

WHAT'S THE URGENCY?

Here are 6 Reasons to Start Planning for Federal Cannabis Regulation NOW

When advising clients regarding federal cannabis regulation, the first question is usually “Why do I need to worry about this now?”. This volume of Verde’s “[State of the Plant](#)” will explain why you need to start planning for federal cannabis regulation right away.

Why Start Now?

1. Federal legislative action and increased state level legalization are accelerating the path towards federal cannabis regulation.
2. With strong voter support (More than 90% throughout the US), cannabis issues will play a major part in the upcoming midterm elections.
3. The process of complying with federal regulations, including applying for and being awarded a federal cannabis license, will be complex and time consuming.
4. The immense number of businesses that will be simultaneously applying for federal licenses could bog down an already strained system.
5. The cost to retain advisors who are knowledgeable and experienced with federal regulation and regulatory agencies, will rise drastically as federal cannabis reform moves closer to becoming law.
6. The downside risk is enormous, including a potential shut down of the business and / or prison time.

Legislation & State Action

As we’ve discussed in past issues of [Verde’s State of the Plant](#), the path towards ending federal cannabis prohibition and enacting comprehensive cannabis regulation is accelerating. Recently, both the Senate and House passed cannabis reform bills, with the House passing the MORE Act which would end federal prohibition. There are two more Republican proposals in the House, and Senate Majority Leader Schumer will soon introduce a bill in the Senate, which would end prohibition and regulate cannabis production and sales.

In the past several months, states such as New York, New Jersey, and Virginia have legalized adult use cannabis sales. Several more, including Ohio, Rhode Island, Texas, Indiana, and Florida are either considering legalization for the first time, or expanding into adult use.

Voter Support & Midterm Elections

The midterm elections are coming in November, and cannabis will play an important part in the outcome. Cannabis issues could appear on five to ten state ballots. Although US voters don't agree on much, they overwhelmingly support legal cannabis. According to a recent Pew survey, more than 90% of Americans support medical sales, and more than 60% support adult use. All of this will put more pressure on Congress to act. There are several swing state candidates, such as Lieutenant Governor John Fetterman (PA), John Cranley (OH), Gary Chambers (LA), and Beto O'Rourke (TX) that have made cannabis reform a major part of their campaigns.

Additionally, there are several cases on the federal court dockets, including potentially two (Bierbach v Diggers Polaris and Musta v. Mendota Heights Dental Center) going to the Supreme Court, which could end prohibition without legislative action. This would create chaos.

Complexity

Every proposal currently filed to end federal cannabis prohibition, and establish comprehensive reform, would grant regulatory authority to the Alcohol and Tobacco Tax and Trade Bureau (TTB), which currently regulates the alcohol and tobacco industries. Most of the proposals, either explicitly, or implicitly, authorize TTB to regulate cannabis like alcohol. Once passed into law, state licensed cannabis operations would be required to obtain the necessary federal licenses and comply with all other regulations. The time from enactment of federal regulations to the application period could be **as short as nine months** (States Reform Act - Mace (R-SC)).

The application process for a federal cannabis license will be similar to that for obtaining an alcohol license. The federal application process is very different from those administered by the states. It is complex, requiring multiple forms and supporting documents to be submitted. For example, corporations are required to complete a personnel questionnaire for every officer, director, trustee and owner of at least 10% of the shares. These must be submitted for each physical location. The requirements for LLCs and partnerships are similar. Quite the undertaking for a vertically integrated multi state operator.

The Numbers

Speaking of every operation, there are approximately 20,000 state legal cannabis growers, producers, and dispensaries in the United States. This number continues to rise as more states enact legalization. By the end of 2022, there could be 30,000+ state legal businesses that will need to get a federal license. The mass application process could overwhelm the system. The current wait to process a license to produce distilled spirits is around two months. Clearly the wait time would be much longer to process cannabis licenses.

Building a Solid Team

Economic principle one: the more limited the supply of a service or product, the more expensive it will be. Economic principle two: as demand for a service or product increases, the cost rises. There are a limited number of firms or individuals who have the experience and knowledge required to advise a business on how to prepare, and comply with federal regulations. This number is even smaller when it comes to firms who have worked with the United States Treasury Department, and its agency, the Alcohol and Tobacco Tax and Trade Bureau. As federal cannabis regulations come closer to being enacted into law, the cost for hiring an effective advisor will rise substantially, and may even reach the point where merely competent assistance will not be available.

Risky Business

Although the bills make provisions to allow state legal cannabis businesses to operate while their application is pending, a denial could lead to civil and criminal penalties. TTB would have authority to shut down a business for particularly serious violations. A review of TTB's website, lists fines in the millions of dollars, and license suspensions of major companies, including Anheuser-Busch. Intentionally fraudulent violations of TTB regulations could lead to a prison term of up to five years. The cost of non-compliance is something most businesses and individuals cannot afford.

Insuring Your Business for Success

Preparing for federal cannabis regulation is like buying insurance for your business. Businesses purchase casualty insurance before a loss occurs. Spending a little money up front, "insures" that you can avoid the much higher expense when an incident occurs. Retaining the best federal regulatory advisors now, will help your business thrive when federal cannabis regulation is adopted.

About Verde Compliance Partners

Verde Compliance Partners is a national consulting firm focused on guiding clients through federal cannabis licensing, taxation, and regulatory compliance. Our firm prepares and navigates cannabis businesses through the regulatory, legal, and administrative requirements necessary to comply with current and future federal regulations. With decades of experience in high level positions at the U.S. Treasury Department Alcohol & Tobacco Tax and Trade Bureau (TTB), and its predecessor, the Bureau of Alcohol, Tobacco, and Firearms (ATF), the Verde team is uniquely qualified to prepare cannabis industry stakeholders for the implementation of federal regulation.

Jim McCoy - Director of Operations

Jim spent 32 years with the Bureau of Alcohol, Tobacco, and Firearms (ATF) and Alcohol and Tobacco Tax & Trade Bureau (TTB) where he served in various positions. For the past ten years he has assisted numerous alcohol and tobacco industry members with federal license, product, tax, and operational compliance issues. He is sought after by cannabis processors, CBD processors, and alcohol and tobacco producers for guidance with regulatory matters.

Loy A. (Tony) Haynes, Federal Compliance Manager

Tony chaired the ATF Task Force to centralize the licensing and taxation functions of the ATF/TTB, U.S. Treasury, in Cincinnati, OH. He retired from government service in 2000, overseeing this function as the Director of the National Revenue Center. At the operational level, he held many high level regional and field positions to include Chief of Field Operations, in New York City, responsible for compliance, audit, and trade practices for the Northeast Region and the Caribbean.

Harry Bernstein - Executive Director

As general counsel of a beer and wine wholesale distributor for nearly two decades, Harry handled all legal matters including, contracts, franchise agreements, labor negotiations, as well as state and federal licensing and compliance. For the past 21 years, as an attorney, he has assisted individuals with health care matters and special needs planning, including representing clients at federal administrative hearings at the Social Security Administration.

For more information, visit www.verdecompliance.com