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# What lowering federal restrictions on marijuana could mean

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The Biden administration is proposing changes to the federal classification of marijuana. NPR's Michel Martin talks to attorney Howard Sklamberg, who focuses on FDA compliance and policy.

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A MARTÍNEZ, HOST:

The Biden administration is recommending the Drug Enforcement Agency significantly lower federal restrictions on marijuana by demoting it from a Schedule 1 to a Schedule 3 drug. Now, the DEA defines Schedule 1 drugs as those with no medical use and a higher potential for abuse, meaning weed was grouped with drugs such as heroin. Joining us now to talk about what these potential changes to federal drug policy actually mean is attorney Howard Sklamberg. He focuses on compliance with Food and Drug Administration policy and served as the agency's top official on a variety of issues, including cannabis. Howard, so legalization advocates have been trying to change the federal classification for decades. What happens if cannabis is approved as a Schedule 3 drug?

HOWARD SKLAMBERG: Good morning. Well, for a lot of purposes, things will not change. In other words, the state programs out there on medical marijuana, the state programs on recreational marijuana will continue. The biggest change is that the tax law will change regarding marijuana companies. And specifically, marijuana companies will, like all other companies, be able to deduct as business expenses items related to marijuana. As right now as a Schedule 1 substance, if you are a marijuana company, you can't deduct as an expense, for example, the costs of the plant and the cultivation and everything else that goes into the business, which is a big effect.

MARTÍNEZ: Do you think the perception would change? I think it's definitely changed in the last few years for sure, but would it make a big difference there?

SKLAMBERG: I think it will continue to change. It has changed, and I think this will accelerate it. It has an important symbolic effect because, you know, what changing from Schedule 1 to Schedule 3 says is the federal government saying, wait a minute, the public health risks regarding cannabis are less than we had thought, you know, for decades. And that does have an important symbolic effect and I think will be used by advocates for further steps in the future.

MARTÍNEZ: Now, recreational use has been legalized in 24 states, and more could join as the issue is expected to appear on a lot of ballots in 2024. How does lowering the federal classification matter if you're driving through a state where marijuana is illegal?

SKLAMBERG: No, it does not. and that's an important thing for people to remember. The overall federal law is still that marijuana is an illegal controlled substance, and the federal government doesn't enforce that, by and large, against

possession. But the state laws will remain in effect, and people have to obey the state laws.

MARTÍNEZ: Now, when it comes to the taxes, as you mentioned earlier, does a lower classification mean for national access to study the effects of cannabis?

SKLAMBERG: The ability to do research, clinical research is not really affected by the change in schedule, and the federal government has very much encouraged research into clinical trials and to other uses of marijuana, you know, for years. And I think that's going to continue.

MARTÍNEZ: OK. Now, cannabis business owners are concerned that big pharmaceutical companies might jump in and take over this market. Are we going to start to see maybe gummies and other edibles at our local pharmacies, possibly?

SKLAMBERG: I really do not see that as a risk at all. First of all, the - by changing the scheduling from Schedule 1 to Schedule 3, the overall environment and legal framework for doing research remains the same. And the fact is, for a pharmaceutical company to get an approved drug for cannabis, they have to invest a lot of money into clinical trials, and they have to get an approval for a specific use. So in other words, when you get a drug approved, it's not just, here are gummy bears; use them for what you would like. Our drug approval system is based on evidence related to specific uses of a drug. And the economics did not support that beforehand and I don't think will support that going forward.

MARTÍNEZ: What do you think, Howard, it would take for cannabis to be completely decriminalized? And actually, maybe the first question should be, should it be?

SKLAMBERG: Well, I think it's certainly headed in that direction. And I think that most advocates - and I would agree with them - think you need comprehensive federal legislation on this. I mean, if you take a step back and you were, you know, from a foreign country, and you would say, wait a minute, we have a patchwork of laws. It's illegal federally, but it's not really enforced. There are state laws here and there. There's a need for comprehensive, uniform federal legislation that addresses what is legal and what regulations apply and what safety rules apply.

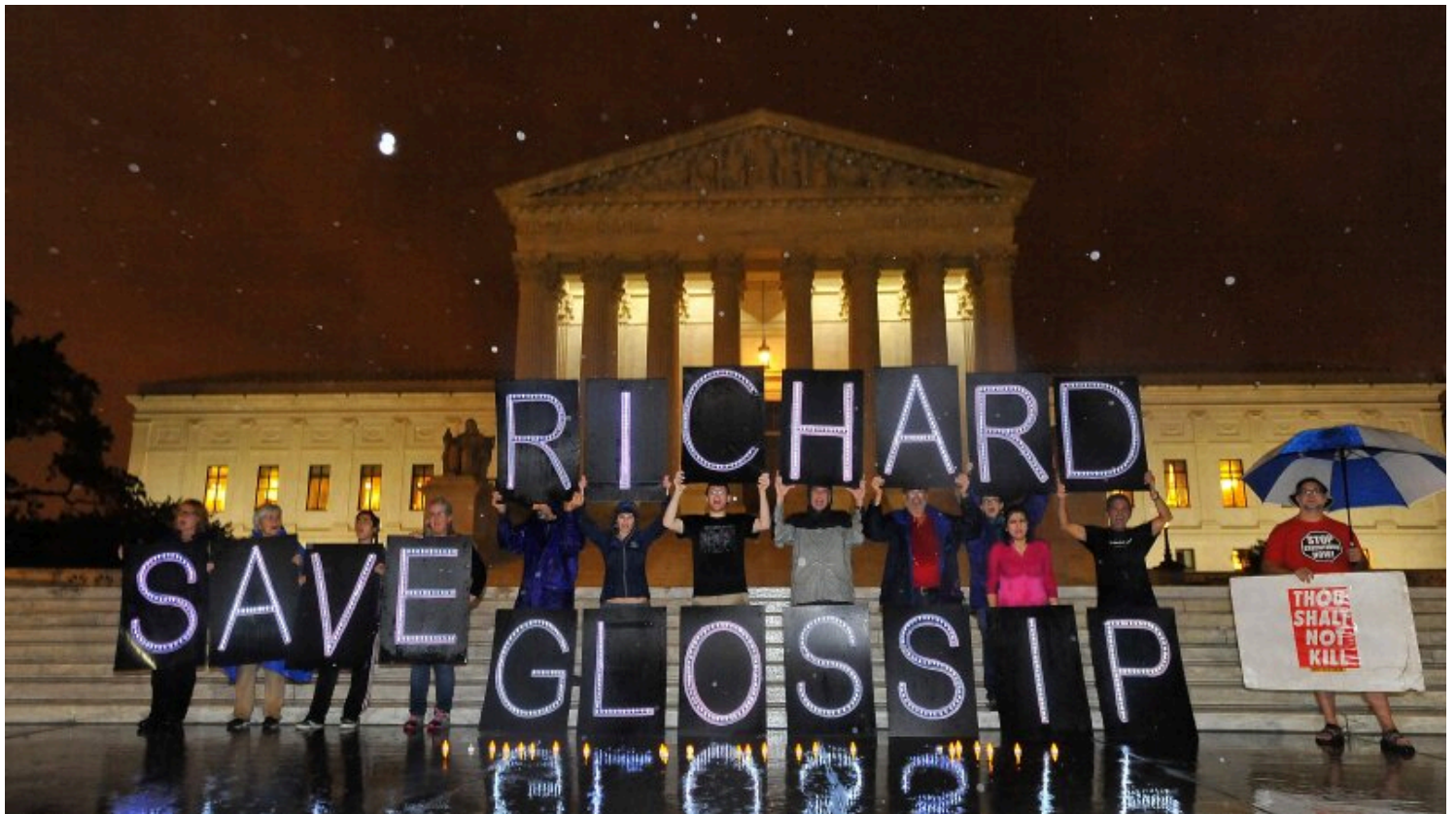
MARTÍNEZ: Howard Sklamberg is a partner at Arnold & Porter law firm. He focuses on FDA compliance and policy. Howard, thanks.

SKLAMBERG: Thank you very much.

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