



CONCURRENT SESSION I: B

Panacea or Just Puffs of Smoke? Regulations Applicable to Marijuana Tenants and Firearms in CRE Spaces

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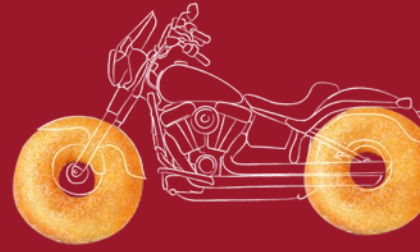


2019 National Law Journal Award:
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Markets Trailblazer**



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TYPES OF CANNABIS





CANNABIS DELIVERY SYSTEMS

- > **Flower** – Combustion
- > **Oil** - Vape
- > **Concentrates/Extracts** - Kief - “Dabs” – Shatter Wax
- > **Infused Products**
 - Tinctures - Topicals - Oral Mucosal
 - Suppository - Vaginal Inserts
 - Consumables
 - Sweets and Savories: Edibles (ex. Gummies); Baked Goods
 - Beverages

Cannabis Supply Chain

Grower

Processor

Transporter

Dispensary

Consumption Lounge

Cannabis Laws and Regulators



Central Organizing Principle

**Under Federal law,
Marijuana
is 100% illegal**

Central Organizing Principle

Controlled Substance Act, 21 USC §812

lists Marijuana as a Schedule I controlled substance indicating that drug/substance:

- ✓ Has a high potential for abuse.
- ✓ Has no currently accepted medical use in treatment in the United States
- ✓ There's a lack of accepted safety for use under medical supervision

DEA Schedules

CLASSIFIED DRUGS

I:	Heroin, LSD, MARIJUANA, Ecstasy, Methaqualone, and Peyote
II:	Vicodin, Methamphetamine, Demerol, Oxycodone, Fentanyl, Adderall
III:	Tylenol with Codeine, Ketamine, Anabolic Steroids, Testosterone
IV:	Xanax, Soma, Darvon, Darvocet, Valium, Ambien, Tramadol
V:	Robitussin AC, Motofen, Lyrica

Central Organizing Principle

- **U.S. Constitution's Supremacy Clause**

- State laws conflicting with federal
 - law are generally
 - preempted and void.

- *U.S. Const., Art. VI, cl. 2; Wickard v. Filburn, 317 U.S. 111, 124 (1942)*

- "[N]o form of state activity can constitutionally thwart the regulatory power granted by the commerce clause to Congress"

Rohrabacher-Blumenauer Amendment

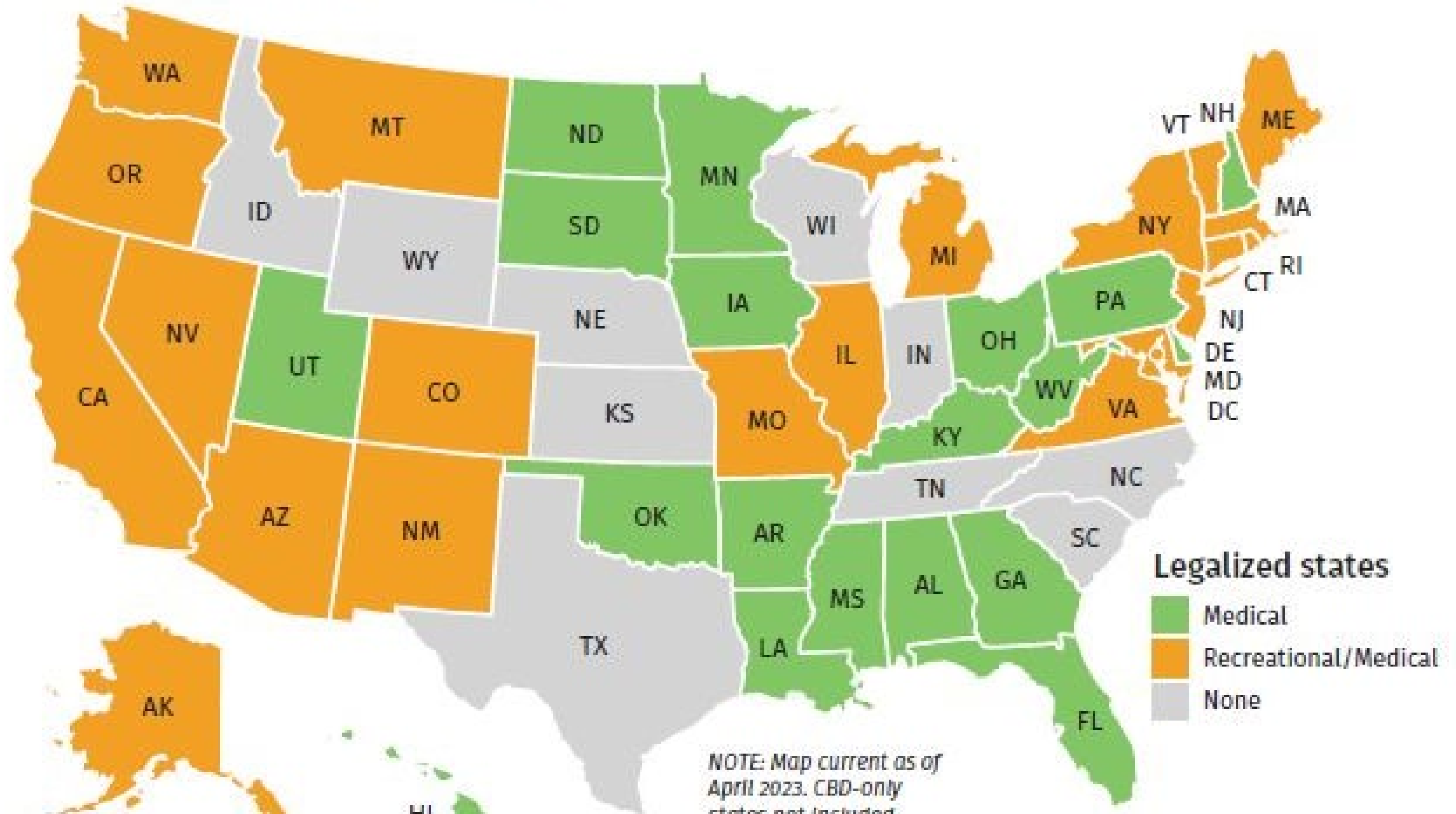
- Passed as attachment to Commerce, Justice, and Science Appropriations bill for fiscal year 2014
- Repeatedly renewed, and commonly known as Rohrabacher-Blumenauer Amendment
- Prohibits Justice Department from using federal funds to prevent states “from implementing their own State laws that authorize the use, distribution, possession or cultivation of medical marijuana”

AUTHORITIES AND REGULATORS

Federal Agencies



CHART 1.03: Marijuana Legalization by State



Hemp-Derived Intoxicants

Cheech & Chong's



HOW HEMP THC IS LEGAL

LEADERS IN GLOBAL, FEDERAL AND STATE LEVEL COMPLIANCE TO ENSURE CONSUMER SAFETY

WHAT IS HEMP? WHY NOW?

In December of 2018, the 2018 Farm Bill was signed into law. It removed hemp, defined as cannabis (*Cannabis sativa L.*) and derivatives of cannabis with extremely low concentrations of the psychoactive compound delta-9-tetrahydrocannabinol (THC) (no more than 0.3 percent THC on a dry weight basis), from the definition of marijuana in the Controlled Substances Act (CSA).

CONTROLLED SUBSTANCE ACT (PRIOR TO 2018)



CANNABIS



HEMP

2018 FARM BILL CHANGED THE DEFINITION OF HEMP EFFECTIVELY REMOVING IT FROM THE CSA.



CANNABIS
STATE REGULATED



HEMP
<0.3% Δ 9 THC



THERE IS NO DIFFERENCE BETWEEN
THC FROM HEMP OR CANNABIS



HEMP WAS MADE LEGAL IN 2018
THC UP TO 0.3% BY DRY WEIGHT WAS
NO LONGER A CONTROLLED SUBSTANCE

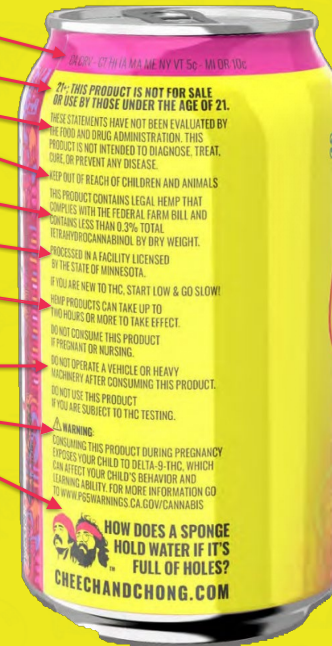


THIS NEWS OPENED UP A WHOLE NEW
PATH TO MARKET FOR LOW DOSE THC
PRODUCTS FOR THOSE 21+

WHO IS DRINKING THC?

THOSE UNWILLING TO ENTER A REGULATED DISPENSARY,
LOOKING AVOID ALCOHOL SEEKING INTOXICATION

- REDEMPTION AND DEPOSIT NOTICES
- AGE GATE WARNING
- FDA WARNINGS
- CHILDREN & ANIMAL SAFETY WARNINGS
- FARM BILL COMPLIANCE STATEMENT
- ALL PACKAGED GOODS ARE MADE IN
LICENSED FACILITIES
- WARNINGS AGAINST THC
WHILE PREGNANT, BREASTFEEDING,
OPERATING MACHINERY, OR TAKING OTHER MEDICATIONS
- BEING SUBJECT TO THC TESTING
- CA PROP65 WARNING ADDED ON ALL CANS AND
PACKAGING
- STONER THOUGHTS TO
CONTEMPLATE WHILE DRINKING



AGE GATE WARNING



HEMP WARNING



A 5MG DOSE OF THC IS ENOUGH TO TAKE
THE EDGE OFF - LIKE HAVING A BEER OR
COCKTAIL



WE STILL REALLY LIKE HIGH DOSE AND
OFFER OUR 10MG TEAS AND PIT PUNCH
OR YOU CAN ALWAYS GO TO ONE OF OUR
DISPENSARIES TO BUY CANNABIS!

CHEECH & CHONG'S BEVERAGES

OUR BEVERAGES RANGE FROM 5MG TO 10MG, GIVING CONSUMERS AN ABILITY TO DOSE WITH PRECISION



4 FLAVORED SELTZERS
SOLD AS:

- SINGLE CANS
- 4-PACK
- 6-PACK
- 12-PACK VARIETY



2 FLAVORED ICED TEAS
SOLD AS:

- SINGLE CANS
- 4-PACK



2 FLAVORED ICED TEAS
SOLD AS:

- SINGLE CANS
- 4-PACK



DRINK YOUR THC!™



EFFECT-BASED MINOR CANNABINOIDS 2 OUNCE SHOTS



2 OUNCE HEMP THC SHOTS

10mg THC + 2mg CBC + 2mg CBG

ALSO AVAILABLE IN:

25mg THC + 5mg CBC + 5mg CBG

Legends
Squad



2 OUNCE HEMP THC SHOTS

10mg THC + 2mg CBD + 2mg CBN

ALSO AVAILABLE IN:

25mg THC + 5mg CBD + 5mg CBN



SATIVA THRILL

INDICA CHILL

MSRP

\$3.99
PER

10MG SHOT

MSRP

\$6.99
PER

25MG SHOT

SOLD AS:

- POS BOXES: (12 (2OZ) SHOTS PER BOX)
- MASTER BOXES: (4 POS BOXES PER MASTER)
- PALLET: (100 MASTER BOXES PER PALLET)



FLORIDA
COMPLIANT



BEVERAGE COVERAGE

25 STATES WITH DISTRIBUTION

4,500+ ACTIVE THC ACCOUNTS



DRINK YOUR THC!

TOP ACCOUNTS CARRYING OUR BEVERAGES

Winn✓Dixie

CIRCLE K

Binny's
BEVERAGE DEPOT

Cumberland
FARMS

Total
Wine
& MORE

piggly wiggly

ROUSES
MARKETS

FINE WINE
ABC
& SPIRITS

gopuff

DOORDASH

TOP WHOLESALERS



WHEN SHOULD I USE THESE PRODUCTS?



*YOU'RE NEVER ALONE WHEN YOU'RE HANGING WITH US



Appropriations Bill

On November 12, 2025, “*Hemp’s*” definition, and “Hemp-Derived Intoxicating Products” allowability, was significantly altered by the *Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026*” H.R.5371, Public Law No: 119-37’s (“Act”) enactment.

Farm Bill v. Appropriations Bill

Previously, *Agriculture Improvement Act of 2018* ("Farm Bill"):

1. legalized *Hemp* and derivatives; and
2. removed plant *Cannabis sativa L.* containing no more than 0.3% Delta-9 Tetrahydrocannabinol ("THC") on a dry-weight basis from *Controlled Substance Act* and DEA purview.

The Act narrows Farm Bill's "*Hemp*" definition effectively banning most commercial hemp products and takes effect 365 days following Act's 11/12/2025 enactment.

Total THC

While still generally referring to *Cannabis sativa L. plant*, including all parts, seeds, derivatives, extracts, and various compounds (cannabinoids, isomers, acids, salts, and salts of isomers), the Act's definition creates "*Total THC*" encompassing Tetrahydrocannabinol Acid and all other cannabinoids having similar effects as THC (ex., Delta-8 THC) rather than solely Delta-9 THC.

0.4 MGs Total THC Per Container “Strict Potency Cap”

To qualify as legal "Hemp," material must maintain a *Total THC* concentration (including THCA and any other cannabinoids having a similar effects as THC) of:

- (1) not more than 0.3% on a dry weight basis and; and
- (2) final hemp-derived cannabinoid products may not exceed 0.4 milligrams (“MGs”) *Total THC* per container.

Act defines “*Container*” as “innermost wrapping, packaging, or vessel in direct contact with a final hemp-derived cannabinoid product” which is intended for final retail sale but excludes bulk packaging.

Final Form Products/ Intermediate Hemp Material

One year following enactment, Act:

- caps all Hemp and Hemp-Derived Products at no more than 0.4 MGs *Total THC per Container*, regardless of dry weight percentage; and
- bars final cannabinoid-hemp products from containing any synthetic or manufactured Cannabinoids.

Intermediate Hemp-derived cannabinoid products are those not yet in final form or intended for human or animal consumption. Act's "Hemp" definition expressly excludes those containing:

- Synthetic/Manufactured Cannabinoids: Cannabinoids that are: (1) not naturally produced by the plant: or (2) naturally occurring cannabinoids synthesized or manufactured outside of the plant.

- Significant THC Levels: Products exceeding 0.3% *Total THC* (including *THCA*) combined with any other cannabinoids that HHS determines to have effects similar to THC or are marketed as such.

Hemp Seeds

Viable seeds are excluded from Act's Hemp definition if parent plant exceeds *0.3% Total THC threshold* (i.e., seeds derived from Marijuana are illegal). Seeds are only categorized as "industrial hemp" if intended for specific limited research or non-consumable purposes (ex., fiber, stalk, non-cannabinoid oils).

- Act's *Hemp* definition excludes any viable seeds from a *Cannabis sativa L. plant* if that plant exceeds "0.3% Total THC dry weight basis concentration threshold" as derived from Marijuana and illegal.

- Hemp cultivated to create viable seeds is only categorized as "industrial hemp" if seed is produced solely: (1) to create or manufacture stalk/fiber, non-cannabinoid seed derivatives (oil, cake, nut, hull), microgreens derived from immature plants grown from compliant seeds; or (2) for defined research purposes.

Interstate Commerce Impact

- Eliminates interstate commerce for Hemp products exceeding 0.4 MGs per container, restricting operations to intrastate sales; and
- Subjects Hemp products exceeding threshold to be classified under Schedule 1 of Controlled Substances Act:
 1. requiring carefully evaluating risk tolerance in light of applicable states' Cannabis and Controlled Substances laws and regulations; and
 2. weighing impact of §280E of the Internal Revenue Code which will forbid vendors from taking any tax deduction or credit other than “cost of goods sold” thereby denying ordinary and necessary business expense tax deductions (ex., wages, rent, utilities, and insurance) causing operations to be more expensive and less profitable.

AT STATE LEVEL, INTOXICATING HEMP IS:

- Legal: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Mississippi, Nebraska, New Hampshire, New Mexico, North Carolina, Oklahoma (explicitly excludes Delta-8 from Marijuana's legal definition), Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Washington D.C., West Virginia, Wisconsin and Wyoming
- Illegal: Alaska, California, Colorado, Delaware, Idaho, Iowa, Maryland, Massachusetts, Missouri, Montana, Nevada, New York, North Dakota, Ohio, Oregon, Rhode Island, Utah, Vermont and Washington
- Legal But Restricted or Regulated: Arizona, Connecticut (only purchasable from a licensed *Cannabis* retailer), Hawaii (except for edible/inhalable products {gummies, vape, flower and drink}, Delta-8 THC is legal), Louisiana (while barring inhalables like flowers and vapes, consumable Delta-8 products like tinctures and gummies up to 8mg THC per serving allowed), Michigan (only purchasable from licensed *Cannabis* retailer), Minnesota (Delta-8 plants may contain up to 0.3% of any THC type and consumables up to 5 mg THC/serving allowed), New Jersey, and Virginia (except for food/drink THC-containing product).

AT THE LOCAL LEVEL

- Municipalities increasingly prohibiting/prosecuting Hemp-Derived Intoxicant sales and production imposing civil/criminal penalties on both business and owners.

Illinois's Rolling Meadows

- Despite acknowledging legality under both the Farm Bill and home state's laws, Illinois's Rolling Meadows City Council unanimously approved ordinance prohibiting Intoxicating Hemp products sales subject to penalties ranging from:
 - (1) \$50 to \$1,000 per violation; and
 - (2) business license suspension or revocation.

Rescheduling Cannabis from Schedule I to Schedule III

By Executive Order dated December 18, 2025, President Donald J. Trump directed reclassifying Cannabis from Schedule 1 to Schedule III of the Control Substance Act

By reclassifying to Schedule III, *Marijuana* growers, processors, transporters and sellers will cease being encumbered by onerous operating and taxing obstacles to become significantly more profitable, federally-funded Cannabis research will finally occur, and MRB investment should increase.

Rescheduling Cannabis from Schedule I to Schedule III

While not federally decriminalizing/legalizing or solving industry's operational woes (ex., banking), rescheduling will mean for:

- **Operators:** easing tax burden and lowering operating costs thereby increasing profitability and access to funding;
- **Consumers:** stabilizing and lowering Cannabis pricing and enabling wider product availability and federally-funded Cannabis research; and
- **Investors:** *via* increasing profitability and legitimacy, and reducing perceived federal risk, boost domestic Cannabis companies'



Burns White

ATTORNEYS AT LAW

Firearms in CRE Spaces

Ralph M. Monico, Esq.

DELAWARE

FLORIDA

NEW JERSEY

NEW YORK

OHIO

PENNSYLVANIA

WEST VIRGINIA

KEY TERMS

Concealed Carry refers to the practice of carrying a firearm in a way that is not visible in casual observation or which is off the carrier's body completely, but readily accessible.

Open Carry refers to the practice of carrying a firearm in public where it is fully or partially visible to others – whether it is in a holster or not.

The Evolving Landscape of Firearms in CRE Spaces

- Approximately ten years ago, four states – Vermont, Alaska, Arizona, and Wyoming – allowed permitless concealed carry.
- Now twenty-nine states allow permitless carry of concealed weapons, including Ohio and KentuckyOhio and Kentucky repealed
- Thirty-one states allow open carry of weapons, including Ohio, Kentucky, Indiana, and Pennsylvania.

The perception of firearms in public.

- **The presence of firearms creates personal safety concerns, heightens tensions, and may exacerbate confrontations.**
- **No widely endorsed research that expanding public carry or permitless carry has any public safety benefits.**

NYSPRA v. Bruen (US 2022)

- In June 2022, the U.S. Supreme Court held in *New York State Rifle & Pistol Association, Inc. v. Bruen*, that there is a constitutional right to carry a firearm in **public** for the purpose of self-defense under the Second Amendment to the US Constitution.
- After *Bruen*, the constitutionality of gun laws will be based on whether the plain language of the Second Amendment protects the activities the laws are regulating. State government must affirmatively prove its firearms regulation is part of its historical tradition.



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ATTORNEYS AT LAW

Ohio, Kentucky, Indiana, Michigan and Pennsylvania – An Overview

DELAWARE

FLORIDA

NEW JERSEY

NEW YORK

OHIO

PENNSYLVANIA

WEST VIRGINIA

Ohio

- *Overview*
- Ohio law expressly permits private property owners, including retailers, to prohibit firearms on their premises.
- Ohio private property owners may ban firearms and enforce such bans through proper notice, typically via conspicuous signage.
- The constitutional right to bear arms does not override a retailer's right to exclude firearms, provided the retailer provides adequate notice and does not engage in unlawful discrimination.

Ohio

- *Statewide Firearms Preemption Does Not Limit Private Owners*
- Under Ohio Revised Code § 9.68, only the General Assembly holds the authority to regulate firearms, overriding local government rules. Courts have applied this law to strike down city ordinances that conflict with state firearm regulations, such as in *Ohioans for Concealed Carry, Inc. v. City of Clyde*, 120 Ohio St. 3d 96 (2008). This law applies strictly to governmental bodies and does not prevent private property owners from setting their own rules about behavior on their premises. The statute clearly separates what local governments cannot regulate from what individuals are allowed to control concerning access to their property.

Ohio

- *Enforcement Through Trespass Statutes*
- Ohio law outlines enforcement mechanisms available to private property owners who choose to prohibit firearms on their premises. Pursuant to Ohio Revised Code § 2911.21(A)(4), an individual may be found guilty of criminal trespass if they knowingly disregard restrictions concerning firearms that are either posted or otherwise communicated by the property owner.

Ohio

- *Constitutional Considerations*
- Article I, Section 4 of the Ohio Constitution affirms that “[t]he people have the right to bear arms for their defense and security.” Similarly, the Second Amendment to the United States Constitution guarantees an individual's right to keep and bear arms. Nevertheless, these constitutional safeguards are constraints on governmental conduct and do not impose any obligation on private property owners to allow firearms on their property. Ohio courts have not recognized a constitutional entitlement enabling individuals to carry firearms onto private property in contravention of the owner's expressed wishes. The statutory framework clearly establishes that firearm possession on private property is subject to the property owner's consent.

Ohio

Conclusion

Ohio law authorizes private retailers to prohibit firearms on their premises and to exclude customers who refuse to comply with such policies. This authority is expressly granted by Ohio Revised Code § 2923.126(C), reinforced by constitutional and common-law protections of private property rights, and enforceable through Ohio's trespass statutes. State firearms preemption applies to governmental regulation and does not limit the rights of private property owners. Constitutional protections for the right to bear arms do not override a retailer's right to control access to its property.

Kentucky

- Kentucky has strong constitutional protections for the right to bear arms and allows permitless carry, but those rights do not supersede private property rights.
- Private property owners, including retailers, may lawfully exclude customers who carry firearms on their property.
- Kentucky law recognizes the rights of private property owners to set conditions on entry, including firearm prohibitions, and may require individuals who refuse to comply to leave the premises.
- Kentucky law contains a unique statutory carve out/exception to the general rule. Specifically, Kentucky law prohibits most property owners from restricting the possession of firearms stored in vehicles on the property, provided the firearm is lawfully possessed and stored in accordance with specific statutory requirements.

Kentucky

- Kentucky law generally authorizes individuals to possess and carry firearms, including concealed firearms, without the need for a license. Simultaneously, Kentucky upholds robust constitutional and common-law protections for private property rights, which include the prerogative of property owners to regulate access to their premises. The legal analysis centers on the relationship between statutory provisions safeguarding firearm possession—particularly within vehicles—and the authority of private retailers to restrict firearms from entering the interior of their establishments. Notably, Kentucky law does not require private retailers to permit firearms within their buildings.

Kentucky

- *Private Property Rights Under Kentucky Law*
- The Kentucky Constitution specifically guarantees the right to acquire and protect property (KY. CONST. § 1). Kentucky courts have repeatedly affirmed that this includes a property owner's authority to decide who can enter their property and under what circumstances.
- State laws governing firearms do not override the common-law rights of private property owners to exclude people who do not follow lawful entry conditions. Therefore, retailers are allowed to ban firearms in their stores based on their ownership rights, rather than as a type of firearm regulation.

Kentucky

- *Statewide Firearms Preemption Does Not Limit Private Owners*
- Kentucky's firearms preemption law, KRS § 65.870, bars local governments from regulating firearms but does not affect private property rights. Private retailers may prohibit firearms on their premises because they are not acting as regulators. Thus, the statewide law does not prevent retailers from excluding firearms from private property.
- *Statutory Limitations: Firearms in Vehicles*
- Under Kentucky law (KRS § 237.106, § 527.020), property owners generally cannot prohibit lawfully possessed firearms stored in vehicles on their premises. The Kentucky Supreme Court affirmed this in *Mitchell v. Univ. of Ky.* (366 S.W.3d 895, Ky. 2012), stating retailers may bar firearms from inside stores but cannot stop customers from keeping them in vehicles in parking areas, except where statutory exceptions apply.

Kentucky

- *Conclusion*
- Kentucky law allows private retailers to exclude customers carrying firearms from their premises based on property rights, despite firearms preemption statutes. This right is enforced through civil trespass actions. Retailers cannot ban firearms stored in vehicles on their property unless allowed by statute. Constitutional gun rights do not supersede a retailer's authority over access to their premises.

Indiana

- *Overview*
- Private retailers in Indiana may lawfully exclude customers from their premises for carrying firearms.
- Indiana law explicitly preserves the authority of private property owners to regulate or prohibit firearms on property they own or control, regardless of whether an individual is otherwise legally permitted to carry a firearm.
- The statute codified Indiana's common law recognition of private property owner's "absolute and unconditional" right to exclude firearms, subject only to civil rights limitations.
- Firearm possession is not a protected characteristic under federal or Indiana civil rights law. Therefore, retailers may prohibit firearms and enforce exclusions through trespass laws.

Indiana

- Indiana law allows people to possess and carry firearms, including without a permit, but there are statutory restrictions. The state also offers strong protections for private property owners, giving them significant rights over who can access their property.
- Indiana statutes specifically maintain an owner's right to control or ban firearms on their property, even if someone is otherwise legally allowed to carry a gun. This power is backed by longstanding Indiana Supreme Court rulings that recognize a property owner's broad and "absolute and unconditional" right to exclude others.

Indiana

- *Private Property Rights Under Indiana Law*
- Indiana courts have consistently upheld the fundamental right of private property owners to exclude others from their premises. The Indiana Supreme Court has characterized this right as “absolute and unconditional,” except where a contractual or statutory obligation exists to the contrary. See *Donovan v. Grand Victoria Casino & Resort, L.P.*, 934 N.E.2d 1111, 1116 (Ind. 2010); *Diamond Quality, Inc. v. Dana Light Axle Prods., LLC*, 256 N.E.3d 529 (Ind. 2025).

Indiana

- *Express Statutory Authorization to Regulate Firearms on Private Property*
- Indiana law specifically affirms that firearm statutes do not restrict the rights of private property owners to prohibit firearms on their premises. Indiana Code § 35-47-2-1(c) states that the handgun licensing chapter “may not be construed... to prohibit a person who owns, leases, rents, or otherwise legally controls private property from regulating or prohibiting the possession of firearms on the private property.” IND. CODE ANN. § 35-47-2-1. Moreover, the statute clarifies that carrying a handgun on another’s property is permissible only with the consent of the owner or individual lawfully in control of the premises. *Id.*

Indiana

- *Enforcement Through Criminal Trespass Statute*
- Indiana law provides a robust mechanism for property owners to enforce exclusion from their premises. Under Indiana Code § 35-43-2-2(b)(1), unauthorized entry or remaining on property after being denied entry by the owner or person in control—absent a contractual interest—is criminalized. IND. CODE ANN. § 35-43-2-2. *Indiana* courts have determined that refusal to leave private property after notification constitutes criminal trespass. See *J.L.F. v. State*, 52 N.E.3d 842 (Ind. Ct. App. 2016). Therefore, when a retailer has notified individuals that firearms are prohibited and an armed customer refuses to comply, the retailer may lawfully invoke Indiana’s trespass statute to enforce this exclusion.

Indiana

- *Civil Rights Limitations on the Right to Exclude*
- Indiana law acknowledges that the right to exclude individuals is subject to applicable civil rights statutes. See *Sherrod v. State*, 112 N.E.3d 234 (Table), 2018 WL 5093263 (unpublished table decision). Civil rights legislation prohibits discrimination based on certain protected characteristics, including race, religion, sex, or disability.
- However, carrying a firearm is not recognized as a protected characteristic under either Indiana or federal civil rights law. Accordingly, excluding customers who are carrying firearms does not, in itself, violate civil rights statutes, provided that such exclusions are implemented in a nondiscriminatory fashion.

Indiana

- *Constitutional Considerations*
- Article I, Section 32 of the Indiana Constitution provides that “the people shall have a right to bear arms, for the defense of themselves and the State.” IND. CONST. art. I, § 32. The Second Amendment to the United States Constitution similarly protects an individual right to keep and bear arms. U.S. CONST. amend. II.
- These constitutional protections constrain governmental action and do not create a right to carry firearms on private property against the owner’s wishes. Indiana courts have recognized that firearm regulations and restrictions may coexist with constitutional protections so long as they do not materially burden core rights. *Moore v. State*, 244 N.E.3d 934 (Ind. 2024). A retailer’s decision to prohibit firearms operates as a condition of entry to private property, not as a governmental restriction on firearm possession.

Indiana

- *Conclusion*
- Indiana law clearly authorizes private retailers to exclude customers carrying firearms from their premises. This authority is expressly preserved by statute, strongly supported by Indiana common law recognizing an absolute right to exclude, and enforceable through Indiana's criminal trespass statute. Civil rights laws impose the only meaningful limitation on this authority, and carrying a firearm is not a protected characteristic. Constitutional protections for the right to bear arms do not override a private retailer's right to control access to its property.

Michigan

- *Overview*
- Private property owners, including retailers, may prohibit firearms on their premises and may lawfully exclude customers who refuse to comply.
- Michigan recognizes strong private property rights, and neither the Michigan Constitution nor the state's concealed pistol licensing scheme grants individuals the right to carry firearms on private property without the owner's consent.
- Retailers may enforce firearm prohibitions through trespass law when adequate notice is provided.

Michigan

- Michigan law permits individuals to lawfully possess and carry firearms, including concealed pistols by licensed individuals, subject to statutory limitations. At the same time, Michigan strongly protects private property rights and recognizes a property owner's authority to control access to and conduct on its premises. This authority derives from common-law property rights, is implicitly recognized throughout Michigan's firearms statutes, and is enforceable through trespass law. Neither the Michigan Constitution nor the concealed pistol licensing scheme compels private property owners to permit firearms on their premises.

Michigan

- *Private Property Rights Under Michigan Law*
- Michigan recognizes a fundamental right to property ownership, including the right to exclude others. See MICH. CONST. art. 1 § 17; *City of Kentwood v. Est. of Sommerdyke*, 458 Mich. 642, 662, 581 N.W.2d 670, 679 (1998). Michigan’s concealed weapons statute provides that, absent licensure, a person may not carry a pistol “except in his or her dwelling house, place of business, or on other land possessed by the person.” MICH. COMP. LAWS ANN. § 750.227. This statutory language reflects the principle that firearm possession rights are limited by property interests and do not extend to the property of another without permission.

Michigan

- *Private Property Rights Under Michigan Law (continued)*
- The Michigan Constitution guarantees that “[e]very person has a right to keep and bear arms for the defense of himself and the state.” MICH. CONST. art. I, § 6. However, as with the Second Amendment, this provision constrains governmental action and does not abrogate a private property owner’s right to exclude firearms from privately owned premises. Courts consistently recognize that property owners may prohibit exclude individuals from their property, or leave the premise upon request. *See City of Kentwood v. Est. of Sommerdyke*, 458 Mich. 642, 662, 581 N.W.2d 670, 679 (1998) (stating “the right to exclude is ‘one of the most essential sticks in the bundle of rights that are commonly characterized as property.’”). As logic would flow, it is likely that a private property owner may request that an individual leave their property if they are carrying a firearm.

Michigan

- *Concealed Pistol Licenses (“CPL”) Do Not Override Property Rights*
- Michigan’s concealed pistol licensing statute authorizes a licensee to carry a concealed pistol on or about their person and in a vehicle throughout the state. MICH. COMP. LAWS. § 28.425c. This authorization is expressly “[s]ubject to section 5 and except as otherwise provided by law.” *Id.* Section 28.425o prohibits licensed concealed carry on specified premises, creating specific location based restrictions. MICH. COMP. LAWS. § 28.425o. Although these restrictions do not expressly state a “retailer,” the statutory structure confirms that lawful carry is conditioned on the consent of the property owner or person in control of the premises.

Michigan

- *Concealed Pistol Licenses (“CPL”) Do Not Override Property Rights (continued)*
- Property ownership conceptually “encompasses a variety of rights.” *Detroit Media Grp., LLC v. Detroit Bd. of Zoning Appeals*, 339 Mich. App. 38, 55, 981 N.W.2d 88, 98 (2021). Thus, in Michigan, there is no express statutory language that allowing even licensed individuals to carry firearms onto private retail property against the owner’s wishes.

Michigan

- *Concealed Pistol Licenses (“CPL”) Do Not Override Property Rights (continued)*
- Lastly, Michigan has enacted statutory language which prohibits local units of government from regulating firearms. See MICH. COMP. LAWS. § 123.1102; *Cap. Area Dist. Libr. v. Michigan Open Carry, Inc.*, 298 Mich. App. 220, 224, 826 N.W.2d 736, 738 (2012) (stating “MCL 123.1102 expressly prohibits local units of government from regulating firearms except as otherwise provided by federal or state law.”). However, this preemption statute applies specifically to governmental entities, not private property owners. Private retailers are not “local units of government” subject to the preemption statute.

Michigan

- *Enforcement Through Trespass Law*
- Michigan law provides retailers with enforceable remedies to exclude armed customers. A property owner may demand that an individual leave the premises, and refusal to do so constitutes trespass. See MICH. COMP. LAWS. § 750.552 (“a person shall not enter the lands or premises of another without lawful authority after having been forbidden to do so by the owner or occupant or the agent of the owner or occupant.”). Accordingly, when a retailer communicates that firearms are prohibited—whether by signage or direct notice—and a customer refuses to comply or leave, the retailer may lawfully enforce its policy through trespass remedies. A person shall not “remain without lawful authority on the land or premises of another after being notified to depart by the owner or occupant or the agent of the owner or occupant.” *Id.*

Michigan

- *Constitutional Considerations*
- The Second Amendment and Article I, Section 6 of the Michigan Constitution protect an individual right to keep and bear arms, but those protections apply to governmental restrictions, not private property decisions. MICH. CONST. art. I, § 6. Michigan law does not expressly recognize a constitutional right to carry firearms onto private property against the wishes of the owner.
- Consistent with federal and state precedent, firearm rights coexist with longstanding property rights, and private businesses are not transformed into public fora merely by opening their doors to customers.

Michigan

- *Conclusion*
- Under Michigan law, private retailers may lawfully prohibit firearms on their premises and exclude customers who refuse to comply with such policies. This authority is grounded in fundamental property rights, implicitly recognized throughout Michigan's firearms statutes, and enforceable through trespass law. Neither concealed pistol licensure nor constitutional protections for the right to bear arms are likely to override a private retailer's right to control access to and conduct on its property.

Pennsylvania

- *Overview*
- Pennsylvania law protects the right of private property owners to control access to their property, including the right to control access.
- Pennsylvania retailers may lawfully exclude customers from their premises for carrying firearms.
- While Pennsylvania recognizes the right to bear arms under both the U.S. and Pennsylvania Constitutions that right does not extend to carrying firearms onto private property against the owner's wishes.
-

Pennsylvania

- *Overview (continued)*
- Firearms exclusions are lawful, provided the exclusion is not based on a protected characteristic under applicable civil rights laws and is clearly communicated.
- A retailer may enforce firearms prohibitions through removal or trespass remedies.

Pennsylvania

- Under Pennsylvania law, individuals may lawfully possess and carry firearms if not prohibited under state or federal law, subject to statutory licensing requirements and location based restrictions. *Lara v. Comm'r Pennsylvania State Police*, 125 F.4th 428, 433 (3d Cir. 2025); 18 Pa.C.S. §§ 6105, 6106, 6108, 912–913. At the same time, Pennsylvania recognizes the fundamental common-law right of private property owners to control access to and conduct on their premises, including the authority to exclude individuals based on conduct the owner does not permit.

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One might question whether a private retailer's decision to prohibit firearms on its premises is preempted by the Pennsylvania Uniform Firearms Act ("UFA") or violates constitutional protections under Article I, Section 21 of the Pennsylvania Constitution or the Second Amendment.

Pennsylvania

- *Private Property Rights Under Pennsylvania Law*
- Pennsylvania courts have long recognized that property owners retain inherent rights to control the use of their property and to exclude individuals who do not comply with the owner's conditions of entry. This principle applies equally to private retailers and other commercial property owners.
- In *Firearm Owners Against Crime v. Lower Merion Township*, 151 A.3d 1172 (Pa. Commw. Ct. 2016), the Commonwealth Court explained that a property owner may restrict firearms on its property not as a regulatory act, but as an exercise of its proprietary rights.

Pennsylvania

- *Private Property Rights Under Pennsylvania Law (continued)*
- Although the *Lower Merion* case involved municipal property, the court emphasized the distinction between impermissible governmental regulation of firearms and permissible conduct taken in a property-owner capacity. *Id.* The reasoning applies with even greater force to private property owners, whose authority derives from common-law ownership rights rather than governmental power. Accordingly, a private retailer acts within its lawful authority when it conditions entry on compliance with a no-firearms policy. See 18 Pa. C.S. § 3503(b).
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Pennsylvania

- *Statewide Firearms Preemption Does Not Limit Private Owners*
- Section 6120(a) of the UFA provides that “[n]o county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms.” 18 Pa.C.S. § 6120(a). The Pennsylvania Supreme Court and Commonwealth Court have consistently enforced this provision to invalidate local ordinances regulating firearms. See *Ortiz v. Commonwealth*, 681 A.2d 152 (Pa. 1996); *Crawford v. Commonwealth*, 326 A.3d 850 (Pa. 2024).

Pennsylvania

- *Statewide Firearms Preemption Does Not Limit Private Owners (continued)*
- Section 6120(a) of the UFA provides that “[n]o county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms.” 18 Pa.C.S. § 6120(a). The Pennsylvania Supreme Court and Commonwealth Court have consistently enforced this provision to invalidate local ordinances regulating firearms. See *Ortiz v. Commonwealth*, 681 A.2d 152 (Pa. 1996); *Crawford v. Commonwealth*, 326 A.3d 850 (Pa. 2024).

Pennsylvania

- *Statewide Firearms Preemption Does Not Limit Private Owners (continued)*
- Critically, however, Section 6120 applies only to governmental entities. Courts have repeatedly emphasized that the statute reserves regulatory authority to the General Assembly, not that it limits private conduct. Nothing in the UFA restricts a private property owner's right to exclude firearms from its premises. A retailer's decision to prohibit firearms is not a "regulation" within the meaning of Section 6120, but rather an exercise of private property rights.

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Pennsylvania

- *Enforcement Through Criminal Trespass Statute*
- Pennsylvania's criminal trespass law allows retailers to enforce bans on firearms. According to 18 Pa. C.S. § 3503, a person commits criminal trespass if they enter or stay on property knowing they do not have permission. If a retailer posts signs or tells customers directly that firearms are not allowed, anyone who remains on the property with a weapon does not have the right to be there. While the law offers a defense for those who reasonably believed they were allowed to stay, this defense does not apply once the owner clearly explains the rule. Therefore, ignoring a no-firearms notice can result in lawful removal from the premises and prosecution for trespassing if necessary.
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Pennsylvania

- *Constitutional Considerations*
- Article I, Section 21 of the Pennsylvania Constitution provides that “the right of the citizens to bear arms in defense of themselves and the State shall not be questioned.” PA. CONST. article I, § 21. Similarly, the Second Amendment protects an individual right to keep and bear arms for lawful purposes, including self-defense. See *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022).

Pennsylvania

- *Constitutional Considerations (continued)*

These constitutional protections, however, constrain governmental action, but not the decisions of private property owners. Neither the Pennsylvania Constitution nor the Second Amendment confers a right to carry firearms on another person's private property against the owner's wishes. Courts have consistently upheld firearm regulations and restrictions that coexist with constitutional protections, including licensing requirements and location based prohibitions. See *Commonwealth v. McKown*, 79 A.3d 678 (Pa. Super. Ct. 2013). Nothing in *Bruen* or subsequent Pennsylvania case law suggests that private businesses are constitutionally obligated to permit firearms on their premises.

Pennsylvania

- *Conclusion*
- Under Pennsylvania law, private retailers may lawfully prohibit firearms on their premises and exclude customers who refuse to comply with such policies. This authority is grounded in fundamental property rights, is enforceable through the criminal trespass statute, and is not limited by the Uniform Firearms Act's preemption of local governmental regulation. Constitutional protections for the right to bear arms do not override a private property owner's right to control access to and conduct on its property.



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