



Best Practices for Building Effective Cannabis Compliance Programs



The following content is intended to serve as a guide and is for informational purposes only. Every cannabis business operates differently, so please only use the content in this ebook as it applies to your business.

Introduction

Without a doubt, compliance is one of the top challenges facing the cannabis industry. And laws and regulations affect more than just one area of an operation; they affect employee hiring and termination practices to data security and customer privacy, to product sales and packaging. Not only do cannabis businesses have to maintain compliance in these areas, they also have to stay current with the cannabis laws because each state's laws are different and are often changing. But, despite these complexities, cannabis businesses still must always be in compliance or risk heavy fines, penalties, and even license suspensions and revocations. For smaller cannabis operations, a heavy penalty can jeopardize the business.

Fortunately, having an effective compliance program in place can help a business stay ahead of potential legal issues. But, it's not about finding a sample plan or program online and copying and pasting their information to fit your business. You must develop an effective and sustainable compliance program for each area of the operation subject to regulation requirements.

In this ebook, you will learn why having a cannabis compliance program is important for your business and best practices to develop a valuable compliance program that will benefit your business in the long-term.



Why is it important to create a compliance program?

From employee and labor laws to customer privacy, product/packaging, and OSHA regulations, cannabis businesses have several layers of compliance they must adhere to.

To help avoid falling out of compliance, cannabis businesses need to develop strategies for complying with laws and regulations tailored to their own business' needs. Having a cannabis company's compliance program in place can only help a business stay proactive and address compliance issues before they become unmanageable and lead to legal consequences.

Effective cannabis compliance programs ensure the business fulfills the following:

- Identifies and prioritizes applicable laws/regulations as they impact the business
- Develops and implements policies and procedures to comply with laws/regulations
- Documents and archives compliance procedures
- Communicates procedures throughout the business, specifically through training
- Ensures all staff have read and understood procedures by requesting a signature or initials on documentation

Compliance Program Benefits

Cannabis businesses benefit from compliance initiatives in various ways. Most importantly, these initiatives can help businesses avoid situations or actions that can result in hefty fines, criminal penalties, or licensure revocations.

Compliance efforts also promote a cannabis business' reputation and good will with state and local regulators. In some states, if regulators can view a company's documented compliance efforts, they are more likely to work with a business to remedy the regulatory violations instead of issuing penalties.

Washington State specifically codifies mitigation of regulatory violations in Washington Administrative Code 314-55-515 as follows:

“Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations.”

– [Harris Bricken: Canna Law Blog](#)



7 Best Practices for Building an Effective Cannabis Compliance Program

Whether you're starting your first compliance program or looking to improve an existing one, you can benefit from using some best practices to ensure efficacy and sustainability of your program. Many of the best practices below can be integrated into each compliance program regardless of area, e.g. data privacy, employee law, product law, safety. At the end of the list, we'll apply the best practices to employee law compliance as an example.

Follow these best practices to develop or improve your cannabis compliance program:

1 Stay current on legal and regulatory changes.

Laws and regulations are constantly being updated and changed in the cannabis industry, and you need to stay current in order to know how your business should comply. If you're not already member of a local and national association, consider participating to learn when laws change and how your business can adapt quickly to those changes. You should also consult a reputable HR provider or PEO like [ORoleafhr](#) to help provide assistance with compliance.

2 Know your compliance reporting requirements.

Pesticides, hazardous materials, injuries, and illnesses must all be reported to different government agencies, and Federal Labor Law has notification requirements. For pesticides, contact your local Department of Agriculture for requirements. For HAZMAT, contact the fire department or Environmental Management Department. For injuries and illness, contact your insurance provider's loss prevention specialist to know what you will need to report to OSHA.

Labor Law requires that you notify employees of their rights. At minimum, you must post information regarding wages, hours, child labor, unemployment benefits, worker's compensation, employee safety, and discrimination/sexual harassment in an area where they are easily visible to all employees.

3 Prepare Standard Operating Procedures (SOPs) and train your employees to follow them.

Whether you own a dispensary or a grow facility, an SOP analyzes and describes every task performed in the business. SOPs help team members learn a process or procedure and can help reduce liability when performing sales transactions, verifying customer identification, handling or storing product, and other high-risk tasks.



Example: An SOP can be created for properly storing cannabis at a dispensary. And, managers can review the SOP with employees as training. Without training, your employee may risk improperly storing cannabis, which can result in cannabis gaining or losing water weight depending on the humidity of the room. When shipping the cannabis, a mismatch in weight from what the manifest states and what the dispensary recorded could mean legal trouble for the dispensary owner, the cannabis supplier, or both.

4 Create redundancies.

No matter the size of a cannabis business, it is never recommended to have only one person working on certain high-risk activities, e.g. counting cash, managing inventory, handling product, etc. Remember most theft in the industry happens internally. So, for cash counting, have a store manager verify cash drawer counts from each budtender at the end of their shift. Rotate between employees, so that multiple individuals are counting or managing inventory. Conduct spot checks routinely to ensure that numbers are being reported correctly.

5 Maintain documentation consistently.

From job applications and employee records to sales transactions and inventory controls, every activity and task should be documented and then stored securely. Moreover, all documentation should be backed up regularly and organized for easy accessibility. Should a new employee have to reference a product manual or a government agency request employee records for an audit, you want to be able to access documents quickly and easily.

6 Invest in an efficient technology infrastructure.

Most states require commercial locks, surveillance systems, and alarm systems for a cannabis business to operate. Don't just invest in the minimum (especially at a dispensary or retail store) and consider a high-quality system that is able to fulfill some additional compliance requirements. There are robust POS systems and software available that can verify and validate customer identification to avoid illegal sales, track product sales to prevent overselling, store records of operations, inventory, and orders needed for routine audits, and report daily, weekly, and monthly sales required by state laws.

7 Conduct a financial, security, and inventory audit.

Take time to conduct a self-assessment or audit of all of your SOPs to ensure tasks and activities are being performed as they should. It is better to be proactive and find any possible mistakes or errors to resolve instead of waiting for a government audit to reveal them. Provide additional employee training and conduct “what if” scenarios to ensure everyone is still current on processes and procedures. Try to self-audit at least once per month and bring in a third-party quarterly or every six months to ensure nothing is missed.



Best Practices Application: Employee Compliance

Using the best practices above, let's apply what we've learned to an area such as employee law compliance to help reduce your business' employment liability risk.

- 1. Stay current on law** – Review vulnerabilities with your insurance provider and your attorney, and follow agencies like the Department of Labor for updates and changes to employee law.
- 2. Develop SOPs** – Develop an employee handbook and have employees sign showing they've read and understood the content. Create individual performance plans for each employee and share with them.
- 3. Know reporting requirements** – Post all company policies in the workplace where they are visible to all employees.
- 4. Maintain documentation** – Document all employee complaints as well as what your company did to resolve those issues.

5. Invest in technology – Store documents in a secure HR technology platform that is password-protected and runs backups often.

6. Audit – Conduct a periodic employee record audit ensuring each employee has the proper paperwork and required training completed and that former employees have termination/resignation documents stored in their records.

Case in Point

The following is an example situation where having an employee law compliance program in place protects a cannabis business from a potential lawsuit.

Let's say that an employee is consistently late. Instead of going through the company's employee performance improvement process—that has previously been documented and shared with the employee—the employer makes a couple of corrective comments and then terminates the employee when the poor performance continues.

If the former employee submits a complaint for wrongful termination, that employee's case is immensely improved if she/he can show the employer did not

comply with the employer's written policies and procedures. At-will employees are still protected against termination for certain reasons. You can't fire someone for reporting discrimination, for taking protected leave, and for several other reasons. Even if you had a good reason for the termination, if the former employee can connect the termination to a protected scenario, the employer's lack of compliance with its own policies and procedures can be detrimental.

In this scenario, developing and following specific policies and procedures regarding performance improvement plans are a business' best defense when managing and disciplining employees in the cannabis industry. Work with an attorney or HR professional to create professionally tailored employment policies that define what happens in the event of employee performance problems.

The average cost for defending and settling employment law cases is \$160,000.

– SHRM 2018

Get Expert Assistance to Achieve Consistent Compliance

In the cannabis industry, compliance is a very complex issue and, therefore, an ongoing challenge for businesses of every size. The laws are everchanging, complicated, and require significant time and resources to try to attain compliance. Regardless of the hurdles, cannabis businesses are still responsible for maintaining compliance in every aspect of their operation or risk consequences.

Building smart and effective compliance programs can only help cannabis businesses adhere to laws and regulations and keep the business in good standing with government agencies. But, there's a lot to know and implement, and smaller cannabis businesses can't afford to take time away from running the business to lead compliance efforts. That's why it's important to seek assistance from cannabis compliance experts, so that your business can focus on productivity and profitability.

OROleafhr understands there are many layers of compliance and work with small to mid-size cannabis businesses to ensure they are always adhering to laws and regulations. The team of experts at OROleafhr have an extensive background in cannabis and employment laws and dedicate their time to stay current on legislation. Partner with OROhr and get all of your compliance needs fulfilled as well as any human resources activities like payroll, benefits administration, and worker's compensation. We're the full-service, premier cannabis-focused HR provider you've always wanted.

Let us serve as the legal arm of your business, so you don't have to.

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Contact Us

