

# U.S.A. - WASHINGTON

## I. Introduction

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

Washington, U.S.A.

## II. Legislation

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

RCW 69.50 – State Controlled Substances Act

WAC 314-55 – State regulations on cannabis licenses and businesses

RCW 15.120 – State regulations on hemp production

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

SB 5318 has passed but the drafted rules have not yet been implemented. These rules will significantly alter enforcement of cannabis licenses.

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

The state legislature is currently in session and numerous bills have been proposed, but it is currently too early to tell which bills will proceed to a vote, much less become law.

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

Overall, pretty well settled. However, important laws and rules are revised or newly passed every year. It is settled compared to the Washington cannabis regulations in the first few years following state-legalization, but it is still quickly evolving when compared to other industries or regulatory areas.

## 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 Washington State Liquor and Cannabis Board (“WSLCB”) issues cannabis licenses, regulates cannabis licenses, and enforces cannabis business activities across the state.

The Washington State Department of Agriculture (“WSDA”) issues hemp licenses, regulates hemp licenses, and enforces hemp business activities across the state, though enforcement activities are less involved than WSLCB’s activities.

The Washington State Department of Health (“WSDOH”) regulates cannabis medical patients.

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

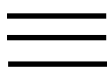
Growing, processing, and retail of both cannabis and hemp.

### 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. Recent rulemaking banned the use of non-cannabis-derived compounds in vapor oil products.

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

Overall, no. However, there are a few special rules regarding having a retail store be “medically endorsed” to sell medical cannabis products to patients registered with the Washington State Department of Health.



Patients can purchase products at licensed retail stores and waive the sales tax. Otherwise, medical & adult use are regulated the same.

**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 only.

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

Yes, for all types of licenses (restrictions are on the business locations, not on the products). State mandated minimum of 1000 feet distance from a business and schools and playgrounds, and a minimum of 100 feet for other sensitive areas such as public transit centers, libraries, recreation facilities, and public parks. Local governments can set their own limits (except for schools and playgrounds) between 100 and 1000 feet.

Local governments can also enact bans on cannabis licenses within their jurisdiction.

Finally, local governments have general jurisdiction to enact other zoning requirements of cannabis businesses.

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

No marijuana may be imported or exported across WA state lines. As described more fully in the separate chapter on hemp, hemp may be imported and exported across state lines, including derivatives such as CBD.

Hemp can be imported and exported freely across state lines, though local law enforcement can still cause businesses problems.

**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.**

Cannabis seeds are still considered a Schedule I substance under the federal Controlled Substances Act, and are therefore prohibited from being imported into the United States.

At the state level, cannabis businesses licensed by the WSLCB may purchase cannabis seeds from other licensed businesses.

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

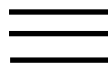
The only significant legal distinction is the difference between marijuana and hemp. Hemp is defined under federal law as “the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”

Washington businesses do have to list on their products the total amounts of THC, THCA, and CBD in terms of percentage of the product.

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

The WSDA regulates the production of hemp and its derivatives, and has also made statements regarding the sale of foods containing CBD, but its jurisdiction over this issue is questionable. See discussion in the separate chapter on Hemp for US federal rules.

Yes. CBD products are regulated depending on whether they are sourced from marijuana or hemp, as described elsewhere in this document.



## 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 U.S. Food and Drug Administration (“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 Washington state, the WSDOH recognizes the following medical conditions for treatment with cannabis:

- Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders.
- Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications.
- Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications.
- Crohn’s disease with debilitating symptoms unrelieved by standard treatments or medications.
- Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications.
- Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications.
- Chronic renal failure requiring hemodialysis.
- Posttraumatic stress disorder.
- Traumatic brain injury.

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

Cannabis prescriptions must be obtained from licensed healthcare practitioners, but there is no license unique to prescribing cannabis. The WSDOH has published Authorization Practice Guidelines for practitioners to follow. Further, the WSDOH and state law requires that patients either (a) grow their own cannabis, or (b) obtain cannabis from a designated provider.

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

Yes to both – more information available here.

## V. Special requirements

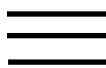
### **13. Does your jurisdiction require any recordkeeping from seed planting to the time of end user sale? For all cannabis products?**

Yes, for all products, and the tracking system is colloquially called the traceability system or seed-to-sale tracking. Producers and processors must tag and log each plant that is grown, and each final product that is produced. Further, each product sold to another licensee must be logged. Retailers must also log their product purchases from other licensees and sales to customers (end users).

This system is regulated and tracked by the WSLCB, and failure to maintain these logs is a regulatory violation.

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

Sales and excise taxes are imposed. The excise tax is 37%, imposed at retail sale.



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

At the state level, certain branding and trademark agreements of cannabis licensees must be disclosed to the WSLCB. There are significant labeling requirements, most surrounding having certain disclaimers included on products, as well as prohibiting labeling and advertising likely to be attractive to children.

At the federal level, the FDA will enforce federal consumer protection rules where health claims are made with respect to cannabis and hemp products, particularly where such claims lack sufficient medical evidence.

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

In practice, most banking institutions still do not provide services to cannabis businesses nationwide. A small number of state-chartered banks and credits do provide services to cannabis businesses.

**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.**

Yes, information available [here](#).

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

Not by the government.

**C. Tax revenue.**

Yes, information available [here](#).

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

Certain studies are conducted at universities, in particular the University of Washington Alcohol and Drug Abuse Institute.

## VI. Risks and enforcement

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

Federally: Access to banking and federal taxation, most importantly Section 280E, which prevents normal business deductions for cannabis businesses (both federal issues).

State: traceability, out-of-state financing/ownership, and regulatory enforcement.

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

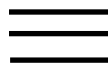
The answer depends on whether we are addressing personal cannabis use or the production & sale of cannabis.

Generally, enforcement of personal cannabis use in Washington state is lax but depends widely on local government policies. Personal cannabis use for any purpose has been legalized and possession of up to one ounce is legal.

Enforcement of cannabis businesses is much more strict, and numerous factors prompted the passing of SB 5318 (mentioned earlier), which significantly reigned in enforcement activities by the WSLCB.

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

Yes, see above.



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

Laws on personal possession depends on type, and a broad breakdown of these laws are publicly available provided by NORML (a non-profit advocacy organization).

## 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?**

Lane Powell's core cannabis team consists of four attorneys split between Seattle and Portland, all of whom have been working with cannabis businesses since their respective states legalized cannabis. The core team members act as liaisons between the cannabis industry and nearly two hundred other attorneys at the firm. As a full-service business law firm, Lane Powell provides a full range of transactional and litigation legal services to the cannabis industry. Lane Powell was ranked by Chambers & Partners as one of the top seven cannabis law firms in the U.S., and two team members were ranked among the top corporate/transactional cannabis attorneys in the U.S. While cannabis remains somewhat novel in the U.S. legal community at large, Lane Powell understood early on that cannabis businesses would need the full range of legal services provided by larger law firms. Lane Powell's cannabis practice has grown with the industry and its clients, and will continue to be a leading provider of quality legal services to the cannabis industry.

### **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 site](#)

[Practice group webpage](#)

[Practice group blog](#)

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

Washington Craft Cannabis Coalition  
 Washington CannaBusiness Association  
 Cannabis Alliance  
 Washington Sun growers Alliance

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

See above.

## Contributor

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