

# Legal marijuana and your homeowners insurance

By [Barbara Marquand](#) Posted : 10/23/2014



The spread of legalized marijuana is lighting up questions about home insurance coverage for pot.

Will your policy pay out if your plants are stolen or destroyed by a fire? What happens if a neighbor kid is hospitalized after eating the marijuana-infused gummy bears you left on the kitchen counter? Do you pose a greater risk because you grow weed?

These kinds of questions aren't going to go away.

"Whichever side you fall on, pot is here to stay," says Scott Lacourse, marketing director of Enservio, a Needham, Mass., company that helps property insurers process home insurance contents claims. "When you have someone like (PBS travel TV host) Rick Steves blogging that we should be allowed to have pot, it's really in the mainstream."

Twenty-three states and the District of Columbia have legalized medical marijuana, and two states -- Colorado and Washington -- legalized marijuana for recreational use in 2012. More states and cities are considering it.

Voters in D.C., Alaska and Oregon, which already allow medical marijuana, will decide in November whether to legalize marijuana for adults outright. (In Alaska, the state constitution's right of privacy already allows residents to have small amounts of marijuana at home.) Florida voters will decide whether to legalize medical marijuana. And more than a dozen cities will decide whether to remove penalties for possessing small amounts of marijuana.

Meanwhile, campaigns are underway to legalize, tax and regulate marijuana in Arizona, California, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, Rhode Island, Texas and Vermont, according to the Marijuana Policy Project, a Washington, D.C.-based group focused on legalizing marijuana.

## **Is your legal marijuana covered by homeowners insurance?**

The [homeowners insurance](#) industry is at the beginning of a long learning curve with how to cover marijuana.

"It's a new risk with very little claims experience," says Carole Walker, executive director of the Rocky Mountain Insurance Information Association in the Denver area.

One thing is for sure - your insurer is not going to cover anything that's against the law. But coverage can be tricky even in states where marijuana in some form is legal.

Hawaii resident Barbara Tracy sued her home insurer, USAA, asking it to pay more than \$45,000 for 12 stolen medical marijuana plants. USAA had offered to settle for about \$8,800, but Tracy argued that the amount didn't cover the full value of the plants.

Ultimately the U.S. District Court ruled in 2012 that the insurer owed Tracy nothing because despite Hawaii's state law, growing marijuana was against federal law.

## **Coverage limits may apply**

State marijuana laws vary in how much you can possess, and no company is going to insure you for more than you're allowed to have.

For instance:

- In Colorado you can possess no more than one ounce of marijuana for recreational use and grow up to six plants -- three of them may be flowering -- in an enclosed, locked location. A household with two or more adults may have up to 12 plants, six of them flowering.
- In Washington state, you can possess up to an ounce of marijuana for recreational use but you're not allowed to grow it.
- Arizona's medical marijuana law lets registered patients possess up to 2.5 ounces of usable marijuana and, if they live 25 miles or more from the nearest dispensary, grow up to 12 plants.

Lacourse says most of the marijuana claims Enservio has run across are for medicinal marijuana products. Home insurers in most cases treat those losses like they would any other medicine, he says.

In states where you can grow your own marijuana, your policy's limit for plants may apply. Most insurers generally limit coverage to \$500 per tree, shrub or plant and total coverage for landscaping to 5 percent of the amount of insurance on the structure.

Is that enough coverage? Law enforcement estimates from seized illegal marijuana plants vary - from hundreds of dollars to more than \$5,000 apiece. The value of legal plants for personal use is an open question. Much depends on the maturity of the plant and who's estimating the value.

"It's a very new product on the legal production side, so they're going to have to establish a value structure for these," Lacourse says, adding that the legal dispensaries will be a likely source of information.

## **Special pot policies?**

Lacourse predicts that insurers will develop additional products to provide full coverage of marijuana above the limits for trees, shrubs and plants. Perhaps someday you will buy special coverage for pot the way you buy it for an expensive wine collection. "The carriers are going to have to adapt and create policies to make consumers whole again," he says.

But Walker says she's not aware of companies providing home insurance endorsements of any kind for marijuana yet.

Amy Allmon, a spokesperson for Allstate in Colorado, says in a written statement that her company treats marijuana "just like any other personal property that is not subject to a specific exclusion or limitation with the policy...At this time there is no additional policy premium associated with marijuana.

"Marijuana plants grown with a license for personal use would be limited to the perils and limits under the additional protection for trees, shrubs, plants and lawns but not exceeding the legally allowed limit."

Although some generalizations can be made about coverage, Walker says, "My big caveat is check with your own insurance carrier. Different companies may view it differently because it is still illegal federally."

## **Weighing risk**

Whether insurers will consider you a greater risk if you possess or grow marijuana remains to be seen. Insurance companies base premiums on claims experience, and they have little to go on.

Besides coverage for the actual product, there are liability issues to consider. What if you treat guests to marijuana and one of them drives high and causes an accident? What if a kid visiting your home overdoses on your supply?

"Those are all questions evolving with claims experience and case law," Walker says. "What everyone is weighing is, what is the risk?"

Says Lacourse: "It's just going to be very interesting to watch."