

 cbd-intel.com/us-attorney-general-favours-bid-to-let-states-decide-cannabis-and-cbd-policy

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US attorney general William Barr has said the current patchwork regulatory situation for CBD in the country is “intolerable” and appeared to give qualified support to the STATES Act, which would recognise at federal level the legalisation of cannabis by states.

The Strengthening the Tenth Amendment Through Entrusting States (STATES) Act has been reintroduced in both houses of Congress this month after being blocked last year.

Barr’s remarks came in testimony before the Senate appropriations subcommittee on the Justice Department’s 2020 budget.

He said he would “favour one, uniform federal rule against marijuana”. But failing the consensus to carry that, he said, he thinks the way to go is to “permit a new federal approach” to allow states to make their own decisions within a federal framework.

CBD-Intel has reported and commented before on the current state of confusion surrounding CBD enforcement in the US. In short, there is confusion and varying interpretations over the status of cannabis, particularly when it comes to the relationship between federal government and the states. Differences in legal status between one level of government and the other have kept the industry muted in some states. Now one of the ways Congress is attempting to take on the issue is through the bipartisan STATES Act.

The act seeks to clear up the distinctions somewhat by allowing states to decide on their own marijuana policies. In essence, this would mean that companies that trade in cannabis in accordance with state laws would not be subject to the federal Controlled Substances Act. Rather than specifying a single federal pronouncement on the issue, this would basically leave it up to each state to decide its position.

‘I haven’t studied it’

Specifically referencing the STATES Act in his testimony, Barr said he would prefer the approach it takes to the current situation. This has been taken as a quiet endorsement of the STATES Act, though Barr said during his testimony that he had not studied it.

He also said, however, that he had circulated the act through the Justice Department for comment. "Once we get those comments, you know, we'll be able to work with you on any concerns about the STATES law," he told the Senate subcommittee.

Alaskan Senator Lisa Murkowski, who is co-sponsoring the STATES Act with fellow Republican Cory Gardener of Colorado, commented that Barr would have "a group of folks" in Congress who would like to work with him on that. Indeed, as CBD-Intel has reported, the current Congress is more friendly to the industry than previous ones have been.

Barr was also asked about the Cole Memorandum, which was issued under the Obama administration as a temporary way of easing some of the regulatory vagueness around the legal status of the cannabis industry in certain states.

The Cole Memo, roughly summarised, directed federal agents to avoid prosecuting members of the industry who were complying with state and local laws, even though cannabis remained a Schedule 1 drug on a par federally with drugs such as heroin and mescaline.

The departure of Barr's predecessor as attorney general, Jeff Sessions, led to a swell of optimism within the industry that the anti-cannabis agenda would exit with him. Sessions' major anti-industry action was to rescind the Cole Memorandum.

'No complaints'

In his testimony, Barr offered very lukewarm and qualified support for the Cole Memo. The Justice Department is currently operating under general guidance from Barr, according to his comments, that he accepts the Cole Memo for now, but he has generally left it up to the US attorneys for each state to determine the best approach for that state.

This would seem to mesh relatively well with a solution such as the STATES Act, which would simply turn over the public policy question to the states and, presumably, reduce the importance of the enforcement question for federal agents.

"I haven't heard any complaints from the states that have legalised marijuana," Barr added.

Notably, however, it remains unclear how Barr would act should Congress fail to reach agreement on a statutory framework. He said that in such circumstances: "I'm going to have to make some difficult choices."

Barr has previously said he did not intend to go after companies that rely on the Cole Memo. However, he commented in his testimony to the subcommittee that such reliance implies "people who have already taken action based on the Cole Memorandum". The question he then

raised was whether the Justice Department would continue to refrain from actions in states that have yet to pass such laws but might do so in the future, though he admitted he had not given the department any guidance on this.

“I would like to see Congress address this issue,” he said.

Barr has further claimed to have been pushing “very hard” for the last few weeks to get the process under way to follow up on a commitment to add additional suppliers of marijuana under the Controlled Substances Act, and assured Democrat Senator Brian Schatz of Hawaii that the department would move on it soon.

What This Means: Enforcement against the CBD industry below federal level in the US appears to be taking place for a variety of unrelated reasons, including THC levels in products, state-level prohibitions, or action by the US Food and Drug Administration (FDA). Much of that confusion, as well as some skittishness around the industry, is partly due to the lack of federal guidance. And the federal state of affairs is itself somewhat tangled. For the industry to really bloom this will need to be ironed out.

Attorney general Barr appears to be pushing for a policy solution from Congress, which he hopes will provide him with a “federal framework”. While Barr’s support for the Cole Memo was more lukewarm than resounding, his support for a unified federal framework and apparent willingness to support something like the STATES Act has encouraged the industry.

It also shows that the Justice Department has shifted its ground since Sessions was in charge.

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