



Lunch and Learn:

MARIJUANA

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Agenda

I. Definitions

II. National Overview

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- b. Other States

III. Montana Overview

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IV. Current Issues

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Marijuana DEFINED

MCA 16-12-102

(20) (a) "Marijuana" means **all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.**

(b) The term does not include hemp as provided in 80-18-101.

(c) The term does not include synthetic marijuana [cannabinoid] products.

80-18-101

(1) (a) "Hemp" means the plant species Cannabis sativa L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a **total delta-9 tetrahydrocannabinol concentration of not more than 0.3%** on a dry weight basis.



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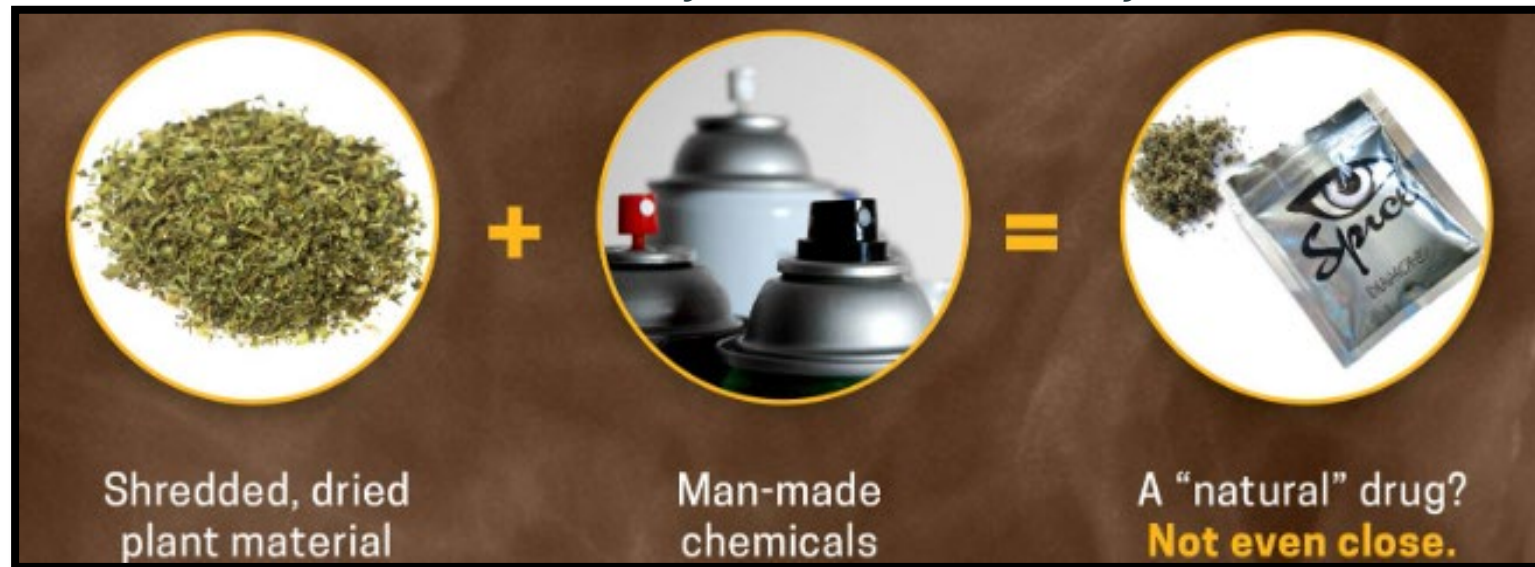
$\Delta 9\text{-THC} > 0.3\%$

Marijuana DEFINED

MCA 16-12-102

(39) "Synthetic cannabinoids" has the meaning provided in 50-32-222 and includes **any cannabinoids produced artificially**, whether from chemical synthesis or biosynthesis using recombinant biological agents, including but not limited to yeast and algae.

Lab-made substances that are chemically similar to chemicals found in the cannabis plant



National Overview: Federal Law



1937: Marihuana Tax Act

Extensive regulation of marijuana importation, cultivation, possession and/or distribution with significant penalties.

1970: Controlled Substances Act

Criminalized the manufacture, distribution, dispensation, and possession of all of varieties of cannabis. Marijuana classified as a Schedule I controlled substance, subject to the most stringent regulation and significant criminal penalties.

2015: "Rohrabacher-Farr Amendment"

Since 2015, Congress has included provisions that prohibit DOJ from using appropriated funds to prevent states and territories from implementing medical marijuana laws.

2018: Farm Bill

Legalized hemp with a statutory definition: "cannabis containing no more than a 0.3% concentration of the psychoactive compound delta-9-THC."

2024: DOJ Notice of Proposed Rulemaking

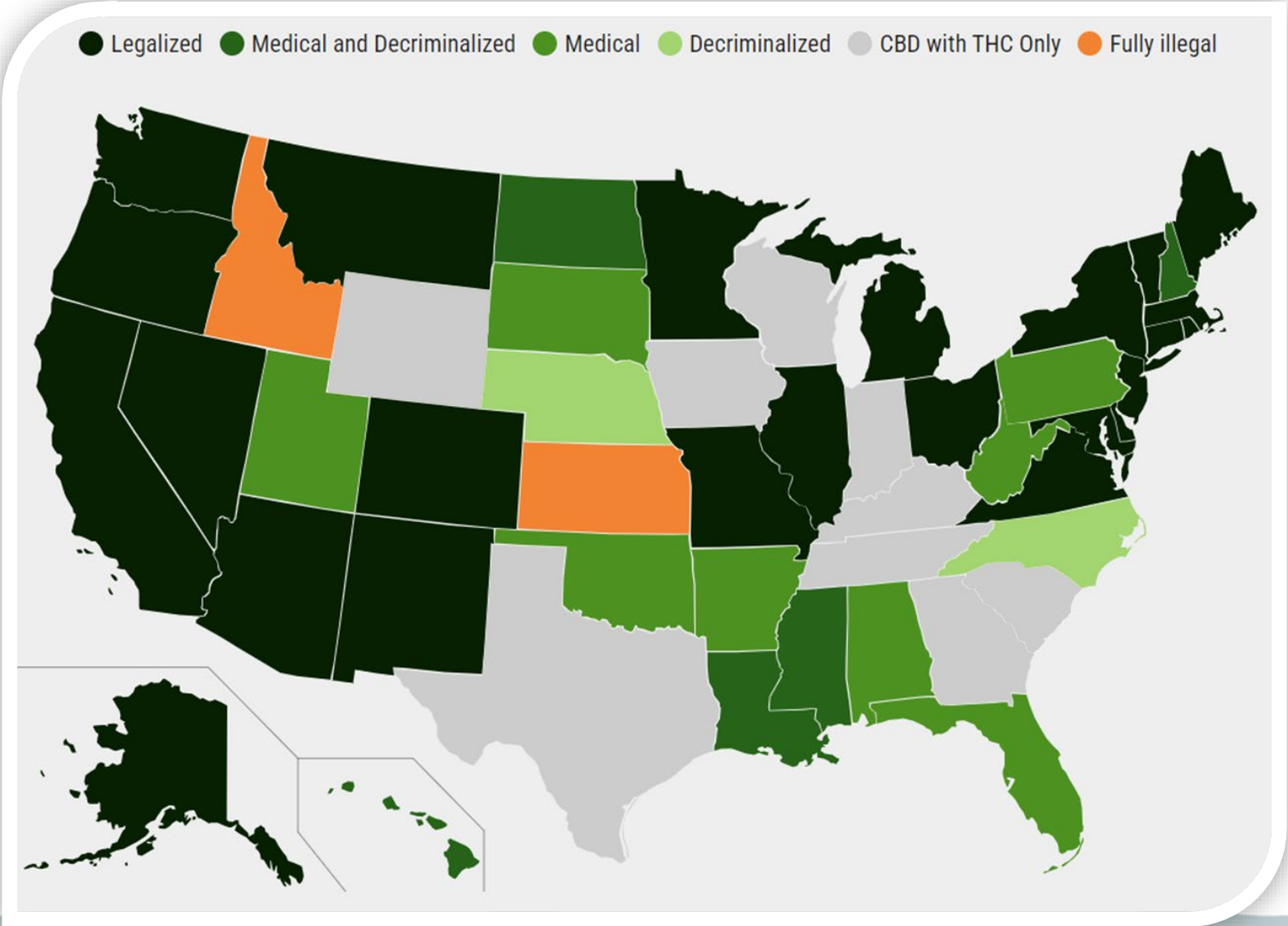
Consistent with HHS conclusion, DEA announced plan to reschedule marijuana from Schedule I to Schedule III; a public hearing on this plan will be held in December 2024.

National Overview: State Law

As of late 2024:

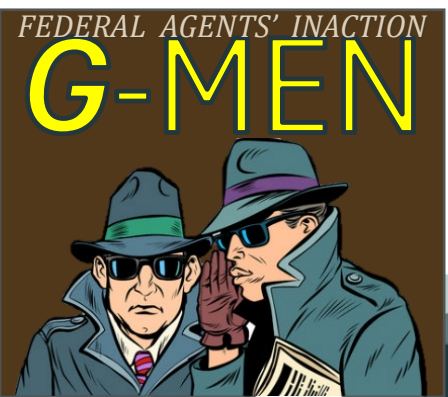
24 states plus DC and 3 US territories have legalized recreational marijuana

38 states plus DC and 4 US territories have legalized medical marijuana



North Dakota, South Dakota, and Florida will vote on initiatives to legalize marijuana in Nov 2024.

Nebraska will vote on an initiative to legalize Medical marijuana in Nov 2024.



Montana Overview: Legislation



1929: MARIJUANA PROHIBITED

2004: INITIATIVE 148 – MEDICAL MARIJUANA LEGALIZED

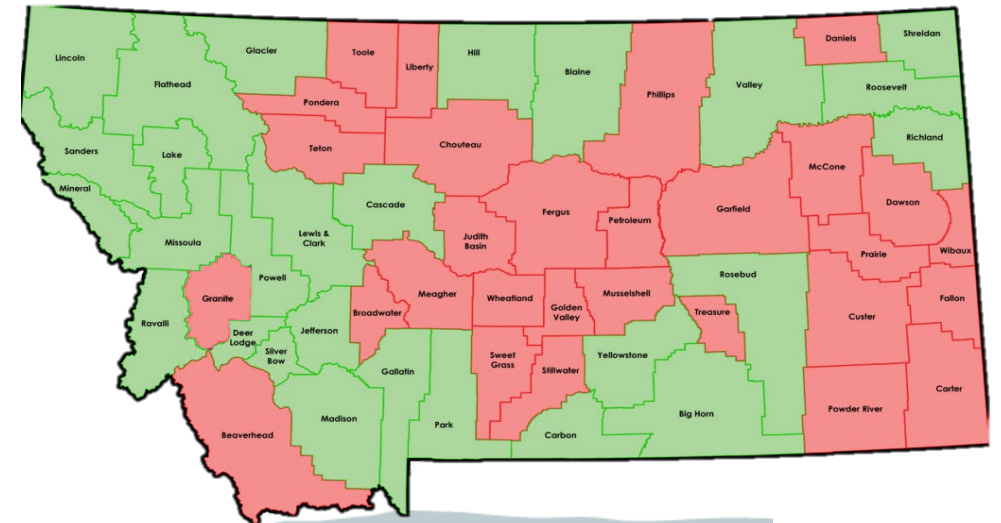
2011: SB 423 – Increased regulations on Medical Marijuana

2016: Initiative 182 – Relaxed regulations on Medical Marijuana

2020: INITIATIVE 190 – LEGALIZED RECREATIONAL MARIJUANA

2021: HB 701 – Authority assigned to DOR: Cannabis Control Division

2023: HB 948 – Prohibition on synthetic cannabinoids



Montana Overview: Legislation

In simple terms, Montana allows:

Licenses for cultivating, manufacturing, testing, transporting, and sale



Medicinal use

Recreational use of marijuana for age 21 and over



Possession up to 1 ounce of marijuana:
8 grams in concentrate, 800 milligrams of THC in [edible] products



Home cultivation:
Up to 2 mature and 2 immature plants for adult-use;
4 and 4 for medicinal



Consumption on private property only



Montana Overview: Taxes and Revenue

<https://archive.legmt.gov/content/Publications/fiscal/2025-Biennium/Resources-and-Guides/Marijuana-Brochure.pdf>



Current Issues: OVERVIEW

Banking: Cash is king

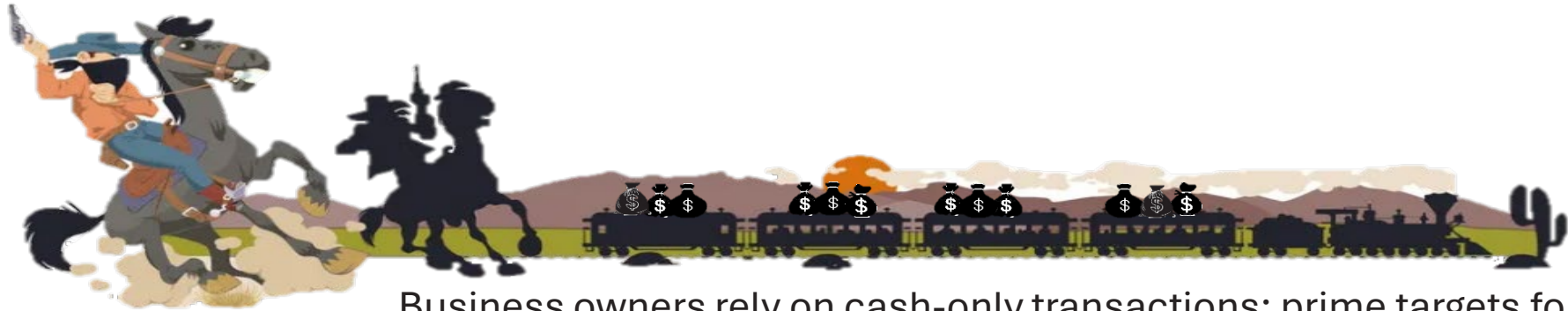
Rescheduling: Open the floodgates?

MT Licensing Moratorium: The path ahead

Current Issues: Banking



Federal laws make it difficult for most cannabis businesses to find a bank willing to do business: financial transactions involving proceeds from marijuana sales could result in prosecution under money laundering statutes, unlicensed money transmitter statutes, or the Bank Secrecy Act (BSA).



Business owners rely on cash-only transactions: prime targets for theft, burglary, armed robbery and other crimes.



The SAFER Banking Act would resolve the tension between federal and state law with respect to banking, lending to, and insuring a state-legal cannabis business.

Current Issues: Rescheduling

Schedule I	Most potential for abuse and dependence No medicinal qualities Heroin, LSD, Marijuana , Ecstasy, Peyote
Schedule II	High potential for abuse and dependence Some medicinal qualities Vicodin, Cocaine, Meth, OxyContin, Adderall
Schedule III	Moderate potential for abuse/dependence Acceptable medicinal qualities Doctor's prescription required Tylenol with Codeine, Ketamine, Steroids, Testosterone
Schedule IV	Low potential for abuse and dependence Acceptable medicinal qualities Prescription required - fewer refill regulations Xanax, Darvon, Valium, Ativan, Ambien, Tramadol
Schedule V	Lowest potential for abuse/dependence Acceptable medicinal qualities Prescription required - fewest refill regulations Robitussin AC, Lomofil, Motofen, Lyrica

DEA intends to reschedule marijuana in early 2025.

Schedule III substances may only be dispensed with a valid prescription; the Food and Drug Administration (FDA) would still need to approve its medicinal use, and it would remain subject to regulation under the Federal Food, Drug, and Cosmetic Act (FDCA).

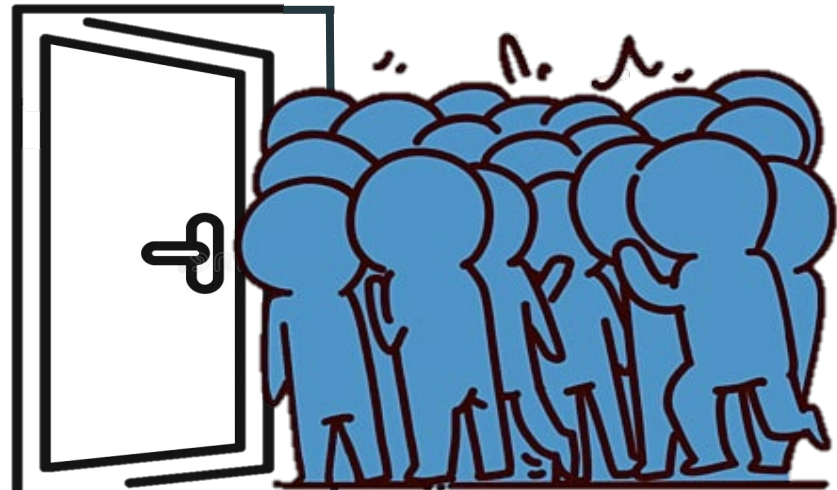
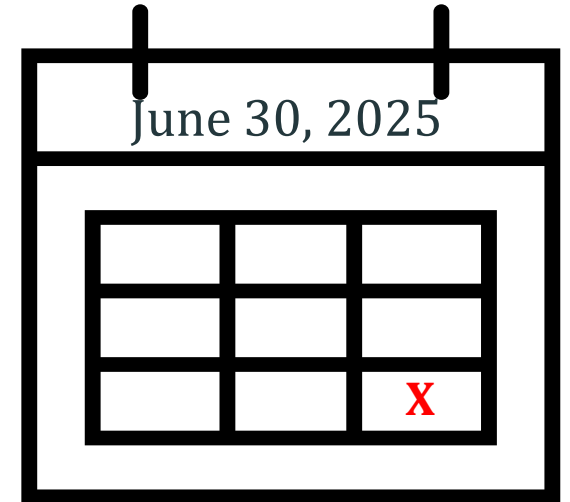
Recreational marijuana would remain illegal.

California, Oregon, and Washington have passed interstate commerce laws to permit cannabis businesses to transport THC products across state lines into other regulated markets – **IF** the federal government legalizes marijuana or its interstate commerce.



Current Issues: MT Licensing Moratorium

Montana's licensing moratorium allows only prior-existing medical marijuana licensees to join the recreational market. Set to expire June 30, 2023, it was extended to 2025. Once expired, Montana's marijuana licensure will be open to any new applicants.



Footprint: Montana is home to over 400 licensed dispensaries. In 2024, Missoula City Council imposed a two-year moratorium on new dispensary licenses within city limits. MCA does not permit licensing if a premises is within 500ft and on same street as churches, schools, and childcare facilities; Numerous municipalities have implemented additional ordinances.

What is Montana's marijuana market short/mid-term future?

References

MCA 2023 - TITLE 16. ALCOHOL, TOBACCO, AND MARIJUANA - CHAPTER 12. MARIJUANA REGULATION AND TAXATION

https://www.leg.mt.gov/bills/mca/title_0160/chapter_0120/parts_index.html

MT Synthetic Cannabinoid Advisory Council Report, 08/2024

https://mtrevenue.gov/wp-content/uploads/dlm_uploads/2024/09/Synthetic-Marijuana-Advisory-Council-Report_FINAL.pdf

MT Cannabis Sales Reports

<https://mtrevenue.gov/cannabis-sales-reports/>

Statistical Analysis Center, Drug Seizures in Montana

https://dataportal.mt.gov/t/MBCC/views/CIM-DrugSeizures/DrugTrendsDashboard?iframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay_count=n&%3AshowVizHome=n&%3Aorigin=viz_share_link

MT DOJ Forensic Science Division Annual Report, 2023

<https://dojmt.gov/wp-content/uploads/2023-FSD-Annual-Report.pdf>

CRS Report: The Federal Status of Marijuana and the Policy Gap with States, 05/2024

<https://crsreports.congress.gov/product/pdf/IF/IF12270>

Map: Marijuana Legality by State

<https://disa.com/marijuana-legality-by-state>

Federal Register: DEA proposed Rescheduling of Marijuana, 05/2024

<https://www.federalregister.gov/documents/2024/05/21/2024-11137/schedules-of-controlled-substances-rescheduling-of-marijuana>

Questions?