

Product Liability



What is Product Liability Insurance and Who Does it Cover?

Product Liability insurance protects cannabis businesses from allegations their product caused bodily injury or property damage to an end user. Essentially, product liability insurance is like a general liability insurance policy. However, it is tailored specifically for businesses manufacturing and selling products. Any third party injured by a product your company helped bring into the stream of commerce can sue your company under the doctrine of strict liability.

Strict liability holds any company in the supply chain responsible for end-user bodily injury or property damage. Therefore, it's necessary for most cannabis businesses to obtain product liability insurance. Furthermore, it's important to obtain a policy containing product recall coverage to handle the return of defective products. If you are a cultivator, manufacturer or dispensary, it's wise for you to obtain product liability insurance.

Why does a Cannabis Business Need a Product Liability Insurance policy?

Some states like Washington now require cannabis businesses to purchase Commercial General Liability with limits of at least \$1M. After a string of uninsured product liability claims, many states modified their insurance requirements for licensee's by mandating they purchase product liability insurance. As a cannabis business you may be both liable for injury and required to obtain this type of insurance.

Cannabis Business Insurance

Product Liability

What are Common Product Liability Insurance Questions from Cannabis Business Owners?

Does my cannabis client's business need their own product liability insurance?

YES. Each business in the supply chain (manufacturers to retailers) should purchase its own product liability insurance. Strict liability doctrines make your business liable if your business allowed a dangerous or defective product to enter the stream of commerce.

Is my client's cannabis business adequately insured for product liability losses or product recalls if they are covered as an additional insured on another business' product liability policy?

NO. It's not adequate to be listed as an additional insured on another business' product liability insurance. Further, even if additional Insured coverage extends from a manufacturer to a dispensary, recall would likely be excluded. Prospective manufacturing, wholesale, dispensary and retail business owners often push back on the need for their own product liability insurance. Due to strict liability in product liability, it's not enough to be covered as an additional insured. Strict liability allows plaintiffs to sue every party involved in allowing a dangerous product to enter the hands of the consumer.

What Are Notable Coverages in Cannabis Product Liability Policies?

Product Recall

Many insurers offer the option to purchase product recall coverage limits; however, product recall is not included in all cannabis businesses product liability policies. As such, it's important to address the costs and legal headaches associated with a recall to decide if wish to self-insure or transfer risk. Luckily, there are now standalone product recall policies available to close any gaps in your client's current policy.

Health Hazard Exclusion

Of all the exclusions on a Product Liability Insurance Policy, it's essential that you review the Health Hazard Exclusion on a quote before binding coverage. In fact, some Health Hazard exclusions in the cannabis industry exclude flower, tinctures, D8, vapes and other products; unfortunately, each insurance company seems to have their own list of exclusions, so it's important to work with your broker to ensure coverage of your products.



**Let's talk about your insurance needs.
Contact a cannabis industry insurance expert today.**

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