

## Cannabis Law

New Jersey's cannabis industry continues to evolve as state regulation expands and federal law remains in tension. Businesses operating in or alongside this highly regulated market face complex licensing, tax, environmental, employment and compliance challenges. Our multidisciplinary team advises clients across the full spectrum of cannabis-related legal issues, helping them build compliant, sustainable operations in a shifting regulatory landscape.

### The Regulatory Landscape

Although New Jersey permits regulated cannabis activity under state law, marijuana remains a Schedule I substance under the federal Controlled Substances Act. This creates ongoing tension between state authorization and federal prohibition. Businesses must carefully structure operations to comply with state licensing requirements while managing federal risk exposure.

As the regulatory framework continues to develop, cannabis businesses and ancillary service providers require experienced counsel to navigate:

- State licensing and regulatory compliance
- Conflicting state and federal laws
- Municipal approvals and land use restrictions
- Tax planning under Internal Revenue Code Section 280E
- Risk management and insurance

We regularly advise employers, investors, lenders, landlords, municipalities, cultivators, distributors, retailers and ancillary service providers entering or operating within the cannabis marketplace.

### Business Formation, Financing & Tax Planning

Launching or expanding a cannabis-related venture requires strategic planning from the outset.

#### Financing Considerations

Access to traditional bank financing may be limited. Businesses often rely on private lenders, investors or alternative financing models. We help clients structure investments, protect equity interests and implement appropriate governance safeguards.

#### Attorneys

Ross E. Alexander

Michael J. Bonella

Allen P. Fineberg

Adam E. Gersh

Joseph M. Hayes

Marty M. Judge

Mitchell H. Kizner

Anne M. Madonia

Steven S. Poulathas

Michele G. Tarantino

Frank H. Wisniewski

*Continued*

---

### **Corporate Structure & Governance**

Well-drafted operating agreements, shareholder agreements and bylaws are essential in a federally sensitive industry. We design flexible organizational structures that:

- Define ownership and management authority
- Address capital contributions and distributions
- Provide dispute resolution mechanisms
- Anticipate regulatory changes
- Protect minority and majority interests

### **Taxation (Including 280E Planning)**

Section 280E of the Internal Revenue Code significantly limits the ability of cannabis businesses to deduct ordinary business expenses, often resulting in higher effective tax rates. We work with clients to:

- Structure operations to maximize allowable cost of goods sold (COGS)
- Evaluate multi-entity models where appropriate
- Plan for state and local sales and excise taxes
- Minimize exposure while maintaining compliance

### **Environmental & Land Use Compliance**

Environmental regulation plays a significant role, particularly for cultivation and processing operations.

#### **Cultivation & Processing Facilities**

Key considerations may include:

- Site selection and remediation (including brownfield issues)
- Energy consumption and sustainability compliance
- Water allocation and usage permits
- Wastewater discharge permits
- Pesticide regulation
- Stormwater and wetlands compliance

#### **Retail & Dispensary Operations**

Retail operators must comply with strict cannabis waste disposal requirements, often involving licensed waste haulers and regulated disposal facilities to prevent diversion and environmental harm.

We assist clients with environmental due diligence, permitting, regulatory compliance and interactions with state and local agencies.

### **Insurance & Risk Management**

Cannabis businesses face unique exposure risks. We advise clients regarding:

*Continued*

---

- General liability and umbrella coverage
- Products and completed operations coverage
- Property and crop insurance
- Workers compensation
- Risk mitigation for third-party claims

We work closely with brokers and carriers to ensure appropriate coverage where available.

### **Intellectual Property Protection**

Brand protection is critical in a competitive and rapidly growing market.

Although federal trademark protections may be limited for plant-touching operations, we help clients protect their brands and innovations through:

- State trademark registrations
- Protection of ancillary goods and services
- Trade secret protection strategies
- Patent counseling for cannabis-related inventions
- Licensing and joint development agreements

Our goal is to align intellectual property strategy with long-term business objectives.

### **Labor & Employment Guidance**

Cannabis employers must comply with federal, state and local employment laws while addressing industry-specific concerns.

We advise on:

- Hiring, screening and workplace policies
- Wage and hour compliance
- Anti-discrimination and harassment policies
- Drug testing policies
- Medical cannabis accommodation
- Restrictive covenants and protection of business goodwill

Because workplace cannabis issues continue to develop, we tailor policies to the operational realities of each clients business.

### **A Multidisciplinary Approach**

*Continued*

---

Our Cannabis Practice draws attorneys from Corporate, Tax, Environmental, Real Estate, Insurance, Intellectual Property and Labor & Employment disciplines. We remain actively engaged with regulatory developments and industry groups to ensure our clients receive current, practical guidance.

Whether you are launching a new venture, investing in the industry, contracting with cannabis businesses, or adapting existing operations, we provide strategic counsel designed to help you operate confidently within New Jersey's evolving cannabis framework.

**Cannabis Law Disclaimer**

*Please be aware that marijuana remains a Schedule I controlled substance; possessing, using, manufacturing, distributing, and/or selling marijuana or marijuana-derived products is illegal under federal law notwithstanding the existence of any state law to the contrary. No legal advice given by Flaster Greenberg PC is intended to provide any guidance or assistance in violating federal law nor will it provide any guidance or assistance in complying with federal law. By reading this overview, you understand there is no attorney/client relationship between you and Flaster Greenberg PC unless evidenced by an executed legal engagement letter. Although federal policy may, at times, recommend enforcement discretion when a business or individual is in compliance with existing state marijuana law that is deemed to comply with federal enforcement priorities, it is important to understand that compliance with state law does not equal compliance with, confer any immunity from, or provide any shield from prosecution under federal law. At any time, federal and/or state law and policy may change either to enhance or inhibit the cannabis industry.*