

Legal, Ethical, and Compliance Issues in Emerging Markets: Cannabis in the States

**Symposium co-hosted by
The Center for Legal Studies & Business Ethics
Spears School of Business
Oklahoma State University**

and the American Business Law Journal

Cannabis in Canada: A Comparative Exploration of the Canadian Experience in Cannabis Regulation

Abstract

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The regulation of cannabis presents one of the most controversial and vexing social policy issues of our time. It was not surprising, therefore, that beginning in 2000 it was a rights-based judicial path, not a legislative one, that authorized the medical use of marijuana in Canada. This reform, representing the first relaxation of criminal prohibitions on production, possession and consumption of cannabis, eventually culminated in the political and legislative choice to fully de-criminalize cannabis in late 2018. Nevertheless, the regulation of cannabis at the provincial and local levels in Canada continues to present ethical and practical challenges.

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Public opinion polls and the outcomes of state referenda generally favor a more permissive approach toward cannabis in the United States. In addition to physical proximity, Canada and the United States share many similar cultural, social, democratic, economic, historic and legal features. Although significant federalism and constitutional rights differences are in play between these two countries, this article offers an assessment of how the Canadian experience in de-criminalizing cannabis might serve as a valuable case study for American legislators and regulators considering cannabis liberalization reforms.

This article provides the historical framework of legal developments in Canada that concluded with full cannabis de-criminalization in 2018. Several ethical issues pertaining to cannabis liberalization are highlighted and analyzed, including the pace and nature of the de-criminalization process, the medical exception for cannabis use, the current state of scientific evidence with respect to recreational cannabis use, safe production and retail advertising and access, the regulation of edibles, extracts and topicals, and the call for expungement of cannabis-related criminal records.

The Canadian regulatory story with its ethical concerns is accompanied by a U.S. legal perspective and comparative analysis.
