

President Trump Sends Signals of Possible Federal Rule Change on Marijuana Laws

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In a strong sign that the federal tune on the criminality of marijuana is changing, President Trump stated today that he will “probably end up supporting” a bipartisan bill currently in the U.S. Senate that protects people from criminal consequences of marijuana use as long as users follow state and local laws on its use. If passed, the bill would also eliminate buying or selling marijuana as a drug trafficking offense.

This is a huge windfall for foreign nationals from countries where marijuana use has already been decriminalized, or will shortly be legal for all (such as Canada). Currently, foreign nationals entering the U.S. may face questions about their use of, possession of or involvement with marijuana, either personally or as part of a legitimate business. Federal limits on the use and possession of marijuana mean that those who currently admit to or are found to have engaged in the possession or use of the substance—which remains on the U.S. federal controlled substances list—can be deemed inadmissible to the United States. Businesspeople can also be impacted, as certain involvement with the marijuana industry can result in a determination by U.S. Customs and Border Protection that you have engaged in drug trafficking, also rendering you inadmissible to the United States.

The first signal of a possible policy shift came in April, when President Trump directed the Justice Department to abandon a threatened crack-down on recreational marijuana use (on federal grounds) in states where it is otherwise legal.

The recent comment by President Trump is a further signal that federal policy may change in the future. This is welcome news for most Canadians, who have been legitimately concerned that many of the country’s citizens could face a serious risk of being permanently denied entry to the U.S. once the Cannabis Act is enacted, likely sometime this year. The U.S. government would clearly be aware of the enactment of the new law and possibility that a larger section of the population would be engaging in marijuana use as a result, and might shift its policy to ask more frequently about intending entrants’ drug use or business involvement in the marijuana industry, as a result.

Since immigration is a federal function of the U.S. government, federal laws prohibiting the possession, use and sale of marijuana currently dictate immigration policy and practice at the U.S. borders. Until federal law changes, using, possessing or being in any way involved in the marijuana business will continue to put foreign nationals entering the U.S. at risk of being deemed inadmissible and barred from entry.

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