How Will the Legalization of Marijuana Effect the Legal Industry?

Summary: The legalization of marijuana has affected the political and social climate of the U.S. Read about how it has affected the law.

The new practice field is marijuana and the newly specialized purveyors within that practice field are called “marijuana attorneys.”

This is just a semblance of how the legalization of marijuana has taken root within the legal industry.

More changes are on the way, which begs the question of whether or not your firm is ready for the pot emergence.

Some may not be aware that marijuana was first legalized medicinally in California in 1996. A good 22 years later, many other states have followed suit. Although the legalization of marijuana has become increasingly normalized, there are still mixed opinions about it. The topic is often debated and discussed, and there is no doubt this has altered the social and economic climates in the U.S. But what is the effect marijuana has on the law?

A Brief History of Marijuana

Historically, marijuana was used by ancient cultures for its healing properties. Records show that it wasn’t recreationally used until about 800 AD throughout parts of the Middle East and Asia. In the United States, marijuana was not widely used recreationally until the early 1900s, though there are some records of its use before that time.

Marijuana was first introduced in the states by Mexican immigrants during the Mexican Revolution. Because of the social conditions at the time, Americans had a Prohibition-type view of all intoxicants, including marijuana, which resulted in its outlawing in 29 states by 1931. But it wasn’t until 1937 that the Marijuana Tax Act became law, which initiated marijuana’s criminalization nationwide.
The Controlled Substances Act of 1970 dealt another blow to marijuana. President Richard Nixon signed this into law, repealing the previous Marijuana Tax Act, which listed marijuana as a Schedule I drug, and subsequently placed it in the same category as heroin, LSD, and ecstasy.

In 1972, the Shafer Commission released a report that recommended marijuana not be scheduled in the Controlled Substances Act and recommended lower penalties for possession of marijuana and “partial prohibition” of the substance be applied. However, these efforts were denied.

As a consequence, it would be 24 years later before marijuana legislature passed and the drug was legalized again.

The Legalization of Marijuana

Marijuana was first legalized in California for medicinal purposes, as mentioned earlier, in 1996. To date, Alaska; Oregon; Washington; Maine; Colorado; Hawaii; Nevada; Montana; Vermont; Rhode Island; New Mexico; Michigan; Arizona; New Jersey; Washington, DC; Delaware; Connecticut; Massachusetts; Illinois; New Hampshire; Maryland; Minnesota; New York; Arkansas; Florida; North Dakota; Ohio; and Pennsylvania have also legalized marijuana for medicinal purposes. Colorado, Alaska, Nevada, California, Oregon, Washington, Maine, and Massachusetts have also legalized marijuana recreationally, starting with Colorado and Washington in 2012.

The results of legalized marijuana vary in each of these states. For some, there has been a noticeable uptick in their economies, while other states have experienced an increase in crime.

Regardless of the consequences of legalizing pot from one state to another, those consequences have led and continue to lead to a need for legal intervention.

Without a doubt, this legal intervention has created new opportunities for attorneys and law firms that previously did not exist. Uncharted waters, yes, this is what these legal institutions are experiencing. And the fluidity of the legal process within these states, as well as with the federal government, are hurdles that almost require a “learn as you go” attitude about the marijuana practice area.

What does the legalization of marijuana mean for law and law firms?

The renaissance of marijuana as a now-legal drug for medicinal and recreational use has opened up a new area of specialty for lawyers who are now defined as “marijuana attorneys.”

These attorneys make up a focused team within law firms that concentrate on clients who possess some connection with legal cannabis.

That’s a far cry from the bad days of weed in which attorneys only connection to the substance may have been to prosecute a person in possession of it. Today’s marijuana attorneys are now asked to protect business owners and individuals alike with their pot-related endeavors. That “new” attorney representation can include individuals who seek to establish dispensaries to those busted for marijuana infractions such as weed-influenced DUIs.

Because the legalization of marijuana over the past several years has occurred at a rapid pace, laws regarding marijuana are constantly changing and the number of “ganjapreneurs” (marijuana business owners) is increasing by the masses.

Marijuana-Specialty Law Firms

If you were to search “marijuana law firms” on Google, a plethora of firm websites would pop up. So firstly, what do these marijuana law firms offer?

While some law firms like Rogoway Law Group focus strictly on cannabis-related clientele, other law firms such as Harris Bricken maintain a diversity of industries they cater to, cannabis just being one of them.

For example, Harris Bricken’s cannabis division is called “Canna Law Group,” which has been in operation since 2010. They have offices in Washington, Oregon, California, Illinois, and Nevada—not surprisingly. The legal services they offer their clientele include corporate structuring, contracts, dispute resolution, tax consulting, intellectual property, labor real estate, licensing, compliance, and general operating advice. Their clientele ranges from entrepreneurs, investors, non-profits, trade groups, and publicly traded cannabis companies. Marijuana law firms are therefore very similar to business law firms in regards to the subject matter they handle.

Secondly, how does one choose a marijuana law firm to represent them?

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**Canna Law Blog**, a blog run by Canna Law Group, offers many articles with advice to those considering or already in the marijuana industry, and one of their articles had some tips to offer:

1. Choose a small law firm over a solo practitioner to represent you or your company because just one lawyer cannot sufficiently cover and address all of the things required to represent a cannabis business.
2. Choose a law firm with lawyers who were doing deals and licensing work before cannabis was legalized—basically, it's better to choose a law firm that created the “cannabis” specialization after it was legalized, rather than a law firm that only specializes in marijuana and was created because of the legalization of marijuana.
3. Choose a law firm that specializes in business law because cannabis businesses are legal businesses, and therefore need lawyers who know business law extensively and work exclusively in that realm.
4. Pay attention to the law firms’ previous or current clients, schools its lawyers attended, rankings of the lawyers, lawyers' speaking engagements and publications, and their reputation among other lawyers in their city.
5. Like/trust your attorney, especially because the world of “marijuana law” is new and without the proper legal advice, one could end up in some unpleasant and questionable situations.

**Marijuana-Specialty Attorneys**

Despite the fact that marijuana is being decriminalized or even completely legalized in a wide number of states, it is still illegal on a federal level. Therefore, as mentioned before, it is crucial for attorneys and law firms that consider delving into this new specialization to thoroughly understand the implications of their involvement within this emerging practice area. Having a solid background in business law, amongst many other factors are essential.

To be a successful marijuana attorney, one must possess these qualities:

1. They are first and foremost a well-trained business attorney.
2. They have extensive knowledge of marijuana—the plant, its history, the extraction processes that goes into producing the drug, and its common uses and names, etc.
3. They are politically active—because the laws are constantly changing, it is beneficial for lawyers to be politically active, allowing them to always be on top of the most recent updates to the law.
4. They know their ethics for whatever state they are working in—preventing their client, as well as themselves, from not engaging in illegal activity.
5. They choose their clients carefully—just as clients have to choose their attorneys with care, the same goes for attorneys working in the cannabis industry.

The stakes are high for attorneys to meet the qualities mentioned above not only for success, but because the legitimacy of marijuana continues as a legal gray zone. If an attorney is not knowledgeable and cautious, a mistake on their part could mean a whole host of prosecution worthy offenses, which can include conspiracy, money laundering, and aiding drug dealers. Not only can attorneys in this practice field face legal misconduct, they can face disbarment as well, which can permanently end their career.

**Conclusion**

At this point, it is clear that the decriminalization and legalization of marijuana has effected an attorney’s disposition towards the substance. On one hand, the business has grown so fast that in 2015, a National Cannabis Bar Association was formed—which accumulated 300 members in the U.S. and Canada by 2017—a matter of two years.

On the other hand, because the decriminalization and legalization of marijuana are newly instated and laws will likely continue to change for many years going forward, there is a risk that attorneys could find themselves in untoward legal positions. So whether the legalization of marijuana is ultimately a good or bad thing in regards to the law it is hard to say and likely impossible until all regulations regarding the legalization of marijuana are passed.