

**State Law
Comparison:
*Cannabis Potency
Regulation***

**House Commerce &
Gaming Committee Work
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Scope of Presentation

1. Potency as factor in cannabis regulation in states with adult-use commercial cannabis markets
2. Legislative proposals to limit THC concentration of adult-use cannabis products
3. State laws and rules limiting THC concentration of medical cannabis products, and related legislative proposals

Adult-Use States: Edible Product Serving Size/Containers

10 mg THC per serving and 100 mg THC total per container	5 mg THC per serving and 100 mg THC total per container	5 mg THC per serving and 50 mg THC total per container
Washington	Massachusetts	Alaska
California		Oregon
Colorado		
Illinois		
Maine		
Michigan		
Nevada		

Adult-Use States: Additional Examples and Trends

Lab testing and labeling	Cannabis tax	Potency of flower and concentrates
<p>Adult-use states typically require representative samples of cannabis products to undergo potency testing for THC/CBD content and require THC/CBD content information on product labels.</p> <p>In Michigan, cannabis-infused products that exceed an applicable THC limit, but not by more than 10 percent, may lawfully be sold.</p>	<p>Illinois factors THC concentration into a cannabis excise tax paid by the customer:</p> <ul style="list-style-type: none"> • 20 percent tax for cannabis-infused products; • 10 percent tax for other cannabis products with THC content of 35 percent or less; and • 25 percent tax for other cannabis products with THC content above 35 percent. 	<p>No adult-use states have established a limit on the maximum THC percentage of cannabis flower or concentrates sold at retail.</p>

Adult-Use States: Legislative Proposals to Limit THC Concentration

State	Legislation to limit THC concentration of cannabis sold at retail
Washington State	HB 2546 (Davis) (2020) proposed limiting THC concentration of marijuana concentrates to 10 percent THC . Bill did not advance out of committee.
Colorado	<p>Ballot Initiative (#139) in 2016 proposed limiting the THC concentration of cannabis products to 16 percent THC. The initiative failed to gather sufficient signatures.</p> <p>An amendment to legislation in 2016 (HB 1261) proposed limiting the THC concentration of cannabis products to 15 percent THC and adding a warning label requirement for cannabis products with greater than 10 percent THC. Amendment voted down in committee 5 to 6.</p>
Vermont	The House's version of 2020 legislation (S. 54) authorizing a commercial cannabis market would limit THC concentration of cannabis flower sold at retail to 30 percent THC and "solid concentrate cannabis products" to 60 percent THC . A conference committee was appointed and met in August 2020 but has not yet produced a final report.

Medical Cannabis: State Laws and Rules Limiting THC Concentration

State	Law/rule to limit THC concentration of medical cannabis
Delaware	Rules prohibit qualifying patients under age 18 from purchasing medical cannabis products other than cannabis oil with no more than 7 percent THC .
North Dakota	State law establishes a 6 percent THC limit for cannabis products sold to qualifying patients who are under age 19.
New Jersey	Rules limit medical cannabis sold at retail to 10 percent THC .
Ohio	Rules limit cannabis flower sold at dispensaries to 35 percent THC . Rules also establish a limit of 70 percent THC for other medical marijuana products.

Medical Cannabis: Legislative Proposals to Limit THC Concentration

State	Legislation to limit THC concentration of medical cannabis
Arizona	Legislation in 2020 (HCR 2045) related to medical cannabis included a provision limiting THC concentration of medical cannabis products to not more than 2 percent THC . Provision limiting THC removed by amendment, legislation did not pass.
Florida	<p>Legislation in 2019 (HB 7117) proposed limiting the THC concentration of medical cannabis flower to 10 percent THC. Legislation did not advance out of first chamber.</p> <p>Proposed committee amendment to health care legislation in 2020 (SB 230) proposed limiting the THC concentration of medical cannabis to 10 percent THC for persons under age 21, with exception for patients who are terminally ill or who have health-care-professional authorization. Amendment withdrawn.</p>



Thank you!
