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## Top 5 States to Watch in 2016

November 17, 2015

The 2015 election has come and gone. Which means it's full speed ahead into 2016 - a year that could be another watershed for the cannabis industry. With a presidential election in full swing, we're expecting to see a number of states also raise the question of marijuana legalization with their voters.

Below is NCIA's cheat sheet for 2016 - the Top 5 States to Watch, plus a few honorable mentions. Just remember - when things change as quickly as they do in the cannabis industry these days, this list is just a starting point!

### 1) California

It's hard to deny that California is the cannabis Big Kahuna. Even with only medical legalization currently in place, California's marijuana market already makes up half of the overall legal cannabis market in the U.S. Recently passed medical marijuana regulations will mean some significant shake-ups for existing California businesses in the next few years, but all eyes are on the potential for adult-use legalization in 2016.

When your state has the 8th largest economy in the world, you can bet there will be a diversity of ideas about what a marijuana legalization program should look like. Recently, many California and national advocates and industry leaders have thrown their support behind the "[Control, Regulate, and Tax Adult Use of Marijuana Act](#)," a ballot initiative filed by a physician and an environmental attorney, with the endorsements of the Marijuana Policy Project, the Drug Policy Alliance, and the California Cannabis Industry Association, an independent state affiliate of NCIA. That effort is being funded in part by Napster and Facebook alum Sean Parker, and has been publicly supported by California Lt. Gov. Gavin Newsom.

Another initiative option filed in October is the "[Control, Regulate and Tax Cannabis Act of 2016](#)," put forward by Reform California, a coalition headed by Oakland University executive chancellor Dale Sky Jones. A third, filed by longtime cannabis activist and attorney George Mull, is the [Cannabis Control and Taxation Act](#).

Each of these draft initiatives takes a slightly different approach to creating a regulated legal marijuana system in California. These initiatives, as well as several others with similar goals, will all continue to go through evolution in the coming months, and it's possible that some will be dropped or merged into others.

Most advocates and industry leaders agree that the preferred scenario would be to have a single initiative on the ballot that all legalization supporters can rally behind. If that scenario comes to pass, polling indicates that the initiative could have a good chance of passage, especially with the larger voter turnout expected during a presidential election year.

## **2) Nevada**

Nevada recently launched its first legal medical marijuana businesses, but the state isn't stopping there. Language for an initiative to legalize marijuana for adult use has already been submitted and accepted for the statewide ballot. That makes Nevada the first state to guarantee that voters will weigh in on legalization at the polls in November 2016.

The [Initiative to Regulate and Tax Marijuana](#), if passed by voters, would legalize one ounce or less of marijuana for adults 21 and older and allow the cultivation of up to six plants at home. The Nevada Department of Taxation would license retailers, suppliers, testing facilities and distributors. Wholesale sales of marijuana would be subject to a 15% excise tax, and retail marijuana sales would be subject to the existing state sales tax. Marijuana tax revenues would be allocated to supporting K-12 education.

For the first 18 months of the potential legalization program, only Nevada-licensed medical marijuana establishments and cultivators would be eligible to apply for the new retail licenses, although the state could adjust that requirement for cultivators if it determines there's not enough supply being produced to meet the adult-use market demand. (This is similar to the way Colorado launched its adult-use legalization program, building off an existing regulated medical marijuana program.)

There hasn't been an extensive amount of polling in Nevada on the question, but a 2013 poll found that 54% of Nevadans supported marijuana legalization, and support for legalization has generally trended upward in recent years.

## **3) Arizona**

Arizona has - somewhat quietly - built one of the most established medical marijuana programs in the country. Voters approved medical marijuana in 2010, and now more than 70,000 patients access more than 90 medical dispensaries around the state.

Earlier this fall, advocates filed the "[Regulation and Taxation of Marijuana Act](#)" initiative with the Arizona Secretary of State. However, in order to actually place the initiative on the 2016 ballot, supporters must gather more than 230,000 signatures from Arizona voters.

As in Nevada, the initiative would legalize one ounce or less of marijuana for adults 21 and older and allow the cultivation of up to six plants at home. The Arizona initiative also establishes the Department of Marijuana Licenses and Control, which would oversee licensing for retail, cultivation, product manufacturing, and testing. The number of retail stores would be capped at 10 percent of the number of liquor store licenses in the state, and retail sales would be subject to a 15% excise tax.

Supporters of the initiative report that they have already collected more than 100,000 signatures since petitioning began in September.

## **4) Maine**

Maine is another state with a long-standing medical marijuana program. Medical marijuana legalization was passed in 1999, and a licensed dispensary system was added into law in 2009.

For a large part of 2015, two different organizations had been working on developing ballot initiatives for adult-use legalization in Maine. However, at the end of October, the two groups - Legalize Maine

and the Campaign to Regulate Marijuana Like Alcohol - agreed to join forces and put their combined efforts behind the "[Marijuana Legalization Act](#)," the initiative drafted by Legalize Maine.

The initiative would legalize possession and consumption of marijuana for adults over 21 years of age and provide for the licensing of retail stores, cultivations, product manufacturing, and testing. It also provides for the licensing of social clubs, where marijuana can be legally bought and consumed on the premises. Retail marijuana and marijuana product sales will be subject to a 10% sales tax.

The Maine initiative also allows for larger amounts of home cultivation and possession than provisions in other states. Adults may have up to 6 mature, flowering plants, as well as up to 12 immature plants and an unlimited number of seedlings, and they may legally possess all of the product of their home cultivation.

61,000 signatures are needed by January 2016 in order to place the initiative on the ballot, and approximately 40,000 of those have been gathered already.

## **5) Massachusetts**

Massachusetts voted to legalize medical marijuana and set up a regulated system of providers in November 2012. Since then, however, the progress toward an actual functioning program has been complicated, with setbacks, changes to rules, and do-overs of the licensing process. The first medical dispensary finally opened in June 2015.

Nonetheless, many advocates believe Massachusetts is ripe for passage of an adult-use legalization initiative. A February 2014 poll found that 54% of Massachusetts voters supported marijuana legalization, while only 37% were opposed. Two different organizations have each been pursuing their own versions of an adult-use initiative.

The Campaign to Regulate Marijuana Like Alcohol's proposed "[Regulation and Taxation of Marijuana Act](#)" initiative received certification from the state Attorney General in September, giving the group a green light to begin collecting petition signatures. The initiative would mirror many of the details in other state initiatives - allowing up to one ounce of possession by adults over 21, allowing adults to home-cultivate up to 6 plants, and establishing a Cannabis Control Commission to license retail, cultivation, manufacturing, and testing. Retail sales would be subject to a 3.75% state excise tax, in addition to the state's standard 6.25% sales tax.

Another proposed initiative, put forward by Bay State Repeal, takes a noticeably different approach to the question of adult-use legalization. The "[Marijuana Regulation and Taxation Act](#)" initiative would allow cultivation, distribution, possession, and use of marijuana by adults over 21, without setting any specific limitations on amounts. It would also allow licensing of social-use clubs or cafes and authorize marijuana farms, farmers' markets, and product manufacturers. Retail sales could take place at registered locations, and sales would be subject to the standard 6.25% state sales tax.

Supporters of either initiative must collect 64,750 Massachusetts voter signatures between September and November. If they succeed, their initiative will then be considered by the Massachusetts legislature for passage. If the legislature declines to pass it themselves, backers will need to collect 10,792 more signatures in June 2016 to place the initiative on the ballot for November 2016.

## *Honorable Mentions*

### **Florida (Medical)**

In 2014, 58% of Florida voters marked their ballots in favor of a constitutional amendment that would have legalized medical marijuana for the state. However, the amendment was not successful, because Florida's rules require constitutional amendments to receive 60% of the vote in order to be adopted.

Supporters of the 2014 initiative have indicated their intention to repeat their campaign in 2016. Given the significantly larger voter turnout they can expect in a presidential year - and the close margin in 2014 - odds are in favor of passage next year.

Although the initiative only addresses medical marijuana, Florida's large population and critical importance to presidential elections makes this a significant effort to watch.

### **Vermont (Legislative Approach)**

Vermont has the potential to become the first state to legalize adult-use marijuana through its state legislature, rather than through a direct voter initiative. Gov. Peter Shumlin and other top state officials have expressed support for an adult-use legalization bill, and the Speaker of the House recently said he expected to bring such a bill up for consideration in the 2016 legislature.

A recent poll showed 56% of Vermonters in favor of legalization, with only 34% opposed. On an issue in which the voters have been far out in front of politicians, it will be a significant sign of progress when a body of elected officials moves reform legislation forward.