the buzz:

Cannabis News & Policy Update

September 2026 Edition

FEDERAL UPDATES

Hemp: Congress passed and President Trump signed a continuing resolution to fund the government that will delay key portions of the new federal hemp definition from taking effect until December 11. The new definition, which would replace the 0.3% delta-9 THC threshold with a 0.3% total THC threshold, prohibit products that exceed 0.4 mg of total THC per container, and ban synthetic cannabinoids, was scheduled to take effect November 12. Under the funding bill, the portion of the definition that bans synthetic cannabinoids will still take effect November 12, but the portion related to naturally occurring cannabinoids will be delayed 29 days.

Lawmakers may try to establish a federal hemp regulatory framework by attaching it to year-end legislation during the lame-duck session following the November election. Several proposals have already been filed, including the Beverage Regulatory Parity Act (H.R. 10079), the Lawful Hemp Protection Act (H.R. 9830), the Hemp Enforcement, Modernization, and Protection Act (H.R. 7212), the Cannabinoid Safety and Regulation Act (S. 3474), and the Hemp Safety Enforcement Act (S. 4315). Congress could also try to extend the delay, but White House liaison James Braid reportedly told Senate Republicans there will be no further delays.

Rescheduling: The Drug Enforcement Administration released the official transcript of its administrative hearing on the proposed reclassification of marijuana from Schedule I to Schedule III, and final briefs were submitted by the government and designated parties. Chief Administrative Law Judge Derek C. Julius must prepare a report that includes recommended findings of fact and conclusions of law, along with a recommended, non-binding decision on the matter. Federal regulations require the report to be completed "as soon as practicable" but establish no specific deadline. Once the report is served, parties have 20 days to file exceptions, and the judge cannot certify the complete record to the DEA administrator until at least 25 days after the report is served.

The U.S. Court of Appeals for the District of Columbia Circuit rejected a request by a national anti-marijuana organization and a pharmaceutical company to block the administration's rescheduling of medical marijuana while the court considers a pending lawsuit challenging the federal rescheduling order. The court also rejected a motion to intervene in the case filed by two medical marijuana companies that sought to join the government in defending rescheduling against opponents' legal challenges.

A bipartisan group of congressional members requested additional medical cannabis rescheduling guidance from President Trump, Attorney General Todd Blanche, Health and Human Services Secretary Robert F. Kennedy, Jr., and Treasury Secretary Scott Bessent. Specifically, they asked the administration to explain how partial Schedule III treatment affects patients, home cultivation, dual-use businesses, DEA registration, privacy, federal enforcement, health coverage, and Section 280E tax relief.

Holland & Hart in Action: Partner Rachel Gillette submitted a letter to the DEA requesting formal interpretive guidance on the practical questions state-licensed medical marijuana operators now face under rescheduling and the new registration framework at 21 C.F.R. § 1301.13(k). The letter poses more than 75 questions across 16 topic areas (including co-located medical and adult-use operations, DEA registration scope, patient verification, interstate commerce, transition compliance, and banking access) and urges the DEA to publish clarifying FAQ guidance for the industry.

280E: New Mexico Top Organics and the IRS have filed their final briefs in response to the court's order addressing the effects of the DEA's final rule issued on April 28, 2026 (the "AG Order"). The taxpayer argues that the AG Order—not the IRS litigation position—is entitled to deference under the Supreme Court's 2024 *Loper Bright* decision, and that the AG Order recognizes a pre-existing scientific reality with implications predating the order. The IRS counters that the AG Order expressly disclaimed any retroactive impact on Section 280E determinations and that only the Attorney General—not the Tax Court—has authority to determine whether a substance meets the CSA scheduling criteria.

NEW MARKETS & LICENSING OPPORTUNITIES

Alabama: Alabama's second medical cannabis dispensary opened at the end of August. Additional dispensary locations are expected to open in September, while litigation continues to hold up the state program, particularly the granting of licenses. The first round of licensees includes 12 total dispensaries operated between four companies. Regulators say there will be at least 37 dispensaries across the state once the program is at full capacity.

Nebraska: The Nebraska Supreme Court unanimously upheld a lower court's dismissal of a lawsuit challenging the two medical marijuana ballot initiatives approved by voters in 2024. It also ruled former State Sen. John Kuehn did not have standing to challenge the laws. A separate lawsuit filed by Kuehn, alleging the medical cannabis program violated state and federal law, was dismissed last year. Bottom line: Medical marijuana is alive and well in Nebraska.

Rhode Island: A federal judge dissolved the preliminary injunction that had blocked the Rhode Island Cannabis Control Commission from awarding cannabis retail and social equity licenses. Regulators reopened the application process in August and will accept submissions for the current round of recreational, worker cooperative, and social equity retail licenses through November 23. The licensing opportunity will add 24 new retail storefronts to the nine currently open.

STATE POLICY UPDATES

Colorado: The Marijuana Enforcement Division adopted final revisions to the Colorado Marijuana Rules (1 CCR 212-3), effective November 1, 2026. The revisions focus largely on preventing diversion and inversion—including new prohibitions on subcontracting or subleasing to unlicensed operators and closures of inventory-tracking loopholes—and add product-safety and labeling requirements. The rules also incorporate a 2.4% inflationary increase across all license and application fees, excluding Social Equity fees.

California: Gov. Gavin Newsom signed AB 2249, defining and restricting cannabis packaging, labeling, and advertising that is considered attractive to children. Two days later, the administration reported removing nearly 15,300 unlawful hemp, kratom, and 7-hydroxymitragynine products from retail shelves. The new law, which identifies several prohibited features, including cartoons, child-oriented characters, candy imagery, imitation of children's products, and overly styled fruit, comes after a California State Auditor report found existing standards were too vague. The law creates one of the nation's most nuanced definitions of what is attractive to children.

Connecticut: A change in Connecticut law that replaces its potency-based cannabis excise tax with a flat 10.75% tax on retail sales is scheduled to take effect October 1. The new tax will be applied in addition to the 6.35% standard state sales tax and the 3% municipal cannabis tax.

Georgia: AThe Georgia Access to Medical Cannabis Commission proposed several rules and rule amendments, including provisions that would authorize delivery; require production licensees to register new products; permit wholesale transfers between production licensees; divide dispensaries into public, common, limited-access, and restricted zones; prohibit tobacco, nicotine, hemp, alcohol, paraphernalia, and child-attractive merchandise at dispensaries; adjust testing rules; authorize recalls; and create research permits.

The proposed rules also implement expansions of the medical program authorized by SB 220, which took effect July 1. Notably, they allow for the delivery of medical cannabis products through the U.S. Postal Service or common carriers, such as FedEx and UPS.

Michigan: Legislation was introduced to repeal the Comprehensive Road Funding Tax Act and eliminate the state's 24% wholesale marijuana tax, which took effect January 1 and produced substantially less revenue than lawmakers projected. Also, Republican gubernatorial nominee John James pledged to repeal or substantially reduce the 24% wholesale marijuana tax if elected. He claims he would require intoxicating hemp products sold at gas stations and smoke shops to follow age, testing, and labeling standards comparable to the licensed cannabis market.

Illinois: The Illinois Department of Financial and Professional Regulation posted the application that adult-use dispensaries must file to obtain a medical cannabis dispensing license. Legislation enacted in June authorized stores to sell to registered patients at the medical tax rate and within each patient's allotment. The IDFPR has reportedly issued 37 new medical licenses to adult-use operators.

Nevada: September 1 was the deadline for all entities selling cannabis or cannabis products in Nevada to apply for a Cannabis Tax Permit from the Department of Taxation. This requirement is separate from any license issued by the Cannabis Compliance Board. It stems from SB 41, signed into law in May 2025. Starting in January 2027, the Cannabis Compliance Board will begin suspending cannabis licenses of entities that do not hold Cannabis Tax Permits or are otherwise out of compliance. The Department of Taxation published extensive FAQs on the subject.

New Mexico: The New Mexico Cannabis Control Division transitioned the state's cannabis industry from BioTrack to a new track-and-trace software system specifically designed for the state, called the New Mexico Seed-to-Sale System (NMS2S). The Cannabis Association of New Mexico and some licensed cannabis businesses filed a preliminary injunction and temporary restraining order against the state's Regulation and Licensing Department in hopes of continuing to use BioTrack until NMS2S is proven to operate, but they have since withdrawn the request and plan to refile with evidence of quantifiable losses.

HEMP

Texas: A new case challenging state hemp regulations, *SS Distro USA LLC, et al. V. Texas Department of State Health Services*, was filed in the Texas 459th Judicial District Court in Travis County. The plaintiffs, arguing DSHS overstepped its constitutional authority when creating rules for testing hemp products, were denied a temporary restraining order to prevent enforcement. The case is one of a few pending court challenges to hemp rules in Texas.

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