

Medical Marijuana: State and Federal Laws

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From 1850 to 1937, cannabis was used as the prime medicine for more than 100 separate illnesses or diseases in U.S. Pharmacopoeia.



**Congressional Research Service Report for Congress
Medical Marijuana: Review and Analysis of
Federal and State Policies April 2, 2010**

- **Written records going back more than 2,000 years from China and India** show the Cannabis sativa plant was used for healing purposes to treat a wide range of ailments. Texts describe the use of cannabis to treat disease from **Africa, the Middle East, classical Greece, and the Roman Empire.**
- **Federation of American Scientists:**
<http://www.fas.org/sgp/crs/misc/RL33211.pdf>

INFANTS RELIEF



Congressional Research Service Report for Congress

- From 1850 to 1941 cannabis was included in the *United States Pharmacopoeia* as a recognized medicinal.
- Congress enacted the **Marihuana Tax Act of 1937**.
- Dr. William C. Woodward, legislative counsel of the American Medical Association (AMA), opposed the measure: “...the prevention of the use of the drug for medicinal purposes can accomplish no good end whatsoever. How far it may serve to deprive the public of the benefits of a drug that on further research may prove to be of substantial value, it is impossible to foresee.”

Harry J. Anslinger

First commissioner of the Federal Bureau of
Narcotics, 1930 – 1962

Assistant Commissioner of Prohibition
(Alcohol Prohibition 1920 to 1933)



Anslinger: Marijuana is a “deadly, dreadful poison that racks and tears not only the body, but the very heart and soul of every human being who once becomes a slave to it in any of its cruel and devastating forms.... Marihuana is a short cut to the insane asylum.”

Insanity, criminality and death.

Tax Act Unconstitutional

In 1969 in [*Leary v. United States*](#), part of the Marihuana Tax Act was ruled to be unconstitutional.

It was ruled a violation of the [Fifth Amendment](#), since a person seeking the tax stamp would have to incriminate him/herself.

Controlled Substances Act

Introduced 9/10/70 & Nixon signed into law 10/27/70:

- Schedule I substances have “a high potential for abuse,” “no currently accepted medical use in treatment in the US,” & “a lack of accepted safety for use even under medical supervision.”
- Possession for personal use can bring up to one year in federal prison and up to a \$1,000 fine for a first offense.
- Growing marijuana is a felony. A single plant can lead to five years in federal prison and up to a \$250,000 fine for a first offense.

Shafer Commission Report: "Marihuana, A Signal of Misunderstanding"

The Shafer Commission was a hand-picked group of conservative politicians and academicians. They studied the issue between 1970 and 1972.

- Marijuana should be decriminalized for adult use in the U.S. (Not Sch. I–V)
- <http://druglibrary.net/schaffer/Library/studies/nc/nmenu.htm>

“The criminal law is too harsh a tool to apply to personal possession...The actual and potential harm of use of the drug is not great enough to justify intrusion by the criminal law into private behavior.”

“Marijuana has important therapeutic qualities which should be aggressively explored.”

- Nixon ignored the results of the commission he appointed. The commission report was released March 22, 1972.

1972 NORML & ACT petition the BNDD to Reschedule Marijuana (Hearings start 1986)

US DOJ DEA ALJ Francis L. Young on 9/6/88:

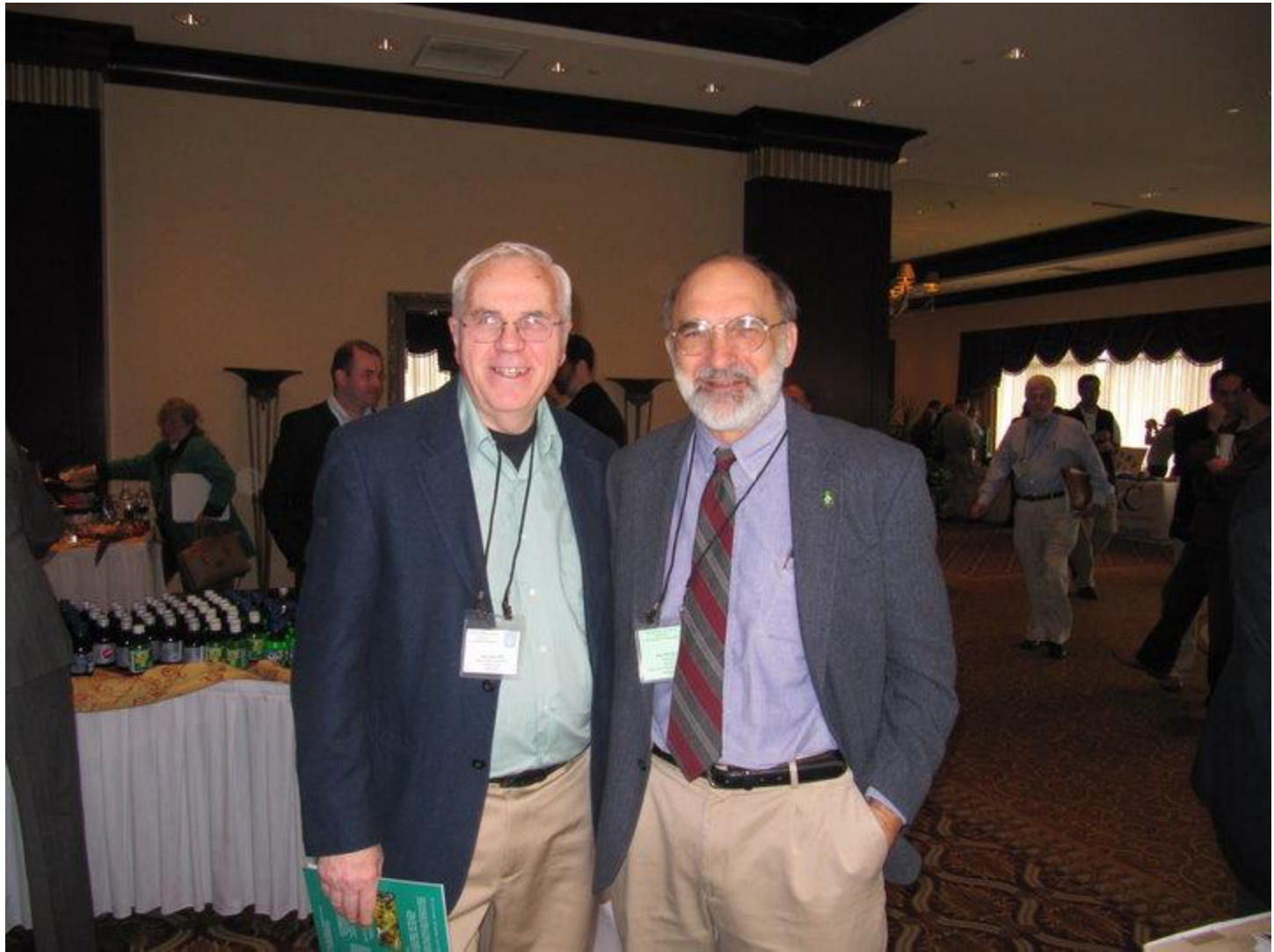
The CSA permits and requires the transfer of marijuana from Schedule I to Schedule II...The evidence in this record clearly shows that marijuana is capable of relieving the distress of great numbers of very ill people, and during so with safety under medical supervision.

It is “unreasoning, arbitrary and capricious for the DEA to continue to stand between these sufferers and the benefit of this substance in light of the evidence in this record...**Marijuana, in its natural form, is one of the safest therapeutically active substances known to man.**”

New Jersey's 1981 “Controlled Dangerous Substances Therapeutic Research Act”

Recent medical research has shown that the therapeutic use of certain Schedule I controlled dangerous substances may alleviate the nausea and ill-effects of certain medical treatment...and may alleviate the ill-effects of certain diseases, such as marihuana for glaucoma.





MAPS is seeking to develop the plant form of marijuana into a prescription medicine.

The National Institute on Drug Abuse's monopoly on the supply of marijuana for federally approved research is in the way.

MAPS must obtain an independent source of marijuana that is legal for clinical research.

NIDA does not have a monopoly on any other Schedule I drug, such as MDMA, LSD, or psilocybin. NIDA only makes its marijuana available to projects it approves.

MAPS, in association with Professor Lyle Craker of the University of Massachusetts-Amherst Department of Plant and Soil Sciences has been locked in a decade-long struggle to obtain DEA permission to establish a marijuana-growing facility for FDA-approved research, and to end NIDA's monopoly.

IND Compassionate Access Program (1978)

In 1978, FDA created the Investigational New Drug (IND) Compassionate Access Program, allowing patients whose serious medical conditions could be relieved only by marijuana to apply for and receive marijuana from the federal government.

Then, in 1992, in response to a large number of applications from AIDS patients who sought to use medical cannabis to increase appetite and reverse wasting disease, the George H.W. Bush Administration closed the program to all new applicants.

Irv Rosenfeld still receives 300 joints a month from the federal government.



Compassionate Use Act of 1996

Californians have the right to obtain and use marijuana for medical purposes (when) recommended by a physician for any illness for which marijuana provides relief.

Federal Courts/Supreme Court decisions:

- *Conant* decision, 2002—MDs cannot be penalized for recommending marijuana;
- *Oakland Cannabis Buyers Club*, 2001 & *Raich*, 2004 decisions—feds can enforce their laws;
- *Garden Grove* decision, 2007—marijuana is medicine in California and must be treated as such.

States v. feds

- The CSA is not preempted by state medical marijuana laws—feds can enforce their laws anywhere--nor are state medical marijuana laws preempted by the CSA--states can statutorily create a medical use exception for botanical cannabis under their own, state level controlled substance laws.
- 12/16/14 Rohrabacher–Farr amendment passed--prohibits the Justice Department from spending funds to interfere with state medical cannabis laws. (Must be renewed yearly.)

State Laws

Under state law, 33 states and Washington, D.C. currently provide legal protection for patients whose doctors recommend the medical use of marijuana:

States (about half allow home cultivation):

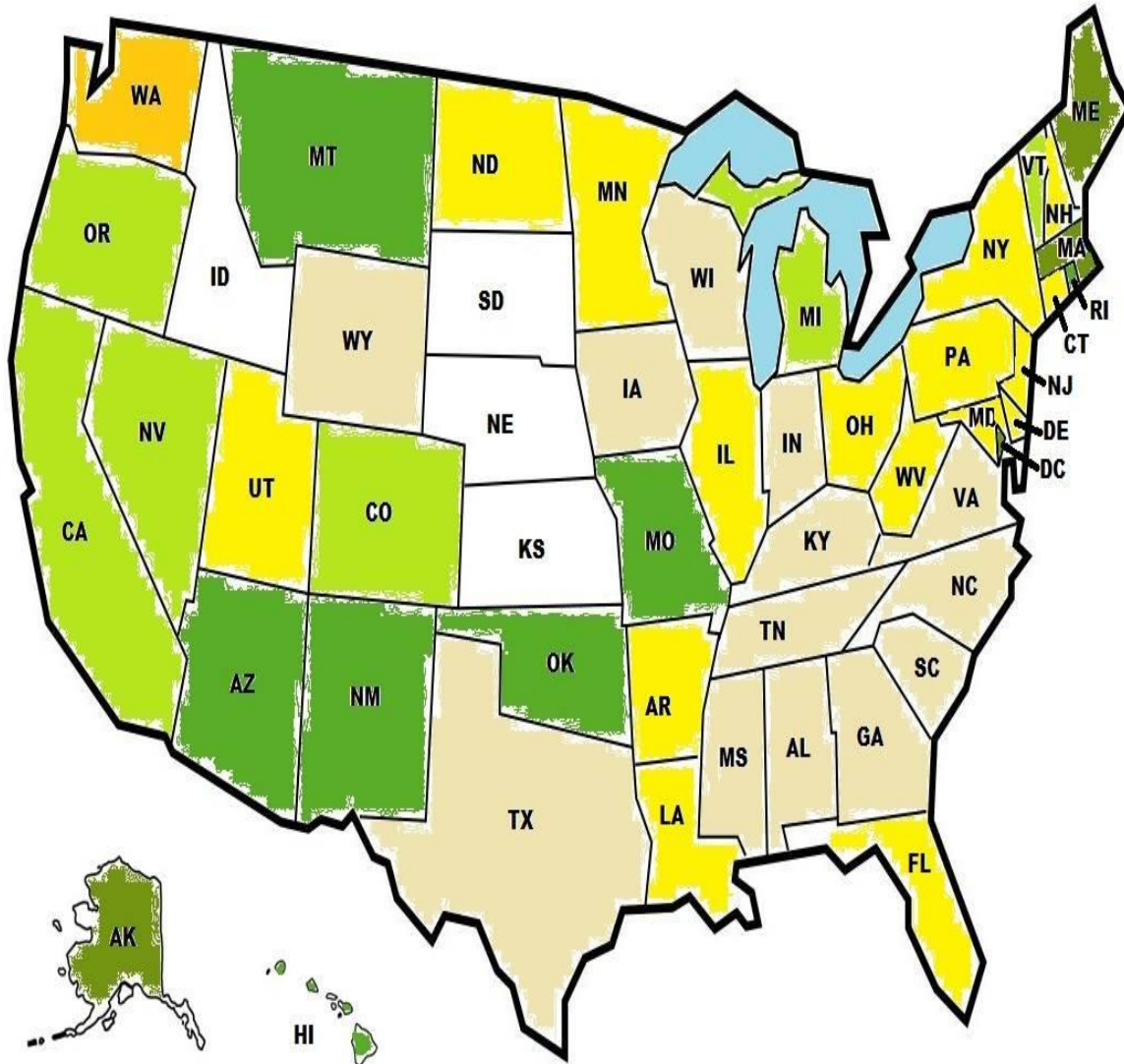
Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Washington and West Virginia.

<http://medicalmarijuana.procon.org/view.resource.php?resourceID=000881>

13 CBD-Only States

Since 2014, legislation allowing for low-THC, CBD-rich marijuana oil has been approved for limited use in 13 states.

Alabama, Georgia, Iowa, Kentucky, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, & Wisconsin.



17 home cultivation states + DC

10 legalized states + DC

9 with rec cultivation + DC

1 med cultivation only

(NV has legal and rec cultivation if person is 25 miles away or more from a dispensary or it does not carry needed strain)

33 medical states + DC

17 with home cultivation

(7 are medical only)



Legal with medical & legal cultivation



Legal with legal cultivation



Legal with medical cultivation only



Medical with cultivation



Medical (no cultivation)



Legal CBD medical only

States with Adult Use Marijuana

- Washington State and Colorado (2012);
- Alaska, Oregon, & Washington, D.C. (2014);
- California, Maine, Massachusetts and Nevada (2016);
- Vermont & Michigan (2018).

Generally, these laws are working well and providing patients with relief and protection from arrest.

Since 1996, data have shown that concerns about these laws increasing youth marijuana use are unfounded:

Only two of the 13 states with available data have experienced a statistically significant increase in youth marijuana use since the law's enactment. In fact, all states have reported overall decreases — exceeding 50% in some age groups.

**“Cole Memo” to all U.S. Attorneys, August 2013
(rescinded by A.G. Jeff Sessions January 2018)**

Fed. Guidelines for Marijuana Enforcement:
Focus enforcement priorities on preventing:
**Sales to minors; gangs/cartels; diversion to
states where it is not legal; other illegal
drugs/activities; violence/firearms; drugged
driving & other adverse public health
consequences; use/growth on public lands
or federal property.**

Trump on Pot, Oct. 29, 2015

“Marijuana is such a big thing. I think medical should happen -- right? And then I really believe we should leave it up to the states. But there's a question as to how it's all working (in Colorado). That's not going exactly trouble-free. So I really think that we should study Colorado, see what's happening.”

April 25, 2005 ACLU to DEA

“Science, not politics, should govern medical research,” says ACLU in challenge to the DEA’s marijuana policy.

The American Civil Liberties Union (ACLU) issued a press release about the lawsuit against the U.S. Drug Enforcement Agency (DEA) filed by University of Massachusetts-Amherst Professor Lyle Craker, objecting to DEA’s refusal to issue him a license for a MAPS-sponsored facility to produce marijuana for federally-approved research.

Marijuana Justice Act of 2017



Marijuana Justice Act of 2017



Marijuana Justice Act of 2017 S.1689

- Remove marijuana from the Controlled Substances Act;
- If a state disproportionately arrests and/or incarcerates low-income individuals and/or people of color for marijuana offenses
 1. Allow lawsuits against those states;
 2. Will cut federal funding for state law enforcement and prison construction;

Marijuana Justice Act of 2017

- Prevent deportations for marijuana offenses;
- Provide for federal expungement;
- Provide for federal resentencing;
- Create a “Community Reinvestment Fund” for those most impacted by the war on drugs (job training, re-entry assistance, community centers, and more).

Marijuana Justice Act of 2017

“I don’t care who is in office. **Now is always the right time to do what is right.** So I am calling on my fellow congress people and senators to join this legislation.”

Cory Booker, August 2017

H.R.4815 - Marijuana Justice Act of 2018

115th Congress (2017-2018)

Medical Marijuana Legislation in Congress
CARERS Act - Compassionate Access, Research Expansion, and
Respect States Act of 2015 (S.683)
(2017) S.1764 (Must be re-introduced.)

- Lets states legalize medical marijuana without federal interference.
- Expands research into the health benefits of marijuana.
- Allows Veterans Affairs (VA) doctors to recommend marijuana to ailing veterans.
- Legalizes high CBD strains of marijuana (> 0.3% THC) .
- Reclassifies marijuana as Schedule II.
- Eases federal banking restrictions for marijuana businesses.

STATES Act

"Strengthening the Tenth Amendment
Through Entrusting States" Act

Each state has the right to determine the best
approach to marijuana within its borders.

Three Incoming House Committee Chairs
Call For Marijuana Reform in 116th Congress
(2019-2020) <https://www.congress.gov/>

<https://www.govtrack.us/>

Mass. Sen. Elizabeth Warren (D)

“Outdated federal marijuana laws have:

- perpetuated our broken criminal justice system,
- created barriers to research, and
- hindered economic development.”

April 2018 Quinnipiac U. poll

- 63% of Americans support legalizing marijuana; (66% Gallup poll 10/18) and,
- 70% oppose federal interference with state-authorized cannabis programs.
- President Trump indicated that he would sign legislation supporting states' rights on the issue in April 2018.

Trump Signs 2018 Farm Bill 12/18

- Legalizes hemp, a form of cannabis with lower THC levels than marijuana.
- \$20 billion industry by 2022? (growers must submit plans to USDA).
- Hemp must be produced in compliance with federal and state regulations, by a licensed grower. (CBD is only then legal.)

2014 CMMNJ Endorses Legalization

- Marijuana's enormous therapeutic potential
- Most efficient & effective way to meet the physical, mental & emotional needs;
- Can significantly reduce the need for expensive pharmaceuticals, surgeries, hospitalizations, emergency services, etc.;
- Reduce the need to fund charity health care, & care of institutionalized patients.

Harms of Prohibition

- NJ ACLU: over 24,000 NJ arrests in 2012 for possessing small amounts of marijuana;
- Costs \$127 million a year.
- Blacks 3 X more likely than Whites;
- Creates second class citizens less likely to have access to employment, education, and public housing, stable family life, and are more likely to reoffend.

Unintended consequences of marijuana prohibition

- Sales to minors (what **about** the children?)
- Absent parents; decreased socio-economics.
- Political influence of prison-industrial complex (drug testing industry, substance abuse programs, private prisons and services, correction officers unions, etc.)
- Diminished trust of Health Care Practitioners

CMMNJ Op Ed: “Opinion: N.J. should legalize, tax and regulate marijuana:” 1/24/14



**State Senator Nicholas Scutari introduced
adult use bills:**

S1896 on March 24, 2014;

S3195 on May 15, 2017; &

S2703 on June 7, 2018.

**Companion bills also introduced in the
Assembly.**

**NJ legalization bill S2703/A4497
passes key legislative committees**

**New Jersey Cannabis Regulatory and
Expungement Aid Modernization Act:**
legalizes personal use of cannabis for adults;
creates the Cannabis Regulatory Commission;
and provides expungement relief.

11/26/18: passed the joint appropriations
committees from the Senate and Assembly.
No floor vote yet. Regional impact.

CMMNJ's legalization goals

- Home cultivation,
- Automatic expungement & inmate release,
- Descheduling from Schedule I in NJ,
- Aid to inner city communities, women, minorities and veterans in the new industry,
- Respect current rights of medical patients,
- Reasonable public use of marijuana, and,
- Ending the tax on medical marijuana.

Medical Marijuana info:

Patients Out of Time: <http://www.medicalcannabis.com/>

Americans for Safe Access:

<http://www.safeaccessnow.org/>

Society of Cannabis Clinicians:

<http://cannabisclinicians.org/>

American Cannabis Nurses Association:

<http://www.americancannabisnursesassociation.org/>

Project CBD <https://www.projectcbd.org/>

The Answer Page: <https://www.theanswerpage.com/>

National Organization for the Reform of Marijuana Laws

<http://norml.org/>

Marijuana Reform

New Jersey United for Marijuana Reform

<https://www.njumr.org/>

Drug Policy Alliance

<http://www.drugpolicy.org/>

Marijuana Policy Project

<https://www.mpp.org/>

Law Enforcement Against Prohibition

<http://www.leap.cc/>

References

- Does Donald Trump Support Marijuana Legalization?
<https://cannabismaven.io/theweedblog/advocacy/does-donald-trump-support-marijuana-legalization-haBswCcrkSARljtinOkbw/>
- S.1689 - Marijuana Justice Act of 2017
<https://www.congress.gov/bill/115th-congress/senate-bill/1689>
- S. 683 (114th): Compassionate Access, Research Expansion, and Respect States Act of 2015