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Where Things Stand: A Summary of Pending Federal Cannabis Legislation

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Federal legislation pertaining to cannabis reform, once a political oddity, now commands significant resources and attention in Congress. With numerous bills under consideration, the landscape is both dynamic and complex. These proposed laws cover a wide spectrum, from complete federal legalization to specific industry nuances like legal protections for ancillary businesses and equity considerations.

In this overview, we aim to provide clarity amidst the legislative maze and get to the root of the most significant cannabis legislation introduced in 2023.

Federal Legalization

The most substantial cannabis legislation from 2023 would legalize cannabis at the federal level and set forth a framework for consistent regulation across the country. Some bills, like the [Marijuana Opportunity Reinvestment and Expungement \(MORE\) Act](#), would grant the federal government primary enforcement authority.

The MORE Act aims for full federal legalization through rescheduling with a particular focus on equity provisions, including expungement for certain cannabis offenses and a community reinvestment program. The MORE Act was introduced in the House in September and has not yet passed through committee.

Other legalization bills, like the [States Reform Act of 2023](#), and the [Strengthening the Tenth Amendment Through Entrusting States \(STATES\) 2.0 Act](#), would defer much of the enforcement authority to the states. Both bills would remove cannabis from the Controlled Substances Act (CSA) entirely and task the Food and Drug Administration (FDA) with regulation of cannabis products.

The States Reform Act adopts a dual federal-state regulatory model, like the regulation of alcohol. Under the STATES 2.0 Act, non-legal states would be free to maintain the prohibition of cannabis, but interstate commerce in state-law-compliant cannabis would be legalized, so non-legal states would not be able to prohibit shipments to and from legal states from crossing through their borders. Both bills were introduced in late 2023 and neither have passed through committee.

Finally, only one piece of legislation took the rescheduling approach to cannabis legalization in 2023. The [Marijuana 1-to-3 Act of 2023](#), would simply direct the Attorney General to transfer cannabis from Schedule I to

Schedule III of the CSA without clarifying or addressing any other provisions of federal law. However, that was not the only piece of rescheduling-related legislation introduced last year.

The [Deferring Executive Authority \(DEA\) Act](#), would limit the Drug Enforcement Administration's (DEA's) ability to reschedule cannabis without Congressional approval. The DEA Act sets forth a process for Congressional review of any cannabis rescheduling decision made by the DEA and mandates Congressional approval before any rescheduling decision can take effect. Neither bill has yet passed through committee.

Equity

Two pieces of legislation were introduced in 2023 which would facilitate expungement and/or sealing of criminal records for non-violent cannabis offenses.

The [Harnessing Opportunities by Pursuing Expungement \(HOPE\) Act of 2023](#), targets state criminal records, and would make \$20 million in grant funding available to state and local jurisdictions over 10 years to ease the administrative burdens of expungement and record sealing. Grant funds could be used to develop automatic expungement processes, seal records, and support legal aid clinics that assist individuals with the expungement process, among other uses.

At the federal level, the [Clean Slate Act of 2023](#), would require the automatic sealing of records related to certain non-violent cannabis charges. Both bills were introduced in April 2023 and have not yet passed through committee.

Under current federal law, individuals with a felony conviction related to a controlled substance may not engage in the production of hemp for a period of 10 years following the conviction. The [Free to Grow Act of 2023](#), would repeal this restriction in the Agricultural Marketing Act of 1946, enabling individuals with felony convictions to own and manage hemp businesses. Free to Grow was introduced in March and has not yet passed through committee.

Financial Protections / Support

Lawmakers continued to offer various solutions for providing financial relief for cannabis businesses and legal protections for ancillary businesses in 2023. The most well-known of these bills is the [Secure and Fair Enforcement Regulation \(SAFER\) Banking Act](#), which would provide safe harbor for financial institutions and other ancillary businesses that work with cannabis industry clients, thus increasing the industry's access to traditional financial services like loans and deposit accounts.

Similar to SAFER but with a narrower scope, the [Clarifying Law Around Insurance of Marijuana \(CLAIM\) Act](#), would provide a specific safe harbor for insurance companies that serve the cannabis industry. As for financial support, the Small Business Tax Equity Act of 2023, would exempt cannabis sales conducted in compliance with state law from the prohibition of 26 U.S.C. § 280E, thereby allowing businesses to deduct normal business expenses from their taxes.

SAFER passed through committee in September but has not yet been sent to the floor for a full vote. Neither the CLAIM Act nor the Small Business Tax Equity Act have passed through committee.

Hemp and CBD

Legislators introduced two companion bills aimed at legalizing and regulating CBD in early 2023. The [Hemp and Hemp-Derived CBD Consumer Protection and Market Stabilization Act of 2023](#), would make the use of hemp and its derivatives, including CBD, as a dietary ingredient in dietary supplements, lawful under federal law, provided that the ultimate dietary supplement is compliant with the Federal Food, Drug, and Cosmetic Act.

Similarly, the [CBD Product Safety and Standardization Act of 2023](#), would require the FDA to develop regulations on CBD products including the maximum amount of CBD per serving, packaging and labeling requirements, and conditions of intended use. The [Industrial Hemp Act of 2023](#), introduced in both the House and Senate, would reduce regulatory burdens on farmers who grow industrial hemp for non-extraction purposes. None of these bills have yet passed through committee.

Research

Two bills were introduced in 2023 which would facilitate increased research on cannabis, both with different objectives. Under the [Higher Education Marijuana Research Act of 2023](#), higher education institutions located in jurisdictions where cannabis sale and use is legal would be allowed to obtain or purchase cannabis from the local or state regulatory body or law enforcement agency for the purposes of biological, chemical, agricultural, or public health research, but would not be allowed to administer that cannabis to individuals.

The act also provides \$150 million in funding to higher education institutions over five years to support research activities.

The aptly named [Preparing Regulators Effectively for a Post-prohibition Adult-use Regulated Environment \(PREPARE\) Act of 2023](#), would direct the Attorney General to establish a commission to study a “plausible and prompt” approach to the regulation of cannabis at the federal level.

The Commission on the Federal Regulation of Cannabis would be responsible for studying, developing, and proposing recommendations for issues including the impact of cannabis prohibition on low income, minority and veteran communities, the industry’s lack of access to traditional financial services, and the lack of consistent product and safety, use, and labeling requirements.

Introduced in June and April 2023, respectively, neither Higher Education nor the PREPARE Act have yet advanced through committee.

Rights and Benefits

Rights and benefits-related bills from 2023 focused on restoring eligibility for federal employment and the right of medical cannabis patients to purchase and possess firearms. The [Cannabis Users' Restoration of Eligibility \(CURE\) Act](#), would prohibit the federal government from denying an individual of federal employment or security clearance based on current or past cannabis use.

Meanwhile, the [Gun Rights and Marijuana \(GRAM\) Act](#), and the [Second Amendment Protection Act](#), would protect

the Second Amendment rights of medical cannabis patients by amending the definition of “unlawful user of or addicted to any controlled substance” in Title 18 to exclude those individuals who both reside in a jurisdiction where medical cannabis consumption is legal and use cannabis in accordance with applicable state laws.

CURE passed through committee in September but has not yet received a vote on the floor. Neither the GRAM Act nor the Second Amendment Protection Act have yet advanced through committee.

Veterans' Access

Three separate bills were introduced last year targeting the lack of access to medical cannabis among veterans. All three bills include a common thread — they all explicitly direct the Department of Veterans Affairs (VA) to allow VA physicians and other health care professionals to discuss and recommend cannabis use to veterans.

The [Veterans Equal Access Act](#), takes a more limited approach by only authorizing the giving of opinions and recommendations. The [Veterans Medical Marijuana Safe Harbor Act](#), would temporarily (for a period of five years after enactment) allow veterans to discuss and receive recommendations from their VA doctors, but the Act goes even further by also temporarily legalizing the use and possession of medical cannabis by veterans as long as that use and possession is in accordance with state law.

Finally, the [Veterans Cannabis Use for Safe Healing Act](#), would prohibit the Secretary of the VA from denying a veteran their benefits based on the veteran's participation in a state-legal cannabis program. None of these veteran-focused bills have yet passed through committee.

Our Cannabis Practice provides advice on issues related to applicable federal and state law. Marijuana remains an illegal controlled substance under federal law.

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