



## CANNABIS ISSUES FOR SMACNA CONTRACTORS

### I. INTRODUCTION

In response to a clear shift in public opinion and voter preference, many states have passed laws legalizing marijuana for both medical and recreational purposes. As of May 2024, 23 states have legalized recreational marijuana and 39 states have legalized medical marijuana.<sup>1</sup> In 2022 alone, legal cannabis sales topped \$27 billion and will likely hit \$57 billion by 2026.<sup>2</sup> In 2023, states collected more than \$4 billion in cannabis tax revenue from adult-use sales.<sup>3</sup>

The federal landscape regarding marijuana<sup>4</sup> is much different. In particular, the Controlled Substances Act of 1970 (“CSA”)<sup>5</sup> classifies drugs in one of five categories. Under the CSA, marijuana is classified as a schedule I controlled substance – along with heroin, LSD and MDMA – which means it is considered to have the highest risk of abuse and no recognized medical use. The CSA prohibits the manufacture, sale, and use of marijuana.<sup>6</sup> In addition, aiding and abetting a violation of the CSA and conspiring to violate the CSA are also federal crimes.<sup>7</sup>

Given the obvious tension between state and federal law regarding marijuana, marijuana-related businesses (“MRBs”) that are licensed to operate in a particular state exist in a legal quagmire – lacking regulatory guidance and consistent enforcement. The federal prohibition on marijuana creates a host of collateral consequences for MRBs, even if the MRB is licensed by state law.

The impacts of marijuana’s illegality under federal law is not limited to MRBs that grow, produce, process, distribute, or sell marijuana or marijuana products. **Businesses that transact with MRBs face similar uncertainty.** For example, SMACNA contractors engaged in building and servicing marijuana “grow houses” – i.e., operations that grow marijuana for lawful use under state law – may face legal and compliance-related risks related to their connection to an MRB.

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<sup>1</sup> See Appendix 1.

<sup>2</sup> Iris Dorbian, Global Cannabis Sales to Skyrocket to \$57 Billion in 2026, Says Top Market Research Firm, FORBES (Sept. 13, 2022), available at <https://www.forbes.com/sites/irisdorbian/2022/09/13/global-cannabis-sales-to-skyrocket-to-57-billion-in-2026-says-new-report/?sh=7037200c7b07>.

<sup>3</sup> Angélica Serrano-Román, Cannabis Brought States Record \$4 Billion Tax Revenue in 2023, Bloomberg Law (May 8, 2024).

<sup>4</sup> Federal law defines “Marihuana” and “marijuana” to mean: “All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.” 21 U.S.C. § 802(16)(A).

<sup>5</sup> Pub. L. No. 91-513, 84 Stat. 1242 (1970), 21 U.S.C. §§ 801-971.

<sup>6</sup> 21 U.S.C. § 841(a) (“Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally--(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or (2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.”).

<sup>7</sup> 21 U.S.C. § 846; 18 U.S.C. § 2(a).

This White Paper provides SMACNA contractors with a summary of the legal issues surrounding MRBs and businesses that may transact with them.

## II. FEDERAL LAW

### A. CONTROLLED SUBSTANCES ACT.

In 1970, Congress passed the CSA to create a comprehensive set of laws regulating controlled substances. Congress arranged the schedules from most serious (schedule I) to least serious (schedule V) and specified the criteria for placing drugs on each schedule.

Schedule I controlled substances are supposed to have a high potential for abuse, have no currently accepted medical use, and lack accepted safety for use under medical supervision. By contrast, substances on schedules II through V do have currently accepted medical uses in treatment in the United States or currently accepted medical uses with severe restrictions.

Congress classified marijuana as a schedule I drug when it originally enacted the CSA.<sup>8</sup> Here is a chart demonstrating the current scheduling:

Class	Substances
Schedule I	Marijuana (Cannabis), heroin, LSD, ecstasy (MDMA)
Schedule II	Cocaine, methamphetamine, OxyCotin, fentanyl
Schedule III	Ketamine, anabolic steroids, Suboxone
Schedule IV	Some cough medicines, antidiarrheals

The CSA provides for the periodic updating of schedules and delegates authority to the Attorney General, after consultation with the Secretary of Health and Human Services, to add, remove, or transfer substances to, from, or between schedules.<sup>9</sup> Despite considerable efforts to reschedule marijuana, it remains a Schedule I drug.

In Gonzales v. Raisch,<sup>10</sup> the U.S. Supreme Court addressed the conflict between Federal Law, which continues to outlaw the possession and distribution of marijuana, and California's medical marijuana law. The Supreme Court held that prohibition of such sales of marijuana is properly within Congress' authority under Article I, Section 8 of the Constitution. Thus, dispensation of marijuana, even for medicinal purposes authorized by California law, remains illegal. As the Court explained, "The CSA designates marijuana as contraband for *any* purpose; in fact, by characterizing marijuana as a Schedule I drug, Congress expressly found that the drug has no acceptable medical uses."

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<sup>8</sup> 21 U.S.C. § 812(c) (Schedule I (c)(10)).

<sup>9</sup> 21 U.S.C. § 811.

<sup>10</sup> Gonzales v. Raisch, 545 U.S. 1 (2005).

## B. IMPACTS ON MRBs.

The federal prohibition on cannabis creates a host of collateral consequences for MRBs, even if the MRB is licensed by state law.

**First, and most significantly, the CSA impairs these businesses' access to traditional financial services like lending and banking.** Because marijuana is illegal under federal law and handling money from an illegal source is money laundering, many banks have refused to service MRBs.<sup>11</sup> Indeed, the Money Laundering Control Act prohibits financial institutions from knowingly engaging or attempting to engage in monetary transactions in criminally derived property of a value greater than \$10,000.<sup>12</sup> The Bank Secrecy Act requires financial institutions to maintain programs designed to verify the identity of its prospective customers and for higher risk accounts, the purpose of the accounts, the source of funds in the accounts, and the customers' line of business.<sup>13</sup> In addition, Banks are regulated and supervised by federal regulators, including the Federal Deposit Insurance Corporation ("FDIC"), the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System, and the National Credit Union Administration ("NCUA"). Banks that serve MRBs risk regulatory enforcement actions, revocation of deposit insurance, and restrictions on their access to payment systems operated by the Federal Reserve.

**Second, a provision of the Internal Revenue Code – Section 280E – disallows a deduction or credit for any expense paid or incurred in carrying on a trade or business that consists of trafficking in a Schedule I or II substance** under the Controlled Substances Act which is prohibited under federal or any State law in which the business is conducted.<sup>14</sup> Section 280E does not apply to expenditures that are deductions from gross receipts – i.e. cost of goods sold. Therefore, under Section 280E a state sanctioned marijuana seller can deduct the cost of the product sold from its gross receipts but other legal expenses, such as rent, payroll, utilities, and the like, are not deductible.

**Third, the CSA provides that it is unlawful to “knowingly open, lease, rent, use, or maintain” property for the manufacturing, storing, or distribution of controlled substances.**<sup>15</sup> It is also unlawful to aid and abet the commission of a federal crime.<sup>16</sup> Thus,

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<sup>11</sup> 18 U.S.C. §§ 1956-1957.

<sup>12</sup> 18 U.S.C. § 1957(a).

<sup>13</sup> 18 U.S.C. §§ 1957(c).

<sup>14</sup> I.R.C. § 280E (“No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.”).

<sup>15</sup> 21 U.S.C. § 856(a)(1).

<sup>16</sup> 18 U.S.C. § 2.

agreements for the sale of marijuana and agreements with a marijuana business, whose subject matter are otherwise non-objectionable, violate federal law.

**Fourth, state authorized MRBs are ineligible for federal funding programs, including the Small Business Administration loans that benefit small businesses.** As the SBA explained:

Because federal law prohibits the distribution and sale of marijuana, financial transactions involving a marijuana-related business would generally involve funds derived from illegal activity. Therefore, businesses that derive revenue from marijuana-related activities or that support the end-use of marijuana may be ineligible for SBA financial assistance.<sup>17</sup>

**Fifth, MRBs are generally not eligible for federal bankruptcy protection.** As one bankruptcy court explained, “the Debtor cannot conduct an enterprise that admittedly violates federal criminal law while enjoying the federal benefits the Bankruptcy Code affords him.”<sup>18</sup> As another court explained, “Several courts have held that a bankruptcy case must be dismissed if the continuation of the case would require the court, trustee, or debtor in possession to administer assets that are illegal under the CSA or that constitute proceeds of activity criminalized by the CSA.”<sup>19</sup>

### C. IMPACTS ON OTHER BUSINESSES.

**Marijuana’s status as a Schedule I controlled substance not only affects MRBs – that is, those businesses that grow, produce, process, distribute, or sell marijuana or marijuana products – it also impacts other businesses that do business with MRBs.**

For example, in Colorado, a bankruptcy court denied relief to a debtor who leased his warehouse space to someone who sold marijuana legally under state law.<sup>20</sup> The court reasoned that, until Congress passes a law deeming the sale of marijuana legal under federal law, “a federal court cannot be asked to enforce the protections of the Bankruptcy Code in aid of a debtor whose activities constitute a continuing federal crime.”

Businesses needing a security clearance from the federal government may also be impacted. Specifically, an individual requesting a security clearance must complete the Standard Form 86, Questionnaire for National Security Positions (“SF-86”).<sup>21</sup> Section 23.2 of SF-86 asks the following: “*In the last seven (7) years, have you been **involved in** the illegal purchase, manufacture, cultivation, trafficking, production, transfer, shipping, receiving, handling or sale of any drug or **controlled substance?***” For contractors performing work on marijuana “grow houses” – i.e., operations that grow marijuana for lawful use under state law – there is a question regarding

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<sup>17</sup> SBA Policy Notice, Control No. 5000-17057 (April 3, 2018).

<sup>18</sup> *In re Johnson*, 532 B.R. 53, 59 (Bankr. W.D. Mich. 2015).

<sup>19</sup> *In re Burton*, 610 B.R. 633 (B.A.P. 9th Cir. 2020).

<sup>20</sup> *In re Rent-Rite Super Kegs W. Ltd.*, 484 B.R. 799 (Bankr. D. Colo. 2012).

<sup>21</sup> Available at [https://www.opm.gov/forms/pdf\\_fill/sf86.pdf](https://www.opm.gov/forms/pdf_fill/sf86.pdf).

whether they are required to report this work under Section 23.2 of SF-86. There is no definitive guidance regarding whether such work should be reported under Section 23.2 and the answer may depend on the extent of the contractor’s involvement and whether the grow house is operating when the work is performed.

Financial institutions may refuse to provide banking services for businesses that transact with MRBs. For example, businesses that contract with MRBs to provide equipment, supplies, security, staffing, and benefits to employees of MRBs may be considered by a financial institution to be “too close” to the marijuana industry to provide services. Other businesses that are even further removed from the industry, such as landlords and professional services providers, may similarly be considered by the financial institution as “too close” to the cannabis industry.

### **III. CURRENT FEDERAL REFORMS TO MARIJUANA POLICY**

#### **A. “HEMP” IS NOT “MARIJUANA.”**

Unless an exception applies, the CSA classifies the cannabis plant and its derivatives as marijuana.

In 2018, Congress passed the Farm Act,<sup>22</sup> which removed “hemp” from the definition of marijuana in the CSA.<sup>23</sup> Because hemp and marijuana are different varieties of the same plant, the Farm Act uses the concentration of delta-9 THC to set a threshold distinguishing the two. As defined by the Farm Act, “hemp” includes “any part of” the plant *Cannabis sativa* L “and all derivatives, extracts, [and] cannabinoids . . . , whether growing or not,” with a delta-9 THC concentration of no more than 0.3 percent on a dry weight basis.<sup>24</sup>

Hemp is not a controlled substance under the CSA. To be considered “hemp,” the product cannot contain more than 0.3 percent THC. Any plant that contains *more* than 0.3 percent THC would be considered non-hemp – i.e., marijuana – under federal law and would be considered an illegal substance under the CSA.

If a product is considered “hemp” (and not “marijuana”), then the product may be eligible for protections under other state laws. For example, in AK Futures LLC v. Boyd Street Distro, LLC, 35 F.4th 682 (9<sup>th</sup> Cir. 2022), the Ninth Circuit held that an e-cigarette maker could potentially enforce its trademark because its hemp-derived products were now *lawful* under the Farm Act. Specifically, the company claimed that its products contained “a hemp-derived product with less than 0.3% of the psychoactive delta-9-[THC] compound.”

#### **B. PROPOSED RULE TO RESCHEDULE MARIJUANA UNDER THE CSA.**

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<sup>22</sup> Pub. L. No. 115-334, 132 Stat. 4490 (2018).

<sup>23</sup> 21 U.S.C. §§ 802(16) (B), 812 sched. I(c)(17).

<sup>24</sup> 7 U.S.C. § 1639o(1).

Marijuana has been classified as a Schedule I drug since Congress enacted the CSA in 1970. Under the CSA, rescheduling of a controlled substance requires the Attorney General to request a recommendation from the Secretary of HHS before formal rulemaking can commence.<sup>25</sup>

On August 29, 2023, HHS recommended marijuana be rescheduled under the CSA from a Schedule I controlled substance to a Schedule III controlled substance.<sup>26</sup> Under the CSA, HHS' recommendations "shall be binding . . . as to [] scientific and medical matters."

On May 21, 2024, the Drug Enforcement Administration ("DEA") published a Proposed Rule proposing to transfer marijuana from Schedule I to Schedule III of the CSA.<sup>27</sup> The 60-day comment period ends on July 22, 2024. It is important to remember that during the rulemaking process, and until a final rule is published, marijuana remains a Schedule I controlled substance.

As an initial matter, it is important to remember that rescheduling marijuana from Schedule I to Schedule III does ***not*** decriminalize marijuana or legalize medical or recreational marijuana. What is more, the same criminal prohibitions against the manufacture, distribution, dispensing and possession of marijuana would apply, similar to those restrictions applicable to other Schedule III controlled substances, such as ketamine and anabolic steroids.

With respect to medical marijuana, a key difference between placement in Schedule I and Schedule III is that substances in Schedule III have an accepted medical use and may lawfully be dispensed by prescription, while substances in Schedule I cannot. However, prescription drugs must be approved by the Food and Drug Administration ("FDA"). While the FDA has approved some drugs derived from or related to cannabis, marijuana itself is not an FDA-approved drug. Moreover, even if one or more marijuana products obtained FDA approval, the proposed rule makes clear that "regulatory controls applicable to Schedule III substances would apply." Presumably, this means that manufacturers and distributors would need to register with the DEA and comply with regulatory requirements that apply to Schedule III substances in order to produce or handle those products.

With respect recreational marijuana, if marijuana were moved to Schedule III, the possession, distribution, and manufacture of recreational marijuana would remain illegal under federal law and potentially subject to federal prosecution regardless of their status under state law. Again, rescheduling marijuana from Schedule I to Schedule III does ***not*** decriminalize marijuana.

One key change that would occur if marijuana is rescheduled from Schedule I to Schedule III would be that the prohibition on business deductions in Section 280E would no longer apply. This is because Section 280E applies only to activities involving substances classified in Schedule I or II. As a result, moving marijuana from Schedule I to Schedule III would allow marijuana businesses to deduct business expenses on federal tax filings.

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<sup>25</sup> 21 U.S.C. § 811(b).

<sup>26</sup> Letter for Anne Milgram, Administrator, DEA, from Rachel L. Levine, M.D., Assistant Secretary for Health, HHS (Aug. 29, 2023).

<sup>27</sup> Proposed Rule, Schedules of Controlled Substances: Rescheduling of Marijuana, 89 Fed. Reg. 44597 (May 21, 2024).

#### IV. PROPOSED REFORMS

##### A. THE SAFER BANKING ACT.

As noted above, while marijuana remains illegal under federal law, the vast majority of financial institutions will refuse to do business with MRBs, and, in some cases, businesses that transact with MRBs. Even when banking services (such as deposit accounts) are available, access to funding for marijuana-related businesses remains constrained. Any potential reclassification of marijuana will not change the fact that marijuana will remain illegal at the federal level.

The Secure and Fair Enforcement Regulation Banking Act (“SAFER Banking Act”) aims to provide state-licensed MRBs access to traditional financial services, reducing the risk for financial institutions, lenders, insurers, and others serving the industry despite federal restrictions on cannabis.

The SAFER Banking Act provides “safe harbor” protections to financial institutions, lenders, insurers, and others serving the industry, ensuring they are not penalized for providing financial services to a “State-sanctioned marijuana business or service provider.” The SAFER Banking Act not only addresses banking and insurance but also extends protections to mortgage lending, payment processing, and other businesses, aiming to normalize financial transactions for cannabis businesses and potentially stimulate significant industry growth.

Additionally, the Act also would allow banks, credit unions, and other financial institutions to offer banking services to construction contractors and other legally operating businesses providing contracting and other services to the industry. This would be done without fear of punishment by federal banking regulators.

Cannabis-related enterprises are a growing, legal business market segment in nearly 40 states and the District of Columbia. Even more states have legalized cannabis / marijuana for medical use, and sixteen allow adult recreational use. ***This banking reform would also reduce small business anxiety, contracting complications, and safety risks.*** The positive economic and contractor security benefits to the construction industry as well as local and state economies are substantial.

An earlier version of the bill (called the SAFE Banking Act) overwhelming passed the House seven times from 2019 to 2023. While the Senate has yet to pass the bill, in September 2023, a Senate Committee passed the SAFER Banking Act.

##### B. THE CURE ACT.

Even though medical and recreational marijuana is lawful in most states, the federal government routinely denies security clearances to federal employees and employees of federal contractors who admit to having used marijuana, even if the use was lawful under state law.

The Cannabis Users Restoration of Eligibility Act (“CURE Act”) would prevent security clearance and federal employment denials over a person’s “current or past use of marihuana.” The

bill would also allow those who have been previously denied a security clearance or federal job to seek reconsideration of that decision, provided it occurred on or after January 1, 2008.

The CURE Act was introduced in July 2023, but has yet to pass the House or Senate.

## V. SUMMARY

As Bob Dylan wrote, “*the times, they are a-changin.*” The majority of the public no longer views marijuana as an illicit drug with no medical purpose. The state legalization of marijuana for both medical and recreational purposes has resulted in booming businesses that may be operating legally under state law, but these businesses (and others doing business with them) are exposed to considerable risks under federal law.

The existing disconnect between federal and state law with respect to the treatment of marijuana remains a serious impediment to lawfully conducting business. As noted above, MRBs and businesses who conduct business with MRBs face considerable uncertainty given the current treatment of marijuana under federal law. The existing reforms, including the proposed rescheduling of marijuana from Schedule I to Schedule III, would be helpful to these businesses, but they do not solve all – or even a majority – of the issues facing businesses.

Notwithstanding the existing disconnect between federal and state law with respect to the treatment of marijuana, as well as the oft-conflicting federal guidance, SMCANA will continue its efforts to protect its contractors who do business with MRBs. The proposed reforms outlined above, including the SAFER Banking Act, will offer greater protections to SMACNA contractors and other businesses who transact with MRBs. Nevertheless, additional work is needed.

We will continue to monitor this issue and keep SMACNA contractors apprised of new developments.



**Appendix 1**

<b>State</b>	<b>Recreational Marijuana</b>	<b>Medical Marijuana</b>	<b>CBA/Low THC</b>
Alabama	✗ <b>Not authorized.</b>	✓ <b>Medical use permitted.</b> Effective May 17, 2021, Alabama permits the medical use of marijuana for the treatment of certain debilitating medical conditions. Ala. Code § 20-2A-1 to 20-2A-100.	✓ <b>Low-THC products permitted.</b> Ala. Code § 13A-12-214.3
Alaska	✓ <b>Recreational use permitted.</b> Alaska permits adults over the age of 21 to possess up to one ounce of marijuana for recreational, non-commercial use or sharing. Marijuana cannot be consumed in public. Alaska Stat. §§ 17.38.010 to 17.38.900.	✓ <b>Medical use permitted.</b> Alaska permits the medical use of marijuana for the treatment of certain debilitating medical conditions. Registered patients and their caregivers can possess up to one ounce of usable medical marijuana. Alaska Stat. §§ 17.37.010 to 17.37.080	<b>Not addressed.</b>
Arizona	✓ <b>Recreational use permitted.</b> Proposition 207, the Smart and Safe Arizona Act, which became effective November 30, 2020, allows adults 21 and older to possess up to one ounce of recreational marijuana or five grams of concentrate. Ariz. Rev. Stat. § 36-2852.	✓ <b>Medical use permitted.</b> Arizona permits adults 21 years of age or older to possess up to 2.5 ounces of usable marijuana for the treatment of certain debilitating medical conditions. Ariz. Rev. Stat. §§ 36-2801 to 36-2821.	<b>Not addressed.</b>
Arkansas	✗ <b>Not authorized.</b>	✓ <b>Medical use permitted.</b> An amendment to the Arkansas Constitution allows patients (and caregivers 21 years of age or older) to possess up to 2.5 ounces of usable marijuana for the treatment of qualifying medical conditions, subject to limitations set forth in the statute. Ark. Code Ann. §§ 20-56-301 to 20-56-306	<b>Not addressed.</b>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
California	<p>✓ <b>Recreational use permitted.</b></p> <p>California also allows adults 21 years of age or older to possess not more than 28.5 grams of cannabis or no more than eight grams of concentrated cannabis for recreational use, in addition to permitting commercial production and retail sales. Cal. Bus. &amp; Profs. Code §§ 26000 to 26325; Cal. Health &amp; Safety Code § 11362.1; Proposition 64.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>California allows adults 18 years of age or older to possess no more than eight ounces of dried cannabis for the treatment of serious medical conditions. Cal. Health &amp; Safety Code §§ 11362.7 to 11362.85.</p>	<p><b>Not addressed.</b></p>
Colorado	<p>✓ <b>Recreational use permitted.</b></p> <p>The Colorado Constitution allows adults 21 years of age or older to possess up to two ounces of usable marijuana for personal use, in addition to permitting commercial production and retail sales, subject to limitations in the statute. Colo. Const. Art. XVIII § 16; Colo. Rev. Stat. tit. 44, art. 10.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>The Colorado Constitution allows the medical use of marijuana, limited to no more than two ounces of usable marijuana, to treat certain debilitating medical conditions, subject to limitations in the statute. Colo. Const. Art. XVIII, § 14; Colo. Rev. Stat. § 25-1.5-106.</p>	<p><b>Not addressed.</b></p>
Connecticut	<p>✓ <b>Recreational use permitted.</b></p> <p>Connecticut allows adults 21 years of age or older to possess up to 1.5 ounces of botanical cannabis or an equivalent amount of cannabis concentrates in public, and up to five ounces of marijuana in their private home. Home cultivation is allowed beginning July 1, 2023. Conn. Gen. Stat. §§ 21a-279a, 21a-278c.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Connecticut allows the palliative use of marijuana to alleviate symptoms associated with certain debilitating medical conditions. Conn. Gen. Stat. §§ 21a-408 to 21a-408q.</p>	<p><b>Not addressed.</b></p>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Delaware	<p>✓ <b>Recreational use permitted.</b></p> <p>Effective April 23, 2023, Delaware allows adults age 21 and older to possess a personal use quantity of marijuana, defined as up to 1 ounce of leaf marijuana, 12 grams of concentrated cannabis, or cannabis products containing 750 milligrams of THC. Public consumption and growing are prohibited. 16 Del. C. § 4764.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Delaware allows the medical use of marijuana to treat or alleviate the symptoms of certain debilitating medical conditions. Del. Code, tit 16 §§ 4901A to 4928A.</p>	<p><b>Not addressed.</b></p>
District of Columbia	<p>✓ <b>Recreational use permitted.</b></p> <p>The District of Columbia allows the recreational use of marijuana by adults over age 21. These adults can possess up to two ounces of marijuana, grow up to three mature and three immature marijuana plants in their homes, and transfer up to one ounce of marijuana to another person. Initiative 71.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>The District of Columbia allows the medical use of marijuana to treat or alleviate the symptoms of a qualifying dental or medical condition. D.C. Code §§ 7-1671.01 to 7-1671.13.</p>	<p><b>Not addressed.</b></p>
Florida	<p>✗ <b>Not authorized.</b></p>	<p>✓ <b>Medical use permitted.</b></p> <p>Florida allows the medical use of marijuana for the treatment of qualifying medical conditions. Fla. Stat. § 381.986.</p>	<p>✓ <b>Low-THC products permitted.</b></p> <p>Florida allows the use of low-THC cannabis for patients with certain qualifying medical conditions. Low-THC cannabis is defined as strains containing 0.8% or less of THC and more than 10% CBD. Fla. Stat. § 381.986</p>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Georgia	✗ <b>Not authorized.</b>	✗ <b>Not authorized.</b>	✓ <b>Low-THC products permitted.</b> Georgia allows the use of low THC oil by individuals with a valid Low THC Oil Registry card. These individuals can possess up to 20 fl. oz. of low THC oil. The oil must contain less than five percent THC and some amount of CBD. Ga. Code Ann. §§ 16-12-190 to 16-12-191.
Hawaii	✗ <b>Not authorized.</b>	✓ <b>Medical use permitted.</b> Hawaii allows the medical use of marijuana to alleviate the symptoms or effects of certain debilitating medical conditions. Haw. Rev. Stat. §§ 329-121 to 329-131.	<b>Not addressed.</b>
Idaho	✗ <b>Not authorized.</b> Cannabis use and possession is prohibited. Idaho Code § 37-2732.	✗ <b>Not authorized.</b>	✗ <b>Not authorized.</b>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Illinois	<p>✓ <b>Recreational use permitted.</b></p> <p>Beginning Jan. 1, 2020, Illinois allows the recreational use of marijuana by adults age 21 and older who are residents of the state. These adults can possess 30 grams of cannabis flower; no more than 500 milligrams of THC contained in a cannabis-infused product; and five grams of cannabis concentrate. Adults age 21 and older who are not residents of Illinois can possess 15 grams of cannabis flower; 2.5 grams of cannabis concentrate; and 250 milligrams of THC contained in a cannabis-infused product. 410 Ill. Comp. Stat. 705/10-5 to 705/10-50.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Illinois allows the medical use of marijuana for the treatment of certain debilitating medical conditions. 410 Ill. Comp. Stat. 130/1 to 130/999</p>	<p><b>Not addressed.</b></p>
Indiana	<p>✗ <b>Not authorized.</b></p>	<p>✗ <b>Not authorized.</b></p>	<p>✓ <b>Low-THC products permitted.</b></p> <p>Low THC hemp extract products may be sold if the seller has a certificate of analysis prepared by an independent drug testing laboratory that confirms the products contain no more than 0.3 percent of THC, and no other controlled substances. Ind. Code §§ 24-4-21-1 to 24-4-22-4.</p>
Iowa	<p>✗ <b>Not authorized.</b></p>	<p>✗ <b>Not authorized.</b></p>	<p>✓ <b>Low-THC products permitted.</b></p> <p>Iowa allows the use of medical cannabidiol for the treatment of certain debilitating medical conditions. Patients may only be dispensed a combined total of 4.5 grams of total THC in a 90-day period. Iowa Code §§124E.1 to 124E.26.</p>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Kansas	✗ <b>Not authorized.</b>	✗ <b>Not authorized.</b>	✓ <b>Low-THC products permitted.</b> Kansas law provides an affirmative defense against prosecution for possession and certain use of cannabis oil with no more than 5% THC to treat certain debilitating medical conditions. Kansas also allows CBD products with zero THC, but in-state access is not permitted. Kan. Stat. § 21-5706; Kan. Stat. § 65-6235.
Kentucky	✗ <b>Not authorized.</b>	✓ <b>Medical use permitted.</b> Beginning Jan. 1, 2025, Kentucky will permit the medical use of cannabis for the treatment of certain medical conditions. Registered qualifying patients will be able to possess up to an uninterrupted 30-day supply. A Nov. 15, 2022, executive order permitting persons with certain medical conditions to possess up to 8 ounces of medical cannabis if legally purchased in another state is still in effect. S.B. 47.	✓ <b>Low-THC products permitted.</b> The definition of marijuana doesn't include CBD, as long as CBD is administered pursuant to a written order of certain physicians or for individuals participating in certain clinical trials or expanded access programs. Ky. Rev. Stat. § 218A.010(28).
Louisiana	✗ <b>Not authorized.</b>	✓ <b>Medical use permitted.</b> Louisiana allows the medical use of marijuana for the therapeutic use by patients with debilitating medical conditions. La. Rev. Stat. §§ 40:1046 to 40:1049.	<b>Not addressed.</b>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Maine	<p>✓ <b>Recreational use permitted.</b></p> <p>Maine allows the personal use of marijuana by adults age 21 and older. These adults can use, possess, or transport up to 2.5 ounces of marijuana or 2.5 ounces of a combination of marijuana and marijuana concentrate that includes no more than 5 grams of marijuana concentrate; up to three mature marijuana plants, 12 immature marijuana plants, and an unlimited number of seedlings. 28-B Me. Rev. Stat. §§1501 to 1504.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Maine allows the medical use of marijuana to treat or alleviate the symptoms of certain debilitating medical conditions. 22 Me. Rev. Stat. §§ 2421 to 2430-B</p>	<p><b>Not addressed.</b></p>
Maryland	<p>✓ <b>Recreational use permitted.</b></p> <p>Maryland voters approved an amendment to the state constitution (Question 4) to allow individuals 21 and older to use and possess cannabis, effective July 1, 2023. Implementing legislation (H.B. 837) permits adults to possess up to 1.5 ounces of cannabis, 12 grams of cannabis concentrates, cannabis products containing up to 750 milligrams of delta-9 THC, or two cannabis plants for personal use. Question 4; 2022 Md. Laws, Ch. 45 (H.B. 1); 2022 Md. Laws, Ch. 26 (H.B. 837).</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Maryland allows the medical use of marijuana to treat certain chronic or debilitating medical conditions. Md. Code, Alco Bev. §§ 36-101, 36-301 to 36-302</p>	<p><b>Not addressed.</b></p>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Massachusetts	<p>✓ <b>Recreational use permitted.</b></p> <p>Massachusetts allows the personal use of marijuana by adults age 21 or older. These adults can possess up to one ounce of marijuana; within their residences they can possess up to 10 ounces of marijuana and any marijuana produced by cannabis plants cultivated on the premises. Mass. Gen. Laws, ch. 94G, § 7.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Massachusetts allows the medical use of marijuana to treat, or alleviate the symptoms of certain debilitating medical conditions. Mass. Gen. Laws, ch. 94I, §§1 to 8.</p>	<b>Not addressed.</b>
Michigan	<p>✓ <b>Recreational use permitted.</b></p> <p>Michigan allows the personal use of marijuana and marijuana paraphernalia by adults age 21 and older. These adults generally can possess, use, or consume 2.5 ounces or less of marijuana, except that not more than 15 grams of marijuana can be in the form of marijuana concentrate. Mich. Comp. Laws §§ 333.27951 to 333.27967.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Michigan allows the medical use of marijuana or related paraphernalia to treat or alleviate certain debilitating medical conditions or symptoms associated with those conditions. Mich. Comp. Laws §§ 333.26421 to 333.24630</p>	<b>Not addressed.</b>
Minnesota	<p>✓ <b>Recreational use permitted.</b></p> <p>Effective Aug. 1, 2023, Minnesota allows adults 21 and over to possess up to 2 ounces of cannabis in public and 2 pounds at home. Home cultivation of up to 8 plants is permitted. 2023 Minn. Laws 63 (H.F. 100).</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Minnesota allows the medical use of marijuana for the treatment or alleviation of symptoms of qualifying medical conditions for patients who are enrolled in the registry program. Minn. Stat. §§ 152.22 to 152.37.</p>	<b>Not addressed.</b>



State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Mississippi	<p>✗ <b>Not authorized.</b></p>	<p>✓ <b>Medical use permitted.</b></p> <p>Effective Feb. 2, 2022, Mississippi allows the medical use of marijuana to treat debilitating medical conditions. Qualifying patients may possess up to 3.5 grams of cannabis flower, 1 gram of concentrate, or 100 milligrams of THC in an infused product. Miss. Code §§ 41-137-1 to 41-137-67</p>	<p>✓ <b>Low-THC products permitted.</b></p> <p>Harper Grace's Law provides an affirmative defense for the use of CBD solution for the treatment of certain debilitating epileptic conditions. Individuals can only use or possess CBD solution pursuant to a physician's order. Miss. Code §§ 41-29-113, 41-29-136</p>
Missouri	<p>✓ <b>Recreational use permitted.</b></p> <p>Missouri voters approved a ballot measure (Amendment 3) that amends the state constitution to allow adults ages 21 and older to purchase and possess up to 3 ounces of cannabis, effective Dec. 8, 2022. The amendment also allows home cultivation for personal use. Mo. Const. art. XIV, § 2</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Missouri allows the medical use of marijuana by qualifying registered patients and their caregivers to treat qualifying medical conditions. Effective Dec. 8, 2022, an amendment to the state constitution increases the amount of medical marijuana patients may possess from 4 ounces to 6 ounces. Mo. Const. art. XIV, § 1</p>	<p>✓ <b>Low-THC products permitted.</b></p> <p>Missouri allows the use of hemp extract to treat intractable epilepsy as defined in Mo. Rev. Stat. § 192.945.</p>
Montana	<p>✓ <b>Recreational use permitted.</b></p> <p>Effective Jan. 1, 2021, allows the recreational use of marijuana by adults age 21 or older. Such persons may possess one ounce or less of marijuana or eight grams or less of concentrated marijuana, and grow up to four marijuana plants on their premises for personal use. Mont. Code §§ 16-12-101 to 16-12-129.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Montana allows the medical use of marijuana to treat certain debilitating medical conditions. Mont. Code §§ 16-12-501 to 16-12-533.</p>	<p><b>Not addressed.</b></p>
Nebraska	<p>✗ <b>Not authorized.</b></p>	<p>✗ <b>Not authorized.</b></p>	<p>✗ <b>Not authorized.</b></p>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Nevada	<p>✓ <b>Recreational use permitted.</b></p> <p>Nevada allows the recreational use of marijuana by adults 21 or older. Adults may possess up to 2.5 ounces of cannabis or one-fourth of an ounce of cannabis concentrates and grow up to six cannabis plants at home for personal use. Nev. Rev. Stat. §§ 678D.005 to 678D.510.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Nevada allows the medical use of marijuana to mitigate the symptoms or effects of certain chronic or debilitating medical conditions. Nev. Rev. Stat. §§ 678C.005 to 678C.860.</p>	<p><b>Not addressed.</b></p>
New Hampshire	<p>✗ <b>Not authorized.</b></p>	<p>✓ <b>Medical use permitted.</b></p> <p>New Hampshire allows the therapeutic use of cannabis to treat or alleviate the symptoms of treatment of qualifying medical conditions. N.H. Rev. Stat. §§ 126-X1 to 126-X11.</p>	<p><b>Not addressed.</b></p>
New Jersey	<p>✓ <b>Recreational use permitted.</b></p> <p>Public Question 1 amended the New Jersey Constitution to allow adults 21 and over to possess and purchase regulated recreational cannabis. N.J. Const. art. IV, § VII, paragraph 13 (Public Question 1); N.J.S. § 24:6I-31; N.J.A.C. 17:30-2.1.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>New Jersey allows the medical use of marijuana to treat or alleviate the symptoms associated with certain debilitating medical conditions. N.J. Rev. Stat. §§ 24:6I-1 to 24:6I-56.</p>	<p><b>Not addressed.</b></p>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
New Mexico	<p>✓ <b>Recreational use permitted.</b></p> <p>Effective June 29, 2021, New Mexico allows individuals 21 and over to possess up to 2 ounces of cannabis, 16 grams of cannabis extract and 800 milligrams of edible cannabis outside their private residence. N.M. Stat. §§ 26-2C-1 to 26-2C-42.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>New Mexico allows the medical use of cannabis to alleviate symptoms caused by certain debilitating medical conditions and their medical treatments. N.M. Stat. §§ 26-2B-1 to 26-2B-7</p>	<p><b>Not addressed.</b></p>
New York	<p>✓ <b>Recreational use permitted.</b></p> <p>Adults 21 and over may purchase or transfer up to three ounces of cannabis and up to 24 grams of concentrated cannabis. N.Y. Cannabis Law; N.Y. Penal Law §222.05.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>New York allows medical use of marijuana. Certified patients and their caregivers ages 21 and older may cultivate cannabis in their homes for personal use. N.Y. Cannabis Law §30 to 45</p>	<p><b>Not addressed.</b></p>
North Carolina	<p>✗ <b>Not authorized.</b></p>	<p>✗ <b>Not authorized.</b></p>	<p>✓ <b>Low-THC products permitted.</b></p> <p>The North Carolina Epilepsy Alternative Treatment Act permits the use of hemp extract (less than 0.9% THC and at least 5% cannabidiol) as an alternative treatment for children with intractable epilepsy. N.C. Gen. Stat. § 90-94.1.</p>
North Dakota	<p>✗ <b>Not authorized.</b></p>	<p>✓ <b>Medical use permitted.</b></p> <p>North Dakota allows the medical use of marijuana for the treatment of certain debilitating medical conditions. N.D. Cent. Code §§ 19-24.1-01 to 19-24.1-40.</p>	<p><b>Not addressed.</b></p>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Ohio	<p>✓ <b>Recreational use permitted.</b></p> <p>Effective Dec. 7, 2023, Ohio law allows adults 21 and over to possess up to 2.5 ounces of cannabis or 15 grams of extract. Ohio Rev. Code Chapter 3780.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Ohio allows the medical use of marijuana to treat certain qualifying medical conditions. Ohio Rev. Code §§ 3796.01 to 3796.30.</p>	<p><b>Not addressed.</b></p>
Oklahoma	<p>✗ <b>Not authorized.</b></p>	<p>✓ <b>Medical use permitted.</b></p> <p>Oklahoma allows the medical use of marijuana by adults (and certain minors) who possess state-issued medical marijuana licenses. Okla. Stat. tit. 63, § 420.</p>	<p>✓ <b>Low-THC products permitted.</b></p> <p>Oklahoma allows the use of CBD liquid to qualified patients for the treatment of certain conditions. CBD must contain no more than 0.3 percent THC.</p>
Oregon	<p>✓ <b>Recreational use permitted.</b></p> <p>Oregon allows the recreational use of marijuana by adults age 21 or older. Or. Rev. Stat. §§ 475B.005 to 475B.399.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Oregon allows the medical use of marijuana to treat certain debilitating medical conditions. Or. Rev. Stat. §§ 475C.770 to 475C.919.</p>	<p><b>Not addressed.</b></p>
Pennsylvania	<p>✗ <b>Not authorized.</b></p>	<p>✓ <b>Medical use permitted.</b></p> <p>Pennsylvania allows for medical use of marijuana to treat certain medical conditions. 35 Pa. Stat. §§ 10231.101 to 10231.103.</p>	<p><b>Not addressed.</b></p>
Rhode Island	<p>✓ <b>Recreational use permitted.</b></p> <p>Rhode Island allows those over age 21 to possess up to one ounce, home cultivate up to six plants, and buy up to one ounce of cannabis. R.I. Gen. Laws §§ 21-28.11-1 to 21-28.11-32.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Rhode Island allows the medical use of marijuana to treat certain chronic or debilitating medical conditions. R.I. Gen. Laws §§ 21-28.6-1 to 21-28.6-7.</p>	<p><b>Not addressed.</b></p>

<b>State</b>	<b>Recreational Marijuana</b>	<b>Medical Marijuana</b>	<b>CBA/Low THC</b>
South Carolina	✗ <b>Not authorized.</b>	✗ <b>Not authorized.</b>	✓ <b>Low-THC products permitted.</b> South Carolina allows the medical use of CBD to treat certain medical conditions. S.C. Code § 44-53-1810.
South Dakota	✗ <b>Not authorized.</b> South Dakota overturned a constitutional amendment authorizing recreational marijuana in 2021. 2021 S.D. 65.	✓ <b>Medical use permitted.</b> South Dakota allows the medical use of marijuana to treat certain chronic or debilitating medical conditions. S.D. Codified Laws §§ 34-20G-1 to 34-20G-95.	<b>Not addressed.</b>
Tennessee	✗ <b>Not authorized.</b>	✗ <b>Not authorized.</b>	✓ <b>Low-THC products permitted.</b> Tennessee allows persons with certain medical conditions to possess CBD oil containing no more than 0.9% THC. Tenn. Code § 39-17-402.
Texas	✗ <b>Not authorized.</b>	✗ <b>Not authorized.</b>	✓ <b>Low-THC products permitted.</b> The Texas Compassionate Use Act allows the use of low-THC cannabis (not more than 1.0% by weight of THC) for the treatment of certain medical conditions. Tex. Occ. Code §§ 169.001 to 169.005.
Utah	✗ <b>Not authorized.</b>	✓ <b>Medical use permitted.</b> Utah allows the medical use of marijuana for the treatment of the symptoms of qualifying conditions. Utah Code §§ 26B-4-201 to 26B-4-244.	✓ <b>Low-THC products permitted.</b> Effective July 1, 2019, Utah allows the use of CBD products containing less than 0.3 percent THC, if the product is processed into a medicinal dosage form. Utah Code § 4-41-402.

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
Vermont	<p>✓ <b>Recreational use permitted.</b></p> <p>Vermont allows the possession of recreational marijuana by adults age 21 or older. These adults can possess up to one ounce of marijuana, or up to five grams of hashish and up to two mature marijuana plants or four immature marijuana plants. 18 Vt. Stat. §§ 4230-4230i.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Vermont allows the medical use of marijuana to alleviate the symptoms or effects of certain debilitating medical conditions. 7 Vt. Stat. §§ 951 to 956.</p>	<p><b>Not addressed.</b></p>
Virginia	<p>✓ <b>Recreational use permitted.</b></p> <p>Effective July 1, 2021, adults age 21 may possess up to one ounce of marijuana and grow up to four cannabis plants per household. 2021 Va. Acts, 1st Spec. Sess. 2021, Ch. 550.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Registered practitioners may recommend medical marijuana for any disease or condition for they believe it will be helpful. Va. Code §§ 4.1-1600 to 4.1-1605.</p>	<p><b>Not addressed.</b></p>
Washington	<p>✓ <b>Recreational use permitted.</b></p> <p>Washington allows the recreational use of marijuana by adults age 21 or older. Adults can purchase up to one ounce of usable marijuana, 16 ounces of marijuana-infused edibles in solid form, 72 ounces in liquid form, and seven grams of marijuana concentrates. Wash. Rev. Code §§ 69.50.360, 69.50.204.</p>	<p>✓ <b>Medical use permitted.</b></p> <p>Washington allows the medical use of marijuana to treat certain terminal or debilitating medical conditions. Wash. Rev. Code §§ 69.51A.005 to 69.51A-900.</p>	<p><b>Not addressed.</b></p>

State	Recreational Marijuana	Medical Marijuana	CBA/Low THC
West Virginia	✗ <b>Not authorized.</b>	✓ <b>Medical use permitted.</b> West Virginia allows the medical use of cannabis to treat certain terminal or serious medical conditions or allow patients to tolerate treatments for those conditions. Medical cannabis cannot be smoked. W. Va. Code §§ 16A-1-1 to 16A-16-1.	<b>Not addressed.</b>
Wisconsin	✗ <b>Not authorized.</b>	✗ <b>Not authorized.</b>	✓ <b>Low-THC products permitted.</b> Wisconsin allows the use of CBD to treat medical conditions. Physicians and pharmacies with FDA investigational drug permits may dispense CBD in a form without a psychoactive effect. Wis. Stat. § 961.38.
Wyoming	✗ <b>Not authorized.</b>	✗ <b>Not authorized.</b>	✓ <b>Low-THC products permitted.</b> Wyoming allows the possession, purchase, sale, transportation, and use of hemp and hemp products by anyone for any reason. Hemp must contain no more than 0.3 percent THC. Wyo. Stat. § 11-51-102.