

# Iowans for Medical Marijuana Recommendations

Des Moines Marijuana Enforcement Task Force

September 17, 2020

## Federal Exemption

Des Moines Marijuana Enforcement does not exist in a vacuum. Marijuana Policy is a complex web of local ordinances, state laws and regulations, federal laws and regulations, and international agreements.

In response to lobbying efforts by Iowans for Medical Marijuana at the legislative and executive branches, the State of Iowa has agreed to apply for federal exemption for the state's medical cannabis program, [Iowa Code Chapter 124E](#), using the process in [21 C.F.R. §1307.03](#) of the Code of Federal Regulations. The Des Moines Task Force should support and applaud this effort by the State of Iowa.

See attached **Exhibit A**

[Iowa Officials To Seek Federal Marijuana Exemption From DEA](#)

Marijuana Moment - Brooklyn, New York, September 8, 2020

See attached **Exhibit B**

[In strange twist, Iowa is actually doing something right on marijuana reform](#)

The Gazette - Cedar Rapids, Iowa, September 10, 2020

Whatever the Des Moines Enforcement Task Force decides to do, it cannot ignore attention to detail. Ignoring state, federal, and international laws, regulations, and treaties will not address the systemic problems created by the war on marijuana users. Marijuana laws disproportionately affect poor people because this system of oppression has grown large and complex.

Federal exemption from the Controlled Substance Act will address the following disparities:

### [Drug Free Workplace, 41 U.S.C. §8101](#)

- The term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of a controlled substance

### [Money Laundering, 18 U.S.C. §1956](#)

- any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. §848)

- section 422 of the Controlled Substances Act (relating to transportation of drug paraphernalia)

#### [Tax Penalty, 26 U.S.C. §280E](#)

- No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.

#### [Racketeering, 18 U.S.C. §1961](#)

- felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)

#### [Death Penalty, 18 U.S.C. §3591](#)

- an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B)

Federal exemption will also bring Iowa into compliance with international treaty obligations, as follows:

Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol

- [Article 36, Section 1](#): Subject to its constitutional limitations
- [Article 36, Section 2](#): Subject to the constitutional limitations of a Party, its legal system and domestic law

Convention on Psychotropic Substances of 1971

- [Article 22, Section 1](#): Subject to its constitutional limitations
- [Article 22, Section 2](#): Subject to the constitutional limitations of a Party, its legal system and domestic law

Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988

- [Article 3, Section 1](#): Subject to its constitutional principles

- [Article 3, Section 2](#): Subject to its constitutional principles

Iowans for Medical Marijuana recommends the Des Moines Marijuana Enforcement Task Force write a letter to the Iowa Department of Public Health thanking them for their work on federal exemption and supporting the application for federal exemption.

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Dated: September 17, 2020

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# Iowans for Medical Marijuana

## Exhibit A

Des Moines Marijuana Enforcement Task Force

September 17, 2020

ARIZONA IS READY  
TO LEGALIZE IT.

YES ON 207

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POLITICS

# Iowa Officials To Seek Federal Marijuana Exemption From DEA



Published 6 days ago on September 8, 2020

By **Kyle Jaeger** 



Iowa plans to seek an official exemption from federal marijuana prohibition in an effort to resolve policy conflicts impeding its limited medical cannabis program.

The state Department of Public Health recently determined that it will proceed with an application

asking the Drug Enforcement Administration (DEA) for a formal exemption under the Controlled Substances Act in an effort to prevent the loss of federal funding it receives for education and long-term care facilities. The state's market could see additional, inadvertent benefits if the application is approved, however, advocates say. □

“There's no guarantee that [DEA] will do anything with that or respond to us, but...we will move forward with doing our best to minimize that conflict between state and federal law,” the chair of the state's Medical Cannabidiol Board said at a meeting last week.

Members said they will be involved in the drafting of the application for the federal carve-out over the coming months. The board's next meeting is scheduled for November 13. The public health department, which oversees the board, will submit the application to DEA once it's finalized.

The language of a bill approved by state lawmakers that prompted this decision doesn't specifically call on regulators to submit the application; rather it broadly calls on the public health department to “request guarantees from the agencies of the federal government providing funding to educational and long-term care facilities that facilities with policies allowing patients to possess medical cannabidiol on the grounds of the facilities...or allowing facility staff to administer medical cannabidiol to a patient shall not lose eligibility for any federal funding due to such policies.”

But members said at last week's meeting that the DEA exemption application process would be the most effective way to establish protections from losing funds.

### **Listen to the relevant excerpts of the board meeting below, courtesy of Iowans for Medical Marijuana:**

DEA regulations stipulate that the agency's administrator “may grant an exemption in his discretion, but in no case shall he/she be required to grant an exception to any person which is otherwise required by law or the regulations.”

If DEA approved Iowa's application, it could do more than provide the specific protections that lawmakers requested. According to Carl Olsen, a longtime cannabis reform advocate in the state, getting that exemption would also free up marijuana business access to financial institutions, resolve tax burdens that are unique to the industry and help promote research into cannabis.

Iowa's medical cannabis program is more limited than those that have been established in other states. For example, it limits registered patients to a maximum of 4.5 grams of THC per 90-day period. Prior to a reform adopted by the legislature earlier this year, patients could only access cannabis products with up to three percent THC content.

“The Department has determined that it will move forward with seeking an exception for cannabis as a schedule I substance in Iowa from the DEA, in attempt to minimize conflict between State and Federal



Law,” a presentation from the public health agency states.



## IDPH Strategy: Seeking DEA Exemption

- In their 2019 Annual Report, the Board recommended that IDPH seek protections for schools and facilities participating in our program and acting in compliance with Chapter 124E.
- The General Assembly prescribed in HF2589 that IDPH “seek guarantees” that Federal funding to institutions and facilities acting in compliance with Chapter 124E not have their funding withheld due to participation in Iowa’s program.
- The Department has determined that it will move forward with seeking an exception for cannabis as a schedule I substance in Iowa from the DEA, in attempt to minimize conflict between State and Federal Law.
- The Department will seek this exception using Title 21 Code of Federal Regulations 1307.03.

**Sec. 31. PROTECTION OF FEDERAL FUNDING.** The department of public health shall request guarantees from the agencies of the federal government providing funding to educational and long-term care facilities that facilities with policies allowing patients to possess medical cannabidiol on the grounds of the facilities consistent with chapter 124E or allowing facility staff to administer medical cannabidiol to a patient shall not lose eligibility for any federal funding due to such policies.

### §1307.03 Exceptions to regulations.

Any person may apply for an exception to the application of any provision of this chapter by filing a written request with the Office of Diversion Control, Drug Enforcement Administration, stating the reasons for such exception. See the Table of DEA Mailing Addresses in **Sec. 1321.01** of this chapter for the current mailing address. The Administrator may grant an exception in his discretion, but in no case shall he/she be required to grant an exception to any person which is otherwise required by law or the regulations cited in this section.

[75 FR 10678, Mar. 9, 2010]

Via IDPH.

It remains to be seen whether DEA will act on the application after its filed. The agency has historically resisted rescheduling requests, let alone full exemptions, for marijuana. In fact, scientists and veterans sued DEA this year, arguing that the legal basis it has used to justify keeping cannabis in Schedule I is unconstitutional. They asked for a review of its decisions to reject rescheduling petitions across several decades.

A federal appeals court denied a request from DEA to dismiss the lawsuit last month.

Separately, a federal court recently ruled that California regulators must comply with a DEA subpoena demanding information about certain marijuana businesses.

That development came three months after a Justice Department whistleblower accused Attorney General William Barr of directing investigations into 10 cannabis firm mergers because of the top prosecutor’s alleged personal animus for the industry.

That said, a top department official said in a letter to Congress that those actions are better understood as helping to ensure consumers have affordable access to products in a competitive cannabis market—a curious position for the federal government to take.



## Biden Pledges To Force People Who Use Drugs To Enroll In Mandatory Treatment Programs



In a recent speech, Democratic presidential nominee Joe Biden reaffirmed his position that people convicted of low-level drug offenses should be forced into rehabilitation in order to stay out of jail and get their records cleared. While the former vice president seems to view the policy as a progressive alternative to incarceration, many drug reform ... Continue reading



Marijuana Moment

*Photo courtesy of Evan Johnson.*

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**Kyle Jaeger**



Kyle Jaeger is Marijuana Moment's Los Angeles-based associate editor. His work has also appeared in High Times, VICE and attn.

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# Iowans for Medical Marijuana

## Exhibit B

Des Moines Marijuana Enforcement Task Force

September 17, 2020

## In strange twist, Iowa is actually doing something right on marijuana reform

'Patients would no longer be federal fugitives and we'd no longer be aiding and abetting in their crimes.'



Cannabis plants grow inside the mother room at MedPharm Iowa in Des Moines on Tuesday, Jul. 24, 2018. (Stephen Mally/The Gazette)

Iowa is one of the worst states in the nation for common-sense marijuana reform, but we're finally doing

something proactive.

State cannabis regulators plan to seek an exemption from the federal Controlled Substances Act, they said at [a meeting this month](#). Iowa could be the first state to receive such an exemption, earning federal legal status a long list of tangible benefits to the state government, businesses and patients.

While states have been experimenting with marijuana legalization for more than 40 years, the drug, which is far less harmful than alcohol or tobacco, still is illegal under federal law. Inexplicably, It's considered a Schedule I substance, even worse than cocaine and Vicodin, with no accepted medical use and a high potential for abuse.

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## Even if the feds don't send SWAT teams to bust up the Windsor Heights strip mall where a medical cannabis dispensary sells tinctures to grandmothers, there are a lot of good reasons for Iowa to bring its program in line with federal law.

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recently as 2013, under the Obama administration, the federal government was running raids on marijuana businesses that were legal by state law. While the Trump administration's early suggestions of a marijuana crackdown have faded, the possibility of federal enforcement action persists.

Even if the feds don't send SWAT teams to bust up the Windsor Heights strip mall where a medical cannabis dispensary sells tinctures to grandmothers, there are a lot of good reasons for Iowa to bring its program in line with federal law.

Politicians worry their violation of federal law could threaten their flow of federal cash. This year in Maine, for example, the federal government [revoked more than \\$3 million](#) in grants for children's health programs because



*Adam Sullivan  
At Liberty*



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the state allows medical cannabis use at school.

Even more importantly, federal legal recognition would give marijuana businesses access to the same [tax status](#) and financial services as similar legal businesses, which could significantly improve access and decrease cost for patients.

Iowa passed a law this year that tinkers with the cannabis program, including a section directing staff to “request guarantees” that schools and long-term care facilities won’t lose federal funding if they administer medical CBD.

- [In cruel twist, Iowa GOP bill would snatch medicine from patients’ hands](#)
- [Neighboring states’ marijuana laws show just how bad Iowa is](#)

The way to secure funding is to ask the federal government to exempt Iowa’s program from marijuana prohibition, leaders said at the Iowa Medical Cannabidiol Board meeting last week. Carl Olsen, a top medical marijuana advocate in Iowa, has [lobbied state government officials](#) for more than a year to seek compliance with federal law through a federal exemption.

“It’s kind of ridiculous to ask for a federal funding guarantee for a violation of federal drug laws ... A federal solution exists so that must be used,” Olsen said at the Sept. 4 board meeting.

Under federal code, [anyone can apply to the Drug Enforcement Administration](#) for an exemption, and the DEA administrator “may grant an exception in his discretion.” State officials plan to prepare an exemption application and submit it before the end of the year.

Nobody knows if the exemption will be granted, or the full legal implications if it is. It is a bureaucratic, uncertain and long drawn out solution to a problem that could have been solved by elected officials any time over the last half century.

“Patients would no longer be federal fugitives and we’d no longer be aiding and abetting in their crimes,” said Dr.

should look into?  
Tell us [here](#).

Robert Shreck, an Iowa Medical Cannabidiol Board member.

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