

SOUTH DAKOTA DEPARTMENT OF REVENUE

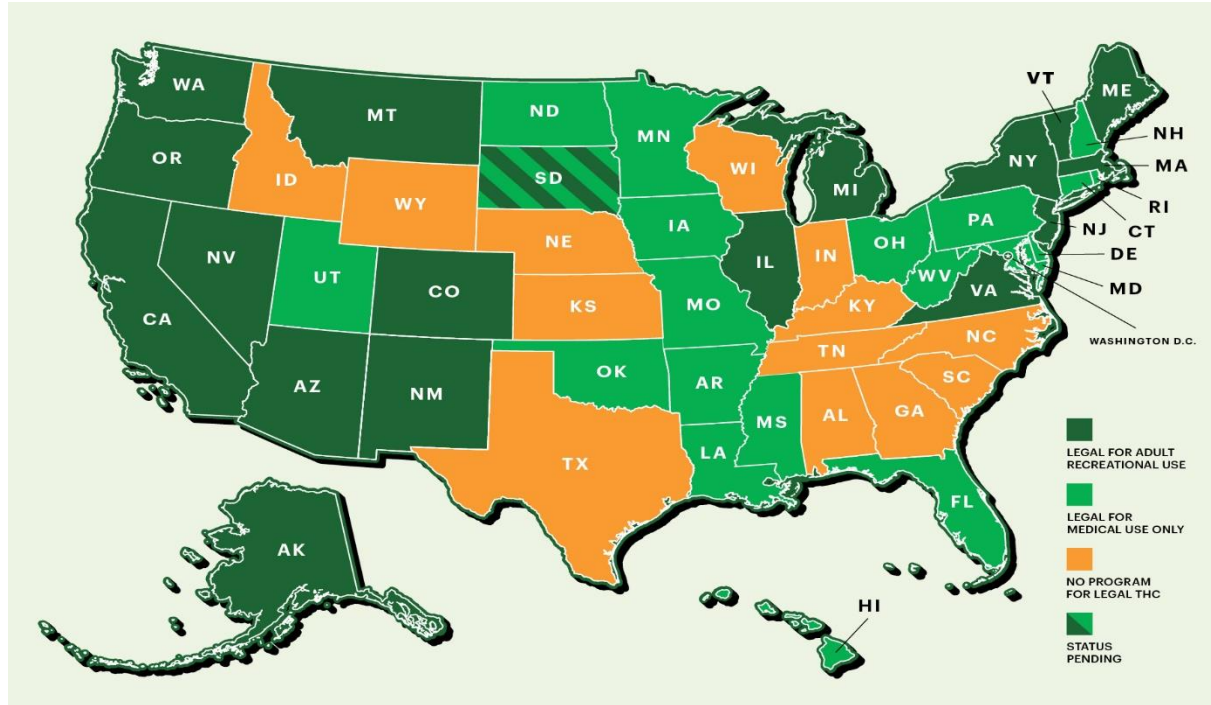
# MARIJUANA REGULATION

May 2021



# MARIJUANA REGULATION

## Marijuana Legalization Map 2021



# MARIJUANA REGULATION

## Federal Enforcement Guidelines

Marijuana remains illegal under federal law. States have followed the guidelines contained in the so-called “Cole Memo” issued during the Obama administration. While the Cole Memo has since been rescinded, states continue to adhere to the guidelines when constructing regulatory programs.

### **8 Guidelines**

1. Preventing distribution to minors.
2. Preventing the revenue from going to criminal enterprises, gangs, and cartels.
3. Preventing the diversion of marijuana from states where it is legal to states where it is illegal.
4. Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity.
5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana.
6. Preventing drugged driving and other adverse public health consequences associated with marijuana use.
7. Preventing the growing of marijuana on public lands and the environmental dangers posed by marijuana production on public lands.
8. Preventing marijuana possession or use on federal property.

# MARIJUANA REGULATION

## Common Elements of State Regulatory Programs

While each state that has legalized marijuana for either medical or recreational use has unique regulatory features, there are some common elements that may serve as a guide for developing a program in South Dakota.

### **Licensing Requirements**

- Criminal and financial background investigations for all applicants
- Residency requirements
- Location restrictions (generally not permitted within a certain distance of schools, daycares, libraries, and other locations where minors congregate).

### **Traceability Systems**

- Commonly referred to as “track and trace” or “seed-to-sale” systems
- Purpose is to ensure all marijuana grown, processed, and sold by licensees stays within the regulatory system and is not diverted to the illicit market
- Several vendors operate traceability systems, and the licensees are generally responsible for a portion of the system costs

# MARIJUANA REGULATION

## Common Elements of State Regulatory Programs (continued)

### Strict packaging and labeling requirements

- Limits on serving size and concentration per package
- Warning labels
- Must contain a universal symbol identifying the product contains THC and is not for persons under 21 years of age
- Net weight

**Warning:** This product has intoxicating effects and may be habit forming. There may be health risks associated with the consumption of this product. Should not be used by women that are pregnant or breast feeding. This product may be unlawful outside of Washington State. Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug. For use only by adults 21 and older. Keep out of children.

**Caution:** When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours.

THIS PRODUCT CONTAINS MARIJUANA

Mfg. by TwoLeaf Group UBI#6344149

**Resinator Blend**  
60% Sativa / 40% Indica




PURE CO<sub>2</sub>  
EXTRACTED  
CANNABIS



NOT FOR KIDS

**TwoLeaf**  
Blends for Every Occasion



GEL  
CAPS

100mg THC  
10 Capsules (10mg THC each)

EMERGENCY  
(800) 222 1222

Lot#6334414900001234  
10mg Active THC per Serving  
Contains 10 Servings  
Net Weight 5000mg  
Mfg Date: 02/08/2017  
Best By: 02/08/2018  
Retail UBI#603344149

**Ingredients: Organic Fractionated Coconut Oil, CO<sub>2</sub> Extracted Cannabis Oil.**

**No pesticides were used in the production of this product.**

# MARIJUANA REGULATION

## Common Elements of State Regulatory Programs (continued)

### **Consumer Safety**

- Product and Label Approval
  - Prevent products and packaging that especially appeal to children (e.g. no gummy bears or suckers)
- Laboratory Testing and Approval
  - Ensure uniformity of product and accurate labeling
- Retail store signage and product warnings
  - No minors allowed
  - Product usage signage required in retail stores
- Advertising restrictions

# MARIJUANA REGULATION

## Common Elements of State Regulatory Programs (continued)

### **Taxation**

#### Weight-Based Taxation

- Not common in medical marijuana programs, but increasingly used by states with recreational marijuana programs

#### Percentage of Price-Based Taxation

- Most common method of taxing medical or recreational marijuana
- Similar to a retail sales tax, but can be levied at the wholesale level or at the retail point of sale

#### Potency-Based Taxation

- Common framework for taxing alcoholic beverages, where more-potent distilled spirits are subject to a higher tax than beer or wine
- Growing body of research suggesting benefits of potency-based taxation for marijuana, but only one state (IL) has adopted this model

# Questions?



South Dakota  
Department of Revenue



@SDRevenue



South Dakota DOR



Sign-up for our  
E-Newsletter

michael.houdyshell@state.sd.us • 605.773.5125