
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 213 Session of
2017

INTRODUCED BY LEACH AND STREET, JANUARY 26, 2017

REFERRED TO LAW AND JUSTICE, JANUARY 26, 2017

AN ACT

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

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

8 Section 1. Short title.

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

11 Section 2. Purpose, findings and declarations.

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

17 (b) Additional findings and declarations.--In the interest
18 of the health and public safety of our citizenry, the people of
19 this Commonwealth further find and declare that marijuana should
20 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 21 years of age shall
5 remain 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 in this
24 act, 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 (THC) that does not exceed .
6 03% on 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 marijuana concentrate. The term does not
13 include industrial hemp or fiber produced from the stalks, oil
14 or cake made from the seeds of the plant, sterilized seed of the
15 plant that is incapable of germination or the weight of another
16 ingredient combined with marijuana to prepare topical or oral
17 administrations, food, drink or other product.

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

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

29 "Marijuana establishment." A marijuana cultivation facility,
30 a marijuana testing facility and a marijuana product

1 manufacturing facility.

2 "Marijuana product." A concentrated marijuana product and a
3 marijuana product that is comprised of marijuana and other
4 ingredients and is intended for use or consumption, including as
5 an edible product, ointment or tincture.

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

8 (1) purchase marijuana;

9 (2) manufacture, prepare and package marijuana products;

10 and

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

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

16 "Retail marijuana store." A retail establishment run by the
17 board as provided under section 6.

18 Section 4. Personal use of marijuana.

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

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

27 (2) (i) Possessing, growing, processing or transporting
28 not more than six marijuana plants, with not more than
29 three being mature, flowering plants.

30 (ii) Possessing the marijuana produced by the plants

1 under subparagraph (i) on the premises where the plants
2 were grown, if the growing takes place in an enclosed,
3 locked space and is not conducted openly or publicly, and
4 the marijuana is not made available for sale.

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

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

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

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

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

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

21 (2) Any of the following:

22 (i) Possession, display or transportation of
23 marijuana or a marijuana product.

24 (ii) Purchase of marijuana from a marijuana
25 cultivation facility.

26 (iii) Purchase of marijuana or a marijuana product
27 from a marijuana product manufacturing facility.

28 (iv) Sale of marijuana or a marijuana product to a
29 consumer, if the person conducting the activity described
30 in this paragraph is acting in the capacity of an

1 employee or agent of a retail marijuana store or the
2 board.

3 (3) Any of the following:

4 (i) Cultivating, harvesting, processing, packaging,
5 transporting, displaying or possessing marijuana.

6 (ii) Delivery or transfer of marijuana to a
7 marijuana testing facility.

8 (iii) Selling marijuana to a marijuana cultivation
9 facility, a marijuana product manufacturing facility or a
10 retail marijuana store.

11 (iv) Purchasing marijuana from a marijuana
12 cultivation facility, if the person conducting the
13 activity described in this paragraph has obtained a
14 current, valid license to operate a marijuana cultivation
15 facility or is acting in the capacity of an owner,
16 employee or agent of a licensed marijuana cultivation
17 facility.

18 (4) Any of the following:

19 (i) Packaging, processing, transporting,
20 manufacturing, displaying or possessing marijuana or
21 marijuana products.

22 (ii) Delivering or transferring marijuana or a
23 marijuana product to a marijuana testing facility.

24 (iii) Selling marijuana or a marijuana product to a
25 retail marijuana store or a marijuana product
26 manufacturing facility.

27 (iv) Purchasing of marijuana from a marijuana
28 cultivation facility.

29 (v) Purchasing of marijuana or a marijuana product
30 from a marijuana product manufacturing facility, if the

1 person conducting the activities described in this
2 paragraph has obtained a current, valid license to
3 operate a marijuana product manufacturing facility or is
4 acting in the capacity of an owner, employee or agent of
5 a licensed marijuana product manufacturing facility.

6 (5) Possessing, cultivating, processing, repackaging,
7 storing, transporting, displaying, transferring or delivering
8 marijuana or marijuana products, if the person has obtained a
9 current, valid license to operate a marijuana testing
10 facility or is acting in the capacity of an owner, employee
11 or agent of a licensed marijuana testing facility.

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

16 Section 6. General powers of board.

17 In addition to sections 207 and 208 of the act of April 12,
18 1951 (P.L.90, No.21), known as the Liquor Code, the board has
19 the following powers and duties:

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

27 (2) Control the manufacture, possession, sale,
28 consumption, importation, use, storage, transportation and
29 delivery of marijuana and marijuana products in accordance
30 with the provisions of this act and fix the wholesale and

1 retail prices at which marijuana and marijuana products will
2 be sold at retail marijuana stores. The following shall
3 apply:

4 (i) Prices must be proportional with prices paid by
5 the board to its suppliers and reflect any advantage
6 obtained through volume purchases by the board.

7 (ii) The board may establish a preferential price
8 structure for marijuana produced within this Commonwealth
9 for the promotion of the marijuana.

10 (iii) The board shall require both a Pennsylvania
11 marijuana product manufacturing facility and nonresident
12 manufacturer of marijuana that sells to the board
13 marijuana that is not manufactured in this Commonwealth
14 to make application for and be granted a permit by the
15 board before the marijuana is purchased from either
16 manufacturer. A marijuana product manufacturing facility
17 shall pay a fee for the permit which shall be in
18 accordance with the following:

19 (A) In the case of a manufacturer in this
20 Commonwealth, must be equal to that required to be
21 paid, if any, by a manufacturer or wholesaler of the
22 state, territory or country of origin of the
23 marijuana, for selling marijuana manufactured in this
24 Commonwealth.

25 (B) In the case of a nonresident marijuana
26 product manufacturing facility, must be equal to that
27 required to be paid, if any, in the state, territory
28 or country by a Pennsylvania marijuana product
29 manufacturing facility doing business in the state,
30 territory or country.

1 (C) If, in the opinion of the board, the
2 marijuana product manufacturing facility sells or
3 attempts to sell marijuana to the board through
4 another person for the purpose of evading the
5 provision relating to permits, the board shall
6 require the person, before purchasing marijuana, to
7 take out a permit and pay the same fee required to be
8 paid by the marijuana product manufacturing facility.

9 (D) The permit fee collected must be paid into
10 The State Stores Fund.

11 (iv) The board may not purchase marijuana or a
12 marijuana product that is produced in a state, territory
13 or country prohibiting the importation of marijuana or a
14 marijuana product that is produced in this Commonwealth.

15 (3) Determine the municipalities within which retail
16 marijuana stores shall be established and the locations of
17 the stores within the municipalities.

18 (4) Grant and issue the licenses, and grant, issue,
19 suspend and revoke the permits authorized to be issued under
20 this act.

21 (5) Through the Department of General Services as its
22 agent, lease, furnish and equip buildings, rooms and other
23 accommodations as required for the operation of this act.

24 (6) Appoint, fix the compensation and define the powers
25 and duties of the managers, officers, inspectors, examiners,
26 clerks and other employees as required for the operation of
27 this act, subject to the provisions of the act of April 9,
28 1929 (P.L.177, No.175), known as The Administrative Code of
29 1929, and the act of August 5, 1941 (P.L.752, No.286), known
30 as the Civil Service Act.

1 (7) Determine the nature, form and capacity of the
2 packages and original containers to be used for containing
3 marijuana and marijuana products.

4 (8) Do any other thing or perform any other act as is
5 deemed necessary or advisable for the purpose of carrying
6 into effect the provisions of this act and the regulations
7 promulgated under this act.

8 (9) From time to time, promulgate regulations that are
9 consistent with this act as the board may deem necessary for
10 the efficient administration of this act. The board shall
11 publish regulations throughout this Commonwealth in the
12 manner it deems necessary and advisable or as may be provided
13 by law. A regulation adopted by the board has the same force
14 as if it formed a part of this act.

15 (10) By regulation, provide for the use of a
16 computerized referral system to assist consumers in locating
17 special items at retail marijuana stores and for the use of
18 electronic transfer of funds and credit cards for the
19 purchase of marijuana and a marijuana product at a retail
20 marijuana store.

21 (11) Issue grants to various entities for marijuana
22 education and prevention efforts.

23 Section 7. Regulation of marijuana.

24 (a) Regulations.--Not later than July 1, 2018, the board
25 shall adopt regulations necessary for implementation of this
26 act. The regulations may not prohibit the operation of a
27 marijuana establishment, either expressly or through a
28 regulation that makes the operation unreasonably impracticable.
29 The regulations must include:

30 (1) Procedures for the issuance, renewal, suspension and

1 revocation of a license to operate a marijuana establishment.

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

7 (3) Qualifications for licensure that are directly and
8 demonstrably related to the operation of a marijuana
9 establishment.

10 (4) Security requirements for a marijuana establishment.

11 (5) Requirements to prevent the sale or diversion of
12 marijuana and a marijuana product to a person under 21 years
13 of age.

14 (6) Labeling requirements for marijuana and a marijuana
15 product sold or distributed by a marijuana establishment.

16 (7) Health and safety regulations and standards for the
17 manufacture of a marijuana product and the cultivation of
18 marijuana.

19 (8) Restrictions on the advertising and display of
20 marijuana and a marijuana product.

21 (9) Civil penalties for the failure to comply with
22 regulations made under this section.

23 (b) Individual privacy.--In order to ensure that individual
24 privacy is protected, notwithstanding subsection (a), the board
25 may not require a consumer to provide a retail marijuana store
26 with personal information other than government-issued
27 identification to determine the consumer's age, and a retail
28 marijuana store may not be required to acquire and record
29 personal information about a consumer other than information
30 typically acquired in a financial transaction conducted at a

1 retail liquor store.

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

3 (1) Enact an excise tax to be levied upon marijuana sold
4 or otherwise transferred by a marijuana cultivation facility
5 to a marijuana product manufacturing facility or to a retail
6 marijuana store.

7 (2) Direct the Department of Revenue to establish
8 procedures for the collection of the tax levied.

9 (d) Locality.--A locality shall enact an ordinance or
10 regulation:

11 (1) Specifying the entity within the locality that is
12 responsible for processing applications submitted for a
13 license to operate a marijuana establishment within the
14 boundaries of the locality.

15 (2) For the issuance of the licenses should the issuance
16 by the locality become necessary because of:

17 (i) a failure by the board to adopt regulations
18 under subsection (a); or

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

21 (e) Ordinance or regulation.--A locality may enact an
22 ordinance or regulation, not in conflict with this section or
23 with a regulation or legislation enacted under this section,
24 which does all of the following:

25 (1) Governs the time, place, manner and number of
26 marijuana establishment operations.

27 (2) Establishes procedures for the issuance, suspension
28 and revocation of a license issued by the locality.

29 (3) Establishes a schedule of annual operating,
30 licensing and application fees for marijuana establishments,

1 provided the application fee is only due if an application is
2 submitted to a locality and a licensing fee is only due if a
3 license is issued by a locality.

4 (4) Establishes civil penalties for violation of an
5 ordinance or regulation governing the time, place and manner
6 of a marijuana establishment that may operate in the
7 locality.

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

11 (1) Begin accepting and processing applications on
12 October 1, 2018.

13 (2) Immediately forward a copy of each application and
14 half of the license application fee to the locality in which
15 the applicant desires to operate the marijuana establishment.

16 (3) Issue an annual license to the applicant between 45
17 and 90 days after receipt of an application unless the board
18 finds the applicant is not in compliance with regulations
19 enacted under subsection (a) or the board is notified by the
20 relevant locality that the applicant is not in compliance
21 with ordinances and regulations in effect at the time of
22 application. If a locality enacted a numerical limit on the
23 number of marijuana establishments and a greater number of
24 applicants seek licenses, the board shall solicit and
25 consider input from the locality as to the locality's
26 preference or preferences for licensure.

27 (4) Upon denial of an application, notify the applicant
28 in writing of the specific reason for its denial.

29 (g) Resubmission of application to locality.--

30 (1) If the board does not issue a license to an

1 applicant within 90 days of receipt of the application filed
2 and does not notify the applicant of the specific reason for
3 its denial, in writing and within the time period, the
4 applicant may resubmit its application directly to the
5 locality, and the locality may issue an annual license to the
6 applicant.

7 (2) A locality issuing a license to an applicant shall
8 do so within 90 days of receipt of the resubmitted
9 application unless the locality finds and notifies the
10 applicant that the applicant is not in compliance with
11 ordinances and regulations in effect at the time the
12 application is resubmitted and the locality shall notify the
13 board if an annual license has been issued to the applicant.

14 (3) If an application is submitted to a locality under
15 this subsection, the board shall forward to the locality the
16 application fee paid by the applicant to the board upon
17 request by the locality.

18 (4) A license issued by a locality in accordance with
19 this subsection has the same force and effect as a license
20 issued by the board and the holder of the license is not
21 subject to regulation or enforcement by the board during the
22 term of that license.

23 (5) A subsequent or renewed license may be issued under
24 this subsection on an annual basis only upon resubmission to
25 the locality of a new application submitted to the board.

26 (6) This subsection does not limit the relief as may be
27 available to an aggrieved party.

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

29 (a) Employers.--This section is not intended to require an
30 employer to permit or accommodate the use, consumption,

1 possession, transfer, display, transportation, sale or growing
2 of marijuana in the workplace or to affect the ability of
3 employers to have policies restricting the use of marijuana by
4 employees in the workplace. A random drug test showing the mere
5 presence of a nonintoxicating level of marijuana may not be the
6 basis of the termination of employment or any other disciplinary
7 action against the employee.

8 (b) Persons and other entities.--This act does not prohibit
9 a person, employer, school, hospital, detention facility,
10 corporation or another entity who occupies, owns or controls a
11 property from prohibiting or otherwise regulating the
12 possession, consumption, use, display, transfer, distribution,
13 sale, transportation or growing of marijuana on or in the
14 property.

15 Section 9. Repeals.

16 Repeals are as follows:

17 (1) Section 4(1)(iii)16 and (iv) of the act of April 14,
18 1972 (P.L.233, No.64), known as The Controlled Substance,
19 Drug, Device and Cosmetic Act, are repealed.

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

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

25 Section 10. Effective date.

26 This act shall take effect in 30 days.