The MORE Act and Decriminalization – A Comprehensive Path Forward

During his 1980 presidential campaign, Ronald Reagan once called marijuana “probably the most dangerous drug in the United States today.” In contrast, presidential candidates today are calling for marijuana legalization. Indeed, four decades later, in 2020, marijuana has enjoyed a cultural shift in this country. Marijuana is now legal for adult-use in 11 states and for medical use in 33 states, with 2 out of 3 Americans supporting legalization. Yet marijuana remains illegal at the federal level, classified as a highly addictive, non-therapeutic substance by the country’s drug enforcement entities. In truth, marijuana policy in the United States is a mess of legal and political contradictions – one that demonstrates a clear need for reform that bridges the gap between the will of the people and the will of the government. But federal marijuana reform also presents an opportunity for policymakers to ensure equity leads on this issue to begin to heal low-income communities of color that disproportionately bore the brunt of the war on drugs.

Several marijuana reform bills are currently under consideration in the U.S. Congress, but among them, the Marijuana Opportunity Reinvestment and Expungement (MORE) Act presents by far the most comprehensive and most equitable path forward. The MORE Act legalizes marijuana at the federal level, removing marijuana from the list of federally controlled substances. Notably, however, the MORE Act is also a social equity bill, seeking to redress the harms of marijuana prohibition on the most-impacted communities.

Before digging into the bill, however, it may be helpful to further contextualize the need for marijuana reform.

The Controlled Substances Act (CSA) of 1972 established a scheduling system which classified drugs into one of five categories, or schedules, based on their abuse potential and accepted medical uses. Marijuana is classified as Schedule I, the most restrictive schedule reserved for drugs with a high abuse potential, no accepted medical uses, and a lack of accepted safety for medical use. Schedule I drugs are difficult to research given federal restrictions, but numerous studies have demonstrated potential for marijuana as a treatment for chronic pain, chemotherapy-induced nausea and vomiting, and multiple-sclerosis spasticity, among other medical conditions. The scheduling of marijuana as Schedule I drug is intellectually dishonest and creates a paradoxical situation where marijuana is classified as Schedule I due to its supposed lack of demonstrated therapeutic benefit, but efforts to study its benefits are greatly hindered by the federal roadblocks imposed by the CSA. Removing marijuana from Schedule I is a critical step in exploring its potential as a medical treatment.

But perhaps the most sinister effect of federal marijuana prohibition is most evident in our criminal justice system. For decades, the U.S. has waged a war on drugs – one that has been fought primarily in poor communities and communities of color. The U.S. has the highest rate of incarceration in the world, and this troubling trend has been driven in no small part by the prohibition of marijuana. There have been more than 15 million marijuana arrests in the U.S.
since 1995, and, notably, over 90% of these arrests were for possession, not manufacture or distribution. The racial disparities are striking. Despite similar rates of use between white and Black populations, a Black person is 3.73 times more likely to be arrested for marijuana possession. The disproportionate criminalization of people of color has led to tremendous consequences given that a criminal record can disqualify a person from employment, educational opportunities, and even housing, among a slew of other collateral consequences.

The MORE Act is a path forward on marijuana policy. It is the most sweeping marijuana reform bill ever considered by the U.S. Congress. In addition to descheduling marijuana, the MORE Act would facilitate the expungement and re-sentencing of marijuana convictions, addressing the decades of harsh punitive policies around marijuana. The MORE Act would instruct the Bureau of Labor Statistics (BLS) to collect demographic data about the marijuana industry in order to improve diversity. The bill would prohibit immigration penalties and denial of federal benefits on the basis of use or possession of marijuana.

Finally, and perhaps most notably, the MORE Act will use tax revenue from legal marijuana sales to fund a social equity fund targeted for communities who have faced the worst consequences of marijuana prohibition. Using federal marijuana tax revenue, the MORE Act will establish a Cannabis Opportunity Trust Fund, overseeing three major social equity and reinvestment programs. The Community Reinvestment Grant Program will fund organizations providing vital services in communities most affected by the war on drugs, such as job training programs, expungement services, and youth development opportunities. The Cannabis Opportunity Program will fund Small Business Administration loans to socially and economically disadvantaged marijuana entrepreneurs. Finally, the Equitable Licensing Grant Program will support jurisdictions in expanding marijuana licensing among disadvantaged individuals.

The three programs funded by the Cannabis Opportunity Trust Fund each have a tailored focus—to uplift individuals and communities who disproportionately suffered the consequences of marijuana prohibition. In this way, the MORE Act is at once an acknowledgement of past harms and a path to repair them. Descheduling marijuana is an important first step towards establishing a legal marijuana industry in the U.S.; however, marijuana reform that does not address deep social inequities will only perpetuate injustices of the past. The MORE Act makes this a priority, ensuring that the marijuana industry in the U.S. will not only be legal, but also equitable and just.

The MORE Act was introduced on July 23, 2019 in both chambers of Congress, with Kamala Harris (D-CA) introducing the MORE Act in the Senate (S. 2227) and Jerry Nadler (D-NY-10) leading introduction in the House (H.R. 3884). On November 20, 2019, the U.S. Congress made history when the House Judiciary Committee voted favorably for the bill, marking the first time a Congressional body voted for descheduling marijuana. The MORE Act currently has 70 co-sponsors in the House and counting. This year, it is our hope that the bill will become law.
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