

Why it's so tough to run a legal cannabis business in California

Complex regulations, a surging illegal market and the industry's negative associations have crippled cannabis cultivation. | 4



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Jeremy Freitas stands Thursday, Nov. 17, 2022, at the gates of Patriot Valley Farms in northern Sonoma County. Confusing and conflicting regulations and stiff fines have left him struggling to stay afloat, Freitas said. (John Burgess / The Press Democrat)

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It's not easy to succeed in California's legal cannabis industry.

The oversupply of cannabis can't be mitigated by out-of-state sales because of the federal ban on marijuana.

Federal restrictions also complicate and limit financing opportunities, including access to loans and credit, by closing off access to traditional banking.

And as growers – bogged down by a challenging regulatory system – continue to struggle with trying to enter the system legitimately, the illegal cannabis market has surged, bringing environmental damage and crime with it and crashing wholesale prices with which legal cultivators can't compete.

In 2023, the state's Unified Cannabis Enforcement Taskforce seized nearly 190,000 pounds in illegal cannabis, according to data released in January.

The industry's negative associations have driven a vocal opposition to the expansion of cannabis cultivation.

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"This industry is not compatible with homes and families that want to use and enjoy their property without worry of crime or environmental impacts," said Nancy Richardson, communications co-director for Neighborhood Coalition Sonoma County, pointing to concerns over odor, water use, traffic, carcinogens and fire evacuation risks. The volunteer group is made up of residents advocating for cannabis policies that protect communities from the impacts of the burgeoning industry.

"There is no doubt the state and county permit process is long and difficult," Richardson said. But, "whether you are a believer in cannabis or not, its impacts to a community are significant ... hence, scrutiny is warranted." She noted that, vineyards, too, can take years to get approved, and even fire victims faced long waits just to secure permits to rebuild homes in the same footprint.

Cannabis stakeholders, however, have consistently argued that they are treated differently, and worse, than other agriculture businesses. Easing the path for legal growers to do it the right way, which comes with strict and extensive environmental requirements, they argue, is an important part of disincentivizing the illegal market and its consequences.

Even supporters acknowledge that some cultivators have looked for loopholes in the system and have repeatedly violated permitting regulations as they get up and running, but they say aggressive and inflexible enforcement and large penalties, amid shifting rules, also have unduly burdened good actors, especially smaller scale operators, and especially in Sonoma County.

"Sonoma County really is a place that I think values small businesses and mom and-pop industries, but they've written this program in a way that would make it nearly impossible for a small farmer to actually succeed," said Lauren Mendelsohn, a junior partner with the Law Offices of Omar Figueroa, a practice focused on cannabis regulation and litigation. "Nearly all of my clients who are going through the county's permit program have given up."

Illegal operations, which generate the majority of transgressions and complaints, she said, "are going to continue to exist if the county doesn't create a viable pathway forward."

According to the county, 285 illegal cannabis operations without permits have been uncovered locally between 2021 and 2023, with significantly less in each year. Penalties for these types of outfits range from \$1,000 to \$10,000 for a first violation and between \$1,250 and \$25,000 for a second or \$2,500 and \$50,000 for a third violation within two years. Penalties for legal growers with violations can sometimes dwarf these.

The Sonoma County crop report paints a bleak picture for the state of legal cultivation. [In 2021](#), the county produced almost 50 acres of cannabis. [In 2022](#), that figure was less than half at just over 19 acres.

This is cause for concern for the county, not just growers, in that the cannabis program operations are funded partly through cannabis business tax revenues, which have declined with cultivation.

There's a number of causes behind the decline, Daniel Virkstis, a county spokesperson said. "We have been told the reasons may include the collapse of the market price, tax rates, state license costs and local permitting costs."

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