

the buzz:

Cannabis News & Policy Update

May 2026 Edition

FEDERAL UPDATES

DEA Registration: Following last month's order reclassifying state-regulated medical marijuana from Schedule I to Schedule III, the Drug Enforcement Administration began accepting federal registration applications from state-licensed medical cannabis dispensaries. The DEA will continue accepting dispensary registrations through June 26, with expedited review expected within six months for timely submissions. Additional application pathways for manufacturers and distributors are expected to become available in the coming weeks.

Rescheduling Lawsuit: National anti-cannabis organization Smart Approaches to Marijuana (SAM) and the National Drug and Alcohol Screening Association filed a petition for review in the U.S. Court of Appeals for the D.C. Circuit seeking to overturn the Department of Justice's recent cannabis rescheduling order. SAM argues the order violates the Administrative Procedure Act, exceeds the Attorney General's authority under the Controlled Substances Act, and is arbitrary and capricious. The challenge was widely anticipated, particularly after SAM retained former U.S. Attorney General Bill Barr and Torridon Law to prepare litigation against any final rescheduling action. The statement of issues and procedural motions by SAM and the federal government are due June 4, with dispositive motions (such as a motion to dismiss) are due June 22.

New Mexico Top Organics Case: The case centers on whether Internal Revenue Code Section 280E still applies to state-legal medical cannabis businesses. Last month, the Internal Revenue Service (IRS) filed its response asserting that cannabis remains a Schedule I substance and that the U.S. Tax Court lacks authority to independently reinterpret federal scheduling classifications. On May 18, the taxpayer filed its reply brief arguing that Section 280E does not bar its business expense deductions because marijuana does not meet Schedule I's definitional criteria, a position now supported by the federal government's own rescheduling of state-licensed medical marijuana to Schedule III. Holland & Hart filed an amicus brief on behalf of a coalition of cannabis organizations supporting the taxpayer's position.

TerrAscend 280E Refund Clawback: The Department of Justice filed a complaint in federal district court in New Jersey on May 18 seeking to recover an \$8.36 million tax refund issued to multi-state cannabis operator TerrAscend in June 2024. The government argues the refund was erroneously issued on two grounds: TerrAscend was not entitled to the underlying deductions under Section 280E, and the IRS failed to follow its own required procedure of submitting refunds exceeding \$5 million to the Joint Committee on Taxation before issuance. The case is notable because it represents a government admission that certain cannabis company refunds should have undergone Joint Committee review—a procedural requirement that had previously received little attention in the industry. The timing of the filing also suggests an active audit of TerrAscend may be underway as the company has not voluntarily returned the funds.

Mission Organic Center Case: A U.S. Tax Court decision in Mission Organic Center, Inc. v. Commissioner of Internal Revenue was appealed to the Ninth Circuit on February 6. The December 16, 2025 decision upheld the IRS's authority to exclude Section 280E-barred expenses when calculating a cannabis business's reasonable collection potential in an offer-in-compromise, sustaining the IRS's rejection of Mission's \$65,000 settlement offer after calculating the company's collection potential at more than \$57 million. While rooted in cannabis tax law, the case raises broader administrative law questions about agency rulemaking that could have implications well beyond the cannabis industry.

Class Action Lawsuit: A federal class action lawsuit was filed in Illinois that accuses three multi-state cannabis operators of making false and unsubstantiated medical claims about their cannabis products. The lawsuit was filed on behalf of 42 consumers across 12 states. It alleges that the companies marketed cannabis products as having medical efficacy despite insufficient scientific evidence.

NEW MARKETS & LICENSING OPPORTUNITIES

Texas: The Department of Public Safety [announced](#) that it corrected the tabulation methodology used during the Texas Compassionate Use Program license expansion process, changing which companies will receive conditional medical marijuana licenses. DPS said the original scoring process failed to apply the equal 25% weighting for the four scoring categories that had been publicly outlined in guidance released in August 2025. Following the correction, some previously awarded conditional licenses were rescinded and reassigned to new applicants.

Virginia: Virginia lawmakers voted to reject Gov. Abigail Spanberger's (D) amendments to [legislation](#) that would legalize adult-use cannabis sales, sending the original bill back to her desk. The House declined to consider the amendments via voice vote, and the Senate followed with a 21–18 vote. The governor's proposed changes included delaying the market launch, increasing taxes, reducing possession limits, and adding new criminal penalties, all of which drew opposition from bill sponsors and advocates. Spanberger has until May 22 to sign the bill, veto it, or allow it to become law without her signature.

STATE POLICY UPDATES

Arizona: A campaign seeking to place a ballot initiative before Arizona voters to repeal the state's adult-use cannabis market has [abandoned](#) the effort. Sean Noble, president of political strategy firm American Encore and the campaign's lead, said he dropped the initiative after concluding that Arizona cannabis operators were not engaging in the marketing practices he had initially been led to believe were occurring. The collapse of repeal efforts in both Arizona and Maine leaves Massachusetts as the only remaining state with an active adult-use cannabis repeal initiative targeting the 2026 ballot.

Colorado: The Marijuana Enforcement Division [announced](#) it is enhancing enforcement and pursuing rulemaking aimed at cracking down on inversion of hemp-derived or synthetic THC into the regulated marijuana industry. Additionally, the agency encouraged licensees to perform due diligence on the businesses they work with, and it reminded them of their obligation to report any known plan or action to commit diversion or compromise the integrity of the Inventory Tracking System. Colorado Leads, which represents the state's regulated marijuana industry, [applauded](#) the MED's effort to maintain public safety and market integrity.

In the final days of the legislative session, lawmakers passed a bill ([HB 26-1077](#)) to adjust how the state calculates the Average Market Rate (AMR) of unprocessed marijuana, which is used in levying the state's wholesale

excise tax. Specifically, the bill creates separate AMRs for indoor and outdoor unprocessed retail marijuana allocated to extraction, including fresh frozen indoor and outdoor unprocessed retail marijuana. It also requires the Department of Revenue to publish the methodology and data sources used to calculate each AMR. The bill is awaiting action from Gov. Jared Polis. If he signs it or lets it become law without his signature, the DOR must adopt rules to establish the rates for fresh frozen indoor and outdoor unprocessed retail marijuana no later than July 1, 2027.

Additionally, separate bills that would have greatly expanded access to hemp-derived THC beverages ([SB 26-164](#)) and upended the current marijuana regulatory system ([SB 26-161](#)) were postponed indefinitely, effectively killing them for the year.

Connecticut: The state legislature agreed to an [FY27](#) budget that will replace the state potency tax (\$0.00625/mg THC in flower; \$0.0275/mg THC in edibles) with an excise tax on retail sales (10.75%). Connecticut is one of only two states taxing cannabis based on THC potency. With this change, Illinois will stand alone as the only adult-use state relying on a potency-based tax structure, increasing pressure on policymakers there to revisit their approach.

Georgia: Gov. Brian Kemp signed into law [SB 220](#), which significantly expands the state's limited low-THC oil program. The new law removes the 5% potency cap and replaces it with a 1,200 mg THC limit per package, expands allowable products to include vapes and some edible forms, and includes new qualifying conditions. State regulators must promulgate rules to implement the new law by January 1, 2027.



HEMP

Arkansas: Arkansas Attorney General Tim Griffin certified that the state can fully enforce Act 934 of 2025, a law regulating hemp products, following the conclusion of litigation surrounding the state's earlier 2023 hemp restrictions. The original 2023 law had been temporarily blocked by a federal judge who found portions of the restrictions were likely preempted by the 2018 Farm Bill. However, the 8th U.S. Circuit Court of Appeals later lifted the injunction, allowing Arkansas to resume enforcement actions. Act 934 of 2025 limits consumable hemp products to 1 mg of total THC per container and a minimum ratio of CBD to THC of greater than 15:1, requires the establishment of a product directory, and creates new permit requirements.

Pennsylvania: The Senate Law & Justice Committee advanced legislation to create a Cannabis Control Board (CCB) to oversee the state's medical marijuana program and hemp products, adopting new amendments related to board composition and licensing. Notably, the bill would classify hemp products above 0.4 mg total THC per container as marijuana, which is in line with the new federal hemp definition. The bill is sponsored by Republican State Senator Dan Laughlin, which may help the bill get the support needed to pass the Republican-controlled Senate.

Texas: A Texas Court of Appeals temporarily reinstated an injunction blocking enforcement of the Department of State Health Services' (DSHS) hemp regulations, which would create a total THC standard for hemp products that includes THCA in potency calculations and impose significant license fee increases. The 15th Court of Appeals is currently reviewing the injunction, which remains in place as litigation continues.

Additionally, the Texas Supreme Court upheld the state health department's authority to ban delta-8 THC, reversing a previous lower court decision that had blocked a ban. The ruling affirms DSHS's authority to regulate not only delta-8 but also future synthetic cannabinoid variants.

Target: Target is significantly expanding its hemp-derived THC beverage sales beyond its initial Minnesota pilot program, adding products to more than 300 stores across Illinois, Florida, and Texas. The retailer previously launched THC beverage sales at select Minnesota locations before later seeking approval to sell the products at all 72 stores in the state. According to reports, the latest expansion includes every Target store in Texas and Florida, along with select Illinois stores where local ordinances permit hemp product sales. The company is also reportedly increasing the allowable potency of beverages sold in stores from 5 milligrams of THC to products containing up to 10 milligrams.



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