

Cannabis Industry Quarterly Update

Q3-Q4 2024

A quarterly update from Benesch's Cannabis Industry Group

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Key Issues

Historic DEA marijuana rescheduling hearing opens, paused until mid-January

Historic hearings to reconsider marijuana's federal status will start mid-January, as announced by U.S. DEA Judge John Mulrooney II. The focus will be on whether to reclassify marijuana from Schedule 1 to Schedule 3, impacting the \$32 billion U.S. cannabis industry. Hearings will run from Tuesday to Thursday until a decision is reached. A ruling is not expected before February. The process will involve strict evidence and testimony guidelines, and additional filings are due December 13 and January 3. Mulrooney emphasized the hearings are not to debate marijuana's benefits but to address specific legal and medical issues.

Appeals Court overrules DEA synthetic cannabinoid definition

A recent [Federal Appeals Court decision](#) challenged the DEA's ban on synthetic cannabinoids. In response to an [employment dispute](#) in which an employee challenged their termination for a positive drug test, the panel of judges rejected the DEA's definition that THC-O, a synthetic cannabinoid, is illegal. The Appeals Court, using a recent Supreme Court decision that no longer requires courts to defer to agency interpretations, found that because THC-O, along with other novel cannabinoids, aren't mentioned specifically in the 2018 Farm Bill, they are not covered by said bill. The result has some cannabis attorneys believing the ruling affirms the legality of intoxicating hemp products that were not explicitly mentioned in the 2018 Farm Bill. However, other attorneys are saying that the ruling does not mean that all products derived from hemp are lawful.

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Key Issues (continued)

Major marijuana multistate operators declare freedom from IRS Code, IRS maintains they are still covered

Five major marijuana multistate operators (MSO) [declared their "freedom"](#) from Section 280E of the Internal Revenue Code. The code says, "no deduction or credit shall be allowed" for costs incurred during the "trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act)." The proposed rescheduling of marijuana would allow companies to take advantage, but until then the IRS has maintained that marijuana is still covered under Section 280E. The justifications the MSOs are using have not been made public and will likely remain so until they are challenged in a public forum such as federal district court or tax court.

Utah proposing changes to ban cannabinoids in industrial hemp

The Utah Department of Agriculture and Food is the latest state to [propose changes](#) to its industrial hemp rules to bring it in line with current industry best practices. The proposed amendment would prohibit the artificially derived cannabinoids HHC, THCP and THC-O from products sold in the state. Under the new guidelines, consumable products would fail testing if the artificially derived cannabinoids HHC, THCP or THC-O are present. [California](#) and [Missouri](#) issued similar actions to prohibit the sales of intoxicating hemp products.

National Institute of Standards and Technology now selling hemp reference materials to ensure laboratory testing accuracy

The National Institute of Standards and Technology (NIST) [introduced](#) a hemp reference guide to help laboratories accurately measure key components in cannabis products. The reference guide being sold by NIST will assist law enforcement in distinguishing between hemp and cannabis and ensure that manufacturers and regulatory agencies can verify the safety and labeling accuracy of cannabis products. To determine if a material is a controlled substance, labs must measure total THC content. However, recent studies, including one by NIST, have shown that THC measurements on product labels are often unreliable, posing safety and regulatory challenges.

The NIST hemp material, Hemp Plant Reference Material (RM 8210), addresses this issue by serving as a reference for accurate measurements. It includes precise amounts of total THC, CBD, and several other toxic elements, with uncertainty estimates for each. Labs can use this material to verify their measurement methods. If their results match NIST's within an accepted margin of error, their methods are accurate. If not, they will need to recalibrate their instruments or troubleshoot their methods.

Sources: NIST.gov

Industry Regulations

Federal

FDA could approve hemp as a tobacco additive, but marijuana won't be allowed even if rescheduled, congressional researchers say

The FDA says that despite being able to authorize tobacco products containing hemp-derived cannabinoids, it has not received any applications for such a product. Meanwhile even if it's rescheduled, marijuana could be banned as an additive for tobacco. The Congressional Research Service (CRS) report focused on the legal effects of rescheduling on FDA's regulatory authority added another layer of analysis about the potential impact of marijuana from Schedule I to Schedule III under the Controlled Substances Act (CSA). As CRS has pointed out in several recent reports, "marijuana would continue to be prohibited" even if it's moved to Schedule III. In order for it to be legally dispensed following rescheduling, FDA would need to approve specific cannabis products as medicines, and the agency typically does not grant such approvals for botanical drugs.

Source: Marijuana Moment

Post hearings on the DEA's efforts to reschedule cannabis: what you need to know

The DEA is working on rescheduling cannabis from Schedule I to Schedule III, following President Biden's call. This move is seen as a significant step towards federal legalization. The process involves public comments, hearings, and administrative reviews, which could take months or even years. There is growing support for rescheduling due to research showing cannabis's medical benefits and lower abuse risk. However, challenges remain, including regulatory hurdles, opposition from some lawmakers, and the complexities of aligning federal and state policies. The outcome will have major implications for cannabis research, medical access, and regulatory frameworks in the U.S.

Source: Reuter

Democratic lawmaker pushes GOP house speaker to put marijuana bills on floor after Trump support and Nixon revelation

Rep. Earl Blumenauer called on House Speaker Mike Johnson to bring marijuana legislation to the floor in light of President-elect Donald Trump's recent endorsement of state and federal reform, as well as newly unearthed audio capturing former President Richard Nixon conceding that cannabis is "not particularly dangerous." Blumenauer said the comments from Nixon, whose administration codified federal marijuana criminalization, represent "a devastating public admission of a devastating public policy."

Blumenauer discussed a series of cannabis bills that he believes could pass if brought to the floor, including the Marijuana Opportunity Reinvestment and Expungement (MORE) Act to federally legalize marijuana. He said bipartisan cannabis banking legislation and a proposal to promote veterans' access to medical marijuana are also "examples of policies that could easily clear the House if you simply bring them to the floor for a vote." Johnson, for his part, has consistently opposed cannabis reform, including on incremental issues like cannabis banking and making it easier to conduct scientific research on the plant.

Source: Marijuana Moment

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Industry Regulations (continued)

Trump signals support for reclassifying pot as a less dangerous drug, in line with Harris' position

President-elect Donald Trump signaled support for a federal policy shift to reclassify marijuana as a less dangerous drug, putting his position in line with that of Vice President Kamala Harris during the campaign. The commonality reflects a shift toward broad public support for legalization in recent years and marks the first time that both major-party presidential candidates support broad cannabis reform, according to the U.S. Cannabis Council. Trump posted on his social media platform that he would "continue to focus on research to unlock the medical uses of marijuana to a Schedule 3 drug."

Source: Associated Press

State

New polls show strong majority support for marijuana legalization, banking access and rescheduling in battleground states of Arizona and Nevada



Two new polls, conducted by The Tarrance Group and commissioned by The Scotts Miracle-Gro Company, are showing strong majority support for marijuana legalization, federal rescheduling and cannabis banking reform among likely voters in Arizona and Nevada. The surveys asked respondents about four marijuana-related issues, asking questions about views on medical cannabis legalization, adult-use legalization, marijuana banking reform and the federal scheduling status of cannabis. Per the surveys, Arizona showed a majority support for medical cannabis legalization (86%), adult-use legalization (69%) and banking reform (78%). Just 19% of respondents said they believe marijuana should remain a Schedule I drug under the Controlled Substances Act (CSA). Meanwhile, Nevada similarly backs medical cannabis (85%), adult-use legalization (71%), and marijuana banking access (80%). Twenty-two percent said they think cannabis should stay in Schedule I.

Source: Marijuana Moment

Bipartisan Pennsylvania lawmakers file new marijuana legalization bill as neighboring states see benefits of cannabis sales



About two months after circulating a memo with draft legislative language to build support for a bill to legalize recreational marijuana, bipartisan Pennsylvania lawmakers Reps. Aaron Kaufer (R) and Emily Kinkead (D) officially filed a proposal alongside 15 other cosponsors. In the original memo, the sponsors said that pushes for reform in neighboring states, such as Ohio, are setting those states up to capture Pennsylvania dollars in their market. The legislation would create a regulated cannabis market under the state Department of Agriculture, prioritize social equity and small businesses, enact safeguards to deter youth use and generate tax revenue for law enforcement and local governments.

Source: Marijuana Moment

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Industry Regulations (continued)

Alabama judge pondering lifting some medical marijuana licensing restrictions



Montgomery Alabama County Circuit James Anderson said in September he would consider “amending a temporary restraining order he levied in December 2023, and subsequently extended, to allow for licensing to proceed. The Alabama Medical Cannabis Commission (AMCC) awarded licenses in June 2023 to 21 medical marijuana companies in the state, but those permits were voided because of lawsuits over alleged irregularities in the scoring of applications. Until the legal issues around licenses are resolved, vertically integrated MMJ companies and stand-alone dispensaries are prohibited from selling medical marijuana to patients.

Source: *MJ Biz Daily*

Nevada officials take next step to stop penalizing boxers and MMA fighters over marijuana



Nevada regulators have now formally proposed to adopt a rule change that would protect athletes from being penalized for using or possessing marijuana in compliance with state law. While the Nevada State Athletic Commission (NSAC), which regulates unarmed combat sports such as boxing and mixed martial arts within the state, voted to send the regulatory amendment to the governor in 2023, they were also required to go through a separate rulemaking process to codify the policy, submitting it to the legislature’s Legislative Counsel Bureau (LCB) in May 2024.

In August 2024, LCB sent the reformatted draft proposal back to NSAC with a largely identical version of what the commission had originally submitted, with mostly technical and formatting changes. The commission now has two years to hold a hearing to adopt the final language. After that point, it will go back to LCB for another review to ensure that any changes meet legal requirements. Then, it heads to the legislature’s Legislative Commission, which will decide whether it should be officially enacted. While the final rule must still go through that process, NSAC has already informally adopted the policy going back to 2021, which it’s empowered to do under state statute, and has been waiving penalties for professional fighters who test positive for THC.

Source: *Marijuana Moment*

Hemp

Utah proposal would ban artificial cannabinoids in hemp



The Utah Department of Agriculture and Food said it is proposing changes to its industrial hemp rules “to conform with current industry best practices. The proposed amendment would prohibit the artificially derived cannabinoids HHC, THCP and THC-OAc from products sold in the state. The public had until Oct. 15 to submit comments about the proposal.

Under the new guidelines, consumable products would fail testing if the artificially derived cannabinoids Hexahydrocannabinol (HHC), 3-Heptyl-delta(1)-tetrahydrocannabinol (THCP) or tetrahydrocannabinol acetate (THC-OAc) are present, or “greater than 10% of the total cannabinoid peak area is comprised of unknown cannabinoids.”

Source: *MJ Biz Daily*

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Industry Regulations (continued)

New Jersey governor signs controversial bill restricting sales of hemp cannabinoid products



New Jersey businesses are temporarily banned from selling hemp products without a cannabis license under a controversial bill Gov. Phil Murphy (D) signed into law in response to years of complaints about legal loopholes that allow minors to buy hemp products. A recent bill signed into law in New Jersey has put hemp products, which are federally legal, under the purview of the state's Cannabis Regulatory Commission, the agency that oversees New Jersey's recreational and medicinal marijuana markets.

This means that New Jersey businesses are temporarily banned from selling hemp products without a cannabis license.

Source: Marijuana Moment

Federal appeals court decision raises spirits of hemp operators

A federal appeals court decision that challenges the DEA's ban in response to an employment dispute in which an employee challenged their termination for a positive drug test, arguing that the hemp-based products they admitted to using were legal under the 2018 Farm Bill. The result has some cannabis attorneys believing the ruling affirms the legality of intoxicating hemp products that were not explicitly mentioned in the 2018 Farm Bill. However, other attorneys are saying that the ruling does not mean that all products derived from hemp are lawful.

The ruling was based on the legal definition of THC-O per the DEA, declaring it illegal in a widely circulated opinion letter, which the Fourth Circuit rejected since it and other novel cannabinoids aren't mentioned in the law. The panel relied, in part, on a recent Supreme Court decision that no longer requires courts to defer to agency interpretations. In the court's decision, however, it did not find that THC-O was necessarily legal, stating that the decision ultimately is decided by the delta-9 THC content.

Source: MJ Biz Daily

California issues emergency regulations to ban intoxicating hemp products



California Gov. Gavin Newsom issued emergency regulations for intoxicating products derived from hemp. According to the California Department of Public Health (CDPH), the regulations come in response to increasing "health incidents related to intoxicating hemp products" and include:

- Establishing a minimum age of 21 to purchase hemp products.
- Allowing no detectable levels of THC or other intoxicating cannabinoids per serving of hemp-derived food, beverage or dietary products intended for human consumption.
- Limiting the number of servings of hemp products to five per package.

Speaking at a news conference announcing the emergency action, California Health and Human Services Secretary Dr. Mark Ghaly said the CDPH encouraged the state to insist on undetectable levels of more than 30 cannabinoids.

According to the state, the emergency regulations "will take effect immediately upon approval by the Office of Administrative Law."

Source: MJ Biz Daily

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Industry Regulations (continued)

Missouri governor orders intoxicating hemp products removed from stores



Missouri's governor ordered the state's Department of Health & Senior Services (DHSS) to remove products containing intoxicating hemp substances from the market. Gov. Mike Parson cited health concerns and lack of research on hemp-derived psychoactive substances as well as their accessibility to children as the reason for the order.

Parson directed the DHSS to use Missouri's food code to prohibit the products after Secretary of State Jay Ashcroft rejected his executive order to do so. Without Ashcroft's approval and support from the state's Division of Alcohol and Tobacco Control, the DHSS acted without enforcement authority when it embargoed the products beginning Sept. 1. That means the agency must visit each retailer to put an embargo label on products that it deems "adulterated, or so misbranded as to be dangerous or fraudulent," according to Hemp Today. The agency also must ask a circuit court judge to get products embargoed.

In August, Missouri banned delta-8 and other intoxicating hemp-derived products, which have soared in popularity since the 2018 Farm Bill legalized hemp production and sales nationwide. Some states now are banning the products altogether while others are imposing strict rules. And a U.S. House of Representatives committee recently added an amendment seeking to ban intoxicating hemp-based cannabinoids nationwide to the chamber's draft Farm Bill.

Source: MJ Biz Daily

Legal hemp operators claim they're victims in New York marijuana crackdown



According to claims from hemp businesses and attorneys, "hundreds" of hemp shops have been raided or closed since a statewide crackdown on unlicensed marijuana sellers launched this spring, the Albany Times Union recently reported. New York legalized adult-use marijuana in March 2021, but the first regulated retail store did not open until December 2022. Earlier this spring, state lawmakers granted law enforcement and the OCM new powers to crack down on merchants suspected of selling marijuana without a license. Prominent elected officials such as New York City Mayor Eric Adams have credited the new powers, which allow local authorities to lock the doors of suspected illicit marijuana sellers—and keep them locked, pending administrative hearings—with helping to boost state-regulated sales. Through the end of July, authorities have shuttered more than 1,000 stores statewide. In New York City alone, authorities have seized \$20 million of unlicensed marijuana and issued \$51 million in fines, according to Adams, the New York City mayor. However, the crackdown is threatened by an August 14 judicial ruling in which a Queens County Supreme Court judge sided with a smoke shop's argument that "summarily shuttering businesses prior to taking the necessary steps to determine whether a violation has occurred" violates basic due process rights. On top of that, an increasing number of OCM-licensed hemp retailers say they've also been swept up in the dragnet despite abiding by state law.

Separate from the state's marijuana rules, the OCM also issues permits to retailers of hemp products. According to claims made in court, authorities are declaring hemp products "marijuana" without consulting lab results or conducting their own tests. In one instance, New York authorities kept a midtown Manhattan hemp shop closed based on a "subjective determination that marijuana was present," according to court records. Critics contend that instead of speeding along the glacial pace of reviewing license applications, authorities are focusing instead on a headline-friendly crackdown.

Source: MJ Biz Daily

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Payments

Marijuana banking reform still needed if rescheduling occurs, report says

Rescheduling marijuana “is unlikely by itself” to solve the cannabis industry’s longstanding banking woes, according to a new report from Congress’ official policy-research arm. An analysis in an August 26 report from the Congressional Research Service also reiterates a previous contention that recategorizing marijuana from Schedule 1 to Schedule 3, “without other legal changes, would not bring the state-legal medical or recreational marijuana industry into compliance with federal controlled substances law.” The report did allow that guidance from “federal or state agencies” might encourage banks to revisit their policies for dealing with cannabis. That said, for any guaranteed progress, Congress must pass long-stalled banking protections. Partisan bickering, as well as across-the-board dysfunction, have thwarted the SAFER Banking Act in Congress this session.

That’s consistent with previous observations that Congress still needs to pass legislation—such as the long-awaited SAFER Banking Act—that provides protections for financial institutions that offer services to cannabis businesses. The Justice Department’s May 21 proposal to move marijuana to Schedule 3 of the Controlled Substances Act would solve some of the marijuana industry’s tax woes because Section 280E of the Internal Revenue Code prohibiting most deductions for business expenses would no longer apply.

Source: MJ Biz Daily

General Cannabis Business Trends

Cannabis MSO Green Thumb Industries refinances via \$150 million credit facility

Cannabis multistate operator Green Thumb Industries closed a \$150 million, five-year syndicated credit facility led by Valley National Bank. According to GTI, the oversubscribed, non-brokered offering is the first bank-only financing of its kind in the regulated U.S. marijuana industry. The Chicago-based MSO plans to use proceeds of the credit facility and existing cash to retire \$225 million in senior secured debt due April 30, 2025, according to a news release. The notes have a maturity date of Sept. 11, 2029.

GTI reported an annual revenue of \$1.05 billion and a gross profit of \$528.05 million in February. The company also said it remains profitable “regardless of federal reform,” such as the proposed rescheduling of marijuana from Schedule 1 to Schedule 3 of the Controlled Substances Act.

Source: MJ Biz Daily

Planet 13 buys Las Vegas cannabis store and assets for \$6.9 million

Planet 13 Holdings announced its subsidiary would acquire Exhale Dispensary in Las Vegas and related assets for \$6.9 million. The acquisition includes a 3,158-square-foot marijuana retail store in Las Vegas, the associated medical and recreational retail license, cannabis inventory and other assets.

Under the deal, which the Nevada Cannabis Compliance Board must approve, Planet 13 will pay Exhale Brands Nevada \$4 million in cash at the time of closing and \$2.9 million—plus the value of cannabis inventory at closing—through a promissory note due a year from closing and secured by the acquired assets. The buy bolsters Planet 13’s operations in Nevada, where it operates a 112,000-square-foot store adjacent to the Las Vegas Strip and another location in Las Vegas. In late February, Thrive Cannabis Marketplace opened the first state-licensed marijuana lounge adjacent to its store just off the Las Vegas Strip.

Source: MJ Biz Daily

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General Cannabis Business Trends (continued)

Mammoth Distribution acquires marijuana company Papa & Barkley

Mammoth Distribution announced the finalized acquisition of Papa & Barkley, one of the most established cannabis brands in California. Financial details were not disclosed. Mammoth said it will work as a team with Papa & Barkley to develop better products, cut CO2 emissions by streamlining deliveries and fleets and strengthen retail partnerships. Mammoth, which produces cannabis brands Almora and Heavy Hitters, is also the exclusive distributor of 710 Labs in California. Papa & Barkley cofounder Adam Grossman said the Pasadena-based brand plans to expand nationally.

Source: MJ Biz Daily

Marijuana MSOs set up high-risk fight with IRS over 280E of tax code

Tens of millions of dollars in tax savings and a quick increase in available cash are some of the immediate short-term benefits for the five major marijuana multistate operators that have declared their freedom from Section 280E of the Internal Revenue Code. But in the long run, Ascend Wellness Holdings, Cresco Labs, Curaleaf Holdings, TerrAscend Corp. and Trulieve Cannabis Corp. are all but guaranteed a lengthy and costly fight with the IRS—the outcome of which could include millions of dollars in penalties on top of existing tax bills, according to tax attorneys and risk experts.

Section 280E says “no deduction or credit shall be allowed” for costs incurred during the “trafficking in controlled substances (within the meaning of Schedule I and II of the Controlled Substances Act).” The upshot is billions in “excess taxes” levied on American marijuana companies that otherwise would not apply. Freedom from 280E is one of the main advantages of rescheduling, and companies large and small are expected to enjoy significant windfalls once the Biden administration’s proposal to move marijuana to Schedule 3 is finalized. Until then, however, the IRS has made its position crystal clear. Exactly what justifications the major MSOs are using is still a closely guarded secret—and it is likely to remain secret until they are challenged in a public forum such as a federal district court or a tax court.

Source: MJ Biz Daily

Regulation/Enforcement

Missouri cannabis regulators recall 23,000 marijuana products



Missouri cannabis regulators recalled more than 23,000 marijuana products from several brands, saying they were not properly tested by Fulton, Missouri-based lab ClearWater Science. The Missouri Division of Cannabis Regulation (DCR) said it recalled the products because they were not “compliantly” tested, so the agency could not verify whether they meet state health and safety requirements. The DCR said it hadn’t received any reports of adverse effects; people who believe they might be having an adverse reaction should seek medical attention. Patients and consumers should stop using the recalled products and either dispose of them or return them to the dispensary where they were purchased.

In August 2024, the DCR issued a series of recalls for more than 132,000 marijuana products in a move that is believed to be the largest recall in any regulated cannabis market. The recalls were primarily tied to

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Regulation/Enforcement (continued)

three operators and involved non-compliant lab testing and improper tracking in the state-mandated Metrc system. The recalls, combined with stringent plain packaging rules that took effect September 1, are causing a shortage of marijuana products in the state. The number of stock-keeping units (SKUs) sold weekly at Missouri retailers has dropped 20% from 4,200 through most of the summer to 3,400 in late August and early September, according to data from New York-based cannabis wholesale platform LeafLink.

Related: [Missouri operators comply with new packaging rules amid marijuana recalls](#) — *MJ Biz Daily*

FDA can seize cannabis edibles and drinks, agency official tells congress, but usually just sends warning letters instead

During a hearing before the House Energy & Commerce Subcommittee on Health, FDA Deputy Commissioner for Human Foods James Jones was repeatedly pressed on the agency's ability to prevent intoxicating cannabis products, including federally legal hemp derivatives, from being commercially sold. While he said marijuana was generally not in the FDA's purview considering that it's a federally controlled substance and therefore mainly in the Drug Enforcement Administration's (DEA) jurisdiction, any food or beverage containing an unapproved "adulterant" such as THC is subject to market removal by FDA under the Federal Food, Drug, and Cosmetic (FD&C) Act.

Meanwhile, congressional lawmakers have been exploring legislative options to impose a general ban on hemp-derived cannabinoids such as delta-8 THC. Rep. Mary Miller's (R-IL) amendment to the 2024 Farm Bill, for example, was approved by a House committee in May and would remove cannabinoids that are "synthesized or manufactured outside of the plant" from the federal definition of legal hemp. The change is backed by prohibitionists as well as some marijuana companies, who've described the restriction as a fix to a "loophole" that was created under the 2018 Farm Bill that federally legalized hemp and its derivatives. Anti-drug groups, law enforcement and some health organizations have called on Congress to embrace the ban, arguing that "trying to regulate semi-synthetic cannabinoids will not work." In addition to Miller's amendment in the 2025 Farm Bill, the House Appropriations Committee in July approved a separate spending bill that contains a similar provision to prohibit cannabinoid products such as delta-8 THC and CBD containing any "quantifiable" amount of THC.

Source: Marijuana Moment

Senate committee will vote on 'DOOBIE Act' to block agencies from using past marijuana use to deny employment and security clearances

A Senate committee will hold a hearing to vote on a bill that would limit the ability of federal agencies to use past marijuana use as a factor in making employment and security clearance decisions. The legislation—titled the Dismantling Outdated Obstacles and Barriers to Individual Employment, or DOOBIE, Act—was initially set to receive a markup in the Senate Homeland Security and Governmental Affairs Committee in July. That hearing was later canceled, but now was set to go before the panel in September of 2024.

The DOOBIE Act states that covered agencies "may not base a suitability determination with respect to an individual solely on the past use of marijuana by the individual." The White House Office of Personnel Management (OPM) would also need to adopt that policy. The bill further says that "the head of a Federal agency may not base a determination that a covered person is ineligible for a security clearance solely on the past use of marijuana by the covered person." They additionally could not use prior cannabis use to deny a personal identity verification credential, which enables federal workers to access various facilities

Regulation/Enforcement (continued)

and information. Meanwhile, in June, the House approved the 2025 NDAA that includes a section to prevent military branches from testing recruits for marijuana as a condition of enlistment has been left intact, despite opposition from the White House. Also, this session, the House Rules Committee has blocked a series of proposed amendments to various spending bills that would have prevented covered agencies from testing job applicants for marijuana use in legal states. Rep. Robert Garcia (D-CA) has sought to enact the reform through numerous spending measures—so far without success.

Source: Marijuana Moment

California marijuana official fired after blowing whistle on lab fraud, lawsuit says



Tanisha Bogans, the former deputy director of laboratory services at the California Department of Cannabis Control, alleges she was fired after sharing reports of rampant THC potency inflation and labs' deliberate failures to detect pesticides and mold, according to a lawsuit filed in Los Angeles Superior Court. The lawsuit claims unlawful retaliation and violations of whistleblower protections as well as unpaid business expenses. The suit claims that regulators' "resistance" to address lab fraud has damaged the marijuana industry. Bogans' claims echo allegations made by testing labs and other marijuana operators who contend regulators aren't policing labs to manipulate tests to produce artificially high THC percentages and clear cannabis for sale that should be failed for pesticides or mold in order to win over customers.

In California, regulators this year have taken a more aggressive tack, revoking or suspending the permits of labs alleged to have engaged in such conduct. However, that all came after Bogans, who started overseeing the DCC's lab division in December 2022, was fired in January of this year, her suit claims.

Source: MJ Biz Daily

Lawsuit dismissed against 13 marijuana testing labs in California



Anresco Laboratories and Infinite Chemical Analysis Labs have withdrawn their lawsuit against 13 competitors they allege manipulated marijuana testing results to win customers and business. According to court documents, the two California-based labs filed a dismissal without prejudice on August 3 in U.S. District Court for the Central District of California. Infinite Chemical Analysis and Anresco were among the labs to cite the presence of illegal pesticides in numerous cannabis products for sale in California's regulated marijuana market and publicize those findings.

Since a June report, the DCC has issued several product recalls citing illegal pesticides. Most of the recalls have cited the presence of chlorfenapyr, a banned greenhouse pesticide typically sprayed directly on leaves to combat caterpillars, fungus gnats, mites and other pests. The mounting crisis has pitted labs, retailers, brands and regulators against each other while eroding confidence in the world's largest regulated marijuana market. In their joint lawsuit filed June 24, Anresco Laboratories and Infinite Chemical Analysis Labs claimed the 13 independent testing labs inflated potency or disregarded the presence of certain contaminants in certificates of analysis (COAs), jeopardizing the health of consumers.

Source: MJ Biz Daily

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Regulation/Enforcement (continued)

District of Columbia uses new powers to close, warn unlicensed cannabis stores



The marijuana regulatory agency in Washington, D.C., used new enforcement powers to shutter an unlicensed cannabis store that also was allegedly selling psychedelic mushrooms. This is a test case of the authority to shut down unlicensed sellers, which the Council of the District of Columbia granted to the marijuana regulator and law enforcement. In January, the D.C. Council authorized the ABCA “to summarily close (an) unlicensed retailer and seize any cannabis products” after investigations that uncovered unlawful sales. As of July, the ABCA had issued warnings to 60 unlicensed marijuana operators. Another 24 stores have been issued cease-and-desist orders of the kind that led to Supreme Terpene’s closure. The ABCA had issued several warnings to Supreme Terpene, which kept operating at its U Street location despite the warnings. That led to an undercover operation in which D.C. police “seized all products,” according to WUSA. The ACBA then declared Supreme Terpene an “imminent danger to the health and safety of the public.” However, the store owner can appeal.

Illicit sales have sprung up in the district, with licensed MMJ dispensaries saying “gifting stores” and other illicit options are cutting deeply into their margins, according to Axios D.C. Similar situations are unfolding in other states with rampant illicit sales, perhaps most notably in New York. Authorities in that state launched a crackdown this spring aimed at shuttering an illegal market that’s contributed to a disastrous rollout of legal sales.

Source: MJ Biz Daily

More marijuana product recalls in California as governor weighs pro-industry bills



California regulators issued a mandatory recall on two more marijuana products from West Coast Cure that contained a banned pesticide. The latest recalled products from West Coast Cure (WCC) contained chlorfenapyr, which typically is sprayed directly on leaves to combat caterpillars, fungus gnats, mites and other pests. The presence of the illegal pesticide has prompted recalls in the past few months of several other marijuana products from WCC and other operators. In another case, California regulators recently ordered a Northern California hemp grower to destroy plants in 22 greenhouses after an investigation revealed illegal pesticide use.

In another important development in the California industry, lawmakers this week approved two cannabis-related bills and sent them to Gov. Gavin Newsom:

- Assembly Bill 1775 would legalize cannabis cafes akin to outlets in the Netherlands, according to Sacramento TV station KCRA. Last year, Newsom vetoed a similar bill proposed by Haney that would have allowed California marijuana retailers to operate traditional kitchens and host events on their premises.
- AB 1111 would allow farmers to obtain a license to sell marijuana products directly to consumers at licensed cannabis events in sanctioned jurisdictions. The bill, according to KCRA, would expand on legislation that allowed marijuana retailers and brands to sell products at the California State Fair in Sacramento for the first time this year.

Source: MJ Biz Daily

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Regulation/Enforcement (continued)

Ohio adult-use cannabis retailers fined \$212,000 for violating marketing rules



Ohio regulators issued more than \$200,000 in fines to five cannabis retailers for violating marketing and promotional restrictions surrounding the August 6 launch of adult-use sales. In July, Ohio regulators issued several restrictions for retailers that could dampen the celebratory vibe that traditionally marks the first day of adult-use—and a new era of marijuana policy. The outdoor restrictions were among several anomalies in the rollout of recreational cannabis sales in Ohio compared to other market launches.

Source: *MJ Biz Daily*

Allen police department, DEA raid 9 Texas vape shops, destroy hemp products



Texas police and the DEA raided nine family-owned businesses on August 27 in Allen, a city of roughly 100,000 people just north of Dallas. Local authorities accused these vape and CBD shops of selling products containing noncompliant hemp derivatives. The raids come three months after Allen police sent a letter warning the city’s vape and CBD shops in May about selling products that don’t meet the legal definition of hemp, the Dallas Observer reported. The Allen Police Department said in a statement to The Dallas Morning News that products sold by the local businesses had tested from 7% to 78% THC. Although a federal judge halted the DEA’s subpoenas in late July, the federal agency supported the Allen Police Department and Collin County Sheriff’s Office in carrying out the nine search and seizure warrants. The local authorities arrested five people, according to local media.

Source: *Cannabis Business Times*

Maryland cannabis regulator fines Curio \$8,000 for advertising violations



Maryland fined two divisions of cannabis multistate operator Curio Wellness a total of \$8,000 for violating state advertising regulations. It’s the second time this year Curio Wellness has been fined by home state regulators. In March, the Maryland Cannabis Administration (MCA) fined Curio \$26,000 for offenses that included selling marijuana that had been retrieved from a dumpster. According to an MCA consent order dated August 5, Curio Cultivation and Curio Manufacturing violated rules prohibiting alcohol and marijuana companies from advertising to audiences unless at least 85% of the audience is older than 21. The company, which has operations in Maryland and Missouri, has “fully cooperated with the MCA’s investigation” and remains “in good standing” with the agency, the consent order noted. Curio’s \$8,000 fine breaks down to \$3,500 for each violation related to the Baltimore Running Festival and \$1,000 (\$500 per division) for the Hot August Music Festival infraction.

Source: *MJ Biz Daily*

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