

Virginia's Newest Budding Industry: the Legalization of Cannabis in the Commonwealth

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A hand holding a cannabis plant against a dark background. The plant has green serrated leaves and small purple buds. The hand is positioned in the center, with fingers gently holding the plant. The background is dark and out of focus.

Overview

- Market Opportunity
- Current Law: State and Federal
- 2021 Legislation
- Timeline
- Regulatory Structure
- Licensing
- Taxes & Fees
- Local Referenda
- Immediate Steps



Market Opportunity

- Virginia is the 16th state and 1st Southern state to set up a regulated cannabis industry.
- JLARC & Governor Northam's Marijuana Work Group value the industry at over **\$1.2 billion per year.**

Ancillary Services

- Banking & Financing
- Insurance
- Legal Services
- Human Resources
- Accounting
- Healthcare
- Real Estate
- Construction & Engineering
- Marketing & Advertising
- Technology
- Logistics & Transportation
- Equipment Manufacturing
- Security
- Agriculture & Agritourism
- Hospitality
- Food Production
- Energy
- Personal Services



Current State Law

Pharmaceutical Permit Processors

- A facility permitted by the Board of Pharmacy to cultivate and dispense cannabis oil to registered patients for the purpose of alleviating a diagnosed condition or disease.
- The Board may permit up to 1 pharmaceutical processor and 5 cannabis dispensing facilities in each health service area per year.
- Each facility must be under personal supervision of licensed pharmacist in good standing.
- 1 pharmaceutical processor may establish up to 5 cannabis dispensing facilities all located within the same health service area.

Registered Hemp Growers, Processors, and Dealers

- Registration expires annually.
- A registered grower, processor, or dealer may assign responsibilities of growing, processing, or dealing to an "agent."
- Registered growers must submit report to VDACS within 14 days of planting.
- VDACS may conduct random testing on industrial hemp products to ensure THC concentration is less than 0.3%.

Current State Law

- Virginia first decriminalized marijuana during the 2020 General Assembly Session.
 - Penalty for possession of up to 1 oz of marijuana is a \$25 civil fine.
 - No arrests could be made and no criminal records could be created.
 - Past marijuana convictions now sealed from employers and school administrators.
- Later in 2020, the General Assembly passed additional legislation allowing people to prepay their civil penalties, eliminating required court appearance.
- Under current state law, the sale, manufacture, or trafficking of marijuana is still considered a felony punishable by both incarceration and severe fines.

Current Federal Law

- Cannabis remains a Schedule I drug under DEA guidelines.
- President Barack Obama's Department of Justice had a formal policy of not pursuing investigations against cannabis use that was legal under state law.
- Attorney General Merrick Garland indicated in his confirmation hearings that he did not believe the federal government should be investigating or prosecuting marijuana cases, but no policy has been announced.
- The FTC, FDA, HHS may issue federal laws, policies, or guidelines, related to health warnings, advertising, product labeling, etc. of cannabis products.
 - Products designed for consumption or to be applied to the body have labeling requirements that fall under the federal Food, Drug & Cosmetics Act, and the language of the labels themselves – and any advertising for the products – can be subject to federal regulation by the FDA and the FTC.

February 5, 2021 - Regular Session

2021 Virginia Legislation

- Beginning July 1, 2021, individuals may legally possess small amounts of marijuana and cultivate up to four plants at home.
- Establishes the Virginia Cannabis Control Authority as an independent authority responsible for issuing regulations, approving licenses, and enforcement.
- Four license categories:
 - Cultivation
 - Product Manufacturing
 - Wholesale
 - Retail
- Restrictions on vertical integration and on anti-labor activity.
- Provisions for geographic disbursement and social equity.
- Potential tax rate of at least 21%, at the most 24%.

HB 3rd Regular

H.B. 2312 (Herring) - Marijuana; legalization of simple possession, etc.

Passage

Yea 55

Nay 42

Abs 2

N Campbell, J.L.	N Gilbert	Y Keam	Y Mugler	N Rush
N Campbell, R.B.	Y Gooditis	N Kilgore	Y Mullin	Y Samirah
Y Chen	Y Guy	X Knight	Y Munden King	Y Scott
N Carter	Y Guzman	Y Kory	Y Murphy	Y Sickles
N Cole, M.L.	N Head	Y Krizek	N O'Quinn	Y Simon
N Davis	Y Helms	N LaRock	N Orrock	Y Simonds
N DeLoach	Y Herring	N Leftwich	Y Plum	Y Subramanya
N Dicks	N Hodges	Y Levine	N Poindexter	Y Sullivan
Y Galloway	Y Hope	Y Lopez	Y Price	Y Torian
N Hargrett	Y Hudson	N Marshall	N Ransone	Y Tran
N Harris	Y Hurst	N McGuire	Y Rasoul	Y Tyler
N Fowler	Y Jenkins	N McNamara	Y Reid	Y VanValkenburgh
Y Jones	Y Jones	Y McQuinn	N Robinson	N Walker
		N Miyares	Y Roem	N Wampler
		A Morefield	N Runion	Y Ward

Timeline

**Personal
Consumption & Home
Cultivation**

**Virginia Cannabis
Control Authority**

1 July 2021

Regulations

1 July 2022

License Applications

1 July 2023

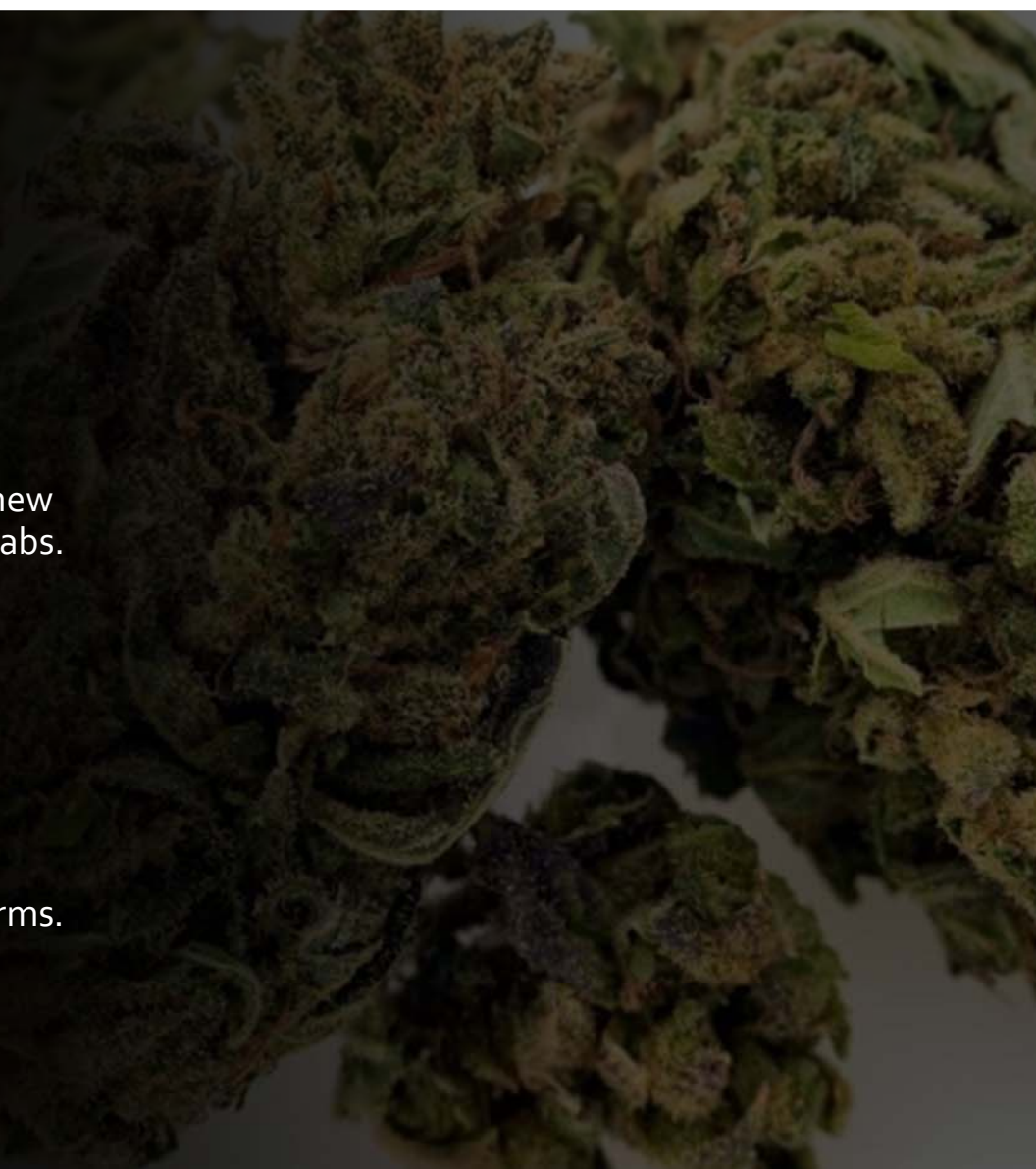
Full Commercial Sale

1 January 2024



Virginia Cannabis Control Authority

- Establishes the number of licensees, criteria to evaluate new licensees, weighs public health outcomes, and approves labs.
- The Authority has the power to grant, suspend, or revoke licenses and issue fines.
- Board of Directors
 - Comprised of 5 members appointed by Governor.
 - Serve for 5 years and no more than 2 consecutive terms.





Virginia Cannabis Control Authority

The regulations set by the Board over the next few years will govern every aspect of the industry including, but not limited to:

- Security of cultivation facilities
- Advertising and warning labels
- Acreage of cultivation sites
- THC content
- Social Equity Applicant qualifications
- Density of retail stores
- Defining “economically-distressed” regions
- Business hours of retail stores



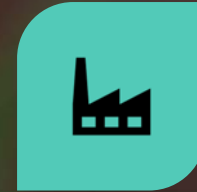
Regulatory Structure

- Virginia's regulatory process is generally governed by the "Administrative Process Act."
- This statute sets the parameters for agencies issuing regulations, including required public notices, comment periods, and appropriate legal reviews.
- This statute also governs licensure appeals, civil penalties imposed for regulatory infractions, and license revocations or suspensions.

Licensing



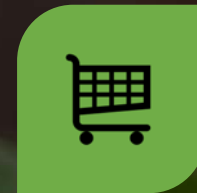
CULTIVATION



PRODUCT
MANUFACTURING



WHOLESALE



RETAIL

Licenses per Category



Cultivation
450



Product Manufacturing
60



Wholesale
25



Retail
400

License Application Timeline



July 1, 2022

Application
requirements
become available

July 1, 2023

Applications will be
accepted



Restrictions and Requirements

ABC Licenses

Criminal Violations

Financial Stability

Pharmacy Board Sanctions

Location



Licensee Preferences

Social Equity Applicants

Registered Hemp Processors

Pharmaceutical Permit Processors



License Stipulations

ABC licensees

1,000 ft. between retail stores

Labor requirements

1 license per place of business

1 license category per licensee



Vertical Integration

Pharmaceutical Permit Processors

Registered Hemp Processors

Narrowly-Defined Small Businesses

Taxes and Fees



STATE

21% retail



LOCAL

3% option



LICENSE FEES

To be set by
Board

Local Referenda

"Shall the operation of retail marijuana stores be prohibited in ____?"

Yes

Retail stores shall be prohibited

A subsequent referendum may be held 4 years later

No

Retail stores shall be permitted

No subsequent referendum may be held

Immediate Steps



Regulatory
Involvement

Business Structure
Review



Licensee Statutory
Qualification Review

Prepare for Referenda



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