



**B Lab Controversial Issues Statement -  
Cannabis and Related Products and Services  
Updated June 2019**

**B Lab's Approach to Controversial Issues and B Corp Certification**

As for-profit companies that meet the most rigorous standards of overall social and environmental performance, accountability, and transparency, Certified B Corporations are leaders in the movement to use business as a force for good.

Whether through information a company provides in its [Disclosure Questionnaire](#), an issue raised by a third-party through B Lab's formal [Complaints Process](#), or public discourse on B Corp certification requirements and standards, difficult and complex questions regularly arise as to how controversial issues in the world of business should affect a company's eligibility for B Corp certification. Judgments on these issues are then determined by B Lab's independent [Standards Advisory Council](#) as part of a disclosure review process.

B Lab's Disclosure Questionnaire forms the basis of the disclosure review process, which covers sensitive industries, practices, outcomes, and penalties and is based on third party screenings and standards like the IFC Excluded Industries List and International Labor Organization Conventions. Recognizing that any list of sensitive issues may be incomplete, however, B Lab also reserves the right to conduct similar reviews on issues that are not currently featured in the Disclosure Questionnaire, but are deemed subject to material stakeholder concern and a potential violation of the B Corp movement's Declaration of Interdependence.

When new industries or issues where a decision making model has not already been developed arise, B Lab conducts research into the issue in order to guide the Standards Advisory Council's decision. Research is based on secondary sources compiled by B Lab staff, with the overall intent of identifying and understanding the different concerns related to the industry or issue and the different perspectives of stakeholders. This includes a review of press related to the industry and its impact, how the issue is covered by other standards, existing public policy and public policy recommendations from non-profit organizations and other topical experts, examples - potentially both good and bad - of actors within the industry, and other public commentary and perspectives. This content is in turn used to develop the framework for Standards Advisory Council review, and determines the types of questions that individual companies are required to

answer as part of their review.

Particularly when it comes to industries that are controversial, there is a natural and healthy tension between the inclination to exclude all companies in those industries from eligibility for B Corp Certification, and *the need for leadership* that has the potential to transform the culture, behavior, and impact of those industries. While B Lab and its [Standards Advisory Council](#) may determine that an industry as a whole is ineligible for certification because of its negative impacts or practices, they also recognize that in controversial industries it may be possible for companies to be meaningfully managing those potential negative impacts or controversies. In these circumstances, the need may be greatest to distinguish between good and bad actors, as well as good, better, and best performance by using rigorous standards of verified social and environmental performance, legal accountability, and public transparency. All stakeholders are best served by the existence of credible and transparent standards that facilitate improved policy, investment, purchasing, and employment decisions.

Along with the recognition that there are many diverse and reasonable perspectives as to what contributes to a shared and durable prosperity for all, B Lab and its Standards Advisory Council will make determinations regarding eligibility for B Corp Certification and, if eligible, will require companies in controversial industries, with controversial policies, or engaged in controversial practices to be transparent about their practices and how they work to manage and mitigate concerns. B Lab will also document and share these positions publicly in order to enable all stakeholders, including citizens and policymakers, to make their own judgments about a company's performance, as well as further thoughtful, constructive public discussion about important issues. Existing B Lab statements and frameworks on controversial issues are available [here](#).

These frameworks, like B Lab's standards generally, are works in progress, and we look forward to improving upon them in the future. B Lab invites other perspectives as it continues to refine its views and, hopefully, contribute to a constructive conversation about the role of business in society.

Independent of eligibility for B Corp Certification, all companies in any industry are able to use the [B Impact Assessment](#) as an internal impact management tool to assess and improve their overall practices, and/or adopt a stakeholder governance legal structure (such as [benefit corporation](#)) appropriate to the company's current corporate structure and jurisdiction.

If you have questions or comments about B Lab's approach to the below issues, please email B Lab's Director of Standards Dan Osusky at [dosusky@bcorporation.net](mailto:dosusky@bcorporation.net).

## Companies in the Cannabis Industry and B Corp Certification

Cannabis and cannabis related products are subject to controversy both because of their current and historic legal status around the world, as well as concerns about the potential harm that the products may cause. For the purposes of this decision, a distinction is made between “marijuana-related products/services” and “other cannabis or cannabis-derived products or services” While all of these products are derived from the cannabis plant, marijuana in this context refers specifically to products containing a substantial amount of THC<sup>1</sup> and that produces an intoxicating effect when smoked, vaped, or ingested.

In response to increasing interest from companies and stakeholders regarding B Corp Certification for companies producing or selling cannabis, cannabis-derived products, or cannabis-related products/services, B Lab’s independent Standards Advisory Council has rendered the following decisions regarding eligibility for B Corp Certification *at this time*.

- (1) New companies pursuing B Corp Certification with marijuana-related products/services that can be verified to be for medical purposes only are eligible for B Corp Certification, contingent upon following relevant state laws and regulations and with disclosure on their public B Corp profile (see below re: Disclosure and Verification).
- (2) New companies pursuing B Corp Certification with marijuana-related products/services that are used for recreational purposes, or cannot be verified to be for medical purposes only, are *not currently eligible* for B Corp Certification.
- (3) Companies with other cannabis or cannabis-derived products/services (such as hemp, CBD, etc.) are eligible for certification if the company can demonstrate that it complies with all relevant regulations in the production and sale of the product.
- (4) Companies who are already Certified B Corps who develop recreational marijuana related products or services in jurisdictions where it is legal will have their B Corp Certification maintained if revenues remain below 5% of their total revenues from the product. Company eligibility based on the % of revenues will only be assessed at the time of a company’s recertification, at which point B Lab’s position may be adjusted.

### Rationale:

While some cannabis products pose a risk of harm to its users and others, other products with arguably similar potential harms like alcohol have been deemed eligible for B Corp Certification. Marijuana is unique, however, in that it is historically, and currently still, illegal in most jurisdictions around the world for recreational purposes. To date, only Uruguay and Canada

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<sup>1</sup> THC, short for tetrahydrocannabinol, is the psychoactive compound found in cannabis. The U.S. Farm Bill allows for the cultivation of cannabis plants containing less than 0.3% THC on a dry weight basis.

have legalized it completely, although many others have decriminalized it or legalized it for medical purposes.<sup>2</sup>

In the United States, for instance, the production, sale, and use of marijuana is still prohibited by federal law and classified as a Class I substance, even prohibited for medical use. The federal government, however, has deferred enforcement of this law to state legislatures, where many have legalized medical use and a few have legalized it entirely. This enforcement mechanism, especially in instances where recreational marijuana is legal, could change drastically with different administrations. As of June 2019, thirty three states in the United States have legalized medical marijuana, while only ten have legalized recreational usage.<sup>3</sup>

In the United States, legal restrictions have also historically been applied to other cannabis products, including those that do not have the psycho-active attributes including hemp or CBD. Recent regulatory changes have changed the legal status of many of these products but it still varies by state.<sup>4</sup>

While B Lab itself does not have a policy position on whether or not cannabis products should be legal or illegal for medical and/or recreational purposes, it does take into consideration the current legal status of products and services in determining eligibility for B Corp Certification. As a result, as legalization of cannabis products continues to grow, B Lab's position on certification eligibility is likely to evolve as well.

Because of the more significant legislative support, both in the United States and globally, along with the low likelihood of policy changes affecting how laws regarding it are enforced, medical marijuana has been deemed eligible for B Corp Certification, even in unique circumstances like the United States where federal law and state laws do not align.

In jurisdictions like Canada where recreational marijuana has been completely legalized, B Lab will hold a waiting period following the legislation's passage and implementation in order to be able to review the status of the industry and its regulations for potential risks prior to certifying companies in the industry. In the case of Canada, this waiting period will extend until June 2020, at which point the Standards Advisory Council will review the industry to determine circumstances for eligibility in the industry.

In the United States, because of the misalignment in laws at the state and federal level, and the current level of state legislation in favor of recreational marijuana at this stage, new B Corporations involved in recreational marijuana are not eligible for B Corp Certification at the current time. This position will also continue to be reviewed as state legislation continues to grow and if federal laws change as well.

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<sup>2</sup><https://www.newsweek.com/where-weed-legal-around-world-you-can-now-officially-smoke-pot-canada-173623>

<sup>3</sup> <https://medicalmarijuana.procon.org/view.resource.php?resourceID=000881>

<sup>4</sup> <https://www.hempurecbd.com/is-cbd-oil-legal-in-all-50-states/>

**Disclosure and Verification:**

All companies involved in the cannabis industry, even if eligible for B Corp Certification, will be required to indicate on the Disclosure Questionnaire, an unscored portion of the B Impact Assessment inquiring about potentially negative or controversial aspects of a business, their involvement with a product that is deemed illegal (at the federal level).

Furthermore, all eligible companies will be required to pass a background check and provide verification that sufficient methods are in place to ensure the medical usage of their product. This verification will vary depending on the particular role the company plays in the industry, but could range from policies and procedures to manage the product or a mandatory onsite review.

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This statement has been updated and is effective as of June 2019 until further judgment from the Standards Advisory Council. This document, and the decision of the Standards Advisory Council, was based on research into the regulatory implications in the industry and its positive and negative impacts.

In preparation for future revisits by the Standards Advisory Council on this issue and B Lab's continuous improvement of its standards, please send your feedback or questions to B Lab's Standards Development Manager Dan Osusky at [dosusky@bcorporation.net](mailto:dosusky@bcorporation.net).