

U.S.A. - CALIFORNIA

I. Introduction

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

California, U.S.A.

II. Legislation

2. Please provide links to applicable statutes and regulations.

Relevant Statutes

Business & Professions Code – Sections 26000, et seq.

Health & Safety Code – Sections 11000, et seq.; 11357, et seq.; 11362.7, et seq.

Relevant Regulations

Bureau of Cannabis Control – Regulations

California Department of Food and Agriculture – Regulations

California Department of Public Health – Regulations

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

The Bureau of Cannabis Control recently issued Proposed Emergency Regulations (February 3, 2020) that could alter its regulations.

There are various bills concerning cannabis, including AB 286 (which would give tax relief to legal cannabis business), AB 228 (which would allow hemp-derived CBD products to be included in any food, beverage or cosmetic without restriction) and SB 658 (which would require licensed retailers and delivery drivers to display emblems showing that they are licensed), which the Legislature has considered, but which have been tabled for now.

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

See answer to Question 2(A) above.

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

The overarching state legislation governing cannabis in California seems well-settled. The regulations governing cannabis are not. Although the foundational regulations probably will not materially change in the near term, there often are emergency regulations that are proposed to address ambiguities in existing regulations and to address new issues. Local laws and regulations are in even greater flux.

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?

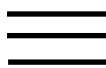
The Bureau of Cannabis Control, California Department of Food and Agriculture and California Department of Public Health are the agencies that regulate cannabis-related activities in California. State and local law enforcement primarily enforce cannabis-related activities.

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

Growing, processing, and retail of both cannabis and hemp.

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

Flower, edibles, vapor oil, other types of oil, and other concentrates are all allowed to be sold and consumed.



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

There are some minor differences. For example, medical users can grow as much cannabis as required for their personal medical needs whereas non-medical growers are limited to six plants per residence. Likewise, medical marijuana patients who present a valid marijuana identification card do not have to pay certain taxes when purchasing cannabis and cannabis-related products.

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

Yes – licensed retail stores. Cannabis products also may be delivered in California, subject to compliance with state regulations.

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

Yes – for example, cannabis outlets cannot be located near schools. Localities have the discretion to enact their own zoning restrictions, including to ban cannabis altogether.

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

No cannabis may be imported or exported across California state lines. Hemp may be imported and exported across state lines, including derivatives such as CBD.

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

No.

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

See answer to Question No. 7 above.

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?

(see answer to Question No. 8 above)

B. If so, briefly describe the differences.

(see answer to Question No. 8 above)

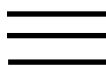
C. Identify any related laws that should be considered when answering this question.

(see answer to Question No. 8 above)

The 2018 Farm Bill federally legalized hemp-derived CBD products that contain less than 0.3% THC. However, the U.S. Food and Drug Administration (“FDA”) then clarified that it was not signing off on food, beverages or cosmetics containing such products and, further, that it would subject products that are marketed as having material health benefits to scrutiny. California has more or less said that it will follow federal direction on this issue.

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

See answer to Question No. 8 above.



IV. Patients and prescriptions

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

It depends on state or federal law. Currently, the FDA has licensed only one use in the form of the medicine Epidiolex, which is CBD used for the treatment of certain types of seizures in children.

In California, qualifying conditions to become a cannabis patient include:

- Cancer
- Anorexia
- AIDS
- Chronic pain
- Spasticity
- Cachexia
- Persistent muscle spasms, including those associated with multiple sclerosis
- Seizures, including, but not limited to, those associated with epilepsy
- Severe nausea
- Glaucoma
- Arthritis
- Migraines
- Any other chronic or persistent medical symptom that substantially limits the ability of the person to conduct one or more major life activities (as defined by the Americans with Disabilities Act of 1990) or, if not alleviated, may cause serious harm to the patient's safety or physical or mental health

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

Cannabis prescriptions must be obtained from licensed healthcare practitioners. The Medical Board of California has published Guidelines for the Recommendation of Cannabis for Medical Purposes for practitioners to follow.

12. Are there patient registration or cardholder requirements?

Yes – but they are fairly minimal. You need to be a California resident, present a valid form of identification and be diagnosed as having one of the qualifying conditions set forth in the answer to Question No. 9 above.

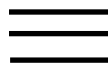
V. Special requirements

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

Yes – the California Cannabis Track-and-Trace system is being used statewide to record the inventory and movement of cannabis and cannabis products through the commercial cannabis supply chain. This system must be used by all annual and provisional cannabis licensees, including those with licenses for cannabis cultivation, manufacturing, retail, distribution, testing labs, and microbusinesses. A five-step guideline for using this system is available here.

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

Yes – all adult-use purchases are subject to a 15% cannabis excise tax, an 8-10% city tax, and a 7.25-11% sales and use tax, depending on location. Medical marijuana users do not have to pay sales and use taxes when making retail purchases of cannabis and cannabis-related products.



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

Yes – for example, California has fairly stringent labeling requirements, which are available here. Likewise, as is the case throughout the United States, it can be difficult to get an account for cannabis-related activity with a federally insured bank. Credit unions in California are more willing to take cannabis-related funds but there are caps on how much money they will take.

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

See answer to Question No. 14 above.

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.

Not to our knowledge by the California government.

B. Impact on beer, wine and spirit sales.

Not to our knowledge by the California government.

C. Tax revenue.

Yes – the California Department of Tax and Fee Administration tracks this information.

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

Not to our knowledge by the California government.

VI. Risks and enforcement

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

By far the biggest issue in California is the black market. Recent data shows that there are three times as many illegal sellers as legal ones. Black market operators undercut licensed ones by selling product for a much lower price. There are relatively minimal resources available for the government to take action against these illegal operators. Coupled with the steep startup costs and taxes that licensed operators must pay, this has given black market operators a major advantage over licensed ones. Many licensed operators are struggling to make a profit and are clamoring for more enforcement activity.

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

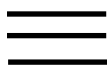
Relatively lax. The government has been more focused on launching the regulatory and licensing regime governing cannabis than taking action to enforce that regime. That said, state and local law enforcement officials have launched targeted strikes against illegal operators.

A. Does enforcement differ based on quantity?

Our sense is that law enforcement officials are more likely to target operators handling a lot of product.

B. Does enforcement differ based on product type?

Not to our knowledge.



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?

Our firm, Greenberg Glusker, acts as outside general counsel for the Bob Marley estate. In 2014, our firm, led by Bonnie Eskenazi, worked on a landmark deal to help launch the Marley Natural brand of cannabis and cannabis-related products. The deal required us to develop expertise in the cannabis space. Since then, we have grown this expertise, advising existing and new clients who are involved in or are interested in getting involved in this space. We are a full-service business law firm of about 100 attorneys and, as a result, have the expertise to advise cannabis and cannabis-related clients on a range of issues, from tax to real estate to intellectual property to litigation. We launched our Cannabis Industry Group last year.

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.

[Main website](#)

[Cannabis Industry Group page](#)

A. Are there any relevant trade organizations?

California Cannabis Industry Association
United Cannabis Business Association
Southern California Coalition

B. Are there any relevant lobbying organizations?

See answer to Question 21(A) above.

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