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As market matures, Missouri's marijuana operators face rising compliance costs



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## As market matures, Missouri's marijuana operators face rising compliance costs

Erin Achenbach (<mailto:erina.achenbach@molawyersmedia.com>)  
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As Missouri's marijuana industry matures, operators are navigating a changing regulatory environment shaped by state oversight, federal uncertainty and growing competition. From the fallout of the Delta Extraction marijuana product recall to licensing enforcement and banking challenges, operators face rising compliance costs. You can read the content in details following link <https://molawyersmedia.com/2025/07/09/missouri-marijuana-compliance-hurdles/>

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- Missouri revoked dozens of microbusiness licenses in 2024–25
- [Delta Extraction recall](https://molawyersmedia.com/tag/delta-extraction-recall/?taxo-tag-body) (<https://molawyersmedia.com/tag/delta-extraction-recall/?taxo-tag-body>) triggered statewide product recalls
- Marijuana packaging rules and banking fees strain operators
- Tax stacking case could lead to multimillion-dollar refunds

As Missouri's marijuana industry matures, operators are navigating a changing regulatory environment shaped by state oversight, federal uncertainty and growing competition. From the fallout of the Delta Extraction marijuana product recall to licensing enforcement and banking

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logistics, cannabis businesses are operating in a legal and compliance landscape that is constantly evolving.

"It's a tough business environment," said Husch Blackwell attorney Marshall Custer, who leads the firm's cannabis team. "You're selling a good that can be difficult to differentiate between your competitors ... competition is getting a lot tougher than it used to be."

## Microbusiness licensing faces scrutiny

Among the most consequential regulatory moves of 2024 was the revocation of multiple microbusiness licenses. These licenses, intended to promote equity, faced intense scrutiny over real ownership and control.

"The Division of Cannabis Regulation has concluded that those licenses are not really controlled or majority-owned by the disadvantaged person," said Carnahan Evans attorney Joseph D. "Chip" Sheppard, who chairs the firm's cannabis/marijuana law group. "In reality, (they're) majority owned by somebody else ... the actual minority-owned person is only having 10 or 20 percent of the benefits of the license."

Nine microbusiness licenses were revoked in March 2024, and DCR issued 32 additional "Notices of Pending Revocation." In many cases, the supposed majority owners had little knowledge of operations, signaling a broader crackdown on shell ownership structures. When the second round of microbusiness licensing was held in June 2024, Missouri expanded the number of awards from 48 to 57 to replace the nine initial revoked licenses. By April 2025, state officials have revoked 25 more microbusiness licenses for failure to meet ownership requirements.



Joseph D. "Chip" Sheppard

Outside the microbusiness program, the [Missouri Supreme Court](https://molawyersmedia.com/tag/missouri-supreme-court/?taxo-tag-body) (https://molawyersmedia.com/tag/missouri-supreme-court/?taxo-tag-body) upheld the state's strict licensing protocols in *Mo Cann Do, Inc. v. DHSS*, rejecting a challenge from a denied applicant over a missing certificate of good standing. The ruling confirmed that Missouri has no obligation to allow applicants to cure procedural defects during the scoring process.

## Delta Extraction recall



Marshall Custer

In what Custer described as "a poor decision that hurt the industry, just reputation-wise," the Delta Extraction recall became one of the biggest compliance issues that the state has seen. Products infused with out-of-state THCa distillate passed contaminant tests but were ultimately deemed uncompliant and unreliable due to violating Missouri's rules that require state sourcing. The recall grew to encompass tens of thousands of vape cartridges and edibles distrusted statewide.

"That hurt a lot of people in the industry," said Sheppard. "Despite the fact that there was never a test on the product that showed that it was dangerous — no mold, no heavy metals, nothing — none of the product was



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ever accused of being tainted like that. And yet it's never been released from the recall."

Missouri regulators ultimately revoked Delta Extraction's manufacturing license and [ordered a statewide recall](https://health.mo.gov/news/newsitem/uuid/dbb5efdf-811e-40b7-840c-b2b0c1abc021/missouri-s-division-of-cannabis-regulation-announces-updated-recall-for-cannabis-products-from-delta-extraction-llc) (https://health.mo.gov/news/newsitem/uuid/dbb5efdf-811e-40b7-840c-b2b0c1abc021/missouri-s-division-of-cannabis-regulation-announces-updated-recall-for-cannabis-products-from-delta-extraction-llc) of any product that included even trace amount of its distillate, regardless of the blend ratio. For many manufacturers, that meant destroying entire batchers over a small percentage of noncompliant input.

"If they only had 1 or 2 percent of Delta's product in the product, the whole batch is on recalled," Sheppard said. "They paid Delta, and they've got the product, and they just have to destroy it or let it sit ... The product has a shelf life, so most of it's aged out."

## Testing enforcement, oversight and regulatory burdens

The recall highlights the state's focus on cannabis testing. In 2024, the DCR [issued at least five major product recalls](https://health.mo.gov/safety/cannabis/recalls.php), (https://health.mo.gov/safety/cannabis/recalls.php) including one in September involving ClearWater Science LLC, a licensed cannabis lab that failed to perform required potency and contaminant tests.

Additional recalls were issued for inventory improperly tracked in Metrc, the "[cannabis compliance](https://molawyersmedia.com/tag/cannabis-compliance/?taxo-tag-body)" (https://molawyersmedia.com/tag/cannabis-compliance/?taxo-tag-body) tracking system" [used by Missouri](https://www.metrc.com/partner/missouri/) (https://www.metrc.com/partner/missouri/) and several other states. The recalls were due to compliance liability issues, such as [undisclosed food coloring in edibles](https://health.mo.gov/safety/cannabis/pdf/notice-of-product-recall1115524.pdf) (https://health.mo.gov/safety/cannabis/pdf/notice-of-product-recall1115524.pdf).

"The state is going to be testing marijuana that's delivered ... from the testing labs, cultivators, manufacturers and dispensaries," Sheppard said, referring to the upcoming state-operated cannabis reference lab. Funded with over \$3.8 million in fiscal year 2024, the lab will independently verify THC potency and safety claims.

Beyond testing, packing and labeling rules continue to be challenging. Missouri requires preapproval of all product packing, and regulators can retroactively deny previously approved designs if they believe the packaging appeals to children or violates constitutional restrictions on advertising.

"The packaging guidelines have been evolving ... so it's been a moving target for dispensaries as to how to comply ... the Constitution requires that advertising not be any more strictly regulated than advertising for the alcohol market, and so DCR has taken the position that packaging ... is not advertising, and labeling is not advertising," Sheppard said.

"And so ... they are clearly regulating it a lot more than alcohol is regulated for packaging and labeling. So, it's made it real challenging."

Operators have felt the frustration. Attorney Eric Walter, who leads Armstrong Teasdale's cannabis law practice area, said some regulators have rescinded prior approvals and forced sudden packaging changes. In one case, a manufacturer went through the extensive process of getting a new plastic pre-roll tube approved — submitting the design, colors and labels, and then ordered a large batch of packaging.

"The state said yes, approved it. So, they order a million units ... Just last month or so, (they've) been contacted (saying) 'Hey, your package is not approved anymore,'" Walter said. According to Walter, nothing about the rules had changed; instead, officials didn't like how the company had wrapped the word marijuana around the tube.

"How can we predict (this)? As a business, we want certainty," Walter said. adding that there was a "feeling that there is just a lot of regulation ... (marijuana is) easily the most regulated industry in the whole state."

# Banking and investment challenges

Despite some headway, banking and finance still come with challenges. While cannabis is legal in Missouri, it is still federally illegal, which has made traditional banking services more expensive.

"Banking is really not a problem from the standpoint of deposits, other than it's expensive," said Sheppard. "The banks, they charge a lot of money everything month to just bank marijuana. So, it's another unusual cost for this industry that other industries don't have to put up with."

Most operators have been able to find a bank or credit union to hold their accounts, but those banks charge high fees. According to Sheppard, that's money normal businesses would never have to spend just to have a checking account, but in cannabis it's become the cost of legitimacy.

Walter has seen the same dynamic. The federal government gave banks a cautious green light to serve state-legal marijuana businesses back in 2014 (via FinCEN guidance), but the rules for compliance are so onerous that most big institutions still steer clear.

"It's just a massively burdensome thing. It's easy to make a misstep," Walter said. "And so, the big bank that has tons and tons of deposits (with) the conventional industries — they just figured to get this much more business, that many more headaches — no thanks. So, they just pass up."

Walter said his clients are happy to pay any additional banking fees if it means they don't have to stash cash somewhere. However, access to capital is another story.

"They can't go and get like a line of credit," Walter said. "They're inventory isn't subject to security."



*Eric Walter*

Lending from traditional banks is limited, leaving many cannabis entrepreneurs reliant on private investors or lenders, often at higher interest rates. Sheppard has some deals for debt financing with interest "anywhere from 12 percent to over 20 percent" above market rates. According to Custer, these capital structures are "probably affecting the business the most right now."

"There's a lot of people with a great delat of debt. They've had to do that to finance some of the uncertainty and grow the way that shareholders have demanded," he said. "Now we're coming to a point where some of those financial instruments are starting to mature, and the ability to refinance them is tougher than it was in the past."

Layered on top of that, the federal IRS 280E tax rule prevents marijuana businesses from deducting most ordinance business expenses on their taxes. They pay tax on gross profits and cannot write off salaries, rent, utilities, marketing or most other overhead.

"A big dispensary can only write off the cost of marijuana it buys from a manufacturer or cultivator and the transportation cost, so all those other things, it pays taxes on that," Sheppard said. "So as a result, some dispensaries are paying as much as an 88 percent income tax."

## Zoning and local attitudes

One aspect of the business climate in Missouri that has been more favorable than in many states: local acceptance. Unlike some states where dispensaries face bans or moratoriums at the city and county level, Missouri's municipalities have largely welcomed cannabis businesses, thanks in no small part to the lure of additional tax revenue. Under Amendment 3 (2022), cities and counties can each impose a 3 percent local sales tax on adult-use marijuana sales. That means a dispensary brings not only jobs and foot traffic, but a new stream of tax dollars for local coffers.

"The cities are really happy about the dispensaries, because it's a huge amount of tax for them — the regular sales tax plus the 3 percent additional tax that they get to charge," said Sheppard, who sits on the board of the Missouri Cannabis Trade Association. Many city governments, he added, are "cleaning up" on the new revenue and have also seen a boost from cannabis real estate investments.



If a town does want to keep cannabis out, state law gives local voters that choice, but few have taken it. To ban marijuana businesses, a city or county must put the question on the ballot for voters. The ballot must clearly state that a “yes” vote is a vote to prohibit marijuana facilities and thus forego the 3 percent local tax.

“I’m not aware of a single municipality in Missouri” that has done so successfully, Sheppard said.

“Compared to other states that we see, in Missouri there’s been a great deal of acceptance, at least from the clients that I’ve worked with,” Custer said. “There hasn’t been the sort of pushback that we have seen in other states.”

In Illinois and California, for example, large swaths of municipalities opted out of allowing cannabis businesses, creating patchwork markets. Missouri’s more unified approach has spared operators the headache of “dry” jurisdictions — anywhere with the proper zoning can potentially host a dispensary or grow facility, if state and local regulations (such as distance from schools or churches) are met.

## Looming tax ruling could affect market

Even with local support, one major battle over marijuana taxes is still looming and the [state’s Supreme Court is set to decide it](https://molawyersmedia.com/2025/05/23/missouri-marijuana-county-tax-case/) (<https://molawyersmedia.com/2025/05/23/missouri-marijuana-county-tax-case/>). The issue is “tax stacking”: whether a customer can be charged two separate 3 percent local sales taxes on the same marijuana purchase — one by the city and one by the county. Some argue the legalization amendment’s language is ambiguous, and it has led to some areas effectively doubling up local taxes (for example, a dispensary in the city of Florissant, St. Louis County, has been charging a combined 6 percent local tax — 3 percent city plus 3 percent county — on top of Missouri’s 6 percent state cannabis tax). Last year, a dispensary owner in the St. Louis area (Robust Missouri 3, LLC) sued over this practice, arguing that Article XIV intended to cap local taxes at one 3 percent maximum. A [state appeals court agreed](https://molawyersmedia.com/2024/11/14/appeals-court-says-missouri-marijuana-tax-stacking-is-unconstitutional/) (<https://molawyersmedia.com/2024/11/14/appeals-court-says-missouri-marijuana-tax-stacking-is-unconstitutional/>), ruling that cities or counties may levy up to 3 percent — but not both — in overlapping jurisdictions.

Missouri’s Supreme Court took up the case (arguments were heard in spring 2025; Walter was one of the attorneys to represent Robust) to settle the matter. If the high court upholds the lower court’s interpretation and bans double taxation, the decision could force a significant financial rebalance.

“If the court says stacking is not allowed, then all of those dispensaries that have paid that additional tax, that 3 percent on top of the 3 percent ... will file for refunds, because it’s a lot of money,” said Sheppard.

Dispensary operators could seek to recoup the extra taxes they’ve turned over to counties, potentially to the tune of millions of dollars statewide. Missouri would then have to refund that money to the businesses and, presumably, try to claw it back from the counties that collected it.

“It’s going to be a burden on the state of Missouri to have to pay millions and millions of dollars back to these dispensaries, and that’s what should happen,” said Sheppard, who was one of the drafters of the legalization measure. In his view, the intent was clear that only a single 3 percent local tax could be added.

“It was never the intent to allow a total 6 percent additional tax. It was always the intent to just allow 3 percent — that was it,” he said.

On the other hand, if the Supreme Court rules that “stacking” two local taxes is permissible, then nothing changes. Notably, many dispensaries have continued charging and escrowing the second tax during the appeal to avoid any future liability.

“Most dispensaries have continued to withhold the (county) tax after that Court of Appeals opinion,” Sheppard said.

According to the Missouri Department of Revenue, data from October 2024 shows that 90 of the state's 114 counties have a 3 percent tax.

The state's legal market is also contending with a parallel market of hemp-derived cannabinoids. Products like delta-8 THC vapes and THC-A flower fall outside of the state's cannabis regulations, and because these intoxicating products are sourced from federally legal hemp, they can be sold widely in Missouri without going through licensed dispensaries. Attorneys have said this is a regulatory gap, with no current state laws requiring lab testing or truthful labeling for hemp-derived THC products. THC products nearly identical to ones found in dispensaries can be bought in gas stations, whereas state-licensed cannabis is subject to stricter oversight.

Licensed marijuana businesses say this loophole gives unregulated vendors a significant advantage while simultaneously undermining consumer safety and fair competition. Dispensaries must cultivate products in-state and undergo quality testing, in addition to cumulative taxes that can push the retail tax rate to around 20 percent. Meanwhile, hemp-derived products are usually only subject to standard sales tax.

"(Hemp-derived products) production costs are just a fraction of the regulated market, but just inherently unsafe," Walter said. "A lot of these companies and their products don't have the same marketing restrictions."

Efforts to tighten oversight have faltered. State legislators have tried and failed to pass bills that would regulate sales of delta-8 and other hemp-derived intoxicants but have been met with resistance. For now, that stalemate means gas-station cannabinoid products continue to occupy a grey zone.

"From a federal level, we've seen a continued lack of action, which continues to keep this door open for these kinds of companies," Custer said.

Even as Missouri refines its regulatory approach, marijuana remains a Schedule I drug under federal law, a status that is unlikely to change under the current administration. Without movement from Congress or the Drug Enforcement Agency, operators will continue managing higher tax burdens, limited banking access and uncertain enforcement across state lines. For now, Missouri marijuana operators are pushing forward in a market that's continuing to take shape.

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