

Legislation Introduced In Congress To Limit Federal Interference With State Approved Marijuana Laws

Last week, a bipartisan group in Congress took a big step toward eliminating the current conflict between federal and state marijuana laws by re-introducing a bill that would allow each state to determine its own marijuana position.

The bill is called the “Strengthening the Tenth Amendment Through Entrusting States Act,” or STATES ACT for short. The STATES ACT would override many of the federal prohibitions on growing, possessing and distributing marijuana in situations where businesses and individuals act in compliance with state law. Currently, the use of marijuana for medicinal purposes is legal in 33 states (including Massachusetts and Rhode Island), and the use of marijuana for recreational purposes is legal in 10 states (including Massachusetts, with a proposed bill for legalization pending in Rhode Island). However, federal law still prohibits growing, possessing and distributing marijuana in most circumstances. Although Attorney General Barr has stated that he would not direct the Department of Justice to target marijuana businesses or individuals who comply with state law, individual federal prosecutors are still able to do so in their discretion. This conflict has hindered the growth of the legal marijuana industry in the United States, as businesses and individuals who comply with state laws must remain concerned about whether the federal prohibitions will be enforced against them.

The STATES ACT is narrow, and does not address various other issues related to the marijuana industry. For example, the STATES ACT does not address whether banks and credit unions can provide banking services to marijuana related businesses, although Congress is considering a separate bill dealing with this issue. Another concern that the STATES ACT does not address is that veterans cannot obtain marijuana for medicinal purposes from V.A. hospitals and doctors, even in states where such use is legal. The proposed bill also would not authorize the registration of marijuana-related trademarks with the U.S Patent and Trademark Office, which refuses to register trademarks for marijuana related products and services that violate federal law.

Sponsors of the bill are optimistic that it can become law this year. The bill is expected to pass the House of Representatives, which is under Democratic control, but may face a stiffer fight in the Senate, which is under Republican control. President Trump said last June that he would probably support the legislation if it passes the House and Senate.

Date Created

April 12, 2019