

# the buzz:

## Cannabis News & Policy Update

January 2025 Edition

### FEDERAL UPDATES

**Rescheduling:** DEA Administrative Law Judge John Mulrooney paused hearings regarding the federal rescheduling of marijuana for at least three months. His decision stemmed from a second motion by Village Farms International and Hemp for Victory, proponents of rescheduling that want the DEA removed from the hearings because the agency allegedly had improper communications with opponents and undisclosed conflicts of interest. Mulrooney rejected proponents' claims that the DEA's alleged actions and bias will affect the outcome of the proceedings, but criticized the agency for its numerous procedural missteps.

**280E:** A New Mexico medical cannabis business filed a petition in U.S. Tax Court challenging the Internal Revenue Service's application of IRC §280E. It argues 280E, which prohibits businesses from deducting ordinary business expenses from gross income associated with trafficking schedule I and II substances, does not apply to state-legal medical marijuana operations because the U.S. Department of Health and Human Services and the Food and Drug Administration recently determined marijuana does not meet the statutory criteria for Schedule I or II. The company also contends 280E is inapplicable because its intrastate medical marijuana activities are not prohibited by federal law, citing a congressionally approved appropriations rider that prohibits the Department of Justice from prosecuting state-compliant medical cannabis businesses.

**Corporate Transparency Act:** A federal judge reinstated a nationwide injunction on the Corporate Transparency Act, temporarily halting implementation of mandatory ownership reporting requirements. The decision could be reversed by the U.S. Supreme Court, which will hear the appeal on March 25 by the U.S. solicitor general. In the meantime, FinCEN is accepting voluntary filings of beneficial ownership information.

**Focus Groups on Cannabis Banking:** The Government Accountability Office launched a survey to form focus groups addressing banking challenges faced by cannabis businesses. The effort stems from a letter sent by several Democratic senators asking the GAO to study how financial institutions can address the economic effects of the war on drugs.

### NEW MARKETS & LICENSING OPPORTUNITIES

**Colorado Healing Centers:** In 2022, Colorado voters approved Prop 122 approving the creation of regulated framework to provide psychedelic-assisted therapy to 21+ adults using one of five approved substances, including psilocybin, in licensed healing centers under the supervision of a licensed guide or facilitator. State agencies and legislators have developed laws and rules governing the new 'natural medicine' therapy. Applications for centers and treatment licenses opened on the last day of 2024. To date, the state has received four healing center license applications, in Denver, Aurora, Centennial and Lakewood, and 25 applications for natural medicine owner and handler licenses. New healing centers could be operational by the spring.

**Hospitality:** Massachusetts is accepting comments on rules for social consumption establishments, and Maine's Cannabis Hospitality Task Force will propose policy recommendations for new hospitality licenses by February 1.

**Minnesota:** The Office of Cannabis Management is moving forward with a general adult-use licensing window to replace the social equity license preapproval process that was scrapped due to litigation. OCM will accept applications for social equity and general adult-use licenses from February 18-March 14, and a lottery is preliminarily scheduled for May or June. The OCM aims to finalize adult-use regulations before the licensing window opens, and its proposed rules are open for public comment until February 12. Licensing and rulemaking are unlikely to be delayed by the resignation of Interim Director Charlene Briner, who will be replaced by OCM General Counsel Eric Taubel.

**New Jersey:** New Jersey is accepting applications for on-site cannabis consumption lounges. The endorsement will allow medical dispensary and retail licensees to attach an on-site consumption establishment to one existing location where alcohol sales are prohibited. Applications for social equity retailers opened January 2, and remain open only for microbusinesses and diversely-owned dispensaries until April 2, then for open for all other retail operators on July 2.

**Rhode Island:** The Cannabis Control Commission published [adult-use cannabis regulations](#), and comments on the proposed rules will be accepted until February 7. After rules are adopted, the state will issue 24 additional adult-use retail licenses, of which six are reserved for social equity applicants and six are reserved for worker cooperatives. Notable provisions in the proposed rules include banning the conversion of non-psychoactive cannabinoids into psychoactive cannabinoids; allowing QR codes on product labels; and authorizing advertising through various media, such as billboards, television, and social media. This will be the first time new operators can enter the Rhode Island adult-use market since the conversion of existing medical businesses in December 2022.

## STATE POLICY UPDATES

Cannabis policy will be addressed by many of the state legislatures convening around the country for their 2025 legislative sessions.

**Adult-use Legalization:** The states most likely to legalize cannabis for adults this year are **Hawaii** and **Pennsylvania**. Hawaii is the only Democratic government trifecta that has yet to legalize adult-use, and a supportive lawmaker is now the House speaker. In Pennsylvania, several proposals are currently being debated, including two bipartisan bills ([SB 846](#) and [HB 2500](#)), as well as an [impending proposal](#) from House Democrats that would restrict sales to state-run stores.

**Medical Legalization:** Republican-controlled states in the Midwest and South are the last remaining holdouts on medical cannabis legalization. Momentum is building in some, including **North Carolina**, where a bill passed last year in the Senate but not the House. Democrats broke Republicans' House supermajority in the last election, which may open the door for a compromise on medical cannabis.

**Taxes:** In **Illinois**, [HB 1228](#) would exempt medical cannabis from marijuana excise and potency taxes. In **Nevada**, [SB 41](#) would require cannabis retailers to have a cannabis tax permit and allow regulators to suspend a cannabis license for failure to pay taxes. Some states with production- or potency-based taxes are looking at revising their tax structures, following the example set last year by **New York**, which replaced its potency-based tax with a flat 9% wholesale tax. Efforts to reduce the overall tax burden on cannabis business are also expected in multiple states, including **California**, where the statewide excise tax is scheduled to increase from 15% to 19% this year.

*Next month's Special Tax Edition will focus on \$280E and other tax considerations to help you get through the filing season.*

**Colorado:** Last week, the Colorado Springs City Council approved ordinances implementing a measure approved by voters last November allowing adult-use cannabis sales. The council opted to set a 1,000-foot buffer from schools and some other types of facilities, as prescribed by the voter initiative, rather than a one-mile setback preemptively established by the council before the election. Despite voters approving the measure and defeating a council-referred measure to ban them, some council members want to send the issue to voters again this April. They are expected to vote on that proposal on January 28.

**Massachusetts:** Holliston Town Administrator Travis Ahern will [take the helm](#) as the new executive director of the Cannabis Control Commission on March 3. Ahern's appointment ends a year-long vacancy, providing much needed stability to the CCC. It also comes at a critical time when the agency is working to expedite key regulatory initiatives, including the development and implementation of long-awaited [social consumption rules](#).

**New York:** Gov. Kathy Hochul signed into law [A01234](#), which classifies cannabis as an agricultural product, allowing it to be sold at cannabis farmers' markets and ensuring cultivators are subject to the same tax assessments as other farmers. Hochul vetoed [A10196](#), which would have allowed growers and processors to pay the 9% excise tax annually rather than quarterly.

## HEMP

**Delivery:** DoorDash [announced](#) its platform will allow sales and delivery of hemp-derived products, including beverages and gummies, through partnerships with alcohol retailers like Total Wine. Delivery through such a mainstream service could further exacerbate disparities in pricing and access between hemp and marijuana.

**Tennessee:** A state court issued a temporary injunction blocking the implementation of new hemp product regulations that would have prohibited the sale of many hemp flower products. The injunction was issued to give the court more time to learn about how the state plans to implement post-decarboxylation testing. The court emphasized the injunction is temporary and could be lifted with further expert testimony, noting that "regulation of these products will ultimately protect the public good." A decision on whether to grant a permanent injunction is expected by February 18.

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