

Practice Update

# Are We There Yet? Schumer Unveils Long-Awaited, Sweeping Marijuana Reform Bill

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By Jonathan S. Robbins

On Wednesday, July 14, 2021, Senate Majority Leader Chuck Schumer (D-NY) – at long last – revealed the first draft of a comprehensive reform bill in an effort to remove marijuana from the Controlled Substances Act. Only time will tell if the measure will survive the long uphill battle it faces.

The 163-page Cannabis Administration and Opportunity Act was spearheaded by Schumer, along with Senators Cory Booker (D-NJ) and Ron Wyden (D-OR). Highlights of the draft legislation include:

- The removal of federal penalties and expungement of nonviolent federal criminal records;
- The removal of “marijuana” from the Controlled Substances Act;
- Deference to states as to whether to legalize marijuana and, if so, how to regulate the cultivation, processing, sale, and transportation of the plant;
- The imposition of federal taxes on the sale of cannabis products;
- The elimination of draconian tax burdens on cannabis businesses as set forth in Section 280E of the Internal Revenue Code; and

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- A significant increase in funding for cannabis research.

Eagerly anticipated, the draft includes language to promote social justice for those who have been disproportionately impacted by the federal prohibition. The proposal will create an Opportunity Trust Fund supported by tax revenue designated for investment in programs benefitting underserved communities impacted by the “failed War on Drugs.”

The proposed bill will likely face a contentious battle in the Senate, as it will require at least 60 votes, including at least 10 by Republicans, to overcome the likely threat of filibuster. This presupposes support from all Democrats in the Senate, many of whom are moderate with respect to the issue. Also worth noting is that the proposal has not received an endorsement from President Joe Biden, notwithstanding a recent Gallup poll showing that nearly 70 percent of Americans support legalizing all forms of cannabis.

At this point, the proposed legislation is still considered a discussion draft and has not yet been formally introduced – additional input will be sought from lawmakers, the general public, public health experts, the cannabis industry, and the law enforcement community.

As always, we will keep you posted on all 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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