

Key Developments in Cannabis Law: 2019 Tracker

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A summary of significant legal developments related to cannabis, including medical and recreational marijuana, hemp, and cannabidiol (CBD) occurring in 2019. This legal tracker covers cannabis-related litigation and legislation affecting employment, real estate, trademark, financial, and commercial matters.

This tracker summarizes key developments affecting the manufacture, distribution, sale, and use of cannabis derived products. It also tracks developments related to business, legislative, and regulatory matters involving marijuana, hemp, and CBD. The tracker contains links to relevant resources.

Date	Jurisdiction	Development	Source
September 25, 2019	Federal	The US House of Representatives passed H.R. 1595, known as the Secure and Fair Enforcement Act of 2019 (SAFE Banking Act). The law seeks to enable federally insured banking institutions to work with marijuana businesses in states where marijuana has been legalized. The bill will move to the US Senate where it will likely be amended before it is voted on. For more information regarding financial services and cannabis, see Article, Financial Services and the US Cannabis Sector (W-019-8346).	H.R. 1595—116th Congress (2019-2020)
September 17, 2019	Chicago, Illinois	Chicago Mayor Lori E. Lightfoot proposed a new ordinance imposing zoning regulations for the sale of recreational marijuana in Chicago. The proposed ordinance includes an exclusion zone in the Chicago Business District which would restrict new recreational dispensaries from the busiest areas in downtown Chicago. The ordinance proposes seven zones for recreational marijuana dispensaries. Each of the seven zones would be permitted a maximum of seven dispensaries with an increase in dispensaries in May 2020.	City of Chicago Press Release, <i>Mayor Lightfoot Introduces Ordinance to Establish Cannabis Requirements and Promote Equity in Expanding Industry</i> (2019)

Date	Jurisdiction	Development	Source
September 10, 2019	Federal	<p>The Federal Trade Commission (FTC) sent warning letters to three companies marketing oils, tinctures, capsules, “gummies,” and creams infused with cannabidiol (CBD) on their websites as treatments for diseases. The FTC (which did not publicly identify the companies) warned the companies that it is illegal to advertise that a product can “prevent, treat, or cure human disease without competent and reliable scientific evidence to support such claims.”</p> <p>For more information regarding the FTC warning letters see, Legal Update, <i>FTC Sends Warning Letters to Companies Marketing Their CBD-Infused Products as Disease Treatments</i> (W-022-0252). For information regarding the FDA’s regulation of CBD, see Practice Note, <i>CBD: Overview</i> (W-019-2195).</p>	<p>US Federal Trade Commission Press Release, <i>FTC Sends Warning Letters to Companies Advertising Their CBD-Infused Products as Treatments for Serious Diseases, Including Cancer, Alzheimer’s, and Multiple Sclerosis</i> (2019)</p>
September 4, 2019	Federal	<p>The Ninth Circuit Court of Appeals ruled that <i>Big Sky Scientific, LLC v. Idaho State Police</i> (see, February 2, 2019 entry), a case challenging the interstate commerce provisions of the 2018 Agricultural Improvement Act (2018 Farm Bill) should be tried in Idaho’s state courts.</p> <p>For more information regarding the <i>Big Sky</i> case, see Article, <i>The Transport of Hemp in Interstate Commerce: Pending Cases Examine Whether the Road is Really Open</i> (W-020-0865). For more information regarding hemp regulation, see Practice Note, <i>Hemp and the 2018 Farm Bill: Overview</i> (W-019-2195).</p>	<p><i>Big Sky Sci. LLC v. Bennetts</i>, 776 Fed. Appx. 541 (9th Cir. 2019)</p>
August 28, 2019	Federal	<p>The US District Court for the Western District of Washington ruled in <i>Polk v. Gontmakher</i> that the Controlled Substances Act (CSA) prohibited the enforcement of an agreement between partners in a cannabis business. This ruling is contrary to the trend of courts enforcing cannabis-related business agreements.</p> <p>In <i>Polk</i>, two individuals in Washington, where recreational use of marijuana is legal, orally agreed to be business partners in a cannabis business. After one partner left the business, a lawsuit was filed to compel the other to pay what was owed for the exiting partner’s interest in the company.</p> <p>The court ruled that:</p> <ul style="list-style-type: none"> ■ The agreement violates the CSA. ■ Agreements that violate federal law are unenforceable. <p>The exiting partner argued that the CSA is not a bar to enforcement of the agreement if the remedy requested, monetary damages, does not require a violation of the CSA. The court disagreed, stating that the remedy requested is enforcement of an ownership interest in a federally illegal business.</p>	<p><i>Polk v. Gontmakher</i>, 2019 WL 4058970 (W.D. Wash. Aug. 28, 2019)</p>
August 27, 2019	Federal	<p>The US Department of Agriculture (USDA) announced that growers of certain industrial hemp grown for fiber, flower, or seeds will be allowed access to insurance coverage under the Whole-Farm Revenue Protection (WFRP) program for crop year 2020. Hemp producers must comply with applicable state, tribal or federal regulations for hemp production and have a contract for the purchase of the insured industrial hemp to be eligible. Hemp with THC levels above 0.3 percent will not constitute an insurable cause of loss.</p> <p>For more information regarding hemp and the USDA, see Practice Note, <i>Hemp and the 2018 Farm Bill: Overview</i> (W-019-2195).</p>	<p>US Department of Agriculture Press Release, <i>Hemp Crop Insurance Coverage Available for 2020</i> (2019)</p>
August 26, 2019	Federal	<p>The Drug Enforcement Administration announced that it will no longer require registration to grow or manufacture hemp plants and cannabidiol (CBD) containing less than 0.3 percent THC threshold. The change was prompted by the Agriculture Improvement Act of 2018 (2018 Farm Bill) (Pub. L. No. 115-334), which was signed into law on Dec. 20, 2018 and excluded hemp from the definition of marijuana, a controlled, schedule I substance under the Controlled Substances Act (CSA).</p> <p>For more information regarding the 2018 Farm Bill, see Practice Note, <i>Hemp and the 2018 Farm Bill: Overview</i> (W-019-2195). For more information regarding CBD, see Practice Note, <i>CBD: Overview</i> (W-019-9686).</p>	<p>US Drug Enforcement Administration Press Release, <i>DEA Announces Steps Necessary to Improve Access to Marijuana Research</i> (2019)</p>

Date	Jurisdiction	Development	Source
August 19, 2019	Federal	<p>The National Credit Union Administration (NCUA) announced that federally insured credit unions may now provide financial services, including loans, to hemp businesses. The NCUA issued a guidance for credit unions on providing a range of financial services to hemp businesses in compliance with applicable state, tribal or federal regulations for hemp production.</p> <p>For more information regarding financial services and cannabis, see Article, Financial Services and the US Cannabis Sector (W-019-8346). For more information regarding hemp regulation, see Practice Note, Hemp and the 2018 Farm Bill: Overview (W-019-2195).</p>	US National Credit Union Administration Letter to Credit Unions and other Guidance dated August 2019, (19-RA-02)
August 13, 2019	Federal	<p>The American Bar Association (ABA) House of Delegates adopted a resolution urging the US Congress to enact legislation:</p> <p>That removes marijuana as a schedule I controlled substance under the Controlled Substances Act (CSA).</p> <p>To amend the CSA to allow for the production, distribution, possession, and use of marijuana in compliance with state laws.</p> <p>That encourages further research of cannabis and its efficacy, reasonable dosage, use, and side effects.</p>	American Bar Association House of Delegates Resolution 104 (2019)
June 25, 2019	Illinois	<p>Illinois recently became the eleventh state to approve marijuana for recreational use. It is the second state to legalize marijuana for adult use solely through the legislative process rather than through a voter-approved ballot initiative, and the first to authorize retail sales of the substance legislatively. The state previously allowed marijuana for medical purposes.</p> <p>The law will take effect on January 1, 2020, at which time approved dispensaries may start selling recreational marijuana. Possession of cannabis for non-medical use remains a crime until that time.</p> <p>For more information regarding the Illinois law, see Legal Update, Illinois Legalizes Recreational Marijuana (W-021-0193).</p>	705 ILCS 705/1-1 to 705/999-99

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