cultivation center agent.

"Currency" means currency and coin of the United States.

"Dispensary" means a facility operated by a dispensing organization at which activities licensed by this Act may occur.

"Dispensing organization" means a facility operated by an
organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under this Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Act, "dispensing organization" includes a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

"Dispensing organization agent" means a principal officer, employee, or agent of a dispensing organization who is 21 years of age or older.

"Dispensing organization agent identification card" means a document issued by the Department of Financial and Professional Regulation that identifies a person as a dispensing organization agent.

"Disproportionately Impacted Area" means a census tract or comparable geographic area that satisfies the following criteria as determined by the Department of Commerce and Economic Opportunity, that:

(1) meets at least one of the following criteria:

(A) the area has a poverty rate of at least 20% according to the latest federal decennial census; or
(B) 75% or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education; or

(C) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program; or

(D) the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the United States Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application; and

(2) has high rates of arrest, conviction, and incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis.

"Early Approval Adult Use Cultivation Center License" means a license that permits a medical cannabis cultivation center licensed under the Compassionate Use of Medical Cannabis Program Act as of the effective date of this Act to begin cultivating, infusing, packaging, transporting (unless otherwise provided in this Act), processing and selling cannabis or cannabis-infused product to cannabis business establishments for resale to purchasers as permitted by this Act as of January 1, 2020.
"Early Approval Adult Use Dispensing Organization License" means a license that permits a medical cannabis dispensing organization licensed under the Compassionate Use of Medical Cannabis Program Act as of the effective date of this Act to begin selling cannabis or cannabis-infused product to purchasers as permitted by this Act as of January 1, 2020.

"Early Approval Adult Use Dispensing Organization at a secondary site" means a license that permits a medical cannabis dispensing organization licensed under the Compassionate Use of Medical Cannabis Program Act as of the effective date of this Act to begin selling cannabis or cannabis-infused product to purchasers as permitted by this Act on January 1, 2020 at a different dispensary location from its existing registered medical dispensary location.

"Enclosed, locked facility" means a room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by cannabis business establishment agents working for the licensed cannabis business establishment or acting pursuant to this Act to cultivate, process, store, or distribute cannabis.

"Enclosed, locked space" means a closet, room, greenhouse, building or other enclosed area equipped with locks or other security devices that permit access only by authorized individuals under this Act. "Enclosed, locked space" may include:

(1) a space within a residential building that (i)
the primary residence of the individual cultivating 5 or fewer cannabis plants that are more than 5 inches tall and (ii) includes sleeping quarters and indoor plumbing. The space must only be accessible by a key or code that is different from any key or code that can be used to access the residential building from the exterior; or

(2) a structure, such as a shed or greenhouse, that lies on the same plot of land as a residential building that (i) includes sleeping quarters and indoor plumbing and (ii) is used as a primary residence by the person cultivating 5 or fewer cannabis plants that are more than 5 inches tall, such as a shed or greenhouse. The structure must remain locked when it is unoccupied by people.

"Financial institution" has the same meaning as "financial organization" as defined in Section 1501 of the Illinois Income Tax Act, and also includes the holding companies, subsidiaries, and affiliates of such financial organizations.

"Flowering stage" means the stage of cultivation where and when a cannabis plant is cultivated to produce plant material for cannabis products. This includes mature plants as follows:

(1) if greater than 2 stigmas are visible at each internode of the plant; or

(2) if the cannabis plant is in an area that has been intentionally deprived of light for a period of time intended to produce flower buds and induce maturation, from the moment the light deprivation began through the
remainder of the marijuana plant growth cycle.

"Individual" means a natural person.

"Infuser organization" or "infuser" means a facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

"Kief" means the resinous crystal-like trichomes that are found on cannabis and that are accumulated, resulting in a higher concentration of cannabinoids, untreated by heat or pressure, or extracted using a solvent.

"Labor peace agreement" means an agreement between a cannabis business establishment and any labor organization recognized under the National Labor Relations Act, referred to in this Act as a bona fide labor organization, that prohibits labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the cannabis business establishment. This agreement means that the cannabis business establishment has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the cannabis business establishment's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the cannabis business establishment's employees work, for the purpose of meeting with employees to discuss their right to representation, employment
rights under State law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

"Limited access area" means a room or other area under the control of a cannabis dispensing organization licensed under this Act and upon the licensed premises where cannabis sales occur with access limited to purchasers, dispensing organization owners and other dispensing organization agents, or service professionals conducting business with the dispensing organization, or, if sales to registered qualifying patients, caregivers, provisional patients, and Opioid Alternative Pilot Program participants licensed pursuant to the Compassionate Use of Medical Cannabis Program Act are also permitted at the dispensary, registered qualifying patients, caregivers, provisional patients, and Opioid Alternative Pilot Program participants.

"Member of an impacted family" means an individual who has a parent, legal guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to the effective date of this Act, was arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under this Act.

"Mother plant" means a cannabis plant that is cultivated or maintained for the purpose of generating clones, and that will not be used to produce plant material for sale to an infuser or dispensing organization.
"Ordinary public view" means within the sight line with normal visual range of a person, unassisted by visual aids, from a public street or sidewalk adjacent to real property, or from within an adjacent property.

"Ownership and control" means bona fide ownership of at least 51% of the cannabis business establishment, including corporate stock if a corporation, and meaningful control over the management and day-to-day operations of the cannabis business establishment and an interest in the capital, assets, and profits and losses of the cannabis business establishment proportionate to percentage of ownership.

"Person" means a natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

"Possession limit" means the amount of cannabis under Section 10-10 that may be possessed at any one time by a person 21 years of age or older or who is a registered qualifying medical cannabis patient or caregiver under the Compassionate Use of Medical Cannabis Program Act.

"Principal officer" includes a cannabis business establishment applicant or licensed cannabis business establishment's board member, owner with more than 1% interest of the total cannabis business establishment or more than 5% interest of the total cannabis business establishment of a
publicly traded company, president, vice president, secretary, treasurer, partner, officer, member, manager member, or person with a profit sharing, financial interest, or revenue sharing arrangement. The definition includes a person with authority to control the cannabis business establishment, a person who assumes responsibility for the debts of the cannabis business establishment and who is further defined in this Act.

"Primary residence" means a dwelling where a person usually stays or stays more often than other locations. It may be determined by, without limitation, presence, tax filings; address on an Illinois driver's license, an Illinois Identification Card, or an Illinois Person with a Disability Identification Card; or voter registration. No person may have more than one primary residence.

"Processing organization" or "processor" means a facility operated by an organization or business that is licensed by the Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product.

"Processing organization agent" means a principal officer, board member, employee, or agent of a processing organization.

"Processing organization agent identification card" means a document issued by the Department of Agriculture that identifies a person as a processing organization agent.

"Purchaser" means a person 21 years of age or older who
acquires cannabis for a valuable consideration. "Purchaser" does not include a cardholder under the Compassionate Use of Medical Cannabis Program Act.

"Qualified Social Equity Applicant" means a Social Equity Applicant who has been awarded a conditional license under this Act to operate a cannabis business establishment.

"Resided" means an individual’s primary residence was located within the relevant geographic area as established by 2 of the following:

(1) a signed lease agreement that includes the applicant's name;

(2) a property deed that includes the applicant's name;

(3) school records;

(4) a voter registration card;

(5) an Illinois driver's license, an Illinois Identification Card, or an Illinois Person with a Disability Identification Card;

(6) a paycheck stub;

(7) a utility bill;

(8) tax records; or

(9) any other proof of residency or other information necessary to establish residence as provided by rule.

"Smoking" means the inhalation of smoke caused by the combustion of cannabis.

"Social Equity Applicant" means an applicant that is an Illinois resident that exercises meaningful control over the
cannabis business establishment and that meets one of the following criteria:

(1) an applicant with at least 51% ownership and control by one or more individuals who have resided for at least 5 of the preceding 10 years in a Disproportionately Impacted Area;

(2) an applicant with at least 51% ownership and control by one or more individuals who:
   (i) have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under this Act; or
   (ii) is a member of an impacted family; or

(3) an applicant with at least 51% ownership and control who has for applicants with a minimum of 10 current full-time employees, an applicant with at least 51% of whom current employees who:
   (i) currently reside in a Disproportionately Impacted Area; or
   (ii) have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under this Act or member of an impacted family.

Nothing in this Act shall be construed to preempt or limit the duties of any employer under the Job Opportunities for Qualified Applicants Act. Nothing in this Act shall permit an employer to require an employee to disclose sealed or expunged
offenses, unless otherwise required by law.

In evaluating whether an applicant has at least 51% ownership and control by one or more individuals, the following factors shall be taken into account, with no single factor being determinative:

(1) whether the applicant is immediately vested in the applicant's ownership interests;

(2) whether the applicant has a substantial opportunity to share in the profits of the cannabis business establishment and in the gains from sale of the business;

(3) whether nonapplicant owners are entitled to preferential returns of profits;

(4) whether, and the conditions under which, nonapplicant owners or third parties can require the applicant to sell the applicant's ownership interests;

(5) whether, and the extent to which, an applicant's ownership is subject to repurchase by the cannabis business establishment or a nonapplicant owner for less than fair market value, except that repurchase for less than fair market value in the event of material breach or misconduct by an applicant shall not be deemed to abrogate bona fide ownership by the applicant;

(6) whether, and the extent to which, sales or transfers by the applicant of the applicant's ownership interests are restricted; and
whether, and the extent to which, applicant owners are subject to noncompete agreements.

In evaluating whether an applicant exercises meaningful control over the operations of a cannabis business establishment, the following factors shall be taken into account, with no single factor being determinative:

1. the prior business experience of the applicant's owner;
2. whether the applicant's owner participates in and manages the day to day retail operations of the cannabis business establishment, including, but not limited to, the hiring and firing of retail employees and contracting for goods and services; and
3. the extent to which any management contract or other third-party agreement restricts the decision-making power of the applicant's owner.

"Tincture" means a cannabis-infused solution, typically comprised of alcohol, glycerin, or vegetable oils, derived either directly from the cannabis plant or from a processed cannabis extract. A tincture is not an alcoholic liquor as defined in the Liquor Control Act of 1934. A tincture shall include a calibrated dropper or other similar device capable of accurately measuring servings.

"Transporting organization" or "transporter" means an organization or business that is licensed by the Department of Agriculture to transport cannabis or cannabis-infused product
on behalf of a cannabis business establishment or a community
college licensed under the Community College Cannabis
Vocational Training Pilot Program.

"Transporting organization agent" means a principal
officer, board member, employee, or agent of a transporting
organization.

"Transporting organization agent identification card"
means a document issued by the Department of Agriculture that
identifies a person as a transporting organization agent.

"Unit of local government" means any county, city, village,
or incorporated town.

"Vegetative stage" means the stage of cultivation in which
a cannabis plant is propagated to produce additional cannabis
plants or reach a sufficient size for production. This includes
seedlings, clones, mothers, and other immature cannabis plants
as follows:

(1) if the cannabis plant is in an area that has not
been intentionally deprived of light for a period of time
intended to produce flower buds and induce maturation, it
has no more than 2 stigmas visible at each internode of the
cannabis plant; or

(2) any cannabis plant that is cultivated solely for
the purpose of propagating clones and is never used to
produce cannabis.

(Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)
Section 99. Effective date. This Act takes effect upon becoming law.".