

**Attachment 12: Background Materials on Cannabis/Marijuana
Issue and Regulations**

Facts Regarding Marijuana Grows in Washington State

Washington State Law that applies to Agriculture

<http://apps.leg.wa.gov/RCW/default.aspx?cite=7.48.310>

(4) "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, dairy and dairy products, poultry and poultry products, livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, grasses, trees, freshwater fish and fish products, apiaries and apiary products, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

RCW 82.04.213

(1) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to: A product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture as defined in RCW 15.85.020; plantation Christmas trees; short-rotation hardwoods as defined in RCW 84.33.035; turf; or any animal including but not limited to an animal that is a private sector cultured aquatic product as defined in RCW 15.85.020, or a bird, or insect, or the substances obtained from such an animal including honey bee products. "Agricultural product" does not include marijuana, useable marijuana, or marijuana-infused products.

Washington State Law that applies to Hemp (agricultural)

NEW SECTION. Sec. 2.

(1) Industrial hemp is an agricultural product that may be legally grown, produced, possessed, processed, and commercially traded in accordance with the provisions of this chapter. Interstate and international commercial transactions may be conducted by state licensed industrial hemp producers and processors with respect to industrial hemp and industrial hemp products produced in this state by licensees. The department is granted the rule-making authority necessary to implement the provisions of this chapter.

Through extensive reading of the RCW on hemp we can conclude that hemp farmers are considered agricultural in every sense and are entitled to agricultural protections and exemptions.

Washington State Law that applies to Marijuana (pharmaceutical)

(1) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection.

Through extensive reading of the RCWs on marijuana we can conclude that marijuana businesses are strictly pharmaceutical in law and are held to higher standards of regulation, oversight and taxation.

From the Washington Department of Revenue

http://dor.wa.gov/docs/pubs/marijuana/fs_i-502_marijuanaproducers.pdf

Marijuana producers also owe sales tax or use tax on their purchases of seeds, seedlings, fertilizer, sprays, pesticides, and other products used directly in the growing of marijuana. Since marijuana producers are not farmers, sales of these items to marijuana producers are retail sales. (See our Special Notice: Recreational and Medical Marijuana – Repeal and Clarification of Excise Tax Deductions, Exemptions, and Preferential Rates.)

From the Washington State Control Board

On August 29, 2013 Attorney General Eric Holder called both Governors Jay Inslee and John Hickenlooper (Colorado) to outline the federal government's guidance on legalized marijuana. That guidance was also outlined in a memo which focuses on eight points of federal emphasis such as youth access and public safety which the LCB's rules address. The regulatory system for marijuana, and the rules written by the Board appears to meet those eight points. The memo does not change federal law. Governor Inslee's office is maintaining an open dialogue with the federal government and the WSLCB is moving forward to carry out the expectations of the agency under the new law.

Since marijuana is legal in Washington can the federal government still prosecute me?

Yes. Washington's system of legalized marijuana does not preempt federal law. Presently Washington State residents involved in marijuana production /retailing could still be subject to prosecution if the federal government chooses to do so.

Can the federal government confiscate my assets?

Yes. Confiscation of assets is one of the enforcement tactics available to federal authorities.

From the US Bureau of Reclamation

<http://www.nbcnews.com/news/us-news/u-s-says-legal-marijuana-growers-cant-use-federal-irrigation-n110381>

Marijuana growers operating legally in Colorado and Washington state took another hit from the federal government on Tuesday when the U.S. Bureau of Reclamation announced that pot growers are (still) not allowed to use federal irrigation waters. "As a federal agency, Reclamation is obligated to adhere to federal law in the conduct of its responsibilities to the American people," Dan DuBray, chief of public affairs, said in a statement to NBC News.

Washington State Right to Farm Statutes

<http://nationalaglawcenter.org/wp-content/uploads/assets/righttofarm/washington.pdf>

The Right to Farm Ordinance WOULD apply to hemp growers but NOT marijuana growers because they are not considered agriculturalists under state law. Any intentional blurring of this distinct line could cause future harm to agriculture as a whole. We cannot risk losing agricultural protections in an attempt to inaccurately claim marijuana as an agricultural commodity. We must follow the law.

Marijuana growers who wish to challenge their classification need to go to the legislature and get it changed from pharmaceutical to agricultural. The voters who passed the state initiative set the terms and the county can't change that. Only the state legislature can make changes to state law.

Washington State Farm Bureau Policy

"We will not advocate for growers of crops that are deemed illegal by the federal government."
(1994, Amended 2014)

Okanogan County Farm Bureau will adhere to Washington State Farm Bureau policy. We will continue to advocate for all legally recognized forms of agriculture, including hemp. We are committed to the protections that are afforded through the Okanogan County Right to Farm Ordinance and will work diligently to protect the integrity of that document. We support the current draft of the Okanogan County Zoning Code as it is currently written. 3/29/2016