As of February 2022, 37 states and the District of Columbia have legalized marijuana (a.k.a., cannabis) use for medical purposes. Only about half of these states have legalized marijuana for recreational use. However, because cannabis remains illegal under federal law, cannabis use by non-citizens could cause problems for their legal immigration situation.
**MY STATE LEGALIZED THE USE OF RECREATIONAL OR MEDICAL MARIJUANA. DOES THAT MEAN I CAN USE IT REGARDLESS OF MY IMMIGRATION STATUS?**

No. The purchase, possession, use, or sale of marijuana violates federal law. This means that these activities are still crimes throughout the US.

Some states have “decriminalized” recreational and/or medicinal marijuana for purchase, possession, use, or sale. In these states, state and local law enforcement may not arrest or prosecute people for these activities, even though they are illegal. However, federal law enforcement agencies like the FBI or Customs and Border Protection (CBP) may arrest and prosecute people for marijuana purchase, possession, use, or sale.

A drug-related arrest or conviction can have serious consequences, including deportation, for non-citizens living in the U.S. Non-citizens who apply for a green card or citizenship may also have to disclose past marijuana purchase, possession, use, or sale, which could delay or prevent receiving the benefit. For these reasons, marijuana purchase, possession, use, and sale are not recommended for non-U.S. citizens, regardless of state-specific marijuana laws.

**I USE MARIJUANA FOR MEDICINAL PURPOSES AND THERE ARE NO OTHER TREATMENTS: DOES THAT MEAN I CAN USE IT?**

Marijuana use, possession, sale, and purchase is illegal at the federal level. There is not an exception for medicinal use of marijuana.

Your doctor may have suggestions for legal treatments for your illness(es). Because possession, purchase, use, and sale of marijuana is still a federal offense, you should speak to an attorney to understand the potential immigration consequences of continued marijuana use.
**CAN I PURCHASE A PRODUCT IN A DISPENSARY THAT CONTAINS CBD BUT NOT THC? CAN I USE HEMP PRODUCTS?**

The federal government hasn’t really made any distinctions between CBD and THC. At the federal level, both products are still illegal. Current federal law allows for two lawful uses of the marijuana plant. The first use is hemp, which essentially is any part of the plant that does not contain more than 0.3% THC. The second use is of the mature stalks of the plant, regardless of the percentage of THC. Examples of legal products include hulled hemp seeds, hemp seed protein powder, and hemp seed powder.

Hemp products are legal as long as they do not contain more than 0.3% of THC. Generally speaking, it is fine to own and wear clothing made of hemp, for example. However, products typically marketed for consumption or smoking likely contain CBD or THC and are therefore likely prohibited under federal law.

**I PURCHASED A MARIJUANA PRODUCT BUT DIDN’T USE IT. CAN THIS AFFECT MY IMMIGRATION STATUS? WOULD IT MAKE A DIFFERENCE IF MY FRIEND PURCHASED MARIJUANA FOR ME?**

Marijuana is still considered to be a prohibited drug substance. Any use, sale, or even possession of marijuana – regardless of who purchased it for you – is illegal at the federal level and can therefore negatively impact non-citizens. This may also apply to products that contain THC.

**I WENT TO A DISPENSARY, AND THEY SCANNED MY ID. WILL THE DISPENSARY SHARE MY INFORMATION WITH ICE?**

The law does not instruct businesses to hold onto customers’ purchasing information. However, dispensaries do keep track of their sales for marketing purposes. It is unlikely for the federal government to target individual consumers for purchasing marijuana or marijuana products. There is no way we can be sure if or to what extent dispensaries keep records or share customers’ information.
WHAT DO I DO IF AN IMMIGRATION OFFICIAL ASKS ME ABOUT MARIJUANA PURCHASE, POSSESSION, SALE, OR USE?

You have the right to remain silent and to ask to speak with an attorney. Providing false or misleading information to immigration officials can have severe immigration consequences. If you have concerns about responding to immigration officers’ questions, please contact a licensed immigration attorney.

CAN IMMIGRATION OFFICERS FIND OUT IF I POSSESS(ED) OR USED MARIJUANA?

Some officers are asking non-citizens if they have ever used marijuana – especially in states that have legalized marijuana. This can happen in US Citizenship and immigration Services (USCIS) interviews, in visa interviews at US consulates, during immigration-related medical exams, or in the field at ICE or CBP checkpoints, for example. Questions relating to marijuana or related crimes could also appear on some applications for naturalization or legal permanent status. There is no way we can be sure if or to what extent dispensaries keep records or share information.

HOW WOULD A MARIJUANA-RELATED CRIMINAL CONVICTION AFFECT MY IMMIGRATION STATUS?

Convictions relating to marijuana could have negative impacts on your immigration status, including problems with your application for a green card or naturalization or issues when returning to the United States after departing. For folks with DACA, a single marijuana conviction has the potential to revoke recipients’ protections.

CAN I BE EMPLOYED IN THE MARIJUANA INDUSTRY AS A NON-CITIZEN?

Working in the marijuana industry could cause problems for your immigration applications. The best practice is to avoid the use, possession, purchase, or sale of marijuana and marijuana products and paraphernalia (including pipes). If you have worked in the marijuana industry, consult with an immigration attorney if you are considering submitting an immigration-related application.
**Would the use of other drugs besides marijuana affect my immigration status?**

Any violation of federal or state controlled substance laws could negatively impact your immigration status and/or future immigration-related options. Using prescription pharmaceuticals, such as Adderall and Ritalin, not prescribed to you is illegal. Federal law also prohibits the use, possession, purchase, or sale of other drugs, including heroin, ecstasy, and “magic” mushrooms. Additionally, the use of other drugs, like alcohol, tobacco, and vaping products, is illegal for all individuals under the age of 21 in California and Hawaii, and under the age of 18 in other states. Breaking these laws could affect your immigration status.

**What could happen to me if I admit to an immigration officer that I have purchased, possessed, sold, or used marijuana?**

The consequences of marijuana purchase, possession, sale, or use vary depending on a variety of factors. For example, someone who admits to recent marijuana use during an immigration-related medical exam while preparing for a visa interview at a US consulate may have to wait outside the US for one year before reapplying for their visa. The best way to determine the risks you face is to speak with a licensed immigration attorney.

**I’ve been charged with possession of marijuana. What should I do?**

If you experience any legal problems relating to marijuana possession charges and immigration status, you should talk to a criminal immigration attorney as soon as possible. You should also discuss ways to resolve your criminal charge with a criminal defense attorney.

**Questions or concerns?**

Email us at ucimm@law.ucdavis.edu or call us at (530) 752-7996.