



Published on The Well Project (<https://www.thewellproject.org>)  
<https://www.thewellproject.org/hiv-information/cannabis-health-and-law-us>

## **Cannabis, Health, and the Law in the US**

Submitted on May 3, 2023

Image



Lea esta hoja informativa [en español](#)

## Table of Contents

- [What is Cannabis?](#)
- [What's the Difference Between Medical and Recreational Marijuana?](#)
- [US Federal Law](#)
- [US State Laws](#)
- [Implementation of Legalization Laws](#)
- [Legal and Implemented in Your State? There May Still Be Problems.](#)
- [Taking Care of Yourself](#)

## What is Cannabis?

Cannabis has medicinal properties that can be beneficial to people living with HIV. *Cannabis* is the name of a family of plants. Cannabis can be consumed for medicinal or recreational reasons, or used to make products like textiles. In its consumable forms it is known by many names, including marijuana, hashish, weed, and pot. The fibers of some types of cannabis (also called hemp) are used to make fabrics, bags, paper, oils, and other items.

***View our companion fact sheet, [Cannabis, HIV, and Your Health](#), for more information on potential benefits of cannabis use***

Laws governing the possession and consumption of cannabis vary widely around the world. Some countries, such as the Netherlands, have allowed recreational (adult-use) "weed" for some time now, while others, such as Russia, impose harsh penalties for possessing the substance, even when used for medicinal purposes.

Make sure your provider knows about everything you are taking – including cannabis, whether or not it is legal in your state.

Enforcement of anti-cannabis laws also varies widely. Some countries, such as Japan, outlaw plants that can induce a "high" effect due to their level of THC (tetrahydrocannabinol, or delta-9-THC), but not the hemp plant that does not contain enough THC to make someone high. However, drug laws, including those governing cannabis, are changing rapidly everywhere.

In the US, each state has its own laws about which substances are decriminalized and/or legalized, and under what conditions (for example, the age at which alcohol may be purchased). Throughout the world, these laws are also in flux. *This fact sheet is mainly about cannabis use in the US.* Legislation may have changed since it was written.

Anti-cannabis laws or those that maintain the prohibition, along with punitive drug laws in general, have negatively affected communities of color to a massive and unjust degree. Decriminalizing or removing the prohibition of the use of cannabis is one way to repair this disparity. See our [Why Race Matters: Women and HIV](#) fact sheet for more information on the effects of racism.

## What's the Difference Between Medical and Recreational Marijuana?

Medical and adult-use cannabis products are the same. Getting a "medical marijuana card" through a healthcare provider allows a person to get cannabis for medicinal purposes. The card has benefits based on the state's law. In some states it allows the legal purchase of cannabis. In legalized states, there may be a lower cost to purchasing the cannabis.

Regulations on cannabis, like those for other "controlled substances" (such as alcohol or [tobacco](#)), are

written at the state level. Different states therefore have different requirements for dispensing or accessing medical marijuana. States also differ on whether adult-use (non-medical) marijuana is legal to possess or purchase.

Health conditions that qualify an individual to receive a medical marijuana card also vary by state but often include:

- Amyotrophic lateral sclerosis (ALS), also known as Lou Gehrig's disease
- Anorexia
- [Cancer](#)
- Crohn's disease
- Epilepsy and seizures
- Fibromyalgia
- Glaucoma
- HIV
- Migraines
- MS and muscle spasms
- [Pain](#) (chronic)
- Parkinson's disease

Getting a 'medical marijuana card' through a healthcare provider allows a person to get cannabis for medicinal purposes.

For more information types of cannabis and health conditions it may address, see our fact sheet on [Cannabis, HIV, and Your Health](#).

In states where it is legal, adult-use marijuana can be purchased by any adult – although there are restrictions, such as the amount, need for identification, and licensing requirements for vendors. Make sure your provider knows about everything you are taking – including cannabis, whether or not it is legal in your state. Even if it is prohibited, medical confidentiality laws protect you from being reported to law enforcement when you share this information with your doctor.

*Click above to view or download this fact sheet as a [PDF slide presentation](#)*

## US Federal Law

Cannabis is still illegal under federal law. A 2013 US Department of Justice memorandum stating that the federal government would not challenge state laws that decriminalize and/or legalize cannabis was overturned in 2018. In practice, federal officials generally do not bring court actions against people for marijuana possession if people have followed their state's marijuana laws.

In 2022, US President Joe Biden issued a proclamation directing federal agencies to speed up a review of possibly decriminalizing marijuana across the US. The President has acknowledged the harms that are caused by [criminalizing](#) people for minor marijuana offenses, as well as the blatant racial disparities in enforcement of marijuana laws. His administration has taken the very first concrete steps at the federal level to begin to address these harms. On the state level, he has advised all governors to pardon simple marijuana possession offenses in their states. The impact of such actions would be significant, as there are many thousands of people involved in the criminal legal system due to state-level marijuana possession convictions.

## US State Laws

There are two basic ways in which drug laws are being reformed to lift prohibition: decriminalization and

legalization.

- *Decriminalization* means that people are not arrested or accused in criminal court if they have small amounts of the substance, even if the substance itself is not technically legal. Decriminalization depends on states, and possessing the substance may still carry civil penalties that are often implemented disproportionately upon communities of color.
- *Legalization* means that there are no penalties for possessing or possibly purchasing a substance under specific conditions, such as being above a certain age, or having a doctor's prescription. States that have legalized marijuana have sometimes created repair components such as decriminalizing retroactively (after the fact) by sealing the records of previous charges and re-sentencing people still incarcerated with marijuana-related offenses.

In the US, each state has its own laws about which substances are decriminalized and/or legalized, and under what conditions.

Some states have only legalized medical marijuana – which generally means you will need a doctor's prescription to possess and purchase weed. Others have legalized simple possession of marijuana, so you can possess a certain amount without a medical provider's note. The Marijuana Policy Project has a map that shows which state has legalized which type of marijuana (medical/non-medical/none). The map is regularly updated and [is available here](#).

If sales are legalized, each state has its own regulations on who can sell cannabis, usually through some sort of licensing system. There are also licensing requirements for growing the plants, although some states allow people to personally cultivate (grow) small numbers for their own use. The amount of marijuana that can be sold or legally possessed is usually also regulated. Age restrictions are similar to those for other regulated drugs, such as alcohol or tobacco – which is 21 years in most states.

## Implementation of Legalization Laws

Even though cannabis may be legal in your state to possess and consume, it may not (yet) be legally available for purchase.

As we have seen with other police actions across the country, enforcement of (possibly overturned) laws can be very selective, mainly affecting communities of color.

For example, the New York State legislature passed a law in March 2021 that allowed adult-use marijuana. The state's agencies took time to create a licensing system for cannabis vendors, so the first licenses were just issued in November 2022. Meanwhile, cannabis operators were prosecuted as unlicensed dispensaries, even though the substance itself is legal to possess and consume. Washington, DC, legalized adult-use cannabis, but has not allowed for adult-use sales through a licensing process. As a result, weed cannot be sold legally there except through medical licenses, but can be given as a gift with purchase.

Local police may also not be up to date on cannabis legalization and may still (try to) arrest people for possession of weed even in states where this is now legal. As we have seen with other police actions across the country, enforcement of (possibly overturned) laws can be very selective, mainly affecting communities of color.

## Legal and Implemented in Your State? There May Still Be Problems.

Transporting anything (including cannabis) across state borders is covered by federal law. Since cannabis is still prohibited under federal law, taking it from one state to another could be reason for federal charges. The safest option is not to travel with weed in your luggage – especially not through airports or train stations where there often are drug-sniffing dogs handled by federal law enforcement or

military (though it is worth noting that dogs employed by the US Transportation Security Administration – TSA, most commonly known for airport security – are no longer trained to detect cannabis).

Laws about driving under the influence of substances (DUI laws) are not limited to alcohol, but also include cannabis and other substances. Weed may help you relax, but may also make it difficult for you to react quickly enough to road conditions or traffic around you. The old "don't drink and drive" safety advice applies to any substance if it impairs your judgment.

State laws differ also on the amount you can possess on your person, how dispensaries are licensed, and whether you can grow your own weed. Home growing may also be limited based on lease agreements for those who rent their homes, and is still prohibited in public housing due to residents being under federal oversight. Check the specific restrictions in your state before deciding to use or grow cannabis.

## Taking Care of Yourself

Cannabis can be helpful for some issues experienced by people living with HIV, but its legality varies by location. It is a good idea to weigh your options and consider any legal concerns alongside the [health benefits](#) before deciding to use cannabis.

***Special thanks to Chelsea Higgs Wise, MSW (co-founder and executive director, Marijuana Justice) and Natalie L. Wilson, PhD, DNP, MPH (assistant professor, UCSF School of Nursing - Community Health Systems), for their reviews of this fact sheet.***

## Additional Resources

Select the links below for additional material related to cannabis, health, and the law in the US

- [What's the Difference Between Medical Marijuana and Recreational Weed? \(GoodRx ...\)](#)
- [Where Is Marijuana Legal? A Guide to Marijuana Legalization \(US News and World ...\)](#)
- [State Policy \(Marijuana Policy Project\)](#)
- [Governors Split on Biden's Call to Pardon Low-Level Pot Offenders \(Pew\)](#)



@ 2023 thewellproject. All rights reserved.