

Cannabis: A Growing Business

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Stores selling CBD products seem to be popping up on every corner. Pharmacies across the state have been licensed to dispense medical marijuana. Many people are wondering about the changing laws and regulations regarding cannabis businesses. The Stone Pigman Cannabis Practice Group is here to answer your questions.

What is cannabis?

Cannabis refers to the plant *Cannabis sativa L.*, which has been used for centuries to create fibers and textiles as well as drugs for both recreational and medical use. Marijuana and hemp belong to the same plant species, *Cannabis sativa L.*, but are legally distinguished based on the concentration of the drug tetrahydrocannabinol (THC), which is known for its psychotropic properties. Those cannabis plants that have a relatively high concentration of THC are known as marijuana. By contrast, cannabis plants that contain 0.3% or less of THC are classified as hemp plants.

Marijuana remains a Schedule I drug, which means that it is illegal under federal law. However, a growing number of U.S. states have begun to reassess their own prohibitions under state law against marijuana and other cannabis products. This has led to a conflict between state and federal laws regarding marijuana use.

Hemp is now legal at the federal level. This means that numerous cannabis products derived from hemp plants, which are low in THC, are now legal. That change has paved the way for a variety of new businesses that may now legally sell a broad range of products containing cannabidiol (CBD) derived from hemp.

What are the differences between medical marijuana, recreational marijuana, and CBD products?

- The term "medical marijuana" means marijuana products that treat certain medical conditions, at the recommendation of a licensed physician.
- The terms "recreational marijuana" or marijuana for "adult use" refer to any form of marijuana that is used without medical justification.
- Hemp has long been cultivated for its strong woody fiber and edible seeds. It is used to produce a variety of commercial and industrial products, including rope, textiles, clothing, shoes, food, paper, bioplastics, insulation, and biofuel.

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Cannabis

Hemp plants are also cultivated for the chemical compounds that can be extracted from them, such as CBD, cannabidiolic acid (CBDA), and others. Subject to certain federal limitations, it is legal to produce and distribute these derivatives from the hemp plant. However, regulations of the United States Food and Drug Administration (FDA) prohibit CBD product manufacturers or retailers from promoting any purported health benefits, none of which have been validated by the FDA.

In which U.S. states is marijuana legal?

- As of now, dozens of U.S. states have reassessed their longstanding prohibition against marijuana.
- Medical marijuana is now legal in 37 U.S. jurisdictions, including 32 states, four territories, and Washington, D.C.
- 18 U.S. states and territories, including Washington, D.C. and Guam, also permit adult use of marijuana (also referred to as recreational use).

To what extent is marijuana legal in Louisiana?

- At present, the state of Louisiana has only legalized the use of medical marijuana under specified controls, whereas adult use remains prohibited under the state's criminal laws.
- Under Louisiana state law, medical marijuana may be recommended to a patient by any licensed physician for certain specified chronic, serious, or debilitating medical conditions and for any condition that the treating physician is qualified to treat and considers debilitating to an individual patient.
- Marijuana pharmacies are licensed by the Louisiana State Board of Pharmacy. The governing statutes geographically divide Louisiana into nine health districts. There is one licensed medical marijuana pharmacy in each health district (although current legislative efforts are aimed at expanding that limit to two dispensing pharmacies per district).
- The Louisiana Department of Agriculture and Forestry (LDAF) is the state's designated lead regulatory agency for the production of medical marijuana to ensure the safety and quality of the final product. LDAF oversees the growth of marijuana plants, the extraction of compounds from the plants, and the manufacture of medical marijuana products.
- Louisiana allows only two licensed medical marijuana growers: Louisiana State University's and Southern University's agricultural centers.
- When the medical marijuana pharmacies first opened in the state in 2019, products included gummies, tinctures, topical creams, and portable vaporizers. However, in January 2022, a minimally processed, smokable flower became legal and was introduced to the market.
- The smokable flower product was in high demand immediately, which threatened to overwhelm the capacities of licensed medical marijuana pharmacies.
- According to MJBizDaily, an online publication devoted to the cannabis industry, Louisiana's medical marijuana sales are expected to double in 2022 to about \$100 million and rise as high as \$400 million by 2025.
- Industry players will likely be focused on further expansion of the market in the upcoming legislative session.

What's next for cannabis at the federal and state levels?

- A handful of advocates and top lawmakers at the federal level support marijuana reform. They seek to enact two key measures. The first is the Secure and Fair Enforcement Banking Act, which would grant the industry greater access to financial institutions. Currently, most federally insured banks will not accept businesses in the marijuana industry as clients because their operations remain illegal under federal law. This inhibits growth within the industry, as legal marijuana dispensaries are cut off from many sources of financing and standard payment systems. The second notable piece of federal legislation is the Marijuana Opportunity Reinvestment and Expungement Act, which would decriminalize marijuana under federal laws and expunge the records of millions of Americans who have been incarcerated for low level, non-violent offenses for possession of marijuana. Both bills failed to pass in 2021.
- On the state level, cannabis reform is moving quickly. If proposed reforms proceed, an additional eight states may permit medical uses of marijuana, and 13 more may legalize recreational usage.

Anyone doing business in the cannabis industry should work with competent legal counsel. The Stone Pigman team remains at the forefront of the cannabis industry and provides our clients with guidance in navigating the rapidly changing legal landscape of this industry. You can read more about our Cannabis Practice [here](#).

The possession, distribution and sale of marijuana remains illegal under U.S. federal law, despite changes to certain states' laws that have decriminalized or allowed the use of marijuana for medical or recreational purposes. Nothing set forth above is meant to serve as advice or counsel in violating federal or state law.