

## Congress Should Vote or Get off the Pot

Article By:

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When we last [examined](#) marijuana reform at the federal level earlier this year, we warned that perfect can be the enemy of good. Our point was that we should not forego meaningful federal cannabis reform by holding out for more comprehensive reform that seemed unlikely to become law.

We wrote:

As of the time of this writing, [we] believe there are sufficient votes in both houses of Congress – including Republican votes – to pass cannabis reform efforts. In particular, the SAFE Act and legislation allowing increased research could become law if they receive a straight-up vote. The harder question is whether those leading the charge will allow for the proposal to proceed to a vote in a piecemeal fashion or if they will insist that lawmakers vote on the entire reform package as a whole. If the latter, [we] think Republicans may balk at some of the more progressive provisions, including much of the MORE Act. If that happens, we will see whether the most strident supporters of cannabis reform are willing to take a narrower victory or if they will insist on an all-or-nothing approach.

According to recent [reporting](#) by The Hill, that is exactly what is happening. And as much as we love being right, this is extremely frustrating.

### Momentum for Reform?

On the one hand, the article suggests there is bipartisan support in the Senate for the SAFE Banking Act. We discussed that proposal and its passage in the House of Representatives [here](#). While we are not sure that it would lead to the widespread, immediate banking of marijuana proceeds (particularly among the larger banks), it would be one of the most consequential moments in the history of the industry – like jet fuel on a campfire.

The SAFE Banking Act was not included in the U.S. Innovation and Competition Act that passed the Senate, but it was in the legislation that was featured in the House's version of the bill, known as the Competes Act. The bills now head to conference to sort out the differences between the two.

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There are nine (!) Republican co-sponsors of the bill, and Sen. Steve Daines told The Hill that he thinks other Republicans could get behind the idea:

We've got nine Republican co-sponsors officially on it, close to 50 Democrats[.] ... There are some other Republicans that I'm confident, if we had a vote, would vote for it. So, we've got the votes to pass the SAFE Banking Act as a standalone, if we'd like to.

The House and Senate agree, so the next stop is President Biden's desk, right? Not so fast.

## **But Not That Reform?**

Senate Majority Leader Chuck Schumer (D-N.Y.) says he wants to pass cannabis reform, but not reform limited to the SAFE Banking Act. In fact, he has prevented a vote on the SAFE Banking Act before, citing concerns that its passage would hurt the prospects of wider reforms.

According to The Hill:

[Schumer] now says he hopes to unveil the text of his comprehensive bill to legalize marijuana and expunge federal pot convictions, the Cannabis Administration and Opportunity (CAO) Act, around the same time.

The U.S. Cannabis Council has expressed skepticism, noting that the CAO Act is "not aimed for passage this Congress if it's coming out in August... Even if it comes out sooner than that, it's too late in the calendar year. So what that means is we really have an open playing field to push for passage of SAFE."

Again, per The Hill:

Schumer and other Democrats pushing for pot legalization have said that they'd be open to passing the banking bill if it is coupled with provisions to expunge marijuana convictions and repair damage done by the war on drugs.

"I think to not include restorative justice provisions is something I just can't support," Sen. Cory Booker (D-N.J.), who is helping craft the CAO Act with Schumer, told The Hill when pressed about the SAFE Banking Act's inclusion in the larger bill.

But under conference committee rules, lawmakers cannot modify the SAFE Banking Act to add additional social equity or criminal justice reform provisions, complicating its chances of winning Schumer's approval and making it into the final package that goes to President Biden's desk.

## **OK. Now what?**

You may be reasonably asking yourself: if the votes in Congress currently exist to pass important, commonsense cannabis reforms that representatives from both parties believe will make Americans safer, why are the people in charge of deciding whether Congress actually votes on the reforms not, at this moment, allowing those votes to happen?

The point here is not (as we strive never to do) to choose a political side or criticize the substance of a political position. And we get it. While it is easy to warn from the sidelines not to let the perfect be the enemy of the good, those in the arena understandably seek the perfect as long as it is within the realm of the possible.

Time, however, is not on the side of anyone seeking federal cannabis reform. The midterms are looming, and current polling does not suggest a more pro-cannabis bent to the next Congress. Still, we believe it is worthwhile for Congress (and particularly the Senate) to get a vote on cannabis reform in the near future.

Both parties can benefit from the passage of cannabis reform – particularly the SAFE Banking Act. The Democrats can get a “win” for the cannabis industry, Republicans can say “we’re now done with cannabis reform for the time being,” and Americans living in states where cannabis is legal under state law (the vast majority of Americans) will be safer.

Will it happen? We don’t know. And as a general rule we prefer not to bet on Congress making well-considered decisions in a timely manner. Gun to head, we do not believe Congress will pass meaningful cannabis reform before January.

Given the circumstances, it would be easy to be somber and dispirited, viewing the past 18 months as a missed opportunity for the cannabis industry at the federal level. But we choose to end on a positive note – a message of forward-looking optimism by one of our [favorites](#):

It’s time to move on, it’s time to get going

What lies ahead, I have no way of knowing

But under my feet, baby, grass is growing

It’s time to move on, time to get going.