



Lowenstein Sandler's In the Know Series Video 14 – Insurance for the Cannabis Industry: Risks & Challenges

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Eric Jesse:

Hi, I'm Eric Jesse, partner in Lowenstein Sandler's [Insurance Recovery Group](#), and welcome to "[In the Know](#)."

Businesses in the cannabis industry faced many of the same risks as other agricultural and manufacturing businesses, but they also face certain amplified risks. Today, we're going to examine some of these risks, as well as some of the challenges that those businesses may face in securing coverage.

Cannabis remains illegal under federal law. Therefore, many cannabis businesses operate on a cash-only basis to avoid being penalized by federal bank regulators. Handling large amounts of cash can increase the scope and risk of theft losses, and while Congress previously considered legislation that would allow cannabis businesses to engage in traditional banking, that legislation has not yet passed.

Another potentially amplified risk is product liability and recalls. The effects associated with cannabis may increase the risk that cannabis businesses will be targeted for mislabeling or misrepresenting products, in addition to bodily injury claims purportedly caused by using cannabis products.

While there is a need for adequate insurance coverage for cannabis businesses, the reality is that such insurance remains difficult to obtain due to limited markets, caused by insurers that are wary about insuring cannabis risks, and the disparity between federal and state law.

However, there have been some promising developments on the insurance front. Though it has yet to pass, Congress has considered legislation that would allow insurers to place coverage without fear of federal prosecution. And while there were, reportedly, only six insurers willing to provide coverage to cannabis businesses in 2020, that number has increased to 30+ insurers. In fact, as we continue into 2023, more insurers are expected to enter the market, leading to greater breadth and availability of insurance options.

Nevertheless, given the legal limbo that the cannabis industry faces, and the nuanced insurance issues that result, it is critical for cannabis businesses to work with insurance specialists—brokers and coverage counsel—who have experience navigating this still uncharted territory.

Thank you for joining us, and we look forward to seeing you next time on ["In the Know."](#)