

The Chronicle: American Adult-Use Marijuana Laws - Cultivation Licenses

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Intro: [The Chronicle: American Adult-Use Marijuana Laws](#)

Part 1: [Regulator](#)

Part 2: [Licensing](#)

Part 3: [Cultivation Licenses](#)

Part 4: [Health and Safety](#)

Part 5: [Retail Licenses](#)

Part 6: [Other Licenses](#)

This article includes provisions that apply specifically to cultivation licenses.

Common Provisions

Cultivators must obtain a cultivation license

All licensing states require cultivators to obtain a license from the state permitting them to cultivate adult-use marijuana. Cultivation licenses must be renewed annually.

Cultivators may sell to only some licensees

Alaska, Colorado, and Nevada permit cultivators to sell marijuana only to other cultivators, product manufacturing licensees, or retail stores. Maine imposes the same restriction, unless the cultivator also obtains a retail store license, in which case the cultivator may sell adult-use marijuana at retail to consumers.

Illinois permits cultivators to sell marijuana to retailers, craft growers, infusing organizations, or transporters.

California permits cultivation licensees to either contract with a distributor or directly sell marijuana to licensees that are "authorized to sell cannabis and cannabis products to purchasers."

Washington permits cultivators to sell adult-use marijuana only at wholesale to processors and other cultivators.

Uncommon or Unique Provisions

Retail licensees banned from holding cultivation or processing license

Washington bans cultivation licensees and processor licensees from having a direct or indirect financial interest in a licensed marijuana retailer. No other state enforces such a ban.

Michigan prohibits safety compliance facility licensees and secure transporter licensees from holding an ownership interest in a cultivator, processor, retailer, or microbusiness. It also prohibits microbusiness licensees from holding an ownership interest in a cultivator, processor, or retailer licensee.

Maine, on the other hand, explicitly states that an "applicant may apply for and be granted multiple licenses of any license type," subject to limitations on the number of cultivation licenses or amount of square footage of plant canopy that a licensee may operate.

Limits on the amount of marijuana a cultivation licensee may grow

California requires applicants for cultivation licenses to submit a "detailed diagram" of the proposed licensed premises, including "measurements of the planned canopy, including aggregate square footage and individual square footage of separate cultivation areas."

California also provides for a relatively large number of different types of cultivation licenses. The types are determined according to canopy size, number of plants, whether the applicant will use artificial lighting, and whether the grow will take place inside or outside a building.

Colorado also requires the regulator to establish a "class system" for retail marijuana cultivation facilities. The classifications "may be based upon square footage of the facility; lights, lumens, or wattage; lit canopy; the number of cultivating plants; a combination of the foregoing; or other reasonable metrics."

Maine provides for different "tiers" of cultivation facility licenses, with the tiers differentiated by the number of marijuana plants or square feet of plant canopy.

Michigan provides for three classes of cultivation license: Class A, permitting cultivation of no more than 100 plants; Class B, permitting cultivation of no more than 500 plants; and Class C, permitting cultivation of no more than 2,000 plants.

Illinois limits cultivation centers to no more than 210,000 square feet of canopy space for plants in the flowering stage.

Oregon requires the regulator to adopt rules restricting the size of marijuana plant grow canopies. The rules are required to provide different limits for outdoor and indoor grows "in a manner calculated to result in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers regardless of whether the marijuana is grown outdoors or indoors."

Requirements for outdoor cultivation

Maine establishes explicit, statutory requirements for the outdoor cultivation of marijuana, including that the outer boundary of the cultivation area must be at least 20 feet from the outer boundary of another licensee's outdoor cultivation area. Maine also requires the regulator to adopt rules governing outdoor cultivation, including rules relating to security requirements and shielding the cultivation operations from public view.

California and Washington both empower the regulator to adopt regulations governing the outdoor cultivation of marijuana, including specific reference to the use of approved pesticides.

Massachusetts and Michigan require the regulator to establish minimum security requirements for cultivation facilities, but specifically provide that such regulations may not prohibit cultivation of marijuana outdoors or in greenhouses.

Nevada permits a licensee to cultivate marijuana outside "if the outdoor cultivation is sufficiently hidden from public view and adequately isolated." The regulator must establish requirements for outdoor cultivation.

Cultivators may process marijuana

Illinois and Massachusetts permit cultivation licensees to process adult-use marijuana, marijuana concentrates, and marijuana-infused products.

Oregon permits cultivators that have "a mature marijuana plant grow canopy" that does not exceed 5,000 square feet (if outdoors) or 1,250 square feet (if indoors) to process marijuana into a concentrate if the process involves separating cannabinoids from marijuana by a mechanical process or an extraction process using water as the solvent.

Maine permits cultivation facilities to manufacture marijuana concentrate via extraction if the licensee has obtained a separate license to operate a product manufacturing facility.

Water-related requirements imposed on cultivators

California requires cultivation license applications to identify the source of water for the facility's operations.

Illinois requires license applicants to provide a plan describing the cultivation center's water needs, including its estimated water draw and if it has or will adopt a sustainable water use and water conservation policy. Illinois also requires cultivation licensees to commit to using resources efficiently, including energy and water. Illinois imposes specific water application commitments that must be made by a cultivation licensee, including the use of automated watering systems such as drip irrigation and flood tables to irrigate the crop. Lastly, Illinois requires cultivation facilities to measure runoff from "watering events" and limits runoff from such events to no more than 20% of the water applied.

Oregon requires cultivation license applicants to submit along with their initial or renewal application a report detailing the licensee's water and electricity usage.

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	A	B
1		Alaska
2	Retailers may not have interest in cultivators or processors	
3	Producers / Cultivators must be licensed	17.38.070(b)
4	Cultivation license must be renewed annually	17.38.200(d)
5	Cultivation limits	
6	Restricts licensees to which a cultivator may sell	17.38.070(b)
7	Outdoor cultivation requirements	
8	Cultivators may process marijuana	
9	Water usage	

Regulator ▾ Licensing ▾ **Cu**

- Illinois – All citations are to Chapter 410, Act 705 (Cannabis Regulation and Tax Act)
- Maine – All citations are to Title 28-B (Adult Use Marijuana)
- Massachusetts – All citations are to Title XV, Chapter 94G (Regulation of the Use and Distribution of Marijuana Not Medically Prescribed)
- Nevada – All citations are to laws set to take effect on July 1, 2020, per 2019 Nevada Laws Chapter 595 (A.B. 533)
- Vermont – All citations are to Title 18 (Health), except the citation to section 17 of Act 86 (2018)

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