

Cannabis Law and Policy

*Foundations, Frameworks and Emerging
Issues*

by

Mary A. Celeste

Cannabis Law and Policy: Foundations, Frameworks and Emerging Issues

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Preface

This book provides a framework for understanding the current law — and for analyzing future developments — relating to marijuana, hemp, psychedelics, and the classification of controlled substances under the Controlled Substances Act. Throughout the book, case excerpts, regulatory materials, and factual problem sets are used to support analysis of existing doctrine and to assist readers in evaluating how legal frameworks governing these substances might continue to evolve.

At the time this book went to press, federal marijuana law was undergoing significant administrative change. In December 2025, President Donald J. Trump signed an Executive Order directing rescheduling rulemaking.¹ In April 2026, the Department of Justice and Drug Enforcement Administration placed FDA-approved marijuana products and qualifying state-licensed medical-marijuana products in Schedule III, while broader marijuana rescheduling remained pending through an expedited administrative process.² Because the legal consequences of that partial rescheduling remain unsettled, this book explains the Schedule I framework that shaped the governing cases while also addressing how rescheduling may affect federal cannabis doctrine going forward.

Many of the cases, enforcement doctrines, and regulatory frameworks examined in this text were developed under Schedule I classification, and their reasoning cannot be fully understood without reference to that legal context. At the same time, rescheduling has the potential to alter the operation of certain statutes, agency authorities, enforcement

priorities, and judicial analyses going forward. Accordingly, a final chapter of this book examines how rescheduling to Schedule III might affect specific legal doctrines and selected cases discussed throughout the text, while emphasizing that the ultimate scope and significance of those changes will depend on how rescheduling is implemented, interpreted, and applied by courts and regulators.

This approach reflects the central reality of marijuana, hemp, and drug-policy law more broadly: it is a rapidly evolving field in which statutory text, administrative action, and judicial doctrine often move at different speeds. The goal of this book is therefore not only to explicate the law as it exists at any single moment, but to equip readers with the analytical tools necessary to understand, evaluate, and anticipate how future developments—including rescheduling—might reshape the legal landscape governing marijuana, hemp, and related controlled or newly regulated substances.

¹ See Executive Order on Increasing Medical Marijuana and Cannabidiol Research, The White House (Dec. 18, 2025).

² U.S. Dep’t of Justice, Justice Department Places FDA-Approved Marijuana Products and Products Containing Marijuana Subject to a Qualifying State-Issued License in Schedule III, Strengthening Medical Research While Maintaining Strict Federal Controls (Apr. 23, 2026); Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements, 91 Fed. Reg. 22,714 (Apr. 28, 2026).

A note on sources and links. Throughout this book, citations to judicial opinions, statutes, regulations, and related materials include, in the electronic edition, hyperlinks to freely and publicly accessible sources wherever possible — government court and agency websites and

open databases such as Justia and CourtListener. Some authorities are available only through subscription legal-research services such as Westlaw or LexisNexis, and some are unpublished dispositions for which no free public link exists; for those, the citation appears without a link. All links were active and verified as of the date of publication; because web addresses change over time, the publisher and author cannot guarantee that every link will remain accessible. In every case, the full citation provided is sufficient to retrieve the authority through an institutional or commercial database.

Author's Note

This book is based on and substantially expands a thirteen-week law school course on cannabis law and regulation. The manuscript has been updated to reflect recent statutory, regulatory, scientific, and administrative developments, including the December 2025 Executive Order directing rescheduling and the April 2026 Department of Justice Final Order implementing partial rescheduling of marijuana to Schedule III of the Controlled Substances Act. Chapter 15, which examines the doctrinal consequences of rescheduling, reflects the April 23, 2026 DOJ/DEA Final Order and the April 28, 2026 Federal Register publication (91 Fed. Reg. 22,714); readers should verify that chapter for currency as subsequent agency guidance and litigation develop. In June 2026, the Supreme Court decided *United States v. Hemani*, 608 U.S. ____ (2026), holding § 922(g)(3) unconstitutional as applied to a marijuana user; Chapters 12 and 15 reflect that decision.

At the time of publication, several developments remained pending that could materially affect the analysis in this book: the DEA's finalization of the broader marijuana rescheduling proceeding initiated by the April 2026 partial order, with the expedited administrative hearing set to commence June 29, 2026 (Docket No. DEA-1362, 91 Fed. Reg. 22,777 (Apr. 28, 2026)) and required to conclude no later than July 15, 2026 (the hearing will receive evidence and argument on the proposed transfer of all marijuana from Schedule I to Schedule III, which follows the Department of Health and Human Services' 2023 scientific and medical evaluation recommending Schedule III placement; Chapter 15 discusses the underlying recommendation, the public-comment record, and the doctrinal consequences of rescheduling in detail); the implementation

of the new federal hemp restrictions enacted in Section 781 of Division B of the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, Pub. L. No. 119-37, § 781 (2025) (amending 7 U.S.C. § 1639o; effective Nov. 12, 2026), and the possibility of Congressional action on federal cannabis reform. Any of these developments could alter significant portions of the legal landscape described in this text.

In the course of research and drafting, the author used artificial-intelligence-based tools as limited research and editorial aids, including for organization, synthesis, and stylistic refinement. All legal analysis, interpretation of authority, selection and characterization of sources, and final editorial decisions are the sole work of the author. The author, with the assistance of those acknowledged below, independently undertook a thorough review of the accuracy of all legal citations, case descriptions, statutory references, and factual assertions, including through review of original source materials, targeted verification, and third-party manuscript auditing.

Teacher's Note (for Faculty Adopters)

This book is structured for use in law school courses addressing cannabis law, drug policy, administrative regulation, and related subjects. It is suitable for law students and is also adaptable for undergraduate and graduate courses, continuing professional education, technical training, and programs that incorporate legal, regulatory, scientific, or policy instruction.

Chapters are designed to support legal and academic instruction while allowing flexibility in course sequencing. Instructors may assign full chapters or selected sections depending on course length and emphasis. The inclusion of case excerpts, regulatory materials, and factual problem sets is intended to facilitate classroom discussion, written analysis, and applied problem-solving.

Intended Audience

These materials are designed for undergraduate, graduate, and law students, as well as faculty and professionals interested in the regulation of marijuana, hemp, psychedelics, controlled substances, and newly regulated or not-yet-scheduled substances. The book may also be of interest to judges, attorneys, regulators, legislators, policy analysts, scientists, members of the marijuana and hemp industries, and members of the public seeking a structured legal framework for understanding this evolving area of law.

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Chapter 1

Constitutional and Regulatory Foundations of Cannabis Law

Cannabis law in the United States operates within a dual-sovereign framework. Federal law continues to prohibit marijuana under the Controlled Substances Act (CSA), including core prohibitions on the manufacture, distribution, and possession of controlled substances.¹ At the same time, states have legalized medical and adult-use cannabis through voter initiatives and legislation.² Understanding cannabis law therefore requires examining federal prohibition, the constitutional doctrines that govern federal–state interaction, and the regulatory structures states have developed to operate legal markets despite continuing federal illegality.³

One of the most significant constitutional consequences of this federal–state divide concerns Congress’s authority under the Commerce Clause to regulate intrastate cannabis activity notwithstanding state legalization.⁴ That doctrine was squarely addressed in *Gonzales v. Raich*.⁵ Its interaction with the anti-commandeering principle articulated in *Printz v. United States* explains why states remain free to legalize and regulate cannabis even as federal prohibition endures.⁶

I. Federal Prohibition Under the Controlled Substances Act

The central feature of federal cannabis law is the Controlled Substances Act of 1970 (CSA), which historically classified marijuana as a Schedule I substance, the most restrictive category; after the April 23, 2026 Department of Justice/Drug Enforcement Administration (DOJ/DEA) order, FDA-approved marijuana products and marijuana products subject to a qualifying state-issued medical-marijuana license are treated as Schedule III, while broader marijuana rescheduling remains pending.⁷ Schedule I substances are defined by statute as having a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. § 812(b)(1).⁸ For marijuana activity and products that remain outside that April 23, 2026 order, Schedule I treatment continues to apply nationwide regardless of state law.⁹ As a result, federal criminal penalties apply to marijuana possession, distribution, manufacture, and conspiracy even in states that have legalized cannabis.¹⁰

The CSA also creates extensive collateral federal consequences. Schedule I status limits federally authorized medical research.¹¹ Financial institutions remain constrained by federal anti-money-laundering provisions even when serving state-licensed cannabis businesses.¹² Internal Revenue Code § 280E prohibits ordinary business deductions for cannabis enterprises other than costs of goods sold.¹³ Federal bankruptcy courts generally decline to administer cannabis-related assets.¹⁴ Immigration consequences may attach to marijuana-related conduct even where lawful under state law.¹⁵ Federal firearms law bars possession by unlawful users of controlled substances.¹⁶ Federally subsidized housing providers may prohibit marijuana use on premises.¹⁷ And despite widespread state