



PLRisk

Insuring The Cannabis Industry

Business Resources

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The State of the Cannabis Industry



A total of **39 states and the District of Columbia** have legalized marijuana for medical use, 21 of those states, and DC, allow adults to legally use the drug for recreation.¹

It's the world's most commonly cultivated, trafficked, and used drug. As the push for legalization at home and abroad grows – cannabis is garnering significant attention. **By 2026, the US cannabis industry's economic impact could hit \$157 billion.**²

\$157
BILLION

But with big rewards comes big risks.

If your insured operates in the cannabis industry – property (with theft) and Product Liability Insurance is crucial for grower, retailers, and dispensaries due to the risk that selling a product to a consumer naturally carries. When a defective or dangerous product is available to consumers, every business in a supply chain can be sued under the doctrine of strict liability.

As a trusted and nationally recognized cannabis brokerage firm, we're here to help you understand:

- » Why coverage is important
- » Any limitations
- » The types available to you and your business
- » The solutions available to help reap reward without the risk.

¹MJBizDaily, "Where marijuana is legal in the United States"

²MJBizDaily, "Marijuana industry will add nearly \$100 billion to US economy in 2022", April 2022.

Who Needs Insurance?

Cannabis-specific business insurance is a pre-requisite for operating a successful cannabis business – regardless of where your client’s organization falls within the cannabis vertical, they’ll need to build out a robust risk transfer solution by utilizing a proper grouping of the insurance policies below along cannabis-specific enterprise risk management.



Types of Insurance Solutions



General Liability Insurance



Product Liability Insurance



Commercial Property Insurance

Additional Cannabis Business Insurance Solutions

- » Commercial Crime
- » Directors and Officers Liability
- » Professional Liability Insurance
- » Cyber/Privacy Insurance
- » Employment Practices Liability
- » Workers’ Compensation



General Liability

What Is a General Liability Insurance Policy?

According to the International Risk Management Institute, it is, "A standard insurance policy issued to business organizations to protect them against liability claims for bodily injury (BI) and property damage (PD) arising out of premises, operations, products, and completed operations, advertising, and personal injury (PI) liability."

Why Does Cannabis Business Need a General Liability Insurance Policy?

It is hard to do business without a general liability insurance policy. In fact, general liability insurance is often a prerequisite for a cannabis business to open its doors to the public. Most lease agreements require cannabis businesses to show proof of general liability insurance when signing a lease.

What Does Client's General Liability Insurance Policy Cover

In general, general liability policies provide coverage for third party claims –specifically, the insurance policy provides legal defense costs and indemnity payments when your insured's business is sued for bodily injury, property damage, or advertising injury.

Key Coverage Provided Under General Liability Insurance Policies:



Slips/Falls



Personal Injury



Advertising Injury



Liability



Slander



Fire Legal Liability

Product Liability

What Is Product Liability Insurance?



Product Liability Insurance protects cannabis businesses from allegations that their product caused bodily injury or property damage to an end user.

Thanks to the doctrine of strict liability (holding any company in the supply chain responsible for end user losses), it's necessary for most cannabis businesses to obtain product liability insurance that contains product recall limits.

Why Do Businesses Need Product Liability Policies?

1M
DOLLARS

Some states like Washington now require cannabis businesses to purchase Commercial General Liability with limits of at least \$1M.

After a string of uninsured Product Liability claims, WA modified its insurance requirements for licensee's by mandating they purchase Product Liability Insurance under WAC 314-55-082: licensee's insurance must "cover bodily injury, including disease, illness and death and property damage arising out of the licensee's premise/ operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars."



Product Liability cont.

Common Questions



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Does my insured need to obtain their own Product Liability Insurance?

Yes – Strict liability doctrines make businesses liable if they allowed a dangerous or defective product to enter the stream of commerce.

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Is Product Recall included in my Insureds Product Liability Policy?

As a general principle, it's necessary for your insured to round out their business's product liability insurance policy to include product recall. Luckily, there are now standalone product recall policies available to close any gaps in their current policy.

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Is my insured adequately insured for their cannabis business's product liability exposure as an additional insured on their manufacturer's Product Liability Policy?

No – Prospective dispensary and retail insured often push back on the need for their own product liability insurance. Due to strict liability in product liability, it's not enough to be covered as an additional insured. Strict liability allows plaintiffs to sue every party that was involved in allowing a dangerous product to enter the hands of the consumer.

Commercial Property Insurance

What Is Commercial Property Insurance?

According to the International Risk Management Institute, Commercial Property Insurance is defined as “First-party insurance that indemnifies the owner or user of property for its loss, or the loss of its income-producing ability, when the loss or damage is caused by a covered peril, such as fire or explosion.”

What Are the Different Commercial Property Policy Types Available To Cannabis Businesses According To IRMI?



Basic



Broad



Special

What Is Business Income (Interruption) Insurance, And Is It Included in Property Policy?

Business Income Interruption (BI) is triggered when there is a covered property loss that results in property damage. If your insured's building is damaged, business income ensures the business owner has income to pay payroll expenses, rent and other expenses that need to be paid while the property is repaired or while they find a new location in which to work. When reviewing BI terms, it's important to understand how the payout occurs and for how many months BI can be paid under your insured's policy.

Business income interruption is typically included within a property policy; however, it is imperative when reviewing your insured cannabis commercial property policy to review the business income clause.



Commercial Property Insurance cont.

What Definitions Are Important To Understand On a Cannabis Commercial Property Application?



Cannabis Finished Stock

Cannabis finished stock means finished marijuana stock and products containing marijuana and/or its derivatives. "Finished stock" does not include harvested cannabis material that is being dried or product that has not yet been incorporated into a final product for retail sale, nor does it mean Living Plant Material.



Perishable Cannabis Inventory

Perishable cannabis inventory means cannabis finished stock that is required to be refrigerated or otherwise maintained under controlled conditions for its preservation. This stock is susceptible to loss or damage if the controlled conditions change, such as refrigeration failing.



Harvested Cannabis Material

Harvested Cannabis Material means mature marijuana plant material that is no longer in the growing medium. This material is likely in the process of being dried or includes any raw materials or products that is not yet finished stock.



Living Plant Material

Living plant material includes marijuana seeds, immature marijuana seedlings, marijuana plants in the vegetative growth stage, and mature flowing plants rooted in growing medium.



What Exclusions Are Likely Included in a Property Policy?

Exclusions depend on the policy form. Special cause of loss is the broadest policy form whereas Basic is the narrowest form of coverage.

- » Viral and Bacterial Losses
- » Terrorism
- » Pollution
- » Product Liability

Workers Compensation

What Is a Workers' Compensation Insurance Policy?

According to the International Risk Management Institute, "Workers' Compensation Policy provides coverage for an employer's two key exposures arising out of injuries sustained by employees."

- 1. Part one** of the policy covers the employer's statutory liabilities under workers compensation laws.
- 2. Part two** of the policy covers liability arising out of employees' work-related injuries that do not fall under the workers compensation statute.

In most states, the standard workers' compensation and employer's liability policy published by the National Council on Compensation Insurance (NCCI) is the required policy form.

When Should I Obtain a Worker's Compensation Insurance Policy for My Insured's Business?

Many people think that as soon as a business has more than one worker that they will need a worker's compensation policy; however, worker's compensation only becomes necessary (and legally required) once you hire your first employee –this does not apply to owners/ shareholders or 1099 employees in most cases. Some sole proprietors in high-risk industries may want to obtain a Worker's Compensation Policy to protect against the cost of work-related injuries.

Why Is a Workers' Compensation Insurance Policy Needed?

According to the Insurance Information Institute, "Workers' Compensation Insurance serves two purposes: It mandates that injured workers get medical care and compensation for a portion of the income they lose while they are unable to return to work." It also usually protects employers from lawsuits by workers injured on the job.

What Is Excluded Under My Insureds' Workers Compensation Insurance Policy?

With most cannabis business employees being favorable to cannabis, it is essential for your client to have discussions with their employees about common exclusions in the company's Workers Compensation Policy:

- » Injuries at work due to intoxication or substance abuse
- » Intention injuries
- » Injuries outside of work

What Coverage Is Provided?

- » Medical
- » Vocational Rehabilitation
- » Disability
- » Death Benefits

Employment Practices Liability

What Is an Employment Practice Liability Insurance (EPLI) Policy?

EPLI coverage provides protection for an organization or its employees from claims relating to wrongful employment practices by its executives, partners, principals, employees, and if necessary, independent contractors. Some cannabis business owners do not realize that they could be held liable for a situation in which one of their managers makes an inappropriate comment overheard by another employee. So, if your insureds company hires/fires employees, deals with promotions and demotions, modifies compensation packages, issues statement to employees, or manages employee benefits, then they absolutely need an Employment Practices Liability Policy.

Why Do Cannabis Businesses Need an EPLI Policy?

Keeping up with changes in employment regulations and changing public attitudes have created increased liability for employers. Even the most diligent employer cannot control human behavior. A company may have strict employee guidelines and procedures in place, but it's impossible to know how an employee will react to their workplace environment. With EPLI coverage, a company can be better protected to mitigate the costs incurred for defending an employee workplace claim.

Although only a small part of employment claims are related to claims brought by the U.S. Equal Employment Opportunity Commission (EEOC), recent statistics show how frequent these types of issues can occur.



Number of discrimination charges filed with the EEOC in 2021.



Retaliation claims are the most common type of complaint, making up nearly 56% of all claims filed in 2020.

¹Charge Statistics (Charges filed with EEOC) FY 1997 Through FY 2021

Employment Practices Liability cont.

What Coverages Are Commonly Provided Under an EPLI Policy?

An EPLI policy typically protects against defense costs, damages, and attorney fees for claims relating to a company's employment practices. It addresses employment claims relating to:

- » Hostile Work Environment
- » Sexual Harassment (employees/third parties, clients, vendors, or independent contractors)
- » Immigration Status Discrimination
- » Discrimination (e.g., age, race, or gender)
- » Wrongful Demotion or Termination
- » Failure to Employ or Promote
- » Claims from prospective employees/applicants
- » Wage and Hour (FLSA)
- » Family Medical Leave Act (FMLA)
- » Workplace Violence
- » Workplace Regulatory Fines and Penalties



What Coverages Are Commonly Excluded Under an EPLI Policy?

EPLI policies are not all encompassing and typically exclude the following types of claims unless your broker specifically negotiates coverage on your client's behalf:

- » Penalties
- » Civil Fines
- » Criminal Fines
- » Unpaid Wages
- » Strikes
- » Intentional Acts
- » Unemployment Claims
- » Workers Compensation Claims

Cyber Insurance

What is a Privacy & Network Security (Cyber) Liability Insurance?

Cyber threats affect every profession –from the dispensaries with online records and the use of smart devices, to law firms that have confidential sensitive information in their files that if hacked into can be misused by criminals. In addition, the rise of spear phishing attacks –sending targeted email that appears to come from a trusted source to trick the recipient into opening a malicious attachment or visiting a malicious website where malware is downloaded to their computer –combined with business email compromise to get companies to erroneously wire transfer money, employee negligence, and cyber extortion have all made for a very complex cyber security landscape for any business.

Why Do Cannabis Businesses Need a Privacy & Network Security (Cyber) Liability Policy?

In today's litigious and regulatory environment, cannabis businesses need this protection to cover the defense costs and additional monitoring/notification expenses arising from claims of a data breach, or theft, or misuse of proprietary information. At PLRisk Advisors Inc, we understand the cyber exposures your clients face and are committed to keeping our pulse on emerging risks as hackers become increasingly more sophisticated in targeting vulnerabilities that exist in our digital and connected world. We work with top-tier, leading insurance companies to deliver cost-effective tailored Cyber Liability solutions that respond to ever-evolving situations that can potentially compromise a company's customer, patient and employee data, shut down an operation by infecting its network system, and disparage a firm's reputation.

Why Does My Client Need a Cyber Policy?

- » Network Security
- » Privacy Breach Response Costs
- » Network Asset Protection
- » Network Asset Protection
- » Regulatory Defense & Penalties
- » Multimedia Insurance
- » Business Interruption



Commercial Crime Insurance

What Is Commercial Crime Insurance?

Commercial Crime insurance policies protect cannabis businesses against the theft of a company's cash or securities, or their clients' money or assets while in the company's possession or control. Each company within the cannabis vertical has crime exposure –in fact, many studies have shown that most of the crime in the cannabis industry is committed by company insiders. Whether a company is responsible for the transportation of biomass or has large amounts of cash on hand from sales, it's crucial to obtain cannabis specific commercial crime policies.

Who Needs Commercial Crime Insurance?

Any cannabis company or non-profit organization is at risk of theft of their money or securities. If a business has commercial bank accounts, it is important to know that their corporate bank accounts are not afforded the same protections under the FDIC (less likely in cannabis) as personal accounts. Almost any business with a bank account is vulnerable to wire transfer, ACH fraud or forgery and alterations risk.

Why Do I Need a Cannabis Commercial Crime Insurance Policy?

Although most companies work to create solid internal controls and believe they hire trustworthy employees, there is always the chance that those trusted individuals could go astray. Cyber theft is another significant and growing area for commercial crimes. Bank accounts can be compromised by experienced hackers and novices alike. A company's assets are at risk for wire transfer fraud, as well as employee theft. Standard liability policies do not typically cover these exposures. Having a standalone commercial crime policy allows your client to customize coverage to the specific needs of their business.

What does a Commercial Crime insurance policy cover?

- » Social Engineering Fraud
- » Fraudulent Funds Transfer
- » Employee Theft
- » Burglary/Robbery
- » Forgery & Alteration
- » Fraudulent Money Orders
- » Wire Transfer Fraud
- » Counterfeit Money
- » ERISA/Employee Dishonesty
- » Assets/Monies in Transit
- » Theft of Client's Property of Securities



Commercial Crime Insurance cont.

Which Exclusions Should I Be Aware of as I shop for Cannabis Commercial Crime Coverage?



Acts of Owners



Intellectual Property and Confidential Information



War and Government Acts



Indirect or Consequential Loss



Fraudulent Funds Transfer



Cannabis Specific Exclusions - Product and Inventory

Stats and Claims Scenarios

Currently, it's estimated that **U.S. companies lost more than \$40 billion annually** due to employee fraud. Recent studies have confirmed that most harm comes from employees, not from disreputable bookkeepers or outsiders.

80%

of workplace crime is carried out by employees

25%

of employees who commit fraud against their employer have been with the company for 10+ years

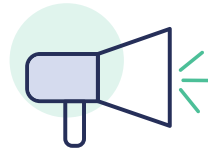
30%

of those who have witnessed a workplace crime don't bother to report it

25%

of employees have either committed or witnessed workplace fraud and abuse

How To Obtain Coverage



Understand Risks

Our agents are dedicated to learning the intricacies of your client's business, understanding their vision for growth, and implementing proper insurance policies to protect them against likely causes of loss. Our agents will ask as many questions as possible to learn about their business.

Complete Application

Once we have a good idea of your client's business operations, we'll identify the likely insurance carriers that could quote their policy and provide the requisite application for completion by the insured.

Make an Account

When your insured has fully completed the requisite applications, we'll start working with our insurance partners to obtain quotes and negotiate the terms and limits best for their business. Since most insurance in this industry is not written on an admitted basis, our agents have added flexibility to work with underwriters and craft customized solutions for your client's business.

Evaluate Options

Once we have all of the information, we'll sit down with your insured to explain the benefits and drawbacks of the different quotes available.

Review Quotes/ Bind Coverage

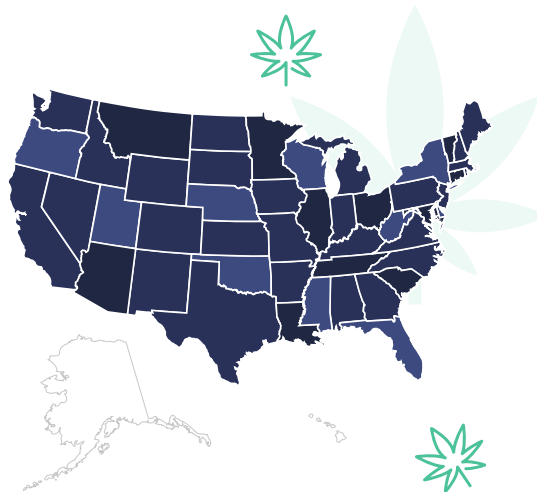
After a thorough review of potential insurance solutions, your client will decide to purchase the insurance that's a best fit for their business. After they purchase (bind) coverage, they'll be provided a certificate of insurance along with a policy for each line of coverage that they purchase.

About PLRisk

At PLRisk, we're proud of our reputation for building highly customized insurance solutions for professionals and businesses focused on niche, newly emerging marketing like cannabis.

The PLRisk Cannabis Business Insurance Division was specifically built to help alleviate the struggles of obtaining the insurance required by certain state laws and desired by all cannabis (collectively referring to Hemp/CBD, Medical Marijuana and Medical Marijuana) **Businesses:**

Being a nationwide and nationally recognized specialty brokerage means we can help your insured and their customers regardless of how and where they expand their business ambitions. That's why we've partnered with the INCBA to provide professional (malpractice) liability insurance to its members in 50 states throughout the country (excluding AK and HI)



Learn more by visiting our [website](#).

 Office: 201-847-9165

[Get a Quote](#)



Which cannabis businesses and professionals do we insure at Axis Insurance Services, LLC?

- » Cultivators (Indoor and Outdoor)
- » Processors
- » Manufacturers
- » Laboratories
- » Wholesalers
- » Dispensaries and Retail CBD Locations
- » Ancillary Professionals (Lawyers, Physicians, Accountants)
- » Cannabis Related Businesses
- » Banks and Lending Institutions
- » Venture Capital and Private Equity Firms