

Cannabis Industry in Mexico

Mexico can become the center of entrepreneurship and innovation in the region for the Cannabis industry, which translates into economic growth and business opportunities.

In 2017, the Chamber of Deputies approved a series of provisions that reformed several articles of the Federal Penal Code (CPF) and the General Law Health (LGS) to allow the use and consumption of medicinal cannabis.

The following year, the Mexican Supreme Court of Justice of the Nation (SCJN) resolved a fifth *amparo* on the matter, in which it declared unconstitutional five articles of the LGS, which prohibited the planting, cultivation, harvesting, preparation, and acquisition of marijuana. This event allowed the Judicial Power to require the Legislative Power to modify those articles that contravened the Constitution.

Since then, Congress has tried to establish a specific regulation to norm the regulation for the recreational use, production, and commercialization of marijuana. However, the last initiative discussed in the legislative chambers was on February 2, 2022, when the Senate published a notice on the matter in the Legislative Gazette. Moreover, the first legislative period ended without addressing or discussing the topic.

Cannabis Industry: Uses and Regulations

The three main branches of the cannabis industry are:

1. For medicinal use and research.
2. For industrial use, to produce food supplements, cosmetics, and textiles.
3. Individual use for self-cultivation and recreational purposes.

Today, in Mexico, the law regulates the harvest of cannabis for medicinal research purposes, the manufacture of pharmacological products and medicines, and the process that health professionals must follow to prescribe medicinal cannabis.

With the advice of legal professionals from Santamarina + Steta, organizations can request licenses and procedures can be carried out before the Federal Commission for the Protection against Sanitary Risks (COFEPRIS) and the National Service of Agrifood Health, Safety, and Quality (SENASICA).

In addition, the General Declaration of Unconstitutionality was published in the Official Gazette of the Federation (DOF), which opens the possibility for the recreational use of marijuana. Individuals who wish to harvest cannabis for self-consumption may request a license before COFEPRIS through an *amparo* so that their right to self-determination and personality development is respected.

Cannabis Regulations in Mexico

The current norms governing the medicinal and recreational use of cannabis in Mexico regulate the following activities:

1. Cannabis cultivation for research purposes.
2. Cannabis cultivation for medicinal purposes.
3. Manufacturing of pharmaceutical derivatives and medicinal cannabis products.
4. Prescription of cannabis medications.
5. Recreational use, self-cultivation, and personal consumption of cannabis.

Medical Cannabis: The Boom of an Industry

Since 2017, several legal provisions have been modified to allow the use and production of cannabis for medicinal purposes. However, it wasn't until January 12, 2021, that the "Regulation of the General Health Law on Health Control for the production, research and medicinal use of cannabis and its pharmacological derivatives" was published. Its purpose is to regulate, control, promote, and monitor the production of cannabis for medicinal purposes.

This law regulates quality control laboratories, which must have sanitary licenses, control books, cleaning procedures, and records, among other provisions. The uses of cannabis regulated by the Mexican legislation are as follows:

Research

COFEPRIS must authorize the Research Protocols, and the corresponding Ethics Committee should accredit that the protocol complies with all the requirements established in the Regulation of the General Health Law on Health Research.

Production

To plant cannabis for research and manufacturing purposes, individuals and organizations must obtain a permit from SENASICA, which allows sowing, cultivation, and harvesting activities for health research and manufacturing pharmacological derivatives and medicines. In addition, the facilities must comply with specific characteristics outlined in the regulations and various operating protocols.

Medicinal

Public or private establishments destined to manufacture, import, export, or use cannabis raw material or medicines are regulated. They must have specific sanitary licenses and control books authorized by COFEPRIS.

The issuance of prescriptions for cannabis, which must have unique characteristics, such as specific barcodes, is also regulated. In addition,

dispensaries must be pharmacies or drug stores with the corresponding permits and authorizations. However, to date, COFEPRIS has not published any additional information.

Likewise, the law establishes the permits and parameters to export and import raw material, pharmacological derivatives, or cannabis medicines.

Cannabis Market: Opportunities for Mexico

Due to its geographical position, Mexico has the appropriate climatic and soil conditions for cannabis cultivation, as it could have more than two planting cycles in the Pacific coast states. Thanks to these and other macroeconomic conditions, Mexico could become the center of entrepreneurship and innovation in the region, which would translate into economic growth and business opportunities.

According to the Prohibition Partners platform, in 2018, medical cannabis revenues in Mexico amounted to 47.3 million dollars. It is estimated that by 2028 the industry's value will be more than 2 billion dollars.

In 2019, Mexico ranked 12th in the list of countries with the highest number of patents registered in the cannabis industry. And according to the latest data published by the Mexican Institute of Industrial Property (IMPI), there are 549 registered trademarks for cannabis products.

According to Reuters, if marijuana were to be decriminalized, Mexico could become one of the leaders in the market, which would possibly help to counteract the activity of organized crime and drug cartels.

Cannabis Regulation Challenges

The industry faces many challenges today. One of the most important is that Congress has not approved the corresponding laws and regulations that would allow the planting, harvesting, processing, transportation, distribution, and commercialization of cannabis for recreational purposes.

And even when adequate laws are approved, it will be necessary to:

- Establish the foundation of the licensing process for it to be efficient and transparent.
- Provide training with a human rights approach to the corresponding authorities on regulation.
- Establish a well-defined regulatory framework for how tax collection will be carried out.

- Determine quality and labeling standards and authorized product traceability systems to protect consumers.
- Create adequate legal barriers to prevent the interference of organized crime.
- Lay the foundations so all consumers over 18 can access quality cannabis products.

Establishment of Cannabis Companies

Entrepreneurs interested in the incorporation of entities whose corporate purpose is related to the research, production, or distribution of cannabis in Mexico must consider the following:

1. Formalize the company's statutes. Although there is still no regulation for the commercialization and distribution of cannabis, companies can update the corporate purpose and statutes to include the new line of business.
2. Carry out the corresponding procedures before COFEPRIS and SENASICA. Medical cannabis companies can anticipate by preparing their research protocols and requesting the pertinent authorizations and other formalities required by law.
3. Register companies and products for industrial purposes, such as food, cosmetics, and supplements. It is necessary to comply with secondary regulations, such as those applicable to good manufacturing practices, product labeling, and product traceability, as well as compliance with standards that guarantee the final consumer a safe and quality product.



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With more than 6 years of professional expertise, Mariana has developed an expertise practice sub-area within the Life & Sciences area, studying and elaborating updates for clients regarding the Cannabis industry.