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Congress of the United States
House of Representatives
Washington, DC 20515

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COMMITTEE ON HOMELAND SECURITY

RANKING MEMBER, SUBCOMMITTEE ON OVERSIGHT
AND MANAGEMENT EFFICIENCY

SUBCOMMITTEE ON BORDER AND MARITIME SECURITY

COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON ECONOMIC OPPORTUNITIES

SUBCOMMITTEE ON HEALTH

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, NW
Washington, D.C. 20528

Dear Secretary Nielsen,

I write to urge the U.S. Department of Homeland Security (DHS) to develop clear guidance concerning the entry into the United States of foreign nationals with authorized work visas who are associated with the cannabis industry. I am concerned DHS is unnecessarily and disproportionately penalizing noncitizens who are engaged in lawful business activities.

In June 2018, the Parliament of Canada voted to legalize recreational cannabis. According to Canadian Prime Minister Justin Trudeau, that law will take effect on October 17, 2018¹. Given Canada's proximity and close trading ties with the United States, there is a significant likelihood that some Canadian nationals traveling to the United States will be connected to the cannabis industry. Therefore, I believe that an immediate clarification of DHS' admission policies is critical.

Currently, according to *The Star Vancouver*, U.S. Customs and Border Protection (CBP) officers and agents are reportedly labelling individuals connected to the cannabis industry as "inadmissible," regardless of whether a person has used cannabis. If an individual has been banned for life, they must apply in advance for a temporary waiver, which is granted on a discretionary basis and are valid from one to five years, in order to enter the United States².

In April 2018, three individuals "with Nexus passes and spotless criminal records" conducting lawful business activities for an agricultural equipment manufacturer were stopped by CBP when they attempted to enter the United States³. The employees, who were not in possession of

¹ Julia Manchester, *Trudeau sets date for marijuana legalization in Canada*, July 2018.

<http://thehill.com/policy/international/393304-trudeau-sets-date-for-marijuana-legalization-in-canada>

² *Applying for Waiver – Person entering into the United States with criminal record or overstay*.

https://help.cbp.gov/app/answers/detail/a_id/760/~/applying-for-waiver--person-entering-into-the-united-states-with-criminal

³ Perrin Grauer, *Canadian cannabis workers targeted by U.S. border guards for lifetime bans*, July 2018.

<https://www.thestar.com/vancouver/2018/07/05/canadian-cannabis-workers-targeted-by-us-border-guards-for-lifetime-bans.html>

cannabis or under the influence of any substance, responded that they had “cannabis industry ties,” which reportedly prompted CBP officials to send them to secondary questioning. Subsequently, CBP confiscated their Canadian issued trusted traveler credentials and banned the individuals from the United States for life⁴.

I strongly urge DHS to clarify admission policies and procedures at U.S. ports of entry to help ensure transparency of such processes. The role that CBP plays in processing thousands of foreign nationals who come to the United States daily to conduct business is critical not only to the success of our economy, but also the safety and security of the American people.

I ask that you provide information and responses to the following questions by October 1, 2018.

1. What policy or guidance does DHS use to evaluate and determine that an authorized foreign national is associated with the cannabis industry?
2. How does DHS evaluate and determine that secondary questioning of an authorized foreign national associated with the cannabis industry is appropriate, even if the individual has no intent to distribute or sell cannabis and has no prior convictions for cannabis-related offenses?
 - a. What impact does the evaluation and determination have on inadmissibility, removal, or denial of entry to the United States?
 - b. What recourse is available for individuals impacted by this decision?
3. What policy or guidance does DHS utilize to determine what categories of businesses or persons within the cannabis industry should undergo additional questioning?
4. Please provide any policy or guidance by which DHS evaluates and determines that a permanent ban from the United States and/or a confiscation of trusted-traveler credentials is justified for authorized foreign nationals in the cannabis industry.
5. What public policy is being advanced by DHS now that cannabis is legal some way in half the states in the United States?

Thank you for your attention to this important matter. I look forward to your timely responses.

Sincerely,



J. LUIS CORREA
Member of Congress

⁴ Perrin Grauer, *Canadian cannabis workers targeted by U.S. border guards for lifetime bans*, July 2018. <https://www.thestar.com/vancouver/2018/07/05/canadian-cannabis-workers-targeted-by-us-border-guards-for-lifetime-bans.html>