

# Cannabis Rescheduling, Pardons, and the Growing Risk Landscape for Marijuana Operators

Federal cannabis policy is once again creating uncertainty for businesses, insurers, and compliance professionals, as congressional scrutiny over marijuana pardons intersects with ongoing efforts to reschedule cannabis under federal law.

A senior Democratic lawmaker is raising concerns that a Republican-led congressional review could potentially undermine thousands of federal marijuana possession pardons issued during the Biden administration. While framed as a procedural investigation, the situation highlights a broader issue for the cannabis industry: **regulatory volatility and enforcement risk remain unresolved despite reform headlines.**

## Cannabis Enforcement Disparities and Federal Risk Exposure

Rep. Jerrold Nadler of New York, a long-time advocate for cannabis reform, acknowledged bipartisan recognition that marijuana prohibition has resulted in disproportionate enforcement outcomes, particularly impacting minority communities. However, he emphasized that **administrative changes—such as moving cannabis from Schedule I to Schedule III—do not eliminate criminal liability, expunge records, or fully resolve legacy enforcement risks.**

From a cannabis risk management perspective, this distinction is critical. **Rescheduling alone does not remove federal criminal penalties**, nor does it address civil liability, employment screening risks, or background-check complications that continue to affect workers, operators, and investors across the industry.

## Pardons, Autopen Reviews, and Compliance Uncertainty

The current controversy stems from a broader congressional investigation into whether certain executive actions—including mass marijuana pardons—were authorized using an automated signing device rather than direct presidential approval. While no formal decision has been made to reverse cannabis-related pardons, the investigation raises an important red flag:

**Even settled cannabis clemency actions can become subject to retroactive review.**

For cannabis businesses, this reinforces a long-standing compliance reality:

- Federal cannabis policy remains **procedurally fragile**
- Enforcement standards can shift with political leadership
- Regulatory certainty cannot be assumed, even after public reform announcements

## Rescheduling vs. Decriminalization: Risk Implications for the Industry

Recent executive action directing the Department of Justice to complete marijuana rescheduling has been welcomed by many in the industry. However, from a **risk management and insurance standpoint**, rescheduling does not equal legalization.

Key risks that remain unresolved include:

- Federal criminal exposure for non-compliant operations
- Banking and insurance limitations
- OSHA and workplace safety enforcement
- Product liability and recall exposure
- Inconsistent treatment across states and federal agencies

Advocates for broader reform argue that only comprehensive legislation removing cannabis from the Controlled Substances Act would materially reduce long-term regulatory risk. However, such legislation faces significant obstacles in the current Congress.

## **Why This Matters for Cannabis Operators and Insurers**

For cannabis operators, MSOs, insurers, and investors, the current debate underscores a critical lesson: **policy momentum does not eliminate compliance obligations or enforcement exposure.**

Even as federal agencies acknowledge historical inequities in marijuana enforcement, the lack of uniform legal clarity continues to create:

- Unpredictable regulatory risk
- Insurance coverage gaps
- Challenges in underwriting and risk assessment
- Ongoing exposure to federal scrutiny

## **Bottom Line: Cannabis Risk Management Still Requires Caution**

Despite growing bipartisan agreement that marijuana prohibition has caused harm, the path forward remains complex. Rescheduling, pardons, and enforcement reviews may reduce some pressure—but they do not replace the need for **robust cannabis compliance programs, legal risk assessments, and insurance planning.**

Until federal cannabis law is fully modernized, businesses should continue operating under the assumption that **policy reversals, investigations, and enforcement shifts remain a real and ongoing risk.**

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