the buzz special edition

2025 Year In Review

Dear *the buzz* Reader,

As we reflect on the whirlwind that was 2025, we find ourselves cautiously optimistic about the path ahead for the cannabis industry. While the year brought both unprecedented federal action and intensifying challenges, we believe the momentum toward sensible cannabis policy reform continues to build. We hope you'll continue to read and subscribe to "*the buzz*" as we navigate these transformative times together.

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CANNABIS INDUSTRY YEAR IN REVIEW: 2025

The cannabis industry experienced a year of unprecedented federal action alongside intensifying state-level polarization in 2025, setting the stage for what promises to be a transformative 2026.

FEDERAL BREAKTHROUGH AFTER YEARS OF GRIDLOCK?

The most significant development came in December 2025 when President Trump issued a historic Executive Order directing the Attorney General to reclassify marijuana from Schedule I to Schedule III "in the most expeditious manner." This directive represents the most substantial executive branch support of rescheduling since the Controlled Substances Act was passed in 1970, that will potentially end the industry's crushing 280E tax burden that has forced businesses to operate with unsustainable effective tax rates upwards of 70%. Rescheduling levels the playing field for cannabis companies by allowing standard business deductions for rent, payroll, marketing, and other ordinary expenses, transforming the industry's economics overnight.

The implications of Schedule III extend beyond taxation. From new medical research to potential state-level regulatory shifts, a Schedule III classification will undoubtedly transform the industry. Because Schedule III substances have historically been granted federal marks, Schedule III classification may enable federal trademark registration for cannabis products, , though USPTO policy remains to be determined. Rescheduling cannabis, and the legislation that may come from it, could also signal a federal recognition of regulated cannabis markets that might attract institutional investors, though banking laws will likely remain unchanged without congressional action.

However, the path forward remains uncertain. While the Executive Order provides some direction, the DEA must complete the rescheduling and rulemaking process, and in the meantime, cannabis remains classified as Schedule I controlled substance. SAFER Banking also remains stalled despite bipartisan support from 32 state attorneys general highlighting public safety concerns.

In 2025, the industry simultaneously mounted a sophisticated legal offensive against the continued federal illegality and 280E, with cases like *Canna Provisions* and *New Mexico Top Organics* (respectively) challenging cannabis's continued Schedule I classification and 280E's applicability to cannabis businesses. In 2026, *New Mexico Top Organics* will continue to argue in U.S. Tax Court that marijuana no longer meets Schedule I criteria based on HHS's 2023 findings, supported by a coalition of state cannabis associations contending that the DEA's circular reasoning no longer deserves judicial deference following the *Loper Bright* decision. If successful, this case could establish retroactive inapplicability of 280E, while rescheduling should eliminate 280E going forward.

HEMP MARKET FACED EXISTENTIAL CRISIS

The hemp market confronted an existential reckoning as federal regulators moved to close the regulatory loophole that had sustained a multi-billion dollar industry. New federal restrictions taking effect in November 2026 will limit all hemp products to 0.4mg THC per container and ban synthetic cannabinoids and "intoxicating hemp." California alone estimates this will eliminate $3.14 billion in hemp revenue and 18,000 jobs over five years, while Texas faces the potential closure of 7,000 registered hemp dispensaries.

States also accelerated their own hemp crackdowns throughout 2025, with California implementing emergency rules banning detectable THC products. In Ohio, Governor DeWine recently signed a law banning intoxicating hemp products (greater than .4 mg) from being sold outside a licensed dispensary, which takes effect in 90 days (this after he vetoed this in an earlier bill). Texas Governor Abbot vetoed a law that would have banned all consumable hemp products containing any amount of THC and subsequently issued an executive order to begin a rulemaking process to regulate consumable hemp like alcohol. Federal courts consistently upheld states' authority to impose stricter limits than federal minimums in Wyoming, Arkansas, and Alaska, validating state regulatory control over THC potency levels. Some states pivoted toward alcohol regulation frameworks, with Kentucky, Alabama, and Tennessee establishing hemp beverage oversight through their alcoholic beverage commissions.

In the wake Trump's Executive Order, in 2026, we are likely to see a push for some form of federal regulation of the *cannabis sativa L* plant, which could include both hemp and high THC forms of cannabis. Whether the federal regulatory hemp loophole remains closed by November 2026, is anybody's guess, but hemp businesses can count on a significant operational shift no matter what.

STATE MARKETS REACH A CROSSROADS

In 2025, the state-level landscape revealed sharp divergence between expansion and restriction. As of December 31, 2025, 24 states and the District of Columbia allow recreational use, while 43 states and DC permit medical use. Virginia emerged as a potential breakthrough market following Democratic electoral victories that could establish the first new adult-use framework since 2023. Minnesota successfully launched its retail market with 249 new licenses including 75 social equity retailers, while Delaware began adult-use sales projected to reach $160 million by year-end. Texas expanded its medical program from 3 to 15 operators and added chronic pain as a qualifying condition.

Conversely, Ohio implemented comprehensive restrictions capping adult-use retailers at 400 statewide, reducing concentrate potency limits to 70%, and recriminalizing out-of-state purchases. More concerning for the industry, organized ballot repeal measures gained some momentum in Massachusetts and Maine, potentially putting cannabis adult-use legalization before voters in 2026 while preserving medical programs.

The year also saw some state advancements in psychedelics regulation, with Denver area licensing its first psilocybin healing centers and other states exploring programs the research and use of psychedelics for medical use, like PTSD, substance abuse, and end-of-life care.

CANNABIS INDUSTRY FINANCIAL PRESSURES INTENSIFIED

States aggressively pursued tax increases to capture cannabis revenue amid fiscal pressures. California's excise tax jumped from 15% to 19% before rolling it back to 15% until June 2028, Michigan implemented a shocking 24% wholesale tax facing constitutional challenge, and Minnesota raised its excise tax from 10% to 15%, among the nation's highest rates. Maryland scheduled increases from 9% to 12% to address a $3 billion state deficit, while Maine adjusted its excise tax from 10% to 14%.

Despite these financial pressures, some mature markets began regulatory modernization efforts. Colorado reduced surveillance and recordkeeping requirements through HB25-1209, Massachusetts restructured its Cannabis Control Commission from five to three commissioners and increased retail ownership caps, and several states eased advertising restrictions.

CONSTITUTIONAL LEGAL LANDSCAPE REMAINS CHALLENGING

The industry's hopes for a high court revisit of *Gonzalez v. Raich* and federal cannabis prohibition were dashed when the Supreme Court declined to hear *Canna Provisions v. Bondi*, effectively upholding its 2005 Raich decision. However, the Court agreed to hear *United States v. Hemani* examining the intersection of Second Amendment rights and marijuana use, potentially clarifying firearm possession rights for cannabis users.

State-level legal battles produced mixed results. The Second Circuit struck down New York's residency requirements for cannabis licensing in *Variscite v. New York Cannabis Control Board* as unconstitutional discrimination against out-of-state applicants, while Missouri's Supreme Court ruled against "tax stacking" by cities and counties on the same marijuana product. Labor peace agreement mandates faced constitutional challenges in multiple states, with Oregon's requirement struck down as unconstitutional and preempted by federal law, though the decision is under appeal.

LOOKING AHEAD TO 2026

The cannabis industry stands at an inflection point entering 2026. The success or failure of federal rescheduling implementation will undoubtedly determine whether businesses finally escape the 280E tax stranglehold or continue operating under punitive federal tax policy. The hemp industry faces substantial change if federal redefinition proceeds as scheduled in November. State markets will test whether expansion momentum can overcome organized opposition through ballot repeal measures. Public opinion still favors legalization nationwide.

The competing forces of federal liberalization, state-level polarization, and industry financial pressures will likely converge in 2026 to determine whether cannabis businesses can achieve sustainable profitability or remain trapped between conflicting regulatory frameworks. With Virginia potentially becoming the first new adult-use state since 2023 and Massachusetts and Maine voters potentially reversing legalization, the year ahead promises to be pivotal for the industry's long-term trajectory.

As 2025 confirmed, the future of cannabis businesses still lies squarely in the hands of lawmakers and voters, making 2026 a make-or-break year for cannabis businesses nationwide.

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