

Free help
with your insurance
questions or complaints

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While the use, sale, and cultivation of cannabis products are legal in Oregon, there remain questions as to whether cannabis and cannabis-related products and activities are covered under property and casualty insurance policies. As a homeowner, can you get coverage for your own personal crop of cannabis? As a business owner, can you get liability coverage for the products you sell that have cannabis in them? Can a recreational dispensary get workers' compensation coverage to meet Oregon law? This tip sheet is designed to answer questions like these.



First, some background.

Although cannabis is legal under Oregon law, the product remains an illegal drug under the federal Controlled Substances Act. This means that anyone growing it, selling it, or consuming it is violating federal law. However, the U.S. Department of Justice wrote a memo indicating that the federal government will be shifting its priorities away from businesses complying with state law and toward enforcement against trafficking, cartels, and sales to minors. The memo states that it is not an effective use of resources to prosecute the cultivation, distribution, sale, and possession of cannabis in states where it has been legalized and where there is rigorous regulation. The memo specifically notes that it does not change federal law, but rather is a policy shift toward prosecutorial discretion. The Justice Department has reserved the right to change its policy in the future.

This lack of uniformity in state and federal law has led some insurance companies to stop covering cannabis-related businesses and has created gaps in homeowner and renter insurance policies.

Common Questions:

Q: If my home is destroyed in a fire, will I be able to receive compensation for the loss of my cannabis plants or supply of cannabis?

A: It depends. Your insurance policy may have exclusions for items that violate state or federal law. Some insurers have used such language to deny claims based on cannabis-related products.

If you want to be sure your policy covers your personal supply of cannabis, ask your insurance company to clarify in writing that it will cover those items. Note: This may result in an amendment to your coverage contract and could possibly increase your premiums.

Q: If I rent my property to someone who grows medical cannabis and has a permit to do so, would I be at risk of losing my insurance for that property?

A: A landlord policy is similar to a homeowner policy, with the exception that the landlord policy usually covers only the structure and some specific personal property such as a washer and dryer, oven, or refrigerator. Your tenants would need renter insurance, which would cover their own personal property. Both renter and landlord policies have some liability coverage included.

For example, if your tenants used heat lamps and grow lights in their operation, and those lights caused a fire, your insurance company could argue that such activity is excluded in your policy.

You may be able to seek compensation from the tenants' policy. Just be aware that their renter insurance may have a similar exclusion. Make sure you understand what kind of activity is covered in your landlord policy and that all activity that you allow in your lease agreements matches that coverage.

Q: I own a cannabis dispensary. Can I get coverage for my business?

A: The most common types of coverage a business obtains are business liability, business property, and workers' compensation. It is possible to get any of these sorts of policies, but make sure your insurance company understands the nature of your business. Your standard insurance company may refuse to sell you a policy because of the nature of your business. However, there are "surplus lines" companies that sell specialized types of coverage specific for cannabis-related companies.

With regard to business liability and business property coverage, your insurance company may cover some interests, but exclude cannabis products. For example, your insurer may provide liability coverage for someone tripping or falling in your store, but it may exclude the products you sell. A business property policy may choose to cover some items such as your building structure, computers, shelving, and furniture, but exclude the actual cannabis products.

Employers must have workers' compensation insurance for their employees, but insurance companies are not required to sell you coverage. If you cannot find a company who will sell you a plan, contact the Small Business Ombudsman's office at wc.advocate@oregon.gov or call 971-283-0997, which will be able to help you locate a company that will sell you a policy through the assigned risk pool.

Q: Why is it difficult to find an insurer that will cover cannabis-related losses?

A: While it is possible to find insurance products that will cover cannabis-related losses, some insurers worry that if they cover a loss, they will be financially supporting a federally illegal activity. This is similar to why many financial institutions are reluctant to open accounts for cannabis-related businesses. Because of the conflict between federal and state law, and because the industry is relatively new, there is a lot of uncertainty.

Tips to avoid gaps in coverage:

If you want to be sure something is covered, specifically ask for it. Ask your agent to show you in the contract specifically where that coverage is found. If your policy contains a general "public policy" exclusion or exclusion for illegal activity, ask your agent to amend the policy to explicitly clarify whether cannabis is covered.

If the company will not provide coverage for what you need, keep shopping. It is better to pay more somewhere else, than to pay less and not actually have the coverage you need.

Keep your insurance company informed of your activities and maintain proper coverage to insure that activity. If the company knows you grow cannabis and it issues you a policy and accepts premium for that policy, then it must honor that policy. The insurer would not be able to refuse coverage because of illegal or dishonest activities.

If you have questions or complaints against your insurance company or agent, call 888-877-4894 (toll-free) or go to www.insurance.oregon.gov.