

Congressional Vote to Ensure Protections for State Cannabis Programs

By Madison Lisotto Whalen

The U.S. House of Representatives voted to approve an amendment to the Fiscal Year 2020 Commerce-Justice-Science spending bill that protects legal cannabis programs in all states, Washington D.C. and U.S. territories, from interference by the U.S. Department of Justice (“USDOJ”). The 267 to 165 bipartisan vote of approval for the amendment indicates the growing support in Congress for more comprehensive changes to federal cannabis laws.

The amendment was sponsored by Reps. Earl Blumenauer (D-OR), Eleanor Holmes Norton (D-DC) and Tom McClintock (R-CA) and prevents the USDOJ from spending money to enforce the federal ban on marijuana if the state or U.S. territory has a legalized cannabis program. In effect, this validates state cannabis programs, and is especially significant because this protects *all* state cannabis programs, including those allowing recreational use, cultivation and sales, not just medical cannabis. Note, previous versions of this amendment, which have been included in Congressional budget bills in years past have included protections for only state-approved medical marijuana programs. A similar amendment protecting the marijuana laws of Indian tribes was also attached to the spending bill. This measure still requires passage through the U.S. Senate and President Trump’s signature, but it indicates a marked shift in policy since the last time this provision was proposed in 2015 when it failed to pass by nine votes. The amendment is also in line with U.S. Attorney General William Barr stating in his Senate confirmation hearings in January that he would adopt a hands-off approach toward legal state cannabis programs.

While spending bill provisions such as this offer protections for only one year, this Congressional action aligns with the sentiments of the American people as evidenced by a nationwide survey that shows ninety-four percent (94%) of voters support the use of medical marijuana and seventy-one percent (71%) “oppose the government enforcing federal laws against marijuana in states that have already legalized medical or recreational marijuana.” It is unclear how this will play out when the cannabis measure reaches the more conservative Senate, although the Appropriations Committee has, in the past, allowed marijuana riders in spending bills.

Roetzel is actively monitoring developments in this area of law. Please contact any of the listed attorneys if you have cannabis-related questions or concerns.

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