



# HGSUW

## News & Views

Hasselberg Grebe Snodgrass  
Urban & Wentworth  
Attorneys and Counselors

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### Meet Our New Associates!



Jason B. Boucher began his legal career with Hasselberg Grebe Snodgrass Urban & Wentworth in August of 2019 and was admitted to the Illinois Bar in November of 2019. He attended Michigan State University College of Law receiving his *juris doctorate* in May 2019. During his time as a law student, Jason gained valuable experience in municipal and other areas of the law working for the City of Lansing in the summer of 2018. He also clerked for two district court judges in the summer of 2017. An academic scholarship recipient, he also worked diligently as a full-time student and made the Dean's List in the fall of 2018.

Jason was born and raised in the Peoria area. He attended Western Illinois University in Macomb, Illinois, where he earned his Bachelor of Arts degree in History and played collegiate soccer. Outside of work, Jason and his wife enjoy camping, taking their dog for long walks on trails and enjoying time with friends and family.

Greg A. Nordstrom started with Hasselberg Grebe Snodgrass Urban & Wentworth in August of 2019. Greg graduated *magna cum laude* from Northern Illinois University College of Law. A recipient of an Excellence Scholarship, Greg also made the Dean's List every semester. In addition to his academic accolades, Greg also participated as a fundraising volunteer for the Public Interest Law Society and a member of the Trial Advocacy Society. Greg was admitted to the Illinois Bar in November 2019.



In the summer of 2017, Greg clerked for the Honorable Chief Judge James E. Shadid in the U.S. District Court for the Central District of Illinois. The following summer, he interned for the Judiciary of the Tenth Judicial Circuit of Illinois. Greg received his undergraduate education at Illinois State University where he worked for the student radio station as a DJ and sports reporter. Outside of work, Greg enjoys playing guitar, writing music and giving the occasional musical performance at local venues.



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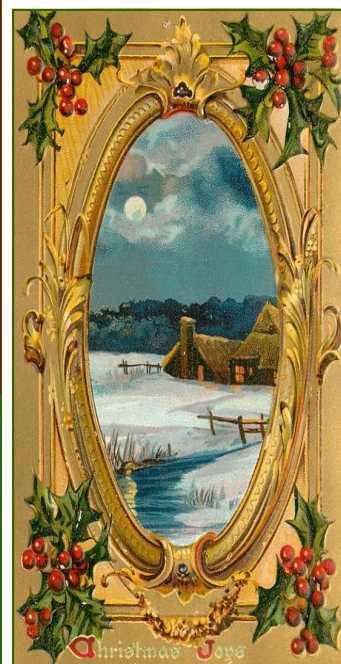
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## EMPLOYEE PAY IN ILLINOIS

### EMPLOYEE RIGHTS

UNDER THE FAIR LABOR STANDARDS ACT

FEDERAL MINIMUM WAGE

**\$7.25**

PER HOUR  
EFFECTIVE JUL 24, 2009

Employers be aware: changes are coming to employee pay in the State of Illinois that could affect business practices. In particular, recent legislative enactments address how employers determine how much they need to pay employees as well as how much they should pay employees.

Currently in Illinois, the minimum wage is \$8.25/hour. Beginning in 2020, though, Illinois' minimum wage will go up gradually, and by the year 2025, the minimum wage throughout the state will be \$15.00/hour. However, certain exceptions still apply, such as for tipped workers and younger employees. Additionally, small businesses with less than 50 employees may be entitled to a proportionate tax credit to help offset against the likely increase in costs to do business and hopefully provide some relief.

Even though employers will know how much they "need" to pay their employees based upon the changes to minimum wage in Illinois, there is still a question of how much they "should" pay employees to stay competitive in the market. A common practice for employers is to request prior compensation information from job applicants. However, effective September 29, 2019, a change to the Illinois Equal Pay Act of 2003 has made it unlawful for employers to request or require applicants to disclose such information as part of the application process. The Amended Equal Pay Act also makes it unlawful for employers to take any action to prevent employees from disclosing or discussing information about wages and benefits. Violations of these new provisions by employers could result in legal action taken by an individual employee or applicant, or the imposition of civil fines.

If you have any questions about this new minimum wage law or your current employment practices concerning wages, please contact our employment law attorneys led by Charles J. Urban at (309) 637-1400.



The Sun Foundation is a charitable, arts and science educational organization located in rural Washburn, Illinois. Founded by Joan Root Ericksen and Robert Ericksen in 1973, the Sun Foundation's mission is to strengthen and advance the arts and environmental sciences in our community by providing innovative, high-quality programs, services, publications, research, regranting support, and cooperative efforts for the general public, underserved groups, schools, artists, and arts organizations.

The work of the Sun Foundation has touched the lives of over 5.5 million people through programs, artist residencies, teacher training, fine art curriculum development, performances, exhibits, conferences, lectures, artist symposiums, technical assistance, publications, regranting, and public broadcasting. In addition to the Foundation's year-round contributions to Central Illinois, the organization hosts two seminal events on an annual basis: the Clean Water Celebration and Arts and Science in the Woods.

Each spring, the Sun Foundation holds the Clean Water Celebration, a two-day event focused on environmental stewardship, water conservation, and environmental preservation. This year, over 1,685 students from 40 Central Illinois schools attended the Celebration at the Peoria Civic Center, where they explored an exhibit hall filled with environmental learning opportunities and participated in hands-on science exhibits, breakout lectures, and a keynote presentation.

Each June, the Sun Foundation hosts hundreds of children at the Sun Foundation Art and Nature Center for Art and Science in the Woods. The weeklong day camp provided students, ages six and up, the opportunity to work with and learn from professional artists and scientists in nature's classroom.

On January 25, 2020, the Sun Foundation will be hosting its annual Winter Warming Children's Benefit at the Trailside Event Center. The evening includes wine and craft beer tastings, decadent hors d'oeuvres and desserts, artist exhibits, a silent auction, and various raffles. If you would like to attend the Winter Warming event or learn more about the Sun Foundation, please visit [www.sunfoundation.org](http://www.sunfoundation.org).

Our firm is a proud supporter of the Sun Foundation. Partner, Kevin D. Day, has served on the Board of Directors since 2014, recently completing a three-year term as the Foundation's Board President.



## SOME FACTS ABOUT THE CANNABIS REGULATION AND TAX ACT

At the turn of the year, Illinois will join 10 other states and the District of Columbia in legalizing adult recreational cannabis use and possession. On June 25, 2019, Illinois Governor J. B. Pritzker signed into law House Bill 1438, known as the Illinois Cannabis Regulation and Tax Act ("Act"). In addition to legalizing cannabis use and possession for adults 21 and over, the comprehensive legislation expands the current medical cannabis licensing system, provides automatic expungement for certain cannabis offenses, affords medical patients the ability to grow cannabis on their property, addresses the distribution of cannabis related tax revenue, and offers significant benefits to particular communities that were disproportionately impacted by cannabis prohibition. The Act has garnered significant public interest and discussion both prior to and after its enactment. Here is a general overview of some key provisions:

**Cannabis Possession and Sales.** Effective January 1, 2020, adults 21 and older may possess cannabis and purchase cannabis products from licensed facilities. The following limitations apply to lawful cannabis possession: Illinois residents may possess up to 30 grams of raw cannabis, no more than 500 milligrams of cannabis-infused products, and 5 grams of concentrated cannabis product. Non-residents may purchase and possess no more than 15 grams of cannabis, 250 milligrams of cannabis-infused product, and 2.5 grams of concentrated cannabis product.

**Cannabis Possession Prohibitions.** The Act does not permit possession of cannabis (A) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act ("Medicinal Cannabis Act"); (B) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Medicinal Cannabis Act; (C) in any correctional facility; (D) in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; and/or (E) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises.

**Limits on Cannabis Use.** Effective January 1, 2020, adults 21 and older may generally use cannabis on their privately-owned property. The Act does not permit use (A) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Medicinal Cannabis Act; (B) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Medicinal Cannabis Act; (C) in any correctional facility; (D) in any motor vehicle; (E) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises; (F) in any public place (which is defined as any place where a person could reasonably be expected to be observed by others) including all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government, but not including a private residence unless said residence is used to provide licensed child care, foster care, or other similar social service care on the premises; or (G) knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Medicinal Cannabis Act.

Additionally, the Act does not permit (A) the smoking of cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act; (B) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of cannabis in violation of the Illinois Vehicle Code; (C) facilitating the use of cannabis by any person who is not allowed to use cannabis under the Act or the Medicinal Cannabis Act; or (D) transferring cannabis to any person contrary to the Act or the Medicinal Cannabis Act.

Further, the Act does not permit cannabis use by the following individuals while on duty: law enforcement officers, corrections officers, probation officers, firefighters, permitted school bus drivers, or Commercial Driver's License holders.

**Residential Cultivation for Medicinal Cannabis Licensees.** Beginning January 1, 2020, medical cannabis patients may purchase cannabis seeds and grow up to 5 plants at their residence. The 5 plant limitation applies to each household, regardless of the number of residents who are 21 or over. Residentially grown plants are required to be secured and out of view by the public. Residential cultivators can retain what they grow, but possession limitations still apply outside the residence, and sales are prohibited unless part of a licensed cannabis business. A landlord can prohibit cultivation in a leased apartment.



*Continued from Page 3—Cannabis*

**Expungement.** Effective January 1, 2020, the Governor's clemency process will apply to all cannabis possession convictions up to 500 grams. Convictions up to 30 grams will be automatically expunged without any action by the convicted individual. Convictions of 30 grams to 500 grams are subject to the clemency process, but the individual will be required to petition the court for expungement.

**Social Equity.** The Act addresses social equity in a variety of ways. In addition to the expungement provisions, the Act establishes various benefits for communities and individuals determined by the State to have been disproportionately impacted by the enforcement of cannabis-related laws. Under the Act, a "social equity applicant," or business whose majority ownership or majority of employees have either been arrested or convicted of a cannabis-related offense or have strong ties to a community that has been disproportionately impacted by both poverty and cannabis law enforcement, may qualify for additional points on applications in the scoring system and/or financial resources through the Cannabis Business Development Fund for licensing fees and low-interest loans. The Act further provides programs for colleges to obtain training for licensed cannabis industry-related jobs and establishes the Restore, Reinvest, and Renew Program, which will allow community groups to develop programs to benefit disadvantaged communities.

**Revenue, Taxes, and Revenue Distribution.** The Illinois Department of Revenue projects the cannabis industry will generate over \$57 million dollars in tax revenue and licensing fees in fiscal year 2020. At the wholesale level, cannabis products will be subject to a 7% tax when they are sold by cultivation centers or craft growers. At the retail dispensary level, Illinois will charge a tax rate based on the relative potency of the cannabis product. Additionally, regular State and local sales taxes will apply. After covering the costs of administration and expungement, the remaining tax revenue will be distributed as follows: 2% to public education and safety campaigns; 8% to the Local Government Distributive Fund for prevention and training for law enforcement; 25% to the Recover, Reinvest, and Renew Program; 20% to mental health services and substance abuse programs; 10% to pay unpaid bills; and 35% to the General Revenue Fund. Counties may assess up to a 3.76% tax, and municipalities up to a 3% tax.

**Impact on Employers and Employees.** The Act does not prohibit an employer from adopting reasonable zero tolerance or drug free workplace policies, or employment policies concerning drug testing, smoking, consumption, storage, or use of cannabis in the workplace or while on-call, provided that the policy is applied in a non-discriminatory manner. The Act does not require an employer to permit an employee to be under the influence of or use cannabis in the employer's workplace, while performing job duties, or while on-call. The Act also does not limit or prevent an employer from disciplining an employee, including termination, for violating any employment policies or workplace drug policy. However, notably, the Act amends the Illinois Right to Privacy in the Workplace Act, which makes it illegal for employers to discriminate against employees for use of "lawful products while not on duty or on-call." This amendment includes any product that is "legal under state law," including lawful cannabis use.

Currently, some ambiguity exists regarding the continued efficacy of pre-employment drug testing and other issues concerning the impact of the Act on the workplace. Accordingly, employers should consult with legal counsel and human resources specialists to address employment practices and employment policies to ensure lawful compliance and avoid missteps.

**Senate Bill 1557.** As with the majority of new legislation, lawmakers, municipalities, employers, and Illinois residents have raised several concerns regarding ambiguities and issues created by the language of the Act. In an effort to address some concerns, the Illinois General Assembly recently passed Senate Bill 1557. The Bill recently signed by Governor Pritzker addresses various aspects of the Act, including, but not limited to, public cannabis use, cannabis use in bars and restaurants, cannabis-related paraphernalia, zero-tolerance drug policies for employees, and several other technical changes. We will provide further updates on the Act in our next issue of HGSUW News & Views.

If you have any questions regarding the Compassionate Use of Medical Cannabis Program Act or Cannabis Regulation and Tax Act, including the impact of these laws on units of local government, landlords, and employers, or to organize a business and seek a license, please contact David L. Wentworth II, Charles J. Urban or William P. Streeter at (309) 637-1400.





## WHAT CAN WE LEARN FROM A STRAY COW?



This story revolves around a Jo Daviess County Sheriff who was driving his squad car in Scales Mound (somewhere kind of close to Dubuque) when he collided with a cow. The Deputy sued the owner of the cow for the injuries he suffered. The owner proceeded to sue his neighbors, asserting the cow had gotten out through the neighbors' fence that they had failed to maintain. At the trial court level, the court threw out the claim against the neighbors.

Of course, the owner did not stop there. He appealed the court's decision, based on three separate legal theories. The Appellate Court reversed the trial court and gave the owner a victory on two of the three theories. The first was a general theory of "contribution", where if two people are responsible for a third person's injury, they can both be held liable, and contribute based on their relative fault. The other theory was based on a contract that existed between prior owners of the property, where the neighbors were responsible for maintaining the fence.

Naturally, the neighbors were dissatisfied with the Appellate Court's decision to overturn the trial court. So, they asked the Illinois Supreme Court to take the case. In May, we learned the Supreme Court granted that petition, and will take the case. The last time we checked, the Supreme Court only takes approximately 7% of the cases when requested.

So what did we learn from this? Other than the need to keep an eye on your cattle, not much. We have learned nothing about how the law should be applied in such a situation, and will not know until the Supreme Court decides. However, a few lessons can be taken from this case. First, when your attorney tells you the attorney cannot guarantee the outcome of a court case, he or she is being honest with you. This case demonstrates that two courts can look at the same case and rule in opposite directions. And the third court could do something entirely different.

Another lesson to learn is that even if something happens and you are not liable, it does not mean you will not get dragged into a lawsuit. Even if you can get out of a case relatively early, there are still significant costs not only in the lawyer's fees, but in your time and your employees' time to address the situation. One other lesson is to continually try to find ways to minimize potential exposure. This includes employing best practices so that bad things do not happen in the first place, and having good insurance in place so you have coverage if a lawsuit comes your way (whether you have done anything wrong or not).

Our firm advises a number of clients on best practice and risk management matters from a legal perspective. We welcome the opportunity to meet with you to discuss your own particular situation.



Wishing you a happy  
holiday season!

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Super Lawyers



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