

# the buzz:

## Cannabis News & Policy Update

February 2026 Edition

### FEDERAL UPDATES

**Rescheduling:** The U.S. Justice Department told *Marijuana Moment* it has no new updates on the marijuana rescheduling process that President Donald Trump directed Attorney General Pam Bondi to complete “in the most expeditious manner” more than a month ago.

**Hemp:** On January 22, U.S. Reps. Morgan Griffith (R-VA) and Marc Veasey (D-TX) **introduced** the Hemp Enforcement, Modernization, and Protection (HEMP) Act, which would create a new federal regulatory framework for hemp-derived cannabinoid products. The bipartisan legislation would establish a first-of-its-kind federal regulatory framework for hemp products, placing them under the Food and Drug Administration’s regulatory authority and impose federal standards for testing, labeling, packaging, and facility registration. Federal regulators could impose potency limits on hemp products, but if they do not act, hemp products would be capped at 5 mg total THC per serving and 30 mg per package.

Separately, major alcohol retailers and wholesalers launched the **Beverage Alcohol Merchants Coalition**, calling on Congress to delay implementation of the new federal definition of hemp and pursue a regulated market for hemp-derived THC beverages modeled on current alcohol distribution and sales systems.

**Gravenstein 116, LLC v. The United States:** On January 30, the U.S. Court of Federal Claims issued a **memorandum and order** dismissing *Gravenstein 116, LLC v. The United States*, holding that 280E applies to the Employee Retention Credit (ERC). Gravenstein 116 operates multiple cannabis dispensaries in California and claimed more than \$322,000 of ERC after transitioning to curbside pickup operations during the COVID-19 pandemic. The Internal Revenue Service did not adjudicate the refund claims, resulting in a legal challenge from Gravenstein, which argued the ERC is a non-tax refund for employment expenses rather than a traditional tax credit because of its refundability.

**Congressional Research Service Report on 280E:** The Congressional Research Service released a **report** analyzing the federal tax treatment of marijuana businesses under current law, reaffirming that Internal Revenue Code Section 280E remains enforceable while cannabis is classified as a Schedule I substance. The report, which is based only on past challenges and does not address positions currently under litigation, concludes that courts have consistently rejected constitutional arguments that the denial of ordinary business deductions constitutes an excessive fine.

### NEW MARKETS & LICENSING OPPORTUNITIES

**Florida:** Secretary of State Cord Byrd **announced** that proponents of a ballot measure to amend the state constitution to legalize adult-use cannabis did not gather the more than 880,000 valid signatures needed to be placed on the 2026 ballot. All 21 of the other citizen-initiated constitutional amendments also failed to qualify for the 2026 ballot. Florida’s already difficult initiative process became even more challenging last year with the enactment of a **new law** that imposed significant restrictions on signature gathering and increased red tape for organizations leading ballot efforts. Adult-use legalization has also faced considerable political opposition from Gov. Ron DeSantis and his administration, including a criminal probe into alleged “petition fraud” and the invalidation of about 200,000 signatures in **November 2025** and another 70,000 **last month**.

**Pennsylvania:** Gov. Josh Shapiro (D) included adult-use legalization in his **proposed state budget** for the third consecutive year. Under Shapiro’s plan, legalization of adult-use cannabis would take effect July 1, with regulated sales beginning January 1, 2027. The administration projects adult-use legalization, along with a 20% wholesale tax, would generate more than \$200 million in annual state tax revenue. Shapiro’s budget marks the beginning of a months-long budget negotiation process leading up to the start of the next fiscal year on July 1, 2026.

## STATE POLICY UPDATES

**Maine:** A proposed ballot initiative to roll back Maine's voter-approved adult-use cannabis law [failed to qualify](#) for the November 2026 ballot after proponents were unable to submit the necessary number of signatures by the February 2 deadline. They can still aim for the November 2027 ballot without having to start the process over. This initiative might perform better in an off-year election, when voter turnout is typically lower and progressives are expected to be less energized than in this year's midterm. Initiative proponents have until June 8, 2027, to gather the 67,682 valid signatures required to qualify for the 2027 ballot. Similar initiative efforts are underway in Arizona and Massachusetts, as discussed in our [January newsletter](#).

**Ohio:** Attorney General Dave Yost [filed an antitrust lawsuit](#) in the Franklin County Court of Common Pleas, alleging nine multistate cannabis operators engaged in anti-competitive practices. The lawsuit accuses the companies of coordinating purchasing and distribution practices at a national level and sharing competitively sensitive information in violation of the [Ohio Valentine Act](#). According to the complaint, these practices were not isolated to Ohio and were part of a broader strategy negotiated across several states, including Illinois, Massachusetts, and New York. Yost is seeking to penalize each company \$500 for each day the reciprocal purchasing agreements were allegedly in effect.

**Oklahoma:** At his State of the State address, Gov. Kevin Stitt called for the legislature to give voters a chance to repeal the state's eight-year-old medical cannabis legalization. His proposal is supported by State Attorney General Gentner Drummond, but it is already facing skepticism among legislators, [including](#) the state's top Republican lawmaker. The most direct avenue for a repeal effort would be through a legislative referendum, which could be sent to voters via a Joint Resolution approved by a simple majority in both chambers. If successful, Oklahoma would be the first state in the country to fully repeal an operating medical cannabis program.

**New Jersey:** Outgoing Gov. Phil Murphy signed [S 4847](#) into law on January 20, enacting consequential changes to New Jersey's adult-use cannabis framework. The bill's most critical provisions impact retail expansion. It significantly expands the number of retail stores in the state by authorizing licensed retailers to open two additional satellite locations, although licensees will need to receive regulatory approval for these locations. Since there are 161 existing retail licensees, the new law could open the door to 322 new retail locations in the state. The bill also included broader governance and ethics updates to the Cannabis Regulatory Commission.

**Taxes:** Legislation to reform cannabis taxes has been filed in state legislatures around the country, including:

- **Colorado:** [HB26-1077](#) requires a separate Average Market Rate (AMR) for indoor and outdoor cannabis. In addition, it would require that unprocessed cannabis for extractions have a separate AMR that is lower than the rate for unprocessed cannabis for direct sale to consumers. AMR is used to calculate an excise tax on wholesale transfers of cannabis between licensees or within vertically integrated businesses. The bill is currently in the House Finance Committee.
- **Vermont:** [SB 278](#) lowers the cannabis excise tax from 14% to 10%. The bill is currently in the Senate Economic Development, Housing and General Affairs Committee.
- **Washington:** [SB 6328](#) restructures Washington's cannabis excise tax by replacing the existing 37% retail sales tax with a new system that imposes specific per-gram and per-milligram THC taxes (based on product type) at the point of retail sale. The Bill proposes weight-based rates for usable cannabis, pre-rolls, and trim, and potency taxes for concentrates, edibles, and topicals. The bill is currently in the Senate Ways and Means Committee.



## HEMP

**Illinois:** The Chicago City Council passed an ordinance on January 21 to ban the sale of most consumable hemp products outside of licensed cannabis businesses, while carving out an exception for hemp-derived beverages. With 2.2 million residents, Chicago is the third-largest city in the country and has a larger population than 15 states. Mayor Brandon Johnson has until the February 18 City Council meeting to veto the ordinance. He has publicly expressed concerns about the measure's impact on small businesses, but vetoes are rare in Chicago. However, if it is vetoed, it could be difficult to override, as 34 votes would be required and only 32 aldermen voted in favor of the ordinance. Absent a veto, the ordinance will take effect on April 1.

Also, in Chicago, hemp beverages with 5 mg THC per container are now being sold at the United Center, which is home to multiple major sports teams. It is the first major arena in the country to allow on-site sales and consumption of hemp beverages. Drink sales began at a February 4 concert, with prices comparable to premium alcoholic beverages.

**Nebraska:** Gov. Jim Pillen issued an executive order on January 27 directing multiple state agencies to review existing regulations governing synthetic hemp products sold in consumable form factors. Specifically, it directs the Department of Agriculture to "prohibit the use of THC in products intended for human consumption"; the Department of Banking and Finance is directed "to assess whether additional rules or enforcement mechanisms are needed to ensure compliance with federal anti-money laundering statutes in response to the federal ban on intoxicating synthetic THC products"; and the Department of Revenue is directed to "determine whether the marketing and sale of intoxicating synthetic THC products sold by tobacco licensees violates any provision of the Tobacco Products Tax Act."



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