

# THAILAND

## I. Introduction

### 1. Identify the geographic scope and limits of your answers to the questions below.

Thailand.

#### **History** [ref. 3 Wikipedia]

The marijuana/cannabis market in Thailand has a long history. Cannabis had been part of Thai culture (as a traditional medicine) until it was banned in 1930's. Thailand was once the land of the world's most powerful "ganja." It appears to have been introduced to Thailand from India. Cannabis has historically been used in Southeast Asia as an ingredient, a kitchen condiment, a medicine and a source of fiber. Laborers were known to use it as a muscle relaxer.

Cannabis can be found sold in bars and restaurants in certain parts of Thailand. Cannabis dealers sometimes work with police who shakedown customers and demand a bribe.

#### **Criminalization** [ref. 3 Wikipedia]

The possession, sale and use of marijuana/cannabis in Thailand was criminalized by the Cannabis Act BE 2477 (1935), the Narcotics Act BE 2522 (1979) and the Psychotropic Substances Act BE 2518 (1975).

The weed industry resulted in draconian drug laws applicable to both users and dealers.

Thailand reportedly has the largest prison population in Southeast Asia. Inmates convicted of drug offenses make up the largest percentage of the population.

Given the fact that the new Thai government appears supportive of developing the cannabis industry, it is likely that foreign investors will be encouraged by liberal policies, and need to establish medical grade cannabis facilities, and in due course recreational cannabis.

#### **Cannabis Industry Overview**

Investors should spend some time understanding how the cannabis industry is growing in recent years in states in the USA, Canada, etc. which have legislation and safeguards in place. On the one hand, Thailand has a grass-roots culture hundreds of years old. However, recent advances in regulation in a number of jurisdictions provide a number of guidelines which are relevant to growing the industry in Thailand. Each of the following subjects is very relevant:

1. Cultivation. Problems of over-production and low crop prices.
2. Extraction. Capital intensive, with many brands, concentrates and vape pens. Testing labs and ancillary firms.
3. Retail. Medical marijuana dispensaries and retail stores.
4. Export. Challenges of foreign market entry.
5. Import. Need for high standards for imports into Thai market.

The vertically-integrated cannabis companies provide helpful guidance.

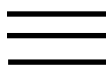
## II. Legislation

### 2. Please provide links to applicable statutes and regulations.

**A. Is there any pending legislation that could materially alter applicable statutes or regulations?**

**B. Is there any proposed legislation that could materially alter applicable statutes or regulations?**

See attachment, ["Narcotics Act B.E. 2522 \(1979\) as amended up to Narcotics Act \(No. 7\) B.E. 2562 \(2019\)."](#)



### **3. Are cannabis laws in your jurisdiction pretty well settled or are they constantly changing in material ways?**

No. The legalization of medical cannabis was enacted only in February 2019. There are a number of draft notifications and ministerial regulations under review. The amendment to the Narcotics Act allow cannabis to be used only for medical, science and research and development.

#### **Recent Thai Legislation**

Hemp has been approved for use in industry since 2018. Under a regulation, which came into effect on January 5, 2018, licenses for growing of hemp for industrial and medical purposes could be obtained. It did not address marijuana or any other forms of cannabis.

Thailand made history in December 2018 by becoming the first country in Southeast Asia to legalize medical marijuana. The Narcotics Act BE 2522 (1979) as amended up to Narcotics Act (No. 7) BE2562 (2019) (“NA”) came into effect on 19 February 2019. This followed years of efforts to legalize medical marijuana, based on evidence that the plant can be used to treat diseases, etc. See summary of the NA which focuses on cannabis after paragraph 9 below.

## **III. General information (e.g., governing bodies, licenses, import/export)**

### **4. What governing body regulates/licenses or enforces activities that are allowed in your jurisdiction?**

Under the Narcotics Act, the Ministry of Public Health.

### **5. What cannabis functions are allowed in your jurisdiction? E.g., growing, processing, retailing.**

See “Cannabis Industry Overview” above, and question 6 below.

### **6. What sales or use is allowed in your jurisdiction? E.g., edibles, vaping, tinctures, food additives, etc.**

**A. Are the rules different for medical vs. adult recreational use?**

**B. Are retail sales of any cannabis products restricted to specific retail channels? E.g., medical dispensaries, government-owned stores, etc.**

**C. Are there zoning restrictions on where medical, wellness, or adult-use (recreational) outlets can be located? Applicable to all cannabis products?**

N/A

### **7. What import and export is allowed in your jurisdiction?**

**A. Are there restrictions in relation to the countries of origin, i.e. which countries of origin are permitted?**

**B. Please describe restrictions on the import of cannabis seeds.**

N/A

### **8. Does your region distinguish between different types of cannabis products? (E.g., high or low concentrations of THC.)**

**A. If so, what distinctions exist?**

**B. If so, briefly describe the differences.**

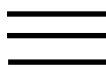
**C. Identify any related laws that should be considered when answering this question.**

N/A

### **9. Are there legal requirements on Cannabidiol (CBD) products (without THC)?**

This summary of the NA focuses on cannabis, not the many other narcotics governed by the NA.

- The NA includes 106 Sections.



- The Minister of Public Health is responsible for execution of the Act.
- The licensing authority (see Chapter 2) is the Secretary-General of the Food and Drug Board.
- There is a Narcotics Control Committee (see Chapter 1).
- The NA repealed 7 laws (Narcotics Act, no. 2, no. 3, no. 4, no. 5, Marijuana Act and Kratom Plant Act).
- Narcotics are classified into 5 categories. Category V consists of narcotics which are not included in categories I to IV, such as marijuana, kratom plant, (including cannabis). Section 26/5 provides that the licensing authority may issue a license to produce, import, export, distribute or possess narcotics of category 5 only when the applicant is:
  1. A government agency whose duty is to conduct study, research or teach re medicines, pharmacy, sciences agricultural sciences, etc.;
  2. A medical, pharmacy, dental, veterinary, Thai traditional medicine, applied Thai traditional medicine, folk healer profession practitioner, etc.;
  3. A university;
  4. Agricultural profession operators who have registered a community enterprise group, etc.;
  5. An international public transport business operator;
  6. An international travelling patient; or
  7. Other applicants as prescribed in Ministerial Regulations.
- Applicants under (7) in the case of ordinary person must be a Thai national domiciled in Thailand, and in the case of juristic person must be registered under Thai law and at least 2/3 of directors and shareholders must be Thai nationals, and have an office in Thailand.
- Duties of Licensees (Chapter 3) include Section 34/1, 34/2, 34/3 and 34/4 applicable to production, import, export, distribution or possession of narcotics of category V.
- Rules governing advertising are prescribed in Chapter 7.

There has been further clarification by Ministry of Public Health (MoPH) notifications that identify forms of medical cannabis allowed for approved use. These include (1) registered drugs per the Drug Act; (2) Thai traditional medicines having approved compositions (now 16 formulas); and (3) drugs approved for the Special Access Scheme. There have been clarifications of specific qualifications of Thai traditional practitioners having authority to prescribe traditional cannabis medicines. There is a complex network of who can be licensed for what purposes under draft implementing regulations.

The pathway for FDA medical cannabis licensing will be set out in implementing regulations, which have been circulated for comment. There is a complex network of who can apply for licenses, which seeks to ensure control over the process. Participation by foreigners is strictly restricted for the first 5 years, starting February 19, 2019. During this period, state agencies may obtain licenses to produce, import or export cannabis; and a private entity may act only jointly with a state agency to acquire a license.

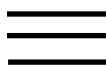
On August 31, 2019, a new notification of Ministry of Public Health came into effect, providing new exceptions for the following:

#### For marijuana and hemp:

- Marijuana or hemp stalks, stem cores and fibers, if dried, and products made of such dry parts;
- CBD extracted from marijuana or hemp, if having at least 99% purity and no more than 0.01 percent by weight of THC;
- Extracts have CBD as main constituent and no more than 0.2% by weight of THC, which are considered “drugs” under the Drug Act, or Herbal Products under the Herbal Products Act.

#### For hemp only:

- Hemp seeds or hemp seed oil, which are considered food under the Feed Act;
- Hemp seed oil or hemp seed extracts, which are considered cosmetics under the Cosmetics Act.



There are 2 draft Ministerial Regulations under review:

- Draft Ministerial Regulation re: Application for License and License for Production, Import, Export, Distribution or Possession of Narcotic under Category 5, only Cannabis, B.E.....
- Draft Ministerial Regulation re: Application for License and License for Production, Import, Export, Distribution or Possession of Narcotic under Category 5, only Hemp, B.E.....

#### IV. Patients and prescriptions

**10. What specific medical conditions, if any, are recognized for treatment with cannabis?**

**11. Is there licensed practitioner requirement in order to prescribe cannabis for medical purposes?**

**12. Are there patient registration or cardholder requirements?**

The Patent Office has taken action to prevent foreign competition by rejecting patent applications from foreign applicants.

#### V. Special requirements

Thailand is intentionally excluding foreign participation at the early stage of the cannabis industry, which may raise questions under WTO treaties.

**13. Does your jurisdiction require any recordkeeping from seed planting to the time of end user sale? For all cannabis products?**

Yes.

**14. Are special taxes imposed? On what and when?**

**15. Are there any special rules or limitations that apply to the industry? E.g., banking, patent or trademark protection, labeling requirements.**

Yes.

**16. What is the legal status of access to financial services, including banking, merchant services, and cash handling?**

No restrictions.

**17. Is data collected to determine the social or health impact of the rules in your jurisdictions? E.g.,**

**A. Impact on use by under age/minors.**

**B. Impact on beer, wine and spirit sales.**

**C. Tax revenue.**

**D. Impact on crime, including drug and alcohol addiction.**

N/A

#### VI. Risks and enforcement

**18. What are the most critical issues currently facing the industry in your jurisdiction?**

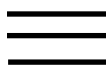
**19. What is the current enforcement landscape with respect to cannabis? E.g., strict enforcement, low-enforcement, decriminalization, legalization.**

**A. Does enforcement differ based on quantity?**

**B. Does enforcement differ based on product type?**

There has been no mention of the UN Drug Treaties:

- 1961 Single Convention on narcotic Drugs,
- 1971 Convention on Psychotropic Substances, and
- 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.



## VII. Your practice and useful links

**20. Tell us a little about your cannabis practice and how it interacts with other practices at your firm. Remember to include any recognition awards your firm has received in this practice area. How much experience does your firm have providing services to cannabis companies and how much interest does your firm have to grow its cannabis practice?**

At our website <https://www.chandlermhm.com/> you can find full information on our firm services and areas of practice.

**21. Please provide links to any firm website, blogs, reputable trade publications, or attorneys that would help others understand the state of the law in your jurisdictions.**

See References below.

**A. Are there any relevant trade organizations?**

**B. Are there any relevant lobbying organizations?**

References:

1. "Cannabis Overview", by Judith Lee von Nostitz.
2. "Medical Cannabis Regulations: Understanding the Roadmap Towards Legalization in Thailand", 28 March 2019, by Chokwan Kitty Chopaka.
3. "Cannabis in Thailand", Wikipedia 8/4/2019.
4. "Thailand's First Batch of Medical Marijuana is Ready for Roll-Out", by Meera Navlakha, 11 July 2019.
5. "Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact", United Nations Office on Drugs and Crime, Southeast Asia and the Pacific, 2019.
6. "Drugs", page 123, Lonely Planet, Thailand, 1995.
7. Client Alerts, Thailand, Tilleke & Gibbins, various.
8. "Annual Marijuana Business FACTBOOK", 7<sup>th</sup> Edition, 2019.
9. "The Green Regulatory Arbitrage: A Case of Investing in US Multi-State Vertically-Integrated Cannabis Companies", by David Wenger, September 6, 2018.
10. "A Tale of Two Drug Wars" Rolling Stone, January 16, 2014.
11. "Guns Girls Gambling Ganja, Thailand's Illegal Economy and Public Policy," Pasuk Phongpaichit, 1998.
12. Baker McKenzie, Peerapan Tungsuwan, "Thailand's Cannabis Legalization," November 6, 2019.
13. Attachment: consolidated Narcotics Act.

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