

## DRIVING CONCERNS

**Don't be nervous: How to cross the border without incident**

JASON TCHIR

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**I get really nervous when driving across the border, especially because I've heard the story of a friend of a friend who was banned from the U.S. on his way to Burning Man. He has no criminal record, but the officer asked him if he'd ever smoked a joint and he said yes. This sounds far-fetched, doesn't it? Can I really get turned away at the border for saying I've smoked pot a couple of times in my life? — Martin, Calgary**

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If you tell a border official that you've smoked a joint or had a bite of that pot brownie – or that you plan to partake in legal weed in Washington or Colorado – your ability to freely enter the United States will go up in smoke.

"If you admit you've smoked marijuana or plan to, you can be banned permanently – there's no due process, no right to a trial and it's not appealable," says Mark Belanger, a Vancouver lawyer who works on border issues. "Anything drug-related is typically a crime involving moral turpitude. Those are magic words and you'll be banned from entering the United States."

So, you don't need to have a drug conviction to be turned away for drug crimes under Section 212 of the [U.S. Immigration and Nationality Act](#) [<http://travel.state.gov/content/visas/english/general/ineligibilities.html>]. A couple of puffs could be enough.

All it takes is an admission that you've knowingly used an illegal drug, either because you've answered an officer's question or you've been chatty and volunteered the information. You won't go to jail, but you will get told to turn your car around and head back to Canada .

"An admission to the essential elements of possession of a controlled substance is a permanent bar to entry into the United States," Belanger says. "Once one has been deemed inadmissible, they require a non-immigrant visa waiver for the rest of their life in order to obtain entry into the U.S."

**A visa waiver will cost you**

If you're a Canadian who's been banned, you can eventually apply for a visa waiver that will let you cross into the U.S. You'll have to apply at the border. It takes 6 months to process and costs \$585 (U.S.), Belanger says.

"The first waiver would be valid for one year, the second for three and the third and every one thereafter for five years," Belanger says.

Just admitting you're planning to do drugs will get you sent back and banned too, even if you'll be in Washington state or Colorado, where pot is legal. U.S. immigration laws are federal and the federal government doesn't recognize state drug laws, Belanger says.

"Even though you're going to Washington to smoke a roach there, if you tell them 'I'm going down to smoke legal weed,' they'll turn you down because it's still against federal law," Belanger says.

**Get caught in a lie and you'll get banned for fraud**

If you have been convicted of a drug crime and have had it pardoned, you could still be banned from the U.S..

"They can do a check and that conviction will still appear, if they ask if you've ever been convicted and you say no because you got that pardon, then you're guilty of lying about it and you'll be banned," Belanger says.

Another way to get banned is to get caught lying to border officials. It's fraud. Again, you won't face criminal charges, but you will get banned on the spot.

"The Golden Rule is 'always be truthful,'" he says. "Present the facts, just answer the questions they ask, and don't volunteer information."

So, if you're doing any business on a trip to the States, even if it's a one-hour lunch with a client, don't say that you're just going shopping or visiting friends.

"If they get suspicious and search you and find something related to business, then you've committed fraud because you lied and said it was entirely personal, and that's a five-year or a permanent ban" he says. "If it's a mix of business and personal, tell them. The worst thing that can happen is that they say you can't cross without certain paperwork, you turn around, go and get the paperwork and try the next day."

And if you're acting nervous, the border officer will probably get suspicious, Belanger says.

"They're intimidating – they're judge, jury and executioner and that's why they have that air about them," he says. "But they really can't turn you away for no reason. You're allowed to go as a visitor to shop, to visit friends, for leisure activities and for work purposes like trade shows so you've got no reason to be nervous in those circumstances."

So, what if the border officer asks if you've ever smoked a joint? Say you've never been convicted and the officer has no way – assuming your Facebook profile photo isn't you inhaling from a Bart Simpson bong – to tell whether or not you've actually tried pot or any other drug.

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