
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 528 Session of
2013

INTRODUCED BY LEACH, FARNESE AND FERLO, APRIL 3, 2013

REFERRED TO LAW AND JUSTICE, APRIL 3, 2013

AN ACT

1 Providing for personal use of marijuana, for lawful operation of
2 marijuana-related facilities, for general powers of the
3 board, for regulation of marijuana and for employers, minors
4 and control of property; and making related repeals.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Regulate
9 Marijuana Act.

10 Section 2. Purpose, findings and declarations.

11 (a) Findings and declarations.--In the interest of the
12 efficient use of law enforcement resources, enhancing revenue
13 for public purposes and individual freedom, the people of this
14 Commonwealth find and declare that the use of marijuana should
15 be legal for persons 21 years of age or older and taxed.

16 (b) Additional findings and declarations.--In the interest
17 of the health and public safety of our citizenry, the people of
18 this Commonwealth further find and declare that marijuana should
19 be regulated in a manner similar to alcohol so that:

1 (1) individuals will have to show proof of age before
2 purchasing marijuana;

3 (2) selling, distributing or transferring marijuana to
4 minors and other individuals under the age of 21 shall remain
5 illegal;

6 (3) driving under the influence of marijuana shall
7 remain illegal;

8 (4) legitimate, State-operated stores, and not criminal
9 actors, will conduct sales of marijuana; and

10 (5) marijuana sold in this Commonwealth will be labeled
11 and subject to additional regulations to ensure that
12 consumers are informed and protected.

13 (c) Industrial hemp.--In the interest of enacting rational
14 policies for the treatment of all variations of the cannabis
15 plant, the people of this Commonwealth further find and declare
16 that industrial hemp should be regulated separately from strains
17 of cannabis with higher delta-9 tetrahydrocannabinol (THC)
18 concentrations.

19 (d) Matters of Statewide concern.--The people of this
20 Commonwealth further find and declare that it is necessary to
21 ensure consistency and fairness in the application of this
22 section throughout this Commonwealth and that, therefore, the
23 matters addressed by this act are, except as specified herein,
24 matters of Statewide concern.

25 Section 3. Definitions.

26 The following words and phrases when used in this act shall
27 have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Board." The Pennsylvania Liquor Control Board.

30 "Consumer." A person 21 years of age or older who purchases

1 marijuana or marijuana products for personal use by persons 21
2 years of age or older, but not for resale to others.

3 "Industrial hemp." The plant of the genus cannabis and any
4 part of such plant, whether growing or not, with a delta-9
5 tetrahydrocannabinol concentration that does not exceed .03% on
6 a dry weight basis.

7 "Locality." A county, municipality or city.

8 "Marijuana." The parts of the plant of the genus cannabis
9 whether growing or not, the seeds thereof, the resin extracted
10 from any part of the plant, and every compound, manufacture,
11 salt, derivative, mixture or preparation of the plant, its seeds
12 or resin, including marihuana concentrate. The term does not
13 include industrial hemp and does not include fiber produced from
14 the stalks, oil or cake made from the seeds of the plant,
15 sterilized seed of the plant that is incapable of germination or
16 the weight of another ingredient combined with marijuana to
17 prepare topical or oral administrations, food, drink or other
18 product.

19 "Marijuana accessories." Equipment, products or materials
20 that are used, intended or designed for use in planting,
21 propagating, cultivating, growing, harvesting, composting,
22 manufacturing, compounding, converting, producing, processing,
23 preparing, testing, analyzing, packaging, repackaging, storing,
24 vaporizing or containing marijuana or for ingesting, inhaling or
25 otherwise introducing marijuana into the human body.

26 "Marijuana cultivation facility." An entity licensed to
27 cultivate, prepare and package marijuana and sell marijuana to a
28 retail marijuana store, marijuana product manufacturing facility
29 and other marijuana cultivation facility, but not consumers.

30 "Marijuana establishment." A marijuana cultivation facility,

1 a marijuana testing facility, a marijuana product manufacturing
2 facility.

3 "Marijuana product." A concentrated marijuana product and a
4 marijuana product that is comprised of marijuana and other
5 ingredients and is intended for use or consumption as, but not
6 limited to, an edible product, ointment or tincture.

7 "Marijuana product manufacturing facility." An entity
8 licensed to:

9 (1) purchase marijuana;

10 (2) manufacture, prepare and package marijuana products;
11 and

12 (3) sell marijuana and marijuana products to other
13 marijuana product manufacturing facilities and retail
14 marijuana stores, but not consumers.

15 "Marijuana testing facility." An entity licensed to analyze
16 and certify the safety and potency of marijuana.

17 "Retail marijuana store." A retail establishment run by the
18 Pennsylvania Liquor Control Board as provided under section 6.
19 Section 4. Personal use of marijuana.

20 Notwithstanding any other provision of law, the following
21 acts are not unlawful and are not an offense under Pennsylvania
22 law or the law of a locality within this Commonwealth on a basis
23 for seizure or forfeiture of an asset under Pennsylvania law for
24 a person 21 years of age or older:

25 (1) Possessing, using, displaying, purchasing or
26 transporting marijuana accessories or marijuana.

27 (2) Possessing, growing, processing or transporting no
28 more than six marijuana plants, with three or fewer being
29 mature, flowering plants, and possession of the marijuana
30 produced by the plants on the premises where the plants were

1 grown, provided that the growing takes place in an enclosed,
2 locked space, is not conducted openly or publicly, and is not
3 made available for sale.

4 (3) Transfer of one ounce or less of marijuana without
5 remuneration to a person who is 21 years of age or older.

6 (4) Consumption of marijuana, provided that nothing in
7 this section shall permit consumption that is conducted
8 openly and publicly or in a manner that endangers others.

9 (5) Assisting another person who is 21 years of age or
10 older in an act described in paragraph (1), (2), (3) or (4).

11 Section 5. Lawful operation of marijuana-related facilities.

12 Notwithstanding any other provision of law, the following
13 acts are not unlawful and are not an offense under Pennsylvania
14 law or a basis for seizure or forfeiture of an asset under
15 Pennsylvania law for a person 21 years of age or older:

16 (1) Manufacture, possession or purchase of a marijuana
17 accessory or the sale of a marijuana accessory to a person
18 who is 21 years of age or older.

19 (2) (i) possessing, displaying or transporting
20 marijuana or a marijuana product;

21 (ii) purchase of marijuana from a marijuana
22 cultivation facility;

23 (iii) purchase of marijuana or a marijuana product
24 from a marijuana product manufacturing facility; or

25 (iv) sale of marijuana or a marijuana product to a
26 consumer, if the person conducting the activity described
27 in this paragraph is acting in his capacity as an
28 employee or agent of a retail marijuana store or the
29 board.

30 (3) (i) cultivating, harvesting, processing, packaging,

1 transporting, displaying or possessing marijuana;

2 (ii) delivery or transfer of marijuana to a
3 marijuana testing facility;

4 (iii) selling marijuana to a marijuana cultivation
5 facility, a marijuana product manufacturing facility or a
6 retail marijuana store; or

7 (iv) the purchase of marijuana from a marijuana
8 cultivation facility, if the person conducting the
9 activity described in this paragraph has obtained a
10 current, valid license to operate a marijuana cultivation
11 facility or is acting in his or her capacity as an owner,
12 employee or agent of a licensed marijuana cultivation
13 facility.

14 (4) (i) packaging, processing, transporting,
15 manufacturing, displaying or possessing marijuana or
16 marijuana products;

17 (ii) delivery or transfer of marijuana or a
18 marijuana product to a marijuana testing facility;

19 (iii) selling marijuana or a marijuana product to a
20 retail marijuana store or a marijuana product
21 manufacturing facility;

22 (iv) the purchase of marijuana from a marijuana
23 cultivation facility; or

24 (v) the purchase of marijuana or a marijuana product
25 from a marijuana product manufacturing facility, if the
26 person conducting the activities described in this
27 paragraph has obtained a current, valid license to
28 operate a marijuana product manufacturing facility or is
29 acting in his capacity as an owner, employee or agent of
30 a licensed marijuana product manufacturing facility.

1 (5) Possessing, cultivating, processing, repackaging,
2 storing, transporting, displaying, transferring or delivering
3 marijuana or marijuana products if the person has obtained a
4 current, valid license to operate a marijuana testing
5 facility or is acting in his capacity as an owner, employee
6 or agent of a licensed marijuana testing facility.

7 (6) Leasing or otherwise allowing the use of property
8 owned, occupied or controlled by a person, corporation or
9 other entity for any of the activities conducted lawfully in
10 accordance with paragraph (1), (2), (3), (4) or (5).

11 Section 6. General powers of the board.

12 In addition to sections 207 and 208 of the act of April 12,
13 1951 (P.L.90, No.21), known as the Liquor Code, the board has
14 the following powers and duties:

15 (1) To buy, import or have in its possession for sale
16 and sell marijuana and marijuana products in the manner set
17 forth in this act provided the purchases are made subject to
18 the approval of the State Treasurer or the State Treasurer's
19 designated deputy. The board shall buy marijuana and
20 marijuana products at the lowest price and in the greatest
21 variety reasonably obtainable.

22 (2) To control the manufacture, possession, sale,
23 consumption, importation, use, storage, transportation and
24 delivery of marijuana and marijuana products in accordance
25 with the provisions of this act and to fix the wholesale and
26 retail prices at which marijuana and marijuana products will
27 be sold at retail marijuana stores. Prices must be
28 proportional with prices paid by the board to its suppliers
29 and reflect any advantage obtained through volume purchases
30 by the board. The board may establish a preferential price

1 structure for marijuana produced within this Commonwealth for
2 the promotion of the marijuana. The board shall require both
3 a Pennsylvania marijuana product manufacturing facility and
4 nonresident manufacturer of marijuana that sells marijuana to
5 the board that is not manufactured in this Commonwealth to
6 make application for and be granted a permit by the board
7 before the marijuana is purchased from either manufacturer. A
8 marijuana product manufacturing facility shall pay a fee for
9 the permit which, in the case of a manufacturer of this
10 Commonwealth, must be equal to that required to be paid, if
11 any, by a manufacturer or wholesaler of the state, territory
12 or country of origin of the marijuana, for selling marijuana
13 manufactured in Pennsylvania, and in the case of a
14 nonresident marijuana product manufacturing facility, must be
15 equal to that required to be paid, if any, in the state,
16 territory or country by a Pennsylvania marijuana product
17 manufacturing facility doing business in the state, territory
18 or country. If, in the opinion of the board, the marijuana
19 product manufacturing facility sells or attempts to sell
20 marijuana to the board through another person for the purpose
21 of evading the provision relating to permits, the board shall
22 require the person, before purchasing marijuana from him or
23 it, to take out a permit and pay the same fee required to be
24 paid by the marijuana product manufacturing facility. The
25 permit fee collected must be paid into the State Stores Fund.
26 The board may not purchase marijuana or a marijuana product
27 that is produced in a state, territory or country prohibiting
28 the importation of marijuana or a marijuana product that is
29 produced in this Commonwealth.

30 (3) To determine the municipalities within which retail

1 marijuana stores shall be established and the locations of
2 the stores within the municipalities.

3 (4) To grant and issue the licenses and to grant, issue,
4 suspend and revoke the permits authorized to be issued under
5 this act.

6 (5) Through the Department of General Services as its
7 agent, to lease and furnish and equip buildings, rooms and
8 other accommodations as required for the operation of this
9 act.

10 (6) To appoint, fix the compensation and define the
11 powers and duties of the managers, officers, inspectors,
12 examiners, clerks and other employees as required for the
13 operation of this act, subject to the provisions of the act
14 of April 9, 1929 (P.L.177, No.175), known as The
15 Administrative Code of 1929, and act of August 5, 1941
16 (P.L.752, No.286), known as the Civil Service Act.

17 (7) To determine the nature, form and capacity of the
18 packages and original containers to be used for containing
19 marijuana and marijuana products.

20 (8) Without limiting or being limited by the foregoing,
21 to do the things and perform the acts as are deemed necessary
22 or advisable for the purpose of carrying into effect the
23 provisions of this act and the regulations made under this
24 act.

25 (9) From time to time, to make regulations that are
26 consistent with this act as it may deem necessary for the
27 efficient administration of this act. The board shall cause
28 the regulations to be published and disseminated throughout
29 this Commonwealth in the manner it deems necessary and
30 advisable or as may be provided by law. A regulation adopted

1 by the board has the same force as if it formed a part of
2 this act.

3 (10) By regulation, to provide for the use of a
4 computerized referral system to assist consumers in locating
5 special items at retail marijuana stores and for the use of
6 electronic transfer of funds and credit cards for the
7 purchase of marijuana and a marijuana product at a retail
8 marijuana store.

9 (11) To issue grants to various entities for marijuana
10 education and prevention efforts.

11 Section 7. Regulation of marijuana.

12 (a) Regulations.--Not later than July 1, 2014, the board
13 shall adopt regulations necessary for implementation of this
14 section. The regulations may not prohibit the operation of a
15 marijuana establishment, either expressly or through a
16 regulation that makes its operation unreasonably impracticable.
17 The regulations must include:

18 (1) procedures for the issuance, renewal, suspension and
19 revocation of a license to operate a marijuana establishment;

20 (2) a schedule of application, licensing and renewal
21 fees, provided that an application fee may not exceed \$5,000
22 with the upper limit adjusted annually for inflation, unless
23 the board determines a greater fee is necessary to carry out
24 its responsibilities under this section.

25 (3) qualifications for licensure that are directly and
26 demonstrably related to the operation of a marijuana
27 establishment;

28 (4) security requirements for a marijuana establishment;

29 (5) requirements to prevent the sale or diversion of
30 marijuana and a marijuana product to a person under the age

1 of 21;

2 (6) labeling requirements for marijuana and a marijuana
3 product sold or distributed by a marijuana establishment;

4 (7) health and safety regulations and standards for the
5 manufacture of a marijuana product and the cultivation of
6 marijuana;

7 (8) restrictions on the advertising and display of
8 marijuana and a marijuana product; and

9 (9) civil penalties for the failure to comply with
10 regulations made under this section.

11 (b) Individual privacy.--In order to ensure that individual
12 privacy is protected, notwithstanding subsection (a), the board
13 may not require a consumer to provide a retail marijuana store
14 with personal information other than government-issued
15 identification to determine the consumer's age, and a retail
16 marijuana store may not be required to acquire and record
17 personal information about a consumer other than information
18 typically acquired in a financial transaction conducted at a
19 retail liquor store.

20 (c) Excise tax.--The General Assembly shall:

21 (1) enact an excise tax to be levied upon marijuana sold
22 or otherwise transferred by a marijuana cultivation facility
23 to a marijuana product manufacturing facility or to a retail
24 marijuana store; and

25 (2) direct the Department of Revenue to establish
26 procedures for the collection of the tax levied.

27 (d) Locality.--A locality shall enact an ordinance or
28 regulation:

29 (1) specifying the entity within the locality that is
30 responsible for processing applications submitted for a

1 license to operate a marijuana establishment within the
2 boundaries of the locality; and

3 (2) for the issuance of the licenses should the issuance
4 by the locality become necessary because of:

5 (i) a failure by the board to adopt regulations
6 under subsection (a); or

7 (ii) a failure by the board to process and issue
8 licenses as required by subsection (f).

9 (e) Ordinance or regulation.--A locality may enact an
10 ordinance or regulation, not in conflict with this section or
11 with a regulation or legislation enacted under this section:

12 (1) governing the time, place, manner and number of
13 marijuana establishment operations;

14 (2) establishing procedures for the issuance, suspension
15 and revocation of a license issued by the locality;

16 (3) establishing a schedule of annual operating,
17 licensing and application fees for marijuana establishments,
18 provided, the application fee is only due if an application
19 is submitted to a locality and a licensing fee is only due if
20 a license is issued by a locality; and

21 (4) establishing civil penalties for violation of an
22 ordinance or regulation governing the time, place and manner
23 of a marijuana establishment that may operate in the
24 locality.

25 (f) License application.--Each application for an annual
26 license to operate a marijuana establishment must be submitted
27 to the board. The board shall:

28 (1) begin accepting and processing applications on
29 October 1, 2014;

30 (2) immediately forward a copy of each application and

1 half of the license application fee to the locality in which
2 the applicant desires to operate the marijuana establishment;

3 (3) issue an annual license to the applicant between 45
4 and 90 days after receipt of an application unless the board
5 finds the applicant is not in compliance with regulations
6 enacted under subsection (a) or the board is notified by the
7 relevant locality that the applicant is not in compliance
8 with ordinances and regulations in effect at the time of
9 application, provided, where a locality enacted a numerical
10 limit on the number of marijuana establishments and a greater
11 number of applicants seek licenses, the board shall solicit
12 and consider input from the locality as to the locality's
13 preference or preferences for licensure; and

14 (4) upon denial of an application, notify the applicant
15 in writing of the specific reason for its denial.

16 (g) Resubmission of application to locality.--If the board
17 does not issue a license to an applicant within 90 days of
18 receipt of the application filed and does not notify the
19 applicant of the specific reason for its denial, in writing and
20 within the time period, the applicant may resubmit its
21 application directly to the locality, and the locality may issue
22 an annual license to the applicant. A locality issuing a license
23 to an applicant shall do so within 90 days of receipt of the
24 resubmitted application unless the locality finds and notifies
25 the applicant that the applicant is not in compliance with
26 ordinances and regulations in effect at the time the application
27 is resubmitted and the locality shall notify the board if an
28 annual license has been issued to the applicant. If an
29 application is submitted to a locality under this subsection,
30 the board shall forward to the locality the application fee paid

1 by the applicant to the board upon request by the locality. A
2 license issued by a locality in accordance with this subsection
3 has the same force and effect as a license issued by the board
4 and the holder of the license is not subject to regulation or
5 enforcement by the board during the term of that license. A
6 subsequent or renewed license may be issued under this
7 subsection on an annual basis only upon resubmission to the
8 locality of a new application submitted to the board. This
9 subsection does not limit the relief as may be available to an
10 aggrieved party.

11 Section 8. Employers, minors and control of property.

12 (a) Employers.--This section is not intended to require an
13 employer to permit or accommodate the use, consumption,
14 possession, transfer, display, transportation, sale or growing
15 of marijuana in the workplace or to affect the ability of
16 employers to have policies restricting the use of marijuana by
17 employees in the workplace. Given that marijuana remains
18 detectable in blood tests for up to 30 days, however, a random
19 drug test showing the mere presence of a nonintoxicating level
20 of marijuana may not be the basis of the termination of
21 employment or another disciplinary action against the employee.

22 (b) Persons and other entities.--This act does not prohibit
23 a person, employer, school, hospital, detention facility,
24 corporation or another entity who occupies, owns or controls a
25 property from prohibiting or otherwise regulating the
26 possession, consumption, use, display, transfer, distribution,
27 sale, transportation or growing of marijuana on or in the
28 property.

29 Section 19. Repeals.

30 Repeals are as follows:

1 (1) Section 4(1)(iii)16 and (iv) of the act of April 14,
2 1972 (P.L.233, No.64), known as The Controlled Substance,
3 Drug, Device and Cosmetic Act, are repealed.

4 (2) Section 13(a)(30) and (31) of The Controlled
5 Substance, Drug, Device and Cosmetic Act are repealed insofar
6 as they are inconsistent with this act.

7 (3) All acts and parts of acts are repealed insofar as
8 they are inconsistent with this act.

9 Section 20. Effective date.

10 This act shall take effect in 30 days.