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Liquor & Cannabis Law

Crossing the U.S. Border Is Dicey for Canadian Citizens Affiliated With Cannabis

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Recreational cannabis became legal across Canada in 2018, and 33 U.S. states have legalized it at least for medical purposes (10 for recreational). Yet, there are numerous reports of the U.S. Customs and Border Protection (CBP) detaining Canadian citizens at the border-then permanently banning them from entry-when they admit to having even tenuous connections to the legal cannabis industry. This enforcement policy stifles cross-border business relationships, and raises ominous concerns about the freedoms of speech and association for U.S. citizens as well.

I learned this firsthand when I helped plan a securities law conference in Portland last month. We had invited a number of Canadian business lawyers to speak about capital formation in the emerging legal cannabis arena. Lawyers from one Vancouver, B.C., law firm politely declined because the firm had a policy prohibiting travel to the United States to talk about anything cannabis related. It was just too risky. Another Vancouver lawyer tentatively agreed to participate only if his name didn't appear in the online brochure that the CBP could easily locate. Ultimately, the Canadian lawyers who accepted our invitation discussed the intersection of securities and cannabis law by phone from the safety of their Toronto offices.

In a press release released from last year, the CBP promised not to detain Canadian visitors if they merely admit to ***working*** in the legal cannabis industry up North: "A Canadian citizen working in or facilitating the proliferation of the legal marijuana industry in Canada, coming to the U.S. for reasons unrelated to the marijuana industry will generally be admissible to the U.S. however, if a traveler is found to be coming to the U.S. for reason related to the marijuana industry, they may be deemed inadmissible."

In a nutshell, all bets are off if Canadians cross the border to engage in ***anything connected with cannabis***-but U.S. border enforcement policy remains murky at best. Media reports suggest Canadians are being banned from the United States for admitting to investing in the legal cannabis industry, for entering the United States to attend industry conferences or for being longtime users of marijuana.

A friend of mine in Vancouver recounted similar stories about business acquaintances who were stopped at the border-then banned for life from entering the United States-merely because they had some relationship to the legal cannabis industry: one admitted to making his living as an investor in the industry;

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another worked for a supplier of cannabis-related equipment who was headed to meet a technology consultant.

Some Canadians speculate that the CBP may be trolling websites for names of Canadian citizens associated with the cannabis industry, then using the information to generate lists of suspicious border crossers who require further questioning. When the CBP asks for a Canadian's occupation, the agency now has a tool to verify the answer or to confront the person about their affiliation with cannabis. Lying to a border agent is probably a federal crime (18 U.S.C. § 1001), but truthfully admitting to involvement with the legal cannabis industry may get you banned from this sweet land of liberty.

Posted in U.S. Border Patrol

Tagged as Canada, Canadian citizens, cannabis businesses, cannabis industry, recreational cannabis, recreational cannabis products, U.S. Customs and Border Officers, U.S. Customs and Border Patrol

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