



LEGALINK

INTERNATIONAL BUT PERSONAL

CANNABIS REGULATION
AND CANNABIS
DERIVED PRODUCTS



INTRODUCTION

As more jurisdictions around the world move to legalize various forms of cannabis, including hemp and CBD products, recreational marijuana, and medical marijuana, the global cannabis industry continues to blaze forward. But changing and even inconsistent laws and an evolving regulatory environment have created legal uncertainties and tensions in the development of the industry and marketplace. This booklet aims to provide practitioners a summary reference for cannabis laws and regulations in various jurisdictions across the globe. Practitioners should note that because cannabis laws are quickly evolving, through the legislative process, ballot initiatives and regulatory rule implementations and changes, each jurisdiction's most recent cannabis laws and regulations should be reviewed and assessed.

A QUICK PRIMER ON CANNABIS BASICS

Cannabis vs. Marijuana vs. Hemp

Cannabis refers to a genus of plants that has three species - indica, sativa, and ruderalis. Marijuana and hemp are both cannabis. Despite popular misconception, marijuana and hemp are not different species of cannabis.

Marijuana, in the common parlance, is cannabis that, when consumed, results in a "high." The "high" in marijuana is produced as a result of high tetrahydrocannabinol or THC content. Hemp, again in common usage, does not cause intoxication because it has low levels of THC.

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Some jurisdictions around the world still do not distinguish between marijuana and hemp. For example, for decades, the federal government in the U.S. did not distinguish between hemp and marijuana or the level of THC content in either – both were illegal cannabis and a controlled “Schedule I” drug.

As cannabis laws and policy have changed over the years, now, in the U.S. and, as applicable, in other jurisdictions, the legal difference between marijuana and hemp is often based upon THC content level. In the U.S., again by way of further example, the Agriculture Improvement Act of 2018 defines legal hemp as “Plant Cannabis sativa L. and any part of that plant, including cannabinoids with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” Thus, under federal law in the U.S., cannabis that has no more than 0.3% THC is legal hemp, but cannabis that contains more than 0.3% remains illegal marijuana. Each jurisdiction’s definitions for each should, of course, be consulted to determine whether hemp and marijuana are distinguished from one another and where the lines of cannabis legality or illegality are drawn.

THC vs. CBD

THC and CBD are both cannabinoids found in cannabis. A cannabinoid is a naturally occurring compound that reacts with cannabinoid receptors found in our nervous system that are part of our endocannabinoid system, involved in appetite, mood, and sensing pain.

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As noted, THC is a psychoactive cannabinoid in marijuana that produces a “high.” CBD, or cannabidiol, is a non-psychoactive cannabinoid that may have some health benefits. But more studies are needed. CBD can be derived or extracted from hemp and marijuana. Many CBD products are derived from hemp, containing low levels of THC and higher levels of CBD. Whether CBD or CBD products are legal in any particular jurisdiction will be driven by legal definitions and parameters established by applicable regulatory authorities.



SOUTH KOREA BARUN LAW

1. What regulatory frameworks are relevant to medical and recreational cannabis and the cultivation, manufacture, distribution etc of cannabis and cannabinoids in Korea?

In principle, the NCA strictly prohibits the import/export, manufacture, sale, arrangement of sale, smoking or consumption of cannabis ("prohibited acts"). Furthermore, any person who has not been approved to handle narcotics by the Minister of Food and Drug Safety is prohibited from growing, carrying, possessing, transporting, storing or using cannabis ("handling of cannabis").

However, a person is permitted to engage in the prohibited acts where such act is approved by the Minister of Food and Drug Safety, and the persons designated to handle narcotics can engage in the handling of cannabis if they have obtained a necessary permission under the NCA.

2. What are the regulatory challenges in allowing the medical and recreational use of cannabis and cannabinoids in Korea?

As the prohibited acts and the handling of cannabis are strictly prohibited in Korea, the use of cannabis and cannabinoids is unlikely to be allowed for recreational purposes. However, the use of cannabis and cannabinoids may be permitted for medical purposes if certain requirements are met.

3. What regulatory frameworks are relevant for the cultivation, manufacture and supply of medicinal and recreational cannabis products in Korea?

The NCA considers all products manufactured from cannabis or its resin as "cannabis." Thus, the aforementioned regulations under our responses to Question 1 and 2 also apply to cannabis products.

4. Which body is responsible for legislative controls relating to CBD?

Since the NCA categorises CBD (i.e. cannabidiol) as “cannabis,” regulations under our responses to Question 1 and 2 apply to CBD as well. The Ministry of Food and Drug Safety is responsible for legislative controls relating to CBD.

5. Is there any possibility to commercialise CBD products without a Novel Food approval or medicinal product marketing authorisation in Korea?

In principle, the act of arranging the import/export, manufacture, trade and sale of cannabis is prohibited in Korea. Commercialisation of CBD products without obtaining an approval may be difficult as such prohibited acts are permitted only upon obtaining an approval from the Minister of Food and Drug Safety for public affairs, academic research or medical purposes.

6. What are the testing specifications in the Korea for determining the compliance of CBD with regulatory requirements (i.e. what are the testing specifications for determining the purity and/or level of any controlled substances in CBD?) and what documentation or evidence would need to be submitted to the regulatory authority in this regard?

Since handling of CBD is prohibited in principle, there are no testing specifications for determining the compliance of CBD with regulatory requirements.

7. Are there any regional limits on the quantity of CBD that can be purchased or imported?

In principle, since the act of exporting, importing, selling or purchasing of CBD is prohibited pursuant to the NCA, there is no particular regional limit on the quantity of CBD.



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