

IS 2021 THE YEAR FOR FEDERAL CANNABIS LEGALIZATION?

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The ever evolving cannabis industry has experienced major developments in 2021 and the trend is expected to continue. Just this year, five U.S. states have legalized recreational cannabis use, Mexico has taken a big step towards legalization setting itself up to become the largest legal cannabis market in the world, and two pieces of U.S. federal legislation have been revived, the Marijuana Opportunity Reinvestment and Expungement Act (the “MORE Act”) and the Secure and Fair Enforcement Banking Act (“SAFE Banking Act”).

The MORE Act, if passed, would deschedule cannabis from the Controlled Substances Act and enact various criminal and social justice reforms, including expungement of prior marijuana convictions. Originally introduced in July 2019, the MORE Act of 2019 passed in the House, but died in committee. On May 28, 2021, House Rep. Jerry Nadler (D-NY) reintroduced the MORE Act with some changes, including eliminating prohibitions limiting participation of individuals with prior criminal marijuana convictions in legal cannabis businesses. The MORE Act of 2021 has yet to be scheduled for a vote. Social justice advocacy groups, such as the ACLU and the NAACP, are actively urging congressional leaders to hold a vote on the MORE Act of 2021 in the House by the end of the month. In a letter sent to House leadership on June 4, 2021, the Leadership Conference on Civil and Human Rights—which represents more than 220 national organizations—pushed the importance of passing the MORE Act of 2021 “[i]n the face of a growing national dialogue on discriminatory law enforcement practices, including the disproportionate policing of drug use in communities of color[.]” While the MORE Act of 2021 is expected to pass in the House, it may again die in the Senate.

The SAFE Banking Act, which would provide a safe harbor for banking institutions providing services to cannabis clients, was originally introduced in March 2019, passed in the House, but died in committee. Reintroduced in March 2021, the SAFE Banking Act of 2021 passed quickly in the House and was introduced in the Senate on March 23, 2021, where it remains. While current Senate Majority Leader Chuck Schumer (D-NY) is not opposed to cannabis legislation, he has signaled reservations on the SAFE Banking Act of 2021 and a desire to introduce a separate federal legalization bill to the Senate floor “soon” that would have broader application than the SAFE Banking Act.

While it remains unclear from where federal legalization of cannabis will come, it is apparent that the federal legislature has an increased appetite for change, undoubtedly spurred by the increased support on the state government level and strong cry for reform from social justice advocacy groups.

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