

COMMUNITY FAQ

MARIJUANA LEGALIZATION & CONSIDERATIONS FOR IMMIGRANT NEW YORKERS

For years, immigrants in New York have been dragged into the arrest-to-deportation pipeline for marijuana related activity. After years of organizing by immigrant advocates, criminal legal system advocates, and others, the New York State legislature has passed marijuana legalization under the Marijuana Regulation and Tax Act (MRTA)!

What does it mean that New York State legalized marijuana?

Marijuana legalization is an exciting step towards meaningful drug reform in New York State. It means that:

- The **possession of small amounts of marijuana is legal for people 21 or older**. While New York decriminalized possession of small amounts of marijuana in 2019, under the prior law, it was still punishable as a violation and could result in negative immigration consequences. As a result of legalization, possession of small amounts of marijuana for people 21 or older is no longer illegal.
- There will be **expanded access to medical marijuana** for many New Yorkers.
- The State is **setting up a licensing system to allow people and businesses to sell marijuana**.

These changes only apply in New York State, *marijuana is still a controlled substance under federal law.*

If I live in New York, why does it matter that marijuana is still a controlled substance under federal law?

Although marijuana has been legalized in New York, **it is not legal everywhere**. If you are found with marijuana during an interaction with state or local police in a state where marijuana is not legal, it will not matter if the marijuana was purchased and possessed legally in New York and you could face criminal charges or penalties in that state. If during an interaction with federal law enforcement anywhere in the US you are found with marijuana, you could face penalties under federal law. This could happen during airport travel in the US and interactions with TSA agents, even if the airport is in a state where marijuana has been legalized.



In addition, **for immigrant New Yorkers, there are immigration-related considerations for prior illegal marijuana-related activity and convictions and future marijuana related activity that is legal in the State** because marijuana is still a controlled substance under federal law.

What kind of immigration-related considerations are there?

- **Old New York State marijuana-related criminal convictions.** New York State laws sealing or expunging a conviction may not be enough to stop immigration from using an old conviction to target you for deportation or be the cause of a denial of an immigration application. Immigrants often need to initiate a special court process to ensure their old convictions are erased for immigration purposes.
- **Applying for a license to sell, cultivate, deliver, or otherwise participate in a legal marijuana business.** Because marijuana is still a controlled substance under federal law, participation in a legalized market can have negative immigration consequences even if it is legal under state law.
- **Applying for a medical marijuana card for yourself or someone you care for, like a child or incapacitated relative or friend.** Because marijuana is still a controlled substance under federal law, buying or using marijuana, or helping another to buy or use marijuana, even at the direction of a doctor, can have negative immigration consequences.
- **Taking photos with marijuana, texting or making social media posts about marijuana, or other evidence of marijuana-related activity.** Marijuana is still a controlled substance under federal law. *Photos, admissions, or other evidence of marijuana-related activity may be used against you by immigration even if your activity is legal under state law.*
- **Speaking with immigration agents about marijuana-related activity.** It is not advisable to speak with immigration agents, including CBP about marijuana-related activity without first talking with an immigration attorney. Because marijuana is still a controlled substance under federal law, any statements or admissions made to immigration could negatively impact your immigration situation, including pending or future applications.

Immigrant New Yorkers should speak with a trusted lawyer or advocate about these considerations and any questions around marijuana legalization in New York State.