



**S2S INSURANCE™
SPECIALISTS**

WE PROVIDE COVERAGE FROM **SEED** TO **SALE**

INSURING CANNABIS

- 2022 / 2023 Report -

Year-End Trends & Analysis

How Cannabis Businesses Should Prepare for 2023



Released December 6, 2022

© S2S Insurance Specialists,
a division of Rahn & Associates

 s2sinsure.com

 (954) 790-6604

 eric@s2sinsure.com



S2S INSURANCE SPECIALISTS

WE PROVIDE COVERAGE FROM SEED TO SALE

Synopsis:

As the cannabis industry continues to grow and enter the mainstream with recreational, adult-use marijuana now legal in nearly half of all U.S. states (21 plus Washington, DC.) and medical marijuana legalized in 38 states, we expect to see some significant changes impacting the industry in 2023.

Presently, 2022 is expected to close with national cannabis sales climbing 6% to \$27 billion, according to the latest report by BDSA. Mature markets appear to be flatlining, leading to a highly competitive race for companies seeking a foothold in new and emerging markets. Whether you're a large, multi-state operator (MSO) or an entrepreneur with a single dispensary license, you're required by law to hold multiple lines of coverage. **In this analysis, we focus on the top five (5) trends that are impacting what insurances cannabis businesses will need - no matter their size - to protect their companies, products, C-suite, and investments.**

Trending: Lawsuits, Lawsuits, Lawsuits

Claims against cannabis businesses are increasing in frequency and magnitude. In 2022, we witnessed a rise in litigation spanning all sectors of the industry, particularly as it relates to investor suits, trademark violation claims, and employment practices/contract disputes.

Some shareholder suits are high-profile – like the recent claim against William “Beau” Wrigley Jr., the gum fortune heir who pivoted to launching a massive cannabis empire and is currently being sued for investor fraud. However, there are numerous investor-related lawsuits that don't make headlines but are still costing companies hundreds of thousands of dollars, or more.

We are also witnessing a growing trend of lawsuits involving intellectual property, copyright, and trademark infringement. As the industry has risen to the mainstage over the past few years, it now has the attention of other mass industries that are trying to protect their turf. Such is the case with the organizers of Coachella music festival who brought a lawsuit against a cannabis company over the use of the name “Coachillin.”

Finally, as the industry expands, so does the workforce, and so does the propensity for workers to accuse their employers of violating their rights. Now that unions have joined the game, there is a whole other host of legal issues regarding employee protection that cannabis businesses must consider. It is not a matter of if your organization will be sued for an employment matter, it's a matter of when. While most suits are filed against large corporations, no company is immune.

“It is not a matter of if your organization will be sued for an employment matter, it's a matter of when. While most suits are filed against large corporations, no company is immune.”





S2S INSURANCE™ SPECIALISTS

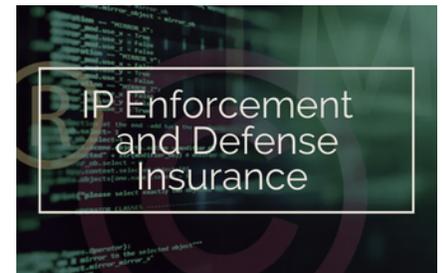
WE PROVIDE COVERAGE FROM SEED TO SALE

The rise in litigation is troublesome, particularly for startup companies that have insufficient funds to pay for exorbitant legal fees and fines. In 2023, cannabis businesses need to seriously consider investing in Directors & Officers (D&O) Liability Insurance, IP Enforcement/Defense Insurance and Employers Protection Liability (EPLI) Insurance.

D&O protects corporate directors and officers, as well as their spouses and estates, from being personally liable in the event your company is sued by investors, employees, vendors, competitors, customers, or other parties, for actual or alleged wrongful acts in managing the company. In the event of litigation, your D&O policy will cover legal fees, fines, settlements, and other related costs. Operators should be aware that many officers and directors require a company to have D&O insurance, often with excess limits.

IP Enforcement/Defense Insurance covers your business in cases of copyright, trademark, or trade secret misappropriation and/or infringement. In addition, IP Enforcement/Defense Insurance policies provide the financial means necessary to pursue those who infringe on your IP rights, as well as defend against unexpected lawsuits alleging infringement on the IP rights of others.

EPLI protects companies against claims of sexual harassment; discrimination; wrongful discipline or termination, breach of employment contract; failure to employ or promote; wrongful infliction of emotional distress and mismanagement of employee benefit plans. EPLI protects your company and will cover settlements and government fines.



Trending: Natural Disasters

From wildfires in the west to hurricanes in the south, natural disasters wreaked havoc on the cannabis industry in 2022. Case in point, the day after Hurricane Ian made landfall in Florida, MJBizDaily reported that more than 100 marijuana businesses in the state were shuttered due to massive power outages, flooding, flooding, structural damages and safety concerns.

In 2023, cannabis operators need to examine both their General Liability and their Property and Casualty policies, especially their exclusion clauses, to determine what is and what is not covered. Any cannabis or hemp business involved in grow operations should also ask their broker about Crop Insurance, as well as business interruption coverage.





S2S INSURANCE™ SPECIALISTS

WE PROVIDE COVERAGE FROM SEED TO SALE

Crop Insurance is specifically designed to protect cannabis and hemp growers from natural disasters such as wildfires, hurricanes/heavy winds, and flooding/water damage. However, it can also cover incidents like theft, explosions, vandalism, and other unpredictable and uncontrollable events that result in an “interruption of service.”



Specifically, Crop Insurance reimburses your business for financial losses and/or damages to seeds, seedlings/clones, vegetative plants, flowering plants, harvested plants and finished stock. Coverage may also include equipment breakdowns and broken machinery, but not typically pesticides or mold issues.

Trending: Crime

Robbery and theft remain major risk exposures for cannabis businesses, hence why so many have beefed up security. This is painfully clear in recent cannabis insurance data that points to theft-related issues as a top claim. While most of these thefts are an internal job by employees, cultivators, manufacturers, and dispensaries are still a prime target for robberies by organized crime. The current lack of banking forces dispensaries to handle large amounts of cash. At the same time, they house a large amount of product that can be stolen and sold on the black market for a substantial amount of money. If the SAFE Banking Act were to be passed in 2023 (don't hold your breath) that could help alleviate some of the problem, but that's a big “if” and “could.” Cannabis businesses should give serious consideration to Crime Insurance and Cargo Thruput Insurance in 2023.

Crime Insurance is designed to protect your business from losses resulting from illegal activities, including employee theft of money, securities, or property inside the premises; non-employee theft both inside and outside the premises; inadvertently accepting forged checks or counterfeit money or employees altering checks, bank drafts and other financial documents; computer and wire transfer fraud; and robbery of valuables while in transit under the care of a messenger or armored car.



Cargo/Transportation/Thruput Insurance is designed to protect and cover your losses in the event your cannabis product is stolen, damaged or missing while being loaded, transported, and unloaded. This type of insurance policy is critical for any cannabis company that relies on storing, transporting, delivering, or shipping goods.





Trending: Product Liability Claims

The cannabis industry should brace itself for a surge in product liability lawsuits and consumer class actions in 2023 as the market matures and new studies emerge on the health and safety of high-THC products. Recently, we've seen lawsuits alleging that cannabis companies are influencing the public's perception that cannabis products are safe and healthy, despite research that links THC and other cannabinoids to adverse side effects, particularly among vulnerable groups, such as teenagers.

As a cannabis business owner, you can be sued for any damage resulting from products that cause harm to others. The most common product liability lawsuits involve false advertising, mislabeled or contaminated products. Recent lawsuits have ranged from a single plaintiff seeking damages for personal injuries to class action lawsuits where a defective product is tied to an entire group of claimants.

Product recalls – whether voluntary or mandatory – can have devastating effects to any business within that supply chain. For example, in May 2022, regulators in Oklahoma accused a testing lab of passing dozens of contaminated medical marijuana products, leading to a recall affecting 33 cultivation and processing businesses.

We are also witnessing a growing number of compliance claims. An example would be a cannabis business manufacturing unlicensed gummies (which was an actual lawsuit). For cross-border transactions, companies must maintain audit trails and perform recalls, segregate duties during cultivation and trace every interaction throughout the production cycle.

Product Liability Insurance is designed to protect your cannabis company from claims that can happen anywhere along the supply chain, including product contamination, mislabeled products, false advertising, or defective products.

With proper coverage, your insurance company will pay for damages and legal expenses if you are sued, up to your policy limits. Your Product Liability policy will also cover any medical expenses for those who are harmed by your product. Making sure your insurance policy includes Product Liability Insurance should be a top priority in 2023. In fact, your business may be contractually obligated to have Product Liability insurance.

“ Making sure your insurance policy includes Product Liability Insurance should be a top priority in 2023. In fact, your business may be contractually obligated to have Product Liability insurance. ”





**S2S INSURANCE™
SPECIALISTS**

WE PROVIDE COVERAGE FROM SEED TO SALE

Trending: Improved and More Comprehensive Risk Management

Circling back to the first trend we discussed as being the rise in lawsuits, cannabis businesses are reading the headlines and realizing just how vulnerable they are – no matter what their size. Lessons can be drawn from the alcohol, tobacco, and pharmaceutical industries. Many cannabis companies operate as multi-state operators (MSOs), which comes with its own unique set of challenges because each state has its own regulations – that are constantly shifting - around growing, packaging, testing, marketing, etc. As more MSOs incorporate improved and comprehensive risk management protocols, smaller companies are following suit. The cost-benefit analysis proves that insurance is a wise investment. As more companies focus on risk management and build a culture of discipline and accountability, they raise the bar for everybody else.

Summary:

When it comes to mitigating risk in this business, the stakes are sky high. Cannabis companies that have not incorporated risk management into their business/operational plans will need to in 2023. It all boils down to the THREE P’s: being “Proactive, Prepared and Protected.”

As S2S Insurance Specialists, we are here to guide you through the intricacies of insuring your cannabis business. Our job is to analyze your operations, expose and explain your potential risks – real risks you may never have even thought about – and develop a customized, cost-effective plan that offers you full protection and peace of mind.

To get started, please schedule a free 15-minute consultation with us so we may examine your current insurance policies, help you understand what is and what is not covered, and adjust your policy, as needed.

As more companies focus on risk management and build a culture of discipline and accountability, they raise the bar for everybody else. Cannabis companies that have not incorporated risk management into their plans will need to in 2023.



**S2S INSURANCE™
SPECIALISTS**

WE PROVIDE COVERAGE FROM SEED TO SALE

a division of Rahn & Associates

Members of:



Ganjapreneur®



CANNABIS
Law, Accounting & Business



s2sinsure.com



(954) 790-6604



eric@s2sinsure.com