

Cannabis Client Alert – Week of March 4, 2024

DENTONS

March 7, 2024

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Federal

Debate on Rescheduling Heats Up – The leader of the Congressional Cannabis Caucus, Rep. Barbara Lee (D-CA), came out in **opposition** to rescheduling marijuana from Schedule I to Schedule III, arguing that rescheduling is only an “incremental step” that will delay full legalization “another 50 years.” Criminal justice reform groups have also **warned** that rescheduling would not fulfill President Biden’s campaign promise to decriminalize cannabis and would “leave most individuals and communities behind and subject to continued criminalization, harms, and disparities.” On the other hand, US **law enforcement leaders** and **veterans’ advocacy groups** have recently added their voice in support of rescheduling, explaining that it would help law enforcement better prioritize “limited public safety resources” and allow veterans to access to the “widest array of possible treatments.”

US Department of Labor Shifts Cannabis Policy for Job Training Program – Federal agencies continue to reassess their policies on cannabis use. Mostly recently, the US Department of Labor, for example, announced that its national job-training program, Job Corps, will now allow participants who test positive for drug use to enroll in a prevention and education service and take another drug screening test 40 days later.

SAFER Banking Negotiations Narrow in on Key Section – Rep. Blaine Luetkemeyer (R-MO) told reporters that negotiations between lawmakers for the SAFER Banking Act are down to “the last few words” in Section 10 of the bill, which addresses protections for businesses like gun manufacturers and oil and gas companies that attract political scrutiny.

FDA Exploring CBD Regulations – After facing criticism from the hemp industry and lawmakers over its previous decision not to regulate CBD, the Food and Drug Administration (FDA) is “actively” exploring an “appropriate

regulatory framework for CBD.” According to an FDA official, the agency continues to believe that CBD products would not “be able to meet the safety standards . . . in place for foods and dietary supplements.” Therefore, the agency wants to “work with Congress on this effort,” which could include new legislation around CBD product labeling and packaging.

State

AR – Arkansas Attorney General Tim Griffin approved a ballot initiative that seeks to improve medical cannabis access in the state and create a trigger law to legalize adult-use cannabis if it is decriminalized at the federal level. The ballot initiative would also allow patients to grow cannabis at home and would loosen provider certification requirements. Advocates must now collect and submit signatures by July 5 for the initiative to qualify for the November election.

AK – A task force in Anchorage is considering how the city will use tax revenue from cannabis sales for child care and early education, which could include subsidies for parents seeking child care and increased salaries for child care workers. The task force has been working on these plans since voters approved a ballot initiative in 2023 to dedicate all of the city’s cannabis taxes to child care.

CA – The California Department of Cannabis Control (DCC) published a new **database** intended to help consumers, stakeholders and lawmakers understand industry trends. The database includes four interactive dashboards showing data on licensing, harvests, pricing and monthly sales. Although the sales dashboard currently only includes data from 2020 through June 2023, DCC hopes to have all 2023 sales data available on the dashboard within the coming months, and thereafter will post sales data on a quarterly basis.

KS – During a debate in the Kansas House of Representatives, Rep. Silas Miller (D) introduced an amendment to remove cannabis from the state’s controlled substances law, effectively legalizing cannabis in the state. Republican lawmakers cited the amendment as premature given the State Senate’s efforts to create a medical cannabis pilot program. The amendment ultimately failed to pass on a 41-80 vote.

KY - Kentucky has chosen to partner with Metrc for its first track-and-trace contract in the state’s medical cannabis program. Like other state medical programs, Kentucky requires operators to closely track each plant and the resulting products from seed-to-sale. This is Metric’s 25th government contract. Kentucky’s cannabis program will begin sales in January of next year.

MO – A Missouri court is set to hear one of two lawsuits that may determine whether counties can “stack” their own recreational cannabis taxes on top of city taxes. The question before the courts is whether local taxes can be “stacked,” meaning a dispensary within the boundaries of an incorporated city must collect both a county-imposed tax and a tax authorized by a vote in the municipality, or if only the city tax applies. The Missouri Cannabis Trade Association has called the effort to stack taxes an “unconstitutional money grab.” For their part, county officials and tax advocates have stated the practice is business as usual, arguing that taxes are frequently stacked.

NE – New polling found that 70 percent of respondents are ready to legalize medical cannabis in Nebraska, with a majority responding seeking a novel alternative to property, sales and income taxes. The newest poll, conducted by Neilan Strategy Group, mirrors polling done by the Nebraskans for Medical Marijuana (NMM), a cannabis advocacy group that has twice failed to get cannabis legalization passed in the Nebraska Legislature. NMM’s current efforts to receive signatures for a ballot initiative, however, are “much farther ahead” than similar efforts in 2020 and 2022.

NH – The New Hampshire House of Representatives voted to advance a bill that would legalize cannabis for adults and create a tightly regulated legal cannabis industry. The measure, **HB1633**, was passed by the full House in late February. If passed by the state’s Senate and signed by the governor, the legislation would legalize cannabis for

adults aged 21 and older, who would be permitted to possess up to four ounces of cannabis, and would legalize the commercial production and sale of cannabis under a tightly regulated model that permits only 15 retail cannabis dispensaries to operate in the state.

NV - Nevada's first cannabis consumption lounge is set to open. The lounge, called Smoke and Mirrors, is the first to receive its final license in Nevada. The Nevada Cannabis Compliance Board also released a **statement** about the lounge, sharing that it "is the first cannabis consumption lounge inspected by board agents to ensure the facility is adhering to state regulations."

NY – New York's legal cannabis operators have about two months to implement costly seed-to-sale tracking software. New York's Office of Cannabis Management emailed licensees notifying them that they have until April 29 to purchase software that can integrate with the state's seed-to-sale system. Cannabis operators have complained about the costly implementation efforts, noting, "it's just another double standard for cannabis in New York" that does not apply to beer or other vice products.

NY – While New York state levied more than \$25 million in fines against unlicensed smoke shops for selling cannabis products since last year, only a miniscule percent of those fines have been collected due to appeals and a lack of resources. According to sources familiar with the state's enforcement process, only some \$22,500 in fines has been collected.

OH – The director of Ohio's Division of Cannabis Control (DCC) has stated that unless the Ohio legislature decides to intervene to speed up the approval process, approvals for recreational cannabis licenses will begin on September 7. DCC expects to approve between 300 and 350 recreational cannabis licenses.

OR – The Oregon Senate passed a bill on March 1 that would recriminalize drug possession, rolling back a voter-approved decriminalization policy that has been in place for three years. Under House Bill 4002, which passed with a 21-8 bipartisan vote, an individual caught with small amounts of illicit drugs like methamphetamine or fentanyl could face up to six months in jail. The bill offers options to pursue drug treatment rather than receiving criminal penalties, and allows individuals convicted of possession to have their record automatically expunged.

UT – Lawmakers in Utah introduced a **bill** that would cut funding to cities that refuse to recognize medical cannabis as a legitimate medical treatment. According to bill sponsor and Democratic Senate Minority Leader Luz Escamilla, some local governments have questioned employees about their status as medical cannabis patients and disciplined those who say they have received a medical cannabis card.

VA – After weeks of negotiations, lawmakers in Virginia approved a proposal that would legalize adult-use cannabis sales in the state beginning May 1, 2025. **Gov. Glenn Youngkin** (R) previously indicated that he did not have "any interest" in legalizing cannabis sales under the bills that were introduced this session, but he has not said whether he would veto the bill.

VT – A federal judge in Vermont granted Marble Valley Regional Transit District's **motion to dismiss**, finding that the employee plaintiff could not state a civil rights claim under the Americans with Disabilities Act (ADA) for disability discrimination based on his use of medical cannabis. Although "mindful" of the fact that Vermont and other states have legalized medical cannabis use, the judge reasoned that, because cannabis remains a Schedule I drug under the Controlled Substances Act, the plaintiff could not claim the ADA's protections for his termination as a result of cannabis use.

WI – A Republican-led proposal to legalize medical cannabis in Wisconsin died in February. Assembly Speaker Robin Vos (R) indicated that there would still be a public hearing to build support for passage of legalization bill next session, but will not occur until after the Assembly has adjourned for this year.

Hemp

Federally Funded Researchers Identify New Methods to Distinguish Between Marijuana and Hemp – The National Institute of Justice, which is part of the Justice Department, shared the results of two agency-funded research projects focused on cannabis lab testing. Researchers discovered that they can isolate the THC content, as well as other cannabinoids, using two different types of mass spectrometry. Gas chromatography-mass spectrometry is used to extract THC from a sample and apply the test to find the exact cannabinoid content, and direct analysis in real time-high-resolution mass spectrometry allows researchers to determine the amount of THC present in “baked goods, candies, beverages, and plant materials with minimal pre-treatment steps.”

Study Shows Online Searches for Delta-8 Products Higher in States Without Legal Cannabis Sales – A recent **study** by CBD Nationwide reported that searches for delta-8 THC products are 1.9 times higher in states where adult-use cannabis sales remain illegal. Similar trends were observed for delta-9 THC, with search interest being 1.27 times higher in states where adult-use cannabis is illegal.

FL – The House Appropriations Committee in Florida advanced **HB 1613**, which would ban many intoxicating hemp products, including delta-8 THC, delta-10 THC, hexahydrocannabinol, tetrahydrocannabinol acetate, tetrahydrocannabiphorol and tetrahydrocannabivarin, and impose additional restrictions on the amount of delta-9 THC that can be present in various products. The sponsor of the bill, Rep. Tommy Gregory (R), stated that the bill was intended to clear up “mistakes” that previous legislatures made in not regulating “psychoactive” components derived from cannabis.

MO – Missouri lawmakers are debating bills to regulate intoxicating hemp products, such as delta-8 THC, similarly to legal cannabis. The proposed legislation involves deciding whether the Missouri Department of Health and Senior Services (DHSS) or a separate regulating body should oversee these products.

SD – South Dakota’s Senate passed a bill that would ban all intoxicating hemp-derived products, including delta-8 THC. This comes after the state’s House of Representatives passed an amended version of the same bill that would only limit the ban to lab-grown chemicals (e.g., THC-O). The bill will now head to a conference committee to reconcile the two versions.

International

Australia – At a hearing for a cannabis legalization bill last week, Australian lawyers argued that the legal system is strained by prosecuting small cannabis possession offenses, which do not align with health benefits. They also contended that over-policing affects young and First Nations people, urging a shift in approach and citing the ineffectiveness of the current system in deterring usage.

Bermuda – Advocacy groups are pressing Bermuda to make progress on cannabis reform, citing the quasi-legal status of the drug leading to violence in conflicts. While cannabis possession for personal use is decriminalized, the Cannabis Licensing Act 2022 faced issues due to UN obligations. Advocates are calling for clear communication and the introduction of a safe and accessible cannabis market.

Canada – The British Columbia Liquor and Cannabis Regulation Branch announced changes allowing for consuming cannabis or spending time after consumption in certain spaces. Smoking and vaping cannabis on public patios are now permitted where tobacco use is allowed, following local or Indigenous government regulations. The new bulletin emphasizes that cannabis consumption is still prohibited within cannabis stores, and licensees must ensure that consumption near their establishments occurs outside the premises.

Germany – Germany's Bundestag has approved legislation to decriminalize limited cannabis possession and allow recreational purchase through nonprofit "cannabis clubs." Health Minister Karl Lauterbach cited the need to combat the black market and protect young people. The legislation, effective on April 1, permits possession of up to 25 grams for adults, growth of three plants and the establishment of cannabis clubs.

Spain – Spain's Ministry of Health is advancing a new law to legalize medical cannabis, currently in the dialogue phase for public input. Currently, the proposed law does not include personal cultivation, which is one of the key demands of medical patients.

Thailand – Thailand's health minister aims to ban recreational cannabis use by year-end, proposing a new bill to outlaw such use. The move threatens numerous cannabis businesses that emerged following a decriminalization effort two years ago. The bill is set for approval by lawmakers in the lower house by October's end, signaling a shift away from the previous decriminalization trend.

Business

Cannabis Rescheduling Could Spur Inventory Accounting Change – Relief from Section 280E tax restrictions would be one of the biggest changes to the cannabis industry that would come from the US government rescheduling marijuana to Schedule III. In light of this potential change, cannabis businesses may need to reevaluate inventory accounting methods for optimal tax benefits.

Medical

FDA Warns Those Pregnant to Think Twice Before Imbibing Cannabis – In a tweet on X (formerly Twitter), the Food and Drug Administration reminded the public that cannabis use during pregnancy could impact the baby's brain, growth and birth weight.

Australia-Wide Study Reports Positive Effects of Medical THC Products – A new study, published by *PLOS One*, revealed, among other things, that medical users of THC-dominant products reported higher levels of perceived effectiveness compared to those using CBD-dominant products. The research, derived from a cross-sectional anonymous online survey titled "Cannabis as Medicine Survey 2020," focused on understanding how various cannabinoid compositions, including THC and CBD, influenced usage patterns and perceived effectiveness among users.

Findings Indicate Cannabis Effective Harm Reduction Tool for Stimulant Drug Cravings – According to researchers from the University of British Columbia, as published in the journal *Addictive Behaviors*, participants who reported using stimulants, including crystal meth, claimed that their use of, and cravings for, stimulants decreased during periods of cannabis consumption. For those who used crack cocaine, however, the use of cannabis was not significantly associated with any reduction in its usage.

Media Reports Growing Public Health Concern Related to Contaminants Found in Cannabis and Hemp – According to the *Wall Street Journal*, certain studies and reports indicate that hemp and cannabis products can contain harmful substances such as heavy metals. Despite the legalization of hemp and cannabis products in several states, regulatory frameworks governing product quality and safety vary, leading to inconsistencies in testing and monitoring practices.

Psychedelics

First-Ever Export of Botanical Psilocybin to Israel – Psychedelics drug development company Filament Health Corp. announced the expansion of psilocybin research and development with the drug's export to the Jewish state. Hadassah University Hospital will reportedly be using the substance—in a clinical trial—to examine the drug's effects on, among other things, treatment-resistant obsessive-compulsive disorder.

Arizona Senate Approves Psilocybin Service Centers Bill – Last month, the Arizona senate approved a bipartisan bill to legalize “psilocybin service centers,” where participants would receive psychedelics in a medically supervised setting. The bill, SB 1570, has now been transmitted to the state House of Representatives for consideration.

Vermont Lawmakers Review Proposal to Legalize Psychedelics – The Vermont Senate recently began considering a bill, **S. 114**, to legalize psilocybin. Although the Senate Health and Welfare Committee did not take official action on the matter, Chairwoman Sen. Virginia Lyons (D) stated that further testimony on the bill would occur over the upcoming weeks.

New Mexico Senate Signs Psilocybin Memorial Legislation – The state's Senate has passed a non-binding resolution, known as Senate Memorial 12 (**SM-12**), officially requesting the Department of Health to study “the establishment of a program for psilocybin mushrooms to be used for therapeutic medical treatments.”

Dentons Speaks

Dentons Tax partner **Mark Loyd** was quoted in **Law360** regarding cannabis rescheduling and Section 280E.

Peter Homberg, head of Dentons' European Cannabis group, spoke on the Mary Jane Society podcast about the legalization of cannabis in Germany.

Dentons Cannabis senior managing associate **Lauren Estevez** moderated a panel at Benzinga's Cannabis Market Spotlight on the “State of the State California Cannabis.”

On March 18, Dentons' Cannabis partner **Joanne Caceres** will moderate a discussion with industry experts on “Cannabis Legislation in 2024 – What Needs to Happen and What Gaps Still Exist” during 1871 & Grown In's Cannabis Innovation Lab. Registration for the event can be found [here](#).

Please [click here](#) for more information on the Dentons US Cannabis group.

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