

NEWS ALERT

HEALTH CARE



Marijuana Legalized in Connecticut

By Paul E. Knag and Arielle M. Smitt | July 20, 2021

On June 22, 2021, Governor Ned Lamont signed into law legislation that legalizes and regulates the adult-use of cannabis in Connecticut. The key components of the bill include the following:

- Effective July 1, 2021, possession of cannabis among adults age 21 and over will be legal in Connecticut. Adults cannot have more than 1.5 ounces of cannabis on their person, and no more than 5 ounces in their homes or locked in their car trunk or glove box.
- By the end of 2022, Connecticut aims to begin retail sales of cannabis. The sale, manufacture, and cultivation of cannabis (aside from home grown) will require a license from the state. Individuals who are not licensed by the state may gift cannabis to others but may not sell it and individuals may not gift cannabis to another individual who has “paid” or “donated” for another product. Additionally, products that contain delta-8-THC, delta-9-THC, or delta-10-THC are considered cannabis and may only be sold by licensed retailers.
- Beginning October 1, 2021, patients who are participating in Connecticut’s medical marijuana program will be permitted to cultivate up to six cannabis plants (three mature, three immature) indoors within their homes.
- Beginning July 1, 2023, all adults age 21 and over will be permitted to grow a similar number of plants indoors within their homes. The law includes requirements to keep the plants secure from anyone else.
- Beginning July 1, 2021, home grow of up to six cannabis plants is defeloned and instead will result in infractions.
- Certain cannabis-related convictions that occurred between January 1, 2000 and October 1, 2015 will be automatically erased. Those seeking to erase cannabis-related convictions outside of that period will require petitioning.
- At least half of all initial licenses will be reserved for social equity applicants, targeting those communities that have been most negatively impacted by the so-called war on drugs.
- Portions of the revenue raised from retail sales of cannabis will be directed to communities that have been most negatively impacted by the war on drugs and will be directed to support substance misuse prevention, treatment, and recovery services through the creation of the Prevention and Recovery Services Fund. Connecticut’s health agencies will launch new programs and initiatives regarding prevention, treatment, and recovery in regard to cannabis.
- There will be a new tax rate structure on the retail sale of cannabis that includes a new source of revenue for municipalities. This includes:
 - A 3% municipal sales tax, which will be directed to the town or city where the retail sale occurred;
 - The 6.35% sales tax; and
 - A tax based on the THC content of the product.

- There will be a framework for preventing access to cannabis by minors, similar to the framework for preventing access to alcohol by minors, which includes:
 - The sale or provision of cannabis to a person under 21 years old: Class A misdemeanor.
 - An individual allowing someone under 21 years old to loiter at a cannabis store: \$1,000 fine on the first offense with subsequent offenses as a Class B misdemeanor.
 - A person under 21 years old that lies about their age or uses a fake ID in an attempt to buy cannabis: Class D misdemeanor.
- Police will be required to be trained in Advanced Roadside Impaired Driving Enforcement (ARIDE) and allow for Drug Recognition Expert (DRE) evaluations to result in license suspensions which means that drivers who are impaired on any substance will be more quickly taken off the roads.
- All cannabis-related advertising will be banned on television, radio, internet, print, and billboards unless the advertiser has reliable evidence that more than 90% of the audience reached by the advertising is at least 21 years of age or older and the advertising of cannabis is restricted within 500 feet of a school.
- Products will have to be lab tested and will have strict packaging and labeling standards.
- Employers may take adverse actions against employees who are impaired at work. Nonexempt employers may not prohibit the off-work use of cannabis or take adverse action against an employee or a potential employee for a positive THC test unless such employer has adopted employment policies stipulating as such. Generally, an employer may not take adverse action against an employee or potential employee for use of cannabis prior to applying for or working at such employer. However, employers in certain industries, such as manufacturing and healthcare, are considered exempt from these employment provisions.
- Cannabis use will be prohibited in state parks, state beaches, and on state waters.

Federal Law Implications:

On the federal level, marijuana remains illegal. While federal legislators are working toward drafting and passing federal legislation that would end the federal cannabis prohibition, residents of Connecticut should still be aware that possessing marijuana is a federal offense and there may be implications associated with operating a marijuana business in the following ways:

- **Banking:** Since federal law still classifies marijuana as a Schedule 1 drug and considers marijuana businesses illegal, the IRS and other government programs are pressuring banks to prevent opening marijuana business accounts. Therefore, opening a bank account to operate a marijuana business may present issues. Frequently, marijuana related businesses have no choice but to conduct most of their business in cash, which comes with a host of issues, such as not being able to accept credit cards. Additionally, marijuana businesses that are able to open a bank account are often hit with major fees that do not apply to other types of businesses because the fees offset the risk and extra work the banks take on by working with marijuana businesses. In 2019, a Congressman introduced the Secure and Fair Enforcement Banking Act (SAFE Act) which would allow federally-regulated banks to work with state-approved cannabis businesses. However, such Act has not been signed into law.
- **Interstate Trade:** Federal law prohibits marijuana from crossing state lines, including among states where the sale of marijuana is legal for medical purposes. Therefore, marijuana businesses may not import or sell products across state lines, even to neighboring states where the use of marijuana is legal.
- **Taxes:** Marijuana businesses are still required to pay federal taxes, but are not permitted to take any tax deductions such as payroll and operating expense deductions, because the Federal tax code classifies dispensary owners and others in the marijuana industry as drug traffickers. Therefore, marijuana businesses end up with large federal tax bills that they are often required to pay in cash because the business lacks access to banking services.

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