

The Chronicle: American Adult-Use Marijuana Laws

February 18, 2020

Adult-use marijuana has arrived in America. Eleven states and the District of Columbia have legalized the use of marijuana by adults without a prescription. While the legalization movement began in the American West, two of the most recent states to legalize adult-use marijuana are in the Midwest (Michigan and Illinois). In addition, while all the previous states that legalized marijuana sales did so through a constitutional referendum or initiative process, Illinois became the first state to legalize marijuana sales through the legislative process.

Today, talk of legalization knows no bounds. Connecticut, New York, New Jersey, and Pennsylvania have reportedly flirted with the idea of forming a "bloc" that will legalize adult-use marijuana at the same time and by imposing the same statutory scheme. Activists are pushing measures to put legalization on the ballot in 2020 in Arizona, Arkansas, Montana, and Oklahoma. On the heels of a successful constitutional referendum legalizing medical marijuana in Florida, petition gatherers had sought to put another constitutional referendum on the 2020 ballot, this time to legalize adult-use marijuana, but are reportedly now aiming for the 2022 ballot.

Each week brings another article about a multimillion-dollar public offering, merger, or acquisition. True, the industry has experienced some financial turbulence recently, but it is undeniable that there is a significant amount of money already invested in the marijuana industry and being produced by it. While thinking about these economic ups and downs, it is important to keep in mind that adult-use marijuana is still illegal at the federal level and in more than three-quarters of states.

But that reality is changing.

Bills have been introduced in Congress to legalize marijuana and to permit financial institutions to provide lending and banking services to marijuana businesses. Presidential candidates, including Sens. Bernie Sanders and Elizabeth Warren and Mayor Pete Buttigieg, have said that they would

legalize marijuana if elected, and some political observers have speculated that President Trump is also open to the idea.

In light of the ever-growing interest in marijuana - financial, social, and otherwise - we have conducted a comprehensive analysis of the statutory schemes of the 12 jurisdictions that have legalized adult-use marijuana. The analysis identified more than 250 noteworthy issues affected by statutes that either appear in multiple states' statutory schemes or are unique to a particular state, and, in some cases, are of interest because of their unique nature. These statutory provisions have been grouped into the following 11 categories:

- [Regulator](#)
- [Licensing](#) (further broken down into the following subcategories)
 - Licensing, Generally
 - [Retail Licenses](#)
 - [Cultivation Licenses](#)
 - [Other Licenses](#)
- [Health and Safety](#)
- Local Government Powers
- Personal/Homegrow Rights
- Advertising
- Fees, Taxes, and Funds
- Miscellaneous

We have compiled and will publish over the coming weeks a series of charts cataloging which states have enacted a statute that relates to each "type" of statutory provision identified and providing citations to those statutes. Each chart corresponds to one of the categories listed above. In addition, we have drafted a series of articles intended to work hand in hand with the charts. The articles provide a summary description of the statutory provisions referenced in the charts.

Each of the categories is further broken down into "Common Provisions" and "Uncommon or Unique Provisions." Discussion of each particular issue includes highlights of any unique or divergent takes that a particular state or states have taken on the topic. Thus, an issue may be listed as a "Common Provision," because most states include a provision covering the topic, with the discussion of that particular issue highlighting any exceptional approaches an individual state has taken. The

"Uncommon or Unique Provisions," on the other hand, refer to issues that are not addressed at all by the majority of states that have legalized adult-use marijuana.

The corresponding chart for each category provides the specific statutory citation for the summary description provided in each article. Where possible, we have provided citations to the specific subsection or paragraph where the relevant provision appears within the statute. When reviewing these materials, the reader should turn to the statute cited in the chart to find the exact form of the statutory text.

It is important to note that this series does not address federal law, nor does it address any regulations adopted by each of the states that have legalized adult-use marijuana. This series does not engage in any kind of analysis as to which variation of a particular statute yields the "best" outcome. Rather, this series is strictly focused on identifying and compiling the various aspects of each state's statutory scheme. This compilation may enable future efforts to analyze the statutory schemes overall as well as the individual statutes in order to determine the "best" approach or approaches. That analysis is beyond the scope of this initial series of articles.

It is our hope and intent that this series will not only serve as a guide to marijuana businesses navigating different state statutory schemes, but also as a helpful reference for state legislators and their staff regarding what has already been tried elsewhere. In this way, legislators in states that have yet to legalize adult-use marijuana may not have to reinvent the wheel as they contemplate whether and how to pursue legalization. For that matter, legislators in states that have already legalized marijuana may also benefit from seeing what has been tried elsewhere as they seek to improve their own state's statutory scheme.

Authored By



Benjamin E. Stearns

Related Practices

[Cannabis Law](#)

publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.