



## ILCM Fact Sheet: Minnesota Cannabis Law

*This fact sheet is current as of December 12, 2023.  
It is not legal advice.*

### Background

This year, Minnesota passed a law to legalize the use and possession of marijuana for adults 21 and older. As of August 1, this law is in effect.

The law also requires the automatic expungement of certain low-level marijuana related convictions and arrests.

This means that the court will seal those records and they will not be accessible to the public. Some government agencies like immigration will still be able to access those records though.

Not a U.S. citizen? **Don't** use marijuana.



Using, possessing, growing, and selling marijuana are still illegal under federal law.  
**If you are not a U.S. citizen, do not use, possess, grow, or sell marijuana.**  
Doing so could stop you from getting legal status or U.S. citizenship, result in the loss of your immigration status, or put you at risk of deportation.

\*This is not legal advice.

### Federal Law

While Minnesota has legalized marijuana for adults 21 and older, **marijuana is still illegal under federal law**. This includes any type of marijuana (for example, the plant, edibles with marijuana, and THC drinks).

- Immigration law is federal law.
- That means that people who are not U.S. citizens should stay away from marijuana even if it is legal under state law because it can have a different impact on them including serious immigration consequences.
  - **They should not use, possess, grow, sell or have anything to do with marijuana.**
- Otherwise, it could cause them to lose immigration status or not be able to get immigration status, leading to deportation.
  - Even if someone has been approved for a visa or green card, problems from marijuana use could come up when filing other applications in the future. For this reason, it is not safe to use marijuana until you are a U.S. citizen even if you already have another legal status in the U.S.
  - People who have a marijuana conviction or admit to using marijuana could also be denied entry into the United States if they leave the country and then try to come back.

There are a few important things to know about marijuana if you are not a U.S. citizen:

- Do not use marijuana until you are a U.S. citizen.
- Don't work in the marijuana industry or visit marijuana dispensaries.
  - Many immigration applications require you to disclose your employment history.

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- If you have a medical need and there is no good substitute for medical marijuana, talk to an immigration lawyer first.
  - *There is no federal exception for medical use.*
- Never leave the house carrying marijuana, a medical marijuana card, paraphernalia (like a pipe), or accessories like marijuana T-shirts or stickers.
  - For example, you could be stopped for something minor like a traffic stop and police could find marijuana and you could be in trouble.
  - Another example is if you are driving near the border, you may have to submit to visual inspection of your vehicle.
- Don't have photos or texts about you and marijuana on your phone, Facebook, or anywhere else.
  - Snapchat and other apps that delete messages and images do not guarantee that your messages and photos are gone or hidden.
- Never discuss marijuana use or possession with any immigration or border official, unless you have expert legal advice that this is OK.
- If an official asks you about marijuana, say that you don't want to talk to them and you want to speak to a lawyer. You have the right to remain silent.

If you are a U.S. citizen, be mindful of using or possessing marijuana around friends or family members who are not U.S. citizens. Your actions could put them at risk.

- It is best to be careful of any actions that might associate your friend or family member with marijuana.
  - For example, a U.S. citizen spouse or family member should not pay for marijuana with a joint bank account.

## Youth

For people under 21, it is illegal under both state and federal law to use or possess marijuana.

- If people under 21 are caught with marijuana in Minnesota, they may receive a citation from police in addition to facing immigration consequences.
- **For this reason, it is particularly important for youth who are not citizens to avoid marijuana.**

## Delta-8 and Hemp Products

Many stores now sell various compounds that are derived from the cannabis plant such as Delta-8 and other hemp products to people over 21. To be safe, it is best to also avoid these products. It can be confusing to know exactly what you are buying, and you may not know the contents unless you test the product.

- Federal law has very specific rules about what hemp products are legal.
- There is also changing federal law and regulations about these compounds.
- Additionally, there are state laws about hemp products. If you violate state law, you could be charged with a crime.

## Criminal Offenses

Even with the new law, there are state criminal penalties related to marijuana and hemp products including things like:

- Possessing prohibited quantities of marijuana and hemp products
- Unlawfully selling marijuana and hemp products
- Selling or giving away marijuana and hemp products to anyone under 21
- Cultivating prohibited quantities of marijuana plants
- Driving under the influence of marijuana and hemp products or using these products while operating a motor vehicle
- Cities may also adopt ordinances to prohibit use of marijuana and hemp products in a public place

**Doing these things is illegal and could cause very serious problems with both immigration and the police.**

### **Marijuana Convictions and Expungements**

If you were previously convicted or arrested for a marijuana related offense in Minnesota, your records may be automatically expunged under the new law.

- The courts and Bureau of Criminal Apprehension are in the process of expunging certain records.
- You should [request copies of your records](#) as soon as possible before they are expunged as you may need them for future immigration applications.
  - If possible, obtain certified copies of your records from the court.

Immigration will still have access to records about these arrests and convictions. Expunged convictions are still considered convictions for immigration purposes.

Some immigration applications ask you to disclose all arrests and convictions even if they have been expunged.

**You should not file an immigration application or travel outside of the United States if you have had any involvement with marijuana without first speaking with an immigration attorney.**

### **Conclusion**

There are harsh immigration penalties for marijuana-related activity, even if it is legal under state law. This includes using or possessing any type of marijuana (plant, edibles, and drinks).

**If you are not a U.S. citizen, do not use, possess, grow, or sell marijuana. Doing so could stop you from getting legal status or U.S. citizenship, result in the loss of your immigration status, or put you at risk of deportation. It is also safest to avoid hemp products.**

If you have had any involvement with marijuana, you should consult with an immigration lawyer about your case before filing an immigration application or traveling outside of the country.

**Immigrant Law Center of Minnesota (ILCM)**

To receive immigration legal assistance, please call our client intake line our intake hours to schedule an appointment to speak to a legal staff member. We cannot give walk-in or drop-in appointments.

Intake line: **1-800-223-1368**

- Monday: 10 a.m. – 1 p.m.
- Tuesday: 1 p.m. – 4 p.m.
- Wednesday: 10 a.m. – 1 p.m.
- Thursday: 3 p.m. – 6 p.m.