

Cannabis Rescheduling Vs. Descheduling: Implications for the Supply Chain

The essence of the cannabis industry revolves around growing, manufacturing, transporting, and distributing marijuana, collectively known as the supply chain. Recently, the Drug Enforcement Administration (DEA) accepted the Department of Health and Human Services (HHS) recommendation to move cannabis from Schedule 1 to Schedule 3 under the Controlled Substances Act (CSA).

Predicting the Supply Chain

Predicting the supply chain's future is challenging as legal weed supply chains are relatively new in the U.S., regulated on a state-by-state and jurisdiction-by-jurisdiction basis. Current regulatory frameworks in states are seen as flawed, and potential federal designation changes add further complexity.

Key Differences Between Schedule 3 and Descheduling

The potential differences in the supply chain under Schedule 3 versus descheduling are significant. Rescheduling keeps cannabis illegal at the federal level, while descheduling does not. Schedule 3 drugs are regulated by the FDA and DEA, whereas descheduled drugs like alcohol and tobacco are not subject to DEA regulation.

Interstate Commerce

The largest variation between Schedule 3 and descheduling involves interstate commerce, which would only be allowed under descheduling. Industry professionals do not foresee interstate commerce under Schedule 3 immediately.

Industry Perspectives

Vince Ning, co-founder and co-CEO of Nabis, believes that under Schedule 3, the supply chain will remain largely unchanged, continuing to operate on a state-by-state basis. Conversely, Vladimir Bautista, owner of Happy Munkey, advocates for descheduling, predicting it would create a more open and competitive national market.

Small Business Implications

Descheduling could benefit small, medium, and craft producers by allowing access to a larger market, helping level the playing field against larger companies. However, it would come with regulatory challenges, including establishing new infrastructure for the supply chain and interstate commerce.

Tax Implications

The tax implications are another area of uncertainty. State and local governments have heavily taxed cannabis, often to the detriment of the legal industry. Medications approved by the FDA are not taxed, and neither are drugs listed in Schedule 3 or descheduled.

Expert Opinions

Kris Krane, founder of 4 Front Ventures, articulates that rescheduling should have little impact on current supply chains, while descheduling would significantly alter them, allowing for interstate and international commerce.

While the future is uncertain, there is optimism that the current status quo of cannabis as a Schedule 1 drug may be ending. Advocates and operators are hopeful for positive changes in the legal cannabis industry.

Email: info@cannabisriskmanager.com | Phone: +415-226-4060

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