

MAY 2026

## KEY TAKEAWAYS

- The Attorney General partially rescheduled marijuana by placing (1) FDA-approved drugs containing marijuana and (2) marijuana covered by a state medical marijuana license under Schedule III of the Controlled Substances Act (CSA) (“rescheduling”) at the federal level.
- In doing so, the federal government has finally acknowledged that marijuana has accepted medical use and does not have a high potential for abuse.
- Rescheduling will bring tax relief for state-licensed medical marijuana businesses because a federal tax penalty called 280e only applies to drugs on Schedules I and II of the CSA.
- However, all other forms of marijuana, including adult-use marijuana from state-licensed stores, remain completely illegal at the federal level.
- A hearing will take place beginning on June 29, 2026, to consider the broader rescheduling of marijuana from Schedule I to Schedule III!
- Crucially, rescheduling does not release people currently incarcerated for marijuana, expunge records from previous marijuana arrests, or address barriers to housing and employment for people with previous marijuana arrests.
- Congress must still deschedule and decriminalize marijuana by removing it from the CSA entirely and address the harms of marijuana criminalization, which include arrest records that block people from jobs, housing, and SNAP food assistance.

## BACKGROUND

Under the Trump administration, federal marijuana policy is undergoing a significant but limited shift. On April 23, 2026, the administration's Department of Justice (DOJ) and Drug Enforcement Administration (DEA) issued an order immediately placing both FDA-approved drugs containing marijuana and marijuana from state medical marijuana licensees in Schedule III of the Controlled Substances Act (CSA). The agencies also announced a new administrative hearing, scheduled to start June 29, 2026, to consider the 'broader rescheduling' of marijuana from Schedule I to Schedule III.

## WHAT THIS MEANS

### **Marijuana has NOT been rescheduled or legalized.**

Instead, the federal government has taken a partial approach that applies only to specific categories of marijuana products.

The DOJ and DEA order specifically notes “any form of marijuana other than that in a FDA-approved drug product or marijuana subject to a state medical marijuana license remains a Schedule I controlled substance, and those who handle such materials remain subject to the regulatory controls, and administrative, civil and criminal sanctions, applicable to Schedule I controlled substances set forth in the CSA and DEA regulations.”

## **Congress must deschedule and legalize marijuana by removing it from the CSA.**

Outside of the limited scope of FDA-approved products and state-licensed medical marijuana, **marijuana is still generally illegal under federal law.** Therefore, the need to end federal marijuana criminalization by removing it (“descheduling”) from the CSA remains. Rescheduling marijuana to Schedule III will not release anyone incarcerated for marijuana, nor will it restore rights to those with previous marijuana convictions. As a result, people with previous marijuana convictions will still face barriers to employment, public benefits, and housing. For noncitizens, marijuana activity could still result in family separation and deportation.

To ensure meaningful marijuana reform, Congress must act by:

- Descheduling marijuana entirely to end federal criminalization;
- Providing relief to individuals with prior marijuana convictions;
- Reinvesting in communities disproportionately targeted by marijuana enforcement; and
- Establishing a national regulatory framework that promotes equity, public health, safety, and fair competition.

Additionally, Congress needs to develop a comprehensive, unified cannabinoid framework that standardizes regulation, enforcement, and public education across hemp and marijuana. This regulatory approach must ensure economic parity across cannabis markets and eliminate conflicting policies that treat similar cannabinoid products differently.

**For additional information about this resource, please contact Cat Packer, Director of Drug Markets and Legal Regulation at the Drug Policy Alliance, at [cpacker@drugpolicy.org](mailto:cpacker@drugpolicy.org).**

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