

the buzz:

Cannabis News & Policy Update

December 2025 Edition

FEDERAL UPDATES

Trump Administration Signals Potential Cannabis Rescheduling to Schedule III:

The cannabis industry is buzzing with anticipation following reports that President Trump may move forward with rescheduling cannabis from Schedule I to Schedule III under the Controlled Substances Act. This potential shift would represent a monumental change in federal cannabis policy, as rescheduling to Schedule III would provide much-needed tax relief for the industry through the elimination of 280E restrictions that currently prevent standard business deductions, and increased opportunities for medical cannabis research and development. While recreational use would remain federally prohibited under Schedule III, the move would signal a pragmatic approach to cannabis policy that could pave the way for broader federal reform and provide much-needed regulatory clarity for businesses operating in state-legal markets.

SCOTUS declines to revisit *Gonzalez v. Raich*: Rejecting Plaintiffs' challenge to continued federal marijuana prohibition, on December 15, 2025, the Supreme Court declined to hear *CannaProvisions, et al. v. Bondi*, a case which many had hoped could overturn the 2005 decision in *Gonzalez v. Raich*.

Congressional Research Service Analysis on Hemp: The Congressional Research Service (CRS) released an [analysis](#) of the new federal definition of "hemp" approved by Congress last month that is scheduled to take effect in November 2026. Notably, they warned it "remains unclear if and how" the federal government will enforce the new definition. CRS specifically points to potential resource constraints at the Food and Drug Administration (FDA) and Drug Enforcement Administration (DEA), noting that both agencies may lack the capacity to police the marketplace across the country. CRS also draws a parallel to marijuana's federal-state conflict, suggesting hemp products could persist in state-regulated channels despite their federal illegality, similarly to marijuana.

Medicare Advantage: The Centers for Medicare and Medicaid Services (CMS) published a [proposed rule](#) that would revise its current exclusion of "cannabis products" from coverage under Medicare Advantage (Part C) and the Medicare Prescription Drug Benefit (Part D). It would narrow the ban to only those cannabis products that are illegal under applicable state or federal law. Due to this change, federally legal hemp products under the 2018 Farm Bill definition that are legal through November 11, 2026, may be eligible for coverage through certain Medicare plans. Comments on the proposed federal rule are open until January 26.

Department of Justice: Newly disclosed DOJ guidance from the Biden administration, dated February 26, 2024, and [obtained](#) by Marijuana Moment, directed U.S. attorneys to be "extremely cautious" about pursuing simple marijuana possession cases not covered by Biden's mass pardon proclamation, requiring high-level supervisory approval and rapid reporting for any such charges. The Trump administration formally rescinded that guidance on September 29, 2025, and since then at least one U.S. attorney (Wyoming) has said simple possession cases on federal land will be "rigorously" enforced.

Cannabis Industry Coalition Challenges 280E Tax Burden in Amicus Brief Filing: A coalition of major cannabis industry organizations has filed a novel amicus brief with the U.S. Tax Court arguing that IRC Section 280E should not apply because marijuana doesn't meet the criteria for Schedule I or II classification. The brief, filed by Holland & Hart's attorneys Jennifer Benda, Rachel Gillette, and Matthew Wright on behalf of Colorado Leads, American Trade Association for Cannabis and Hemp (ATACH), Massachusetts Cannabis Coalition, and Nevada Cannabis Association, supports New Mexico Top Organics' challenge by providing 55 years of historical context showing the DEA has repeatedly ignored scientific data that contradicts marijuana's current scheduling. Furthermore, under the Supreme Court's 2024 Loper Bright decision, the DEA's creation of circular reasoning to support its unwillingness to accept this data does not deserve deference, giving the court a basis for finding that marijuana is not "within the meaning of Schedule I and II." The full amicus brief is [available here](#).

NEW MARKETS & LICENSING OPPORTUNITIES

Florida: Smart & Safe Florida will not appeal a circuit court ruling that upheld the removal of 200,000 petition signatures in support of its proposed initiative to legalize adult-use cannabis. Proponents have until February 1, 2026, to collect the 880,000-plus signatures necessary to qualify for the November 2026 ballot. Smart & Safe Florida has already submitted over 675,000 signatures, and the campaign says it has submitted many signatures the state has not counted yet.

Rhode Island: Applications for adult-use retail licenses close December 29. This is the first opportunity for new businesses to enter the adult-use market. The new retail licenses will be awarded via a lottery that the Cannabis Control Commission expects to hold in the second quarter of 2026. Twelve licenses will be awarded to general applicants, six to social equity applicants, and six to workers' cooperative applicants.

Texas: The Department of Public Safety awarded nine medical cannabis dispensing organization licenses, which will have two years to begin operations. Each of these new licensees is also authorized to open satellite locations across Texas with approval from regulators, starting with one in each of the state's 11 public health regions. As such, these new dispensing organization licenses could account for upwards of 99 new dispensary locations in the state. Three additional dispensing organization licenses will be issued by April 1, 2026. Prior to the latest licenses being awarded, Texas had just three licensed vertically integrated operators serving more than 29 million residents.

Virginia: A joint legislative commission released recommendations for a 2026 bill to legalize adult-use cannabis sales, which builds on similar legislation that was vetoed in 2025. Proposed changes include the elimination of local opt-outs; the removal of statutory license caps for all licenses except those held by retailers and manufacturers; and a requirement that licensees obtain labor peace agreements. In an effort to tighten restrictions on ownership and ensure social equity applicants have an opportunity to be operational when sales begin, the commission wants to require all management agreements, ownership changes, and license transfers to be approved by regulators. Additionally, they proposed licensing 100 temporary microbusinesses before sales are scheduled to start. The new bill is expected to be filed and begin moving quickly in early 2026.

STATE POLICY UPDATES

Colorado: The Marijuana Enforcement Division adopted final rules for the 2025 rulemaking cycle. The rules implement HB 25-1209 and make a number of changes that will benefit licensees, including allowing cultivators and manufacturers to provide research and development samples to their employees, allowing digital employee identification badges, reducing recordkeeping requirements, and more. Most of the new rules and rule changes are scheduled to take effect January 1.

Michigan: The Michigan Court of Claims denied a motion for a preliminary injunction by the Michigan Cannabis Industry Association, which is challenging the constitutionality of the state's new 24% cannabis wholesale tax that is set to take effect January 1. MCIA argued that creation of the new tax should have required a supermajority in both legislative chambers because it would amend the voter-initiated Michigan Regulation and Taxation of Marihuana Act. The ruling concluded that there are still questions of fact over whether the new wholesale tax "contravenes the purposes of the MRTMA voter initiative," which the court must still consider through discovery.

Ohio: A bill that would make significant changes to Ohio cannabis policy (SB 56) was approved by the state Senate after a conference committee came to an agreement on final language. It is now awaiting action from Gov. Mike DeWine. The final bill would cap the total number of adult-use retailers in the state at 400, reduce the maximum allowable THC potency for concentrates to 70%, and recriminalize possession of cannabis purchased from other states. The conference committee also aligned the state definition of hemp with the new federal definition set to take effect next November, limiting non-beverage hemp products to 0.4 mg of total THC per container. It also created a temporary market for hemp beverages with up to 5 mg of total THC that can be sold by alcohol retailers until the market sunsets at the end of 2026.

HEMP

Illinois: A key subcommittee of the Chicago City Council approved a citywide ban on hemp products with THC, setting the stage for a full council vote. Chicago is the third-largest city in the country, and many hemp businesses operate there because Illinois lacks regulations for hemp products. If the full city council adopts the ban, it will take effect within 10 days of its passage.

Hawaii: The state Department of Health is moving forward with draft rules to register consumable hemp businesses despite Congress's recent decision to redefine "hemp" in a manner that will ban most consumable hemp products. The proposal establishes requirements related to business registration with the state, prohibits the sale of tinctures to individuals under the age of 21, and authorizes the department to inspect facilities and embargo products.

Tennessee: The Tennessee Healthy Alternatives Association entered into an agreed order with the state departments of Agriculture and Revenue that will allow hemp licensees with licenses issued before December 31, 2025, to continue operating under the 2023 regulatory framework until their licenses expire on June 30, 2026. As a result, existing hemp licenses can continue selling THC-A flower and other products directly to consumers.