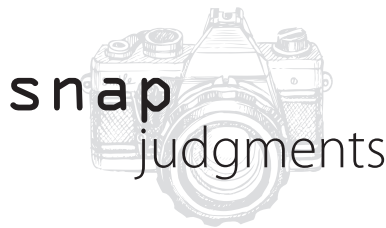


MASSACHUSETTS LAWYERS WEEKLY

Volume 47
Issue No. 3
January 15, 2018



What will be the impact in Massachusetts of the Department of Justice's decision to reverse an Obama-era policy discouraging federal prosecutors from bringing charges against users in states where marijuana is legal?

"In Massachusetts and across the country, poor people and people of color have been disproportionately arrested and incarcerated for marijuana offenses. Recently enacted legalization laws across the country have the potential to reduce those racial disparities and create economic opportunities for communities hit hardest by marijuana prohibition. The Trump administration's revival of this racially biased and failed law enforcement response to marijuana use is another example of the poor judgment that dictates this administration's decision-making."



— **Rahsaan D. Hall**
ACLU of Massachusetts

"At least in the short term, the decision should not impact the medical cannabis industry in the commonwealth. Under the Rohrabacher-Farr amendment, federal prosecutors may not use resources to prosecute those in the medical marijuana industry who are acting consistently with state law. On the recreational side, how much the market is affected will likely depend on the statements of U.S. Attorney Andrew Lelling and whether he actually prosecutes state-sanctioned actors."



— **Kevin C. Conroy**
Foley Hoag, Boston

"DOJ's decision significantly increases the uncertainty surrounding the new cannabis industry, because it is less clear who may be vulnerable to criminal prosecution or application of anti-money-laundering statutes to seize proceeds from marijuana businesses. Potential investors are confused right now because it is not clear whom prosecutors are going to pursue. Congress may have to step in. People are investing a lot of money, and they are going to want clear answers."



— **Carmen M. Ortiz**
and **George A. Hall Jr.**
Anderson & Kreiger, Boston

"The Justice Department's reversal of the 2013 Cole Memorandum may not have significant impacts in Massachusetts. U.S. Attorney Andrew Lelling already has stated he will focus on bulk cultivation and trafficking cases, particularly in targeting criminal enterprises. Existing federal legislation, although set to expire on Jan. 19, 2018, protects medical businesses from federal prosecutions. While more uncertainty has been introduced, I expect no major changes for lawful users and businesses in Massachusetts, absent additional federal enforcement initiatives."



— **Paul L. Feldman**
Davis, Malm & D'Agostine, Boston

"The Massachusetts U.S. attorney stated that his office 'will aggressively investigate and prosecute bulk cultivation and trafficking cases, and those who use the federal banking system illegally.' This leaves industry participants and their investors rightfully fearful that they will be prosecuted for the cultivation and sale of cannabis, as well as the use of banks to conduct business. Unless the wholly inconsistent federal and state positions are resolved, the future of the Massachusetts cannabis industry may go up in smoke."



— **Michael W. Parker**
Rackemann, Sawyer & Brewster, Boston

"We do not believe that the DOJ's 'reversal' will have significant impact upon the present course of the cannabis industry in Massachusetts. The federal government remains barred from using federal funds to prosecute properly licensed, compliant medical marijuana facilities, as a result of the bipartisan Rohrabacher-Blumenauer amendment; such protections are silent as to adult-use marijuana. In fact, it's very possible that the DOJ's action will galvanize Congress to delist cannabis as a Schedule 1 controlled substance, thereby further legitimizing the industry."



— **Scott H. Moskol (top photo)**
and **Frank A. Segall, Burns & Levinson, Boston**

— KRIS OLSON