

# MARIJUANA & DUI OFFENSES

## MARIJUANA OFFENSES:

As of April 2024, 25 states have legalized the recreational use of marijuana (subject to state-specific limits on possession and cultivation). However, marijuana remains illegal on a federal level. It is considered a “controlled substance” under federal law and for federal immigration purposes. This means that using “legal” marijuana in accordance with state law can still hurt one's immigration status or prospects for getting lawful status. Despite increasing legalization on a state level, marijuana offenses are consistently among the top ten most serious convictions of people deported for federal immigration violations.

### How can marijuana use impact my immigration status?

Old marijuana convictions (prior to state legalization) can still make someone inadmissible or deportable, even if they are later vacated or an individual is pardoned. New marijuana convictions in states where marijuana use is still illegal can make someone inadmissible or deportable. Any admission of marijuana use to immigration officials can make someone ineligible for a green card or U.S. citizenship, or make them inadmissible if they return from travel outside the U.S.

## KNOW YOUR RIGHTS

### Never discuss marijuana use or possession with any immigration or border official:

- If an official asks you about marijuana, tell them you want to speak to a lawyer.
- Don't say anything else, even if they continue to ask you questions. You have a constitutional right to remain silent, and you must remain silent to invoke that right.

### If possible, avoid using recreational marijuana until you are a U.S. citizen. If you cannot do this, take certain precautions:

- Never leave your house with marijuana or marijuana paraphernalia, and
- Do not take, post, or share pictures of marijuana on your phone or online.

## DRIVING UNDER THE INFLUENCE (DUI) OFFENSES:

Driving under the influence (DUI), refers to operating a vehicle while impaired by alcohol, drugs, or both. Common types of DUI offenses include driving with a blood alcohol concentration (BAC) above the legal limit, driving while intoxicated (DWI), and driving under the influence of drugs (DUID). Many vehicle and traffic law convictions have no direct immigration consequences. However, noncitizens can be deported or denied citizenship, relief from removal, immigration benefits, and reentry into the U.S. for breaking some rules of the road.

### How can a DUI offense impact my immigration status?

- Immigration law considers certain criminal offenses, including DUIs, as grounds for **inadmissibility**,
- If a noncitizen is convicted of a DUI, they may become subject to **deportation proceedings**. Immigration authorities can initiate removal proceedings against individuals who are deemed deportable based on DUIs. **Aggravated DUIs**, such as DUIs involving injury or death, can have more severe consequences for noncitizens
- Even if a DUI does not result in deportation, it can still have adverse immigration consequences. It may **impact future** visa applications, green card renewals, or naturalization processes, as immigration authorities consider criminal history when evaluating eligibility for immigration benefits.
- In some cases, noncitizens facing deportation due to a DUI may be eligible for **discretionary relief** such as cancellation of removal or waivers of inadmissibility. However, the availability of such relief depends on various factors, including the individual's immigration status, criminal history, and equities in their case.

### Good Moral Character (GMC):

A DUI itself is not an automatic bar to GMC, but it might serve as one when combined with other factors: **Being a “habitual drunkard”** is a statutory bar to establishing GMC. Multiple convictions for a DUI might lead to a finding that one is a habitual drunkard. **Convictions for 2 or more offenses of any type, with a total sentence imposed of 5 years or more.** A person who, because of a conviction, **has been in jail or prison for 180 days or more during the statutory period is barred from establishing GMC.** This bar is triggered by how much time the person has been confined, not by what the official criminal “sentence” was. The conviction could be for a DUI or any other offense.

### Strategies for Mitigating DUI Consequences:

Immigrants facing DUI charges should seek legal representation from attorneys experienced in both criminal and immigration law. Compliance with court orders, rehabilitation programs, and treatment options can demonstrate rehabilitation and mitigate the severity of DUI consequences. Substance abuse treatment centers provide support for individuals struggling with alcohol or drug addiction. Hotlines and helplines offer immediate assistance and guidance to immigrants in crisis situations.

**National Drug and Alcohol Treatment Hotline:  
 1-800-662-HELP (4357)**

