

Troutman Pepper Cannabis Communications Newsletter — May 30, 2024

WRITTEN BY

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Troutman Pepper's Cannabis Practice helps clients throughout their business cycle enter or expand into the cannabis space. Our team combines the resources of attorneys in areas such as licensing and taxation, regulatory compliance, corporate and transactional, intellectual property, and real estate, among others, to provide comprehensive services.

Our Cannabis Practice provides advice on issues related to applicable federal and state law. Marijuana remains an illegal controlled substance under federal law.

CANNABIS REGULATORY UPDATES

ADVISING A CANNABIS-RELATED BUSINESS: THE IMPORTANCE OF ATTORNEYS IN NAVIGATING THE MARIJUANA REGULATORY FRAMEWORK AND LICENSING SCHEME

By Jean Smith-Gonnell & Carmen Williams

The medicinal and recreational use and popularity of marijuana has continuously grown throughout the U.S. since Oregon became the first state to decriminalize marijuana in 1973. To date, thirty-eight states and the District of Columbia have implemented medical marijuana programs, twenty-five of which have also expanded into adult-use.

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THE ENEMY OF THE GOOD: COMPARING ADMINISTRATIVE V. LEGISLATIVE APPROACHES TO CANNABIS REFORM

By Jean Smith-Gonnell & Cole White

Only one day after reports surfaced that the Drug Enforcement Administration (DEA) will proceed with rescheduling cannabis from Schedule I to Schedule III of the Controlled Substances Act (CSA), Senators Charles Schumer (D-NY), Cory Booker (D-NJ), and Ron Wyden (D-OR) [reintroduced the Cannabis Administration and Opportunity Act](#) (CAOA or the Act), a nearly 300-page bill that would create a framework for the comprehensive regulation and taxation of cannabis in the United States. Then, on May 16th, [the Department of Justice issued its notice of proposed rulemaking to reschedule cannabis to Schedule III](#). Administrative and legislative approaches to cannabis reform each have their own strengths and weakness that must be carefully considered. In addition, these competing approaches offer an opportunity to highlight the political differences between administrative and

legislative policy reform at the federal level.

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FEDERAL AND STATE APPROACHES TO THERAPEUTIC CANNABIS

By [Agustin Rodriguez](#) & [Zie Alere](#)

Across states, lawmakers often embrace “medical” marijuana as a precursor to establishing a “recreational” marijuana market. Although marijuana remains illegal at the federal level — and would remain illegal even under the [proposed rescheduling](#) — federal regulators also recognize the therapeutic potential of certain marijuana-adjacent substances. At the federal level, the U.S. Food and Drug Administration (FDA) has approved one drug product derived from the cannabis sativa L. plant and three synthetic cannabis-related drug products. At the same time, 38 states and Washington, D.C., have established legal frameworks for access to medical marijuana. Comparing these frameworks to FDA’s drug approval process reveals fundamental differences between state and federal approaches to determining whether cannabis is “therapeutic.”

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THE VARIED LANDSCAPE OF TOBACCO AND CANNABIS FLAVOR BANS OR RESTRICTIONS

By [Agustin Rodriguez](#), [Nick Ramos](#), & Kevin Andres Rodriguez*

The landscape of tobacco product and cannabis flavor bans or restrictions varies significantly across the country. In both industries, some states restrict all or some flavors in all types of products, while other states restrict all or some flavors in some, but not all, products. Below, we provide a high-level overview of the flavor ban and restriction landscape in both industries. As we will discuss, there is a wide disparity between cannabis and tobacco product flavor bans or restrictions and, where they exist, there appears to be more flexibility among cannabis flavor restrictions than for tobacco product flavor bans or restrictions.

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CONNECTICUT ATTORNEY GENERAL CONTINUES TO TARGET UNLICENSED AND UNREGULATED CANNABIS SALES

By [Troutman Pepper State Attorneys General Team](#) & Cole White

Last week the office of the Attorney General of Connecticut announced that the state had reached a [settlement](#) with HighBazaar over allegations that the organization allowed the unlicensed sale of cannabis, and the presence of minors, at their outdoor social cannabis events in Connecticut. The settlement represents one of many enforcement actions aimed at eliminating the state’s gray market and protecting licensed businesses and consumers.

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UPCOMING EVENTS

2024 CANNRA EXTERNAL STAKEHOLDERS MEETING

Agustin Rodriguez and Cole White of the Troutman Pepper Cannabis Team will be attending the 2024 CANNRA External Stakeholders Meeting. This in-person event will be held in Minneapolis, MN from June 3-6, 2024, and presents a great opportunity for government and industry members to share perspectives on issues related to regulatory compliance and policy.

The Cannabis Regulators Association is a nonpartisan, nonprofit 501(c)(4) association of government agencies engaged in cannabis and cannabinoid regulation across 45 states, two U.S. territories, Canada, and the Netherlands. The purpose of the 3rd Annual External Stakeholder Meeting is to bring together a diverse array of national and international stakeholders from across the cannabis, cannabinoid, and hemp space to engage in discussions with CANNRA member regulators and other attendees on regulatory and policy topics. This year's meeting will be focused across three content tracks:

1. Emerging Topics in Regulatory Science
2. Consumer and Product Safety, Research & Public Health
3. Social and Economic Equity

Through his work with our partner, the Attorney General Alliance, Cole has supported CANNRA's efforts to advocate for federal regulatory policy changes in both the cannabis and hemp derived market places. This work has helped elevate state policy priorities in discussions on federal cannabis reform.

If we don't see you at the conference, feel free to reach out with any questions.

**Kevin Andres Rodriguez is a 2023 and 2024 summer associate at Troutman Pepper and is not licensed to practice law in any jurisdiction.*

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