

Bipartisan Bill Protecting State-Legal Cannabis Introduced in Senate

Legal marijuana is big business, but one of the thorniest dilemmas around this growing industry is what to do with the money business brings in. In light of the fact that cannabis is classified as a Schedule I substance by the U.S. Drug Enforcement Administration (DEA) — and it's unlikely to be re-classified in the foreseeable future — banks are wary of opening the door to earnings from technically ill-gotten gains (at least at the federal level). This means that marijuana businesspeople are forced to worry over the green of cash as much as they are the green of their crops. Amassing large sums of cash obviously heightens business's vulnerability.

A bipartisan bill in the Senate may mean some relief is in sight.

Senators Elizabeth Warren (D-Ma.) and Cory Gardner (R-Co.) have released a bill that proposes an amendment to the Controlled Substances Act (CSA) that would protect those who use marijuana in states where it is legal, providing those individuals are complying with state and municipal laws. The measure would also redefine legal cannabis transactions (currently considered "trafficking" at the federal level) and would strike industrial hemp from the CSA's prohibited substances list.

The bill does not attempt to legalize marijuana at the federal level (which, despite the fact that a majority of states have at least some component of marijuana allowed in the medical or recreational variety, would be a losing endeavor), but rather, would give states a far deeper degree of reassurance in carrying out the legal cannabis trade than they enjoy now.

Measure would require feds to "respect the will of the voters"

"The federal government is closing its eyes and plugging its ears while 46 states have acted," Senator Gardner said in a statement. "The bipartisan, commonsense bill ensures the federal government will respect the will of the voters — whether that is legalization or prohibition — and not interfere in any states' legal marijuana industry."

The U.S. Department of Justice (DOJ), headed by Attorney General Jeff Sessions (who has said, "Good people don't smoke marijuana"), currently has the right to prosecute cannabis transactions, whether or not they're sanctioned by individual states. Rohrabacher-Blumenauer amendment, however, has stripped the DOJ of a working budget to prosecute those cases. This of course doesn't make it impossible for the DOJ to come after state-law-abiding marijuana businesses or users of marijuana — makes it impractical, and perhaps unlikely. The bill Senators Warren and Gardner are proposing strengthens that amendment making it illegal for the federal government to meddle in marijuana businesses that are complying with state regulations.

Senator on no option but cash: "It's dangerous and it's dumb."

Referring to the fact that marijuana business owners can't rely on banks as other businesses can, Senator Warren had this to say in an MSNBC interview: "So long as the sale of marijuana remains illegal at the federal level, that means marijuana stores that are perfectly legal [in their states] have to do an all-cash business. It's dangerous and it's dumb."

Senator Warren had supported the legalization of marijuana in Massachusetts (which allows it for medical and recreational purposes). Senator Gardner, however, had not done the same in his home state. But he acknowledged that even though he opposed making the substance legal, what mattered is what happened at the ballot box.

"The people of Colorado spoke," Gardner told Mika Brzezinski in the same interview. Coloradans enjoy the same categories of

cannabis use as residents of Massachusetts (and California). Gardner went on to say that if his constituents voted again on whether or not to permit legal weed within their state's borders, they would usher it in by "an even larger margin."

How many Brinks trucks does it take to secure canna-cash?

Senator Warren reported recently speaking to Charlie Baker, the governor of Massachusetts, who told her that he's "trying to figure out how many Brinks trucks are going to be trying to move through the streets of Boston and Springfield and other cities around the Commonwealth of Massachusetts."

Gardner piggybacked on that comment, noting that Colorado collected nearly two billion dollars in pot revenue, which, he said, "is not just a little bit of pocket change." He said that cannabis operators have been forced to hide that money, and this bill is an attempt to "bring it out of the shadows and into the system."

"This is not a bill that forces legalization on any state that doesn't want it," Warren said during a press conference with Gardner. "We are trying to take care of business in Massachusetts, in Colorado. We are trying to respect the voters of our states that say this is how we want to do business around marijuana...and we just want the federal government to get out of the way and let them do it."

SB 930 recently cleared the California senate, proposes banking for operators

Golden State canna-preneurs may be able to avail themselves of some elements of biz banking before the fate of Sens. Warren and Gardner's bill is decided. Here at home, a bill just cleared the state Senate in a vote of 29-6 and is headed to the Assembly. Senate Bill 930 deals specifically with cannabis banking in California, and would allow certain financial institutions to offer limited banking services to state-compliant marijuana businesses.

This article is provided for educational purposes only and is not offered as, and should not be relied on as, legal advice. Any individual or entity reading this information should consult an attorney for their particular situation. For more information/questions regarding any legal matters, please email info@nelsonhardiman.com or call 310.203.2800.