Ruling On Labor Peace Law Marks Shift For Cannabis Cos.

By **John Bolesta, Keahn Morris and Bianca Rodriguez** (September 16, 2025)

John Bolesta

Keahn Morris

Bianca Rodriguez

The U.S. District Court for the District of Oregon's May 20 decision in Casala LLC v. Kotek marked an important shift in the ongoing battle involving the ability of states to utilize legislation to regulate private sector labor relations in the cannabis industry.[1]

U.S. District Judge Michael H. Simon's ruling was the first to invalidate a state law requiring labor peace agreements as a condition of licensure for businesses licensed to sell or process cannabis.

While the decision is currently being appealed in the U.S. Court of Appeals for the Ninth Circuit, it may influence ongoing litigation in other states. It raises important implications for cannabis businesses in jurisdictions with similar legislation that requires cannabis employers to enter into labor peace agreements as a condition of licensure to sell or process cannabis.

Federal Preemption Principles Reinforced, Effect On Other States and Ongoing Litigation

Judge Simon's ruling reaffirmed Garmon and Machinists preemption, thus preserving the National Labor Relations Act's protections for employer and employee free speech rights, and the free play of economic forces and their effects on the relationships between labor and employers.

While not binding on other courts outside of Oregon, given that the decision is the first of its kind to invalidate a state law mandating labor peace agreements for licensure, the decision will affect and send a ripple well beyond Oregon's borders.

States such as California, New York, New Jersey, Rhode Island, Connecticut and Delaware continue to require cannabis employers to enter into labor peace agreements as a condition of obtaining or renewing their licensure to sell or process cannabis, while other states, including Illinois and Pennsylvania, grant preferential treatment during the licensing process to businesses that have entered labor peace agreements.

Litigation continues in these states. Ctrl Alt Destroy v. Elliott, in the U.S. District Court for the Southern District of California serves as an example. In that case, California's Medicinal and Adult-Use Cannabis Regulation and Safety Act, or MAUCRSA, survived similar preemption challenges on March 12, but the ruling is being challenged on appeal and remains pending in the U.S. Court of Appeals for the Ninth Circuit.

The decision in Casala, which is also on appeal before the Ninth Circuit, will likely be relied on and cited in Ctrl Alt Destroy by the cannabis employer appellants. The split among district courts within the Ninth Circuit sets the stage for this crucial appellate review and raises the likelihood that additional challenges will be continued in other federal circuits and

potentially future circuit splits.

In New York, a suit filed in April — Hybrid NYC LLC v. New York State Cannabis Control Board — challenging the State's Marihuana Regulation and Taxation Act remains pending in the U.S. District Court for the Southern District of New York.

On Aug. 12, the U.S. Court of Appeals for the Second Circuit issued a ruling in Variscite NY Four LLC v. New York State Cannabis Control Board that part of the Marihuana Regulation and Taxation Act illegally favors local businesses over those from other states.

While the Second Circuit's determination that part of the act was unconstitutional is based on the dormant commerce clause and not on a challenge based on NLRA preemption principles, the ruling demonstrates that litigation involving state laws that contain provisions requiring or incentivizing entering into labor peace agreements are far from over.

Practical Guidance for Cannabis Employers

Given the potential for rapid change and uncertainty in this area, cannabis employers, whether located in states with labor peace agreement mandates or jurisdictions with labor peace agreement preference, should consider the following strategies.

Review relevant obligations and state requirements for licensure and renewal.

Given the decision in Casala, the Oregon Liquor and Cannabis Commission has suspended enforcement of the labor peace agreement requirement for licensure. Cannabis employers in Oregon no longer need to submit labor peace agreements or attestations as part of the licensing or renewal process, but should maintain documentation of their compliance up to the date of the court's order and commission's announcement.

Further, if any of the labor peace agreements have resulted in the recognition and certification of a labor organization as the collective bargaining representative of employees of a cannabis employer, the employer must continue to recognize said labor organization, follow any collective bargaining agreements in effect and continue to bargain in good faith with said labor organization.

Employers in states other than Oregon, where laws requiring labor peace agreements as a condition of licensure and renewal remain in place, should carefully review the requirements under the applicable law.

For example, California's MAUCRSA requires cannabis licensees to enter into labor peace agreements with a bona fide labor organization. "Labor organization" is defined as

> any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists, in whole or in part, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work for employees.[2]

Under MAUCRSA, if a licensee enters into a labor peace agreement with an organization that is not a bona fide labor organization and is in effect a sham organization for the purpose of satisfying the licensure requirement, the labor peace agreements can be deemed null and void and thus such employers risk having their license revoked if they do not enter into another labor peace agreement with a bona fide labor organization.

Accordingly, employers that are attempting to comply with state law requirements and enter into labor peace agreements should conduct due diligence on the labor organizations they are considering entering into negotiations with.

Therefore, it is crucial that employers are diligent in understanding and complying with their relevant requirements for licensure and labor peace agreements, and the authority and grounds by which state enforcement agencies may revoke or suspend a license for violations of said laws.

Continue to operate within the confines of the NLRA.

Regardless of whether a cannabis employer is located within a jurisdiction that has labor peace agreement requirements for licensure and renewal, cannabis employers remain subject to the NLRA.

Thus, employees are still afforded the protections around union organizing and protected concerted activity, employee speech and prohibition on unfair labor practices. Employers should ensure that all human resources personnel, managers and supervisors are familiar with National Labor Relations Board rules and guidance regarding permissible and impermissible conduct during union organizing campaigns.

Where applicable, continue to recognize and bargain in good faith with any certified bargaining representative of employees.

As explained above, cannabis employers remain subject to the NLRA. Those who employ workers who grow, cultivate or harvest cannabis plants are the exception, in which case they may be subject to a state-level agricultural labor relations scheme, such as the California Agricultural Labor Relations Act.

Thus, employers must continue to recognize labor organizations that have been certified as the collective bargaining representatives under the NLRA, follow any collective bargaining agreements in effect and continue to bargain in good faith with said certified bargaining representatives.

Keep abreast of legal developments.

As outlined above, legal challenges to legislation requiring cannabis employers to enter into labor peace agreements as a condition of licensure and renewal continue and appeals are pending.

Further, additional states may adopt such legislation where it currently does not exist and state legislatures that currently have such laws in effect may attempt to amend statutes to better withstand preemption challenges.

Employers should track pending court cases, agency bulletins and legislative activity in the states in which they operate. Consider joining or supporting industry groups that are actively involved in monitoring and litigating these issues.

Understand the risks of entering labor peace agreements.

Even if an employer elects to voluntarily enter into a labor peace agreement, those agreements should be narrowly crafted to avoid explicit waivers of NLRA-protected rights.

Employers must be cautious and thoughtful about what they agree to in a labor peace agreement and carefully consider the requirements of the applicable and relevant state laws.

For example, labor peace agreements are frequently mistakenly referred to as "neutrality agreements," but the relevant and applicable state laws may not utilize the terms neutrality or require it, thus a true neutrality agreement may not be required in labor peace agreements.

Final Thoughts

The Casala decision is a major inflection point and employers subject to state law requirements mandating labor peace agreements as a condition of licensure are encouraged to ensure compliance.

John Bolesta is special counsel at Sheppard Mullin Richter & Hampton LLP.

Keahn Morris is a partner and leader of the traditional labor law team at the firm.

Bianca Rodriguez is an associate at the firm.

Sheppard Mullin of counsel James Hays contributed to this article.

[1] An appeal of Judge Simon's decision has been filed by Tina Kotek, in her official capacity as Governor of the State of Oregon; Dan Rayfield, in his official capacity as Attorney General of the State of Oregon; Dennis Doherty, in his official capacity as Chair of the Oregon Liquor and Cannabis Commission; and Craig Prins, in his official capacity as Executive Director of the Oregon Liquor and Cannabis Commission, and the appeal remains pending before the Ninth Circuit Court of Appeals.

[2] Cal. Bus. & Prof. Code § 26051.5(a)(5)(E)(ii).