



Tennessee's Low-THC Laws

Summary

Tennessee law provides protections for certain individuals with epilepsy who possess cannabis oils that are rich in one of the primary active ingredients in medical marijuana, cannabidiol (also referred to as CBD). That law allows only oils that contain no more than trace amounts of tetrahydrocannabinol (or THC) — 0.9%.

The state's first CBD-focused law, SB 2531, was passed in 2014. It required that a hospital or state university-affiliated clinic supervise the study of cannabis oil. It also relied on Tennessee Tech to cultivate marijuana. Both requirements rendered the law unworkable in light of federal law. Without authorization from federal law enforcement, which unsurprisingly was not granted, these institutions were unwilling to participate.

In 2015, the legislature changed the law by passing SB 280, which allows a person who obtained cannabis oil out-of-state to possess it in Tennessee. The person was required to have "a legal order or recommendation" from the other state.

In 2016, the legislature modified the law again. It now provides that certain individuals may possess CBD oils with no more than 0.9% THC. To qualify, the person must have "proof of the legal order or recommendation from the issuing state" along with proof that they or an immediate family member have been diagnosed with intractable seizures or epilepsy by a Tennessee doctor. The oils must be labeled by the manufacturer showing they have no more than 0.9% THC.

That revised law also allows all institutions of higher education to participate in research using up to 0.6% THC with cannabidiol and permits research to be conducted on "cancer and other diseases" as well as intractable seizures. However, it requires any study to be "certified by the drug enforcement administration located in the state," which is extremely difficult and time-consuming. There is currently only one location that is allowed to cultivate marijuana under federal law, and it is located in Mississippi.

In 2017, the legislature enacted HB 1164, which modified Tennessee's industrial hemp law to allow the production of hemp with 0.3% THC or less. The law requires hemp growers to be licensed by the Department of Agriculture. It also provides that hemp is not marijuana under the state's controlled substances act if it is either (a) viable and possessed by a licensed hemp grower, or (b) nonviable and was procured in accordance with department rules.

Limited Access for Patients

Unfortunately, even for the small pool of patients covered by the CBD law, there is not safe, regulated access to low-THC products within Tennessee. While it is possible that some patients could acquire very low-THC cannabis grown pursuant to the industrial hemp law, that law does not mandate testing

or labeling to ensure products are free of harmful heavy metals, pesticides, molds, or other contaminants.

In 2018, state officials raided some stores selling CBD products, but ultimately dropped charges since it was unclear the products were made from hemp (which would be legal) or marijuana.^[1] However, even if stores purport to sell CBD, buyers must be cautious of these products. Without mandated testing and labeling, products may not be what they appear. More than 50 people were sickened in Utah by fake CBD products.^[2]

Low-THC, CBD-Focused Laws Leave Behind Most Patients

In addition to the legal and logistical hurdles presented by the current laws in Tennessee, they also come up short on scientific support and practical application. CBD is one of approximately 85 active compounds — called cannabinoids — found in marijuana.

While low-THC, high-CBD marijuana has been effective at treating some patients' seizures, the number of individuals treating seizure disorders through medical marijuana programs is a relatively low percent of the total patients who could benefit from medical marijuana. For example, less than one percent in Arizona report seizures as their qualifying condition. At least, ninety-eight percent of patients in most state programs suffer from conditions other than seizures, including cancer, HIV/AIDS, Crohn's disease, post traumatic stress disorder, chronic pain, spasms, or severe nausea. These patients will unfortunately be left behind in Tennessee until a substantive law similar to other medical marijuana states can be adopted.

Higher amounts of THC are needed for relief for many conditions — and higher THC cannabis has been shown to provide relief to patients with Crohn's disease, chemotherapy-related wasting and nausea, pain, and other ailments.^[3] Ironically, the federal government has long since recognized the medical value of THC, which is largely ignored in Tennessee's laws. In 1985, the FDA approved a prescription drug that is made of synthetic THC — Marinol — for nausea.

THC Has Medicinal Value and May be Necessary

Further, there is some evidence that CBD, like the many cannabinoids in the marijuana plant, actually requires the presence of other compounds contained in the plant for it to be effective, known as the "entourage effect."^[2]

Research is not conclusive on this theory, and it is unclear if the allowable amount of THC in the current laws in Tennessee, less than one percent, is sufficient for patients. Several parents of children with seizure disorders have found that a greater proportion of THC is needed to reduce the frequency and intensity of their seizures.

Most states^[3] have workable medical marijuana laws that include access to marijuana, including THC, a well-known cannabinoid. Ironically, the federal government has long since recognized the medical value of THC, which is largely ignored in Tennessee's laws. In 1985, the FDA approved a prescription drug that is made of synthetic THC — Marinol — for nausea.

Conclusion

While Tennessee has taken a step forward in recognizing the medical value of at least one component of marijuana, its current laws fall short:

- The law leaves out the vast majority of patients who could benefit from access to medical marijuana;
- Tennessee law fails to provide for a safe, tested supply of low-THC cannabis oils; and
- The law does not allow more than trace amounts of THC, which is known to have medical value and may be required in higher amounts for treatment using CBD to be effective.

[1] Michelle Willard, "Store owner wants \$500K for 'Operation Candy Crush' arrest," *Murfreesboro Voice*, September 27, 2018.

[2] "52 people sickened by fake CBD oil in Utah," *CBS News*, May 28 2018.

[3] See the studies cited in this document:

<https://www.mpp.org/issues/medical-marijuana/medical-marijuana-research/>