



Student Legal Services

STUDENT AFFAIRS

Illinois Law concerning  
Adult Use  
Recreational Marijuana

# The Cannabis Regulation & Tax Act (CRTA), 2019

*Summarization of the CRT Act by **Anthony L. Allegretti**,  
Staff Attorney, Student Legal Service, September, 2019.*

# Effective Dates and Limitations



CRTA was signed into law and became effective on June 25, 2019



However personal possession and use of cannabis BEGINS on January 1, 2020 under CRTA



On January 1, 2020 certain possession and use of cannabis will no longer be a criminal or civil violation



There are limitations on possession amounts and locations of use

# General Assembly Findings

- ◇ Intention is to regulate and tax cannabis in a similar way to that of alcohol
- ◇ “Use of cannabis should be legal for persons 21 years of age or older and should be taxed in a manner similar to alcohol.”
- ◇ Cannabis should be regulated similar to alcohol:
  - ◇ Show proof of age to purchase
  - ◇ Illegal to sell, distribute, or transfer cannabis to people under 21
  - ◇ Illegal to drive under the influence of cannabis
- ◇ CRTA does not diminish the State's duties, commitment, or protections to patients registered under the Compassionate Use of Medical Cannabis Pilot Program Act (“Medical Cannabis Act”)



# Personal Possession and Use of Cannabis

21 or older AND an Illinois resident may possess:

- 30 grams of cannabis flower
- 500 milligrams of THC contained in cannabis-infused products
- 5 grams of cannabis concentrate

21 or older but NOT an Illinois resident may possess:

- 15 grams of cannabis flower
- 250 milligrams of THC contained in cannabis-infused products
- 2.5 grams of cannabis concentrate

These amounts are cumulative and can be combined

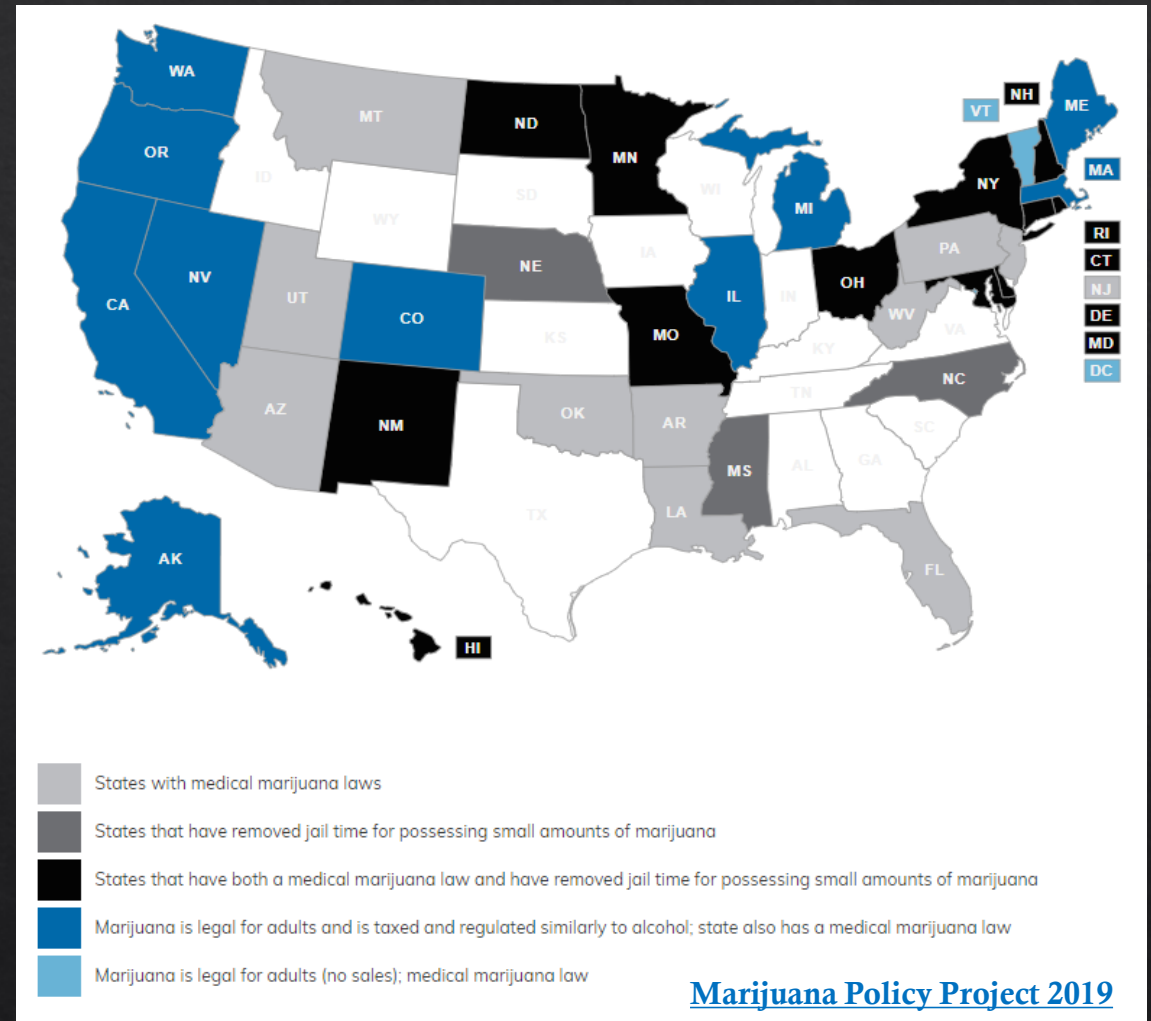


# Marijuana in Other Jurisdictions

## Sister States

### ◇ Criminal Offenses

- ◇ Indiana
- ◇ Iowa
- ◇ Wisconsin
- ◇ Kentucky
- ◇ Missouri
  - ◇ Medical Marijuana
  - ◇ No jail for personal possession
- ◇ Michigan
  - ◇ Adult recreational use and Medical use



# Marijuana in Other Jurisdictions

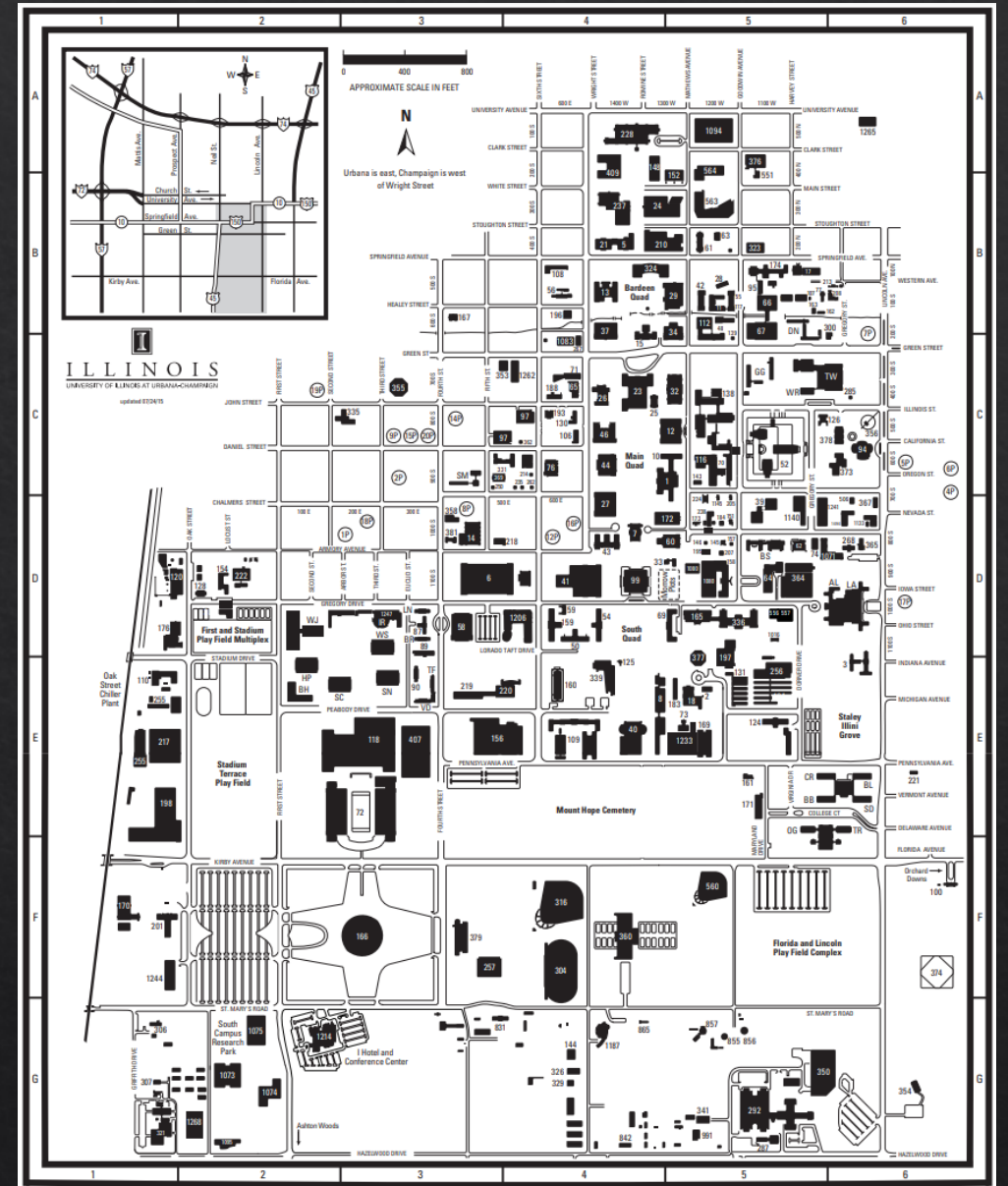
## Federal Government

- ◇ Controlled Substances Acts
  - ◇ Schedule I Narcotic
    - ◇ High potential for abuse
    - ◇ No Medical Value
  - ◇ Marijuana, heroin, LSD, Ecstasy
- ◇ Penalty
  - ◇ Possession
  - ◇ Up to 1 year in jail
  - ◇ Minimum \$1000 fine
- ◇ Collateral consequences- Taxes, Housing, Employment



# University of Illinois Office for Student Conflict Resolution

- ❖ No formal policy with enactment of CRTA
- ❖ Marijuana possession/use **on campus** continues to be a violation of the student code
  - ❖ University housing
- ❖ Students expected to comply with all local, state, and federal laws.
- ❖ Senate Committee on Student Discipline
  - ❖ Altering of sanctions could occur
  - ❖ Reconvene in the Fall 2019



# Definition of “Cannabis”

- ◇ Marijuana, hashish
- ◇ Other substances that include any parts of the Cannabis sativa plant
- ◇ Derivatives or subspecies of all strains of cannabis, growing or not
  - ◇ i.e. Indica strain
- ◇ Seeds, resin extracted from any part of the plant





## Definition of “Cannabis”

- ◆ Any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC)
- ◆ All other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction
- ◆ Concentrate and cannabis-infused products.



# Definition of “Cannabis”

- ◇ Cannabis does NOT include
  - ◇ Mature stalks or fiber produced from the stalks of the plant
  - ◇ Oil or cake made from the seeds of the plant
  - ◇ Any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks
    - ◇ Except for extracted resin



# Definition of “Cannabis”

- ◇ Any fiber, oil or cake is NOT Cannabis
- ◇ Sterilized seeds incapable of germination.
- ◇ Industrial hemp is NOT cannabis
  - ◇ THC concentration of not more than 0.3%



# Definition of “Cannabis Flower”

- ◇ Marijuana
- ◇ Hashish
- ◇ Other substances that are parts of the plant *Cannabis sativa*
  - ◇ Incl. derivatives or subspecies of all strains of cannabis
    - ◇ i.e.- Indica
- ◇ Raw kief
- ◇ Leaves and buds



# Definition of “Cannabis Flower”

## Cannabis Flower is NOT

- ◇ Resin extracted from any part of the plant
- ◇ Any compound, manufacture, salt, derivative, mixture, or preparation of such plant
- ◇ Seeds



# Definition of “Cannabis Concentrate”

Product produced by extracting cannabinoids from the plant using:

- ◇ propylene glycol, glycerin, butter, olive oil or other typical cooking fats
- ◇ water, ice, dry ice, butane, propane, CO<sub>2</sub>, ethanol, or isopropanol



# Definition of “Cannabis-infused Product”

- ◆ A beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis NOT intended to be smoked.



# Personal Possession of Cannabis under 21



- ◇ Persons under 21 years of age are NOT allowed to possess cannabis
  - ❖ Exceptions for medical cannabis
- ◇ Penalty
  - ◇ Civil law violation
  - ◇ Minimum fine \$100, maximum fine \$200
  - ◇ If in motor vehicle at the time of the offense
    - ◇ Suspension/revocation of driving privileges may occur
  - ◇ **Some Ambiguity in CRTA**





## Possession of adult use cannabis in a motor vehicle

- ◇ New Illinois Vehicle Code Violation
- ◇ Driver CANNOT **use** cannabis in motor vehicle on State roads
- ◇ Driver and Passengers CANNOT **possess** cannabis in motor vehicle on State roads
  - ◇ UNLESS **in a sealed, odor-proof, child-resistant cannabis container.**
- ◇ Penalty
  - ◇ Class A misdemeanor

# Presenting False Identification Evidence - Under 21

- ◇ Under 21
- ◇ CANNOT present or offer to a cannabis business establishment:
  - ◇ **Written or Oral** evidence of age that is false, fraudulent, or not actually the person's own to:
    - ◇ Enter a cannabis business establishment
    - ◇ Purchasing, attempting to purchase, or otherwise obtaining or attempting to obtain cannabis or any cannabis product
- ◇ Penalties
  - ◇ Class A misdemeanor
  - ◇ Suspend/revoke driving privileges



# Parents' and Guardians' Liability

- ❖ Parents/Guardians cannot knowingly permit **consumption** of cannabis by underage person(s) at:
  - ❖ Residence
  - ❖ Any other private property under parent/guardian control
  - ❖ Any vehicle or watercraft under parent/guardian control to be used by the underage person(s)
- ❖ Penalty
  - ❖ Class A misdemeanor
  - ❖ Minimum Fine of \$500
  - ❖ If great bodily harm or death directly or indirectly results
    - ❖ Class 4 felony



# CRTA changes to Cannabis Control Act

## - Possession

- ◇ Except for CRTA, unlawful for any person knowingly to possess cannabis.
  - ◇ Not more than 10 grams
    - ◇ Civil law violation, minimum fine \$100, maximum fine of \$200
  - ◇ More than 10 grams but not more than 30 grams
    - ◇ Class B misdemeanor
  - ◇ More than 30 grams but not more than 100 grams
    - ◇ Class A misdemeanor
    - ◇ Subsequent offense, Class 4 felony



# CRTA changes to Cannabis Control Act

## - Possession *continued*

- ◇ More than 100 grams but not more than 500 grams
  - ◇ Class 4 felony
  - ◇ Subsequent offense, Class 3 felony
- ◇ More than 500 grams but not more than 2,000 grams
  - ◇ Class 3 felony
- ◇ More than 2,000 grams but not more than 5,000 grams
  - ◇ Class 2 felony
- ◇ More than 5,000 grams
  - ◇ Class 1 felony



# CRTA changes to the Cannabis Control Act

## - Manufacture, Deliver, Possess with Intent to Deliver

- ◇ Unlawful to knowingly **manufacture, deliver, or possess with intent to deliver, or manufacture, cannabis.**
- ◇ Not more than 2.5 grams cannabis
  - ◇ Class B misdemeanor
- ◇ More than 2.5 grams but not more than 10 grams
  - ◇ Class A misdemeanor
- ◇ More than 10 grams but not more than 30 grams
  - ◇ Class 4 felony
- ◇ More than 30 grams but not more than 500 grams
  - ◇ Class 3 felony, fine not to exceed \$50,000
- ◇ **Except for CRTA**



# CRTA changes to the Cannabis Control Act

## - Manufacture, Deliver, Possess with Intent to Deliver *continued*

- ◇ More than 500 grams but not more than 2,000 grams
  - ◇ Class 2 felony
  - ◇ Fine not to exceed \$100,000
- ◇ More than 2,000 grams but not more than 5,000 grams
  - ◇ Class 1 felony
  - ◇ Fine not to exceed \$150,000
- ◇ More than 5,000 grams
  - ◇ Class X felony,
  - ◇ Fine not to exceed \$200,000
- ◇ **Except for CRTA**



# CRTA changes to the Cannabis Control Act

## - Production and Possession of Cannabis Sativa Plant

- ◇ Unlawful to knowingly produce the Cannabis sativa plant or to possess such plants
- ◇ Not more than 5 plants
  - ◇ Civil violation
  - ◇ Minimum fine \$100, maximum fine \$200
- ◇ More than 5, but not more than 20 plants
  - ◇ Class 4 felony
- ◇ More than 20, but not more than 50 plants
  - ◇ Class 3 felony
- ◇ Except for CRTA





# CRTA changes to the Cannabis Control Act

## - Production and Possession of Cannabis Sativa Plant *continued*

- ◇ More than 50, but not more than 200 plants
  - ◇ Class 2 felony
  - ◇ Fine not to exceed \$100,000
- ◇ More than 200 plants
  - ◇ Class 1 felony
  - ◇ Fine not to exceed \$100,000
- ◇ Except for CRTA



# CRTA

## Suspension/Revocation of Driving Privileges



- ◆ Refusal/failure to complete roadside chemical tests or field sobriety tests **will result** in a 12-month driver's license suspension
- ◆ Submitting to roadside chemical tests or field sobriety tests that disclose impaired driving by cannabis use **will result** in a 6-month driver's license suspension
- ◆ Under 21 in possession of cannabis while in a motor vehicle **may** have license suspended or revoked
- ◆ Under 21 who presents evidence of age that is false, fraudulent, or not their own **may** have license suspended or revoked

# Protections under CRTA

Of-age cannabis purchaser not  
subject to:

- ◇ Arrest
- ◇ Prosecution or other punishment
- ◇ Denial of any right or privilege



# Occupational/Professional Licensing

- ◇ Not subject to civil penalty or disciplinary action solely on cannabis use if:
  - ◇ Possess cannabis amounts within CRTA limits
  - ◇ Cannabis use does not impair when engaged in practice of the profession
- ◇ Undertaking tasks under the influence of cannabis when doing so would constitute
  - ◇ negligence,
  - ◇ professional malpractice, or
  - ◇ professional misconductis **NOT** protected



# Occupational/Professional Licensing

- ◇ Illinois occupational or professional licensing
- ◇ Other States and Federal Government **NOT** bound under CRTA



# Landlord/Tenant Issues



- ◆ Landlord cannot be penalized or denied any benefit under State law for leasing to a person who **uses** cannabis under CRTA.
- ◆ CRTA does **NOT** require any person or establishment to allow guests, clients, lessees, customers, or visitors to **use** cannabis on or in a property.
- ◆ CRTA does **NOT** prevent a private business from restricting or prohibiting the **use** of cannabis on its property, including areas where motor vehicles are parked.

# Condominium Associations



- ◇ Association may prohibit or limit the **smoking** of cannabis within a unit owner's unit.
  - ◇ "Smoking" means the inhalation of smoke caused by the combustion of cannabis.
- ◇ Association rules and regulations **shall not otherwise restrict** the **consumption** of cannabis by any other method within a unit owner's unit
- ◇ Association may restrict **any form of consumption** on the common elements.

# Limitations of CRTA

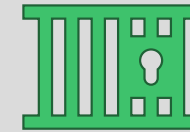
- ◇ CRTA does not prevent civil, criminal, or other penalties for engaging in the following conduct:
- ◇ **Possessing** cannabis
  - ◇ On a school bus
    - ◇ Patient/caregiver exception under Medical Cannabis Act
  - ◇ On grounds of preschool, primary, or secondary school
    - ◇ Patient/caregiver exception under Medical Cannabis Act





# Limitations of CRTA

- ❖ CRTA does not prevent civil, criminal, or other penalties for engaging in the following conduct:
- ❖ **Possessing** cannabis
  - ❖ In a private residence used **AT ANY TIME** to provide licensed child care or other similar social service care
  - ❖ In a correctional facility
  - ❖ In a private vehicle **UNLESS** cannabis is
    - ❖ In reasonably secured, sealed container **AND**
    - ❖ Reasonably inaccessible while the vehicle is moving

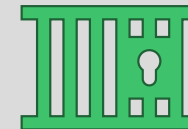


◆ CRTA does not prevent civil, criminal, or other penalties for engaging in the following conduct:

◆ **Using** cannabis:

- ◆ In a school bus
  - ◆ Patient/caregiver exception under Medical Cannabis Act
- ◆ On grounds of preschool, primary, or secondary school
  - ◆ Patient/caregiver exception under Medical Cannabis Act
- ◆ In a correctional facility
- ◆ In any motor vehicle

# Limitations of CRTA



# Limitations of CRTA

- ◇ CRTA does not prevent civil, criminal, or other penalties for engaging in the following conduct:
- ◇ **Using** cannabis:
  - ◇ In a private residence used **AT ANY TIME** to provide licensed child care or other similar social service care
  - ◇ In **ANY** public place
    - ◇ “Any place where a person could reasonably be expected to be observed by others”



# Limitations of CRTA

- ❖ CRTA does not prevent civil, criminal, or other penalties for engaging in the following conduct:
- ❖ **Using** cannabis:
  - ❖ In **ANY** public place
    - ❖ "Public place" includes all parts of buildings owned in whole or in part, or leased, by the **State** or **local** government.
    - ❖ **The University of Illinois**
    - ❖ "Public place" does **NOT** include a private residence
      - ❖ **UNLESS** the private residence is used to provide licensed child care, or other similar social service care on the premises.



◇ CRTA does not prevent imposition of any civil, criminal, or other penalties for engaging in the following conduct:

◇ Knowingly **using** cannabis in close physical proximity to anyone under 21

◇ Patient/caregiver exception under Medical Cannabis Act

◇ **Smoking** cannabis where smoking is prohibited under the Smoke Free Illinois Act

# Limitations of CRTA



- ◇ CRTA does not prevent the imposition of any civil, criminal, or other penalties for engaging in the following conduct:
  - ◇ Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of cannabis
  - ◇ Facilitating cannabis use by any person not allowed under CRTA or the Medical Cannabis Act
  - ◇ Transferring cannabis to any person contrary to CRTA or the Medical Cannabis Act

# Limitations of CRTA



# Marijuana Cultivation for Personal Use

## Qualifications

- ◇ Registered qualifying patient under the Medical Cannabis Act
- ◇ Illinois resident
  - ◇ “A person who has been domiciled in the State of Illinois for a period of 30 days before cultivation.”
- ◇ 21 years of age or older
- ◇ Cannabis seeds may be purchased from a dispensary for the purpose of home cultivation.
- ◇ Seeds may **NOT** be given or sold to any other person.

# Marijuana Cultivation for Personal Use

## Limitations and Restrictions

- ◇ 5 plants over 5 inches tall, **per household**
  - ◇ Multiple patients in same household does not increase limit of plants
- ◇ Cultivation must be in an **enclosed, locked space.**
- ◇ Plants cannot be stored or located in **“ordinary public view”**
  - ◇ “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.”



# Marijuana Cultivation for Personal Use

## Limitations and Restrictions

- ◇ Cannabis cultivation is allowed on residential property of the cultivator
- ◇ Cannabis cultivation is allowed with consent of property owner.
  - ◇ Owner of residential property may prohibit the cultivation of cannabis by a lessee
- ◇ Cannabis plants may only be tended by registered qualifying patients who reside at the residence
  - ◇ Exception for brief temporary periods by an authorized agent when patient is away from residence
- ◇ Reasonable precautions must be taken to ensure plants are secure from unauthorized access
  - ◇ Unauthorized access by person under 21

# Marijuana Cultivation for Personal Use

## Penalties

- ◇ A registered qualifying patient who
  - ◇ Cultivates more than the allowable number of cannabis plants
  - ◇ Sells or gives away cannabis plants, cannabis, or cannabis-infused products produced under CRTA
- ◇ Can be charged criminally under Cannabis Control Act
- ◇ Can result in loss of home cultivation privileges under CRTA

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# The Cannabis Regulation & Tax Act (CRTA)



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