

Will Cannabis Ever Be Legalized at the Federal Level?

By Michael S. Yashko

Many states have legalized the use of cannabis for medical and/or recreational usage. However, cannabis is still listed as a Schedule I drug under the Controlled Substances Act and thus illegal at the federal level. Passage of the Marijuana Opportunity Reinvestment and Expungement Act (“MORE Act”) would eliminate that, and the repercussions in the business world need to be considered.

The MORE Act originally was introduced during the previous Congress, passing the House but not the Senate, and was reintroduced last month. The bill seeks to eliminate criminal penalties, expunge criminal records, and create social equity programs aimed at helping both individuals and communities impacted by the criminalization of marijuana. The Cannabis Restorative Opportunity Program would be created by the Small Business Administration to develop equitable cannabis licensing programs.

How could this impact businesses?

No state would be required to legalize cannabis under the MORE Act – if cannabis is illegal in a state, that more restrictive law would trump the federal law. Also, private employers could still prohibit cannabis use. However, it’s likely that, if cannabis were legal at the federal level, many states and private employers would choose to follow suit, increasing legalization. The MORE Act would mean multistate businesses would be able to develop and implement consistent employment policies. Drug testing and training could be standardized for branch offices at all locations within a company. Policies regarding the use of cannabis outside of the office could also be standardized.

Amazon has recently stated support for the bill and, going forward, plans to support legislation legalizing cannabis at the federal level. The company has eliminated drug testing for potential new hires with CEO Dave Clark stating, “We will no longer include marijuana in our comprehensive drug screening program for any positions not regulated by the Department of Transportation, and will instead treat it the same as alcohol use.”

Sixteen states and the District of Columbia have legalized recreational marijuana, and 36 states have legalized medical marijuana. With over \$20 billion in legal cannabis sales in 2020, and that amount expected to double by 2025, this issue will only become more significant over time.

If you would like more information on this or other issues related to the cannabis industry, please contact any of the listed attorneys.

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