

# Could State Ownership Solve US Cannabis Policy Issues?

By **Hilary Bricken** (December 1, 2022)

Government-owned cannabis is gaining speed — at least, it is in Canada.

Matt Lamers, a reporter from MJ Biz Daily, reported in September that "[t]he most profitable cannabis businesses in Canada are owned by various levels of government," while private Canadian cannabis businesses have apparently lost a combined total of CA\$16 billion (\$12.5 billion) this year.[2]



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And Canadians who invested in the country's 183 publicly traded cannabis companies have lost more than CA\$131 billion, according to data collected by law firm Miller Thomson.[3]

Interestingly, the most profitable cannabis business in Canada is currently the Ontario Cannabis Store, which earned CA\$520 million last year.[4] The OCS, owned by the Ontario government, is the monopoly cannabis wholesaler for Ontario's approximately 1,600 privately owned retail stores.

The concept of government-owned and government-run cannabis businesses in the U.S. does not get a lot of play legally, politically or otherwise. This is partially because cannabis remains a federally illegal Schedule I drug under the Controlled Substances Act.

And there has been little to no meaningful congressional legislative movement around legalization or even decriminalization to date. Essentially, there is still nothing to stop the U.S. Department of Justice from arresting and prosecuting any person or entity involved in illegal drug trafficking, including government employees.

There are also other various federal versus state preemption issues that complicate government-owned cannabis in the U.S., like the commerce clause.[5]

The only federally sanctioned and federally funded cannabis cultivation site for many years was located in Oxford, Mississippi, at the University of Mississippi.[6]

Over 50 years ago, the Research Institute of Pharmaceutical Sciences at the university was awarded a competitive contract from the U.S. to cultivate cannabis for research purposes, which is supervised by the National Institute on Drug Abuse.

The grow site at Ole Miss is not utilized for any commercial purpose. Instead,

UM's research interests include studies of the botanical, pharmacological and chemical properties of the cannabis plant. In addition to supporting the research community through UM's participation in the National Institute on Drug Abuse (NIDA) Drug Supply Program, UM collaborates with industry partners in support of the development and commercialization of FDA-approved drug products derived from cannabis. UM's expertise in drug delivery is used to develop optimized formulations for evaluation in animal models and human clinical trials.[7]

Today though, Ole Miss is not the only federally sanctioned cannabis cultivation site in the U.S. anymore. As of 2021 — despite the current status of cannabis under federal law —

the U.S. Drug Enforcement Administration began expanding its authorization of certain cannabis cultivators for research purposes only.[8]

In Canada, however, government-owned cannabis is ruling the day when it comes to profit generation and lasting power. Canada specifically set it up this way under its Cannabis Act,[9] which legalized cannabis in 2018, where provincial governments can decide to take on retail and distribution themselves or cede it to the private sector, or allow for both.[10]

I am not advocating one way or the other for government cannabis over private, but there is at least some possibility that government-owned cannabis stores could solve a few of the policy and legal issues that we see today in the U.S. cannabis market such as overproduction, battling the illegal market, state revenue, job loss, youth access, support and education for cannabis programs, and combating overconsumption.

Additionally, due to the lack of enterprising competition, state-owned cannabis businesses would likely have a better shot at promoting and sustaining social equity in the industry, which is geared toward support for those individuals disproportionately affected by the war on drugs.

At the same time, it is obvious that exceedingly complicated issues would arise — namely, that with government-owned cannabis, access may not be as convenient, product variety may be stunted, and products may not be as competitively priced, all of which are key to the success of these democratic experiments.

One example to look at, though, is the control liquor model in the U.S., where certain states and local governments own all the liquor stores within their borders.

Currently, according to the National Alcohol Beverage Control Association,[11] 17 states have adopted forms of the control model, where the state controls the sale of distilled spirits and, in some cases, wine and beer through government agencies at the wholesale level.

Proponents of the control model like it because of public safety; prevention of job loss, where a lot of states work with unions for employee retention; less selection to drive down consumption; lower prices; and increased profits that go straight back into various community and help meet state needs and initiatives.

Opponents prefer privatization because of an increase in access and variety; superior quality product arising out of competition; allegedly better prices because of competition; mergers and acquisitions where private companies buy up liquor licenses upon privatization, and therefore the state gets an instant financial windfall anyway; and concepts of morality, i.e., the state should not be in the booze business in any way.

Surprisingly, there was at least one government-owned cannabis store in the U.S. That shop was Cannabis Corner in the small town of North Bonneville, Washington.[12]

At that time, in 2015, North Bonneville was officially the nation's only municipal government entity selling cannabis for profit. The Washington Post described North Bonneville as "a drab collection of buildings thrown up in the 1970s when its 1,000 residents were relocated to make way for the expansion of the nearby Bonneville Dam." [13]

The Washington Post also reported that the city was struggling financially and that the lure of profits from Washington state's legalization ballot initiative, I-502, coupled with further potential profits from cannabis tourism, was just too much to resist.

Since federal laws render cannabis illegal, the city could not run the store directly. Instead, in November 2013, it passed an ordinance creating a public development authority to run and manage the store.

The five-member authority was responsible for all retail store business decisions and for divvying up and distributing store profits. The authority's first action item with its initial cannabis profits was to renovate the town's run-down playground.

At the time, The Cannabis Corner sold cannabis for between \$15 to \$18 a gram, which was apparently significantly less than nearby privately owned retail stores, all of which were held to the same strict regulatory standards and robust excise taxes.

In 2021, the city sold the store for \$415,000.[14] According to the a city ordinance, "[a]fter creditors were paid in full," there was "approximately \$207,000 remaining to pay final administrative costs and the costs of a final state audit, leaving a net to be distributed to the City of an estimated \$195,000." [15]

Ultimately, without more data on government-run cannabis companies in the U.S., it is impossible to determine whether those particular democratic experiments would be a success.

Nonetheless, The Cannabis Corner demonstrates that:

- Government-owned and run cannabis operations in the U.S. are entirely possible, and the federal government likely remains uninterested in prosecuting government employees;
- Government-owned cannabis can be priced accordingly to be as competitive with privately owned businesses; and
- Government-owned cannabis can clearly be run profitably, and those dollars can go directly back into the community, which is one of the major promises of cannabis legalization.

In the end, the numbers coming out of Canada may likely tell us more about the business judgment of some of the licensees there rather than about the talents of government when it comes to selling cannabis.

Still, if states governments are truly concerned with major policy issues like reducing youth access to cannabis, decreasing routine consumption, and promoting socioeconomic developments like cannabis social equity, while also delivering on promised tax revenue, then maybe state-run cannabis businesses are the way to go.

While it may seem that the U.S. is pretty far down the rabbit hole of privatization at this point, if and when the U.S. has federal legalization, it would not be at all surprising if we see state governments begin to experiment with direct ownership of cannabis companies like

those in Canada — especially since the U.S. already has the alcohol control model as a blueprint after the repeal of Prohibition.

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[1] <https://mjbizdaily.com/most-profitable-cannabis-businesses-in-canada-are-owned-by-government/#:~:text=The%20next%20most%20profitable%20cannabis,monopoly%20cannabis%20wholesaler%20and%20retailer.,> [https://twitter.com/matt\\_lamers/status/1569693049860620288](https://twitter.com/matt_lamers/status/1569693049860620288).

[2] <https://mjbizdaily.com/most-profitable-cannabis-businesses-in-canada-are-owned-by-government/>.

[3] <https://www.ctvnews.ca/canada/canadians-have-lost-more-than-131-billion-investing-in-cannabis-companies-firm-1.6156722>.

[4] <https://www.cbc.ca/news/canada/toronto/ontario-cannabis-500-million-sales-1.6596720>; [https://www.doingbusinesswithocs.ca/wp-content/uploads/2022/02/OCS-2020-21-Annual-Report\\_ENG.pdf](https://www.doingbusinesswithocs.ca/wp-content/uploads/2022/02/OCS-2020-21-Annual-Report_ENG.pdf).

[5] [https://www.law.cornell.edu/wex/commerce\\_clause](https://www.law.cornell.edu/wex/commerce_clause).

[6] <https://harrisbricken.com/cannalawblog/icymi-federal-marijuana-makes-it-home-at-olemiss/>.

[7] <https://pharmacy.olemiss.edu/marijuana/>.

[8] <https://www.dea.gov/stories/2021/2021-05/2021-05-14/dea-continues-prioritize-efforts-expand-access-marijuana-research>.

[9] <https://laws-lois.justice.gc.ca/eng/acts/C-24.5/>.

[10] [https://en.wikipedia.org/wiki/Cannabis\\_laws\\_of\\_Canada\\_by\\_province\\_or\\_territory](https://en.wikipedia.org/wiki/Cannabis_laws_of_Canada_by_province_or_territory).

[11] <https://www.nabca.org/control-state-directory-and-info>.

[12] [https://en.wikipedia.org/wiki/Cannabis\\_Corner](https://en.wikipedia.org/wiki/Cannabis_Corner).

[13] [https://www.washingtonpost.com/business/economy/a-local-government-in-wash-state-tries-to-corner-the-market-on-marijuana/2015/03/16/fccb8216-c9b7-11e4-b2a1-bed1aaea2816\\_story.html](https://www.washingtonpost.com/business/economy/a-local-government-in-wash-state-tries-to-corner-the-market-on-marijuana/2015/03/16/fccb8216-c9b7-11e4-b2a1-bed1aaea2816_story.html).

[14] <https://northbonneville.net/wp-content/uploads/Ord.-1140-Terminating-and-Dissolving-NBPDA.pdf>.

[15] Id.