

Massachusetts Senator Warren Urges President Biden to Swiftly Deschedule Marijuana

“(T)he DEA should deschedule marijuana altogether. Marijuana’s placement in the Controlled Substances Act has had a devastating impact on our communities and is increasingly out of step with state law and public opinion.”

U.S. Senators Elizabeth Warren (D-Mass.) and John Fetterman (D-Pa.), led nine of their Democratic colleagues, including U.S. Senate Majority Leader Chuck Schumer (D-N.Y.), in sending a letter to U.S. Attorney General Merrick Garland and U.S. Drug Enforcement (DEA) Administrator Anne Milgram, urging them to remove marijuana from Schedule I of the Controlled Substances Act (CSA). The letter comes after an August 2023 recommendation from the U.S. Department of Health & Human Services (HHS) that marijuana be rescheduled from Schedule I to Schedule III. The senators are calling for a complete descheduling of marijuana, consistent with state law, public sentiment, and the need to eliminate criminal and civil penalties for marijuana use.

This letter is also signed by Senators Cory Booker (D-N.J.), Jeff Merkley (D-Ore.), Bernie Sanders (I-Vt.), Kirsten Gillibrand (D-N.Y.), Ron Wyden (D-Ore.), John Hickenlooper (D-Colo.), Peter Welch (D-Vt.), Chris Van Hollen (D-Md.), and Alex Padilla (D-Calif.).

“We write to urge the Drug Enforcement Administration (DEA) to swiftly deschedule marijuana from the Controlled Substances Act (CSA),” wrote the senators. “(R)escheduling to Schedule III would mark a significant step forward, (but) it would not resolve the worst harms of the current system. Thus, the DEA should deschedule marijuana altogether. Marijuana’s placement

in the CSA has had a devastating impact on our communities and is increasingly out of step with state law and public opinion.”

In August 2023, HHS recommended moving marijuana to a less restrictive DEA schedule. This followed an October 2022 directive from President Biden requiring HHS and the Department of Justice (DOJ) to review the current scheduling of the drug. Prior to this review, the last review of marijuana scheduling occurred in 2016, when HHS ultimately recommended keeping marijuana under Schedule I. Now, HHS has identified credible scientific support for marijuana’s medical uses and has reversed its position. The medical science, as well as developments in state law and international law, support removing marijuana from Schedule I.

The Senators were clear about the need to completely deschedule the drug: “Rescheduling would do little to rectify the most severe harms of the current system... (The) criminal penalties for recreational marijuana use, and for medical use of marijuana products that lack federal approval, would still exist, disproportionately penalizing Black and Brown communities. Similarly, non-citizens could still be denied naturalization and green cards, and even deported, based on recreational marijuana use and most marijuana offenses,” the senators continued. “Furthermore, rescheduling marijuana would not restore access to public housing or nutrition assistance for individuals who use marijuana recreationally or engage in other marijuana activity against federal law,”

“These harms could be remedied only through fully descheduling marijuana. The Biden Administration has a window of opportunity to deschedule marijuana that has not existed in decades and should reach the right conclusion – consistent with the clear scientific and public health rationale for removing marijuana from Schedule I, and with the imperative to relieve the burden of current federal marijuana policy on ordinary people and small businesses,” concluded the senators.

The senators have requested that the DEA and DOJ provide more information on steps taken to act on HHS's rescheduling recommendation no later than February 12, 2024.

Senator Warren has long fought to reform cannabis policy and provide justice to individuals currently and formerly incarcerated for cannabis-related offenses:

In November 2023, Senators Warren, Merkley, Raphael Warnock (D-Ga.) and U.S. Representative Earl Blumenauer (D-Ore.) led 16 lawmakers in a letter to Secretary of the Treasury Janet Yellen and Financial Crimes Enforcement Network (FinCEN) Director Andrea Gacki, asking FinCEN to update its out-of-date guidance on marijuana-related businesses to promote fairness in financial services for marijuana businesses operating in states where marijuana is no longer illegal.

In May 2023, at a hearing of the Senate Banking, Housing, and Urban Affairs Committee, Senator Warren highlighted the need for the Secure and Fair Enforcement (SAFE) Banking Act, which would create a safe harbor from prosecution, asset forfeiture, or other liability for financial institutions that serve cannabis businesses, as a critical step toward helping cannabis businesses access safe banking services and protecting workers from the safety risks of working in cash-only businesses.

In December 2022, Senator Warren and Representative Blumenauer led a bipartisan and bicameral group of lawmakers in a letter urging the Biden-Harris Administration to deschedule marijuana.

In July 2022, Senators Warren and Sanders led a letter to President Biden, Attorney General Merrick Garland, and Health and Human Services Secretary Xavier Becerra, following up on previous requests that the administration use its authority to deschedule cannabis and pardon non-violent cannabis-related offenders.

In November 2021, Senators Warren, Markey, and Merkley sent a letter to President Biden urging him to use his authority to pardon all individuals convicted of federal non-violent cannabis offenses.

In October 2021, Senators Warren and Booker urged Attorney General Merrick Garland to decriminalize cannabis by removing the drug from the list of federally controlled substances.

In March 2021, Senators Warren, Merkley, and Steve Daines (R-Mont.) cosponsored the bipartisan SAFE Banking Act to ensure that legal cannabis businesses have access to critical banking services.