

*Strong States, Strong Nation*



## EDIBLE CANNABIS STATE REGULATIONS

 NATIONAL CONFERENCE *of* STATE LEGISLATURES

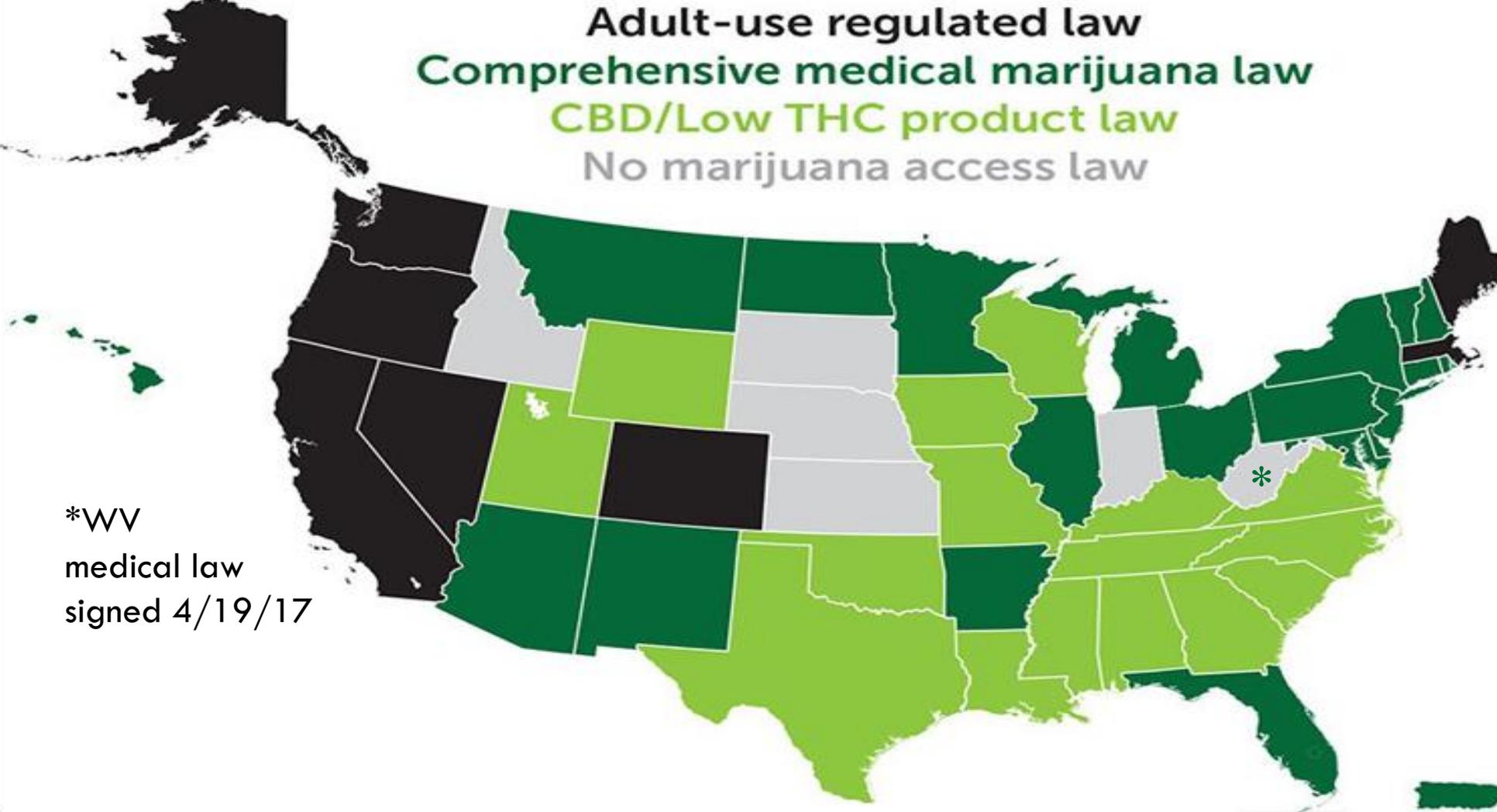
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# What's Covered Today

- ❑ Overview of medical, CBD and adult-use cannabis laws
- ❑ State program details, similarities and differences
- ❑ Edible regulations
- ❑ Legislator roles
- ❑ Lessons learned
- ❑ Your questions

Adult-use regulated law  
Comprehensive medical marijuana law  
CBD/Low THC product law  
No marijuana access law



\*WV  
medical law  
signed 4/19/17



# Significant Pending Legislation- 2017

- ❑ States/territories with proposals to **legalize and regulate adult use**: “similar to alcohol” that are still pending: 22 & DC. **(DIED)** **(PASSED)**  
**AZ, CT, GA, HI, IL, KS, KY, MD, MN, MS, MO, NH, NJ, NM, NY, PA, RI, TX, VT (vetoed by gov), WY** and **DC**
- ❑ States with **pending** bills to create new **comprehensive medical marijuana** programs in 2017: 16 **(DIED)** **(PASSED)**  
**IA, IN, KS, KY, MS, MO, NE, NC, OK, SC, TN, TX, UT, VA, WV, WI**
- ❑ 2016 Ballot Initiatives: Adult-use- **AZ, CA, ME, MA, NV.**  
Medical- **AR, FL, MT, ND.**
- ❑ *\*new and potential for carry-over as of June 15, 2017*



# A Brief History of Medical Marijuana Programs

- ❑ CA: First state to pass with Prop. 215 in 1996
- ❑ Since then, 28 states, DC, Guam and PR have followed: AK, AR, AZ, CO, CT, DE, FL, HI, IL, ME, MD, MA, MI, MN, MT, NV, NH, NJ, NM, NY, ND, OH, OR, PA, RI, VT, WA, WV, **(29 states + 3 territories total)**
- ❑ 16 became legal through voter/ballot initiative process
- ❑ 17 legal through legislation (CT, DE, HI, IL, MD, MN, NH, NJ, NM, NY, OH, PA, RI, VT, WV) (and 1 through Dept. of Health regulation)
- ❑ NCSL Marijuana webpage:  
<http://www.ncsl.org/default.aspx?tabid=19587>

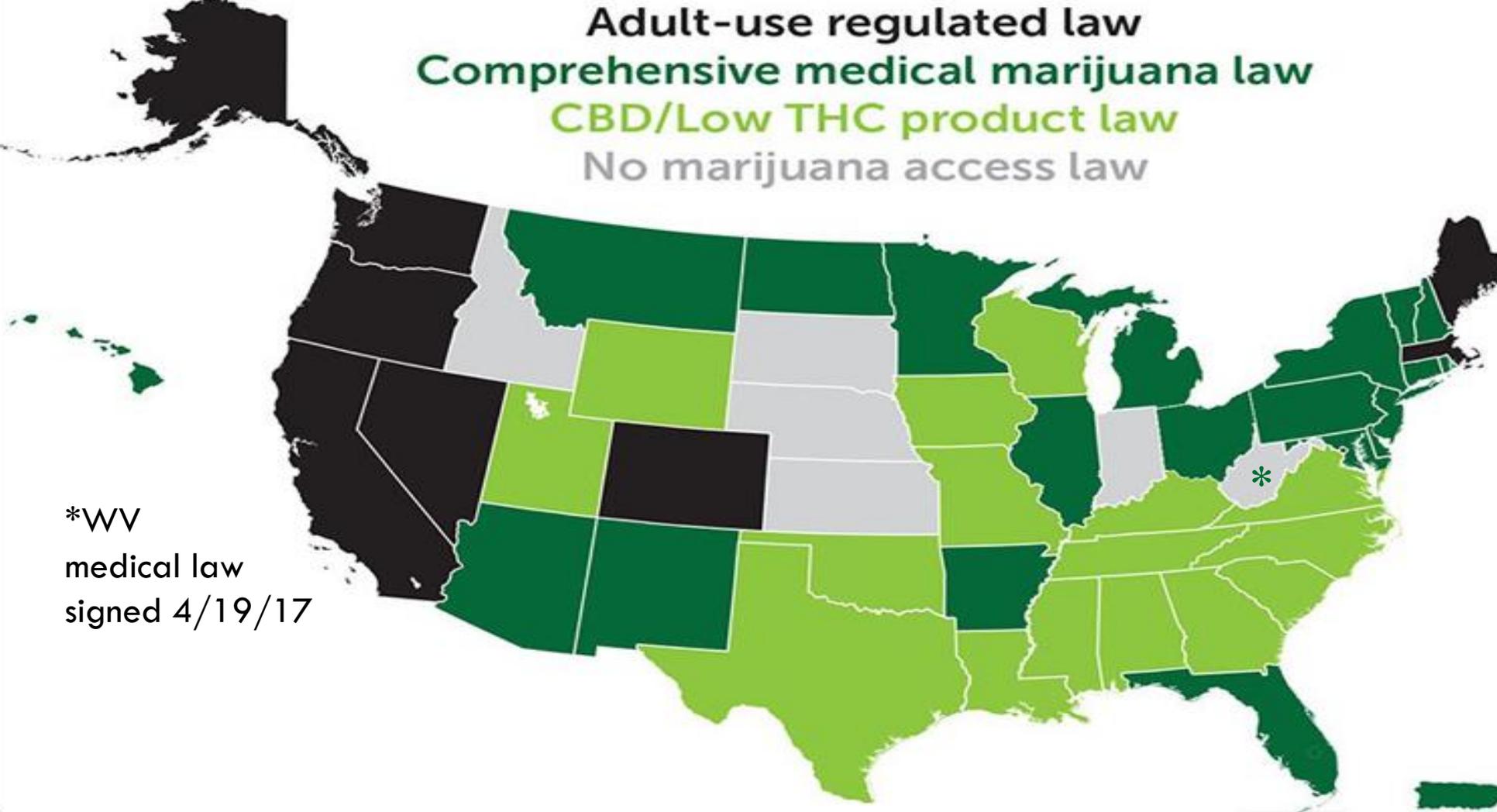


# Medical Marijuana Programs Vary

Some require or allow for:

- ❑ Patient Registries: 28+
- ❑ Grower/Caregiver Registries and Limits: varies
- ❑ Dispensaries: 26+
- ❑ Specific Conditions: 28+ and all CBD programs
- ❑ Recognize Patients from Other States: 7
- ❑ Products and Product Testing: varies
  - ❑ \* 2016 & 2017 approved details TBD

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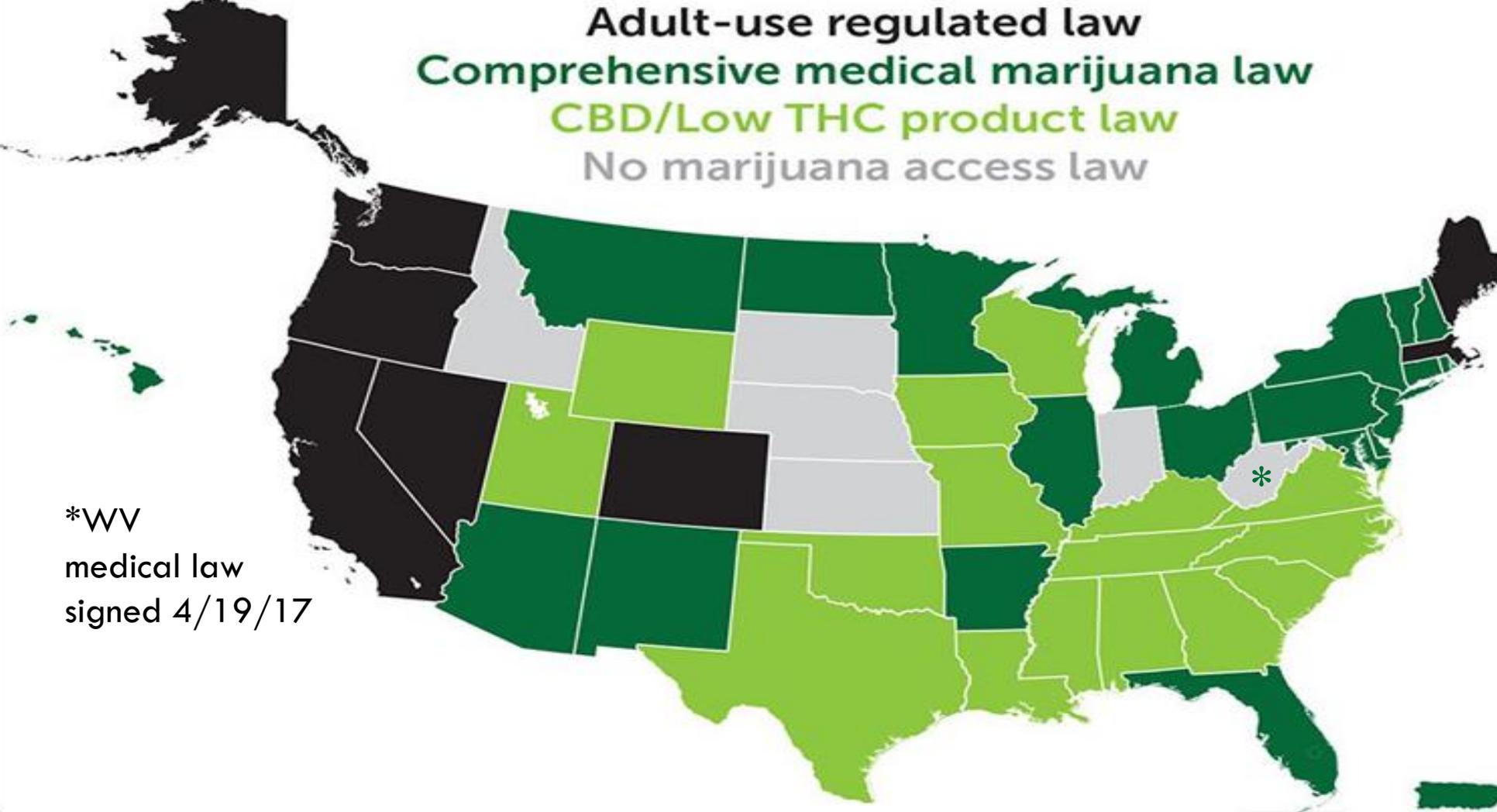
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# CBD-Limited Medical Marijuana Laws

- ❑ CBD: Cannabidiol, non-psychoactive and often therapeutic compounds in marijuana.
- ❑ Definition of “low THC”
  - ❑ Lowest: below .3% THC and  $\geq$  5%-15% CBD by weight
  - ❑ Highest: Below 3% THC and/or above 10% CBD by weight
  - ❑ Conditions for use
    - ❑ Severe intractable seizure disorders/Dravet syndrome, epilepsy, muscle spasms, neuro disorders, cancer pain and others
- ❑ “Low THC” or “high cannabidiol” (CBD) medical programs: 17 states
  - ❑ 11 in 2014 + GA, ID (vetoed), OK, TN, TX, VA, WY, in 2015
- ❑ Vary widely by source of CBD products, % of CBD or THC, research, distribution, conditions, etc. Protections: some allow for patient’s legal defense, some protect referring doctors, some may put doctors or universities/providers/patients at risk of breaking federal laws
- ❑ NCSL MMJ webpage for more details

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# Legalized Adult-Use in 8 states

- ❑ 2012: Colorado (A 64-2012) and Washington ( I 502-2012)
- ❑ Colorado had 24-member Implementation Task Force at work- rulemaking
  - ❑ Included 4 state legislators. Chairs were executive director of Dept. Revenue and the Gov's chief legal counsel
- ❑ Washington implementation with the state Liquor & Cannabis Board
- ❑ Alaska- growing/possession legal as of Feb. 24, 2015 licensing/regulation late 2016
- ❑ Oregon- Ore. Liquor Control Commission
- ❑ DC- limited personal growing and sharing allowed (not regulated)
- ❑ 2016: 4 new states (California, Maine, Massachusetts, Nevada)



# Regulations and Oversight

- ❑ Colorado: Dept. of Revenue, Marijuana Enforcement Division (MED)
- ❑ Washington: Washington State Liquor and Cannabis Control Board
- ❑ Oregon: Oregon Liquor Control Commission
- ❑ Alaska: Alcoholic Beverage Control Board/Marijuana Control Board
- ❑ DC: limited personal growing and sharing allowed (not regulated or tracked)
- ❑ California: Bureau of Marijuana Control within the Dept. of Consumer Affairs
- ❑ Maine: Dept. of Agriculture, Conservation and Forestry
- ❑ Massachusetts: The Cannabis Control Commission
- ❑ Nevada: Department of Taxation

# Tax Rates



- ❑ CO- **Adult use** 15% retail excise, 10% special sales tax, 2.9% regular state sales tax + LOCAL. **Medical Marijuana Tax Rates:** 2.9% sales tax + LOCAL (small change coming in July 2017)
- ❑ OR- 17% Point-of-sale on adult/rec, no tax on medical. Localities can add another 2%.
- ❑ WA- **Adult use** 37% excise tax on ALL sales of flower, concentrates, infused products, collected by retailers at POS.
- ❑ AK- \$50 per ounce tax on marijuana, paid by cultivator at transfer, roughly 20% effective tax rate
- ❑ CA- \$9.25 per oz. cultivation tax for flowers and \$2.75 per oz. for leaves. 15% sales tax
- ❑ ME- 10% sales tax
- ❑ MA- 3.75% state sales tax, up to 2% local sales tax
- ❑ NV- 15% excise tax on wholesale
- ❑ District of Columbia- No regulated production or sales, however estimated at \$20m

State	Limits: Possession, Cultivation, \$Purchase	Businesses Allowed & Restrictions	Tracking & Security	Local Role & Limits	License Determination
AK	P- 1 oz. C- 6 plants (3 mature) \$- 1 oz.	Cultivation, Manufacturers, Testing Labs, Retail Stores No state limits	Potency, warnings, contamination	Time, place, manner and #. Can prohibit through ordinance or voter initiative	Min. requirements established in rules by MCB
CO	P- 1 oz. (public) C- 6 plants \$- 1oz & ¼ oz.	Cultivation, Product Manuf. Testing Labs, Retail Stores No state limits	Seed to sale, video, alarms and locks	May limit, license, restrict, tax	Any qualified applicant through the state, locals may limit
OR	P- 1 oz. (public) or 8 oz. (private) C- 4 plants per residence \$- ¼ oz. until 1/1/17	Producers (growers), Processors (manuf.) Wholesalers and Retailers	Plants and products tested for contaminants, potency, detailed labeling	Time, place, zoning, Local election, or ordinance (varies)	Meet OLCC criteria, meet standards
WA	P- 1 oz. (public) C- N/A \$- 1 oz. (varies)	Producers, Processors and Retailers 556 limit, sq. ft.	Analytic tests on products, moisture, potency, etc.	Locals can advise state board on license. Prohibition being appealed	If more applicants than allotted, state selects by lottery

State	Limits: Possession, Cultivation, \$Purchase	Businesses Allowed & Restrictions	Tracking & Security	Local Role & Limits	License Determination
CA	P- 2.5 oz., concentrates C- 6 plants \$- 1 oz., 1/4 oz. concentrates	Cultivation, Manufacturers, Testing Labs, Retail Stores No state limits but localities may restrict or ban	TBD by regs	May limit by ordinance until 2019, then by popular vote	Priority for applicants with experience since Sept. 2016
ME	P- 2.5 oz. C- 6 plants \$- 2 1/2oz & 1/4 oz.	Cultivation, Manufacturers, Testing Labs, Retail Stores, Social Clubs.	TBD by regs	Must have “local approval”	Medical experience given priority for retail
MA	P- 8 oz. or 5 grams concentrate C- 6 plants \$- 1 oz. or 5 grams concentrate	Cultivation, Manufacturers, Testing Labs, Retail Stores.	TBD by regs	May limit location and times	Medical experience given priority, then lottery
NV	P- 1 oz. (public) or 1/8 oz of concentrate C- 6 plants \$- 1 oz. or 1/8 oz	Cultivation, Manufacturers, Testing Labs, Retail Stores	TBD by regs	Locals may adopt measures to enforce zoning and land use regs	Medical experience priority for first 18 months

# Legislative Roles in Regulation



- ❑ Drafting legislation and/or enabling language
- ❑ Creating rules/regulations and assigning responsibility
- ❑ Establishing fees, tax mechanisms, funding
- ❑ Oversight and/or assigning program implementation and evaluation

# Edible products



- ❑ Not regulated/allowed in all medical or adult-use states
- ❑ Complex policies and regulations
  - ▣ Learned by CO and WA first
  - ▣ Regulated packaging, strength, testing
  - ▣ Influence of adult use model on medical use



# Current Status- State level\* testing

- ❑ Commercially produced AND tested for AU and MED:  
AK, CA, CO, ME, MA, NV, OR, WA
- ❑ Yes, MED only: AZ, CT, DC, DE, FL, HI, IL, LA, MD, MI, MN  
(no flower), MT, NH, NJ, NM, NY, ND, OH, PA, RI, VT,  
WV
- ❑ Other concentrate/extract product:
  - Low: AR, AL, GA (no production), MS, OK, TN, TX, UT, VA,  
WI, WY,

# Lessons Learned



- Edibles, products, testing, packaging
- Advertising and marketing
- Tax rates
- Licensing, social clubs
- Security & Tracking (physical, cameras, seed to sale)
- Environmental impacts (water, air, energy, real estate)
- More research needed**

*it's*  
Complicated



# NCSL Tools & Resources

## Webpages:

NCSL MJ Deep Dive: <http://www.ncsl.org/bookstore/state-legislatures-magazine/marijuana-deep-dive.aspx>

Medical and Adult-use programs: <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>

Criminal Justice and Civil issues: <http://www.ncsl.org/research/civil-and-criminal-justice/marijuana-overview.aspx>

## LegisBriefs:

Regulating MJ-Taxes, Banking and Federal Law

<http://www.ncsl.org/research/health/regulating-marijuana-taxes-banking-and-federal-laws.aspx>

Regulating MJ- A Year and a Half In

<http://www.ncsl.org/research/health/regulating-marijuana-a-year-and-a-half-in.aspx>

# Questions?



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