Jurisdictions are ranked on the following factors:

1. Cannabidiol (CBD) derived from marijuana plants (THC concentration equal to or greater than 0.3 percent on a dry weight basis) – legality and required qualifications;
2. Medical cannabis – legality and required qualifications;
3. Recreational cannabis – legality and issuance of commercial cannabis licenses;
4. Non-profit cannabis entities – permissibility and requirements;
5. Commercial cannabis licenses – availability, caps and restrictions;
6. Cannabis regulatory agencies – authority and qualifications;
7. Developments and trends – support for ongoing cannabis legalization measures; and
8. Business opportunities – number of operators, consumers and untapped industry potential.

Note that this ranking is subjective, and different factors weigh more heavily in different states. All of the information regarding each state is current as of July 2021. However, laws are constantly changing and with each election the statutes in any particular state may also change. In addition, this list does not consider federal laws, which may be consistent on a national level but can be applied selectively on a state level. To find any particular state, just click on the respective link below.

State | Ranking | State | Ranking | State | Ranking
--- | --- | --- | --- | --- | ---
Alabama | 37 | Kentucky | 40 | North Dakota | 31
Alaska | 12 | Louisiana | 24 | Ohio | 28
Arizona | 8 | Maine | 9 | Oklahoma | 29
Arkansas | 30 | Maryland | 21 | Oregon | 6
California | 1 | Massachusetts | 4 | Pennsylvania | 22
Colorado | 3 | Michigan | 7 | Rhode Island | 20
Connecticut | 15 | Minnesota | 27 | South Carolina | 45
Delaware | 33 | Mississippi | 41 | South Dakota | 39
District of Columbia | 16 | Missouri | 32 | Tennessee | 44
Florida | 26 | Montana | 19 | Texas | 35
Georgia | 42 | Nebraska | 51 | Utah | 34
Hawaii | 23 | Nevada | 2 | Vermont | 11
Idaho | 50 | New Hampshire | 25 | Virginia | 17
Illinois | 5 | New Jersey | 14 | Washington | 10
Indiana | 48 | New Mexico | 18 | West Virginia | 36
Iowa | 38 | New York | 13 | Wisconsin | 47
Kansas | 46 | North Carolina | 49 | Wyoming | 43

California has legalized both adult-use and medical marijuana, making it one of the most relaxed states in the nation with regard to cannabis use. With the passage of the Compassionate Use Act (CUA) of 1996 (Proposition 215), California became the first state to legalize medical marijuana use. It has since been followed by the Medical and Adult-Use Cannabis Regulation and Safety Act, creating a uniform licensing regime for both medical and adult-use. California’s cannabis market recorded a record $4.4 billion in sales in 2020.

CUA allowed patients and their primary caregivers to obtain marijuana for medical use by the patient without subjecting either to criminal prosecution. The Act authorized medical use for patients with one of 11 specified conditions and also included a general purpose clause that authorized use for any condition that substantially limited a person’s ability to conduct a major life activity as defined in the ADA.

Proposition 64, also called the Adult-Use Marijuana Act, took effect on November 9, 2016, allowing for the cultivation and sale of marijuana to adults twenty-one and older. Adults are also permitted to give away up to one ounce of cannabis to other adults.

The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MUAyRSA), enacted in June 2017, combined the regulatory framework for medicinal and adult-use cannabis. MUAyRSA designated three agencies to oversee cannabis activity: (1) the Bureau of Cannabis Control, which is the lead regulatory agency and authorizes licenses; (2) the California Department of Public Health – Manufactured Cannabis Safety Branch; and (3) the California Department of Food and Agriculture – CalCannabis Cultivation Licensing. The licensing system created by MUAyRSA is complex, with a minimum of twenty license classifications and an elaborate set of regulatory requirements established under the emergency regulations adopted by each agency.

License types include, but are not limited to, adult use, medical use, types of cultivation and manufacture, retailer or distributor, testing, and microbusiness. Once a license is granted, it is non-transferable. There are no caps on the number of licenses, but the requirements are rigorous. MUAyRSA also grants municipalities the power to further regulate commercial cannabis or to prohibit it altogether.

To be granted a state license, applicants must be residents of California, pass a background check, provide proof of a legal right to use the proposed location, apply for and obtain a valid seller’s permit, provide proof of bond, and describe the applicant’s operating procedures in detail. As the largest cannabis regulatory regime in the world, the Bureau of Cannabis Control has struggled to fill positions and conduct investigations.

It’s not all green in California. Although there is no cap on the number of licensed cannabis businesses, licensees are currently facing significant regulatory and compliance hurdles. The majority of licensees (about 82% or ~6,000) are currently operating under provisional licenses, which were never intended to be permanent. But as the law currently stands, regulators will no longer be able to renew these provisional licenses after December 31, 2021, leaving these operators at risk of shutting down (at least temporarily). The issue – In order to transition from a provisional license to an annual license, licensees must comply with the California Environmental Quality Act, which is a costly and time-consuming process. Fortunately, on June 14, 2021, the California Legislature approved a $100 million bailout (in the form of grants), to help cannabis companies complete the required environmental studies to transition from provisional to annual licenses.

Despite these challenges, California’s cannabis market still has tremendous opportunity for growth. Though California was the first state to create a regulated medical marijuana market and the second for adult-use, nearly half of all counties and municipalities in California still prohibit commercial cannabis activities. This has allowed for the black market cultivation and sale of cannabis to continue to blossom. Between the uncapped number of licenses, potential improvements to the licensing scheme, and additional counties and municipalities eventually allowing for commercial activity, there are still significant dollars on the table for operators looking to enter the market.

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The Tracking Cannabis blog is proud to announce our latest state-by-state ranking of state cannabis regulations based on how favorable they are to cannabis businesses. California leads the pack, but you might be surprised by which states make the top — and bottom — of the list.
#2: NEVADA

Nevada legalized medical marijuana in 2001 and adult-use marijuana in 2017. Medical marijuana legislation is codified under Chapter 453A. Medical Use of Marijuana in Nev. Rev. Stat. §§ 453A.010 to 453A.810. Adult use marijuana is permitted under the Regulation and Taxation of Marijuana Act, which is codified in Nev. Rev. Stat. §§ 453D.010 to 453D.600. The Department of Health and Human Services (the "Department") is tasked with regulating commercial cannabis activity. To qualify for a medical prescription, a patient must be diagnosed with a "chronic or debilitating medical condition," which includes conditions ranging from cancer to severe nausea.

Adult use marijuana restrictions are similar to restrictions on alcohol: users must be 21 years of age or older; marijuana may only be purchased from a business licensed in Nevada; selling or giving marijuana to individuals under 21 years of age is illegal; and driving under the influence of marijuana is illegal.

Medical marijuana establishment certificates are available for independent testing laboratories, cultivation facilities, production facilities (for edibles and other products), or dispensaries. To obtain a certificate, an applicant must complete an application and pay the requisite fee.

The application requires evidence that the applicant controls not less than $250,000 in liquid assets to cover initial expenses and evidence that the applicant owns (or has permission from the owner to use) property on which the proposed medical marijuana establishment will be located. There is a cap on the number of certificates that may be issued, and the cap is based on county population.

Nevada's medical marijuana businesses must follow certain rules, as set out in the statute. One such rule is that each medical marijuana establishment must have "an appearance, both as to the interior and exterior, that is professional, orderly, dignified and consistent with the traditional style of pharmacies and medical office, and have discreet and professional signage that is consistent with the traditional style of signage for pharmacies and medical offices." Other requirements, such as installing a video monitoring system, must also be followed. Additionally, if the city or county where the medical marijuana dispensary is located has enacted zoning restrictions, the establishment must be in compliance.

Licenses are issued for adult-use dispensaries if an applicant completes an application and pays the requisite fee. For 18 months after the Department began to receive applications for marijuana establishments in early 2018, the Department would only accept applications for licenses for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities. Currently, licenses will only be issued to marijuana distributors only if the person holds a wholesale dealer license, unless an insufficient number of distributors results from that limitation. Moreover, the application is only accepted if the proposed establishment is not in violation of any zoning or land use rules adopted by the locality where the establishment would be located. There is also a cap on the number of licenses that may be issued based on county population.

Adult-use dispensaries must also follow certain rules regarding production, manufacturing, distribution, and/or sales of cannabis products. For example, cultivation, processing, and manufacture of marijuana must not be visible from a public place by unaided vision.

On June 4, 2021, Gov. Steve Sisolak signed AB 241, establishing the licensure and regulation of recreational cannabis consumption lounges. In a licensed lounge, adults aged 21 and over may purchase marijuana for on-site consumption. There will be two types of lounges: retail lounges which are attached or adjacent to a dispensary, and independent lounges. Initially, only 20 licenses will be issued for independent lounges, the first 10 of which must go to social equity applicants. There is no limit on the amount of licenses issued for retail consumption lounges, but ownership groups are restricted to one consumption lounge license, meaning that an owner cannot hold both a retail consumption lounge license and an independent consumption lounge license. This restriction should allow for more business owners to participate in the industry. Nevadans could see concepts like cafés with cannabis-infused products, or marijuana-friendly yoga studios, comedy clubs, and even massage parlors. The law goes into effect October 1, 2021.

#3: COLORADO

Both medical and adult-use cannabis are legal in Colorado. Colorado's constitution was amended on December 28, 2000 to legalize cannabis for medical purposes, and amended again on December 10, 2012 to legalize adult-use. In 2020, Colorado marijuana sales across the medical and adult-use sectors were over $2 billion, totalling $9.8 billion since state-licensed retail sales of adult-use cannabis began in January 2014.

As other states slowly move towards comprehensive cannabis legalization, Colorado's overall attitude regarding legalization has consistently been ahead of the rest of the nation. Since the legalization of adult use cannabis in 2012, Colorado has focused on establishing a robust regulatory framework and increasing the effectiveness of these regulations through subsequent legislation.

The Marijuana Enforcement Division (MED) of the Colorado Department of Revenue is responsible for licensing and regulating medical and adult-use cannabis. MED issues a variety of different cannabis business licenses, including for stores, cultivators, products manufacturers, testing facilities, transporters, research and development, and hospitality businesses. As of July 2021, there were over 3,000 licensees operating in Colorado across the medical and adult-use sectors.

Although Colorado requires many different qualifications to obtain a license, state law permits the transfer of commercial cannabis licenses. In some instances, local licenses might also be required, which may have other restrictions on transferability. At the state level Colorado does not cap the number of licenses issued, but some counties and municipalities do restrict the number of licenses that may be issued and active within that particular county.

State cannabis regulations impose various restrictions on licensees. For example, a cultivator is authorized to cultivate up to 13,800 plants (depending on the tier of their cultivation license) at any given time. Additionally, the state limits the amount of cannabis that can be sold by retailers. A dispensary and its employees are prohibited from transferring more than one ounce of flower or its equivalent in a single transaction to a consumer.

Though Colorado was the first state to legalize adult-use marijuana, the regulatory landscape continues to develop and remains on the cutting edge. For example, H.B. 18-1011, signed into law on June 5, 2018, repealed a law that required limited passive investors to go through an initial background check when investing in a cannabis related company. H.B. 18-1011 also allows certain publicly traded companies to hold an interest in medical marijuana businesses and offer securities for investment in medical marijuana businesses.

In addition, on May 29, 2019, Gov. Jared Polis signed legislation authorizing marijuana hospitality spaces where cannabis can be consumed on the premises of dispensaries. As of January 1, 2021, Colorado now also allows for adult-use cannabis delivery permits, and a few businesses are already licensed to provide delivery services.

There remains plenty of business opportunity in the Colorado cannabis space. 2020 was the state's most lucrative year on record, and double-digit annual growth rates are expected to continue through at least 2022.

#4: MASSACHUSETTS

Massachusetts legalized adult-use marijuana in November 2016. Any person 21 and older can no longer be penalized for possessing, using, purchasing, or giving away one ounce or less of marijuana. Individuals can also possess up to 10 ounces of marijuana from plants cultivated within their primary residence. Massachusetts residents aged 21 and older can cultivate up to 6 marijuana plants at one time in their home, with a limit of 12 plants per household. The definition of marijuana is very broad, and unlike states like Arizona, encompasses cannabidiol.
Medical marijuana is governed by a separate act known as the Humanitarian Medical Use of Marijuana. It was enacted in 2012 and allows for the acquisition, cultivation, possession, processing, transfer, transportation, sale and distribution for the benefit of qualifying patients. The list of qualifying conditions is fairly broad and includes, but is not limited to, cancer, glaucoma, HIV, hepatitis C and Crohn's disease. Other conditions not specified in the statute may also qualify if so determined in writing by the patient's treating physician.

Under Massachusetts' adult-use regulations, marijuana establishments must obtain appropriate licenses to operate legally within the state. Massachusetts offers nine types of business licenses: marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana retailer, marijuana research facility, independent testing laboratory, marijuana transport, marijuana microbusinesses, and marijuana delivery. Delivery licenses are new in 2021 and will be reserved for social equity applicants for the first 3 years. The licensing process creates two new kinds of marijuana businesses: "couriers" that transport orders from an established retail store, and "delivery operators" that can purchase products from cultivators and sell them to customers. A third "delivery endorsement" permits existing marijuana operators to make deliveries. As of July 2021, 9 carrier licenses and 2 delivery endorsements have been approved.

Commercial cannabis activity is regulated by the Cannabis Control Commission, but local municipalities can also regulate some activities. Although there is a cap on the number of licenses a licensee can obtain, cannabis businesses can operate as for-profit entities. Retail cannabis sales for 2020 exceeded $1 billion in sales by October, from over 80 dispensaries. The favorable regulatory climate and sizable market make Massachusetts a lucrative state for commercial cannabis operators.

### #5: ILLINOIS

Illinois legalized cannabis for medical purposes in 2014. Users of medical cannabis must be diagnosed with a "debilitating medical condition," a term defined by the Illinois Department of Public Health. Users may only possess a maximum of 2.5 oz of usable cannabis during a 14-day period. In July 2016, Public Act 99-0967 reduced penalties associated with the adult-use of cannabis. In August 2018, the state legislature passed a law allowing medical cannabis to be used as an alternative to opioids for some medical conditions. The law allows state residents who are given an opioid prescription to ask their physicians for medical cannabis instead.

On June 25, 2019, Gov. J.B. Pritzker signed HB 1438, the Illinois Cannabis Regulation and Tax Act, into law. The bill legalized the adult-use and purchase of cannabis. For recreational purposes, Illinois residents 21 and over can possess up to 30 grams of cannabis flower, 5 grams of concentrate and 500 milligrams of THC in products such as edibles. Illinois visitors are able to possess half those amounts. Unlike medical marijuana patients, adult users are not permitted to grow marijuana at home. HB 1438 also created a $30 million dollar loan program to help social equity applicants with cannabis industry start-up costs. Applicants qualify based on being in a disproportionately impacted area and having a cannabis charge expunged as a result of the new law.

HB 1438 does not affect medical marijuana users, except that the bill mandates that any medical dispensary can apply for an Early Approval Adult Use Dispensing Organization License within sixty days of the passage of HB 1438. In a shortage, such dispensaries must prioritize medical patients before recreational purchases. An excise tax of 10% is imposed on products with less than 35% THC, and a tax of 25% is imposed on products with higher doses. The new law is in effect as of January 1, 2020.

Initially, medical marijuana dispensaries were the only licensed retailers, but by May 1, 2020 the state was required to award 75 new marijuana retail store licenses and 40 new craft grower licenses by July 1. Citing delays in the review process, Governor J.B. Pritzker delayed the issuance of those licenses and in September 2020, announced that only 21 finalists had been chosen. Gov. Pritzker explained that other applicants may correct their applications and seek reevaluation. Despite this, in 2020, Illinois sold more than $1 billion in legal marijuana between medical and recreational sales and collected over 205 million dollars in tax revenue.

### #6: OREGON

Adult-use and medical marijuana are both legal in Oregon. Oregon legalized medical marijuana in 1998 with the passage of Measure 91, the Oregon Medical Marijuana Act (OMMA). OMMA modified state law to allow the cultivation, possession, and use of marijuana by patients with certain medical conditions upon recommendation by a doctor and compliance with OMMA. Oregon then passed the Adult and Medical Use of Cannabis Act in 2014, which legalized the adult-use of marijuana. The Adult and Medical Use of Cannabis Act legalizes the possession, use, and cultivation of marijuana by adults 21 and older.

Oregon continues to be one of the state leaders for marijuana legalization and use. SB 408, which will go into effect on January 1, 2022, limits conditions under which the Oregon Liquor Control Commission (OLCC) may delay processing, approving or denying a license application. It also allows for the transfer of certain marijuana products between producers and processors as well as producers with common ownership. SB 408 requires regulators to adopt rules supporting marijuana plant diversity, such as by allowing a qualified producer to receive seeds from any source in the state.

The bill also simplifies rules regarding tracking documents for deliveries. It increases edible concentration limits to bring Oregon in line with other states and allows regulators to write rules to increase purchase limits. Finally it requires the OLCC to identify ways to further reduce the use of plastics by the cannabis industry and submit its findings to the state legislature by December 31, 2022.

The Oregon legislature is currently deciding on the Oregon Cannabis Equity Act. The Act would reinvest more tax dollars into social equity programs. It would create Equity Licenses providing institutional, funding and technical support to Black, Indigenous, and Latinx cannabis business owners. It would provide expedited licensure process and feed reduction for equity licenses and create two expanded licenses types reserved for equity licenses for 10 years. In May 2021, Oregon regulators recalled marijuana vape products that allegedly contain cannabis-derived terpenes imported from California.

In December 2020, the Oregon recreational cannabis industry topped $1 billion in sales, ending the year at $1.1 billion.

### #7: MICHIGAN

On November 6, 2018, Michigan voters legalized adult-use cannabis with the passage of Proposal 18-1, also known as the Michigan Regulation and Taxation of Marijuana Act ("MRTMA"). At the time of its enactment, Michigan became the 10th state to legalize recreational cannabis and the first to do so in the Midwest.

MRTMA authorizes and legalizes the possession, use and cultivation of cannabis products by individuals at least 21 years of age. The new law tasks the Department of Licensing and Regulatory Affairs with promulgating rules and procedures for issuing cannabis licensing in the state. The state will not cap the number of licenses at the state level, although municipalities are authorized to do so. Non-Michigan residents are permitted to invest in cannabis businesses in the state. As of March 2021, adult-use license applicants are no longer required to hold an active medical marijuana facility license in order to be eligible for the following MRTMA state licenses: marijuana retailer, marijuana processor, Class B marijuana grower, Class C marijuana grower, and marijuana secure transporter. Additionally, non-residents may apply for Class A marijuana grower licenses and marijuana microbusiness licenses after December 6, 2021.

Previously, in 2018, the Michigan Medical Marihuana Act ("MMMA") legalized the use and possession of cannabis by any Michigan resident diagnosed with a debilitating medical condition. Presently, a debilitating medical condition includes cancer, glaucoma, Hepatitis C, Crohn's disease, Alzheimer's, and any other medical condition approved by the Michigan Department of Licensing and Regulatory Affairs.

The general regulatory framework established under the new law is particularly business-friendly, as it establishes tax rates (6% sales tax and 10 percent excise tax) lower than most states that allow adult permits for-profit licensees. For medical-use cannabis-related businesses wishing to operate within the state, Michigan issues licenses that vary depending...
upon the company's actual activities. Each license is subject to different statutory qualifications. In 2016, Michigan enacted the Medical Marihuana Facilities Licensing Act, which provided for the licensure of growers, processors, secure transporters, provisioning centers, and safety compliance facilities. Once obtained, all of the aforementioned licenses may be transferred after state approval.

Statutory limitations restrict the production of medical-use cannabis. The limitation depends on the company's class of license. For example, a Class A production license allows a company to produce 1,000 cannabis plants, while a Class B license permits a company to produce 500 cannabis plants.

Also in 2016, HB 4210 amended the Michigan Medical Marihuana Act to prevent a person from being penalized for manufacturing a marijuana-infused product if the person was a qualified registered patient or a registered primary caregiver. On the municipal level, cannabis activity is regulated by local governmental authorities. In towns such as Ann Arbor, where an annual "Hash Bash" event has been celebrated by residents and University of Michigan students for almost 50 years, local ordinances regulate and license cannabis dispensaries. Ann Arbor is also set to be the home of Michigan's first designated cannabis consumption lounge, though an opening date has not yet been announced. On June 17, 2021, the U.S. District Court for Eastern District of Michigan granted a preliminary injunction preventing Detroit from processing recreational marihuana licenses. The Court found that a city ordinance giving preferential treatment to "Detroit legacy" applicants (those who have lived in Detroit for at least 10 years) conferred a likely unconstitutional advantage to long-term city residents over all other applicants. Additionally, Gov. Gretchen Whitmer signed a bill that regulates Delta-8 THC, restricting its sale to licensed marijuana dispensaries beginning in October 2021.

In the first full year of Michigan's adult-use program, marijuana sales topped $500 million, and hit $1 billion in 2020. In March 2021 alone, recreational and medical cannabis sales reached $115.4 million, with 1.4 million transactions statewide during that same month. The state currently has 260 recreational cannabis stores and 410 medical marijuana dispensaries. Growth opportunities continue, as the state has issued new permits in 2021 for 45 recreational marijuana stores and 46 medical marijuana dispensaries (numbers current as of April 2021).

### #8: Arizona

Both medical and adult-use marijuana are legal in Arizona. Medical marijuana has been legal since 2010 and physicians are permitted to prescribe "allowable amounts" of marijuana to patients with certain qualifying conditions. The allowable amount is 2.5 ounces of usable marijuana every two weeks. Over 300,000 residents of the state are registered to purchase medical marijuana. The delivery of medical marijuana to a qualifying patient is permissible, as long as the dispensary follows all relevant guidelines.

Qualified medical patients may not be discriminated or penalized by an employer because of their status as a cardholder. In addition, patients may not be penalized because of a positive drug test for marijuana, unless they used marijuana at their place of employment, or during the hours of employment.

On November 30, 2020, Arizona voters legalized the commercial sale and adult-use of recreational marijuana by voting in favor of Proposition 207, the Smart and Safe Act. The first state-licensed sale took place January 22, 2021, making Arizona the fastest state to go from voter approval to the state-licensed sale of marijuana.

The Act permits recreational users to possess up to one ounce of marijuana (of which not more than five grams may be in the form of marijuana concentrate), and permits users to grow up to six plants at home. They may also transfer the same amounts to adults over the age of 21 as long as the transfer is not in exchange for payment. The Act also states that there will be a 16% excise tax collected on the retail sale of adult-use marijuana (there is no excise tax on the retail sale of medical marijuana).

The Arizona Department of Health Services governs the licensing of marijuana establishments (who are permitted to operate one of each of the following: retail location, off-site cultivation location, and off-site manufacturing facility), and the delivery of medical marijuana. The Department does not permit the delivery of adult-use marijuana. However, the Department is permitted to put rules on the books on or after January 1, 2023, but no later than January 1, 2025, to allow for the delivery of adult use marijuana.

### #9: Maine

On May 2, 2018, the Maine Legislature overturned a veto by then-Gov. Paul LePage in order to pass adult-use legalization. The Legislature voted heavily in favor of passing the bill, as the House votes tallied 109-39 in favor and the Senate votes tallied 28-6 in favor. The Marijuana Legalization Act legalized adult-use marijuana throughout the state without restrictions on tetrahydrocannabinol (THC) limits. The Act allows a person to use and possess up to five grams of marijuana or marijuana concentrate without legal ramifications.

The Act restricts the amounts of marijuana plants adults can use and transfer and imposes many requirements on companies seeking a license to cultivate, test, manufacture, or sell marijuana or marijuana concentrate. In June 2018, the Legislature overrode two more of Gov. LePage’s vetoes, for LD 238 and LD 1539, which expanded Maine’s medical cannabis program. This removed the qualifying conditions list, eliminated a designated caregiver requirement, and raised the cap on dispensaries to 10.

A bill signed by Gov. Janet Mills in June 2019 launched Maine recreational sales, beginning in March 2020. It maintained a strict barrier to entry in the retail market by requiring businesses to be run by individuals who have been residents of Maine for four years. Edibles are permitted in retail stores, but edibles in the shape of animals, people or characters are not permitted. Maine municipalities may opt in to the adult-use program by locally allowing cannabis establishments or opt out by town council vote.

### #10: Washington

Washington has a history of being ahead of the curve on marijuana legislation. The state legalized medical use in 1998 via ballot measure (Washington Initiative 692), just two years after California became the first state to do so. On November 6, 2012, Washington became one of the first two states to legalize adult use (along with Colorado on the same day) by passing Washington Initiative 502. This legalized adult-use marijuana for those 21 years and older. Sales began in July 2014, and while the first years of adult-use legalization led to double digit YoY increases, as of 2019 sales have slowed to single digit increases for the first time in the state’s short history. As a result, wholesale cannabis prices have suffered a commensurate decline.

Given the longer existence of Washington’s medical and adult-use marijuana programs, the laws and regulations are more comprehensive than other states. The medical program is run through the Washington State Health Department, and...
the adult-use program is run by the Washington State Liquor and Cannabis Board. Chapter 69.51A of the Revised Code of Washington offers full details on the medical program and its restriction and Washington Admin. Code Title 314-55 provides all regulations relevant to the adult-use program.

The adult-use program is heavily licensed and has many restrictions. Residency requirements, financing regulation, and limits on the number of licenses per entity are all found in the Washington Administrative Code. Moreover, home grown cannabis remains illegal in Washington.

#11: VERMONT

Marijuana is legal for both medical and adult use in Vermont. On May 26, 2004, the Act establishing the medical use of marijuana became law without the Governor’s signature. The statutes regulating medical use are 18 V.S.A. § 4471 et seq. The Department of Health and the Commissioner of Health regulate medical cannabis and establish regulations, which are found in Vermont Administrative Code 17-2-3:3 et seq. On June 7, 2017, HB 503 was signed into law, legalizing drugs containing cannabidiol. However, the language in the Act states that the use of prescription drugs containing cannabidiol is conditioned upon the approval by the U.S. FDA.

To obtain a medical prescription card pursuant to Vermont Administrative Code 17-2-3:3 et seq., an individual must be diagnosed with a debilitating medical condition by a health care professional in the course of a bona fide health care professional-patient relationship. Patients must submit applications with Vermont’s Cannabis Control Board and obtain a card permitting medical use.

Licenses are available for prospective medical cannabis dispensaries. Among other criteria, the State considers the applicant's business plan and facility information; expected financial development plan; convenience of the facility for residents that need medical cannabis; and cultivation plan to ensure that the dispensary can meet the needs of patients. Principal board members and officers must be residents of Vermont.

The Vermont Administrative Code limits the number of medical dispensary licenses that can be issued. Currently, there are five dispensaries registered with the Department of Public Safety, but the state recently permitted the existing dispensaries to open a second location. As of June 25, 2021, there were 4,767 patients enrolled in the Vermont Marijuana Registry. Once the number of patients reaches 7,000, the state will open applications for a sixth dispensary.

Vermont’s cannabis regulations limit the number of marijuana plants and amount of usable marijuana that medical dispensaries may cultivate and possess at any given time. For example, if the dispensary is designated by more than 14 registered patients, it may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary. Vermont Regulations 17-2-3:6 states that dispensaries “[s]hall operate on a nonprofit basis for the mutual benefit of [their] patients.”

On July 1, 2018, Vermont legalized adult-use cannabis pursuant to HB 511. The bill, codified as 18 V.S.A. § 4230, was the first instance where adult-use cannabis legalization occurred via the state legislature, rather than through a voter initiative. Effective as of January 1, 2021, SB 234 expunges all criminal records of modest cannabis possession offenses and decriminalizes the possession of up to two ounces of cannabis, which is twice the legal limit for adults. With the passage of SB 25, Vermont enacted a tax-and-regulate system, with retail sales set to begin in 2022. Further, SB 25 has a social equity provision that benefits small businesses and minority owned business.

#12: ALASKA

In 2014, Alaska legalized the adult-use of cannabis through a successful ballot measure, making it the third state in the nation (behind Colorado and Washington) to legalize adult-use. Any person 21 and over is not subject to criminal or civil penalties under state law for possessing, growing, purchasing, or transferring to another adult one ounce or less of marijuana. The state also permits businesses to possess, grow, process, transport, or transfer to another person 21 and over up to 6 marijuana plants. The statutory definition of marijuana is broad, and likely encompasses products like cannabidiol.

Commercial businesses must obtain appropriate licenses to operate legally within the state. Alaska offers four (4) licenses: retail marijuana stores, marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities. The licensing framework in Alaska is favorable to cannabis businesses. These licenses can be transferred with approval from the state's Marijuana Control Board, the state agency charged with regulating commercial business within the state. A business can operate as non-profit or for-profit, but they must be run by Alaska residents. On April 11, 2019, Alaska became the first state to permit on-site cannabis use in freestanding retail cannabis shops, so long as they set up separate designated smoking areas for patrons. The city of Anchorage only permits consumption of edibles at dispensaries, and other local regulations may vary.

Patients with certain debilitating medical conditions can apply to register and receive a medical marijuana identification card. The law provides an affirmative defense against state-law prosecution for the manufacture, delivery, or possession of marijuana if the patient is properly registered with the state. The list of eligible conditions is broad and, includes, but is not limited to, cancer, glaucoma, chronic conditions resulting in severe pain, nausea, or seizures. Other conditions may also be approved by the state’s Department of Health and Social Services.

Although the Act legalized marijuana use on private property, the use of marijuana in bars or restaurants is still entirely illegal.

#13: NEW YORK

New York legalized medical marijuana in 2014 (N.Y. Pub. Health Law § 3362). The program is run through the New York State Dept. of Health, and is governed by the New York Medical Marijuana Program Regulations. The regulations are reasonably comprehensive in covering entity registration, licensing, production limitations, and qualifying medical conditions for patients.

As for adult-use, on March 31, 2021, Governor Andrew Cuomo signed 2021 NY S.B. 854, the Marijuana Regulation and Taxation Act (MRTA). MRTA legalized and regulates adult-use of marijuana. New Yorkers can legally possess and use up to three ounces of marijuana and twenty-four grams of concentrated cannabis for recreational use. And if secured properly, then up to five pounds of marijuana may be kept at home. New York will permit home cultivation of up to six plants, but home cultivation remains illegal until eighteen months after the first sale of recreational cannabis at a dispensary. It is legal to smoke marijuana in any public place that permits tobacco smoking, but not inside cars, schools, or workplaces. Plus, cannabis businesses can make home deliveries from retail locations.

MRTA also creates separate licenses for cannabis farmers, distributors, processors, product makers, delivery, dispensaries, and retailers. Further, it creates a state Office of Cannabis Management, which is overseen by a five-member Cannabis Control Board. The first dispensaries are likely to open in 2022. Medical marijuana organizations may enter the recreational market by distributing their products to dispensaries or by paying a special fee to open up to three recreational and medical locations of their own.

Retail products are subject to a nine percent state tax and a four percent local tax, which will be split between counties (1 percent) and municipalities (3 percent). Wholesale cannabis transactions between growers and distributors are taxed based on the amount of THC (a "potency tax"). Forty percent of tax revenue is set aside for a new fund for social and economic equity programs, another forty percent goes toward state education, and the remaining twenty percent goes toward drug education programs.
#14: NEW JERSEY

On February 22, 2021, Gov. Phil Murphy signed three cannabis-related bills into law. The three bills—A21, A1897, and S3454—implemented a 2020 constitutional amendment that legalized recreational marijuana.

A21 is the New Jersey Cannabis Regulatory Enforcement Assistance, and Marketplace Modernization Act. This Act: (a) creates license types and operations requirements for businesses in all phases of the cannabis supply chain; (b) directs the state Cannabis Regulatory Commission (CRC) to promulgate regulations governing licensing and operations of businesses selling cannabis, including setting statewide caps on the number of licenses; (c) allows the CRC to levy an excise tax on cannabis and municipalities to issue a transfer tax on cannabis sales to the public and for transfers between licensed businesses; (d) and creates employment protections for people who engage in lawful behavior with respect to cannabis.

A1897 reforms criminal and civil penalties for marijuana. It also provides remedies for marijuana charges and protections against discrimination. S3454 clarifies penalties for marijuana possession and consumption by individuals under 21 years of age.

The 2020 Marijuana Legalization Amendment legalizes possession of up to six ounces of marijuana or seventeen grams of hashish. Medical marijuana taxes are being phased out, with a goal of 0% tax after July 1, 2022. Recreational marijuana taxes have an enhanced fee of 7%, plus a social justice excise fee which fluctuates between $10 to $60, depending on the average price of cannabis. Medical and recreational marijuana are now regulated by the Cannabis Regulatory Commission instead of the New Jersey Department of Health – Division of Medical Marijuana, the former regulator.

#15: CONNECTICUT

The Act Concerning the Palliative Use of Marijuana, which established Connecticut’s medical marijuana program, was enacted in May 2012, and is codified in Conn. Gen. Stat. Ann. § 21a-408 et seq. Medical marijuana is available to qualifying patients, meaning a resident of Connecticut who has been diagnosed with a debilitating medical condition, is 18 years or older, is an emancipated minor, or has written consent from a legal guardian.

Debilitating medical conditions are defined in the statutes and include cancer, glaucoma, autoimmune diseases, seizures, and more. The Department of Consumer Protection (DCP) approves medical conditions that qualify patients to use cannabis for treatment. In 2018, state lawmakers expanded the medical marijuana program by adding eight new qualifying conditions to the list of debilitating medical conditions. Among these newly added conditions are migraines and facial pain.

Connecticut Regulations § 21a-408-1 et seq. and Connecticut General Statutes § 21a-408 et seq. govern “commercial” activities insofar as those activities relate to the production and distribution of cannabis for approved medical conditions. The state issues licenses to sellers or suppliers of controlled substances outside the state that want to sell inside the state, unless those sellers/suppliers are registered with the DEA.

When considering dispensary applicants, the Commissioner of the Department of Consumer Protection analyzes criteria such as the character/fitness of the dispensary; the location of the dispensary; the applicant’s ability to maintain adequate control against loss or theft of marijuana; the applicant’s ability to maintain knowledge about safety precautions; the extent to which the applicant has a financial interest in another licensee; and other criteria. Employees at dispensaries must also adhere to these criteria, and pharmacists must have a dispensary license. As of July 2021, the Commission has issued nine dispensary licenses and is not accepting new applications.

On June 22, 2021, Governor Lamont signed An Act Concerning the Equitable and Responsible Regulation of Cannabis. The Act legalized the possession of adult-use marijuana as of July 1. Though possession of adult-use marijuana is legal, its sale is not expected to begin until mid to late 2022. In addition, the Act permits individuals to gift (but not in exchange for payment for another product) adult use cannabis to others.

#16: DISTRICT OF COLUMBIA

The District of Columbia legalized medical marijuana use in 2010. Codified at D.C. Code Ann. § 7-1671, D.C. residents with a qualifying medical or dental condition are permitted to use marijuana. A qualifying medical or dental condition means any condition for which treatment with medical marijuana would be beneficial, as determined by the patient’s authorized practitioner. In 2018, D.C. also began allowing physician’s assistants, nurse practitioners, and dentists to issue cannabis recommendations.

D.C. issues licenses to medical dispensaries, cultivation centers, and testing laboratories. As of July 2021, seven dispensaries are serving patients. In order to qualify for a license, an organization or business needs to register with the Mayor pursuant to § 7-1671.05. The business can qualify for a license whether it is for-profit or not-for-profit. There cannot be more than six cultivation centers within an election ward, and a cultivation center cannot have more than 1,000 living marijuana plants at any time. In addition, a dispensary cannot dispense more than four ounces of medical marijuana in a 30-day period to a qualifying patient.

D.C. legalized adult use cannabis in 2014 through a ballot initiative, but the sale of cannabis is still prohibited. Under the initiative, adults may possess two ounces of marijuana and grow up to six (or in homes with multiple adults, up to twelve) plants.

D.C. also decriminalized marijuana possession in 2014 through a ballot referendum, although marijuana is still prohibited on all federal lands (29% of D.C.) and marijuana distribution still faces prohibition. D.C. residents currently trespass around the law, with marijuana often distributed as a “gift” to get around the law’s requirements. Many entrepreneurs are exploiting the gray area that currently exists between permissible possession and transfer of up to one ounce of marijuana and the illegal sale of marijuana.

The future of cannabis law in D.C. is dependent on the U.S. Congress. Even though D.C. voters approved the taxation and regulation of marijuana transactions for adult-use in 2014, Congress shot down the effort. In February 2021, Mayor Bowser introduced the Safe Cannabis Sales Act, which if passed by the end of 2021, could allow for the sale of adult-use cannabis by October 2022.

#17: VIRGINIA

Virginia has made significant strides in cannabis legalization since 2017 by legalizing both medical and recreational cannabis use. The relaxed stance towards marijuana began in 2017 when the state stopped automatically suspending a person’s driver’s license for six months following a conviction for marijuana possession. Further, in 2017 the state also legalized medical CBD use.

In 2017, Virginia has established a comprehensive medical marijuana law codified in Virginia Code Annotated § 54.1-3442.1 et seq. The law permits patients with terminal illnesses to be prescribed cannabis extracts containing no more than 10 milligrams of THC per dose. In February 2021, legislators also passed a bill that would allow dispensaries to provide
unprocessed marijuana flower to patients. Patients and providers must register through the Virginia Board of Pharmacy and pay a $55 registration fee.

On April 7, 2021, Virginia became the first Southern state to legalize marijuana with the passage of HB 2312 and SB 1406. As of July 1, individuals 21 years and older may possess up to one ounce of cannabis and grow up to four cannabis plants that must be tagged with the grower’s identifying information. Additionally, as of July 1, Virginia’s Cannabis Control Authority has the power to issue business licenses, with marijuana sales set to begin in 2024.

#18: NEW MEXICO

Both adult-use and medical marijuana are now legal in New Mexico. On April 21, 2021, Gov. Michelle Lujan Grisham signed HB 2, the New Mexico Cannabis Regulation Act (CRA), legalizing adult-use marijuana. On June 29, 2021, the provisions allowing for the possession and adult-use of marijuana became effective. The CRA sets a legal purchase and public possession limit of two ounces of cannabis, sixteen grams of cannabis extract, and 800 milligrams of edible cannabis. The CRA also permits people to grow six plants at home, or a total of 12 per household. The state legislature is considering rules that would allow for businesses to grow nearly three times the 1,750 plant limit for medical cannabis growers.

The CRA also created the Cannabis Control Division (CCD) within the Regulation and Licensing Department. The CCD will regulate both medical and recreational marijuana, issue licenses, and make rules (there are several types of business licenses available for both medical and recreational use). The CRA requires that by September 1, 2021, the CCD must start processing licensing applications and create a Cannabis Regulatory Advisory Committee. The CRA also sets tax rates for marijuana and allocates funds raised by taxes on cannabis. Additionally, it places restrictions and requirements on employers related to cannabis use. Business licenses will not begin to be issued until April 2022. Commercial sales of recreational marijuana will begin by April 2022.

In 2007, New Mexico approved the use of medical marijuana under the Lynn and Erin Compassionate Use Act. This Act allows for the use of medical marijuana by individuals suffering from debilitating medical conditions, including cancer, glaucoma, multiple sclerosis, spinal damage, epilepsy, positive status for HIV or AIDS, or those admitted into hospice care. In 2013, the state added to the list of debilitating medical conditions—“any other medical condition, medical treatment, or disease as approved by the [Department of Health] which results in pain, suffering, or debility for which there is credible evidence that medical use cannabis could be of benefit.”

#19: MONTANA

In Montana, medical marijuana was legalized in 2004 through a ballot initiative approved by 62% of state voters. In 2016, Initiative 182 expanded Montana’s medical marijuana laws. Providers must obtain a license from the state’s Department of Public Health and Human Services. To apply for a license, a provider must provide extensive information, including: proof of residency, fingerprints, a signed agreement with the registered cardholder, a statement that the provider will not provide to any other non-cardholder, and the location of cultivation. There is no limit on number of licenses granted, but there is a cap on production.

Individuals may apply for a medical cannabis card if they have a “debilitating medical condition.” Qualifying conditions include: cancer, severe chronic pain, epilepsy, multiple sclerosis, Crohn’s disease, and post-traumatic stress disorder.

In May 2021, Gov. Greg Gianforte signed HB 701 into law, implementing initiative I-190, a ballot measure legalizing marijuana. Voters approved the ballot measure in November 2020. The law permits adults 21 and over to possess and purchase up to 1 ounce of cannabis, which may include up to 8 grams of concentrate and/or up to 800 mg of THC in edible form. Home cultivation is allowed with a limit of two plants per adult (four plants per household). Recreational cannabis sales in Montana will begin January 1, 2022. Cannabis flower potency is capped at 35% THC, while edible products are limited to 100 mg of THC, with no more than 10 mg per serving size.

Between January 1, 2022 and June 30, 2023, the Montana Department of Revenue may offer a medical cannabis business license to adult-use medical cannabis businesses. In counties where a majority of voters supported the I-190 ballot initiative legalizing adult-use cannabis, local governments may not prohibit the establishment of adult-use cannabis businesses. However, in counties where a majority of voters voted against I-190, adult-use cannabis businesses are not permitted to operate until a local government has approved them. A 20% tax is imposed at the point of sale of cannabis products to adult consumers. Local governments may impose an additional tax of up to 3% on the sale price of cannabis products.

#20: RHODE ISLAND


Rhode Island provides licenses for compassion centers. Compassion centers are not-for-profit corporations that acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana to patient cardholders and/or their registered caregiver or authorized purchaser. The state initially only permitted three compassion centers to hold valid registration certificates at one time, but approved an expansion in 2019 to allow for nine. By the end of 2021, the Department of Business Regulation expects to hold a lottery to award licenses to six new operators.

In June 2021, the Rhode Island Senate passed legislation that would legalize adult-use marijuana. However, that legislation has yet to be signed into law and there is additional legislation being considered. Senator Joshua Miller’s proposed legislation would impose a twenty percent tax on marijuana sales, create an independent cannabis control commission to license and oversee marijuana operations, and allow for home cultivation. It would also create a “Cannabis Equity Fund” to help marijuana businesses from disadvantaged communities. Governor Daniel McKee’s proposal would instead have the state Department of Business Regulation oversee the industry and ban home growing marijuana. It is possible to see the legalization of adult-use marijuana in Rhode Island before 2022.

#21: MARYLAND

Although marijuana is not legal for adult-use in Maryland, it is legal for medical use. The Natalie M. Laprade Medical Cannabis Commission (the “Commission”) is responsible for developing policies, procedures, guidelines, and regulations to implement programs to make medical cannabis available for qualifying patients. The Commission was established in 2013 by H.B. 1101, which took effect on October 1, 2013.

The Commission’s responsibilities are codified in § 13-3302 et seq. Maryland residents – or non-residents located in Maryland for the purpose of receiving medical treatment – need to be recommended for treatment by a physician or their authorized purchaser and have a qualifying medical condition. Qualifying conditions currently include cachexia, anorexia, wasting syndrome, severe pain, severe nausea, seizures, severe or persistent muscle spasms, glaucoma, PTSD, and chronic pain.

In April 2021, new Maryland Department of Health regulations went into effect, establishing a legal framework for the production and sale of edible cannabis products for medical use.

Maryland’s robust medical cannabis program permits growers, processors, and dispensaries to obtain licenses to operate within the state. Applications for medical cannabis cultivation licenses must include a detailed business plan and potential investments; description of the proposed premises; security plan; details of applicant’s experience in horticultural or...
agronomic production; medical cannabis varieties proposed to be grown, plan for quality control; and more. Applicants must also pass a criminal background check. These requirements are similar for anybody interested in processing cannabis or operating a dispensary.

The Commission is also responsible for regulating medical cannabis production and distribution. The Commission is bound by statute and may license no more than 22 medical cannabis growers and no more than 28 processors. There is no statutory cap on dispensary licenses, and Code Section 13-3307(a)(2)(i) states that the Commission may report to the General Assembly on the number of licenses necessary to meet the demand for medical cannabis.

In 2018, the Maryland legislature passed HB 698, establishing a hemp harvesting pilot program in the state, which was signed into law by Gov. Larry Hogan in May 2018. The Department of Agriculture is in charge of the pilot program, and the Department approves applications from institutions of higher education that are interested in cultivating hemp. Currently, only the Department of Agriculture or institutions of higher education are able to grow, cultivate, harvest, process, manufacture, transport, market or sell industrial hemp.

The Act also limits the program to research purposes, stating that “the Department or an institution of higher education may grow or cultivate industrial hemp if the industrial hemp is grown or cultivated for agricultural research or academic research purposes.” The Department of Agriculture has not yet promulgated regulations pertaining to application requirements for cultivating commercial hemp.

Two bills were introduced in the 2021 legislative session to legalize marijuana for adult-use, but the session ended without either bill moving forward. HB 32 would have legalized the possession and cultivation of limited amounts of cannabis for adults aged 21 and up, provided opportunities for minority-owned cannabis businesses, and allocated funding for social equity start-up and community reinvestment. SB 708 mirrors many of the provisions of HB 32, but with fewer social equity opportunities. Some survey evidence suggests that the legalization of adult-use marijuana does have popular support throughout the state. In a Washington Post survey, 61% of Maryland residents responded that they support legalization for adult-use.

Pennsylvania legalized medical marijuana use in 2016 with the Pennsylvania Medical Marijuana Act (the “Act”), which is codified in 35 Pa. Cons. Stat. §§ 10231.101 to 10231.210. The Department of Health of the Commonwealth (the “Department”) is responsible for regulating commercial cannabis activity under the Act. Patients with a “serious medical condition” who have met the requirements for certification under the Act and who are residents of Pennsylvania qualify for a medical marijuana prescription. The list of qualifying “serious medical condition” is long, with over 15 conditions specifically named, including Parkinson's disease, post-traumatic stress disorder, and autism.

Medical cannabis organizations must first obtain a permit from the Department before operating in Pennsylvania. Permits to operate as an organization are available to grower/processors and dispensaries. To obtain a permit, an organization must first fill out an application and pay the requisite application fee. Organizations that are relocating to Pennsylvania may also apply for permits.

Once a permit is obtained, the grower/processor or dispensary faces more regulations that relate to the production, manufacturing, and/or sales of medical marijuana products. For example, a grower or processor may only grow, store, harvest, or process medical cannabis in an indoor, enclosed, secure facility that also has an electronic locking system and surveillance, and must be located within the Commonwealth. Dispensaries can only dispense in an indoor, enclosed, secure facility, and may not be located within 1000 feet of a school or daycare center. In addition to following State law, permit holders must also abide by any relevant municipality zoning or land-use requirements.

In June 2021, Gov. Tom Wolf signed medical marijuana legislation (HB 1024) that extends certain policies that were temporarily enacted during the COVID-19 pandemic. Under the legislation, cannabis curbside deliveries will continue, patients can obtain a 90-day supply for cannabis, and the cap on the number of patients that a caregiver can serve has been removed indefinitely. HB 1024 also keeps policies in place that loosened restrictions on criminal background checks for medical cannabis workers.

The legislature did reject an amendment to HB 1024 from Democratic Senator Sherif Street that would have allowed patients twenty-one and older to cultivate up to five plants for personal use. Two bills to decriminalize cannabis were introduced in the House and Senate, but have yet to receive hearings. Pennsylvania’s legislature may consider crafting a bipartisan bill to legalize marijuana. Marijuana sales would be taxed at thirteen percent at the retail level and individual municipalities would be able to impose an additional retail tax of up to two percent. Legalization is popular among Pennsylvania voters, with 58 percent of residents saying they favor ending cannabis prohibition.

Although adult-use of cannabis is illegal in Hawaii, the state legalized medical cannabis in 2000 with the passage of Act 228, codified in the Hawaii Revised Statutes at part IX, Chapter 329. Act 228 legalized possession and use of cannabis for medical purposes. To obtain a medical cannabis prescription, a patient must satisfy certain statutory requirements under HRS 329-122, including having a debilitating medical condition. In addition to satisfying these requirements, a patient must register with the state’s Medical Cannabis Registry Program. Hawaii does recognize patients who are authorized to purchase medical cannabis in another state.

In 2015, Hawaii passed Act 241 which created the “Medical Cannabis Dispensary Program,” codified at part IX, Chapter 329D. Act 241 established regulations and licensing procedures for the creation of cannabis dispensaries. In addition, the Act transferred administration of the state’s medical Cannabis Registry Program from the Department of Public Safety to the Department of Health. Hawaii’s laws have become more protective of cannabis use and show support for further legalization in the future. For example, Act 242, also passed in 2015, created new protections for patients and caregivers and prohibited discrimination on the basis of being a registered cannabis patient. In 2017, after the state legislature determined that the term “marijuana” was “slang” and “rooted in racial stereotypes,” Act 170 provided that all terms using “marijuana” should instead use the word “cannabis.”

A 2019 bill to legalize adult-use was dead-on-arrival because it did not have the support of Gov. David Ige. In March 2021, SB 767, which would legalize adult-use cannabis and allow licensed businesses to cultivate and sell cannabis products, passed the Senate Ways & Means Committee by unanimous vote and is currently heading to the Senate for a full vote. Gov. Ige remains unsupportive of cannabis legalization.

In 2016, with the passage of SB 271, the state legalized the use of marijuana for medical purposes. The Act allows for marijuana use by Louisiana patients diagnosed with a “debilitating medical condition.” In 2019, two cultivators and nine licensed dispensaries began selling the state’s first medical marijuana products. Initially, “debilitating medical conditions” included patients with “cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis,” but SB 579 and HB 627 have since expanded the list of qualifying conditions.

The state has tasked the Louisiana Board of Pharmacy with selecting the 9 dispensary locations, and LSU and Southern University Agricultural Center served as the production facilities. Louisiana’s attitude toward cannabis has become more lenient through the years. In 2016, New Orleans decriminalized marijuana possession in the city. In 2018, Baton Rouge followed New Orleans’ lead. Another bill introduced in 2018, HB 274, sought to legalize and tax the adult-use of marijuana, but failed to pass. On June 15, 2021, HB 652 was signed into law, decriminalizing the possession of less than 14 grams of cannabis. This will go into effect on August 1, 2021.
While no bills introduced to legalize recreational cannabis in Louisiana have passed, the House passed a study resolution in 2021, asking the Committee on Administration of Criminal Justice (the "Committee") to examine and report on the impact of legalizing the possession and use of cannabis prior to the 2022 legislative session. This will require the Committee to consider the potential tax structure, prices, legal framework, and economic impact, among other things.

**#25: NEW HAMPSHIRE**

In 2013, New Hampshire legalized the use of marijuana for medical purposes, codified in N.H. Rev. Stat. §§ 126-X:1 to 126-X:11. In order to qualify to purchase medical marijuana, a patient must be a resident of New Hampshire, diagnosed by a provider as having a qualifying medical condition, and possess a valid registry identification card. New Hampshire’s qualifying medical conditions are among the most expansive in the nation.

New Hampshire statute provides licenses to Alternative Treatment Centers, which are not-for-profit entities that acquire, possess, cultivate, manufacture, deliver, transfer, transport, sell, supply, and dispense cannabis and related supplies and educational materials to qualifying patients. However, qualification to become an Alternative Treatment Center depends completely upon whether the Department of Health and Human Services determines that having additional locations for the dispensing of therapeutic cannabis is necessary to adequately and effectively meet the needs of qualifying patients.

If it is necessary, the Department may authorize the Alternative Treatment Center. Additionally, Alternative Treatment Centers have a limitation on the amount of product they can have at one time. Furthermore, the state only permits four Alternative Treatment Centers to operate at one time. Nevertheless, the Department of Health and Human Services can increase this number if it is necessary to fulfill the needs of the patients.

The current perception of marijuana in New Hampshire is positive. The Democratic Party of New Hampshire has made the legalization of adult-use marijuana part of its platform. In addition, the House recently voted to legalize homegrown marijuana, although the Senate opted not to advance the legislation. The legalization effort did make significant progress when the House passed HB 1648 in 2020, but the legislative session was brought to a premature end in light of COVID-19. Though two legalization bills were introduced in the House in 2021, the vote has been delayed until 2022. HB 237 would legalize, regulate, and tax recreational cannabis for adults aged 21 and up, and HB 629 would legalize adult possession and home cultivation of cannabis.

**#26: FLORIDA**

On November 8, 2016, Florida voters approved Amendment 2, otherwise known as the Florida Medical Marijuana Legalization Initiative, vastly expanding the state’s medical marijuana market. Prior to the amendment, Florida’s medical marijuana laws only permitted the use of low-THC marijuana by patients suffering from seizures or a small list of debilitating medical conditions. The use of medical marijuana in Florida is governed by Fl. Stat. § 381.986, which was passed in 2017 after the constitutional amendment was passed.

Unlike many other states that allow for businesses to receive licenses in one stage of the medical marijuana supply chain (i.e. cultivators, processors, dispensaries), Florida’s Medical Marijuana Treatment Centers (“MMTCs”) must be vertically integrated. This means that prior to dispensing medical marijuana to qualified patients, each MMTC must receive authorization to cultivate, process, and dispense medical marijuana.

Critics argue that the vertical integration requirement precludes smaller companies from entering into Florida’s medical marijuana market. To that effect, as of June 2021, there were 15 centers operating 347 dispensing facilities throughout the state (with three MMTCs operating over half of all dispensing facilities).

Florida’s medical marijuana industry, already one of the largest in the nation, is expected to grow considerably by 2023. Even though the Office of Medical Marijuana Use is not accepting license applications at this time, it anticipates awarding at least 15 additional MMTCs by 2023.

On a recreational marijuana front, there remain sustained citizen-led efforts to get an amendment to legalize recreational marijuana on the ballot. Obstacles remain, including the signing of SB 1890 by Gov. Ron DeSantis, which imposes contribution limits ($3,000) to political committees backing proposed constitutional amendments during the signature-gathering process.

**#27: MINNESOTA**

Currently, medical marijuana is legal under Minnesota law. Enacted on May 29, 2014, the THC Therapeutic Research Act legalized the use and possession of tetrahydrocannabinol (THC) by any Minnesota resident diagnosed with a qualifying medical condition and enrolled in Minnesota’s registry program. There are eleven qualifying conditions as well as a “catch-all” provision that may qualify a patient for a medical-use cannabis prescription. In 2021, Gov. Tim Walz signed a bill into law allowing for medical use of raw or flower cannabis, including smoking. Previously, patients could use liquid extracts, but not dried leaves or plants.

Compared to other states, Minnesota is relatively strict when it comes to the production of medical-use cannabis. Only two in-state manufacturers are selected every year for the production of all medical cannabis within the state. The Minnesota Department of Health and Human Services, the Minnesota Board of Medical Examiners, and the Minnesota Department of Health and Human Services Commissioner selects the two manufacturers, basing their decision on six different factors.

There has also been other cannabis legislation enacted since the passage of the THC Therapeutic Research Act in 2014. On June 14, 2015, Minnesota’s Industrial Hemp Development Act became effective, legalizing the growing of industrial hemp for commercial purposes. In 2016, the Minnesota Department of Health promulgated rules regarding the manufacturing and laboratory testing of medical cannabis. In January 2020, legislation went into effect legalizing cannabidiol (CBD) products. The legislation does not extend to CBD products intended for human or animal consumption.

On May 13, 2021, the Minnesota House of Representatives voted 72-61 to legalize cannabis. This was the first time either chamber of the state legislature voted to legalize cannabis. However, the legislature adjourned its regular session two days later. Bill HF 600 will pick up where it left off when the legislative session begins in 2022— in the Senate, where leadership has opposed legalization.

**#28: OHIO**

Ohio legalized medical marijuana in 2016, subject to certain conditions and qualifications. To be eligible for medical marijuana, individuals must have a qualifying medical condition and a certified physician must apply on the individual’s behalf. As of March 2019, only 450 physicians in Ohio are eligible to recommend medical marijuana. The twenty-one qualifying medical conditions include: cancer, PTSD, traumatic brain injury, HIV/AIDS, fibromyalgia, IBS, Tourette’s, and thirteen others. Ohio state law sets the possession limit to a 90-day supply, calculated for each patient by the dispensary. The Department of Commerce issues cultivator and retail dispensary licenses and does not allow for home cultivation.

Ohio Democrats are preparing to file a bill to legalize and regulate marijuana for adult-use. The bill would legalize possession of up to five ounces of cannabis for adults twenty-one and older and allow them to cultivate up to twelve plants for personal use. It would also include provisions to expunge prior convictions for possession and cultivation activities that are being made legal under the measure. A ten percent excise tax would be imposed on marijuana sales, with revenue going first toward the cost of implementation and then being divided among municipalities with at least one cannabis shop (fifteen percent), counties with at least one shop (fifteen percent), K-12 education (thirty-five percent) and infrastructure (thirty-five percent).
#29: OKLAHOMA

On June 26, 2018, Oklahoma became the 30th state to legalize medical marijuana, with the passage of Q 788, the Medical Marijuana Legalization Initiative. The Oklahoma Medical Marijuana and Patient Protection Act, signed into law by Gov. Kevin Stitt in May 2019, created the initial regulatory framework within the state, and granted rule-making powers to the Oklahoma Medical Marijuana Authority (OMMA).

The 2019 Act authorizes inspections and review of applicants, licensees, and medical marijuana business licenses to determine compliance. Further, the 2019 Act imposes disciplinary actions for when business violate the Act. It also created a medical marijuana use registry of patients and caregivers. It establishes additional rights, restrictions, and prohibitions relating to medical marijuana use and possession.

On the business side, the Act establishes license classes and requirements for businesses and other entities that handle marijuana. Licenses are valid for one year from the date issued and a license may be renewed before it expires.

In May 2021, Gov. Stitt signed SB 1033, which grandfathered in the Oklahoma Medical Marijuana and Patient Protection Act. The Act also lets businesses transfer licenses if there is a change in ownership and lets the Oklahoma Tax Commission collect a fee so they can do audits on businesses. Additionally, the Act allows caregivers to grow marijuana for up to five patients. It provides further protection for doctors, stating that they cannot be punished for issuing medical marijuana cards if they are issued lawfully.

Adult-use marijuana is not legal in Oklahoma.

#30: ARKANSAS

Arkansas has a complicated history of legalization. With the passage of the Arkansas Medical Marijuana Amendment in 2016, a legalized medical marijuana program was created, to be run by the Arkansas Alcoholic Beverage Control Board (AABCB). The regulations provided by the AABCB include specifics on residency requirements of owners, qualifying medical conditions, business qualifications, and zoning issues.

The Arkansas Medical Marijuana Commission is tasked with administering and regulating the issuance of licenses to operate medical marijuana dispensaries and cultivation facilities. The commission must issue at least four, but no more than eight, cultivation facility licenses. For dispensaries, the commission must issue at least 20, but no more than 40, dispensary licenses. In addition, no individual may have an interest in more than one cultivation facility and dispensary.

The roll out of medical marijuana was slow. Though the medical marijuana program was established in 2016, the first patient was not served until May 2019. As of February 2021, there are 32 dispensaries that are operational within the state, with six additional working towards opening. In addition, the commission has granted all eight cultivation licenses permitted by the amendment.

Cultivators are responsible for most of the marijuana production, but dispensaries are also able to grow and possess up to 50 mature plants and grow and possess up to 150 immature plants at one time. Qualified medical patients are not allowed to grow or cultivate marijuana. Patients are permitted to purchase up to 2.5 ounces from a state-approved dispensary every 14 days.

Aside from medical use and legalized industrial hemp, Arkansas does not allow for the sale, possession or consumption of cannabis products. In addition, Arkansas is one of four "smoke a joint, lose your license" states, meaning any drug offense results in a six month suspension of the offender's driver's license.

Though other adult use legalization initiatives have failed, Arkansas True Grass is sponsoring a ballot initiative in the hopes of making the ballot for the 2022 election cycle.

#31: NORTH DAKOTA

Medical marijuana is legal in North Dakota. In 2016, the state passed SB 2344, which permits medical marijuana use for patients with chronic, debilitating, or terminal medical conditions. According to North Dakota, a debilitating, chronic, or terminal medical condition includes cancer, HIV, Crohn's disease, fibromyalgia, anorexia, bulimia, anxiety, Tourette syndrome, endometriosis, migraines, and numerous other medical conditions. The state currently has eight dispensaries.

On the recreational front, in May 2019, North Dakota removed the possibility of receiving jail time for the possession of small amounts of marijuana. Recreational marijuana is not legal, but in March 2021, a ballot initiative was passed by the House. The Senate later rejected the initiative.

#32: MISSOURI

Missouri voters legalized medical cannabis with the passage of Amendment 2, known as the Medical Marijuana and Veteran Healthcare Services Initiative. The measure was one of three medical cannabis initiatives on Missouri's November 2018 ballot and the only one to be enacted.

Under the new constitutional amendment, medical cannabis is available to patients with qualifying conditions. In June 2019, the Department of Health and Senior Services began accepting applications for patients. Missouri's cannabis sales tax rate is set at 4%. Tax revenue, estimated at $24 million, will be spent on healthcare services for veterans.

Amendment 2 allows medical patients to grow up to four ounces of their own cannabis. If a user grows more than a quarter-pound during a month, patients and caregivers are required to notify regulators of the excess so it can be transported to a local dispensary for destruction.

Missouri’s rollout of its medical cannabis program was slow, with cannabis facility applications being awarded in January 2020, but with no medical cannabis facilities commencing operations until October 2020. As of August 2021, the Missouri Department of Health and Senior Services reported 100,000 patients registered in the medical cannabis program, served by 135 approved dispensaries and over 591 million in sales, resulting in cannabis sales tax revenues of $3.65 million in the first ten months of operations.

Prior to the enactment of Amendment 2, only hemp-extract products were legal in Missouri, and only for those who suffer from epilepsy. The law authorizing such products, "Hemp Extract for Treatment of Intractable Epilepsy", was passed by legislature and signed into law in 2014. The Missouri Department of Agriculture manages hemp extract cultivation and production. Amendment 2 specifically exempted industrial hemp from its purview.

On June 1, 2018, HB 2034 was signed into law and exempts industrial hemp(as defined in the 2018 Farm Bill) from the definition of marijuana and the list of controlled substances.

HB 2034 established an industrial hemp agricultural pilot program to be implemented by the Missouri Department of Agriculture, specifies the requirements for an applicant of an industrial hemp registration and agricultural hemp seed production permit, and makes it legal for any person who has received an industrial hemp license to grow, harvest, and cultivate industrial hemp. HB 2034 became effective on August 28, 2018.

Missouri's industrial hemp cultivation program was approved by the United States Department of Agriculture in September 2020 and began licensing industrial hemp operations immediately thereafter.
Effective May 13, 2011, Delaware passed a law approving the use of cannabis for medicinal purposes. Unlike other states such as Kansas, which require a 0% tetrahydrocannabinol (THC) concentration in any cannabinoid products, Delaware's definition of “cannabidiol oil” means that the oil contains at least 15% cannabidiol but no more than 7% THC.

The state has only six licensed Compassion Centers (medical cannabis dispensaries). Despite the limited number of Compassion Centers in the state, Delaware's protections for qualified users are expansive. Registered qualifying patients and caregivers cannot be subject to arrest, prosecution, or denial of any right or privilege for the medical use of marijuana, as long as the patient does not possess more than six ounces of usable marijuana. Moreover, neither schools nor landlords may discriminate against persons solely for their status as registered qualifying patients or as registered designated caregivers, unless failing to do so would cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

Gov. John Carney is a determined opponent of adult-use legalization, believing that marijuana is a “gateway drug.” Despite Gov. Carney’s opposition, adult use legalization bills have been proposed in the state. A reform bill in 2019 failed to garner enough support to become law. In March 2021, another bill, HB 150, passed the House Health and Human Development Committee, though it was ultimately pulled before a scheduled floor vote.

If enacted, the bill would have established a Marijuana Commissioner, tasked with licensing, regulating, and inspecting cannabis businesses. In addition, within 19 months of becoming law, the bill would have allowed for 30 retailers, 60 cultivators, 30 product manufacturers, and 5 testing labs to receive licenses. The state would also collect licensing fees and tax products at a rate of 15%.

State lawmakers do not expect to reintroduce legislation until 2022.

On November 6, 2018, Utah legalized medical marijuana with the passage of Proposition 2. The measure, known as the Utah Medical Cannabis Act, authorizes the use of medical marijuana by qualified patients with a medical marijuana card from a physician. The Utah Medical Cannabis Act includes certain restrictions on medical marijuana purchases. For example, the law defines the “legal dosage limit” as an amount that provides a sufficient 30-day supply of treatment and does not exceed 20 grams of THC.

Earlier in 2018, the passage of the Cannabidiol Product Act authorized the cultivation, production, and possession of hemp and the sale and use of cannabidiol (CBD) products under certain circumstances. The role of Utah’s Department of Agriculture and Food is to ensure CBD products on the market are free from harmful substances and are labeled accurately to protect consumers from erroneous information. Utah’s first medical cannabis dispensary opened in 2020.

In 2018, Utah’s Medical Cannabis Policy, or House Bill 195 created a “right to try” cannabis-based treatment, or CBD treatment, for terminally ill patients. Such patients are not subject to criminal penalties for possessing and using cannabis in medical dosage form in compliance with the legislation.

In 2021, the state legislature passed Senate Bill 192 which created the Cannabis Production Establishment Licensing Advisory Board. The Board is responsible for reviewing license applications and conduct public hearings regarding licensing. Utah legislators also eliminated a residency requirement with respect to the medical cannabis dispensary licenses the state plans to award during 2019. Republican candidate Spencer Cox replaced Republican Gov. Gary Herbert, an opponent of legalization, as Governor of Utah in 2021. Time will tell whether the new administration will hinder or advance the legalization of marijuana.

In 2015, the Texas Legislature passed the Texas Compassionate Use Act. Codified under Tex. Health & Safety Code Ann. § 481.111, a patient with intractable epilepsy is exempt from prosecution for possession of low-tetrahydrocannabinol (THC) cannabis. In order for a patient to qualify for a medical prescription of cannabinoid (CBD), the patient must be a resident of Texas, the patient's physician has to certify to the Department of Public Safety that the patient suffers intractable epilepsy, the risk of using CBD is reasonable in light of the potential benefit for the patient, and that a second physician concurs that it is reasonable to prescribe CBD to the patient in light of the potential benefit to him or her. The Texas Compassionate Use Act is one of the most restrictive medical marijuana legislations in the country and only allows the use of oils or inhalers.

State Republicans voted to approve platforms endorsing marijuana decriminalization, medical cannabis, and industrial hemp, and in June 2019, Gov. Greg Abbott signed a bill legalizing industrial hemp and some CBD product. Abbott also signed House Bill 3703 into law. This legislation expanded the range of disorders treatable under the Texas Compassionate Use Act and permitted medical marijuana prescriptions for certain conditions, including multiple sclerosis, Parkinson’s, ALS, terminal cancer, autism and seizure disorders. In 2021, Gov. Abbott increased the THC percentage in medical cannabis from 0.5% to 1% and added PTSD and cancer to the range of disorders qualifying for medical cannabis.

Both cannabidiol oil and medical marijuana are legal under state law in West Virginia. In 2017, the West Virginia Medical Cannabis Act (the “Act”) was signed into legislation and is now codified in W. Va. Code §§ 16A-1-1 to 16A-16-1. The Bureau for Public Health (the “Bureau”) within the West Virginia Department of Health and Human Resources is responsible for regulating the cannabis activity. Under the Act, patients suffering from specifically defined medical conditions, such as cancer, are permitted to use cannabis. Initially, marijuana could only be dispensed in specific forms including pill and oil, but in 2020 the legislature included dry leaf or plant form to the list of authorized forms.

West Virginia's medical cannabis program has been one of the slowest to develop in the nation, and sales are not planned until 2022.

Once a permit is obtained, the grower, processor, or dispensary faces more regulations that relate to the production, manufacturing, and/or sales of medical marijuana projects. For example, individuals who operate a dispensary can dispense only in an indoor, enclosed, secure facility and may not operate on the same site as a facility used for growing or processing. In addition to following state law, permit holders must also abide by any relevant municipal ordinances, which may prohibit or limit medical cannabis organizations.

In 2018, HB 4345 would have expanded the state's marijuana laws. However, the Senate subsequently made changes, and the bill died. The proposed bill amended and reenacted parts of the Act, based largely on recommendations made by the Medical Cannabis Advisory Board. The proposed bill would have allowed growers and processors to be dispensaries, among other changes. Proponents of legalization note that there is only one state in the country where a federal prosecuting attorney targets the cannabis industry – current U.S. Attorney Mike Stuart.

In 2019, with the passage of SB 225, Alabama rescheduled and redefined CBD products to align with the 2018 Farm Bill. Therefore, the sale of CBD products with a THC concentration below 3% by weight is legal. The Department of Agriculture and Industries (ADAI) issues licenses to industrial hemp growers and processors, with growers paying a license fee of $1,000 per year per growing area. A pre-harvest sampling and THC analysis is required to confirm that the THC content does not exceed 3% by dry weight. If the pre-harvest test reveals THC content above this level, a post-harvest sample is taken. If the post-harvest test also reveals a THC level greater than 3%, then the field will be destroyed.
On May 17, 2021, Gov. Kay Ivey signed the Darren Wesley 'Ato' Hall Compassion Act (Act), legalizing cannabis for medical use. Patients must have a qualifying medical condition, including Crohn’s disease, depression, epilepsy, HIV/AIDS, panic disorder, Parkinson’s disease, persistent nausea, post-traumatic stress disorder, and chronic or intractable pain to be eligible.

The Act establishes the Alabama Medical Cannabis Commission, which shall regulate all aspects of the industry. The Act does not permit the home cultivation of cannabis, nor does it permit patients to smoke, vape, or consume food-based medical cannabis products.

Beginning on Sept. 1, 2022, businesses may submit license applications. The Alabama Medical Cannabis Commission is permitted to grant licenses for up to 12 cultivators, four processors, four dispensaries (which each may operate up to three locations in different counties), five integrated facilities (that may grow, process, transport and dispense at up to five dispensing sites in different counties), along with secure transporters and testing laboratories. Potential licensees must pay a $5,000 application fee, and annual licensing fees will range between $10,000 and $50,000. In addition, there will be a 9% gross proceeds tax on the retail sale of medical cannabis.

Though Alabama has become more progressive with regards to industrial hemp and medical marijuana, the state Legislature remains adamantly opposed to legal recreational marijuana use. The state’s criminal penalties for cannabis possession are severe, and a bill that would have reduced such penalties was rejected by the Alabama Legislature in February 2018. In addition, the recently signed medical cannabis Act notes that “the recreational use of marijuana remains a significant threat to public health and safety,” and “[i]t is the intent of the Legislature to avoid a shift from medical cannabis usage to recreational marijuana use.”

**#38: IOWA**

Iowa has one of the most restrictive medical cannabis programs in the nation. Iowa allows the use of cannabidiol (CBD) including only non-smokable products for people with certain physical ailments. In 2015, the Iowa legislature passed the Medical Cannabidiol Act. Under Iowa Code Ann. 124E, a patient with a “debilitating medical condition” may use CBD. Iowa Code Ann. 124E.2(2) provides a list of medical conditions that qualify for the use of CBD. In order for a patient to qualify for a CBD license, the patient has to: be 18 years of age, be a permanent resident of Iowa, submit a certificate written by his health care practitioner to the department of Public Health certifying that the patient is suffering a debilitating medical condition, submit an application to the department of Public Health, pay a fee, and not have been convicted of a disqualifying felony offense. Iowa has around 2,800 medical users of CBD.

Iowa allows certain types of licenses for manufacturers and dispensaries. Under Iowa Code Ann. 124E.6, the Department of Public Health was required to issue a request for proposals to select and license up to two local medical cannabidiol manufacturers. Further, Iowa Code Ann. 124E.13 allows the Department of Public Health to issue a license to up to two out-of-state medical cannabidiol dispensaries from a bordering state to sell and dispense cannabidiol to a patient or primary caregiver in possession of a valid medical cannabidiol registration card. In addition to manufacturers, Iowa also issues licenses to dispensaries.

In order to qualify for a dispensary license, an interested party must apply with the Department of Public Health and pay the respective fees. The Department of Public Health will then conduct a thorough investigation of the interested party. There is no limit in the number of licenses the department can grant. While polls show that public support is high amongst Iowans for expansion of their medical program and recreational legalization, all signs show that it is unlikely anything will change absent federal legislation.

**#39: SOUTH DAKOTA**

South Dakota has made promising steps towards legalizing both medical and recreational marijuana. South Dakota voters recently approved Measure 26 and Amendment A which would create a medical marijuana program and legalize recreational marijuana for those 21 and older. Despite these successful voter initiatives, the state’s medical program is limited and recreational use remains illegal due to an ongoing challenge over the constitutionality of Amendment A. Beginning on July 1, 2021, practitioners can prescribe up to three ounces of marijuana to patients with debilitating medical conditions. Qualifying debilitating medical conditions include: cachexia, severe and debilitating pain, severe nausea, seizures, and severe muscle spasms including multiple sclerosis. Under South Dakota Code Annotated § 34-20G-26, patients can file a petition to the Department of Health to add another condition.

South Dakota voters also approved Amendment A to the South Dakota Constitution in the 2020 election which would legalize the possession, use, transport, and distribution of up to one ounce of marijuana for individuals 21 and older. Gov. Kristi Noem issued an Executive Order challenging the constitutionality of Amendment A. The constitutional challenge succeeded in a South Dakota circuit court and the decision has been appealed to the South Dakota Supreme Court. Although South Dakota citizens are open to legalizing marijuana, state government officials are the biggest barrier to legalization in the state.

**#40: KENTUCKY**

Kentucky is a fairly stereotypical non-legalization state. Kentucky Revised Statute Section 218A.050 (3) explicitly forbids possession of any cannabinoid-containing substance. The state does have legalized hemp, made so in 2014 (SB 124). The industrial hemp program is run by the Kentucky Department of Agriculture. However, very little guidance is given on this program, and the program appears underdeveloped.

There seems to be growing interest in Kentucky for legalizing cannabis for medical or adult-use, but efforts have failed to result in legalization. In March 2018, a bipartisan legislative effort in the Kentucky House of Representatives produced HB 166, legislation that would have legalized medical cannabis. Within a month, gridlock sunk any chance for a vote on the bill. Although it seemed as though momentum was building in 2019 and 2020 for the legalization of medical cannabis through HB 136 passing the Kentucky House of Representatives, the COVID-19 pandemic caused the Senate to adjourn the year in April prior to voting on the Bill. Despite efforts from activists and significant public support, there was no progress in the 2021 session.

**#41: MISSISSIPPI**

In Mississippi, cannabidiol (CBD) oil for people with a debilitating epileptic condition or related illness became legal in 2014 with the passage of Harper Grace’s Law, MS Code § 41-29-136. Users must have a physician’s orders and can obtain the CBD oil only from the University of Mississippi Medical Center. CBD is only produced by the University of Mississippi and Mississippi State University.

In November 2020, 74% of Mississippi voters approved a bill legalizing medical marijuana. The voter-approved initiative would have allowed for patients to legally obtain marijuana after getting a doctor’s recommendation to treat 22 qualifying conditions such as cancer, chronic pain, and post-traumatic stress disorder (PTSD). Unfortunately, in May 2021, the state Supreme Court overturned the measure in a 6-3 ruling on procedural grounds unrelated to the initiative’s merits.
Georgia legalized the medical use and possession of low tetrahydrocannabinol (THC) oil in 2015 with the passage of House Bill 1, known as Haleigh’s Hope Act. The Act was subsequently amended by SB 16, effective July 1, 2017, which changed the definition of “low THC oil” and expanded the list of conditions eligible for use of low THC oil. In 2019, Georgia had 9,500 patients registered.

In April 2019, Gov. Brian Kemp signed House Bill 324, which provided greater access and availability by making it legal to produce and distribute low-THC marijuana oils in Georgia. A state board will license dispensaries. Six private companies and two universities are tasked with production. Pharmacies will be permitted to sell the oils. Under HB 324, further rules will be prescribed by the Georgia Access to Medical Cannabis Commission, a seven-member board appointed by state officials. The Commission accepted applications for producers in late 2020 but has not yet issued the production licenses.

Georgia does not permit cannabis for adult-use purposes.

Wyoming has not made either adult-use marijuana or medical marijuana legal, and seems unlikely to do so in the near future.

Wyoming legalized “hemp extract” use for medicinal purposes in 2015 and legalized the farming of “industrial hemp” in 2017. In March 2018, Gov. Mark Gordon legalized the sale of CBD oils and hemp. The licensing fee to produce industrial hemp is $750.00 annually, and the applicant cannot have a conviction of or history of pleading nolo contendere to a controlled substance felony within the past ten years. Further, the THC cannot exceed 0.3% on a dry weight basis. Wyo. Stat. Ann. § 11-51-103. In 2019, a session law seemingly permits the “possession or use of hemp or hemp products for any purpose or application.” Wyo. Stat. Ann. § 35-7-1063.

Wyoming legislators introduced two House bills proposing a tax-and-regulate scheme for marijuana and a study program for medical cannabis in 2021. Unfortunately, neither of the bills survived, and it does not seem that the legislature is in any rush to legalize marijuana.

Tennessee does not permit marijuana for adult-use or medical purposes. However, the state does allow CBD that contains no more than 0.9% THC. In 2019, Tennessee passed a strict hemp farming act that allows licensed individuals to produce hemp with a THC concentration no greater than three-tenths of one percent. Tennessee has made little progress in legalizing marijuana for medical or recreational use, but did pass a bill creating a Medical Cannabis Commission in preparation of federal rescheduling of marijuana. A 2018 poll by the Tennessean revealed that 81% of Tennessee voters support legalization of marijuana to an extent.

On September 27, 2018, the Department of Health issued an advisory to residents about the risks of using marijuana and hemp. The advisory stated there is insufficient evidence to show any forms of cannabis, including hemp, are safe and effective medications. It also stated that marijuana is addictive and that 1 in 11 adults who use marijuana become addicted. Tennessee's Department of Health also differs from the position taken by many states (such as Illinois) which view cannabis as a strong alternative to opioids.

South Carolina has not legalized marijuana for adult or medical use, but it has legalized cannabidiol (CBD) in certain, limited situations. Known as Julian's Law, licensed physicians in South Carolina can prescribe cannabidiol for patients suffering from certain forms of epilepsy. The CBD oil must contain at least 98 percent cannabidiol and no more than 0.9% THC. Eligible conditions include Lennox-Gastaut syndrome, Dravet syndrome, or any other form of refractory epilepsy that is not adequately treated by traditional medical therapies. In 2019, South Carolina established the state's Industrial Hemp Program that allows state licensed parties to cultivate, handle, and process hemp. South Carolina's Department of Agriculture cannot charge licensing fees exceeding one thousand dollars annually. Although there have been attempts to legalize medical marijuana since 1980, the legislative push for the legalization of medical marijuana once again proved unsuccessful in 2021.

In Wisconsin, neither medical or adult cannabis use is legally permitted. Cannabidiol is legal if dispensed by a pharmacy or physician, pursuant to Wis. Stat. Ann. § 961.38. In order to possess cannabidiol, people must have a written certification that is not more than a year old, and people may not possess the cannabidiol past any expiration date listed on the certification.

The Department of Agriculture, Trade and Consumer Protection also issues licenses to industrial hemp growers and processors. Growers are processors must pass a background check and, once approved, must register annually with the Department. All industrial hemp products must be tested and all growers must obtain a fit for commerce certificate prior to any hemp being transported to a processor. All hemp must show a tetrahydrocannabinol (THC) level of 0.3% or below. Any harvested industrial hemp found in Wisconsin without a fit for commerce certificate is subject to seizure and destruction at the licensee's expense.

Industrial hemp is legally permitted to be cultivated in Wisconsin. The Department of Agriculture, Trade and Consumer Protection is charged with establishing regulations for growing, cultivating, harvesting, and sampling industrial hemp. The Department created the Hemp Research Program that studies the growth and cultivation of industrial hemp. Further, on May 3, 2021, the Department promulgated a new emergency rule that provides a remediation pathway for lots that exceed the regulatory limit of 0.3% THC, caps negligent violations at one per year, and raises the TBH level that constitutes a negligent violation from 0.5% to greater than 1.0%.
The push to legalize marijuana for adult-use in Wisconsin has suffered from various starts and stops. Legislation was proposed in 2017 that would allow cannabis to be used to treat certain medical conditions, but the legislation ultimately failed. In November 2018, state voters supported marijuana use by a solid majority in referendums on medical and adult use. Most recently, Wisconsin Gov. Tony Evers pushed to pass both a medical and recreational marijuana in his 2021 state budget, but once again, the efforts were unsuccessful. Despite legalization advancing quickly in neighboring states, Republican legislators continue to oppose legalization of adult use and are split on allowing medical cannabis.

### #48: INDIANA

Indiana does not allow either adult-use or medical marijuana. Further, the state only recently allowed the use of low tetrahydrocannabinol (THC) cannabis oil when, on February 21, 2017, the House voted unanimously to allow patients suffering from epileptic seizures to buy a non-intoxicating form of cannabis oil that contains 0.3% or less from licensed distributors across the state. Republican Gov. Eric Holcomb is strongly opposed to the legalization of adult use and medical marijuana.

In March 2018, Holcomb did sign a bill allowing the purchase of cannabidiol products, but the future appears bleak for other legalization efforts. Despite its neighbors to the north and west, Michigan and Illinois respectively, having fully legalized recreational cannabis possession and use, Indiana cannabis activists have not been able to get a legalization bill to the committee floor.

### #49: NORTH CAROLINA

In North Carolina, neither medical marijuana nor recreational marijuana are legal. Historically, the state has been very stringent towards marijuana consumption. But in June 2021, the North Carolina Senate Judiciary approved SB 711, the North Carolina Compassionate Care Act, a bill legalizing medical marijuana. Although the bill was passed by the Senate Judiciary Committee, it must go through other committees before a final vote on the Senate floor. If approved by the Senate, then the bill must be approved by the House before being signed into law.

### #50: IDAHO

Despite bordering three states (Nevada, Oregon, Washington) that have legalized adult-use marijuana, Idaho has not legalized medical marijuana use, nor has it legalized adult-use of marijuana. Idaho’s most recent movement towards accepting medical marijuana was in 2015. In 2015, the Idaho legislature introduced SB 1146. SB 1146 would have legalized cannabidiol use, which may help relieve seizures for children with epilepsy. The bill passed both the Idaho House and Senate. However, then-Gov. Butch Otter vetoed the bill. He stated that while he sympathized with families affected by epilepsy, the bill "asks us to look past the potential misuse and abuse with criminal intent."

Instead, he offered a solution by Executive Order. Gov. Otter implemented the Expanded Access Program which would provide children with epilepsy access to a pharmaceutical grade CBD, Epidiolex. This drug was approved by the FDA in 2018 and is now legal in limited circumstances. This is possible because under Idaho Code 37-2705(a), CBD can only be legal if it contains zero THC and is derived from one of five identified parts of the cannabis plant. The future of legalization in Idaho became even murkier when Gov. Brad Little prevailed in the November 2018 election. Little favors limited cannabidiol (CBD) access but opposes full marijuana legalization.

### #51: NEBRASKA

Nebraska does not allow adult-use or medical marijuana use. In 2016 and 2017, medical marijuana bills were introduced, but the first was quashed by filibuster and the latter was not voted on. In 2021, Senator Anna Wishart introduced LB 474 to establish a medical cannabis program through the Nebraska state legislature. Unfortunately, the bill was two votes short of the amount needed to overcome a filibuster. Activists are now collecting signatures in a push to legalize medical cannabis in 2022.

Nebraska has decriminalized marijuana possession for first time offenders, but retains mandatory minimums that force judges to sentence non-violent offenders according to the minimum rather than the judge’s discretion. The public, however, appears ready for medical marijuana, though perhaps not for adult-use. While 60% of Nebraskans believe that medical marijuana should be legalized, Gov. Pete Ricketts has been steadfastly against any legalization.

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