

# Can SCOTUS Push Cannabis Forward Without Congress?

## The Cannabis Industry at a Federal Crossroads

The \$32 billion U.S. cannabis industry continues to operate in a precarious legal gray area. On one hand, public acceptance of marijuana as both a medical treatment and a regulated consumer product is at its highest level in history. On the other, federal law still treats cannabis as a dangerous controlled substance, restricting banking access, taxation relief, and even fundamental rights such as firearm ownership for users.

The election of Donald Trump to a second term brought renewed hope when he signaled openness to medical cannabis and hinted at reclassifying marijuana under federal law. Yet his administration's actions have presented contradictions, with Justice Department attorneys preparing to defend prohibition in the nation's highest courts. This tension leaves the cannabis industry wondering if meaningful reform will come from the president, Congress, or perhaps the U.S. Supreme Court.

## Trump's Ambiguous Position on Cannabis Policy

Since returning to the White House in January 2025, Trump has not provided a clear cannabis policy roadmap. During the campaign, he voiced support for medical marijuana and even suggested moving cannabis to Schedule 3, a less restrictive category under the Controlled Substances Act. At the same time, he has appointed officials with staunch anti-cannabis views, including a Drug Enforcement Administration chief opposed to legalization.

This duality extends to his public remarks. Trump has praised medical marijuana for helping patients but warned of social harms from adult-use legalization. The resulting ambiguity leaves advocates parsing every signal, especially as the Justice Department pursues legal strategies that appear to clash with his stated openness to reform.

## Rescheduling vs. Reality: Why Cannabis Might Still Be in Limbo

A Biden-era proposal to move cannabis to Schedule 3 remains under review, and Trump has said he will give it serious consideration. Such a move would offer some benefits, including eliminating the crippling 280E tax burden that prevents cannabis companies from deducting standard business expenses.

However, rescheduling does not equate to legalization. Cannabis would remain federally controlled, available only via FDA-approved prescriptions. That leaves unresolved conflicts between state-regulated adult-use markets and federal prohibition. Critics argue that rescheduling may actually complicate matters by reinforcing a medical-only framework at odds with the 24 states where recreational cannabis is legal.

## **Firearms and Marijuana: A Legal Collision Point**

The Supreme Court may soon address the rights of cannabis users through the case *USA v. Hemani*. At issue is whether regular marijuana users can legally own firearms. Federal law prohibits “unlawful users of controlled substances” from possessing guns, a restriction the Trump administration is defending.

When an appellate court ruled that a sober individual should not lose Second Amendment rights solely for past marijuana use, the Justice Department appealed to the Supreme Court. If the Court agrees to hear the case, the administration will be forced to articulate its stance more clearly, potentially exposing contradictions between Trump’s political messaging and DOJ litigation.

The outcome could shape not only gun rights for cannabis consumers but also the broader legal framework for marijuana regulation. A ruling favoring cannabis users could weaken the federal government’s position on prohibition, while a ruling against them would reinforce cannabis’s status as a criminalized drug despite widespread legalization at the state level.

## **The Bigger Case: Challenging Federal Marijuana Prohibition**

Perhaps more consequential is *Canna Provisions v. Bondi*, a challenge to the Supreme Court’s 2005 decision in *Gonzales v. Raich*, which upheld federal authority to enforce marijuana prohibition even in states that had legalized it.

In 2023, multistate operator Verano Holdings and other plaintiffs argued that prohibition is now unconstitutional given the widespread adoption of state-legal markets and the federal government’s inconsistent enforcement. After lower courts rejected their claims, the case is now positioned for potential Supreme Court review.

If the Court agrees to hear it, this could be the most significant cannabis case in two decades, with the potential to dismantle the federal prohibition framework that underpins all cannabis regulation today.

## **Litigation vs. Policy: Two Different Paths to Reform**

Legal experts caution against assuming that the Justice Department’s defense of federal law reflects Trump’s ultimate policy intentions. By rule, DOJ attorneys must defend existing statutes, even when an administration is considering policy changes. In parallel, administrative agencies such as the Department of Health and Human Services and the DEA are evaluating rescheduling proposals on a separate track.

This means that while court cases may appear to conflict with Trump’s stated openness to reform, they may simply reflect the government’s obligation to defend laws until Congress or the executive branch formally changes them.

## **The Divide Between Medical and Adult-Use Cannabis**

A recurring theme in Trump’s cannabis remarks is the distinction between medical and recreational use. He has expressed sympathy for patients but skepticism toward adult-use legalization, calling it harmful to children and society.

This divide matters because the bulk of the legal cannabis industry’s revenue comes from adult-use sales, not medical programs. If the administration continues to frame reform around medical access only, it could leave

much of the industry locked in legal uncertainty.

Moreover, the Supreme Court cases may force the federal government to address this divide directly, especially if they involve constitutional claims tied to adult-use commerce.

## **Why the Supreme Court May Be the Deciding Factor**

With Congress gridlocked on marijuana reform and the executive branch sending mixed signals, the Supreme Court may emerge as the most decisive force in cannabis policy. A favorable ruling in either the firearms case or the prohibition challenge could dramatically shift the legal landscape, forcing federal policymakers to reconcile outdated statutes with modern realities.

Yet the Court's conservative majority makes outcomes uncertain. While some justices may be sympathetic to individual rights and federalism arguments, others may prioritize deference to congressional authority. For the cannabis industry, this means the coming Supreme Court term could be as impactful as any legislation introduced on Capitol Hill.

## **A Pivotal Moment for Cannabis in America**

The cannabis industry's future may hinge less on political promises and more on judicial interpretation. With Trump's administration defending prohibition in court even as he considers rescheduling, the Supreme Court could be the only institution capable of breaking the federal logjam.

For businesses navigating high taxes, limited banking access, and competition from hemp-derived products, the stakes could not be higher. Whether through policy shifts from the White House or landmark rulings from the Court, the next year will likely determine if cannabis remains trapped in legal contradiction or begins moving toward lasting federal reform.

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