Ask the Hotel Lawyer — Why all the buzz about cannabis hotels?

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Why are so many hoteliers talking about cannabis hotels?
by Jim Butler, Hotel Lawyer

Legal cannabis sales exceeded $10 billion in 2018, and are expected to exceed $20 billion by 2025. 33 states plus the District of Columbia have legalized marijuana for recreational or medical purposes (or both). With all this activity, many sense an opportunity to generate more guests and profits by developing “cannabis hotels”.

Are you recommending your hotel clients dive into this?

No, except as a limited opportunity to explore carefully. Our law firm is extremely active in the hospitality industry and is one of few full-service firms in the country with a dedicated cannabis group, so we would certainly present a cannabis opportunity to the hotel industry if we thought it was viable. But we think cannabis is a “false flag” opportunity for hotels, presenting more problems than opportunities.

You say more problems than opportunities. Why?

Cannabis is still a Schedule 1 substance prohibited by Federal law. Federal agents can seize product and arrest people trafficking in cannabis products, even in states where it is legal.

The Federal illegality spooks banks with FDIC insurance. Does any hotel want to risk its banking relationships and lines of credit to dabble with cannabis?

The IRS can deny ordinary and necessary business deductions to taxpayers who traffic in Schedule 1 substances.

The regulatory situation is very complex with widely divergent state and local regulations, making it difficult or impossible to formulate uniform procedures and business approaches.

In many jurisdictions, it is likely that the property would lose all liquor licenses if it distributes cannabis products.

Currently, there is doubt about whether any cannabis product – even hemp-derived CBD – can be added to food or beverages without violating FDA and State prohibitions.

Promoting a cannabis-friendly environment may discourage guests with families, business travelers, and others from patronizing the hotel.
So what is your advice?

Aside from certain niches, most hoteliers should sit and watch what happens. If you have a 10-room property without a liquor license, you may want to turn it into a “bud & breakfast”. You may want to used CBD oils in your spa. And you may want to see if restrictions loosen on using CBD in food and beverage. But don’t add cannabis to your hotel in any way without good legal advice. As of now, cannabis is not an opportunity for most in the hotel business, and they should keep their powder dry and be alert for better situations.

This is Jim Butler, author of www.HotelLawBlog.com and hotel lawyer, signing off. Please contact us if you would like to discuss any issues that affect your hotel interests or see how our experience might help you create value and avoid unnecessary pitfalls. Who’s your hotel lawyer?

Jim Butler is a founder of the JMBM law firm and chairman of its Real Estate Department. He founded and chairs the Firm’s Global Hospitality Group® and its EB-5 Finance Group which provide business and legal advice to owners, developers and investors of commercial real estate, particularly hotels, resorts, restaurants, spas and senior living. This advice covers purchase, sale, development, financing, franchise, management, labor & employment, ADA, IP, and litigation.

Jim is recognized as one of the top hotel lawyers in the world and has led the Global Hospitality Group® in more than $87 billion of hotel transactions and more than 3,900 hotel properties located around the globe.

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Hotels we have worked on over the years. Visit our hotel photo gallery to see some of the more than 3,900 properties around the globe that the hotel lawyers of the Global Hospitality Group® have been involved with, on behalf of our clients. For a more comprehensive list of hotels properties and projects we have worked on, see our Credentials.