

Risk Management



HR



SAFETY

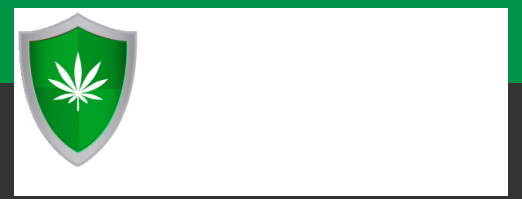


INSURANCE



RECRUITING

Brian Bio

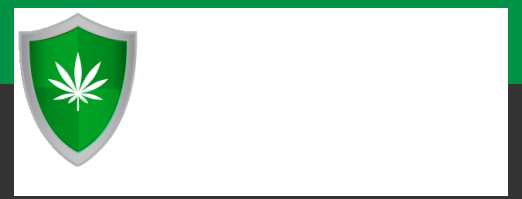


Brian Marblestone, CLCS Stratton Agency/Nine Point Strategies

Brian Marblestone is a Commercial Lines Coverage Specialist Insurance Producer with Stratton Agency- a boutique consulting, risk management and insurance brokerage headquartered in the San Francisco Bay Area. Since 2012 Brian has been helping businesses protect their assets and employees through educated risk management and insurance procurement.

Mr. Marblestone's areas of expertise include worker's compensation, product liability, and auto liability. As a passionate supporter of the Cannabis Industry, Brian is excited to be providing new business owners the knowledge and expertise they seek when it comes to Risk Management.

History of Cannabis in California



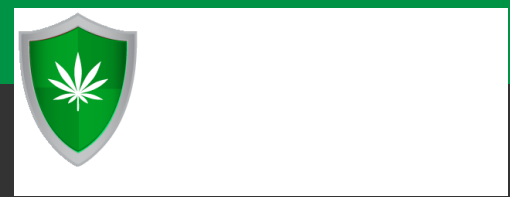
Compassionate Use Act of 1996
(Proposition 215)

Medical Cannabis Regulation and Safety
Act of 2015 (AB 243, AB 266, SB 643)
(MCRSA)

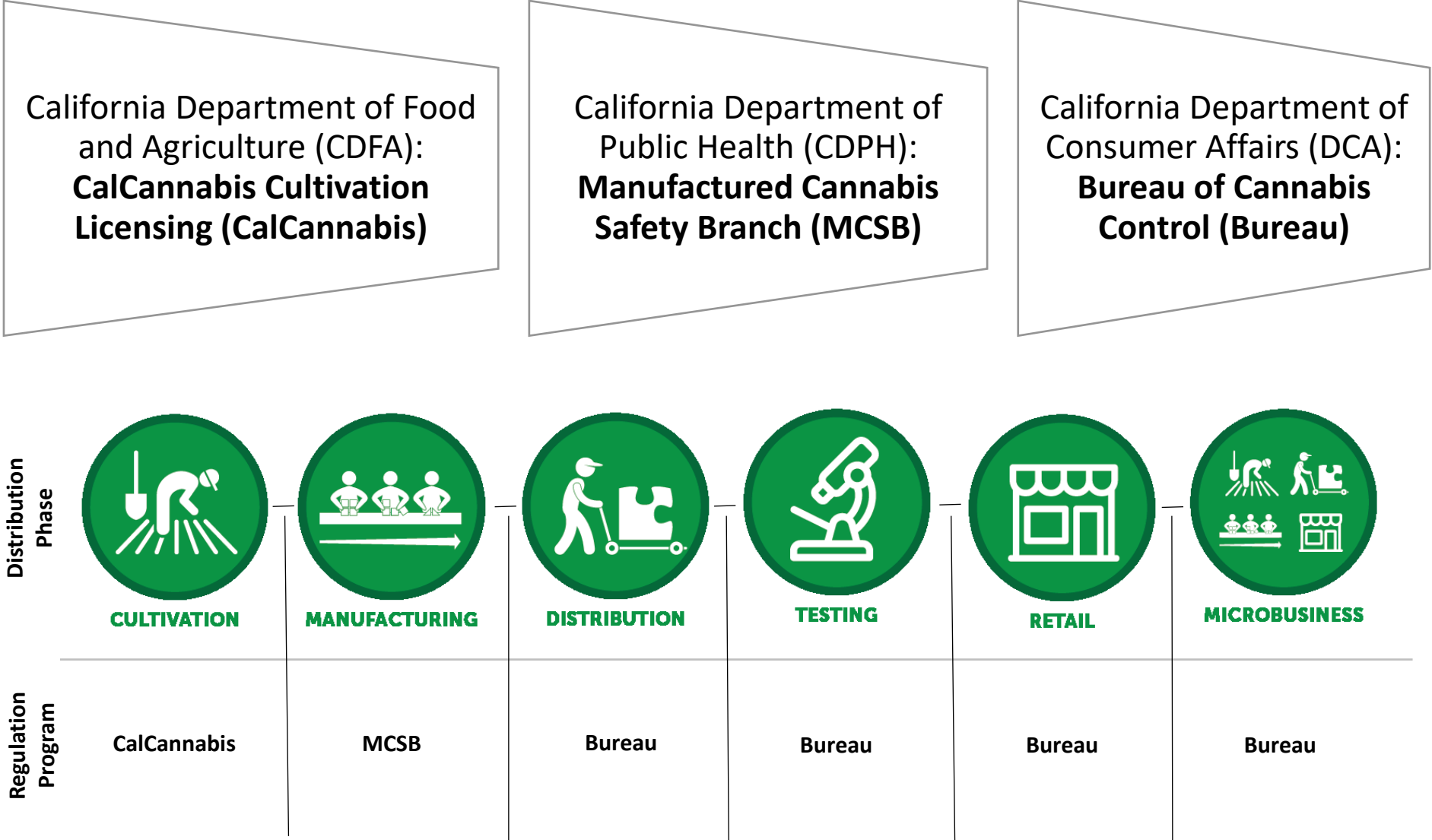
Adult Use Marijuana Act of 2016
(Proposition 64)

Medicinal and Adult Use of
Cannabis Regulation and Safety
Act of 2017 (SB 94) (MAUCRSA)

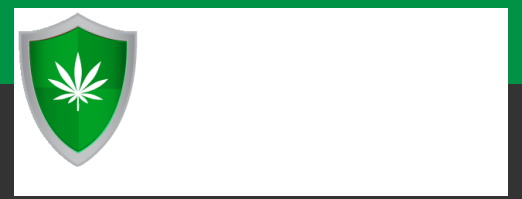




Who Does What?



Collaborating State Agencies



**California Department of Tax
and Fee Administration**



**California Department of
Fish & Wildlife**



**California Department of
Insurance**



**Division of Occupational
Safety and Health**



California Water Boards



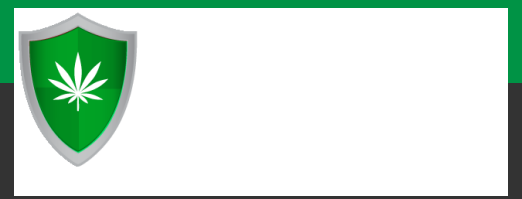
Secretary of State Office



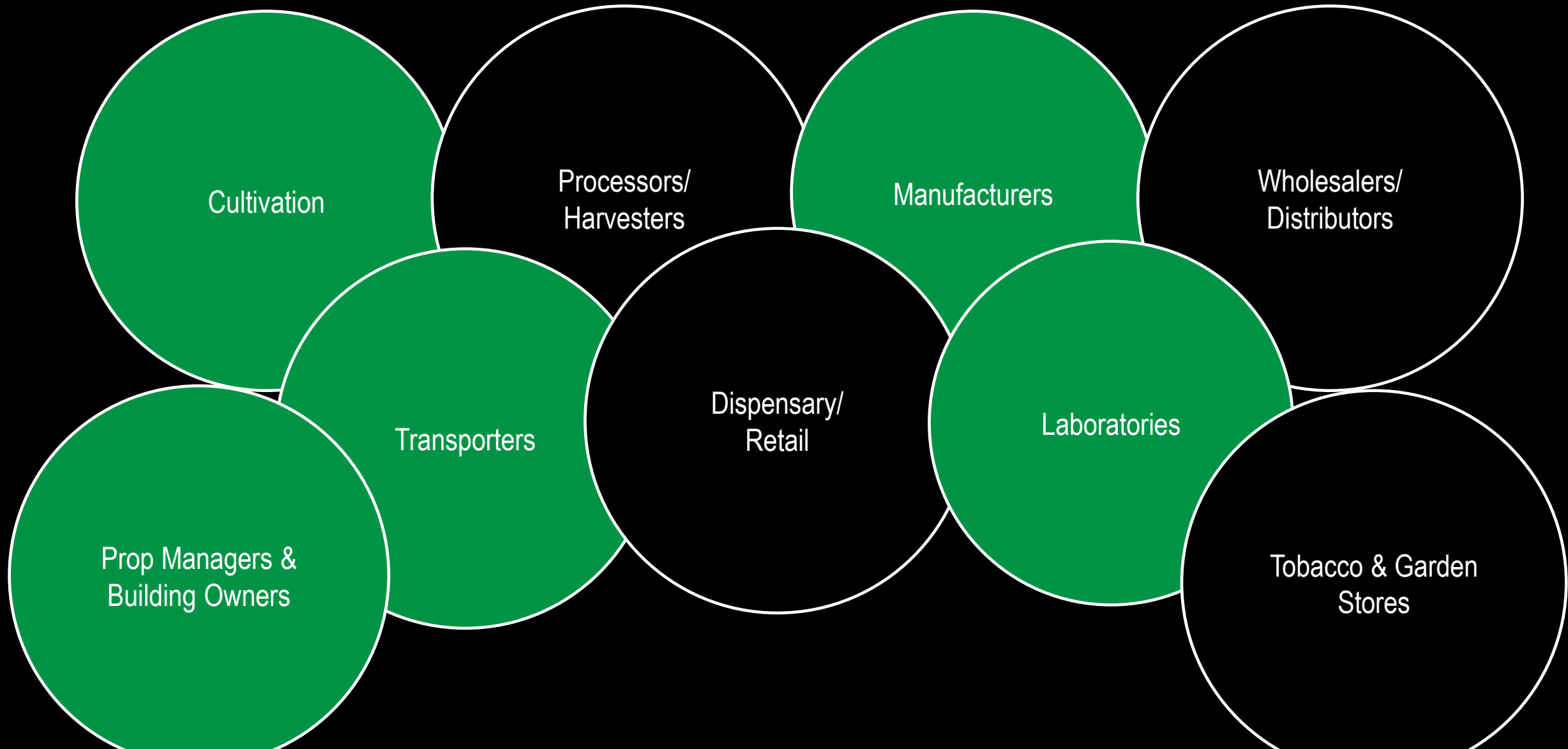
**California Department of
Pesticide Regulation**

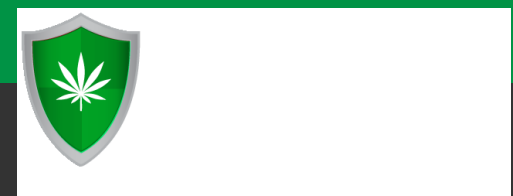


California Highway Patrol



Cannabis Specific Classifications





Cannabis Specific Coverage & Classifications

Liability Coverage

General Liability

- Occurrence - A+ Rated carrier
- Up to \$2.0M /\$2.0M Occurrence/Aggregate
- Pesticide and Herbicide Applicators Endorsement
- Waiver, Primary & Non-Contributory Endorsements

Excess Liability

- Occurrence - A+ Rated carrier
- Up to \$4 Million limits

Product Liability

- Claims Made – A Rated Carrier
- \$1.0M /\$2.0M Occurrence/Aggregate
- Product Withdrawal Endorsement
- Minimum Premium \$1,250.00

Property Coverage

Property

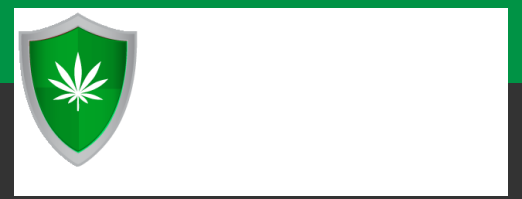
- ISO Property Forms – A+ Rated Carrier
- Up to \$10.0M Property Limits Per Location
- Minimum Premium \$500.00
- Property Endorsements - Including Transit/Cargo
- Stock Throughput Options*

Crop

- Non-Admitted Carrier – A+ Rated
- Up to \$10.0M Living Plants
- Stock Throughput Options*

Equipment Breakdown

- Admitted Carrier – A+ Rated Carrier
- Up to \$10.0M Limits
- Loss of Business Income
- Reputational Recovery
- Data Compromise



GL/Property Package: Coverage Limits & Types

General liability insurance protects your business from another person or business's claims of bodily injury, associated medical costs and damage to property. Some examples of what could be covered are:



Bodily injury

A client falls over your bag and you are legally liable for the injury. We will cover the subsequent claim and related medical expenses up to your General Liability policy's limits of liability.



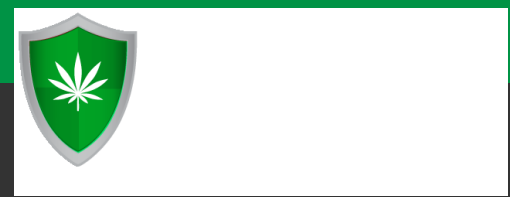
Property damage and data loss

You spill coffee on a client's server causing damage and loss of data. We will cover the subsequent claim up to your General Liability policy's limits of liability.



Personal injury

One of your employees is at lunch. He talks to the owner of the shop about one of your clients in a false and unflattering way. The client learns of this discussion and sues for slander. We will cover the subsequent claim, up to your General Liability policy's limits of liability, and pay for an attorney to defend you if necessary.



Standard Limits of Insurance for Liability

Standard Limits of Insurance for Liability

\$1 Million
per occurrence

\$1 Million aggregate

\$1 Million
per occurrence

\$2 Million aggregate

\$2 Million
per occurrence

\$2 Million aggregate

Standard Limits of Insurance for Liability



Excess Liability

\$1 Million
per occurrence

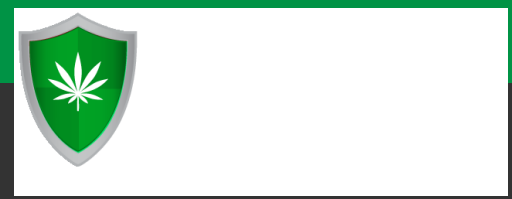
\$1 Million aggregate

\$1 Million
per occurrence

\$2 Million aggregate

\$2 Million
per occurrence

\$2 Million aggregate



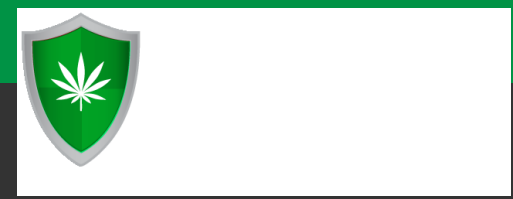
Product Liability – Your Biggest Exposure



Cannabis Never Killed Anyone!
True - but Anyone Can Sue You

Consumer Law and Strict Liability
The Carrier's Duty to Defend

Available Limits
\$100/100K, \$300/300K, \$1/1M, \$2/2M



Product Liability – Your Biggest Exposure

What is Product Liability

Product liability insurance covers you from any damage done by a faulty or defective **product** that you are responsible for. In terms of **product liability** lawsuits, anyone in the supply chain of a defective **product** can be taken to court, involving anyone manufacturing, selling or testing the goods in question.



Bodily/Physical injury Examples

- Intoxication
- Long Term Medical effects including addiction
 - Manufacturing exposures
 - Contaminated Products



Consumer & General Safety Examples

- Design Defects/Product Recall
- Advertising misrepresentations
 - Inadequate safety warnings
- Improper/Inadequate Labeling



Product Liability – Your Biggest Exposure

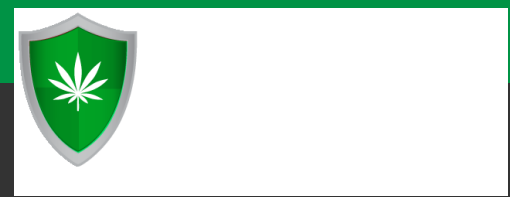
What Can Be Covered?

Flower, Edibles, Extracts, Topicals

What Can't Be?

Some Vaporizers, Physical Cartridges,
Various Online Sales

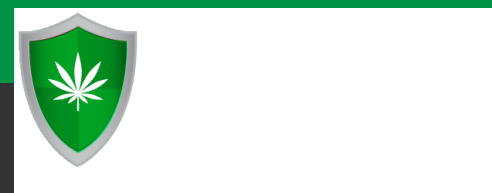




Type of Property Coverage

Business Personal Property	Grow, Extraction & Baking Equipment
Tenant Improvements	Property Coverages Available include... Loss of Income
Equipment Breakdown	Crop & Finished Stock – All phases of growth Safes & Vaults, Testing

Off Premises Coverage
No stops, No deliveries,
Lockboxes



Crop Insurance

Coverage for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.



Living Plant Material

Marijuana seeds, immature marijuana seedlings, marijuana plants in the vegetative growth stage and mature flowering marijuana plants rooted in growing medium.



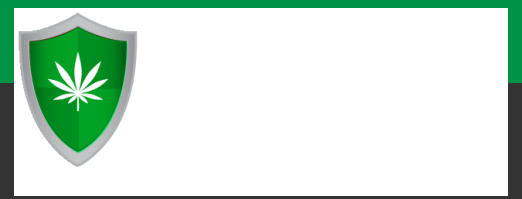
Harvested Plant Material

Mature marijuana plant material no longer in the growing medium which are in the process of being dried for medicinal purposes.



Finished Stock

Mature marijuana plant material no longer in the growing medium which has been completely processed and is ready for sale.

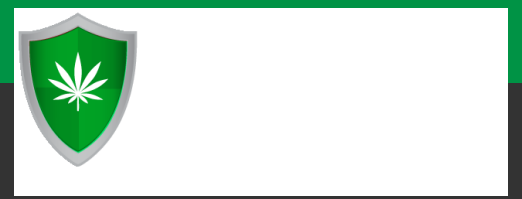


Stock Throughput – All Risk Coverage



What is Stock Throughput Insurance

Stock Throughput Insurance is property insurance that covers raw stock, stock in process, and finished products/inventory of the insured while stored, in process, or in transit to the end customer.



Types of Auto Exposures in the Cannabis Industry

1

Product transportation from cultivator to processors, labs and retail dispensaries (B2B)

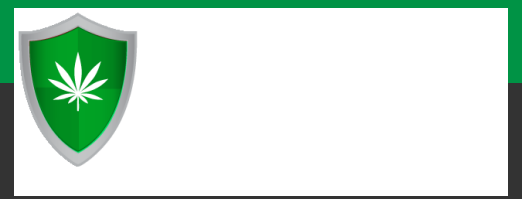
2

Other incidental auto exposures like bank runs, office supplies and outside sales.

3

Retail sales using auto delivery to consumers (B2C)

Commercial Auto Insurance



Types of Commercial Auto Insurance

Owned Auto Insurance

Commercial Auto Insurance covers the vehicles owned and used by your business. Most Commercial Auto policies have three basic components:

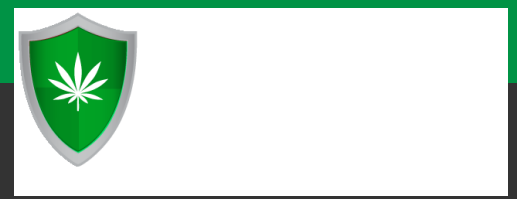
Physical damage. This includes collision and comprehensive coverage. Collision coverage pays for damages to your business vehicle when it hits or is hit by another vehicle.

Comprehensive coverage pays to repair your business vehicle when it is damaged in an event other than an accident. For example, comprehensive coverage would kick in if the vehicle is damaged by thief breaking its windows.

Liability. This covers bodily injuries and property damage to a third party when your client is at fault. It may pay a third party's medical costs, lost wages, and your client's legal defense fees up to the policy limit. It can also include uninsured and underinsured motorist coverage, which picks up the slack when a driver doesn't have insurance or carries only the minimum coverage.

Other coverages. Some Commercial Auto policies include coverage for medical payments, towing and labor, auto loan and lease gap coverage, and rental reimbursement.

Commercial Auto Insurance

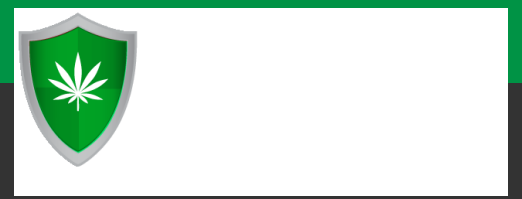


Types of Commercial Auto Insurance

Non-Owned Auto Insurance

Vehicles your company uses that are not owned or hired by your firm are called non-owned autos under a commercial auto policy. Non-owned autos include vehicles owned by your employees but used in your business. An example is an auto owned by an employee that he or she uses to call on customers. Here are other examples of non-owned autos:

- ✓ a vehicle owned by a partner of a partnership that he or she uses on company business
- ✓ a vehicle that a company president borrows from his neighbor to use on company business
- ✓ a vehicle owned by member of a limited liability company that is used in the business



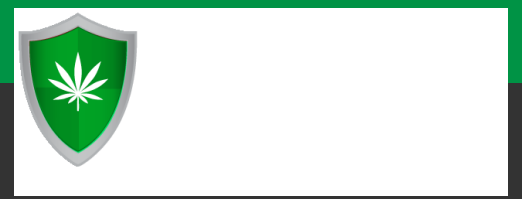
Auto Coverage For Cannabis Delivery Ops

Short-Hop, Business to
Patient/Consumer Delivery

Owned Auto and Hired & Non-Owned
Auto Policies Available

Operations Covered: Retailers and
Dedicated Delivery Services

W2 and 1099 Drivers Both OK



Regulation vs. Risk Transfer

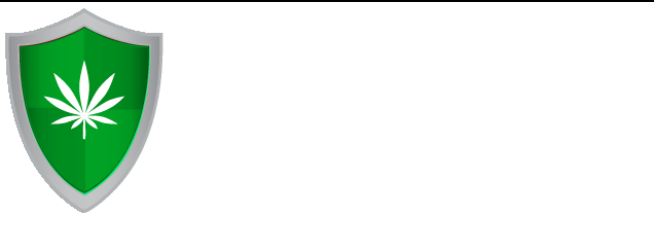
Regulation is designed for public protection
and is NOT designed for company protection

As of today, regulation does not enforce insurance
Requirements to delivery businesses

Regulation will NOT pay for a claim if your driver
Disables or kills another person

The Cannabis Business

Understanding OSHA and Workers' Compensation



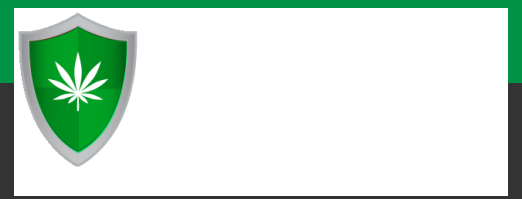
HR

SAFETY

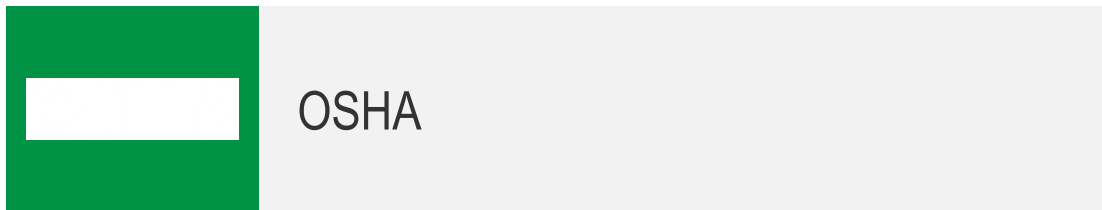
TRAINING

ON-BOARDING

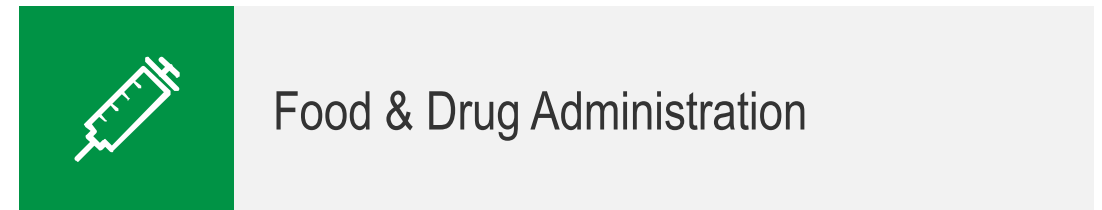
Governmental Agencies



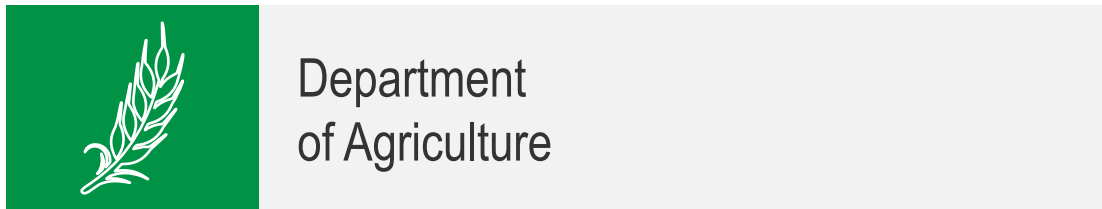
No matter what state you are in, typically you will have to comply and deal with the following agencies:



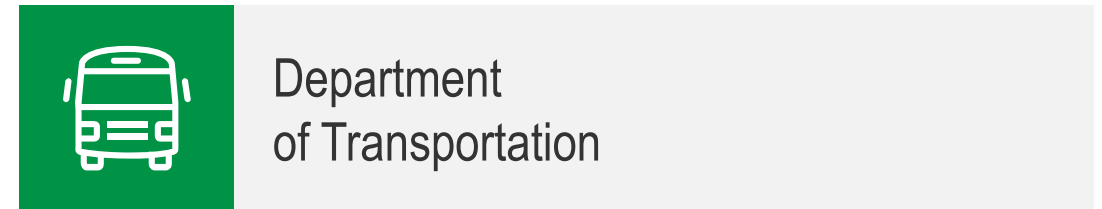
OSHA



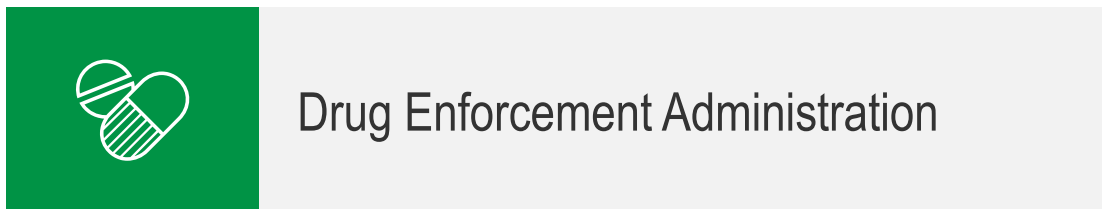
Food & Drug Administration



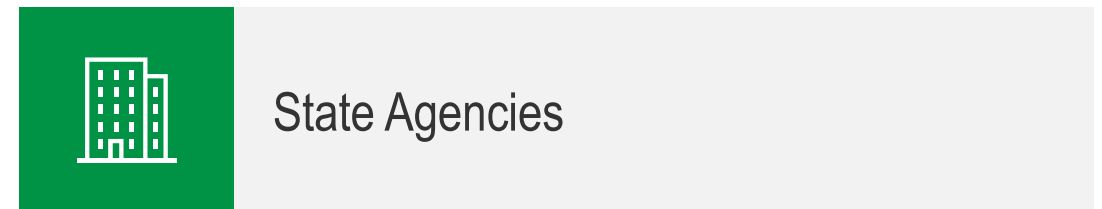
Department
of Agriculture



Department
of Transportation

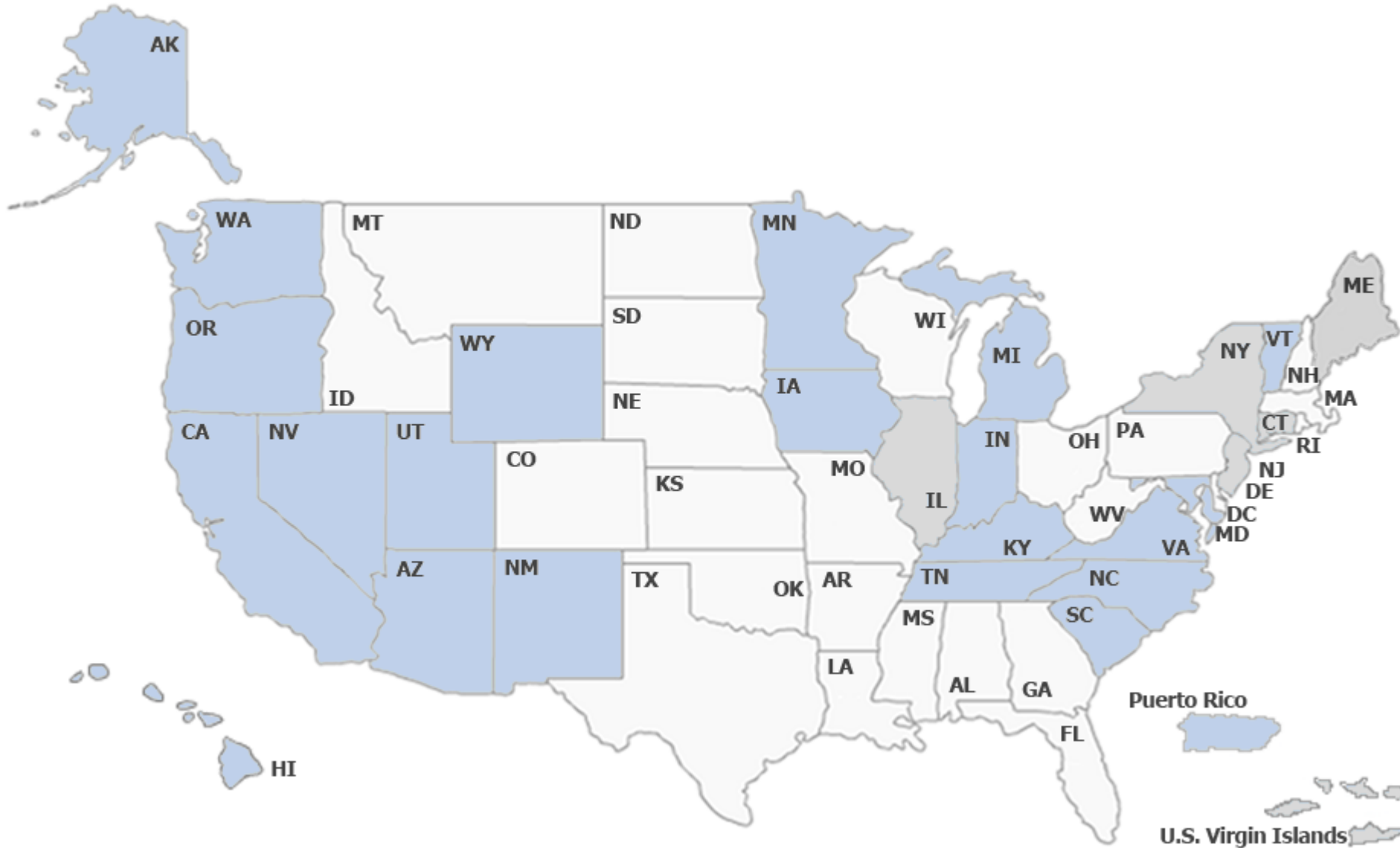


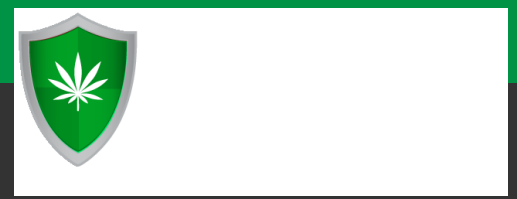
Drug Enforcement Administration



State Agencies

Federal OSHA vs. State OSHA



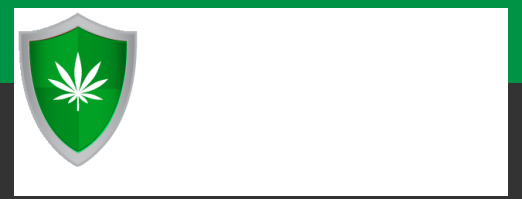


OSHA Fine Structure – as of 1/1/2017 Federal

OSHA's maximum penalties, which have not been raised since 1990, have increased by 78%.

- Other than serious will be under \$7,000.
- The top penalty for **serious** violations is **\$12,934**.
- The maximum penalty for **willful** or **repeated** violations is **\$129,336**.
- Businesses can be shut down by Cal OSHA for not having Workers' Compensation.
- **Penalty assessment amounts will be raised annually!**
- **When a death occurs, there may also be criminal issues including significant fines, probation or imprisonment!**

Top 5 OSHA Violations



1

The employer did not have a written Hazard Communication Plan that describes how it achieves compliance with: 1) labels on hazardous containers; 2) SDS's for all chemicals and pesticides; and 3) hazardous chemical training for employees.

2

All relevant employees have not been trained on hazardous materials in use at the facility prior to their initial work assignment and when new hazards are introduced.

3

The facility does not have required OSHA documentation related to workplace injury, OSHA Form 300, or Form 301 if injuries have occurred, on file.

Top 5 OSHA Violations

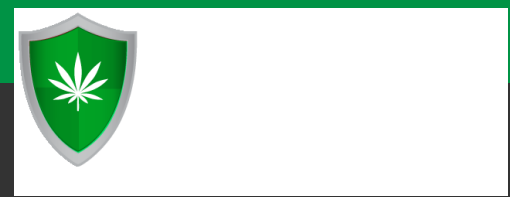


4

The facility does not have a formal fire prevention plan that addresses major hazards in the facility, accumulation of waste material, maintenance of heat-producing equipment and names and titles of employees responsible for various parts of the plan.

5

Required Personal Protective Equipment (PPE) has not been evaluated and documented, along with associated training plans and verification for employees.



Some of the Major Hazards

Ergonomic injuries

Electrical

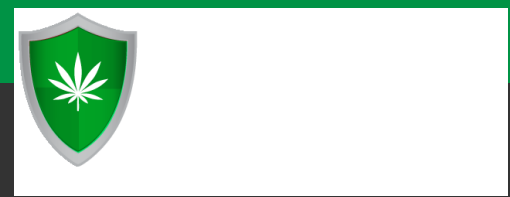
Use of hazardous
chemicals

Major Hazards
Include

Fire-Blocking
Corridors/Exits

Injuries from not using proper
Personal Protective Equipment (PPE)

Compressed and hazardous gases



Some of the Major Hazards

Lack of written safety Plans (IIPP, CHCP, EAP, & Respirator Protection)

Indoor/Outdoor heat stress

Major Hazards
Include

Drugs in the workplace

Fall Protection including
improper use of ladders

Lack of documented training

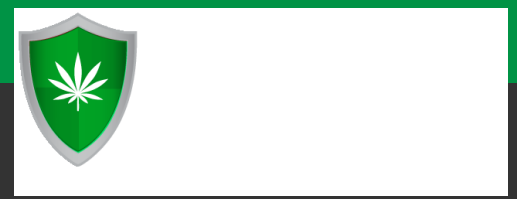


Post Accident Drug Testing – What OSHA Says



Employers need reasonable suspicion of drug use before testing.

Drug testing must be designed in a way that cannot be perceived as punitive or embarrassing to the employee and be likely to deter injury reporting.

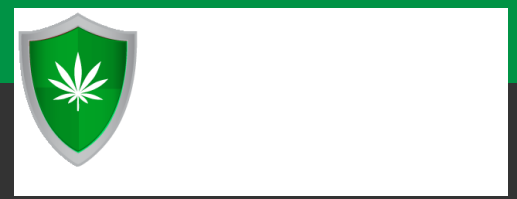


Driving in the Workplace



If you are considering having employees drive for the business, there are some very specific requirements:

- Handbook considerations
- Job Descriptions
- Safety considerations – safe driving
- Cannabis - Presumptive level
- Zero Tolerance
- State considerations may include:
 - Department of motor vehicles/Licensing
 - Random drug/alcohol testing
 - State/local issues
 - GPS/Cameras



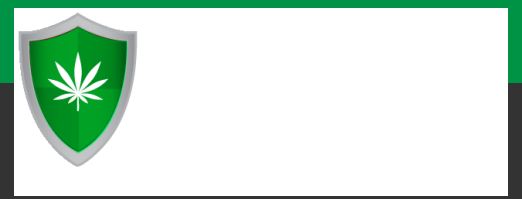
Known Extraction Violations

OSHA has fined New Mexico company, one of the state's 35 medical marijuana dispensaries, for a total of 12 “serious” violations to workplace health and safety totaling \$13,500.

The explosion happened while the two employees were making hash oil, a process that involves soaking marijuana in butane to extract the THC.

Two inspections were conducted, one for safety hazards and one for health hazards. The safety investigation netted seven “serious” violations, meaning the infractions that can result in serious injury or death.

Written Safety Plans



Safety requirements vary from state-to-state and must comply with a minimum of federal OSHA laws. For instance, in California and some other states, you must have an “Injury & Illness Prevention Program (IIPP)”. Some states may call the plan something different.

Other written safety plans may include, but not limited to:



Chemical
Hazards



Emergency
Action Plan



Respirator Protection
Plan



Fall Protection
Plan

Safety Training



Besides having and updating your written safety programs you must, by law, maintain a documented safety training program in many areas, regardless of number of employees.

Training can vary from one training when the employee was hired, to annually every year, to every so often. Some safety trainings are state-specific.

Safety Training



Training is not
complete until it is
DOCUMENTED!



Some of the Safety Trainings to Consider



- Electrical Safety
- Supervisory Safety
- Personal Protective Equipment
- Respirator Protection
- Slips, Trips & Falls
- Driver Safety
- Ladder Safety Training
- Chemical Hazards/GHS
- Indoor & Outdoor Heat Stress
- Fire Extinguisher Training
- Working Outdoors
- Lockout-Tagout
- Supervisory Probable Cause Drug testing, and many more!

Obey All Laws And Save Work Comp Premium Dollars

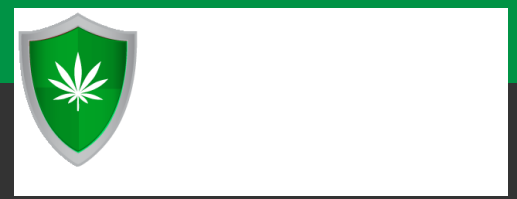


Premiums = Dollars

Employers of all sizes must comply with state and federal osha laws;

AND

Lack of having a safety plan will effect your workers comp premiums.



What is Workers' Compensation?



Definition

A form of insurance providing wage replacement and medical benefits to employees injured in the course of employment in exchange for mandatory relinquishment of the employee's right to sue his or her employer for the tort of negligence.

Bottom line

Workers' Compensation is the only policy that will pay for employee injuries on the job. It is specifically excluded from other policies a typical business owner has or needs.



How is Workers' Compensation Rated?

Carrier Premium Calculation?

- Each industry or class of business has its own labor force
- Each Labor Force is classified into certain categories, called Class Codes.
 - For example, a Workers' Compensation policy for a golf course with a restaurant would likely have multiple class codes for the different types of employees such as Maintenance, Clerical, and Restaurant employees.
- Class codes are governed by the state Workers' Compensation Rating Insurance Bureau. (WCRIIB).



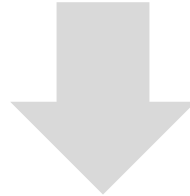


What Are Workers' Compensation Class Codes

Each class code is given its own rate per \$100 of payroll, which must be approved by the WCRIB. Generally speaking the riskier the class code the higher the rate.

- example: extraction workers using flammables compared to a budtender doing retail.

In its simplest terms, premium is calculated using the following formula for each class code:



$$(\text{Estimated Annual Payroll} / 100) \times \text{Rate} = \text{Premium}$$

***The above formula provides the pure premium, which is then subject to debits, surcharges, and credits as applicable.

What Are Workers' Compensation Class Codes

$$(\text{Estimated Annual Payroll} / 100) \times \text{Rate} = \text{Premium}$$

Example 1

Total Payroll for Retail Store is \$300,000 Annually Retail Class Code: 9017

Retail Class Code
9017

Retail Carrier Rate (example) for Code
9017 = \$6.00
(per hundred in payroll)

Calculations:

$$300,000 / 100 = 3,000 \text{ (rated payroll)}$$

$$3,000 \text{ (rated payroll)} \times 6.00 \text{ (class code rate)} = \$18,000 \text{ (class code premium)}$$

***The above formula provides the pure premium, which is then subject to debits, surcharges, and credits as applicable.

What is an Ex-Mod and how does it Apply to Work Comp

EX-MOD STANDS FOR EXPERIENCE MODIFICATION

An Ex-Mod is a statistic used to compare an employer's loss history to the average for their industry.



What is an Ex-Mod and how does it Apply to Work Comp

Through effective safety program implementation and claims management,
you can reduce workplace injuries,
earn a **discount** on your workers'
compensation insurance, and control
your loss record.



What is an Ex-Mod and how does it Apply to Work Comp



Your Ex-Mod can either increase OR decrease your workers' compensation insurance costs. Insurance carriers multiply your base premium by your Ex-Mod.

If your Ex-Mod is more than 100%, your costs will be higher than average. If your Ex-Mod is less than 100%, you will receive a discount on your insurance costs.



What is an Ex-Mod and how does it Apply to Work Comp

EXAMPLE

With the base premium of \$ 100,000, you will pay:

- \$75,000 if your Ex-Mod is 75%
- \$125,000 if your Ex-Mod is 125%*

What is an Ex-Mod and how does it Apply to Work Comp

$$(\text{Estimated Annual Payroll} / 100) \times \text{Rate} = \text{Premium}$$

Example 1

Total Payroll for Retail Store is \$300,000 Annually Retail Class Code: 9017

Retail Class Code
9017

Retail Carrier Rate (example) for Code
9017 = \$6.00
(per hundred in payroll)

Ex Mod
1.50

Calculations:

$$300,000 / 100 = 3,000 \text{ (rated payroll)}$$

$$3,000 \text{ (rated payroll)} \times 6.00 \text{ (class code rate)} = \$18,000 \text{ (class code premium)}$$

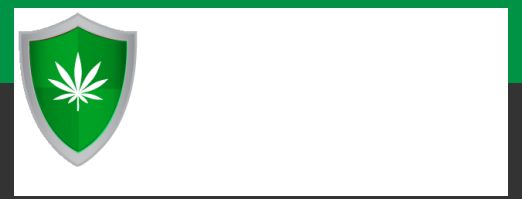
$$\$18,000 \text{ (class code premium)} \times \mathbf{1.50} \text{ (ex mod)} = \mathbf{\$27,000} \text{ (total premium)}$$

What is an Ex-Mod and how does it Apply to Work Comp



Accidents will happen, so a plan to manage your claims is extremely crucial. Loss control is equal to insurance cost control.

Summary



Employers must comply with all federal, and OSHA and Workers' Compensation laws!

OSHA regulations are some of the most complex laws that you will face.

Remember, OSHA can fine owners, managers and supervisors and even result in jail time!

To find out more, contact us at info@strattonagency.com.



Human Resources 101 for your Cannabusiness



HR

SAFETY

TRAINING

ONBOARDING

Licensed and Ready to go, but Wait!



This may be the easy part!

Now you have to recruit, hire, and on-board employees. Turnover is very painful – how can we reduce it? Handling employee issues correctly from the beginning can help you be a profitable business in the long term!

HR 101 – Survival!

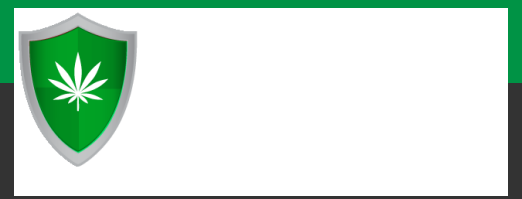


Cannabis licensing has strict requirements:

- No Minors
- Clean Employees
- ADA/Discrimination
- Substance Controls
- Federal Laws Still Prohibit

HR is about making it clear to ALL employees - what is expected of them and keeping you out of trouble!

Human Resource Laws



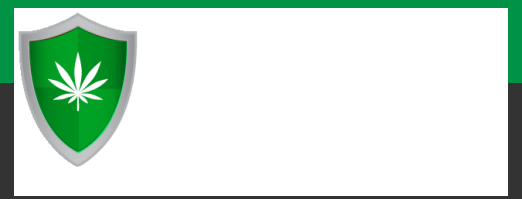
Federal Agencies

- U.S. Commission on Civil Rights
- U.S. Department of Justice Civil Rights Division (DOJ)
- U.S. Department of Labor (DOL)
- U.S. Immigration and Customs Enforcement (ICE)
- Occupational Safety and Health Administration (OSHA)
- Employee Benefits Security Administration (ESBA)
(formerly Pension and Welfare Benefits Administration)
- U.S. Equal Opportunity Employment Commission (EEOC)
- National Labor Relations Board (NLRB)
- Drug Enforcement Administration (DEA)

Federal Courts

- Supreme Court
- District Courts
- Appellate Courts

State Agencies



Depends on the State.

It becomes much more difficult if you wish to have businesses in multiple states.

Which affect you?

Tax
Board

Sales
Tax

State
OSHA

Dept. of
Labor

WC

Highway Patrol

Local Agencies – Cities/Counties



Besides the regulation of the cannabis industry, local agencies can also have regulation over the following Human Resources issues:

1

Wage & Hour

2

Sick Leave
Domestic Violence

3

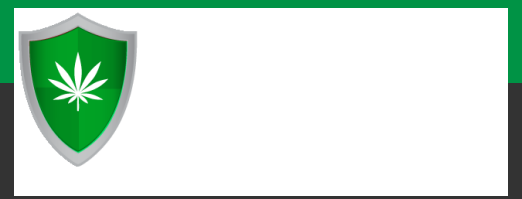
Postings

The Fine Process

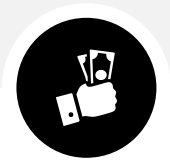


- Steep fines; and
- Loss of licenses should you violate your permit(s).
- Most Human Resource laws have **fines, back payments, penalties**, and in some cases owners and managers can go to **prison** for some safety violations?

Human Resources Laws



Here are some examples of Human Resource laws, that when violated, can cause an employer serious financial issues:



Wage &
Hour



Harassment &
Discrimination



Safety OSHA



Hiring
Undocumented Workers



Workers Comp



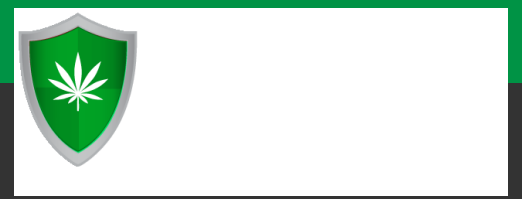
Hiring & Firing

Human Resource Legal Needs



How do I keep my business

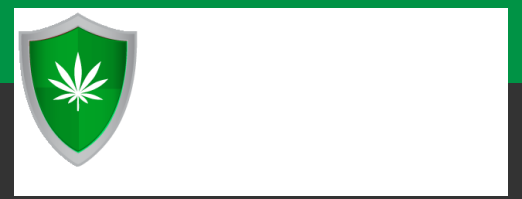
1. Labor Attorney or HR Professional
2. Hiring the Right Employee
3. Thorough On-Boarding Process
4. Cannabis Specific Employee Handbook
5. Well written Job Descriptions with Essential Duties
6. Labor Posters, including local posters
7. Manager Training – Critical
8. Compliant Safety Plans (OSHA & WC)
9. Safety Training
10. And



Turnover is Costly. Focus on the Right Hire!

Studies indicate that a \$10/hr retail employee will cost you around \$3,328 to replace (16%) and a \$40,000 manager \$8,000 to replace (20%).

- Develop and Use Tools
 - Consistent Ads - EEOC
 - Application for Employment
 - Phone/In Person Screening Questions
 - Same Process
 - Background Checks
 - Criminal
 - Drug
 - DMV
 - References
 - Offer Letter - Contingencies
- Train Your Managers



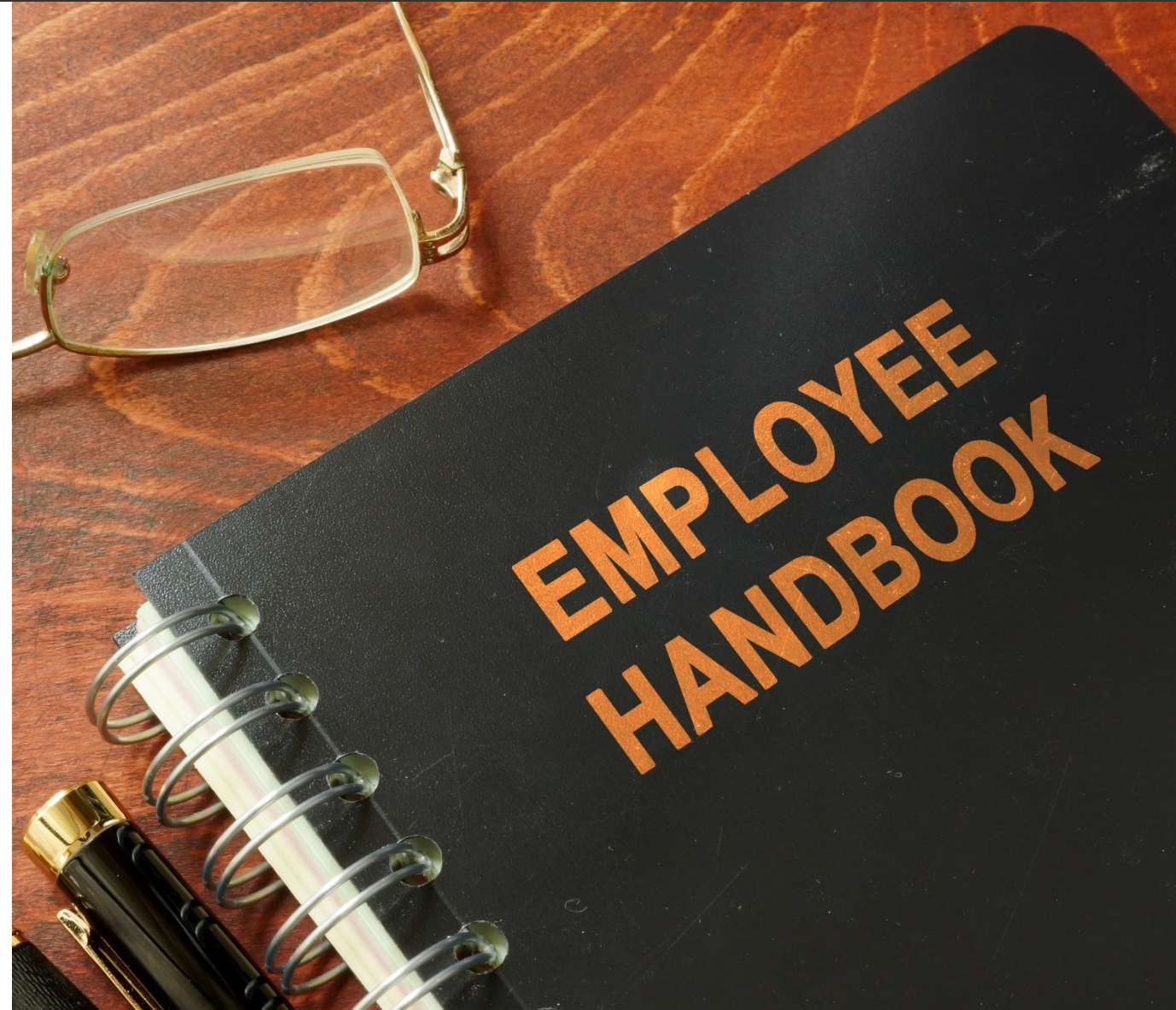
Cannabis Employee Handbook

Are all employee handbooks the same? NO!!!

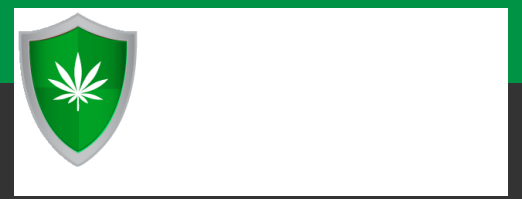
The Cannabis industry has very specific requirements by law. There are also certain risks/issues inherit to your business.

A good employee handbook is going to address the requirements and exposures to your business.

- Background Checks
- Surveillance Cameras
- Drug Testing
- Controls – Medical
- Physical Requirements



On-Boarding New Hires



Benefits Enrollment Forms

I-9, W-4's, etc.

Emergency Contact
Information

**Simplified
On-Boarding**

Direct Deposit

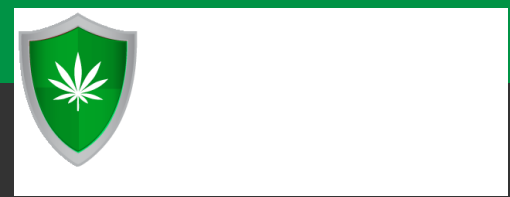
Company Handbook
Acknowledgement

Sexual Harassment Policy

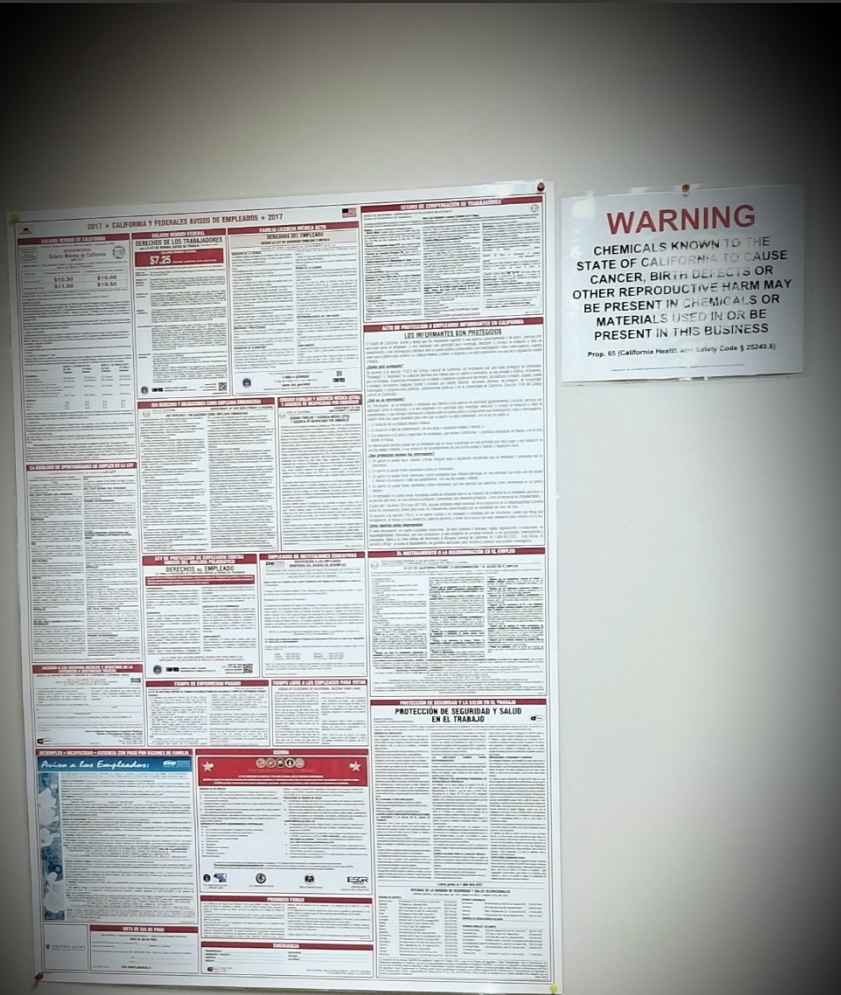
Job Descriptions – Critical



1. Sets Expectations for Employee
2. Sets Physical Requirements
3. Sets Health & Safety Requirements
4. Sets Permit, Certificate and Licensing Requirements
5. Job Descriptions are not To Do Lists or a substitute for procedures
6. Always add “and other duties as assigned
7. Always have employees sign off that they can perform the job



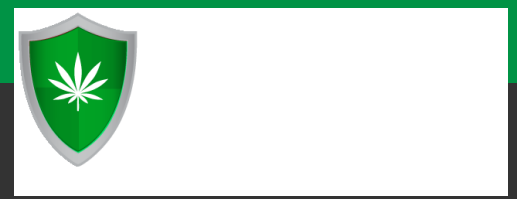
Poster Requirements



- Post in a visible place, break room
- Federal Posters - 10 required
- State – Vary by state
- Cities/Counties – May have posters
- Workers Compensation
- OSHA may require posters
- eVerify, require poster
- Spanish posters required: AZ, CA, FL, GA, NM, NY, & TX

State/Federal Combined posters run around \$45.00 – Cheap!

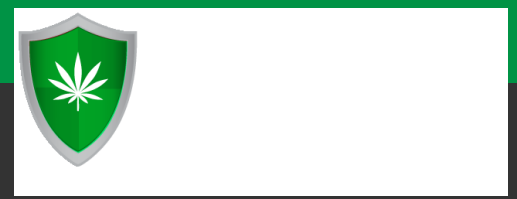
Failure to have your posters may cost thousands of dollars in fines.



Training

- Train Employees
 - Employee Handbook
 - Unlawful Harassment
 - Job Description
 - Safety
- Train Managers
 - What is expected of them as managers
 - How/when to use the handbook
 - How to train employee
 - What is Unlawful Harassment
 - Coaching/Disciplining/ Termination
 - OSHA Requirement – Personal Stake





Written OSHA Required Safety Plans

Safety requirements vary from state-to-state and must comply with a minimum of federal OSHA laws. Other written safety plans may include, but not limited to:



Chemical
Hazards



Emergency
Action Plan



Respirator Protection
Plan



Fall Protection
Plan



Required OSHA Safety Training

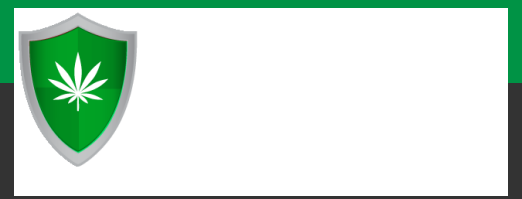


ALL employers regardless of size **MUST** train their employees on a regular basis.

- When Hired
- Change in Jobs/Position
- Introduction to New Equipment, Chemicals or Process
- Annually
- Post Accident

All training **MUST** be documented!

Summary



In summary, employers must comply with all federal, state and local laws in operating a business in any state.

Establishing and following Best Practices will save you time, money and will reduce your legal exposure.

You have everything to gain and nothing to lose by doing it right.

Call us to learn how we can help you.

