

Amendment 2: Medical Cannabis in Missouri

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Introduction

- **Eric Berlin**

- Co-Head of Dentons US and Global Cannabis Groups
- First Big Law cannabis lawyer - 100% time spent on clients in or impacted by legal cannabis industry
- Helped draft and pass Illinois and Ohio medical cannabis laws

- **Joanne Caceres**

- Full-time cannabis lawyer
- Expert in state cannabis and hemp/CBD laws



Agenda

- What is **cannabis, hemp, CBD?**
- Current **US federal laws** regarding cannabis & hemp
- **States' legalization**
- Medical cannabis in **Missouri**
- Impact on **Missouri employers**
- **Q&A**

What Is Cannabis?

Hemp (not > 0.3% THC) **“Marijuana”**



- + Extracts from glands on flowers & leaves containing cannabinoids, terpenes and flavonoids

Medical Cannabis?

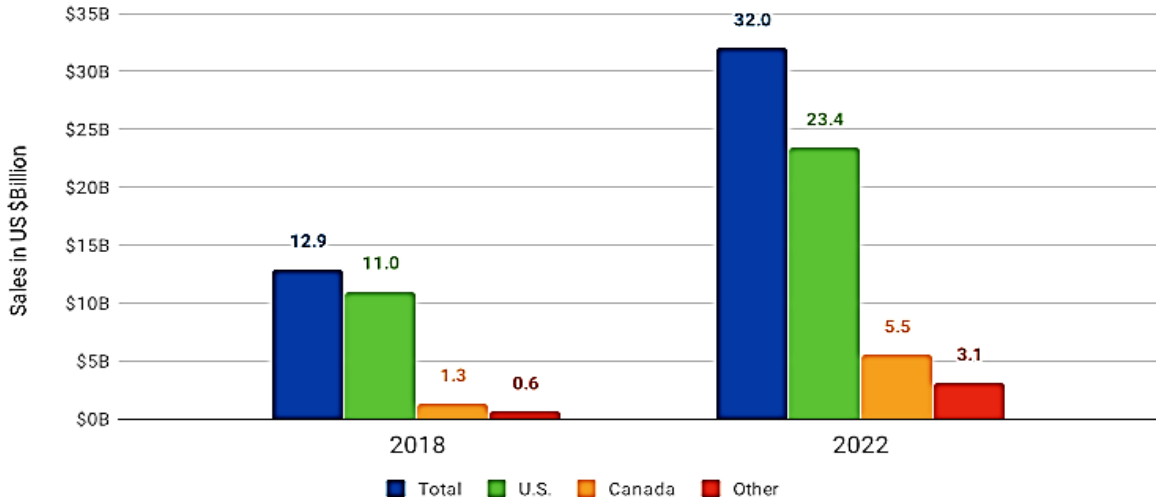
- Does cannabis have **medicinal properties**?
 - Effective as analgesic and for nausea
 - CBD for epilepsy
 - Some positive studies for Crohn's, Multiple Sclerosis, Alzheimer's, Parkinson's & diabetes
- Is cannabis **safe**?
 - DEA's chief admin. law judge (1998): cannabis "one of the safest therapeutically active substances known"
 - In states with medical cannabis programs, each of the following has declined significantly:
 - opioid overdoses
 - Medicare prescriptions for conditions treated by cannabis
 - absences from work due to illness

Cannabis Products



The Global & U.S. Markets

- Annual global cannabis market (inc. black market) = **\$150 billion**
- **Legal** retail sales & projected: \$13B (2018) to \$32B (2022)



U.S. Federal Law

- Cannabis = **Schedule I drug** under Controlled Substances Act, 21 U.S.C. § 801 et seq.
- **Illegal to:**
 - manufacture (grow), sell, or possess
 - advertise (print, internet, and communication facilities [e.g., TV and radio])
 - sell paraphernalia (not authorized by state)
 - conspire or aid and abet
- Conspiracy, Aiding & Abetting, AML, RICO, Travel Act

Federal Enforcement

- Feds **choosing not to enforce** vs. state compliance cos.
- **History of non-enforcement**
 - Cole Memo
 - Rohrabacher (now Joyce) protection for medical cannabis
 - Sessions rescission of Cole Memo
 - AG Barr pledged not to “go after” state law compliant companies
- **Reform in 2019?**
 - Likely no Congressional action beyond possibly banking

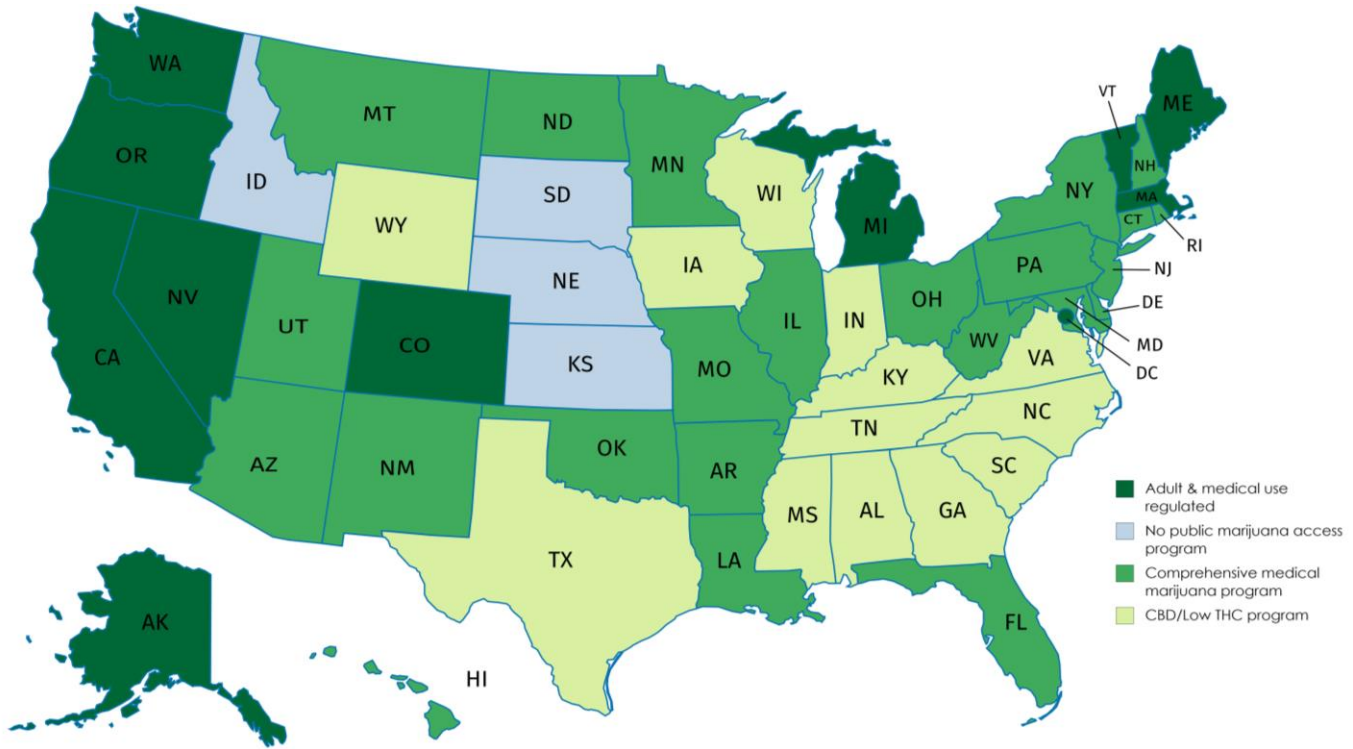
Implications of Federal Illegality

- Limited **banking** (Fin-CEN guidance)
- **Tax Code 280E**
- Limited **IP** protection
- No federal **bankruptcy** protection
- **Interstate** commerce limitations

Hemp

- Industrial hemp research programs under **2014 Farm Bill**
- **2018 Farm Bill** removed hemp and extracts of hemp from CSA
 - For hemp farmers and producers, expands banking options, expands IP protection, decreases tax liabilities, and makes crop insurance available
 - “Grandfathers” 2014 Farm Bill programs at least one year
 - Does not make sales of hemp or CBD nationally legal
 - Awaiting USDA regs (expected fall 2019)
- **FDA** has claimed full jurisdiction
 - Illegal to add CBD to food, beverage or supplement
 - Illegal to make health claim about CBD product
 - Plans to enforce only against the most “egregious, over-the-line claims”

Current U.S. State Laws



No Two States The Same

- **Permit process:** open vs. competitive
- **Vertical integration:** required vs. prohibited
cultivator → processor → distributor → testing lab → dispensary
- Different **advertising** standards
- **Home grow** permitted vs. not
- Different **forms** (smoking, vaping, oils, edibles)

Common Licensing Requirements

- **Background checks**
- **Operations** and **security** plans
- **Environmental** compliance and **water** plans
- License **fees**, bond, and taxes
- Local and/or multi-agency **approvals**

Missouri

- **Conditions** - broad and including chronic pain, debilitating psychiatric disorders, and gives doctors discretion
- Permitted **forms** of intake - broad as well
- **Licenses** - Cultivation, infused manufacturing, testing, dispensing; Certification for transport
- **Application** process and timetable
 - Applicant majority owned by natural persons who have been Missouri citizens for at least 1 year prior to app.
 - 6/4 - App. forms and instructions become available
 - 8/3 - Applications accepted

Missouri (cont'd)

- **Purchase limits**
 - Purchase up to 4 ozs. in 30-day period
 - Possess up to 60 day supply (90 day for cultivating patients)
- **Public consumption** prohibited
- **Home grow** - Up to 6 flowering plants, kept in enclosed, locked facility
- Permission for **attorneys** to practice

Employer Rights & Limitations

- States have taken **varied approaches**
- **MO**
 - Maintains employers' right to terminate employee, even if a licensed patient, for being under the influence at work
 - Zero tolerance testing?
 - ADA and Missouri Human Rights Act: “reasonable accommodations” required?
- No requirement for **health insurance** to cover
- Review existing drug policies; training to spot impairment

Ancillary Product/Service Suppliers

- Federal **vs.** state law
- **Risks** of aiding/abetting, conspiracy, money laundering
- **Low enforcement risk**
- **Banking** implications
- **Real estate**

International Legalization

- **Uruguay:** first country to legalize for adults
- **Canada:** medical, and added adult use October 17, 2018
- **Medical legalization:** Mexico, Argentina, Columbia, Chile, Jamaica, Germany, Denmark, Greece, Italy, Catalonia, Croatia, Czech Republic, Macedonia, Poland, Turkey, Australia, Israel, South Africa; France coming soon

Industry Future

- Disrupt several sectors:
 - Alcohol, beer, pharma, health & wellness, food ingredients
- **Life Science/Pharma:**
 - CBD, cannabinoids, ratios, terpene mixes, testing
- **Adult/Recreational Use**
- **Health & Wellness/Ingredients**

Questions?



Q&A

Thank you

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