

How Pending Cannabis Legislation Could Impact Your Business

The House Judiciary Committee on Nov. 20 voted 24-10 to advance the Marijuana Opportunity Reinvestment and Expungement Act, or the "MORE" Act (the Act). As referenced in a [recent Law360 article](#), the overarching goal of the Act is to decriminalize and normalize cannabis. The Act would provide relief to two main groups of individuals: (1) cannabis business owners; and (2) individuals with cannabis convictions. Our focus is on the Act's potential benefits for and effect on current and future cannabis business owners.

The Act's removal of cannabis containing THC from the controlled substances list would alleviate numerous barriers for cannabis businesses. One of these obstacles is the dreaded section 280E of the Internal Revenue Code, which prohibits business deductions for businesses "trafficking" in substances listed on either Schedule I or II of the Controlled Substances Act. Cannabis is currently listed as a Schedule I controlled substance. Because of this, cannabis-related businesses in states that have legalized cannabis are unable to deduct almost any businesses expenses. Allowing cannabis business owners to deduct expenses would alleviate what has often been a financial hardship for both businesses and individuals in the cannabis industry.

One aspect of the Act that may be met with skepticism by some in the cannabis business community is the 5% sales tax on "any cannabis or any article which contains cannabis or any derivative thereof" manufactured or imported into the United States. The tax would mainly apply to recreational cannabis. It would not be levied against cannabis used for medical purposes or hemp and hemp-derived products.

While business owners may not love the tax, it is unlikely that a 5% sales tax will dissuade customers that would otherwise purchase recreational cannabis products. And while the tax may initially force businesses to raise what can already be relatively high prices, a growing recreational cannabis market would likely eventually force cannabis prices down.

The Act would also make programs and services administered by the Small Business Administration available to cannabis-related businesses as well as businesses that serve the cannabis industry, such as a landlord who leases a facility to a cannabis company. The programs available to these companies would

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include small business loans and assistance from the Small Business Administration.

Overall, as the article notes, the Act would introduce many positive features that would alleviate growing concerns following the national legalization trend. However, the article is skeptical that the Act will become law as it "faces a tough path through the GOP-controlled U.S. Senate." This may be an understatement given the perceived political stigma that still surrounds the legalization of cannabis.

Questions about how the legalization of cannabis could affect your business?
Contact any attorney in Reinhart's Cannabis Law group.

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