

# Cannabis Industry Braces for SCOTUS Review of Chevron Deference

As the cannabis industry eagerly awaits the DEA's decision on rescheduling, another significant issue is unfolding in Washington, often overlooked but potentially more impactful: the Supreme Court's scrutiny of Chevron deference.

Chevron deference, essentially, allows regulatory agencies to interpret ambiguous legislation as they deem fit. It mandates courts to defer to the administrative branch's judgment when crafting regulations for unclear laws, regardless of potential differences in interpretation.

Initially established in 1984, Chevron was a groundbreaking shift, granting regulatory agencies unprecedented interpretive authority. Before this precedent, administrators struggled to operate within the confines of ambiguous laws, hindering effective regulation. The solution came in the form of delegating interpretive power to subject-matter experts within regulatory bodies.

However, concerns arose regarding the separation of powers, with unelected regulators wielding considerable interpretive influence. This dynamic has frequently led to clashes between regulators and lawmakers, as seen in the cannabis industry, where regulatory inertia has impeded legislative mandates.

Justice Gorsuch contends that this delegation of law-making authority to unelected officials breeds unpredictability, disadvantaging small businesses. This unpredictability resonates with cannabis operators, who have experienced regulatory whiplash due to shifting policies.

The cannabis industry is divided on whether SCOTUS should curtail or eliminate Chevron deference, recognizing the implications for industry dynamics. The debate hinges on which branch – judiciary or executive – is more adept at rule-making, with neither inspiring confidence within the cannabis sector.

The potential weakening of Chevron deference could trigger a seismic shift in regulatory landscapes, empowering state courts to set industry standards. While this may foster better regulatory environments, it could also remove administrative safety nets, such as the Cole memo, leaving the industry vulnerable to federal volatility.

Amidst this uncertainty, clarity and stability are paramount for cannabis businesses grappling with razor-thin margins. The industry's growth hinges on regulatory frameworks that promote legitimacy while addressing public health concerns associated with black-market products.

Ultimately, SCOTUS's review of Chevron deference holds profound implications for the cannabis industry, underscoring the need for cohesive, informed regulatory approaches that prioritize both industry growth and consumer safety.