

TYPES NOT MAPPED YET October 11, 2023 | TTR not mapped yet | Michael A. Rosenblum, Barry M. Weisz

Cannabis Regulations: State-by-State Rankings for 2023

Thompson Coburn LLP has created an updated state-by-state ranking of state cannabis regulations. Newly revised for 2023, this guide provides an overview of cannabis laws in every state, plus the District of Columbia and U.S. territories. The analysis lists each state from most favorable to cannabis businesses to most restrictive.

The report, now in its fifth year, is researched and produced by the Firm's Tracking Cannabis blog team and authored by [Michael Rosenblum](#) and [Barry Weisz](#), partners in Thompson Coburn's Los Angeles office. The depth of research put into this guide annually makes it an unparalleled resource for those in the cannabis industry.

The rankings consider factors including Cannabidiol (CBD), medical and recreational cannabis, non-profit cannabis entities, commercial cannabis licenses, cannabis regulatory agencies, developments and trends, and business opportunities. Below are highlights from this year's report in the states in which Thompson Coburn maintains offices, as well as some other notable developments. The complete publication can be found below.

Illinois climbs to the #2 spot (previously #6). It was the first state to legalize adult-use cannabis through legislation (in 2019), and its bill legalized adult usage and purchase of cannabis. The state is home to some of the largest multi-state operators in the country, including Cresco Labs, Verano Holdings, PharmaCann and Green Thumb Industries. As of 2023, alterations to the application process for social equity licensees have expanded license opportunities. A removal of residency requirements and a reduction in application fees, for example, speak to these developments in inclusivity.

Dropping out of the top spot is **California**, which now comes in at #4. The first state to legalize medical marijuana, since then, it has legalized adult-use marijuana, and created a uniform licensing regime for medical and recreational marijuana use across the state. Recent cannabis sales in the state have seen a slight downturn, however: a reported \$5.3 billion in sales in 2022 in comparison to a reported \$5.77 billion in 2021. Sales in 2023 were on track to see another decline, although sales will still exceed those of any other state. Critics credit the decline to the thriving illicit cannabis market, surplus in product, local governments' reluctance to accept legal cannabis, and high taxes. Legislators have been working to improve the downward trend with new legislation and enforcement measures.

Missouri made a huge leap up the list, coming in at #7 (previously #33 in 2022). In November 2022, Missouri voters approved Amendment 3, a public ballot initiative to amend the Missouri Constitution and legalize adult-use cannabis. The legalization follows a Missouri voter legalization of medical-use cannabis in 2018. Over 300 licenses were provided at the start of February 2023, and adult-use sales promptly began. Cumulatively, Missouri surpassed \$1 billion in sales in May 2023, including medical and adult-use cannabis. The strong demand has caused price increases and product shortages, a growing pain that contrasts with other states that face falling prices and product oversupply. Current licensees will not be the only sources for cannabis, as regulators are required to issue at least 144 microbusiness licenses through a lottery system.

New York legalized recreational adult-use marijuana in 2021 and jumped from #15 to #8. Through 2022, the Office of Cannabis Management awarded over 200 cultivation licenses to New York-based entrepreneurs who were affected by cannabis-related prohibitions in the past as a part of the state's social equity initiative. The process for retail licenses took much longer, with the first 36 licenses being awarded in November 2022. Litigation caused licensing delays in various New York areas, initially affecting over one-third of planned licenses. On December 29, 2022, the first sales of adult-use cannabis were made at Housing Works Cannabis Co. As of July 2023, 20 adult-use businesses were open in New York with 16 locations, but only amounted to \$16.5 million in sales. Despite the slow start, over 200 adult-use licenses had been issued as of July 2023, and the Office of Cannabis Management voted to settle the litigation restricting licensing. In September 2023, OCM passed a resolution allowing the state's

medical marijuana operators to apply for adult-use retail license. The move is expected to open the door for large multistate operators to enter the state's adult-use market.

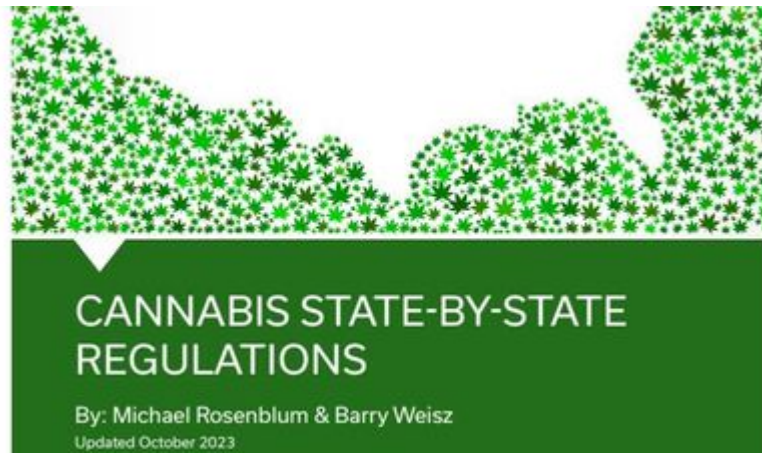
The **District of Columbia (#19)** legalized adult-use cannabis in 2014 through popular ballot Initiative 71 but fell two spots as the sale of cannabis for recreational use remains prohibited. The future of cannabis law in D.C. is dependent on the U.S. Congress, who prohibited actual sales of adult-use cannabis. In March 2023, Congress allowed the Medical Cannabis Amendment Act to go into action. The Act formalized prior temporary actions that allowed D.C. residents to self-certify as medical cannabis patients, eliminated the cap on dispensaries allowed in a specific district, temporarily lifted the plant limit for licensed cultivators, and extended tax relief.

Texas made a significant jump to #23 from #35. In 2023, state Democrats introduced House Bill 1937. The legislation would have decriminalized possession of 2.5 ounces and less for adults over the age of 21. According to polls, a majority of Texas voters supported the bill, although the bill remains in committee. Texas continues to punish marijuana offenses harshly – just 2 ounces can elicit a fine of up to \$2,000 and 180 days in prison. At the local level, a ballot initiative in Austin, Texas, passed, eliminating enforcement of “low-level marijuana offenses” and a banning “no-knock” warrants.

Other rankings of note include:

- **Michigan (#1)** made the leap to the top of the list, previously at #7. Michigan voters legalized adult-use cannabis in 2018, making it the first state to do so in the Midwest. Sales have continued to accelerate, reaching \$2.3 billion in 2022. Based on current monthly sales averages, total 2023 sales are expected to reach \$3 billion, the highest sales per capita in the country. As of July 2023, 700 retailers are licensed in the state.
- **Nevada** fell one spot in this year's rankings to #5 due to a decrease in cannabis sales and state regulators implementing a freeze on accepting applications for new licenses. Senate Bill 277, an omnibus marijuana signed into law in June 2023, may help the industry there return to solid growth. The bill holds benefits for industry operators, including expansion of the retail market and reduction of excess fees, and creates a dual license for medical and recreational retailers.
- **Florida** rose from #25 to #12, as the state begins easing its highly restrictive cap on licenses awarded to Medical Marijuana Treatment Centers (MMTCs). In October 2021, the Office of Medical Marijuana Use (OMMU) released an emergency rule regarding applications for MMTC licenses set aside for Black farmers covered by historic class action litigation. Lawmakers passed HB 387 in May 2023, directing the Department of Health to license as any such application that did not have any deficiencies. The state will soon award up to 22 additional MMTC licenses after accepting applications during a brief window from April 24-28, 2023. On a recreational marijuana front, a new campaign has begun targeting the 2024 ballot, and it has surpassed the nearly 900,000 signatures required.
- **Maryland** rose from #21 to #14 after becoming the 20th state to legalize adult marijuana use for recreational purposes. The enabling legislation went into effect on July 1, 2023. Many predict huge growth in Maryland's market thanks to the limited access to legal marijuana available to consumers in surrounding states.
- **Minnesota (#18)** rose five spots after it became, in May 2023, the 23rd state to legalize adult-use cannabis. It previously legalized medical use in 2014. License applications for adult-use cannabis are set to begin in May 2024, and sales would begin in January 2025.
- **Delaware (#24)** legalized adult cannabis use in 2023. It fell four spots, as numerous other states with larger markets passed legalization measures H.B. 2 established new regulatory and tax provisions for marijuana in the state, including the office of Marijuana Commissioner. The success of these two bills came after years of efforts, including the 2022 passage of similar legislation that was ultimately vetoed by Democratic Gov. John Carney.
- **Idaho (#52)** swaps positions with Nebraska this year to take the last spot on the list. Despite bordering four states that have legalized adult-use cannabis and another state that allows medical cannabis, Idaho has not legalized medical cannabis use, nor has it legalized adult use. Idaho's current attempt to legalize medical cannabis is the Idaho Medical Marijuana Act of 2024, a ballot initiative filed to be on the ballot for the 2024 election.
- New to this year's guide is the inclusion of an entry on the **U.S. Virgin Islands (#43)** and other U.S. territories. The U.S. Virgin Islands legalized adult-use cannabis on January 18, 2023, and provides massive tax cuts, including a 90% reduction in corporate income tax, to eligible companies that operate in the territory.

Thompson Coburn advises clients on state laws governing the business of cannabis to facilitate compliance with those state laws. Federal laws concerning cannabis currently conflict with state laws in states that have legalized cannabis or possession of cannabis. Although federal enforcement policy may at times defer to these states' laws and not enforce conflicting federal laws, interested businesses and individuals should be aware that compliance with state law in no way assures compliance with federal law, and there is a risk that conflicting federal laws may be enforced in the future. In addition to this Cannabis-specific note, readers should review Thompson Coburn's Conditions of Use / Disclaimers page containing other important information.



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