

# CT CANNABIS LEGISLATIVE UPDATE

A Shipman & Goodwin LLP™ Legislative Update

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## Connecticut Cannabis Legislative Update: A Guide to Key Changes from the 2023 Legislative Session

At the conclusion of the 2023 legislative session on June 7, four bills containing cannabis provisions passed the House and Senate. One of these bills, the biennial state budget (House Bill 6941), was signed into law on June 12. If Governor Lamont signs the three remaining bills into law as expected, several changes impacting the cannabis industry will take effect in short order. This guide will summarize those key changes.

**House Bill 6699 (H.B. 6699)**, also known as the **Cannabis Omnibus Bill**, amends several sections of the Responsible and Equitable Regulation of Adult-Use Cannabis Act (“RERACA”). The key changes address the adult-use cannabis licensing lottery process, provisional license deadlines, CBD and hemp regulation, social equity requirements, and labor peace agreements, to name a few.

Here is summary of changes most likely to impact existing and prospective cannabis businesses:

- **Provisional License Deadlines:** The amendments extend the provisional license deadline from 14 to 24 months for all lottery applicants issued a provisional license before June 30th, 2023. Notably, the amendments also eliminate the 14-month provisional license deadline for Section 149 DIA cultivators.
- **Lottery Application Limits:** In the next round of cannabis licensing, DCP will only allow one application per company. However, an applicant in the social equity lottery may still be entered into the general lottery if that applicant is not selected in the social equity lottery without violating this provision. In addition, all applicants who are business entities must register with the Secretary of State prior to submitting the application and attest that they have so registered.
- **Clarification of Percentage Requirements for SEA Control:** H.B. 6699 defines “control” with respect to cannabis establishments as “the direct or indirect power to direct, or cause the direction of, a cannabis establishment’s management and policies.” Notably, the amendments clarify that the percentages associated with ownership -- 65% and 50% for Social Equity Applicants and Equity Joint Ventures, respectively -- do not apply to control. Rather, SEAs and EJV’s must simply be “controlled” by the individual or individuals who meet the social equity criteria, meaning that the social equity partner(s) must control at least 51% of the business.
- **New Requirements for Labor Organizations:** The bill establishes new requirements for labor organizations and labor peace agreements (“LPAs”). Under § 40 of the

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bill, DCP is required to establish a list of bona fide labor organizations and cannabis establishments may only enter into LPAs with organizations included on the list. In order to be included on the list, each labor organization must attest that it meets certain criteria, similar to those required for a union to represent public employees in the state. Some of the criteria include that the labor union is actively seeking to represent employees in the state, that such labor union represents employees in the state with regard to wages, hours, and working conditions, and that such labor union has been recognized or certified as the bargaining representative for cannabis employees employed at cannabis establishments in this state. A labor union may be included on the approved list if it meets a certain number of these criteria.

- **Expansion of Manufacturing Activities**: Product manufacturers will be permitted to manufacture foods and beverages containing cannabis, and likewise, food and beverage manufacturers will be permitted to manufacture other cannabis products. This change essentially collapses the two manufacturing license types into one. Manufacturers looking to expand into food and beverage or product manufacturing must pay a fee of \$5,000.
- **New Restrictions on “High THC” Hemp Products**: Significantly, the bill reclassifies certain “High-THC Hemp Products” as cannabis products based on volume of total THC rather than percentage of total THC by dry weight. These “High-THC Hemp Products” would be treated like cannabis, subject to DCP licensure and regulation. For example, hemp products such as edibles and tinctures cannot contain more than 1 mg of total THC per serving, otherwise they will be classified as cannabis and cannot be manufactured or sold without a cannabis license. They also must contain additional warnings. If enacted, these restrictions would have profound effects on full-spectrum CBD products, which often have trace amounts of THC exceeding the new thresholds.
- **Packaging & Labeling**: Cannabis product labeling need not indicate that a product contains cannabis any longer, but the packaging must instead indicate that the product contains THC and is not safe for consumption under 21. Packaging must be tamper-proof and light-resistant, which are specifically defined, distinguishable from products that do not contain cannabis, and must contain additional warnings. In addition, edibles must be individually wrapped.
- **Delivery Service Employees**: The bill limits the requirement that delivery services employ full-time employees to businesses with twelve or more employees. Regardless of size, however, all cannabis delivery service businesses still must enter into an LPA with a bona fide labor organization.
- **DIA Definition**: The bill also amends how a “disproportionately impacted area” is defined. The new method uses census records to exclude communities with poverty rates less than the statewide rate. Then, the remaining communities are ranked in order based on historical rates of drug-related offenses, from communities with the most to least offenses. The DIA map will no longer need to be updated annually. The Social Equity Council must publish the new map by 8/1/2023.

**House Bill 6941 (H.B. 6941)**, the biennial state budget bill, was signed into law on June 12. The bill repealed the angel investor tax credit but changed state tax law allowing licensed cannabis businesses to deduct ordinary business expenses from their state taxes. For more on this bill, please see our prior post at <https://www.shipmangoodwin.com/insights/connecticut-repeals-application-of-the-angel-investor-tax-credit-but-allows-deduction-of-business-expenses-for-cannabis-businesses.html>.

**House Bill 6700 (H.B. 6700)**, impacts the sale of hemp products. Notably, the final bill does not allow hemp cultivators to convert their licenses to adult use cannabis, which was a controversial and closely watched proposal. The bill did, however, include provisions which would allow manufacturers of hemp products to sell their products in dispensaries, retail facilities, and hybrid retail facilities.

Under H.B. 6700, manufacturer hemp products (which are largely manufactured consumables such as edibles and tinctures) can be sold or distributed within dispensary facilities, whereas producer hemp products (raw or fiber-based hemp products) cannot. The provisions of the bill stipulate that manufacturer hemp available for sale must be stored separately from cannabis, separated by a physical barrier in any display area, and displayed with signage approved by DCP. Moreover, the products must be tested by a laboratory that meets the standards for accreditation and testing, be clearly labeled to distinguish the product as a manufacturer hemp product, which is subject to different testing standards than cannabis.

**House Bill 6718 (H.B. 6718)**, requires the Department of Mental Health and Addiction Services to administer a public awareness campaign regarding safe storage of cannabis products and the dangers drugs pose to children, as well as tactics to reduce and eliminate them. The bill also exempts cannabis products from a new requirement that opioids and other controlled substances contain conspicuous labels or warning stickers regarding dangers to children.

### **Concluding Thoughts**

Cannabis laws and regulations are constantly evolving, and Connecticut is no exception. Monitoring and navigating these changes is challenging and resource-intensive. The 2023 legislative session provided some much needed relief and clarification for cannabis businesses, but also imposed some significant new restrictions. If you have questions about recent legislative changes and how they may affect your business, do not hesitate to reach out to our experienced legal team. For more information on Shipman's cannabis practice, visit <https://www.shipmangoodwin.com/services/industries/cannabis.html>.

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