

U.S. Government Continues to Show Hostile Stance Toward Cannabis

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Despite the continued trend of U.S. states toward legalizing cannabis use or decriminalizing its use, the U.S. federal government continues to demonstrate a hostile immigration policy toward foreign nationals based on their cannabis-related activities. This is very directly impacting Canadians—both individuals and, arguably more frequently and frighteningly, those simply involved in the business of cannabis.

In its latest move, the U.S. Citizenship and Immigration Services has published policy guidance in its USCIS Policy Manual stating that “violations of federal controlled substance law, including violations involving marijuana, are generally a bar to establishing good moral character for naturalization, even where that conduct would not be an offense under state law.” The guidance further states that “an applicant who is involved in certain marijuana-related activities may lack good moral character if found to have violated federal law, even if such activity has been decriminalized under applicable state laws.”

This is the U.S. government doubling-down on its current (federal) stance on cannabis: If you have ever smoked or used cannabis or been involved in the business of cannabis, we simply don’t want you permanently. And we certainly don’t want you voting. And, by the way, we may not let you in temporarily either.

Since cannabis was legalized for all purposes/uses in Canada, Canadians have faced increased scrutiny as to their personal use and business activities related to cannabis, when attempting to enter the U.S. Foreign nationals are being denied entry and, in some instances, deemed inadmissible to the U.S. because of their activities related to the use or business of cannabis. This is because while cannabis may be legal for certain or all purposes in many U.S. states, it remains on Schedule 1 of the U.S. Controlled Substances Act, and therefore considered a dangerous drug according to U.S. federal law. Since immigration is a function controlled by federal law, the fact that cannabis is legal in Canada, and legal in multiple U.S. states—including, possibly, the one you are traveling directly into—is irrelevant to a determination by federal government agencies and officers as to whether you are inadmissible based on your cannabis-related activities.

To date, 10 U.S. states and the District of Columbia have fully legalized marijuana, and it is medically permissible and/or decriminalized in another 25 states. Only 15 states remain where cannabis continues to be fully illegal.

Legislation continues to be proposed in the U.S. Congress to harmonize federal and state laws impacting cannabis users and cannabis-related businesses (e.g., the recent SAFE Banking Act of 2019, which aims to allow cannabis-related businesses to access banking services). We will continue to update you as new legislation impacting foreign national cannabis users and cannabis businesses progresses.

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