

Practice Update

President Trump Signals Support of Bipartisan Senate Marijuana Legislation

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In an interview on June 8, 2018, President Trump stated that he “really” supports new marijuana legislation filed by Senators Cory Gardner (R-Colo.) and Elizabeth Warren (D-Mass.). The bipartisan measure called Strengthening the Tenth Amendment Through Entrusting States (STATES) Act was introduced on June 7 and, if passed, will allow states, territories, and tribes to decide for themselves how to regulate legal cannabis, both with respect to medical and recreational or adult use.

Ironically, the proposed legislation was introduced in response to the Trump Administration’s, and more specifically, U.S. Attorney General Jeff Sessions’, hardline stance against cannabis. The measure would amend the Controlled Substances Act (CSA) to include a framework mandating that the CSA would no longer apply to any state, territory or tribal laws “relating to the manufacture, production, possession, distribution, dispensation, administration, or delivery of [marijuana].”

Despite the fact that 46 states and several territories have legalized cannabis in some fashion, its illegality under the CSA has wreaked havoc on the (state) legal marijuana industry, making it difficult, if not impossible to obtain banking relationships, benefits under the federal tax laws and transact business across state lines. As such, the measure also

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contains language that says financial transactions involving legal marijuana do not amount to trafficking or unlawful activity.

When asked to comment Friday morning, President Trump stated: “I really support Senator Gardner. I know exactly what he’s doing. We’re looking at it. But I will probably will end up supporting that [measure] yes.” On the other hand, President Trump’s statement that he will likely support a congressional effort to end the federal ban on marijuana puts him directly at odds with Attorney General Sessions on the issue. If the STATES Act or similar legislation passes, it would be a major step forward for the cannabis industry, finally putting to rest the threat of federal prosecution for engaging in state-legal conduct.

As always, we will continue to keep you posted as to all relevant developments.

Disclaimer

Possessing, using, distributing, and/or selling marijuana or marijuana-based products is illegal under federal law, regardless of any state law that may decriminalize such activity under certain circumstances. Although federal enforcement policy may at times defer to states’ laws and not enforce conflicting federal laws, interested businesses and individuals should be aware that compliance with state law in no way assures compliance with federal law, and there is a risk that conflicting federal laws may be enforced in the future. No legal advice we give is intended to provide any guidance or assistance in violating federal law.

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