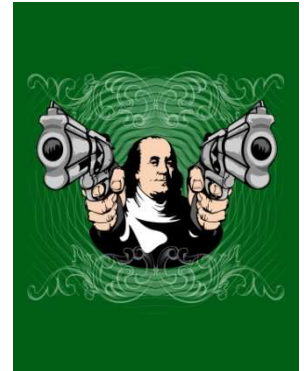
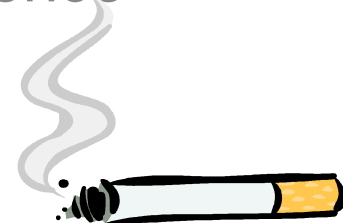




Guns, Drugs and E-Cigarettes



Presented by:
Adam Simon, Julie Tappendorf
And Robert McCabe
2014 ILCMA Winter Conference



Outline of Session



- Medical Marijuana



- Concealed Carry



- E-Cigarettes





Medical Marijuana

- **Compassionate Use of Medical Cannabis Pilot Program Act**
 - 410 ILCS 130/1
 - Effective January 1, 2014
 - IDPH/IDFPR/IDOA/IDOR regulations
 - Patient, Dispensary , Cultivation & Tax Rules



Medical Marijuana

- **What's Allowed?**
 - Possess 2.5 ounces every 2 weeks
 - 60 licensed dispensaries in Illinois*
 - 22 cultivation sites – 1 in each state police district
 - 1% tax on patients
 - 7% tax on growers and dispensaries





Medical Marijuana

- **Who can get a card?**
 - 30 different conditions qualify





Medical Marijuana

- Cancer
- Glaucoma
- HIV
- Aids
- ALS
- MS
- Fibromyalgia
- Lupus
- Residual limb pain
- Tourettes Syndrome
- Hepat





Medical Marijuana

- **What's prohibited?**
 - Section 30. Limitations and Penalties
 - CDL Regulations prevail
 - May not be used in public place
 - Areas covered by Smoke Free Illinois Act
 - Driving under the Influence
 - Police and Firefighters
 - May not use around persons under 18
 - Can't share medical cannabis with friends
 - Can't sell your medical cannabis to others





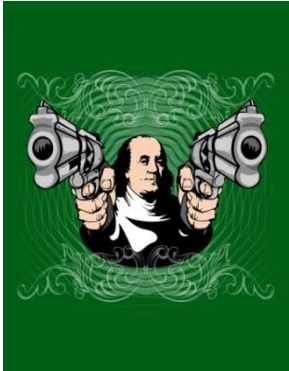
Medical Marijuana

- **What can employers do?**
 - Adopt reasonable rules
 - Discipline for creating risk of liability
 - Consider when an employee is impaired and unqualified to perform job
 - Prohibit the use of medical cannabis in any “public place”
 - Prohibit the use of medical cannabis in any municipal vehicle
 - Federal law does not recognize the right to consume medical cannabis
 - Medical cannabis may not be consumed by CDL holders
 - Police officers and firefighters may not use medical cannabis

Medical Marijuana

- **Other issues**

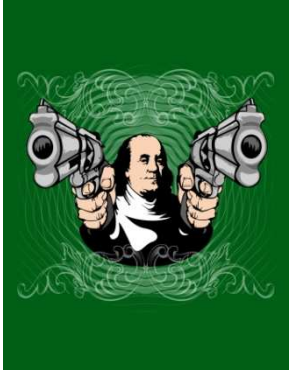
- Private businesses can restrict or prohibit the use of medical cannabis on their premises
- Universities, colleges or other institutions of post-secondary education can restrict or prohibit the use of medical cannabis on their property
- Cultivation centers must have security plans and 24 hours surveillance in place. Security plans must be reviewed and approved by the State Police
- Cultivation centers cannot be within 2500 feet of the property line of any pre-existing public or private pre-school or elementary or secondary school or day care center or an area zoned for residential use



Concealed Carry

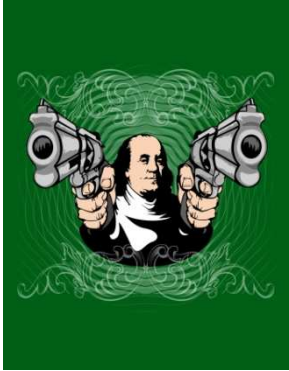
- **Firearm Concealed Carry Act**
 - 430 ILCS 66/1
 - Effective January 1, 2014
 - Status of ISP regulations





Concealed Carry

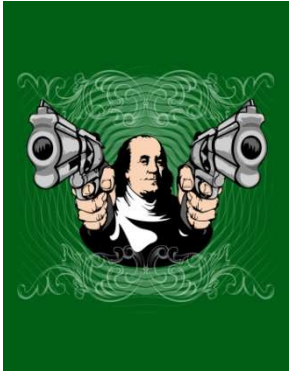
- **Concealed Carry Licenses**
 - The Illinois State Police were given a deadline to review applications for a license to carry a concealed firearm
 - Deadline changes depending on form of application



Concealed Carry

- **Prohibited areas**

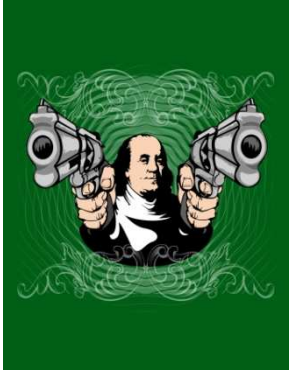
- Any building or portion of a building under the control of a local government.
- Playgrounds & parks, except you can't prohibit carrying on bike path or trails when only a portion of it runs through the park



Concealed Carry

- The Illinois State Police (ISP) has enacted rules on required signage for prohibited areas

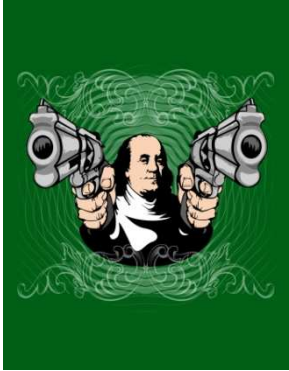




Concealed Carry

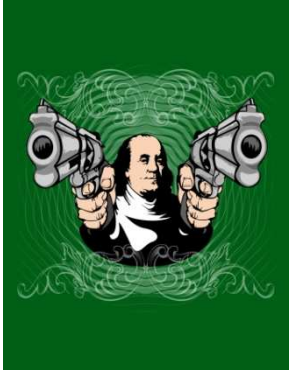
- **Local Policies**

- The Act preempts local governments (home rule too) from regulating or prohibiting handgun possession by licensees outside of prohibited areas
- Check your local codes – you may have regulations on the books that conflict with the new law



Concealed Carry

- **Personnel Policies**
 - Illinois' concealed carry law, like those in other states, is silent on a municipal employer's right to prohibit guns in the workplace
 - Challenges to employer policies have been unsuccessful in other states



Concealed Carry + Medical Marijuana?



- They don't mix, according to IDPH's proposed medical marijuana rules



E-Cigarettes

What are electronic cigarettes?





E-Cigarettes

- Electronic cigarettes, also known as e-cigarettes, are battery-operated products designed to deliver nicotine, flavor and other chemicals. They turn nicotine and other chemicals into a vapor that is inhaled by the user.
- E-cigarettes can be manufactured to look like conventional cigarettes, cigars, or pipes. Some resemble everyday items such as pens and USB memory sticks.



E-Cigarettes

“Vaper” subculture is growing, making the custom modification and construction of e-cigs “cool” and profitable





E-Cigarettes

- “Vape Pens” also come in a wide variety of flavors
- According to the CDC:
 - 1 in 5 middle school students who've tried one say they've never smoked a "real" cigarette.
 - Between 2011 and 2012, e-cigarettes doubled in popularity among middle and high school students.



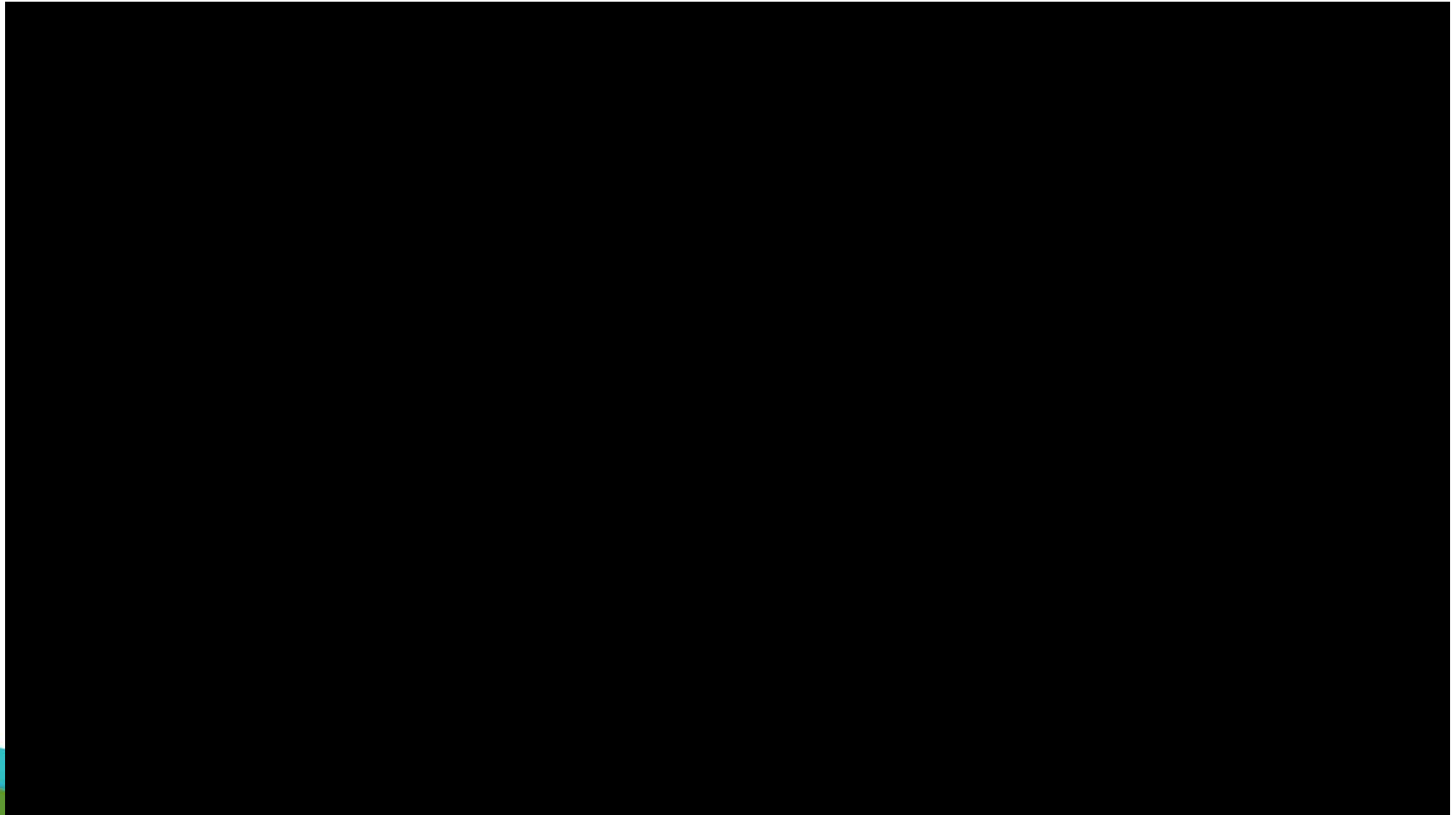
E-Cigarettes

- E-Cigarettes (EC's) can be characterized as either a tobacco product or a drug
 - **Sottera, Inc. v. Food & Drug Admin., 627 F.3d 891 (D.C. Cir. 2010)**
 - FDA lacked authority to regulate e-cigarettes as a drug if customarily marketed without claims of therapeutic effect;
 - FDA had authority to regulate e-cigarettes customarily marketed without claims of therapeutic benefit as a tobacco product (e-cigarettes are “derived from” tobacco)



E-Cigarettes

Most OTC electronic cigarettes are not marketed for therapeutic purposes (right?)





E-Cigarettes

How are e-cigarettes treated under the
Smoke Free Illinois Act?





E-Cigarettes

- 410 ILCS 82
- "Smoke" or "smoking" means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or ***any other lighted smoking equipment.***



E-Cigarettes

- But see
 - Section 5: Legislative Findings; and
 - Section 70: Entrances, Exits and Windows



E-Cigarettes

Kansas Attorney General Opinion 2011-015

- Under the KS Indoor Clean Air Act, “smoking” requires use of *tobacco product*
- Draws on ordinary and common meaning of “cigarette” and “lighted”
- Finds e-cigarettes are not covered by the Act



E-Cigarettes

Chicago Sun-Times, January 13, 2014:

*City of Chicago agrees to ban e-cigarettes
where smoking is prohibited*

City Council's Health and Finance
Committees voted to regulate e-cigarettes
as "tobacco products" subject to
Chicago's smoking ban.



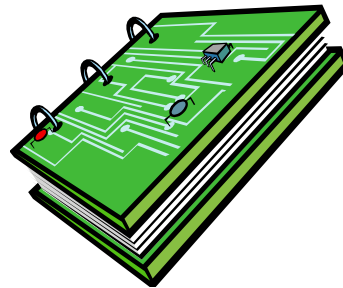
E-Cigarettes

Ultimately, is there a rational basis for including e-cigarettes within the scope of the Smoke Free Illinois Act or a local smoking ban?



E-Cigarettes

How are employers allowed
to address e-cigarettes?



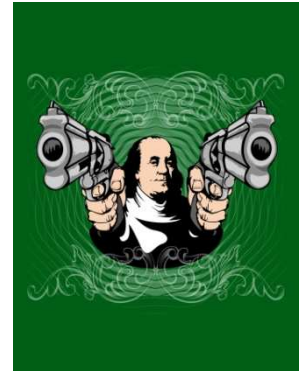


E-Cigarettes

- Places of employment are covered by the Smoke Free Illinois Act
- Personnel policies may not be less restrictive than State law – preemption
- What other motivations are incorporated into personnel policies?
- What about public vehicles used in the course of employment?



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